

BOULDER CITY COUNCIL MEETING
CANYON THEATER, BOULDER PUBLIC LIBRARY, 1001 ARAPAHOE AVE
Tuesday, December 17, 2013
6 p.m.

AGENDA

1. CALL TO ORDER AND ROLL CALL

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

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

A. Consideration of the following items related to the annexation of 6234 Arapahoe Road and 1492 Cherryvale Road commonly known as the Boulder Jewish Commons site:

1. A resolution finding the annexation petition in compliance with state statutes and establishing January 21, 2014, as the date for a public hearing

2. Introduction, first reading and consideration of a motion to order published by title only, an ordinance:

a. Annexing a 1.8 acre area of land generally located at 1492 Cherryvale Road with an initial zoning classification of Residential Rural -1 (RR-1); and

b. Annexing a 16.36 acre area of land generally located at 6234 Arapahoe Road with an initial zoning classification of a Residential-Medium 1 (RM-1); and

c. Annexing a 0.74 acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe Road extending eastward to a point at the northeast property line of 6234 Arapahoe Road with an initial zoning classification of Residential-Medium 1 (RM-1); and

d. Authorizing variations and modifications to the Boulder Revised Code that are in the annexation agreement associated with these annexations

Applicant/Property Owner: Vincent Porreca/Cherryvale Commons LTD

B. Introduction, first reading and consideration of a motion to order published by title only an ordinance granting authority to the approving authorities under Title 9, "Land Use

Code,” B.R.C. 1981, to **approve the moving of two single-family dwelling unit structures from 1220 and 1243 Grandview Avenue to 905 Marine Street**, and as an amendment to Title 9, “Land Use Code,” B.R.C. 1981 to waive or modify certain land use regulations as they apply to these structures

Applicant/Owner: Christian Griffith

C. Consideration of a **motion to adopt a resolution approving and authorizing an application for a Great Outdoors Colorado School Play Yard Initiative Grant**

D. Consideration of a **motion to authorize the City Manager to enter into a Letter of Intent between the University Hill General Improvement District (UHGID) and Del Mar Interests, LLC, regarding feasibility of a public/private partnership redevelopment of UHGID’s 14th Street parking lot**

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

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

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. Second reading and consideration of a **motion to adopt Ordinance No. 7952, granting a one year extension to Comcast of Colorado IV, LLC**, to use public rights of way to provide cable television services and to authorize the city manager **to execute the cable television franchise agreement** between the city of Boulder and Comcast of Colorado IV, LLC

6. **MATTERS FROM THE CITY MANAGER**

A. **Update on Boulder’s Energy Future Municipalization Exploration Project**

B. Request for direction on the **2014 Community Survey**

7. **MATTERS FROM THE CITY ATTORNEY**

None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

A. Potential Call-Ups

1. **Vacation of a 4,122 square foot water main easement located along the south property line at 4474 Broadway (ADR2013-00209) Information Packet Date:**

December 17 Last Opportunity to Call-Up: December 17

2. **Vacation of a 1,230 square foot portion of a utility easement that bisects the property at 1560 Cress Court (ADR2013-00216)** Information Packet Date: December 17 Last Opportunity to Call-Up: December 17

B. Council Retreat Agenda Discussion

9. **PUBLIC COMMENT ON MATTERS** (15 min.) Public comment on any motions made under Matters.
10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.
11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted
12. **ADJOURNMENT**

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE:

Consideration of the following items related to the annexation of 6234 Arapahoe Road and 1492 Cherryvale Road commonly known as the Boulder Jewish Commons site:

1. A resolution finding the annexation petition in compliance with state statutes and establishing January 21, 2014, as the date for a public hearing;
2. Introduction, first reading and consideration of a motion to order published by title only, an ordinance:
 - a. Annexing a 1.8 acre area of land generally located 1492 Cherryvale Road with an initial zoning classification of Residential Rural - 1 (RR-1); and
 - b. Annexing a 16.36 acre area of land generally located at 6234 Arapahoe Road with an initial zoning classification of Residential – Medium 1 (RM-1) and Public (P);
 - c. Annexing a 0.74 acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe Road extending eastward to a point at the northeast property line of 6234 Arapahoe Road with an initial zoning classification of Residential - Medium 1 (RM-1); and
 - d. Authorizing variations and modifications to the Boulder Revised Code that are in the annexation agreement associated with these annexations.

Applicant/Property Owner: Vincent Porreca/Cherryvale Commons LTD

PRESENTERS:

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Charles Ferro, Development Review Manager, Community Planning and Sustainability Planning
Elaine McLaughlin, Senior Planner, Community Planning and Sustainability Planning)

EXECUTIVE SUMMARY

The area proposed to be annexed is generally located near the southeast corner of Arapahoe and Cherryvale roads, specifically, 6234 Arapahoe Rd. and 1492 Cherryvale Rd. and is part of a planned educational and cultural facility referred to as the Boulder Jewish Commons. A brief description of the annexation requests and the proposed project are provided on page 3, and a vicinity map is found within **Attachment A**.

Per the state's annexation statutes, council is asked to consider the annexation resolution as provided in **Attachment B** setting the public hearing date for Jan. 21, 2014. The proposed annexation resolution establishes that the petition to annex a total of approximately 19 acres is in compliance with Section 31-12-107(1), C.R.S. and sets the hearing to determine compliance with other annexation requirements. The ordinance to annex the properties is provided for first reading in **Attachment C**.

The annexation proposal includes a high percentage of affordable housing for any dwelling units that may be developed on the property; the dedication of 8.59 acres of land to the City of Boulder's Open Space and Mountain Parks for the environmental protection of Sombrero Marsh and land surrounding the marsh; construction of new roadways for connectivity; and a construction of a roadway roundabout for traffic calming on Cherryvale Road. Staff finds the proposal consistent with the Boulder Valley Comprehensive Plan (BVCP) and recommends approval of the annexation

On Jan. 21, 2014, the second reading of the annexation ordinance is scheduled for consideration of with the following actions:

1. annexing the subject properties, including an adjacent portion of Arapahoe Avenue, with initial zoning classifications of Rural - Residential 1 (RR-1), Residential - Medium 1 (RM-1) and Public (P).
2. authorizing an indoor recreational or athletic facility use at 5980 Arapahoe pursuant to a use review approved concurrent with this annexation and to complete the development of the Boulder Jewish Commons in three phases of five, ten, and fifteen years from the time of the development.

In addition to the second reading of the annexation ordinance on Jan. 21, 2014, council will be asked to consider approval of the following requests related to development of the Boulder Jewish Community Center (JCC):

- Site Review to permit the new building and associated landscaping, parking and access roadways; and
- Use Review to permit a Day Care Facility, an Adult Education Facility, and a Indoor Recreational or Athletic Facility within the Jewish Community Center.

On Oct. 24, 2013, Planning Board unanimously recommended approval of the Annexations and Initial Zoning, the Site Review and the Use Review applications. Ordinarily when Planning Board acts on a Site Review application, the decision is subject to City Council call-up, per section 9-4-2, "Development Review Procedures," B.R.C. 1981. In this case, the proposed annexation package includes the development of the JCC and related modifications and waivers

to the Boulder Revised Code and City Council has final decision authority for the initial site and use review applications. Therefore, City Council will be considering the Site and Use Review applications at the same time as the second reading of the annexation ordinance on Jan. 21, 2014. The conditions of annexation are set forth in **Attachment D**.

BACKGROUND

The proposed project includes the combined requests of annexation, initial zoning, site and use reviews that together will help to establish the property referred to as Boulder Jewish Commons. The project site includes an approximately 14-acre area annexed into the city as part of a larger 52-acre annexation of multiple properties in the 1980s. Two surrounding parcels and an area of Arapahoe Avenue right of way are currently proposed for annexation with initial zoning designations of Residential – Rural 1, Residential -Medium 1 and Public. Figure 1 illustrates the areas proposed for annexation with the respective initial zoning designations.

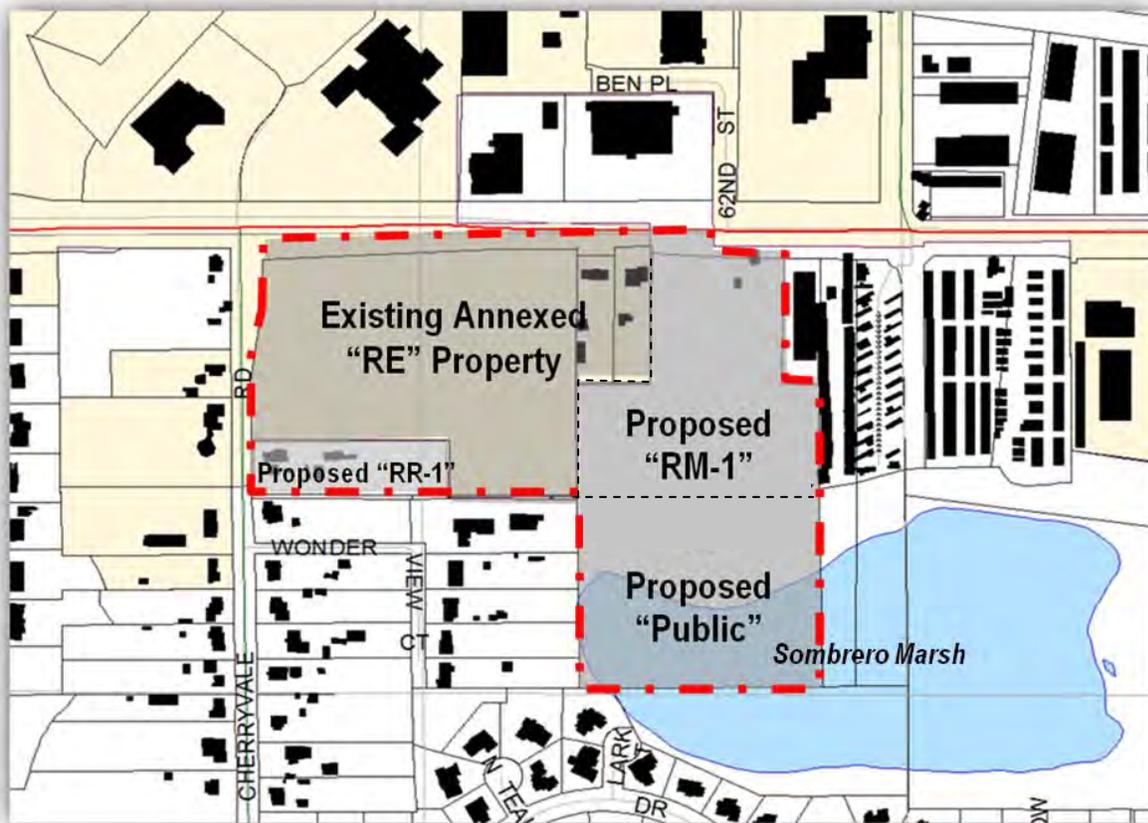
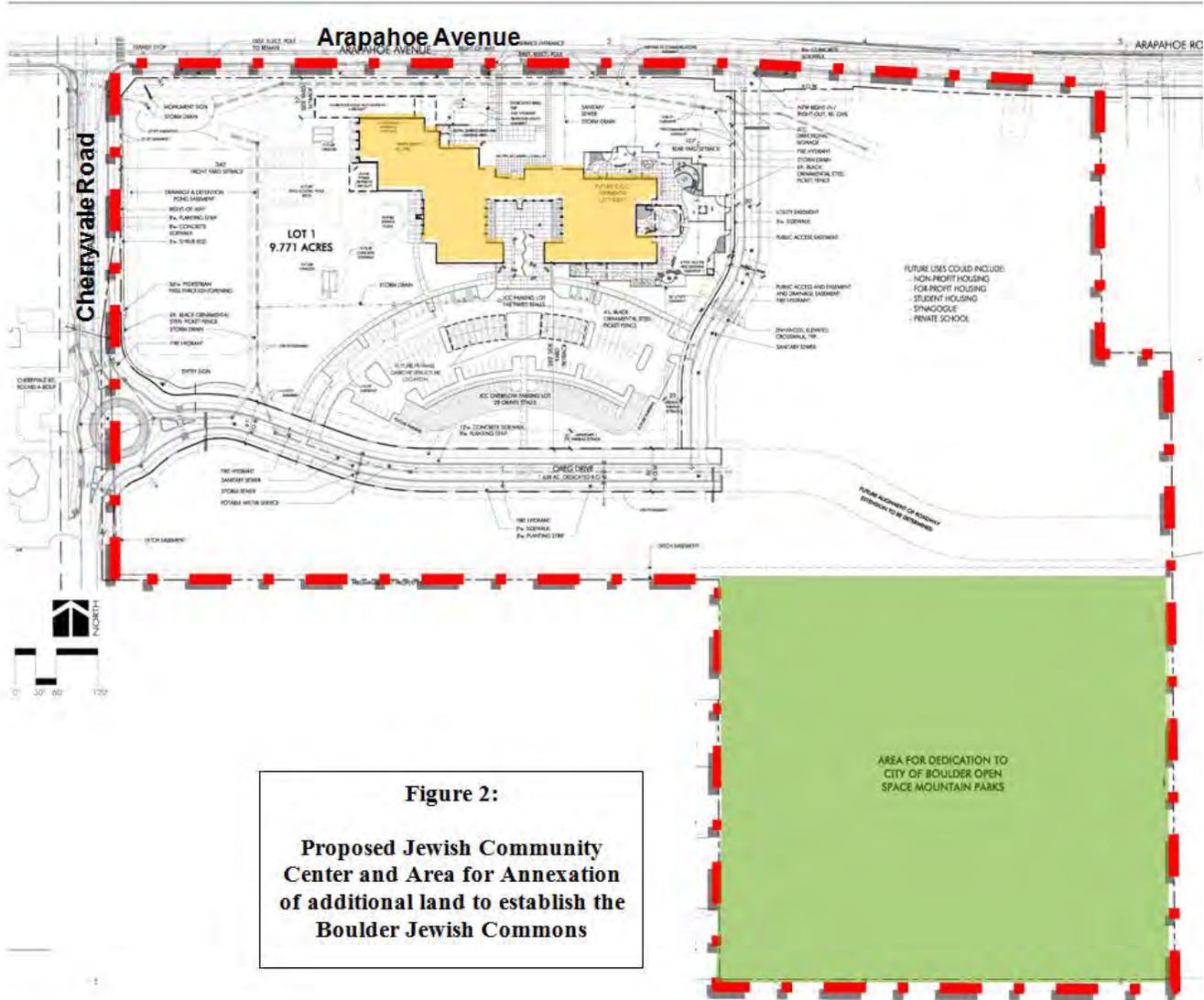


Figure 1: Existing Annexed Property and Proposed Annexation and Initial Zoning

As shown in Figure 2 on the following page, the Boulder Jewish Commons property is proposed to house the Jewish Community Center building along with two access roadways and associated parking and landscaping are planned to be constructed. In addition, an area encompassing a portion of the Sombbrero Marsh is proposed to be dedicated to the City of Boulder as open space through the annexation process. The JCC building will house educational and cultural uses and activities including a day care center, an adult education center, associated meeting space, and a fitness facility. While there are no plans to develop any residential units at this time on the

portion of the site planned for RM-1 zoning, any future residential will be required to provide 40 percent of the units as permanently affordable consistent with the conditions of annexation, provided in **Attachment D**. A small, 1.2 acre parcel of land on the south west corner of the property is planned for RR-1 zoning, however, there are no plans to develop that portion of the property at this time. The remainder of the property, totaling approximately 8.59 acres, will be dedicated to the City of Boulder's Open Space and Mountain Parks for the preservation of the Sombrero Marsh along with an area as a buffer to the marsh.



Previous Concept Plan Review. The plan to establish the property as the Boulder Jewish Commons was first introduced in a Concept Plan review in 2000. At that time, a much more intensive development was planned that included four synagogues, a separate recreation building, a separate education building, and a congregate care facility. The Planning Board at that time expressed support for the vision of the project and offered several recommended changes. The applicant has since implemented the Concept Plan recommendations, including a reduction in the level of overall development on the site and placement of the buildings near Arapahoe Avenue to protect the Sombrero Marsh. Since the 2000 Concept Plan review, the

property owners undertook and subsequently completed a capital campaign to construct the Jewish Community Center building and supporting roadways and infrastructure.

Annexation, Site and Use Review. On Oct. 24, 2013, the Planning Board reviewed the proposed annexation along with the Site and Use Review applications, and recommended that council approve the annexations and site review with conditions.

STAFF RECOMMENDATION

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

Suggested Motion Language:

1. *Motion to approve a resolution finding the annexation petition in compliance with state statutes and establishing Jan. 21, 2014, as the date for a public hearing and council action on the annexation ordinance.*
2. *Motion to introduce on first reading and to order published by title only an ordinance:*
 - a. Annexing a 1.8 acre area of land generally located 1492 Cherryvale Rd. with an initial zoning classification of Residential Rural - 1 (RR-1);
 - b. Annexing a 16.36 acre area of land generally located at 6234 Arapahoe with an initial zoning classification of Residential – Medium 1 (RM-1) and Public (P);
 - c. Annexing a 0.74 acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe extending eastward to a point at the northeast property line of 6234 Arapahoe Road with an initial zoning classification of Residential - Medium 1 (RM-1); and
 - d. Authorizing variations and modifications to the Boulder Revised Code that are in the annexation agreement associated with these annexations.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: None identified.
- Environmental: There are environmental benefits of having properties connected to city water and sewer, specifically, the avoidance of the potential impacts of independent septic system failure. In addition, the applicant has agreed to convey to the city, an area within the southern part of the project site which contains a portion of Sombrero Marsh, regarded as an “exceptional ecological resource.” The 8.59 acre area to be dedicated in-fee to the City of Boulder’s Open Space and Mountain Parks will leave the property’s sensitive environmental feature of Sombrero Marsh protected and maintained in its natural state.
- Social: Because the property at the northeast corner of the site is planned to be annexed with an initial zoning of Residential – Medium 1 (RM-1) but not developed at this time, the property will hold additional development potential. The applicant has agreed to provide

40 percent, or two times the Inclusionary Housing standard, of any future housing as permanently affordable. The provision of permanently affordable housing within Boulder creates and maintains social diversity within the community.

OTHER IMPACTS

- Fiscal: City services are existing and available within both Arapahoe and Cherryvale roads adjacent to this site. All development will be subject to city development fees including payment of Storm Water, Flood Management, and utility Plant Investment Fees (PIFs).
- Staff time: The annexation application has been processed through the provisions of a standard annexation, site and use review processes and is within normal staff work plans.

BOARD AND COMMISSION FEEDBACK

Annexations are subject to county referral and city Planning Board recommendation prior to City Council action.

Boulder County Commission: The county has reviewed the request and is in support of the proposal.

Planning Board: The board reviewed a Concept Plan to annex and develop the Boulder Jewish Commons in 2000 and most recently at a public hearing on Oct. 24, 2013. At the recent public hearing the board recommended that council approve the annexations along with the site and use reviews with conditions.

Concept Plan: At the time the Boulder Jewish Commons Concept Plan was reviewed, four synagogues were proposed along with separate buildings for education and recreation and with 49 congregate care units. At the time of the 2000 Concept Plan review, the Planning Board expressed support for the vision of the project and provided several suggestions that included: reducing the level or intensity of development on the site; shifting roads and parking from the south property line to internal to the site; and placement of the buildings near Arapahoe Avenue to protect the Sombrero Marsh.

Annexation, Site and Use Review: On Oct. 24, 2013, the Planning Board unanimously supported the proposed annexations with initial zoning designations of Residential Rural -1 (RR-1), Residential Medium-1 (RM-1), and Public (P), noting the consistency with the BVCP. Planning Board also unanimously recommended approval of the Site and Use Review applications finding the proposal consistent with the Site and Use Review criteria. For the Site Review approval, the Planning Board recommended two additional conditions: work with the Regional Transportation District (RTD) to locate an additional bus stop along Arapahoe Avenue adjacent to the proposed JCC building; and work with staff to reconfigure the service area to not impact pedestrians.

PUBLIC FEEDBACK

All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Compliance with these requirements have included public notice in the form of written notification mailed to all property owners within 1,200 feet of the subject property and a sign posted on the property for at least 10 days prior to the public hearing as required. As part of the review process, the applicant also held two neighborhood meetings. Public comment was also given at the time of the Planning Board Concept Plan review hearing and the hearing for the

Annexation, Initial Zoning and Site/Use Reviews. Of the comments received, many expressed support for the proposed Jewish Community Center, the traffic calming roundabout, and the planned improvements to Cherryvale Road including the double turn lanes for westbound Arapahoe Avenue on Cherryvale Road. Two commentators expressed concern about flooding from Sombrero Marsh on to the property and neighboring properties during the recent flooding events in September. Staff provided responses to these neighbors for their specific concerns.

At the Oct. 24, 2013 Planning Board hearing there were approximately 100 members of the public in attendance who, through a show of hands, indicated support for the proposed project. Of the five persons who spoke during public participation, all indicated support for the application including two neighboring property owners who were impacted by the September 2013 flooding from Sombrero Marsh. The neighbors asked that continuing discussions be held with the city and county on flood prevention and mitigation. Staff agreed to the request for on-going discussions with Boulder County representatives given the impacts originating in the county, specific to Sombrero Marsh as well as neighboring residential areas.

PROPOSED ANNEXATION AND PROJECT PLANS

The proposed Boulder Jewish Commons area encompasses approximately 32 acres. As shown in Figure 3, on the following page, an approximately 14 acre area was annexed as part of a larger 52 acre annexation of multiple properties in the 1980s and is zoned Residential Estate (RE). The approximately eight-acre property to the east of the RE zoned area is intended to be annexed with an initial zoning of RM-1, although no development is planned at this time on the property. To the south of the RE parcel, along Cherryvale Road, a 1.8 acre parcel will be annexed as Residential - Rural 1 (RR-1). The far south end of the property that encompasses a portion of Sombrero Marsh is intended to be zoned as Public (P) and dedicated in fee in its entirety to the city for management by Open Space and Mountain Parks as permanent open space.

The JCC building is planned to be located near Arapahoe Avenue in the already annexed parcel. The building is intended to primarily be a place for education with roughly half of the building being planned for a child day care facility, and the other half being planned for adult education. As can be seen in Figure 4, on the following page, the adult education portion of the building includes meeting spaces, classrooms, a “community hall” for larger gatherings, and a fitness facility. There are also offices for the JCC and a small library. Figure 5 is a perspective sketch of the proposed JCC building as seen from Cherryvale Road and Figure 6 is a perspective sketch of the entrance plaza into the building.

Two access points are proposed into the property, one from Arapahoe Avenue just east of the planned JCC building, and the other on Cherryvale Road. As shown in Figure 7, the access from Cherryvale Road is proposed as a roundabout to calm traffic on the roadway. The roundabout will provide for motor vehicle traffic as well as bicycle and pedestrian traffic in an area of Cherryvale Road where little exists today for bikes or pedestrians.

The applicant does not have plans to develop residential units at this time, but instead intends to focus on the development of the JCC. However, per the annexation agreement, at the time of any residential development 40 percent (or two times the inclusionary housing requirement) of such units must be permanently affordable and the plans will be subject to Site Review Amendment approval.

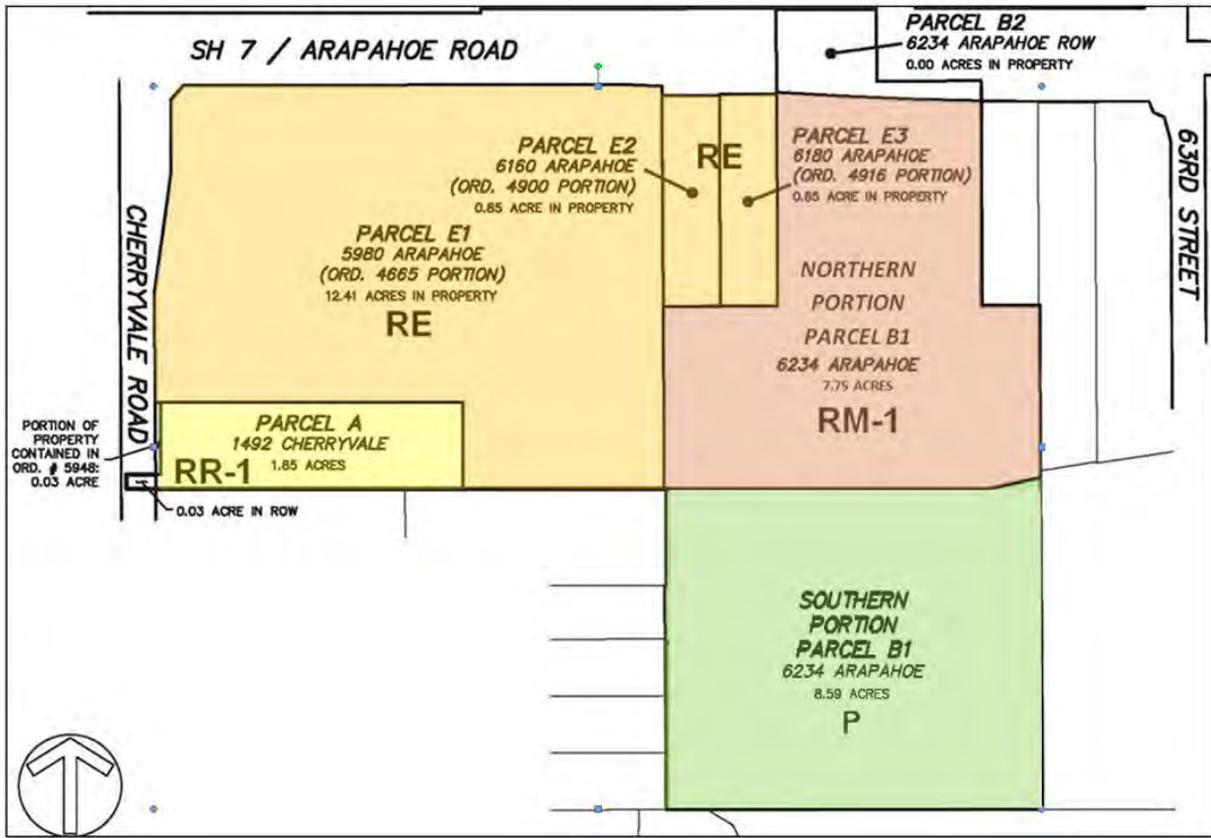


Figure 3: Existing and Proposed Zoning



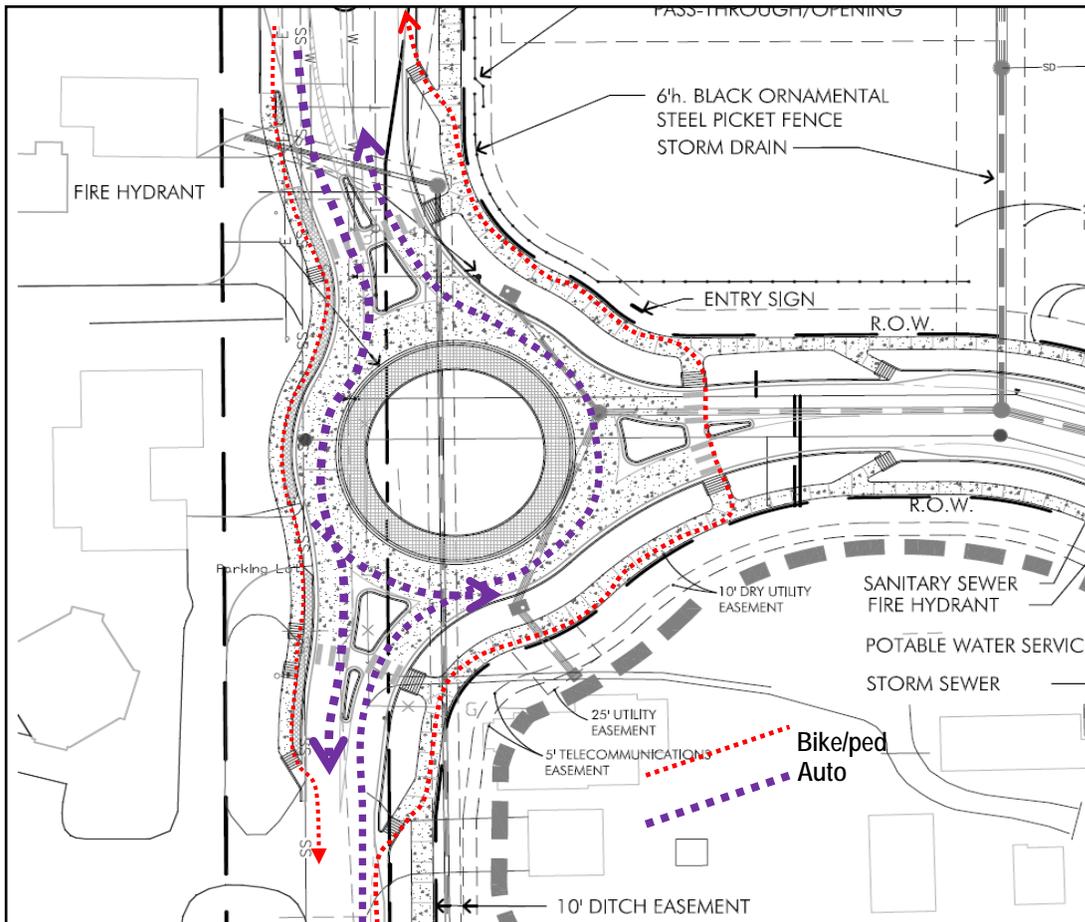
Figure 4: Proposed Building's Educational Use



Figure 5:
Perspective Rendering of Proposed JCC Building looking Northeast from Cherryvale Road



Figure 6:
Perspective Rendering of Entrance Plaza into the Building



**Figure 7:
Proposed Traffic Roundabout**

ANALYSIS

1. Land Use Designation and Initial Zoning

The applicant is requesting annexation into the city of Boulder with three different zoning designations, including: RR-1 for 1492 Cherryvale Rd.; RM-1 for the north half of 6234 Arapahoe Ave.; and Public for the south half of 6234 Arapahoe Ave. Each of the areas with proposed initial zoning designations are consistent with their respective BVCP land use designations of Very Low Density Residential; Medium Density Residential; and Open Space, Other (for that portion adjacent and within the Sombrero Marsh). The applicant is requesting annexation by petition as provided by state law.

Within the existing RE zoning, use of the property as a day care and adult education facility is permitted through Use review. An indoor recreation or athletic facility use is not a permitted in the RE zoning district however it is not atypical to be associated with an educational use. Therefore, the applicant is requesting that this use be authorized as part of the Jewish Community Center through ordinance

2. Compliance with State Annexation Statute

Annexations must comply with the Municipal Annexation Act of 1965, section 31-12-101, *et seq.*, C.R.S. Staff has reviewed the annexation petition for compliance with section 31-12-104, C.R.S. and section 31-12-105, C.R.S. and finds that the application is consistent with the statutory requirements, as affirmed by the criteria below:

- Landowners of more than 50 percent of the area who comprise more than 50 percent of the landowners in the area have petitioned to annex;
- The petition was filed with the City Clerk;
- There is a community interest between the property proposed for annexation and the city of Boulder;
- The subject property does not include any area included in another annexation proceeding involving a municipality other than the city of Boulder;
- The annexation would not remove the property from one school district and add it to another; and
- The property has, at least, one-sixth contiguity with the perimeter to the city of Boulder.

Staff has found that the proposed annexations are compliant with the state provisions for annexation located in Section 31-12-101 *et seq.*, C.R.S.

3. Compliance with City Policies

Staff has found the proposed annexation in compliance with a number of applicable BVCP policies:

General BVCP Policies

- 1.04 Principles of Social Sustainability
- 2.05 Design of Community Edges
- 2.07 Design of Major Entryways
- 2.17 Variety of Activity Centers
- 2.19 Compatibility of Adjacent Land Uses
- 2.31 Design of Newly-Developing Areas
- 2.32 Physical Design for People
- 2.33 Environmentally Sensitive Urban Design
- 2.37 Enhanced Design for Private Sector Projects
- 3.01 Ecological Systems into Planning
- 3.04 Ecosystem Connections and Buffers
- 4.05 Energy-Efficient Building Design
- 5.09 Role of Arts and Cultural Programs
- 6.10 Managing Parking Supply
- 6.12 Neighborhood Streets Connectivity
- 8.05 Diversity
- 8.07 Physical Health
- 8.10 Support for Community Facilities
- 8.16 Education Resource
- 8.18 The Arts

BVCP Policy 1.24 Annexation

Staff found that the proposed annexation is consistent with all applicable BVCP policies regarding annexation. Staff's analyses of *relevant* policies found in Section 1.27 of the BVCP are below:

- a) **Annexation will be required before adequate facilities and services are furnished.**

*The applicants have submitted an application to annex into the city prior to connection to any city utilities. Connection will only occur if the annexation is approved by City Council in accordance with the annexation agreement (refer to **Attachment D**).*

- d) **In order to reduce the negative impacts of new development in the Boulder Valley, the city will annex Area II land with significant development or redevelopment potential only if the annexation provides a special opportunity or benefit to the city. For annexation considerations, emphasis will be given to the benefits achieved from the creation of permanently affordable housing. Provision of the following may also be considered a special opportunity or benefit: receiving sites for transferable development rights (TDRs), reduction of future employment projections, land and/or facilities for public purposes over and above that required by the city's land use regulations, environmental preservation, or other amenities determined by the city to be a special opportunity or benefit. Sites that are proposed for annexation that are already developed and which are seeking no greater density or building size would not be required to assume and provide that same level of community benefit as vacant sites unless and until such time as an application for greater development is submitted.**

There are several recognized special opportunities and benefits of the proposed annexation:

- *preservation of a significant environmental resource – the Sombrero Marsh through dedication in fee of 8.59 acres of land encompassing a portion of the marsh and a 100 foot buffer surrounding the marsh (see additional information below);*
- *provision of 40 percent of any future residential development as permanently affordable housing within the planned RM-1 zoned area;*
- *provision of a new Jewish Community Center - through annexation will allow for a cultural and educational facility that can serve the entire community;*
- *construction of a traffic calming roundabout on Cherryvale Road;*
- *extension of new roadways that to ensure connectivity in an area where large super blocks exist today;*

Recognizing the important ecological value of the marsh, the applicant proposed to dedicate the area encompassed by the marsh to the City of Boulder and include in that dedication a broader buffer beyond the marsh. The value of the marsh has been well documented. In an excerpt from the Management Plan established for Sombrero Marsh

in 2001, prepared by the City of Boulder Open Space and Mountain Parks Division, the following describes why the Marsh has considerable ecological value:

“Sombbrero Marsh is the only naturally occurring perennial open water body of its size in the Boulder Valley, totaling over 20 acres (the majority of wetlands in the Boulder Valley are less than 10 acres). The Marsh’s brackish waters and seasonal salt flats support wetland plant communities that are uncommon. Sombbrero Marsh’s physical environment and wildlife habitat are highly unique because its waters and soils are highly alkaline, which provide a highly specialized niche for plants and animals, and the Marsh provides a locally rare combination of open water and emergent vegetation. Besides important wildlife habitat, Sombbrero Marsh also provides important wetland functions of: flood storage, nutrient retention and removal, food chain support, and passive recreation / heritage value.”

- f) There will be no annexation of areas outside the boundaries of the Boulder Valley Planning Area, with the possible exception of annexation of acquired open space.**

The property is within Area II of the Boulder Valley Planning Area, which makes the area eligible for immediate annexation.

- g) Publicly owned property located in Area III and intended to remain in Area III may be annexed to the city if the property requires less than a full range of urban services or requires inclusion under city jurisdiction for health, welfare and safety reasons.**

Not applicable, not within Area III.

4. Terms of Annexation

The annexation conditions provided on **Attachment D** include the following terms;

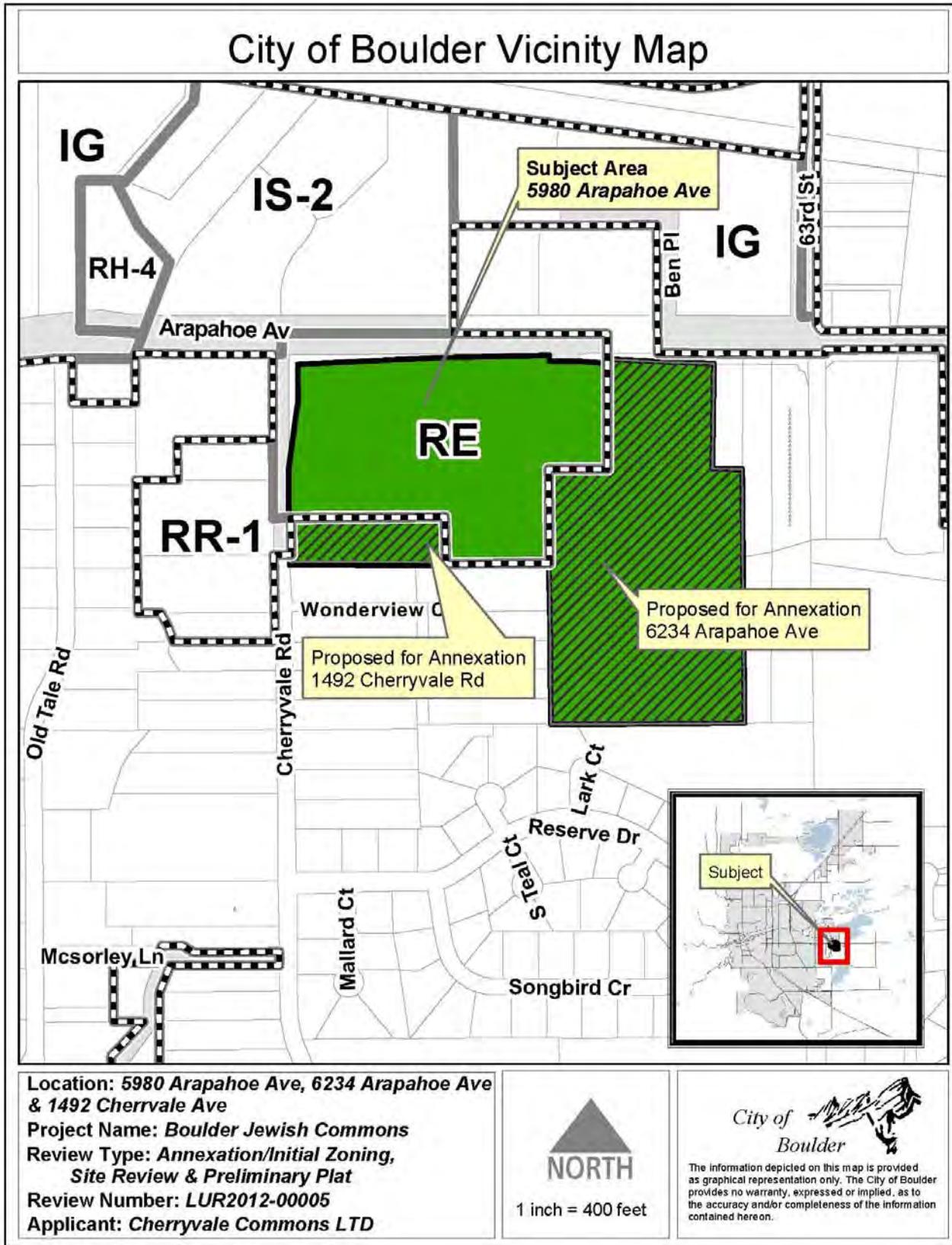
- Dedication of 8.59 acres of land in fee to the City, at no cost to the City.
- Reservation for future dedication of right of way oriented west to east through the 6234 Arapahoe property.
- Allowance of “Indoor Recreational or Athletic Facility” use in the RE zoning district concurrent with this annexation.
- Allowance of development of the JCC in three phases, five, ten, and fifteen years, each beginning at the time of approval.
- Affordable Housing. The parties agree that this Agreement is a voluntary agreement between the City and the Applicant that may limit rents or sales prices on dwelling units on the Property to insure that they are constructed and maintained as affordable housing. The Applicant agrees that forty percent (40%) of any dwelling units on the Property shall be permanently affordable and shall meet the requirements provided below as units that are owned by individual home owners or rented to tenants. Permanently affordable deed restricting covenants acceptable to the city to secure the

affordability of dwelling units shall be signed and recorded with the Boulder County Clerk and Recorder prior to application for any residential building permit.

- Permanently Affordable – Low to Moderate Income. The Applicant agrees to provide fifty percent (50%) of any permanently affordable units to be affordable for low or moderate income households consistent with Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981. The total number of required low to moderate income permanently affordable units shall be rounded down to the nearest whole number if a fractional number results from the calculations.
- Permanently Affordable – Middle Income. The Applicant agrees to provide fifty percent (50%) of any permanently affordable units to be affordable for middle income households.
- As required, the applicant has applied for inclusion in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict, and will pay all applicable fees on land and improvements for inclusion in such districts;
- As required the applicant has paid the Storm Water and Flood Management Utility Plant Investment Fees; the Housing Excise Tax; and Utility Main Reimbursements.

ATTACHMENTS

- A. Location Map
- B. Draft Resolution 1131
- C. Draft Ordinance 7955
- D. Annexation Agreement



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RESOLUTION NO. 1131

A RESOLUTION TO DETERMINE THAT THE PETITION TO ANNEX APPROXIMATELY 19 ACRES OF LAND GENERALLY LOCATED AT 1492 CHERRYVALE ROAD AND 6234 ARAPAHOE AVENUE AND AN ADJACENT RIGHT-OF-WAY IS IN COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND TO SET A HEARING TO DETERMINE COMPLIANCE WITH OTHER STATUTORY ANNEXATION REQUIREMENTS.

A. The City Council of the City of Boulder, Colorado, hereby finds that the Petition to annex the properties more particularly described in **Exhibit A**, **Exhibit B**, and **Exhibit C** attached hereto and incorporated herein by reference, is in compliance with Section 31-12-107(1), C.R.S., as amended;

B. The City Council of the City of Boulder, Colorado, finds that the following requirements have been met:

- i. More than fifty percent of the landowners in the area owning more than fifty percent of the area, excluding public streets and alleys, meeting the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, have petitioned the City of Boulder for annexation of such territory;
- ii. The Petition has been filed with the City Clerk;
- iii. The Petition alleges it is desirable and necessary that such area be annexed to the City of Boulder;
- iv. The Petition alleges that the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met;
- v. The Petition contains a request that the City of Boulder approve the annexation of the area proposed to be annexed;
- vi. The Petition alleges that signers of the Petition comprise more than fifty percent of the landowners in the area proposed to be annexed and own more than fifty percent of the area proposed to be annexed, exclusive of streets and alleys;
- vii. The Petition contains signatures of such landowners;
- viii. The Petition contains the mailing address of each signer;
- ix. The Petition contains the legal description of the land owned by each signer;
- x. The Petition contains the date of signing of each signature; and

1 xi. The Petition contains the affidavit of each circulator of such Petition, that each
2 signature therein is the signature of the person whose name it purports to be.

3 C. Four copies of an annexation map accompanied the Petition and contained the
4 following information:

5 i. A written legal description of the boundaries of the area proposed to be annexed;

6 ii. A map showing the boundary of the area proposed to be annexed;

7 iii. Within the annexation boundary map, a showing of the location of each ownership
8 tract in unplatted land and, if part or all of the area is platted, the boundaries and the
9 plat numbers of plots or of lots and blocks; and

10 iv. A drawing of the contiguous boundary of the City of Boulder next to the boundary of
11 the area proposed to be annexed and the contiguous boundary of any other
12 municipality abutting the area proposed to be annexed.

13 D. All signatures on the Petition have been dated no more than one hundred eighty days
14 prior to the date of filing the Petition with the City Clerk;

15 BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
16 COLORADO, THAT:

17 A hearing will be held to determine whether the requirements delineated in Section 30 of
18 Article II of the Colorado Constitution and Sections 31-12-104 and 31-12-105, C.R.S., as amended,
19 have been met and whether an election is required under Section 31-12-107(2), C.R.S. The hearing
20 will be held at 6 p.m. on January 21, 2014, at 1777 Broadway, Boulder, Colorado.

21 INTRODUCED, READ, PASSED, AND ADOPTED this 17th day of December, 2013.

22 _____
23 Mayor

24 Attest:

25 _____
City Clerk

EXHIBIT A TO RESOLUTION (Page 1 of 2)

EXHIBIT

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34, FROM WHENCE THE NORTH QUARTER CORNER LIES S89°56'35"W, 2,620.17 FEET;

THENCE S00°19'26"E, 30.00 FEET;

THENCE S89°56'35"W, 1,766.96 FEET;

THENCE S00°19'26"E, 573.14 FEET TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE ALONG SAID SOUTHERLY ANNEXATION LINE N89°56'35"E, 9.46 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SOUTHERLY AND WESTERLY ANNEXATION LINE OF ORDINANCE 4665 THE FOLLOWING TWO COURSES:

- 1) N89°56'35"E 527.54 FEET;
- 2) S00°19'26"E, 152.24 FEET TO THE NORTHEASTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933717;

THENCE S89°56'35"W, 587.51 FEET ALONG THE NORTHERLY LINES OF SAID PARCEL AND PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933716 EXTENDED WESTERLY TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5948, RECORDED 12/09/1997 AT RECEPTION NO. 1754291);

THENCE N00°20'12"W, 25.09 FEET ALONG SAID EASTERLY ANNEXATION LINE TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5028, RECORDED 01/30/1987 AT RECEPTION NO. 1754291);

THENCE ALONG THE SOUTHERLY AND EASTERLY ANNEXATION LINES OF ORDINANCE 5028 THE FOLLOWING TWO COURSES:

- 1) N89°39'48"E, 60.00 FEET;
- 2) N00°20'12"W, 126.86 FEET TO THE POINT OF BEGINNING, CONTAINING 81,824 SQUARE FEET OR 1.88 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO THE CITY OF BOULDER 1492 CHERRYVALE ROAD	
HURST	CIVIL ENGINEERING PLANNING SURVEYING
	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com
	SCALE HOR. N/A VERT. N/A DESIGN/APPR. DRAWN BY BO DATE 09/14/11 SHEET 1 of 1
	FILE G:\23121\SURVEY\1492 ANNEXATION

ANNEXATION MAP

NORTH 1/4 CORNER,
SECTION 34, T1N, R70W:
2.5" ALUMINUM CAP IN RANGE BOX
"DREXEL, LS 2149"

NORTHEAST CORNER, SECTION 34
2.5" BRASS CAP IN RANGE BOX
"LS 24959 1984"

ARAPAHOE ROAD (S.H. 7)

SECTION LINE:
S89°56'35"W 2620.17'

S89°56'35"W
1,776.96'

POINT OF
COMMENCEMENT

S00°19'26"E
30.00'

SOUTH LINE, ARAPAHOE ROAD

5980
ARAPAHOE
ROAD

ANNEXATION
ORDINANCE
#4665

1527
CHERRYVALE
ROAD

ANNEXATION
ORDINANCE
#5028

CHERRYVALE
ROAD

S00°19'26"E
573.14'

N89°56'35"E
9.46'

POINT OF
BEGINNING

N89°56'35"E 527.54'

1492 CHERRYVALE ROAD
ANNEXATION AREA:
1.88 ACRES

S00°19'26"E 152.24'

N89°39'48"E
60.00'

N00°20'12"W
25.09'

ANNEXATION
ORDINANCE
#5948

1459
CHERRYVALE RD.

S89°56'35"W 587.51'

R#2933716

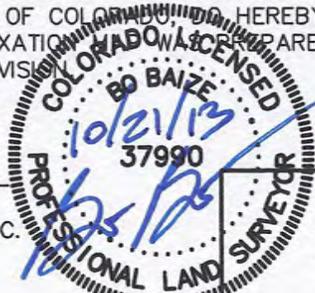
R#2933717

1468
CHERRYVALE
ROAD

1460
WONDERVIEW
COURT

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.

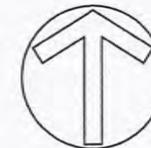


FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

CONTIGUITY INFORMATION:

PERIMETER: 1,479.24'
CONTIGUOUS TO CITY OF BOULDER: 891.73'

(1/6 OF PERIMETER = 246.54') < 891.73'



ANNEXATION TO
THE CITY OF BOULDER
1492 CHERRYVALE ROAD

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	09/14/11
SHEET	1 OF 1

FILE G:\23121\SURVEY\1492 ANNEXATION

EXHIBIT B TO RESOLUTION (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 331.00 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 TO THE NORTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO THE COLORADO DEPARTMENT OF HIGHWAYS IN A DOCUMENT RECORDED 07/22/1966 AT RECEPTION NO. 821786;
THENCE S00°00'00"E, 74.95 FEET ALONG THE EASTERLY LINE OF SAID PARCEL TO THE SOUTHEASTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION) AND THE POINT OF BEGINNING;

THENCE CONTINUING S00°00'00"E 360.65 FEET;

THENCE N90°00'00"E, 100.00 FEET;

THENCE S00°00'00"E, 884.40 FEET;

THENCE S90°00'00"W, 657.48 FEET;

THENCE N00°00'00"W, 394.62 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2399717;

THENCE ALONG THE PERIMETER OF SAID PARCEL THE FOLLOWING THREE COURSES:

1) N90°00'00"E, 2.50 FEET;

2) N00°00'00"W, 169.98 FEET;

3) N89°43'59"W, 2.50 FEET TO A POINT ON THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE N00°00'00"W, 319.78 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4900, RECORDED 05/23/1985 AT RECEPTION NO. 689989);

THENCE N90°00'00"E, 100.00 FEET ALONG THE SOUTHERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439);

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

1) N90°00'00"E, 100.00;

2) N00°00'00"W, 378.13 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:

357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING S87°12'02"E, 357.90 FEET TO THE POINT OF BEGINNING, CONTAINING 16.36 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO THE CITY OF BOULDER 6234 ARAPAHOE ROAD	
HURST	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com
	SCALE HOR. N/A VERT. N/A
	DESIGN/APPR.
	DRAWN BY BO DATE 07/01/13 SHEET 1 OF 1
FILE G:\23121\SURVEY\6234 ANNEXATION	

EXHIBIT C TO RESOLUTION (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27 AND THE NORTHEAST QUARTER OF SECTION 34, BOTH IN TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 513.01 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 (BASIS OF BEARINGS) TO THE WESTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758) AND THE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

- 1) S00°00'00"E, 39.40 FEET;
- 2) S90°00'00"E, 182.01 FEET

THENCE S00°00'00"E, 35.55 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:
357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING N87°12'02"W, 357.90 FEET TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439)

THENCE N90°00'00"W, 139.72 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE NORTHEASTERLY CORNER OF ANNEXATION;

THENCE CONTINUING N90°00'00"W, 5.25 FEET TO THE A POINT 87.50 FEET NORTH OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27;

THENCE ALONG A LINE PARALLEL WITH AND 87.50 FEET NORTH OF SAID SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27 TO THE NORTHWESTERLY CORNER OF THE ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758);

THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION S00°00'00"E, 87.50 FEET TO THE POINT OF BEGINNING, CONTAINING 0.74 ACRE, MORE OR LESS.

CERTIFICATION:

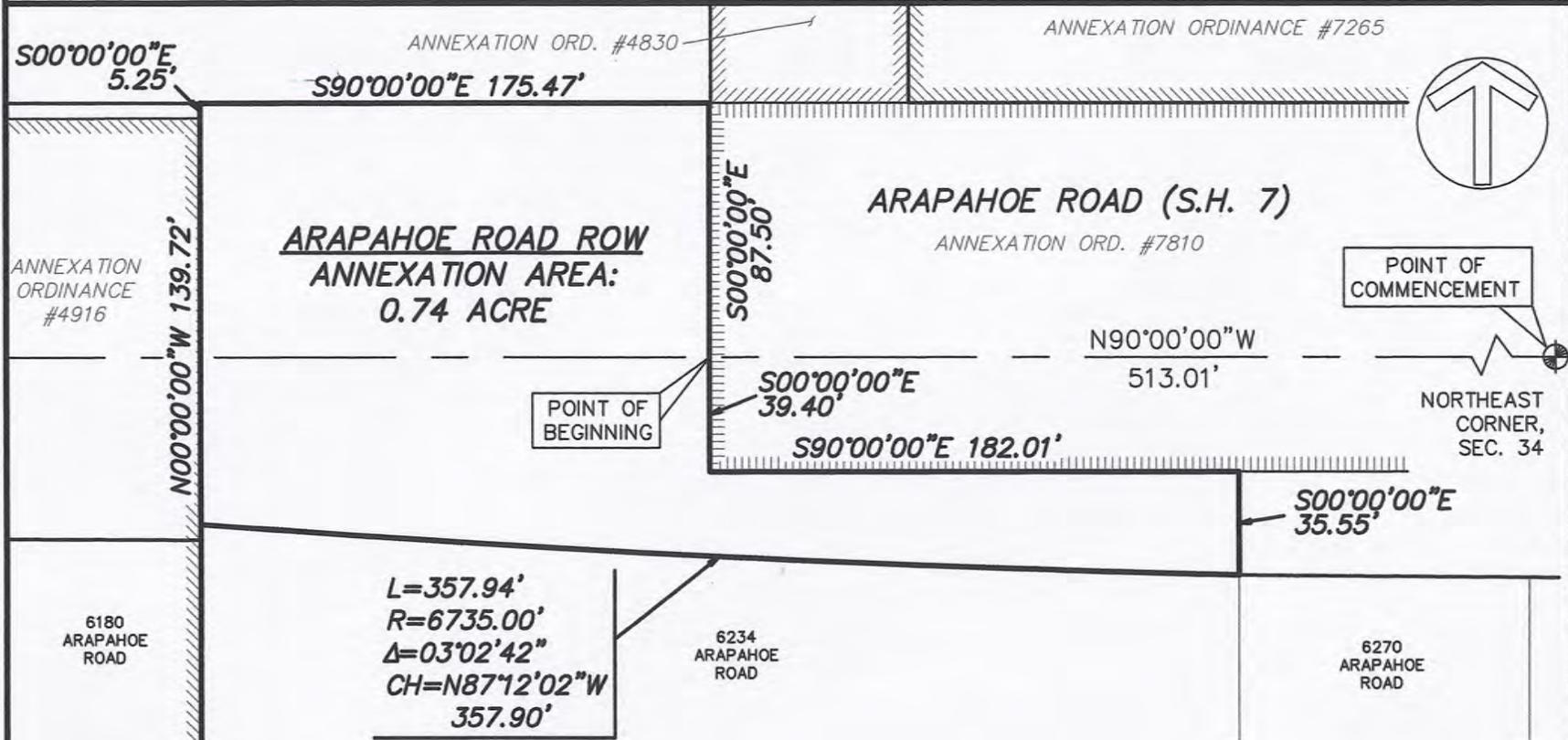
I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

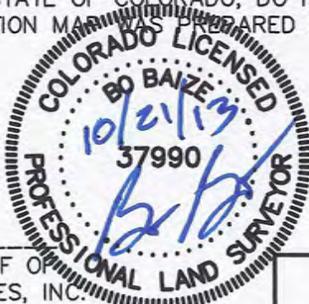
ANNEXATION TO THE CITY OF BOULDER ARAPAHOE RIGHT OF WAY AT 6234 ARAPAHOE ROAD	
HURST CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com
	SCALE HOR. 1"=120' VERT. N/A
	DESIGN/APPR. _____
	DRAWN BY BO DATE 07/01/13 SHEET 1 OF 1
FILE G:\23121\SURVEY\6234 ROW ANNEXATION	

ANNEXATION MAP



CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

**ANNEXATION TO
THE CITY OF BOULDER
ARAPAHOE RIGHT OF WAY
AT 6234 ARAPAHOE ROAD**

CONTIGUITY INFORMATION:

PERIMETER: 1,022.84'
CONTIGUOUS TO CITY OF BOULDER: 448.63'

(1/6 OF PERIMETER = 170.47') < 448.63'

HURST CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com	SCALE HOR. N/A VERT. N/A
		DESIGN/APPR.
		DRAWN BY BO
		DATE 07/01/13
FILE G:\23121\SURVEY\6234 ROW ANNEXATION		SHEET 1 OF 1

ORDINANCE NO. 7955

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER PROPERTIES TOTALING APPROXIMATELY 19 ACRES IN SIZE WITH THE FOLLOWING INITIAL ZONING CLASSIFICATIONS AS DESCRIBED IN CHAPTER 9-5, "MODULAR ZONE SYSTEM," B.R.C. 1981: 1492 CHERRYVALE ROAD: RESIDENTIAL - RURAL 1 (RR-1), THE NORTHERLY PORTION OF 6234 ARAPAHOE AVENUE AND AN ADJACENT PORTION OF ARAPAHOE AVENUE RIGHT OF WAY: RESIDENTIAL - MEDIUM 1 (RM-1), AND THE SOUTHERLY PORTION OF 6234 ARAPAHOE AVENUE: PUBLIC (P); AMENDING THE ZONING DISTRICT MAP FORMING A PART OF SAID CHAPTER TO INCLUDE THE PROPERTIES IN THE ABOVE-MENTIONED ZONING DISTRICTS, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO FINDS:

A. Cherryvale Commons, LTD., a Colorado nonprofit corporation, is the owner ("Owner") of the following real property: 1) the property generally known as 1492 Cherryvale Road and more particularly described on **Exhibit A** attached hereto and incorporated herein ("Parcel A") and 2) the property generally known as 6234 Arapahoe Avenue and more particularly described on **Exhibit B** attached hereto and incorporated herein ("Parcel B1"). Colorado Department of Transportation is the owner of a portion of Arapahoe Avenue right-of-way adjacent to Parcel B1 and more particularly described on **Exhibit C** attached hereto and incorporated herein ("Parcel B2"). The properties described on **Exhibit A**, **Exhibit B** and **Exhibit C** shall collectively be referred to hereinafter as the "Properties." The Properties comprise the area to be annexed.

B. Parcel B1 is approximately 16.36 acres in size. The Owner is conveying to the City as part of this annexation the southern portion of Parcel B1, approximately 8.59 acres in size and more particularly described on **Exhibit D** attached hereto and incorporated herein ("Southern Portion of Parcel B1"). The northern portion of Parcel B1 is approximately 7.76 acres in size as generally shown on the map on **Exhibit E** attached hereto and incorporated herein ("Northern Portion of Parcel B1").

C. The owners of 100% of the area proposed for annexation, excluding public streets and alleys, have petitioned for annexation of the Properties with the following initial zoning

1 classifications: Parcel A with Residential – Rural 1, the Northern Portion of Parcel B1 and
2 Parcel B2 with Residential - Medium 1, and the Southern Portion of Parcel B1 with Public.
3 Parcels A, B1, and B2 are not embraced within any city, city and county, or incorporated town
4 and each abuts and is contiguous with the City of Boulder by at least one-sixth of its perimeter.

5 D. A community of interest exists between the Properties proposed for annexation
6 and the City of Boulder, the Properties are urban or will be urbanized in the near future, and the
7 Properties are capable of being integrated into the City of Boulder.

8 E. The Properties do not include any area included in another annexation proceeding
9 involving a city other than the City of Boulder.

10 F. This annexation will not result in the detachment of the area from one school
11 district and the attachment of same to another school district.

12 G. This annexation will not have the effect of extending the City of Boulder's
13 boundaries any further than three miles from any point of the existing city boundaries.

14 H. The Properties do not include any area which is the same or substantially the same
15 area in which an election for the annexation to the City of Boulder was held within twelve
16 months preceding the filing of the above petition.

17 I. The Planning Board duly proposed that the Properties be annexed to the City of
18 Boulder and that the zoning district map adopted by the City Council be amended to zone and
19 include Parcel A in the Residential – Rural 1, the Northern Portion of Parcel B1 and Parcel B2 in
20 the Residential – Medium 1, and the Southern Portion of Parcel B1 in the Public zoning districts,
21 as provided in Chapter 9-5, "Modular Zone System," B.R.C. 1981.

22 J. A public hearing on the proposed annexation and initial zoning of the Properties
23 annexed and zoned hereby was duly held before the City Council on January 21, 2014.

24 K. The initial zoning designations of Parcel A in the Residential – Rural 1, Northern
25 Portion of Parcel B1 and Parcel B2 in the Residential – Medium 1, and the Southern Portion of
Parcel B1 in the Public zoning districts are consistent with the Boulder Valley Comprehensive
Plan and bear a substantial relation to and will enhance the general welfare of the Properties and
of the residents of the City of Boulder.

L. The City Council has jurisdiction and the legal authority to annex and zone the
Properties.

1 M. The Owner also owns the following real property: the property generally known
2 as 5980 Arapahoe Avenue and more particularly described on **Exhibit F** attached hereto and
3 incorporated herein (“Parcel E1”), the property generally known as 6160 Arapahoe Avenue and
4 more particularly described on **Exhibit G** attached hereto and incorporated herein (“Parcel E2”);
5 and the property generally known as 6180 Arapahoe Avenue and more particularly described on
6 **Exhibit H** attached hereto and incorporated herein (“Parcel E3”). Parcels E1, E2 and E3 are
7 already annexed to the City of Boulder. Concurrently with this annexation application, the
8 Applicant has submitted a site review application pertaining to the construction of a Boulder
9 Jewish Community Center on these already annexed parcels as well as the Properties, and a use
10 review application pertaining to Parcel E1.

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

13 Section 1. The territory more particularly described in **Exhibit A**, **Exhibit B**, and
14 **Exhibit C** are hereby annexed to and included within the corporate boundaries of the City of
15 Boulder.

16 Section 2. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district
17 map forming a part thereof, be, and the same hereby are, amended to include the Properties
18 within the following zoning districts: Parcel A within Residential – Rural 1, Parcel B2 and the
19 Northern Portion of Parcel B1 within Residential - Medium 1, and the Southern Portion of Parcel
20 B1 within Public.

21 Section 3. The City Council adopts the recitals in this ordinance and incorporates them
22 herein by this reference.

23 Section 4. The City Council approves any variations or modifications to the Boulder
24 Revised Code or other City ordinances that are in the agreement associated with this annexation.

25 Section 5. The City Council authorizes the city manager to implement the terms of the
agreements associated with this annexation.

Section 6. The annexation and zoning of the Properties is necessary for the protection of
the public health, safety, and welfare.

EXHIBIT A TO ORDINANCE (Page 1 of 2)

EXHIBIT

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34, FROM WHENCE THE NORTH QUARTER CORNER LIES S89°56'35"W, 2,620.17 FEET;

THENCE S00°19'26"E, 30.00 FEET;

THENCE S89°56'35"W, 1,766.96 FEET;

THENCE S00°19'26"E, 573.14 FEET TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE ALONG SAID SOUTHERLY ANNEXATION LINE N89°56'35"E, 9.46 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SOUTHERLY AND WESTERLY ANNEXATION LINE OF ORDINANCE 4665 THE FOLLOWING TWO COURSES:

- 1) N89°56'35"E 527.54 FEET;
- 2) S00°19'26"E, 152.24 FEET TO THE NORTHEASTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933717;

THENCE S89°56'35"W, 587.51 FEET ALONG THE NORTHERLY LINES OF SAID PARCEL AND PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933716 EXTENDED WESTERLY TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5948, RECORDED 12/09/1997 AT RECEPTION NO. 1754291);

THENCE N00°20'12"W, 25.09 FEET ALONG SAID EASTERLY ANNEXATION LINE TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5028, RECORDED 01/30/1987 AT RECEPTION NO. 1754291);

THENCE ALONG THE SOUTHERLY AND EASTERLY ANNEXATION LINES OF ORDINANCE 5028 THE FOLLOWING TWO COURSES:

- 1) N89°39'48"E, 60.00 FEET;
- 2) N00°20'12"W, 126.86 FEET TO THE POINT OF BEGINNING, CONTAINING 81,824 SQUARE FEET OR 1.88 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO THE CITY OF BOULDER 1492 CHERRYVALE ROAD

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
		www.hurst-assoc.com	DATE 09/14/11
FILE G:\23121\SURVEY\1492 ANNEXATION			SHEET 1 of 1

ANNEXATION MAP

NORTH 1/4 CORNER,
SECTION 34, T1N, R70W:
2.5" ALUMINUM CAP IN RANGE BOX
"DREXEL, LS 2149"

NORTHEAST CORNER, SECTION 34
2.5" BRASS CAP IN RANGE BOX
"LS 24959 1984"

ARAPAHOE ROAD (S.H. 7)

SECTION LINE:
S89°56'35"W 2620.17'

S89°56'35"W
1,776.96'

POINT OF
COMMENCEMENT

S00°19'26"E
30.00'

SOUTH LINE, ARAPAHOE ROAD

5980
ARAPAHOE
ROAD

ANNEXATION
ORDINANCE
#4665

1527
CHERRYVALE
ROAD

ANNEXATION
ORDINANCE
#5028

CHERRYVALE
ROAD

S00°19'26"E
573.14'

N89°56'35"E
9.46'

POINT OF
BEGINNING

N89°56'35"E 527.54'

1492 CHERRYVALE ROAD
ANNEXATION AREA:
1.88 ACRES

S00°19'26"E 152.24'

N00°20'12"W
25.09'

ANNEXATION
ORDINANCE
#5948

1459
CHERRYVALE RD.

N89°39'48"E
60.00'

S89°56'35"W 587.51'

R#2933716

R#2933717

1468
CHERRYVALE
ROAD

1460
WONDERVIEW
COURT

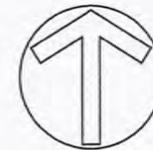
CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



CONTIGUITY INFORMATION:

PERIMETER: 1,479.24'
CONTIGUOUS TO CITY OF BOULDER: 891.73'
(1/6 OF PERIMETER = 246.54') < 891.73'



FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

**ANNEXATION TO
THE CITY OF BOULDER
1492 CHERRYVALE ROAD**

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	09/14/11
SHEET	1 OF 1

FILE G:\23121\SURVEY\1492 ANNEXATION

EXHIBIT B TO ORDINANCE (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 331.00 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 TO THE NORTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO THE COLORADO DEPARTMENT OF HIGHWAYS IN A DOCUMENT RECORDED 07/22/1966 AT RECEPTION NO. 821786;
THENCE S00°00'00"E, 74.95 FEET ALONG THE EASTERLY LINE OF SAID PARCEL TO THE SOUTHEASTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION) AND THE POINT OF BEGINNING;

THENCE CONTINUING S00°00'00"E 360.65 FEET;

THENCE N90°00'00"E, 100.00 FEET;

THENCE S00°00'00"E, 884.40 FEET;

THENCE S90°00'00"W, 657.48 FEET;

THENCE N00°00'00"W, 394.62 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2399717;

THENCE ALONG THE PERIMETER OF SAID PARCEL THE FOLLOWING THREE COURSES:

1) N90°00'00"E, 2.50 FEET;

2) N00°00'00"W, 169.98 FEET;

3) N89°43'59"W, 2.50 FEET TO A POINT ON THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE N00°00'00"W, 319.78 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4900, RECORDED 05/23/1985 AT RECEPTION NO. 689989);

THENCE N90°00'00"E, 100.00 FEET ALONG THE SOUTHERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439);

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

1) N90°00'00"E, 100.00;

2) N00°00'00"W, 378.13 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:

357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING S87°12'02"E, 357.90 FEET TO THE POINT OF BEGINNING, CONTAINING 16.36 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO THE CITY OF BOULDER 6234 ARAPAHOE ROAD	
HURST	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com
	SCALE HOR. N/A VERT. N/A
	DESIGN/APPR.
	DRAWN BY BO DATE 07/01/13 SHEET 1 OF 1
FILE G:\23121\SURVEY\6234 ANNEXATION	

EXHIBIT C TO ORDINANCE (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27 AND THE NORTHEAST QUARTER OF SECTION 34, BOTH IN TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 513.01 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 (BASIS OF BEARINGS) TO THE WESTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758) AND THE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

- 1) S00°00'00"E, 39.40 FEET;
- 2) S90°00'00"E, 182.01 FEET

THENCE S00°00'00"E, 35.55 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:
357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING N87°12'02"W, 357.90 FEET TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439)

THENCE N90°00'00"W, 139.72 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE NORTHEASTERLY CORNER OF ANNEXATION;

THENCE CONTINUING N90°00'00"W, 5.25 FEET TO THE A POINT 87.50 FEET NORTH OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27;

THENCE ALONG A LINE PARALLEL WITH AND 87.50 FEET NORTH OF SAID SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27 TO THE NORTHWESTERLY CORNER OF THE ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758);

THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION S00°00'00"E, 87.50 FEET TO THE POINT OF BEGINNING, CONTAINING 0.74 ACRE, MORE OR LESS.

CERTIFICATION:

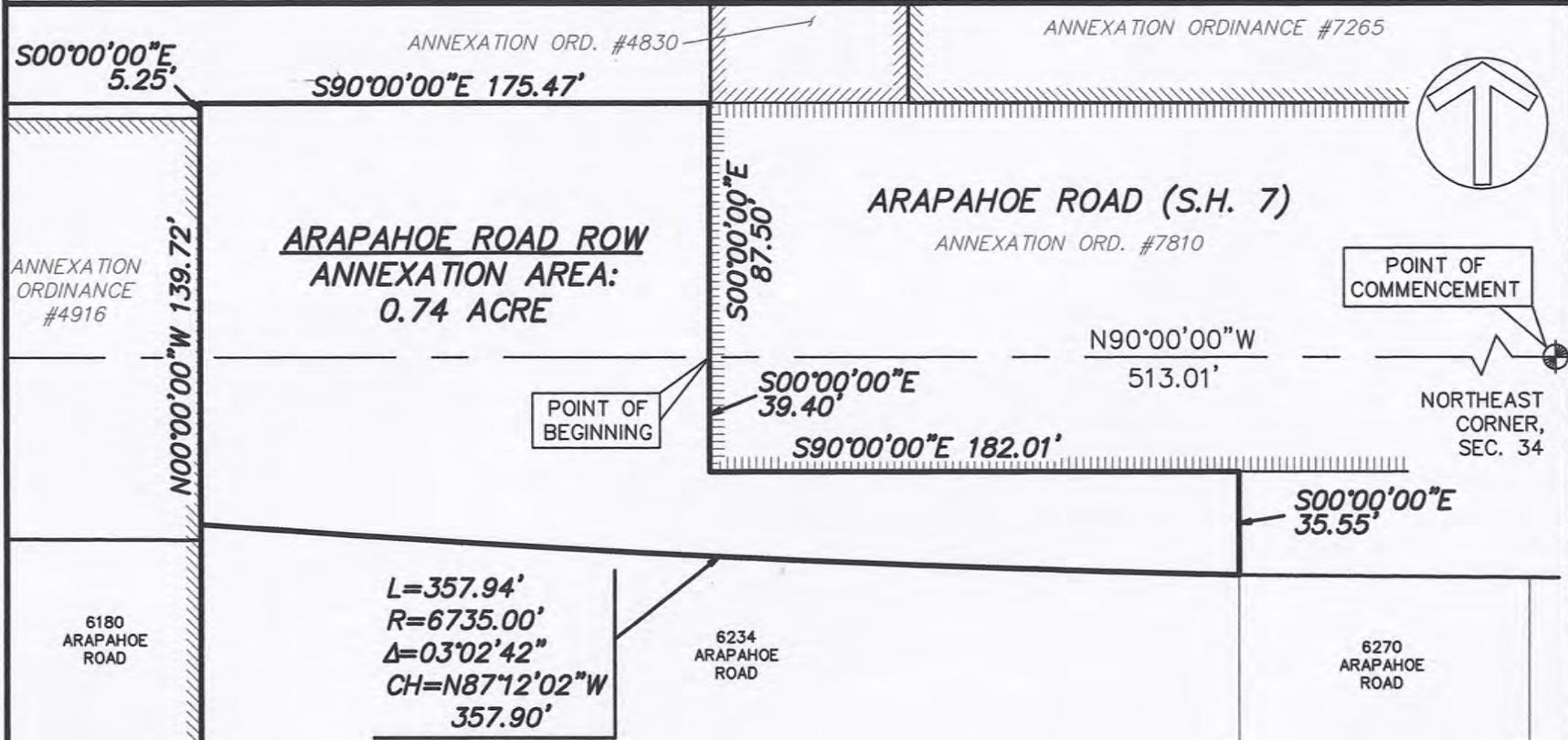
I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

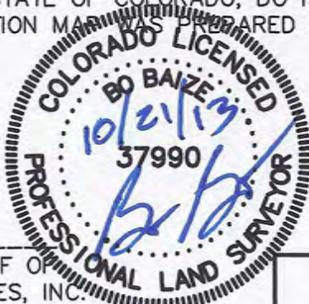
ANNEXATION TO THE CITY OF BOULDER ARAPAHOE RIGHT OF WAY AT 6234 ARAPAHOE ROAD	
HURST CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com
	SCALE HOR. 1"=120' VERT. N/A
	DESIGN/APPR. DRAWN BY BO DATE 07/01/13
	SHEET 1 OF 1
FILE G: \23121\SURVEY\6234 ROW ANNEXATION	

ANNEXATION MAP



CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

**ANNEXATION TO
THE CITY OF BOULDER
ARAPAHOE RIGHT OF WAY
AT 6234 ARAPAHOE ROAD**

CONTIGUITY INFORMATION:

PERIMETER: 1,022.84'
CONTIGUOUS TO CITY OF BOULDER: 448.63'

(1/6 OF PERIMETER = 170.47') < 448.63'

HURST CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com	SCALE HOR. N/A VERT. N/A
		DESIGN/APPR.
		DRAWN BY BO
		DATE 07/01/13
FILE G:\23121\SURVEY\6234 ROW ANNEXATION		SHEET 1 OF 1

EXHIBIT D TO ORDINANCE (Page 1 of 2)

PARCEL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34 (BEING A 2.5" BRASS CAP IN RANGE BOX, LS 24959 1994) FROM WHENCE THE NORTH QUARTER CORNER OF SECTION 34 (BEING A 2.5" ALUMINUM CAP IN RANGE BOX, DREXEL, LS 2149) BEARS S89°56'35"W, 2,620.17 FEET;
THENCE S17°06'54"W, 770.81 TO A POINT ON THE WESTERLY LINE OF A PARCEL OF LAND DESCRIBED IN INSTRUMENT RECORDED AT RECEPTION NO. 1047614, BEING THE POINT OF BEGINNING;

THENCE S00°19'26"E, 583.54 FEET ALONG SAID WESTERLY LINE TO THE NORTHERLY LINE OF "SOMBRERO RANCH";

THENCE S89°56'35"W, 657.48 FEET ALONG SAID NORTHERLY LINE;

THENCE N00°19'26"W, 394.62 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND RECORDED AT RECEPTION NO. 2933717;

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID PARCEL OF LAND RECORDED AT RECEPTION NO. 2933717 THE FOLLOWING TWO COURSES:

- 1) N89°40'34"E, 2.50 FEET;
- 2) N00°19'26"W, 169.98 FEET;

THENCE N89°15'27"E, 474.15 FEET;

THENCE N85°45'08"E, 181.26 FEET TO THE POINT OF BEGINNING, CONTAINING OR 8.59 ACRES, MORE OR LESS.

DESCRIPTION PREPARED BY:
BO BAIZE, COLORADO PLS 37990
FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
2500 BROADWAY, SUITE B
BOULDER, CO. 80304



**FUTURE CITY OF BOULDER PARCEL
NE 1/4 SECTION 34, T1N, R70W OF 6TH P.M.
BOULDER COUNTY, COLORADO**

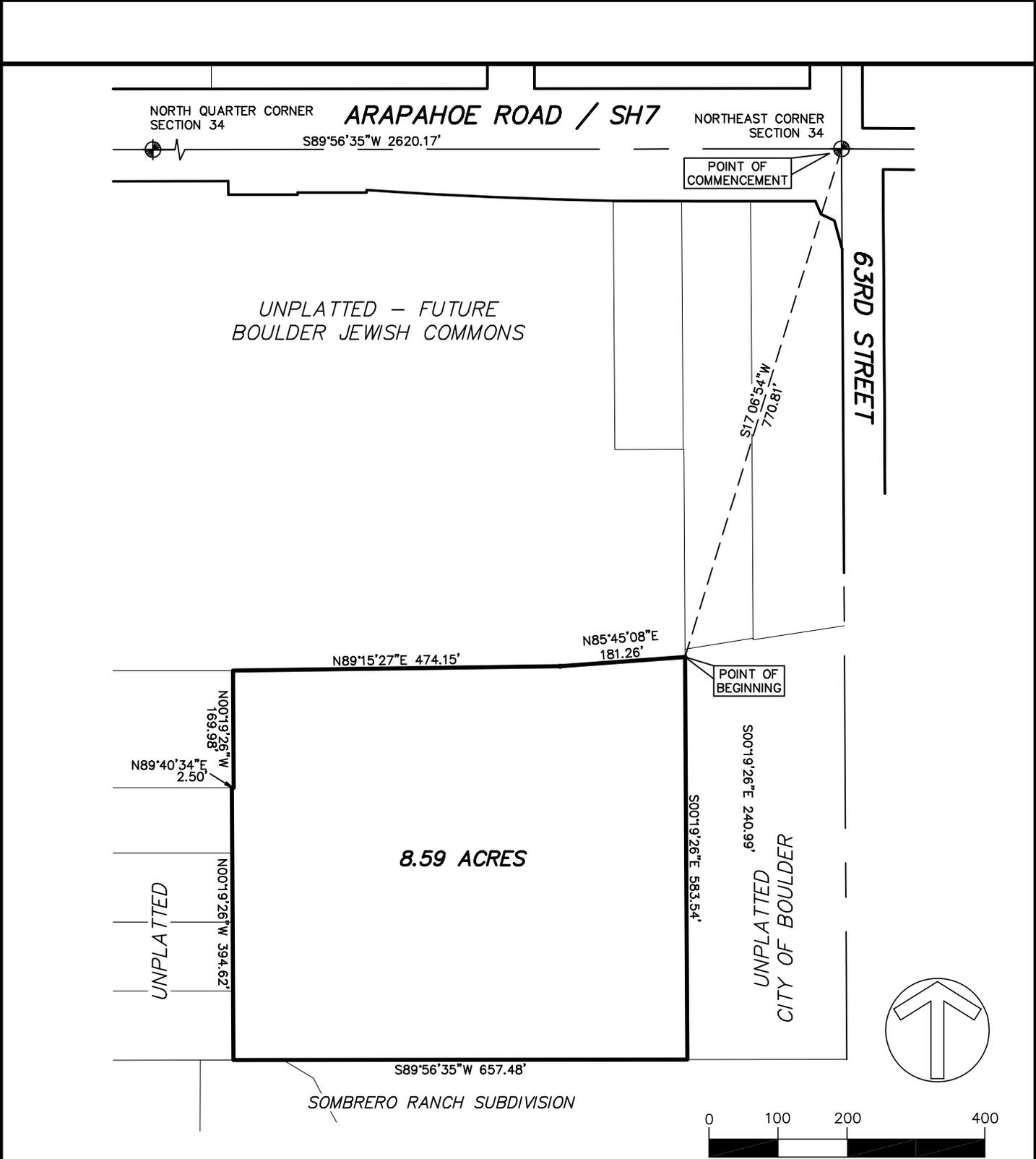
HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	11/15/13
SHEET	1 OF 2

FILE G:\2123\SURVEY\LEGAL\BJC CONSERVATION ESMT AND IN FEE AREA

EXHIBIT D TO ORDINANCE (Page 2 of 2)



NOTE: THIS IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THIS EXHIBIT IS ONLY INTENDED TO DEPICT THE ACCOMPANYING DESCRIPTION.

FUTURE CITY OF BOULDER PARCEL
NE 1/4 SECTION 34, T1N, R70W OF 6TH P.M.
BOULDER COUNTY, COLORADO

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. 1" = 200'
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	11/15/13
SHEET	2 OF 2

FILE G:\2123\SURVEY\LEGAL\BJC CONSERVATION ESMT AND IN FEE AREA

EXHIBIT E TO ORDINANCE (Page 1 of 1)

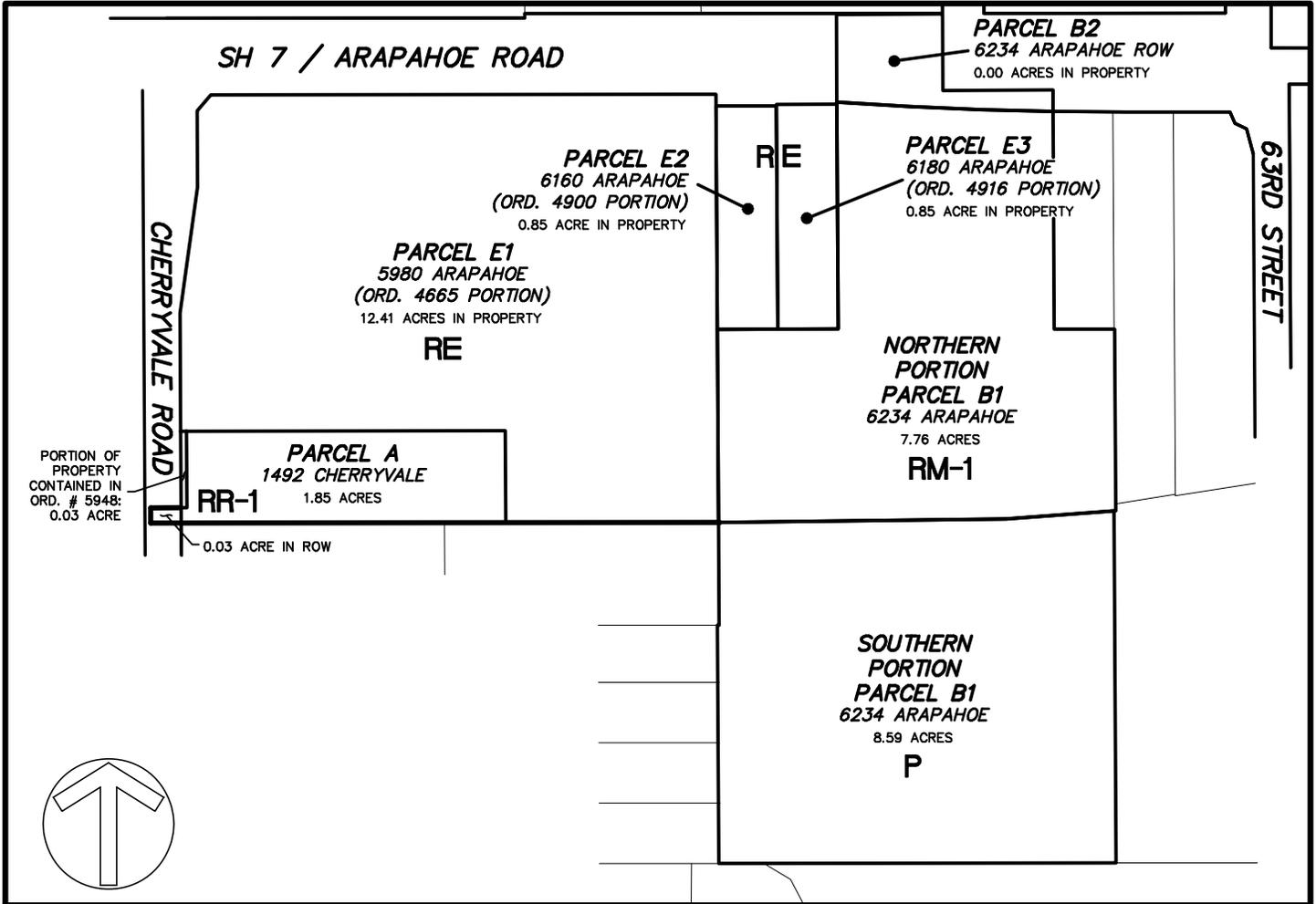


EXHIBIT F TO ORDINANCE (Page 1 of 2)

PARCEL E1

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4665 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 888.58 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 48.69 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'26"E, 16.81 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7;

THENCE S00°21'01"E, 689.88 FEET;

THENCE S89°56'35"W, 351.80 FEET;

THENCE N00°19'26"W, 152.24 FEET;

THENCE S89°56'35"W, 537.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD (AS OF DECEMBER, 2011);

THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD AND THE SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7 (AS OF DECEMBER, 2011) THE FOLLOWING SIX COURSES:

- 1) N00°19'26"W, 195.45 FEET;
- 2) N07°52'55"E, 210.19 FEET;
- 3) N00°19'26"W, 127.11 FEET;
- 4) N40°36'21"E, 34.78 FEET;
- 5) N89°56'35"E, 776.52 FEET;
- 6) S87°28'06"E, 59.24 FEET TO THE POINT OF BEGINNING.

***PORTION OF ORDINANCE 4665 (5980
ARAPAHOE) IN BOULDER JEWISH COMMONS***

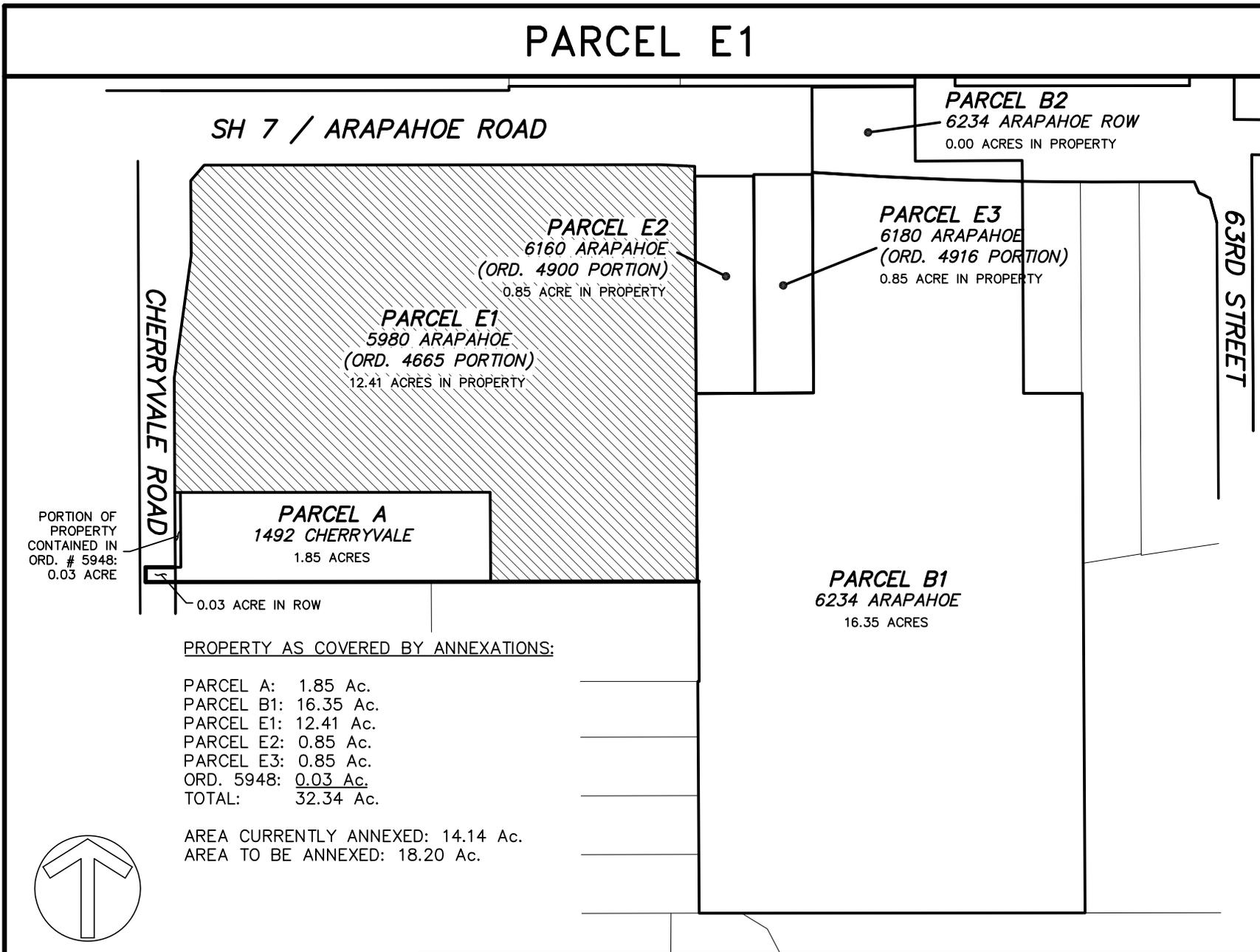
HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	10/21/13
SHEET	1 OF 2

FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC

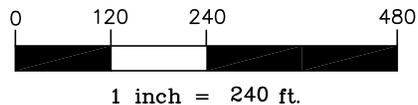
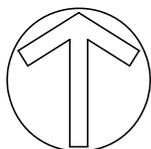
PARCEL E1



PROPERTY AS COVERED BY ANNEXATIONS:

- PARCEL A: 1.85 Ac.
- PARCEL B1: 16.35 Ac.
- PARCEL E1: 12.41 Ac.
- PARCEL E2: 0.85 Ac.
- PARCEL E3: 0.85 Ac.
- ORD. 5948: 0.03 Ac.
- TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
AREA TO BE ANNEXED: 18.20 Ac.



**PORTION OF ORDINANCE 4665
(5980 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. 1"=240'
	PLANNING	Boulder, CO 80304	VERT. N/A
	SURVEYING	303.449.9105	DESIGN/APPR.
	www.hurst-assoc.com		DRAWN BY BO
	FILE G:\23121\SURVEY\BJC		DATE 10/21/13
			SHEET 2 OF 2

EXHIBIT G TO ORDINANCE (Page 1 of 2)

PARCEL E2

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4900 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 788.18 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 65.50 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'25"E, 369.63 FEET;

THENCE S89°40'34"W, 100.00 FEET;

THENCE N00°22'23"W, 370.10 FEET;

THENCE N89°56'35"E, 100.32 FEET ALONG THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 TO THE POINT OF BEGINNING.

*PORTION OF ORDINANCE 4900 (6160
ARAPAHOE) IN BOULDER JEWISH COMMONS*

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	10/21/13
SHEET	1 OF 2

FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC

PARCEL E2

SH 7 / ARAPAHOE ROAD

PARCEL B2
6234 ARAPAHOE ROW
0.00 ACRES IN PROPERTY

PARCEL E2
6160 ARAPAHOE
(ORD. 4900 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E3
6180 ARAPAHOE
(ORD. 4916 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E1
5980 ARAPAHOE
(ORD. 4665 PORTION)
12.41 ACRES IN PROPERTY

63RD STREET

CHERRYVALE ROAD

PARCEL A
1492 CHERRYVALE
1.85 ACRES

PORTION OF
PROPERTY
CONTAINED IN
ORD. # 5948:
0.03 ACRE

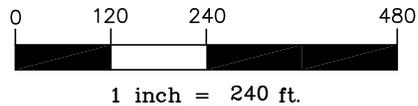
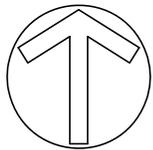
0.03 ACRE IN ROW

PARCEL B1
6234 ARAPAHOE
16.35 ACRES

PROPERTY AS COVERED BY ANNEXATIONS:

- PARCEL A: 1.85 Ac.
- PARCEL B1: 16.35 Ac.
- PARCEL E1: 12.41 Ac.
- PARCEL E2: 0.85 Ac.
- PARCEL E3: 0.85 Ac.
- ORD. 5948: 0.03 Ac.
- TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
AREA TO BE ANNEXED: 18.20 Ac.



**PORTION OF ORDINANCE 4900
(6160 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. 1"=240'
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	10/21/13
SHEET 2 OF 2	
FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC	

EXHIBIT H TO ORDINANCE (Page 1 of 2)

PARCEL E3

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4916 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 688.20 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 62.80 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'26"E, 371.87 FEET;

THENCE S89°40'34"W, 100.00 FEET;

THENCE N00°19'25"W, 372.36 FEET;

THENCE N89°57'35"E, 100.00 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7 TO THE POINT OF BEGINNING.

*PORTION OF ORDINANCE 4916 (6180
ARAPAHOE) IN BOULDER JEWISH COMMONS*

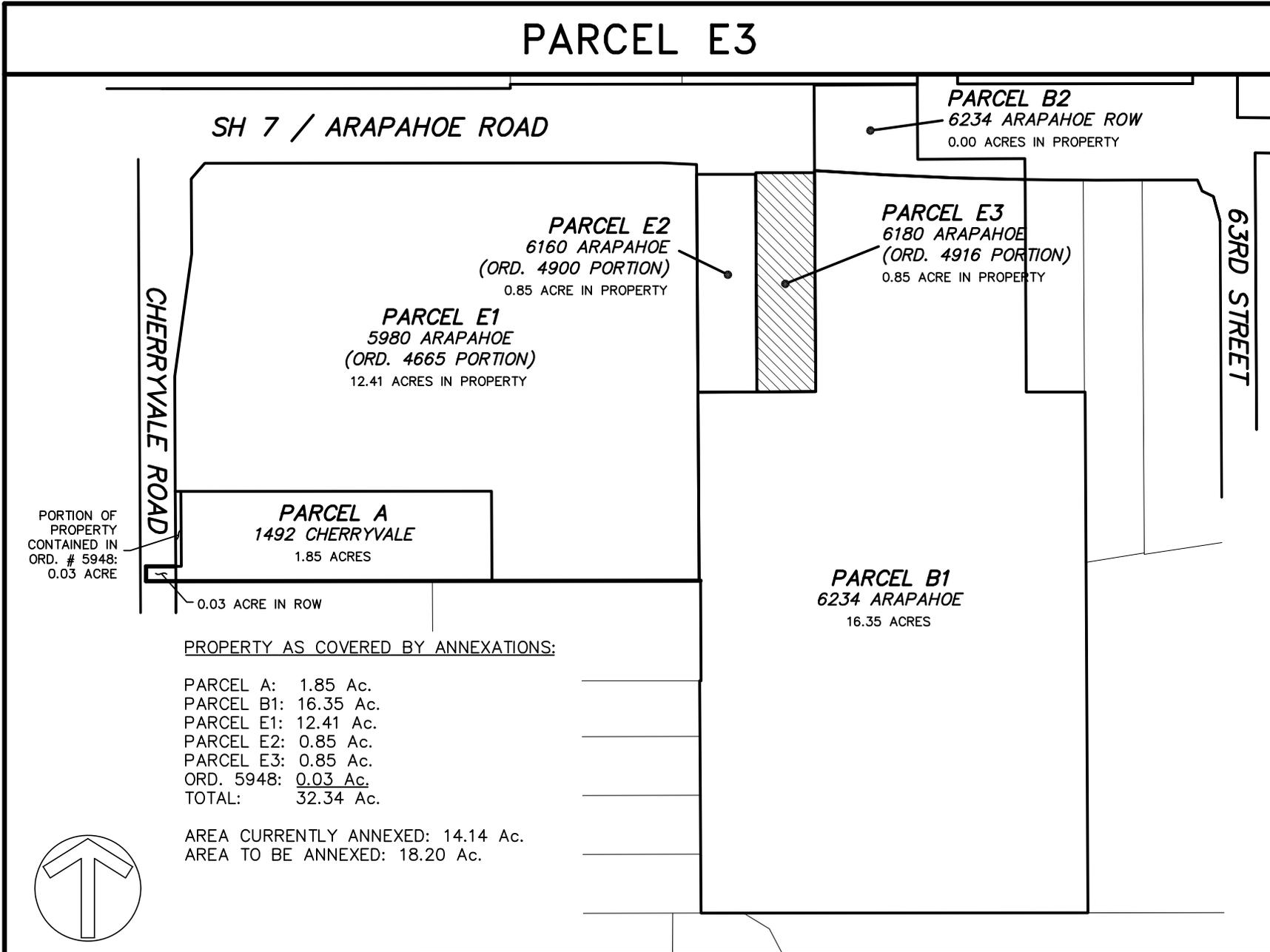
HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A	VERT. N/A
DESIGN/APPR.		
DRAWN BY	BO	
DATE	10/21/13	
SHEET	1	OF 2

FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC

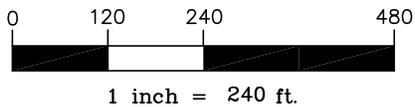
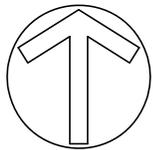
PARCEL E3



PROPERTY AS COVERED BY ANNEXATIONS:

- PARCEL A: 1.85 Ac.
- PARCEL B1: 16.35 Ac.
- PARCEL E1: 12.41 Ac.
- PARCEL E2: 0.85 Ac.
- PARCEL E3: 0.85 Ac.
- ORD. 5948: 0.03 Ac.
- TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
AREA TO BE ANNEXED: 18.20 Ac.



**PORTION OF ORDINANCE 4916
(6180 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. 1"=240'
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	10/21/13
SHEET 2 OF 2	
FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC	

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For Administrative Use Only
Owner: Cherryvale Commons, LTD
Case No. LUR2012-00005

ANNEXATION AGREEMENT

This Agreement, made this _____ day of _____, 20____, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and Cherryvale Commons, LTD., a Colorado non-profit corporation, hereinafter referred to as "Applicant."

RECITALS

A. The Applicant is the owner of the following real property: (1) the property generally known as 1492 Cherryvale Road and more particularly described on **Exhibit A** attached hereto and incorporated herein ("Parcel A") and (2) the property generally known as 6234 Arapahoe Road and more particularly described on **Exhibit B** attached hereto and incorporated herein ("Parcel B1"). Colorado Department of Transportation is the owner of a portion of Arapahoe Road right-of-way adjacent to Parcel B1 and more particularly described in **Exhibit C** attached hereto and incorporated herein ("Parcel B2"). The properties described on Exhibits A, B and C shall collectively be referred to hereinafter as the "Property."

B. The Applicant is interested in obtaining approval from the City of a request for the annexation of the Property in order to provide adequate urban services, particularly City water and sewer.

C. The Applicant is interested in donating to the City a fee interest in the real property described on **Exhibit D** attached hereto and incorporated herein ("Southern Portion of Parcel B1").

D. The parties anticipate that annexation of the Property with the following initial zoning pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, is consistent with the Boulder Valley Comprehensive Plan:

- 1) Residential – Rural 1 (RR-1) for Parcel A;
- 2) Residential – Medium 1 (RM-1) for the portion of Parcel B1 that is not part of the Southern Portion of Parcel B1 ("Northern Portion of Parcel B1"); and
- 3) Public (P) for the Southern Portion of Parcel B1.

E. The Applicant is also the owner of the real property generally known as 5980 Arapahoe Road and more particularly described on **Exhibit E** attached hereto and incorporated herein ("Parcel E1"), 6160 Arapahoe Road and more particularly described on **Exhibit F** attached hereto and incorporated herein ("Parcel E2"), and 6180 Arapahoe Road and more particularly described on **Exhibit G** attached hereto and incorporated herein ("Parcel E3). Parcels E1, E2 and E3 are already annexed to the City of Boulder. Concurrently with this annexation application, the

Applicant has submitted a site and use review application pertaining to the construction of a Boulder Jewish Community Center on these already annexed parcels.

F. The City is interested in insuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

NOW, THEREFORE, in consideration of the recitals, promises and covenants herein set forth, and other good and valuable consideration herein receipted for, the parties agree as follows:

1. Requirements Prior to First Reading of the Annexation Ordinance. Prior to first reading of the annexation ordinance before City Council, the Applicant shall:
 - a. Provide an updated title commitment current within 30 days of signing the Annexation Agreement.
 - b. Sign and file petitions for the inclusion in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict and pay all applicable fees on land and improvements for inclusion in such districts.
 - c. Pay a Storm Water and Flood Management Utility Plant Investment Fee of \$7,741.80 for Parcel A and \$990.00 for Parcel B1 in accordance with Section 11-5-7, B.R.C. 1981, based upon impervious areas of 3,910 square feet and 500 square feet.
 - d. Pay the Housing Excise tax of \$598.00 for Parcel A.
 - e. Pay the following assessments for utility main reimbursements:
 - i. \$1,007.77 (357.48 linear feet times \$2.8191 per linear foot) for the 8" VCP sanitary sewer main in Arapahoe Road.
 - ii. \$1,381.41 (357.48 linear feet times \$3.8643 per linear foot) for the 12" CIP water main in Arapahoe Road.
 - f. Convey, by deed, the Southern Portion of Parcel B1 to the City in fee, at no cost to the City, substantially in the form attached as Exhibit H and subject to approval by the City Manager.

2. Water Connection Requirement. The Applicant shall connect to City water and sewer within 180 days of the effective date of the annexation ordinance unless the existing residence on Parcel A has been demolished prior to that time.
3. Disconnection of Septic System. Within 180 days of any wastewater service line connection on the Property, the Applicant shall abandon the existing septic system on Parcel A in accordance with Boulder County Health Department and State of Colorado regulations.
4. Zoning. Parcels A, B1, and B2 shall be annexed to the City with the following initial zoning classifications and, except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.

Parcel A (1492 Cherryvale Rd): **Residential – Rural 1 (RR-1)**;
Northern Portion of Parcel B1 (6234 Arapahoe Rd): **Residential – Medium 1 (RM-1)**;
Southern Portion of Parcel B1 (6234 Arapahoe Rd): **Public (P)**; and
Parcel B2 (Right-of-way adjacent to 6234 Arapahoe Rd): **Residential – Medium 1 (RM-1)**.

5. City Council Has Final Decision Authority for Site and Use Reviews. The parties agree that the City Council has final decision authority for the initial site review (for Parcels A, B1, E1, E2, and E3) and use review (for Parcel E1) applications pending with the annexation request. The site review and use review applications will be referred to the City Council for hearing and final decision concurrent with the hearing for annexation. Any subsequent amendments or modifications to these site and use review approvals shall be processed and reviewed by the approval authority designated in and in compliance with the requirements of the Boulder Revised Code.
6. Development Progress. The City agrees that Applicant may complete the site review for Parcels A, B1, E1, E2, and E3 in three development phases, as shown on the approved plans dated July 1, 2013 and on file with the City. Each development phase shall begin at the time of City Council's approval of the site review for Parcels A, B1, E1, E2, and E3. The Applicant shall begin and substantially complete each development stage within five, ten, and fifteen years, as applicable pursuant to the approved plans, from the time of City Council's approval. Compliance with and requests for extensions of each development stage shall be processed and reviewed in compliance with the requirements of Section 9-2-12, "Development Progress Required," B.R.C. 1981.
7. Indoor Recreational or Athletic Facility Use in RE Zone. The City agrees to allow indoor recreational or athletic facility uses on Parcel E1 as a use allowed pursuant to a use review approved concurrent with this annexation and as may be modified or amended in the future in accordance with the procedures and criteria established in Section 9-2-15, "Use Review," B.R.C. 1981.

8. Affordable Housing. The parties agree that this Agreement is a voluntary agreement between the City and the Applicant that may limit rents on dwelling units on the Property to insure that they are constructed and maintained as affordable housing. The Applicant agrees that forty percent (40%) of any dwelling units on the Property shall be permanently affordable and shall meet the requirements provided below as units that are owned by individual home owners or rented to tenants. Permanently affordable deed restricting covenants to secure the affordability of dwelling units shall be signed and recorded with the Boulder County Clerk and Recorder prior to application for any residential building permit.
- a. Permanently Affordable – Low to Moderate Income. The Applicant agrees to provide one half of the permanently affordable units to be affordable for low or moderate income households consistent with Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981. The total number of required low to moderate income permanently affordable units shall be rounded down to the nearest whole number if a fractional number results from the calculations.
 - b. Permanently Affordable – Middle Income. The Applicant agrees to provide the other half of the permanently affordable units to be affordable for middle income households.
 - i. The total number of required middle income permanently affordable units shall be rounded up to the nearest whole number if a fractional number results from the calculations.
 - ii. Affordable middle income buyer household income shall not exceed thirty-five percent (35%) above the HUD Low Income Limit applicable to the City.
 - iii. The maximum price shall be affordable to a household whose income does not exceed the HUD Low Income Limit applicable to the City by more than twenty-five percent (25%).
 - c. Final Unit Pricing. Affordable for-sale unit pricing shall be based on the unit’s type (attached or detached), size, and number of bedrooms and bathrooms, and on the HUD income limits described above when either the interim affordable covenant or final affordable covenant is executed, whichever is first.
 - d. Consistency with Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981. The Applicant agrees that with the exception of the specific requirements listed in this Agreement, implementation will be consistent with Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981, including, but not limited to:

- i. Affordable rental unit pricing;
 - ii. Proportionality for the affordable units to the type (for example, detached, duplex, and four-plex), and number of bedrooms and bathrooms to the market rate units on the property;
 - iii. Unfinished floor area substitution for finished floor area; and
 - iv. Covenants and deed restriction requirements prior to a building permit application for any new unit.
- e. Affordable Unit Size. The minimum size of each permanently affordable detached unit shall be:

- i. One bedroom units – 900 square feet
- ii. Two bedroom units – 1,100 square feet
- iii. Three bedroom units – 1,300 square feet
- iv. Four bedroom units – 1,500 square feet

The minimum size of each permanently affordable attached unit shall be:

- i. One bedroom units – 700 square feet
- ii. Two bedroom units – 900 square feet
- iii. Three bedroom units – 1,100 square feet
- iv. Four bedroom units – 1,300 square feet

- f. Concurrency. The permanently affordable units must be provided concurrently with the market units such that for each building permit issued for one market rate unit one building permit must have been issued for an affordable unit.
- g. Floor Plan Approval. Prior to signing the affordable covenant and no later than a building permit submittal for any permanently affordable units, the Applicant shall submit and obtain approval from the City Manager for documentation, including, but not limited to, floor plans and finish specifications, demonstrating that the permanently affordable units meet the requirements of Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981, and are consistent with the City’s Livability Guidelines and Standards for Permanently Affordable Housing.
- h. Agreement to Abide by Restrictions. The Applicant agrees to construct, restrict, and sell permanently affordable units as described and required by this Agreement. The Applicant agrees that no dwelling units shall be established unless the requirements of this paragraph have been met. The Applicant further agrees that the City may withhold any approval affecting the Property, including, without limitation, a building permit, administrative review, use review, site

review, and subdivision, until the requirements of this paragraph have been complied with.

9. Density and Intensity Increase for the Northern Portion of Parcel B1. In light of the conveyance of the Southern Portion of Parcel B1 to the City for conservation purposes, the City agrees that a 4.26 acre portion of the Southern Portion of Parcel B1 shall be entitled to be counted as land area within the Northern Portion of Parcel B1 for the purposes of calculating allowable density and meeting open space requirements for the Northern Portion of Parcel B1 under City ordinances existing at the time of development of the Northern Portion of Parcel B1 provided that the proposed development includes well functioning open space areas for active and passive recreational purposes that will be accessible to the anticipated residents, tenants, employees, customers, and visitors of the development and meets the site review criteria of Section 9-2-14, "Site Review," B.R.C. 1981. For purposes of this calculation only, the zoning of the Southern Portion of Parcel B1 shall be considered to be the same zoning as applicable to the Northern Portion of Parcel B1. The density transferred to the Northern Portion of Parcel B1 under this paragraph, shall be limited to a maximum of 26 additional units for the Northern Portion of Parcel B1.
10. Southern Portion of Parcel B1. The Applicant acknowledges and agrees that upon dedication of the Southern Portion of Parcel B1, it will retain no access rights to the same and that the City will fully control any and all access rights. The Applicant also agrees to build a fence, with no gate, on the Northern Portion of Parcel B1 along the boundary of the Northern Portion of Parcel B1 and the Southern Portion of Parcel B1 to prevent access to the Southern Portion of Parcel B1. The location of the fence must be approved by the Director of the Department of Open Space and Mountain Parks and must meet the specifications described on Exhibit I. The fence must be completed prior to issuance of a building permit for any building on Parcel E1 or the Northern Portion of Parcel B1.
11. Conveyance of Drainage. The Applicant shall convey drainage from the Property in a historic manner that does not materially and adversely affect abutting property owners.
12. Existing Wells. The City agrees that it will not prohibit the Applicant from using existing wells for irrigation purposes. Under no circumstances may existing wells be used for domestic water purposes. No person shall make any cross connections to the City's municipal water supply system from any well on the Property.
13. New Construction. All new construction commenced on the Property after annexation shall comply with all City laws, taxes, and fees, except as modified by this Agreement.
14. Laws, Rules, Guidelines and Indexes. Except as provided in this Agreement, the Parties intend to apply the law, rules, and guidelines that are effective at the time of development or the issuance of building permits. In the event that any such laws, rules, or guidelines

are not in place, the City Manager will create similar standards for the purposes of implementing this Agreement. In the event that any indexes including without limitation the HUD Low Income Limit applicable to the City that are used in this Agreement are not in place at the time of development or the issuance of building permits, the City Manager will select or create a similar index for the purpose of implementing the requirements of this Agreement.

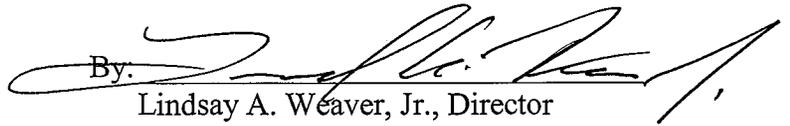
15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by the Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that it will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.
16. Additional Right-of-Way. The Applicant shall reserve and not place any structure on a strip of land approximately 61 feet in width and running west to east through Parcel B1, as shown on the approved plans dated July 1, 2013. Prior to issuance of a temporary or permanent certificate of occupancy for any building on Parcel B1, the Applicant shall dedicate in fee to the City, the property shown on the approved plans dated July 1, 2013 and construct and complete the street, curbs, gutters, sidewalks, utilities and any other right of way public improvements necessary to serve Parcel B1 meeting the City of Boulder Design and Construction Standards, the form and final location of which shall be subject to the approval of the City Manager pursuant to a Technical Document Review application. If at the time of issuance of a building permit for any building on Parcel B1 these public improvements have not been yet been installed or constructed, the Applicant shall provide financial guarantees as required by Section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981, as if the Applicant were a subdivider.
17. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and will have no effect.
18. Waiver of Vested Rights. The Applicant waives any vested property rights that may have arisen under Boulder County jurisdiction. The Applicant acknowledges that nothing contained herein may be construed as a waiver of the City's police powers or the power to zone and regulate land uses for the benefit of the general public health, safety and

welfare.

19. Breach of this Agreement. In the event that the Applicant breaches or fails to perform any required action under or fails to pay any fee specified under the Covenants of this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including, but not limited to, the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or fails to perform any affirmative obligation hereunder, the Applicant agrees that the City may collect the monies due in the manner provided in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or the City may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights it may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing the collection of this specific debt or acknowledges that the adopting of the annexation ordinance is such enabling ordinance.
20. Null and Void. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Property is not annexed to the City.
21. Binding Agreement. The Agreement and covenants as set forth herein shall run with the land and shall be binding upon the Applicant, its successors, representatives and assigns, and all persons who may hereafter acquire an interest in the Property, or any part thereof. If it shall be determined that this Agreement creates an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus twenty years and three hundred and sixty-four days.

EXECUTED on the day and year first above written.

OWNER/APPLICANT:
Cherryvale Commons, LTD.,
a Colorado non-profit corporation

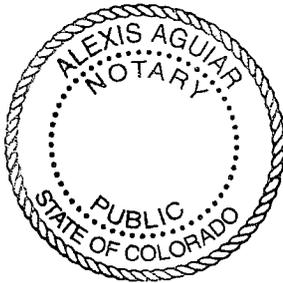
By: 
Lindsay A. Weaver, Jr., Director

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 10th day of December,
2013, by Lindsay A. Weaver, Jr., Director of Cherryvale Commons, a Colorado non-profit
corporation

Witness my hand and official seal.
My commission expires: 04/14/2016


Notary Public



CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

ATTEST:

City Clerk

Approved as to form:

Hella Pannecy
City Attorney' Office

Date: 12-10-2013

EXHIBITS

- A: Legal Description - Parcel A (1492 Cherryvale Road)
- B: Legal Description - Parcel B1 (6234 Arapahoe Road)
- C: Legal Description - Parcel B2 (Portion of Arapahoe Road ROW)
- D: Legal Description - Southern Portion of Parcel B1
- E: Legal Description - Parcel E1
- F: Legal Description - Parcel E2
- G: Legal Description - Parcel E3
- H: Warranty Deed form
- I: Fence Specifications

EXHIBIT A TO AGREEMENT (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34, FROM WHENCE THE NORTH QUARTER CORNER LIES S89°56'35"W, 2,620.17 FEET;

THENCE S00°19'26"E, 30.00 FEET;

THENCE S89°56'35"W, 1,766.96 FEET;

THENCE S00°19'26"E, 573.14 FEET TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE ALONG SAID SOUTHERLY ANNEXATION LINE N89°56'35"E, 9.46 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SOUTHERLY AND WESTERLY ANNEXATION LINE OF ORDINANCE 4665 THE FOLLOWING TWO COURSES:

- 1) N89°56'35"E 527.54 FEET;
- 2) S00°19'26"E, 152.24 FEET TO THE NORTHEASTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933717;

THENCE S89°56'35"W, 587.51 FEET ALONG THE NORTHERLY LINES OF SAID PARCEL AND PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2933716 EXTENDED WESTERLY TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5948, RECORDED 12/09/1997 AT RECEPTION NO. 1754291);

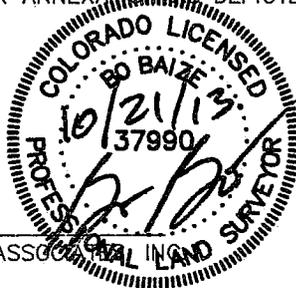
THENCE N00°20'12"W, 25.09 FEET ALONG SAID EASTERLY ANNEXATION LINE TO A POINT ON THE SOUTHERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 5028, RECORDED 01/30/1987 AT RECEPTION NO. 1754291);

THENCE ALONG THE SOUTHERLY AND EASTERLY ANNEXATION LINES OF ORDINANCE 5028 THE FOLLOWING TWO COURSES:

- 1) N89°39'48"E, 60.00 FEET;
- 2) N00°20'12"W, 126.86 FEET TO THE POINT OF BEGINNING, CONTAINING 81,824 SQUARE FEET OR 1.88 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO
THE CITY OF BOULDER
1492 CHERRYVALE ROAD

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 09/14/11	SHEET 1 OF 1

FILE G:\23121\SURVEY\1492 ANNEXATION

ANNEXATION MAP

NORTH 1/4 CORNER,
SECTION 34, T1N, R70W:
2.5" ALUMINUM CAP IN RANGE BOX
"DREXEL, LS 2149"

NORTHEAST CORNER, SECTION 34
2.5" BRASS CAP IN RANGE BOX
"LS 24959 1984"

ARAPAHOE ROAD (S.H. 7)

SECTION LINE:

S89°56'35"W 2620.17'

S89°56'35"W
1,776.96'

POINT OF
COMMENCEMENT

S00°19'26"E
30.00'

SOUTH LINE, ARAPAHOE ROAD

5980
ARAPAHOE
ROAD

ANNEXATION
ORDINANCE
#4665

1527
CHERRYVALE
ROAD

S00°19'26"E
573.14'

N89°56'35"E
9.46'

N89°56'35"E 527.54'

ANNEXATION
ORDINANCE
#5028

CHERRYVALE
ROAD

POINT OF
BEGINNING

1492 CHERRYVALE ROAD
ANNEXATION AREA:
1.88 ACRES

S00°19'26"E 152.24'

N89°39'48"E
60.00'

N00°20'12"W
25.09'

ANNEXATION
ORDINANCE
#5948

1459
CHERRYVALE RD.

S89°56'35"W 587.51'

R#2933716

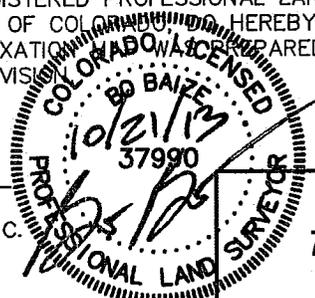
R#2933717

1468
CHERRYVALE
ROAD

1460
WONDERVIEW
COURT

CERTIFICATION:

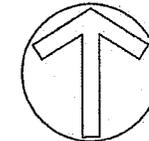
I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

CONTIGUITY INFORMATION:

PERIMETER: 1,479.24'
CONTIGUOUS TO CITY OF BOULDER: 891.73'
(1/6 OF PERIMETER = 246.54') < 891.73'



**ANNEXATION TO
THE CITY OF BOULDER
1492 CHERRYVALE ROAD**

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING
FILE G:\23121\SURVEY\1492 ANNEXATION

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	09/14/11
SHEET	1 OF 1

EXHIBIT B TO AGREEMENT (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 331.00 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 TO THE NORTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO THE COLORADO DEPARTMENT OF HIGHWAYS IN A DOCUMENT RECORDED 07/22/1966 AT RECEPTION NO. 821786;
THENCE S00°00'00"E, 74.95 FEET ALONG THE EASTERLY LINE OF SAID PARCEL TO THE SOUTHEASTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION) AND THE POINT OF BEGINNING;

THENCE CONTINUING S00°00'00"E 360.65 FEET;

THENCE N90°00'00"E, 100.00 FEET;

THENCE S00°00'00"E, 884.40 FEET;

THENCE S90°00'00"W, 657.48 FEET;

THENCE N00°00'00"W, 394.62 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL DESCRIBED IN A DEED RECORDED 06/02/2008 AT RECEPTION NO. 2399717;

THENCE ALONG THE PERIMETER OF SAID PARCEL THE FOLLOWING THREE COURSES:

1) N90°00'00"E, 2.50 FEET;

2) N00°00'00"W, 169.98 FEET;

3) N89°43'59"W, 2.50 FEET TO A POINT ON THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4665, RECORDED 05/11/1982 AT RECEPTION NO. 494072);

THENCE N00°00'00"W, 319.78 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4900, RECORDED 05/23/1985 AT RECEPTION NO. 689989);

THENCE N90°00'00"E, 100.00 FEET ALONG THE SOUTHERLY ANNEXATION LINE TO THE SOUTHWESTERLY CORNER OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439);

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

1) N90°00'00"E, 100.00;

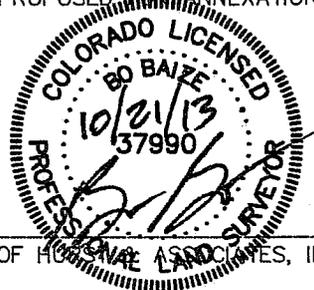
2) N00°00'00"W, 378.13 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:

357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING S87°12'02"E, 357.90 FEET TO THE POINT OF BEGINNING, CONTAINING 16.36 ACRES, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.



FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

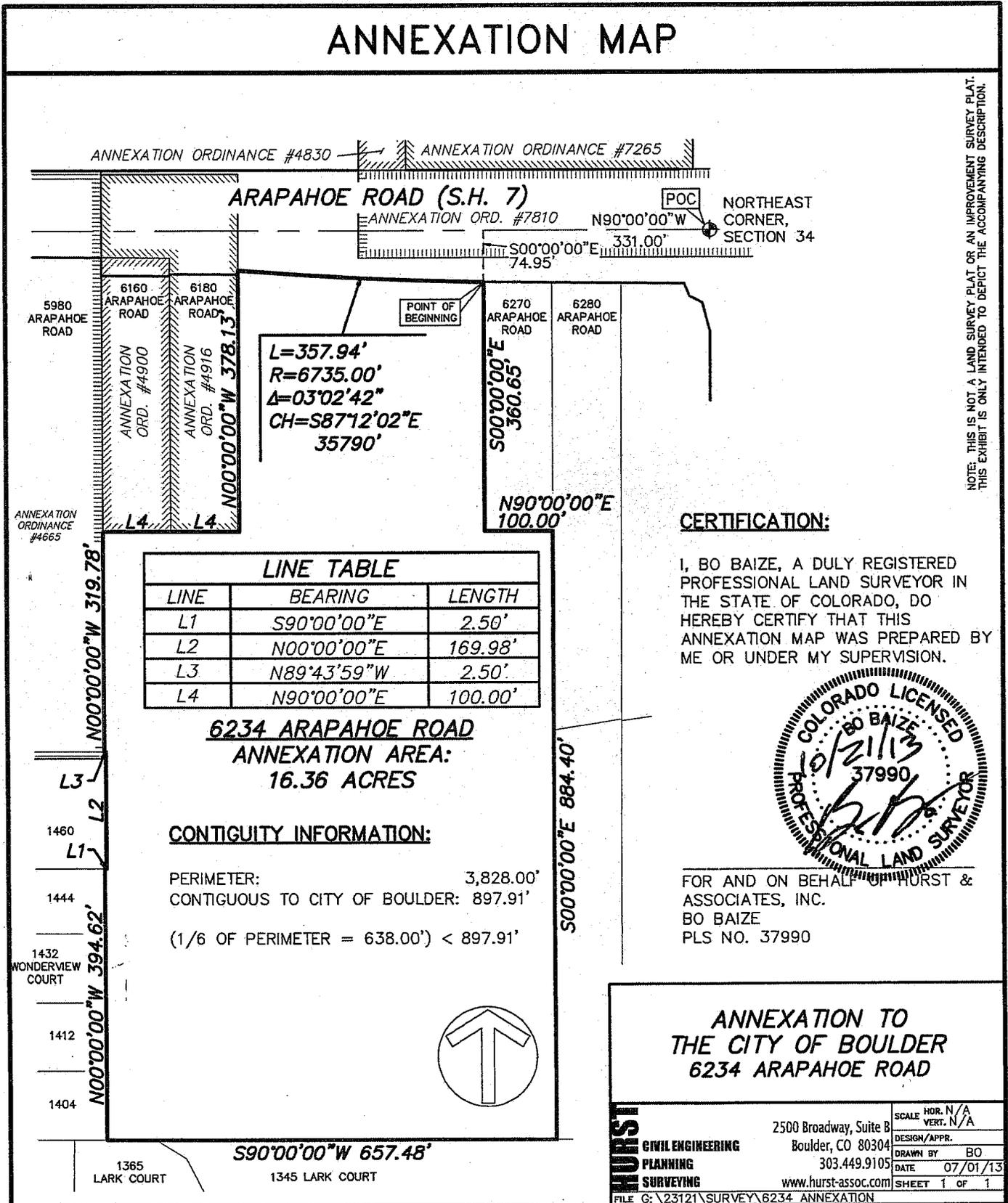
**ANNEXATION TO
THE CITY OF BOULDER
6234 ARAPAHOE ROAD**

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 07/01/13	SHEET 1 of 1

FILE G:\23121\SURVEY\6234 ANNEXATION

EXHIBIT B TO AGREEMENT (Page 2 of 2)

ANNEXATION MAP



NOTE: THIS IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THIS EXHIBIT IS ONLY INTENDED TO DEPICT THE ACCOMPANYING DESCRIPTION.

EXHIBIT C TO AGREEMENT (Page 1 of 2)

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27 AND THE NORTHEAST QUARTER OF SECTION 34, BOTH IN TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34;
THENCE N90°00'00"W, 513.01 FEET ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SECTION 34 (BASIS OF BEARINGS) TO THE WESTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758) AND THE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID ANNEXATION THE FOLLOWING TWO COURSES:

- 1) S00°00'00"E, 39.40 FEET;
- 2) S90°00'00"E, 182.01 FEET

THENCE S00°00'00"E, 35.55 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL "254B" AS DESCRIBED IN DOCUMENT RECORDED AT RECEPTION NO. 3145809 (RIGHT OF WAY DEDICATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION);

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL "254B": THE FOLLOWING COURSE:
357.94 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 6,735.00 FEET, A CENTRAL ANGLE OF 03°02'42", AND A CHORD BEARING N87°12'02"W, 357.90 FEET TO THE EASTERLY LINE OF AN ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 4916, RECORDED 07/23/1985 AT RECEPTION NO. 701439)

THENCE N90°00'00"W, 139.72 FEET ALONG SAID EASTERLY ANNEXATION LINE TO THE NORTHEASTERLY CORNER OF ANNEXATION;

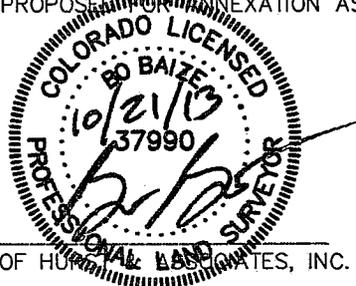
THENCE CONTINUING N90°00'00"W, 5.25 FEET TO THE A POINT 87.50 FEET NORTH OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27;

THENCE ALONG A LINE PARALLEL WITH AND 87.50 FEET NORTH OF SAID SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 27 TO THE NORTHWESTERLY CORNER OF THE ANNEXATION TO THE CITY OF BOULDER (ORDINANCE NUMBER 7810, RECORDED 10/24/2011 AT RECEPTION NO. 3178758);

THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION S00°00'00"E, 87.50 FEET TO THE POINT OF BEGINNING, CONTAINING 0.74 ACRE, MORE OR LESS.

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP.

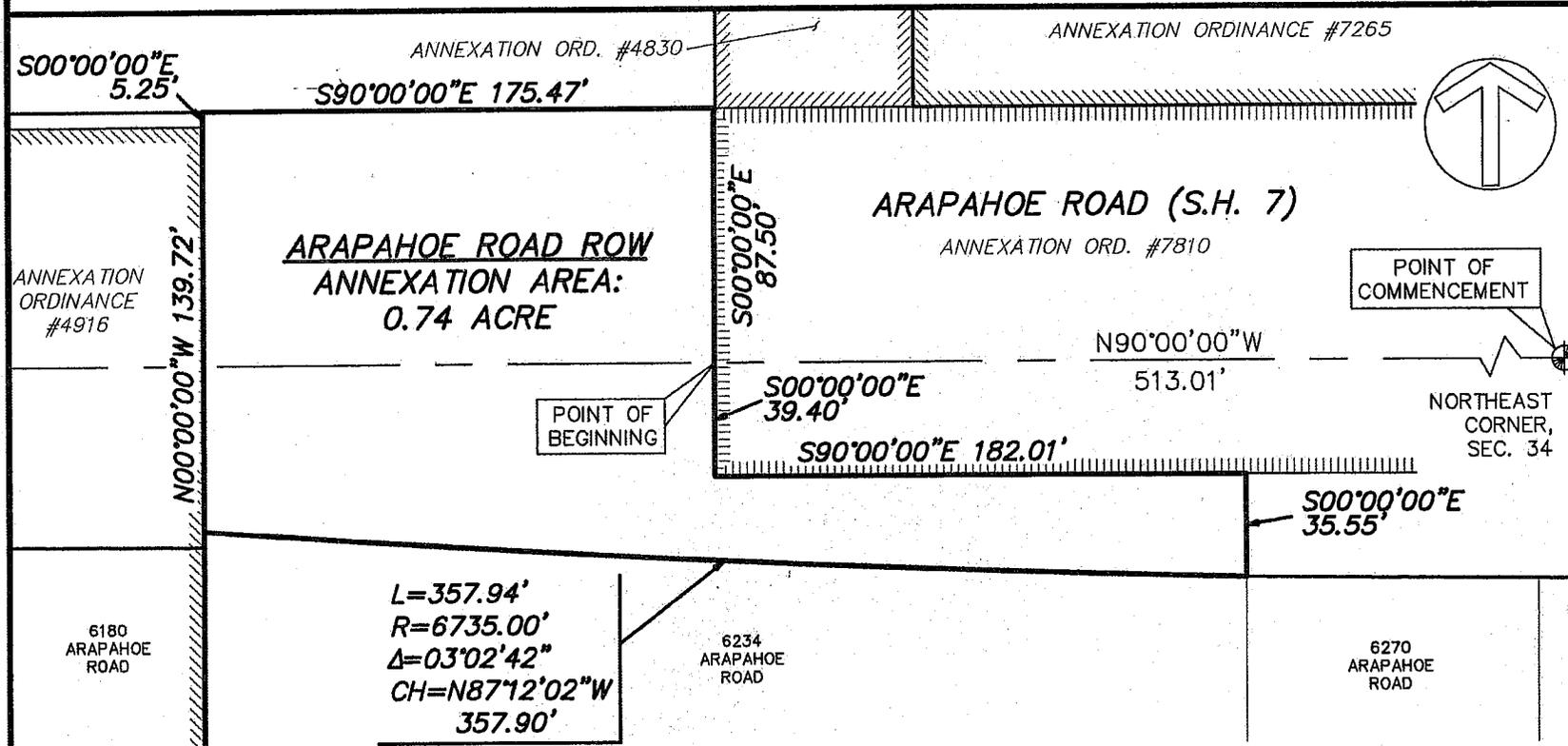


FOR AND ON BEHALF OF HURST ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

**ANNEXATION TO
THE CITY OF BOULDER
ARAPAHOE RIGHT OF WAY
AT 6234 ARAPAHOE ROAD**

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. 1"=120' VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 07/01/13	SHEET 1 of 1
FILE G:\23121\SURVEY\6234 ROW ANNEXATION			

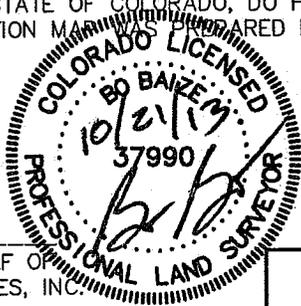
ANNEXATION MAP



$L=357.94'$
 $R=6735.00'$
 $\Delta=03^{\circ}02'42''$
 $CH=N87^{\circ}12'02''W$
 $357.90'$

CERTIFICATION:

I, BO BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF
HURST & ASSOCIATES, INC.
BO BAIZE
PLS NO. 37990

ANNEXATION TO
THE CITY OF BOULDER
ARAPAHOE RIGHT OF WAY
AT 6234 ARAPAHOE ROAD

CONTIGUITY INFORMATION:

PERIMETER: 1,022.84'
 CONTIGUOUS TO CITY OF BOULDER: 448.63'
 (1/6 OF PERIMETER = 170.47') < 448.63'

HURST CIVIL ENGINEERING PLANNING SURVEYING www.hurst-assoc.com FILE G:\23121\SURVEY\6234 ROW ANNEXATION	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	Boulder, CO 80304	DESIGN/APPR.
	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 07/01/13
		SHEET 1 OF 1

EXHIBIT D TO AGREEMENT (Page 1 of 2)

PARCEL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34 (BEING A 2.5" BRASS CAP IN RANGE BOX, LS 24959 1994) FROM WHENCE THE NORTH QUARTER CORNER OF SECTION 34 (BEING A 2.5" ALUMINUM CAP IN RANGE BOX, DREXEL, LS 2149) BEARS S89°56'35"W, 2,620.17 FEET;
THENCE S17°06'54"W, 770.81 TO A POINT ON THE WESTERLY LINE OF A PARCEL OF LAND DESCRIBED IN INSTRUMENT RECORDED AT RECEPTION NO. 1047614, BEING THE POINT OF BEGINNING;

THENCE S00°19'26"E, 583.54 FEET ALONG SAID WESTERLY LINE TO THE NORTHERLY LINE OF "SOMBRERO RANCH";

THENCE S89°56'35"W, 657.48 FEET ALONG SAID NORTHERLY LINE;

THENCE N00°19'26"W, 394.62 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND RECORDED AT RECEPTION NO. 2933717;

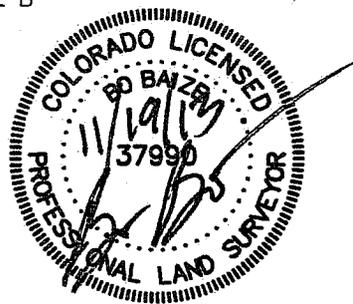
THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID PARCEL OF LAND RECORDED AT RECEPTION NO. 2933717 THE FOLLOWING TWO COURSES:

- 1) N89°40'34"E, 2.50 FEET;
- 2) N00°19'26"W, 169.98 FEET;

THENCE N89°15'27"E, 474.15 FEET;

THENCE N85°45'08"E, 181.26 FEET TO THE POINT OF BEGINNING, CONTAINING OR 8.59 ACRES, MORE OR LESS.

DESCRIPTION PREPARED BY:
BO BAIZE, COLORADO PLS 37990
FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
2500 BROADWAY, SUITE B
BOULDER, CO. 80304

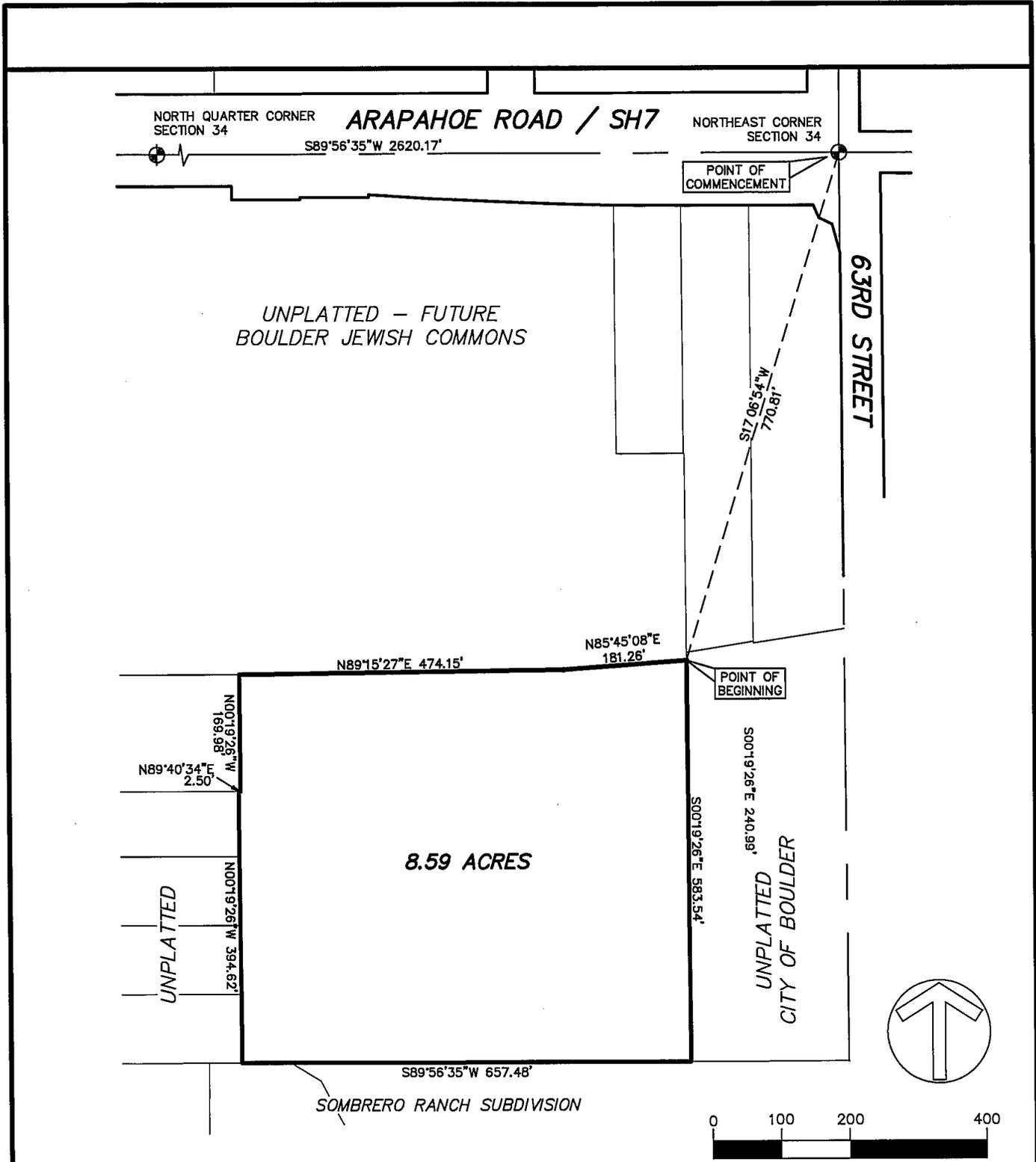


*FUTURE CITY OF BOULDER PARCEL
NE 1/4 SECTION 34, T1N, R70W OF 6TH P.M.
BOULDER COUNTY, COLORADO*

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 11/15/13	SHEET 1 of 2

FILE G:\2123\SURVEY\LEGAL\BJC CONSERVATION ESMT AND IN FEE AREA

EXHIBIT D TO AGREEMENT (Page 2 of 2)



NOTE: THIS IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THIS EXHIBIT IS ONLY INTENDED TO DEPICT THE ACCOMPANYING DESCRIPTION.

**FUTURE CITY OF BOULDER PARCEL
NE 1/4 SECTION 34, T1N, R70W OF 6TH P.M.
BOULDER COUNTY, COLORADO**

HURST CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B Boulder, CO 80304 303.449.9105 www.hurst-assoc.com	SCALE: HOR. 1"=200' VERT. N/A
	DESIGN/APPR.	
	DRAWN BY BO	
	DATE 11/15/13	
	SHEET 2 OF 2	

FILE: G:\2123\SURVEY\LEGAL\B/C CONSERVATION ESMT AND IN FEE AREA

EXHIBIT E TO AGREEMENT (Page 1 of 2)

PARCEL E1

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4665 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 888.58 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 48.69 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'26"E, 16.81 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7;

THENCE S00°21'01"E, 689.88 FEET;

THENCE S89°56'35"W, 351.80 FEET;

THENCE N00°19'26"W, 152.24 FEET;

THENCE S89°56'35"W, 537.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD (AS OF DECEMBER, 2011);

THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD AND THE SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7 (AS OF DECEMBER, 2011) THE FOLLOWING SIX COURSES:

- 1) N00°19'26"W, 195.45 FEET;
- 2) N07°52'55"E, 210.19 FEET;
- 3) N00°19'26"W, 127.11 FEET;
- 4) N40°36'21"E, 34.78 FEET;
- 5) N89°56'35"E, 776.52 FEET;
- 6) S87°28'06"E, 59.24 FEET TO THE POINT OF BEGINNING.

**PORTION OF ORDINANCE 4665 (5980
ARAPAHOE) IN BOULDER JEWISH COMMONS**

HURST	CIVIL ENGINEERING PLANNING SURVEYING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
		Boulder, CO 80304	DESIGN/APPR.
		303.449.9105	DRAWN BY BO
		www.hurst-assoc.com	DATE 10/21/13
FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC		SHEET 1 OF 2	

PARCEL E1

SH 7 / ARAPAHOE ROAD

PARCEL B2
6234 ARAPAHOE ROW
0.00 ACRES IN PROPERTY

PARCEL E2
6160 ARAPAHOE
(ORD. 4900 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E3
6180 ARAPAHOE
(ORD. 4916 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E1
5980 ARAPAHOE
(ORD. 4665 PORTION)
12.41 ACRES IN PROPERTY

63RD STREET

CHERRYVALE ROAD

PORTION OF PROPERTY CONTAINED IN ORD. # 5948: 0.03 ACRE

PARCEL A
1492 CHERRYVALE
1.85 ACRES

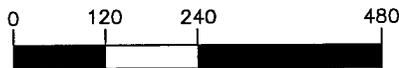
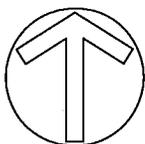
0.03 ACRE IN ROW

PARCEL B1
6234 ARAPAHOE
16.35 ACRES

PROPERTY AS COVERED BY ANNEXATIONS:

PARCEL A: 1.85 Ac.
PARCEL B1: 16.35 Ac.
PARCEL E1: 12.41 Ac.
PARCEL E2: 0.85 Ac.
PARCEL E3: 0.85 Ac.
ORD. 5948: 0.03 Ac.
TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
AREA TO BE ANNEXED: 18.20 Ac.



1 inch = 240 ft.

**PORTION OF ORDINANCE 4665
(5980 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

2500 Broadway, Suite B
Boulder, CO 80304
303.449.9105
www.hurst-assoc.com

SCALE	HOR. 1"=240'
	VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	10/21/13
SHEET	2 OF 2

FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC

EXHIBIT F TO AGREEMENT (Page 1 of 2)

PARCEL E2

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4900 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 788.18 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 65.50 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'25"E, 369.63 FEET;

THENCE S89°40'34"W, 100.00 FEET;

THENCE N00°22'23"W, 370.10 FEET;

THENCE N89°56'35"E, 100.32 FEET ALONG THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 TO THE POINT OF BEGINNING.

PORTION OF ORDINANCE 4900 (6160 ARAPAHOE) IN BOULDER JEWISH COMMONS

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
	www.hurst-assoc.com	DATE 10/21/13	SHEET 1 OF 2
FILE C:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC			

PARCEL E2

SH 7 / ARAPAHOE ROAD

PARCEL B2
6234 ARAPAHOE ROW
0.00 ACRES IN PROPERTY

PARCEL E2
6160 ARAPAHOE
(ORD. 4900 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E3
6180 ARAPAHOE
(ORD. 4916 PORTION)
0.85 ACRE IN PROPERTY

PARCEL E1
5980 ARAPAHOE
(ORD. 4665 PORTION)
12.41 ACRES IN PROPERTY

63RD STREET

CHERRYVALE ROAD

PORTION OF PROPERTY CONTAINED IN ORD. # 5948: 0.03 ACRE

PARCEL A
1492 CHERRYVALE
1.85 ACRES

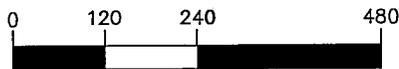
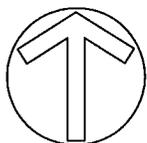
0.03 ACRE IN ROW

PARCEL B1
6234 ARAPAHOE
16.35 ACRES

PROPERTY AS COVERED BY ANNEXATIONS:

- PARCEL A: 1.85 Ac.
- PARCEL B1: 16.35 Ac.
- PARCEL E1: 12.41 Ac.
- PARCEL E2: 0.85 Ac.
- PARCEL E3: 0.85 Ac.
- ORD. 5948: 0.03 Ac.
- TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
AREA TO BE ANNEXED: 18.20 Ac.



1 inch = 240 ft.

**PORTION OF ORDINANCE 4900
(6160 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. 1"=240'
	PLANNING	Boulder, CO 80304	VERT. N/A
	SURVEYING	303.449.9105	DESIGN/APPR.
	www.hurst-assoc.com	DATE 10/21/13	DRAWN BY BO
	FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC	SHEET 2 OF 2	

EXHIBIT G TO AGREEMENT (Page 1 of 2)

PARCEL E3

ANNEXATION PORTION DESCRIPTION:

A PORTION OF THE ANNEXATION TO THE CITY OF BOULDER BY ORDINANCE NUMBER 4916 LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 34;

THENCE S89°56'35"W, 688.20 FEET ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARINGS);

THENCE S00°03'25"E, 62.80 FEET TO AN ANGLE POINT OF THE SOUTHERLY RIGHT OF WAY OF STATE HIGHWAY 7 (AS OF DECEMBER 2011) AND THE POINT OF BEGINNING;

THENCE S00°19'26"E, 371.87 FEET;

THENCE S89°40'34"W, 100.00 FEET;

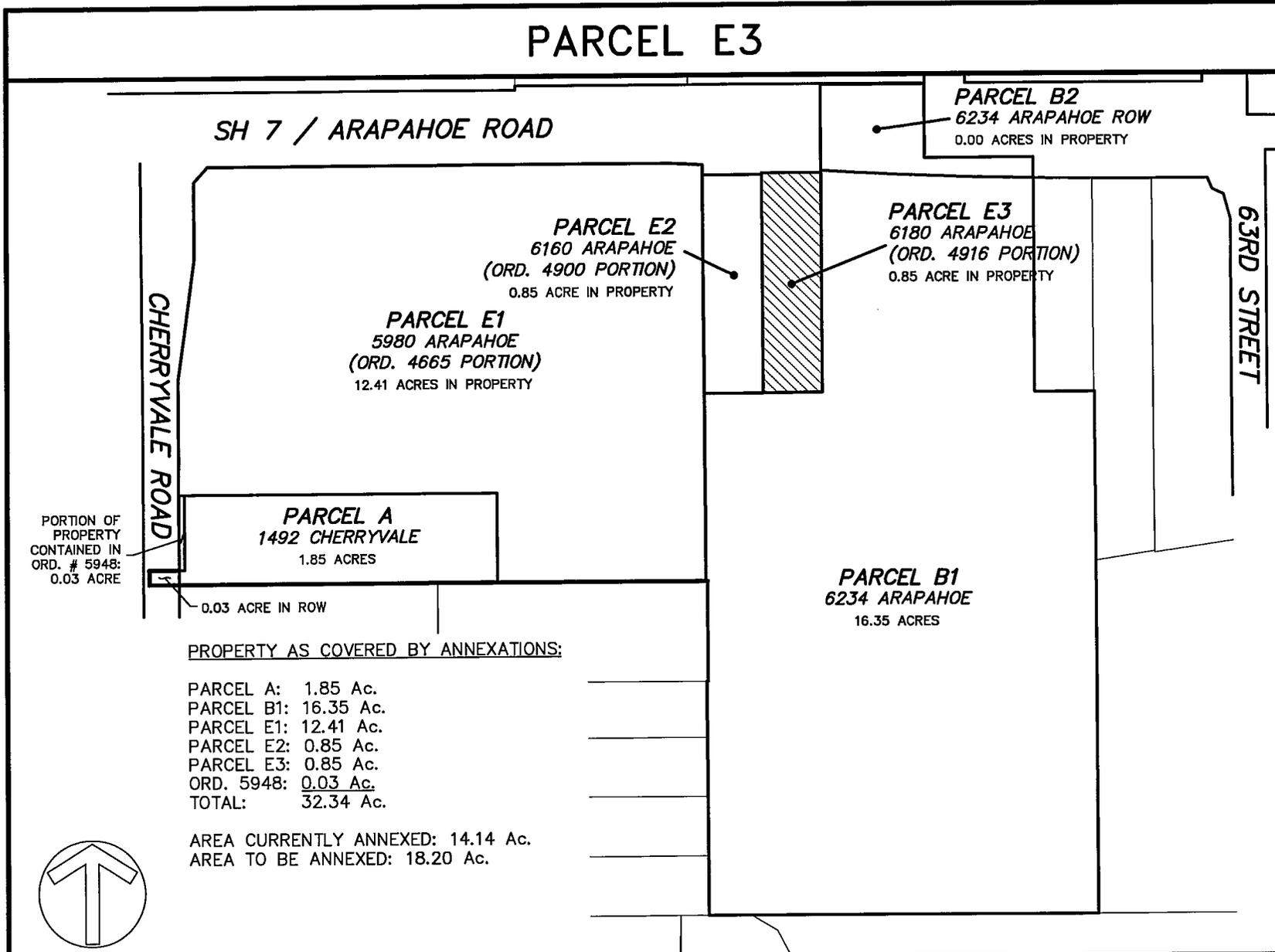
THENCE N00°19'25"W, 372.36 FEET;

THENCE N89°57'35"E, 100.00 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 7 TO THE POINT OF BEGINNING.

PORTION OF ORDINANCE 4916 (6180 ARAPAHOE) IN BOULDER JEWISH COMMONS

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. N/A VERT. N/A
	PLANNING	Boulder, CO 80304	DESIGN/APPR.
	SURVEYING	303.449.9105	DRAWN BY BO
		www.hurst-assoc.com	DATE 10/21/13
FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC			SHEET 1 OF 2

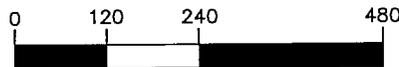
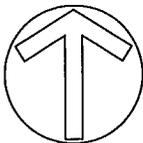
PARCEL E3



PROPERTY AS COVERED BY ANNEXATIONS:

PARCEL A: 1.85 Ac.
 PARCEL B1: 16.35 Ac.
 PARCEL E1: 12.41 Ac.
 PARCEL E2: 0.85 Ac.
 PARCEL E3: 0.85 Ac.
 ORD. 5948: 0.03 Ac.
TOTAL: 32.34 Ac.

AREA CURRENTLY ANNEXED: 14.14 Ac.
 AREA TO BE ANNEXED: 18.20 Ac.



1 inch = 240 ft.

**PORTION OF ORDINANCE 4916
(6180 ARAPAHOE)
IN BOULDER JEWISH COMMONS**

HURST	CIVIL ENGINEERING	2500 Broadway, Suite B	SCALE HOR. 1"=240'
	PLANNING	Boulder, CO 80304	VERT. N/A
	SURVEYING	303.449.9105	DESIGN/APPR.
	www.hurst-assoc.com	DATE 10/21/13	DRAWN BY BO
FILE G:\23121\SURVEY\BJC EXISTING ANNEXATION AREAS IN BJC			SHEET 2 OF 2

EXHIBIT H TO AGREEMENT (Page 1 of 2)

WARRANTY DEED

THIS DEED, dated this _____ day of _____, 20___, between CHERRYVALE COMMONS, LTD., a Colorado non-profit corporation, grantor, and the CITY OF BOULDER, a Colorado home rule city, duly organized and existing under and by virtue of the laws of the State of Colorado, grantee, whose legal address is 1777 Broadway, Boulder, Colorado 80302. The grantor and grantee are hereafter collectively referred to as the "Parties."

WITNESSETH, that the grantor, for and in consideration of the recitals, promises, and covenants set forth in an annexation agreement between the Parties pertaining to properties generally known as 1492 Cherryvale Road and 6234 Arapahoe Road and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey, and confirm unto the grantee, its successors and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Boulder, State of Colorado, described as follows:

SEE EXHIBIT A ATTACHED

also known by street and number as: the southerly 8.59 acre portion of 6234 Arapahoe Road, Boulder, CO

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee, its successors and assigns forever. The grantor, for itself, its successors and assigns, does covenant, grant, bargain and agree to and with the grantee, its successors and assigns, that at the time of the ensembling and delivery of these presents, it is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except taxes for 2013 and subsequent years and all easements, restrictions and reservations of record.

EXHIBIT I

CITY OF BOULDER SPECIFICATIONS HIGH TENSILE FENCING

High Tensile Fence

Wire

All high-tensile fencing shall be constructed with 12 ½ gauge steel wire with type III galvanizing and a minimum breaking strength of 1800 pounds or 200,00 psi.

Staples

Staples shall be 9 gauge galvanized wire, 2" long.

Steel Dowels

Steel dowels for construction of end and corner assemblies shall be 3/8" carbon steel rods, 5" and 10" long. In some circumstances longer dowels may be specified.

Droppers and Clips

Droppers shall be pressure-treated hardwood. Each wire shall be attached to each dropper with a fence clip suitable to the dropper.

Posts

All line posts, as well as posts for end and corner assemblies shall be round wooden posts treated with chromated copper arsenate (CCA), **or alkaline copper quat (ACQ) unless otherwise specified by the City. Preference will be given to posts treated with ACQ if available at the same price as CCA treated posts.** CCA treatment on all posts shall be dry before delivery to City job site. Length and diameter of posts is as follows (diameter measured at smaller end of post).

Line Posts for both 10 strand and 7 strand fence shall be 6 ½' by 4", except that on curves, dips and rises 8' line posts shall be used. Line posts shall be driven to a depth of 30", except that 8' line posts shall be driven to a depth of 48".

Gate and End Posts shall be 8' by 6", driven to a depth of 48".

Brace Posts shall be 8' by 5" for the first brace post and 8' by 4" for the second brace post, driven to a depth of 48".

Top Brace Posts shall be 8' by 4".

Construction Standards for 10 Strand HTF Fence

All posts shall be driven only, without pre-drilling, unless authorization is given specifically by the City to drill. No post shall be hand set without the specific prior authorization of the City. Line posts shall be spaced every 30', **with three equally spaced droppers between line posts.** Each wire shall be single-stapled to each line post, except that on dip, rise and curve posts double-stapling shall be used. All end and corner assemblies shall be double braced. The top wire shall be at a height of 46", with wire spacing in inches, from the ground up, of 4,4,4,4,5,5,5,5,5,5. Minimum wire tension shall be 250 pounds. There shall be one in-line wire strainer per wire. **However, the Department may specify additional strainers, depending upon the number of corner assemblies and curves.** Wires shall be fastened at end posts with **two crimped nickel-pressed sleeves.** Any wire splices shall be done with **three crimped nickel-pressed sleeves.** Knots shall not be used. There shall be one ground rod per 150' in dry soil and one per 300' in wet soil.

Any exceptions to the above will be only at the express direction of the City.

Construction Standards for End, Corner and Gate Post Assemblies

All assemblies shall be double-braced. Corner and end posts shall be 8' by 6", driven 48", with a 2" lean away from the direction of pull. First brace posts shall be 8' by 5", driven 48", with a 1" lean away from the direction of pull. Second brace posts shall be 8' by 4", driven 48", with no lean. Both horizontal braces shall be 8' by 4". The first horizontal brace shall be pinned to the end or corner post with a 5" galvanized steel dowel. Pinning to the first and second brace posts shall be with 10" dowels.

At least two wraps of wire shall be used for each section of end, corner, or gate assemblies. Wire shall be tensioned with a **chain-link HTF fence stretcher and fastened with two crimped nickel-pressed sleeves.**



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only an ordinance granting authority to the approving authorities under Title 9, “Land Use Code,” B.R.C. 1981, to approve the moving of two single-family dwelling unit structures from 1220 and 1243 Grandview Avenue to 905 Marine Street, and as an amendment to Title 9, “Land Use Code,” B.R.C. 1981 to waive or modify certain land use regulations as they apply to these structures.

Applicant/Owner: Christian Griffith

PRESENTERS

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

David Driskell, Executive Director of Community Planning and Sustainability

Susan Richstone, Deputy Director of Community Planning and Sustainability

Charles Ferro, Development Review Manager for Community Planning and Sustainability

James Hewat, Senior Historic Preservation Planner

EXECUTIVE SUMMARY: On Nov. 19, 2013, City Council approved Ordinance No. 7947 to allow for the relocation of two historic residential structures from 1220 and 1243 Grandview Ave. to 905 Marine St. (refer to **Figure 1** below for an area context map). For detailed background information and project history, refer to staff’s memorandum of recommendation from the Nov. 19, 2013 City Council hearing (www.bouldercolorado.gov →Government →City Council →Meetings→Search Past Meeting Packets).

Since that time, staff received more detailed survey information as well as detailed information on the roof geometries of the bungalows slated for relocation. The information presented suggests that a modification of additional land use standards will be required to relocate the proposed bungalows, particularly to Section 9-9-17, “Solar Access,” B.R.C. 1981. The proposed ordinance and Ordinance 7947, adopted on Nov. 19, 2013 can be found in **Attachment A**.

The proposed ordinance would amend Title 9, "Land Use Code," B.R.C. 1981, and would authorize a modification to the solar access standards to allow for the relocation of the historic structures.

Overall, staff finds that the application as presented would result in a defined community benefit for the City of Boulder that justifies the variance requested by the Applicant. Staff finds:

- The relocation and preservation of the bungalows is consistent with and furthers the Boulder Valley Comprehensive Plan (BVCP) goals and policies relating to historic preservation and housing;
- The applicant has agreed to submit an application for an individual landmark for each of the buildings proposed for relocation pursuant to the city's landmarking process;
- The relocation of the bungalows to 905 Marine St. is generally consistent with the identifiably residential character of the area;
- The proposed modifications were found to promote a safer and better subdivision design as it allows for the residential structures to be located outside of the regulatory floodplain.

Based on these findings, staff finds that the benefits of the relocation and preservation of the bungalows supports the modifications to the Land Use Code requirements included in the ordinance.

STAFF RECOMMENDATION:

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

Suggested Motion Language:

Motion to introduce and order published by title only, an ordinance granting authority to the approving authorities under Title 9, "Land Use Code," B.R.C. 1981, to approve the moving of two single-family dwelling unit structures from 1220 and 1243 Grandview Avenue to 905 Marine Street, and as an amendment to Title 9, "Land Use Code," B.R.C. 1981 to waive or modify certain land use regulations as they apply to these structures, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: None identified.
- Environmental: None identified.
- Social: The Historic Preservation Ordinance was adopted to "...enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's

living heritage” (pursuant to section 10-13-1 (a), B.R.C., 1981). The preservation of the two bungalows is consistent with the intent of the Historic Preservation Ordinance.

FISCAL IMPACT:

City services are existing and available to this site. All development will be subject to city development fees, including payment of Storm Water and Flood Management and Utility Plant Investment Fees (PIFs). The requested deferment of city development fees, including building permit fees, only defers the payment of these fees; it does not eliminate the requirement of their payment.

The city is contributing \$100,000 to aid in the relocation and preservation efforts of the two bungalows. The funds were identified as being available as part of the general fund balance.

Staff time: The ordinance has been processed through the provisions of a standard application process and is within normal staff work plans.

PUBLIC COMMENT:

Written notification was sent to the impacted property owner to the north located at 1636 9th St. At the time of publication, staff has not received any feedback from the property owner.

BACKGROUND:

For detailed background information and project history, refer to staff’s memorandum of recommendation from the Nov. 19, 2013 City Council (www.bouldercolorado.gov →Government →City Council →Meetings→Search Past Meeting Packets).

PROPOSAL:

The proposal calls for the relocation of two historic buildings currently located at 1220 and 1243 Grandview Ave., to 905 Marine St. Once relocated, the applicant is proposing to utilize the buildings as single-family residences and to subdivide the project site into three lots as shown in **Figure 2** below. In addition to the land use code modifications granted in the previous ordinance approved by council on Nov. 19, 2013, a modification to the city’s solar access regulations will be required in order to relocate the structures and subdivide the property.

ANALYSIS

Land Use Code Section 9-9-17, B.R.C.1981, establishes solar access regulations designed to regulate structures and vegetation on property, to the extent necessary to ensure access to solar energy, by reasonably regulating the interests of neighboring property holders within the city. The intent is to ensure that rooftop solar heating and cooling of buildings, solar heated hot water, and solar generated electricity can provide a significant contribution to the city's energy supply.

The area is located within Solar Access Area II defined under the land use code subsection 9-9-17(c)(2), B.R.C.,1981) as follows,

“Solar Access Area II is designed to protect solar access principally for building rooftops in areas where, because of planned density, topography, or lot configuration or orientation, the preponderance of lots therein currently enjoy such access and where solar access of this nature would not unduly restrict permissible development”.

Under the land use code, per Section 9-9-17(d)(B), B.R.C.,1981,

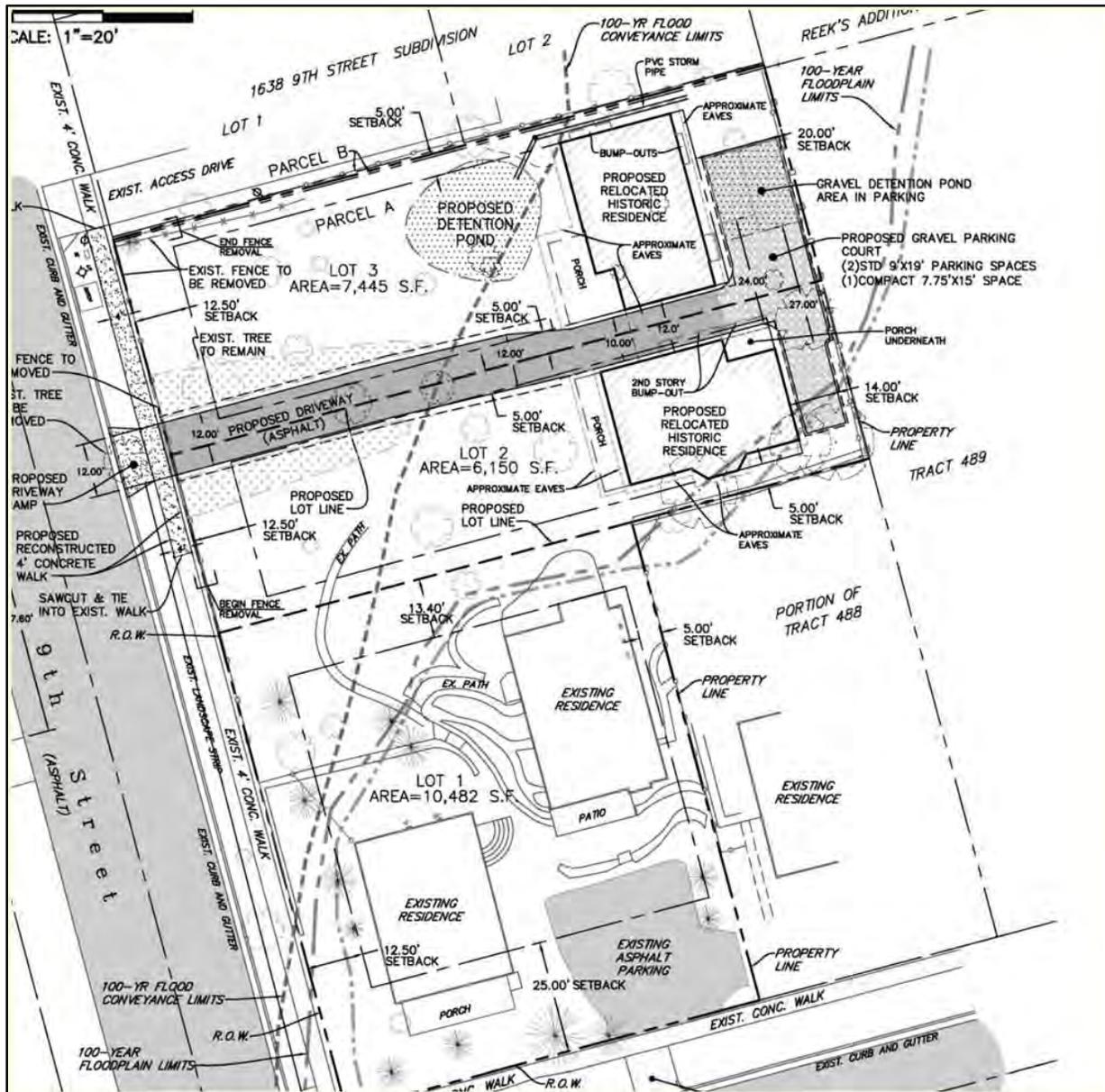
“No person shall erect an object or structure on any other lot that would shade a protected lot in Solar Access Area II to a greater degree than the lot would be shaded by the shadows cast by a hypothetical vertical solar fence twenty-five feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day (Dec. 21, the shortest day of the year). The hypothetical solar fence establishes a reasonable envelope or area of protection within which actual building shadows should be contained. Per Section 9-9-17, B.R.C. 1981, solar analyses are required to illustrate the shadows cast on Dec. 21 at 10 a.m., 12 p.m., and 2 p.m. to indicate the worst case scenario for solar gain.”

A context map and a proposed subdivision / site plan for the property are included below.

FIGURE 1 - AREA CONTEXT MAP



FIGURE 2 - PROPOSED SUBDIVISION/SITE PLAN – 905 MARINE ST.



The constraints associated with the flood zones and topography that impact the site has dictated the location of the proposed buildings on the property. The solar shadow cast by each of the

relocated structures will result in encroachments on an areas of the respective properties that are protected by the hypothetical fence.

More specifically, an insubstantial breach of the hypothetical solar fence will occur offsite onto the rooftop of the property located at 1636 9th St. and on the relocated bungalow on lot Lot 3. As indicated in **Attachment B**, 5.8 feet of the rooftop at 1636 9th and 4.8 feet of the rooftop on Lot 3 will be in shadow on Dec. 21 (the shortest day of the year). The rooftops will maintain adequate useable south facing area for rooftop solar collectors since the shadow cast is minor, even on the shortest day of the year when shadows would be most impactful.

Based on the flood and topographical constraints on the site, there are no other design or subdivision options for siting the historic structures and since the offsite impacts on 1636 9th St. are minimal, staff supports the proposed modification to the city's solar access standards.

ATTACHMENTS:

- A. Proposed Ordinance No. 7956 and Ordinance No. 7947
- B: Solar Access Drawings

ORDINANCE NO. 7956

1 AN ORDINANCE GRANTING AUTHORITY TO THE
2 APPROVING AUTHORITIES UNDER TITLE 9, "LAND USE
3 CODE," B.R.C. 1981, TO APPROVE THE MOVING OF TWO
4 SINGLE-FAMILY DWELLING UNIT STRUCTURES FROM
5 1220 AND 1243 GRANDVIEW AVENUE TO 905 MARINE
6 STREET, AND AS AN AMENDMENT TO TITLE 9, "LAND
7 USE CODE," B.R.C. 1981, TO WAIVE OR MODIFY CERTAIN
8 LAND USE REGULATIONS AS THEY APPLY TO THESE
9 STRUCTURES, AND SETTING FORTH RELATED DETAILS.

10 WHEREAS the City Council finds that:

11 A. The City of Boulder and the University of Colorado entered into a Memorandum
12 of Agreement (the "MOU") dated January 22, 2001.

13 B. The purpose of the MOU was to protect some historic structures in the Grandview
14 area from demolition through a covenant and to protect other historic structures from demolition
15 through the requirement of notice of the intent to demolish and an opportunity to relocate such
16 structures.

17 C. While the MOU expired on July 1, 2011, consistent with the spirit of the MOU,
18 the University of Colorado has provided the City of Boulder with written notice of its plans to
19 remove two cottage structures, one located at 1220 Grandview Avenue and another located at
20 1243 Grandview Avenue, (the "Cottages") and its intent to make the Cottages available to the
21 City and/or the public for off-site relocation.

22 D. Christian Griffith (the "Applicant") has proposed moving the Cottages to the
23 location shown on the site plan attached to this ordinance as **Exhibit A**.

24 E. The City Council is interested in preserving each of the Cottages that would
25 otherwise be demolished in the location proposed by the Applicant.

26 F. On November 19, 2013, City Council passed Ordinance No. 7947 authorizing the
27 City Manager to modify or waive several land use and other regulations to permit the Cottages to
28 be relocated to the parcel of land generally known as 905 Marine Street (the "Property") and
29 more particularly described in **Exhibit B** attached to this ordinance.

30 G. Review of more detailed survey information as well as detailed information on
31 roof geometry for relocation of the Cottages has revealed that to permit the relocation of the
32 Cottages will require modification or waiver of additional land use standards, including, in
33 particular, Section 9-9-17, "Solar Access," B.R.C. 1981.

1 H. The purpose of this ordinance is to permit the Cottages that would otherwise be
2 demolished to be relocated to the parcel of land generally known as 905 Marine Street (the
3 “Property”) and more particularly described in **Exhibit B** attached to this ordinance.

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

6 Section 1. The City Council authorizes the city manager to grant the necessary approvals
7 under Title 9, “Land Use Code,” B.R.C. 1981, to permit the moving of the Cottages from 1220
8 and 1243 Grandview Avenue to 905 Marine Street in the location shown on the site plan attached
9 to this ordinance as **Exhibit A**.

10
11 Section 2. In order to accomplish the objectives of this ordinance, the City Council
12 authorizes the city manager to modify or waive standards established in Title 9 “Land Use
13 Code,” B.R.C. 1981, including, in particular, the requirements under Section 9-9-17, “Solar
14 Access,” B.R.C. 1981.

15
16 Section 3. All other City of Boulder regulations and ordinances that have not been
17 mentioned herein continue to apply to the Property.

18
19 Section 4. This ordinance shall be considered an amendment to Title 9, “Land Use
20 Code,” B.R.C. 1981. To the extent that this ordinance conflicts with any other ordinance of the
21 City, such ordinance shall be suspended for the limited purpose of implementing this ordinance.
22 Nothing in this ordinance shall be construed as a waiver of the City’s police power.

23
24 Section 5. The City Council finds that this ordinance furthers important historic
25 preservation goals for the City of Boulder. Further the City Council finds that the benefits of the

1 City's historic preservation goals made possible through this ordinance outweigh benefits that
2 accrue to the city ordinances that are waived by this ordinance.

3 Section 6. This ordinance is necessary to protect the public health, safety, and welfare of
4 the residents of the City, is consistent with the goals and policies of the Boulder Valley
5 Comprehensive Plan, and covers matters of local concern.
6

7 Section 7. The City deems it appropriate that this ordinance be published by title only
8 and orders that copies of this ordinance be made available in the office of the city clerk for public
9 inspection and acquisition.
10

11 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
12 TITLE ONLY this 17th day of December, 2013.
13

14
15 Attest:

Mayor

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City Clerk
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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE ONLY this 21st day of January, 2014.

Mayor

Attest:

City Clerk

ORDINANCE NO. 7947

AN ORDINANCE GRANTING AUTHORITY TO THE APPROVING AUTHORITIES UNDER TITLE 9, "LAND USE CODE." AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO APPROVE THE MOVING OF TWO SINGLE-FAMILY DWELLING UNIT STRUCTURES FROM 1220 AND 1243 GRANDVIEW AVENUE TO 905 MARINE STREET, AND AS AN AMENDMENT TO CHAPTER 6-6, "PROTECTION OF TREES AND PLANTS," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO WAIVE OR MODIFY CERTAIN TREE MITIGATION, LAND USE, AND BUILDING CODE REGULATIONS AS THEY APPLY TO THESE STRUCTURES, AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The City of Boulder and the University of Colorado entered into a Memorandum of Agreement (the "MOU") dated January 22, 2001.

B. The purpose of the MOU was to protect some historic structures in the Grandview area from demolition through a covenant and to protect other historic structures from demolition through the requirement of notice of the intent to demolish and an opportunity to relocate such structures.

C. While the MOU expired on July 1, 2011, consistent with the spirit of the MOU, the University of Colorado has provided the City of Boulder with written notice of its plans to remove two Cottage structures, one located at 1220 Grandview Avenue and another located at 1243 Grandview Avenue, (the "Cottages") and its intent to make the Cottages available to the City and/or the public for off-site relocation.

D. Christian Griffith (the "Applicant") has proposed moving the Cottages to the location shown on the site plan attached to this ordinance as **Exhibit A**.

E. The City Council is interested in preserving each of the Cottages in the location proposed by the Applicant.

F. The purpose of this ordinance is to permit the Cottages that would otherwise be demolished by the University of Colorado to be relocated to the parcel of land generally known as 905 Marine Street (the "Property") and more particularly described on **Exhibit B** attached to this ordinance.

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

3 Section 1. The City Council authorizes the city manager to grant the necessary permits
4 under Title 10, "Structures," B.R.C. 1981, to permit the moving of the Cottages from 1220 and
5 1243 Grandview Avenue to 905 Marine Street in the location shown on the site plan attached to
6 this ordinance as **Exhibit A**.

7
8 Section 2. Moving permits required by this ordinance shall be reviewed under the
9 provisions of Title 10, "Structures," B.R.C. 1981, in effect on October 22, 2013. In order to
10 accomplish the objectives of this ordinance, the City Council authorizes the city manager to vary
11 or waive the following City regulations:

- 12
13 a. Notwithstanding that the site is neither in an historic district nor an individual
14 landmark, the residential Cottages to be moved to the site will be considered as
15 individual landmarks for the purposes of reviewing and approving building permits
16 under Chapter 10-5, "Building Code," B.R.C. 1981, Chapter 10-5.5, "Residential
17 Building Code," B.R.C. 1981, Chapter 10-7, "Energy Conservation Code," B.R.C.
18 1981, and Chapter 10-7.5, "Green Building and Green Points Program," B.R.C.
19 1981, for the initial occupancy of the structures at the proposed new location. In
20 particular, the city manager is authorized to waive building and energy code
21 requirements related to insulating the structures and replacing windows on the
22 structures.

23
24 Section 3. The City Council authorizes the city manager to approve a subdivision,
25 generally as shown on the site plan attached to this ordinance as **Exhibit A**, creating three lots.

1 The City Council authorizes the city manger to approve the following modifications to zoning
2 requirements for lots and structures in the RMX-1 zoning district in the subdivision review
3 process:

- 4 a. A reduction in the rear yard set back for principal structures from twenty-five feet to
5 thirteen feet for proposed Lot 1, to fourteen feet for proposed Lot 2, and to twenty
6 feet for proposed Lot 3.
- 7 b. A reduction in the combined side yard setback from fifteen feet to eleven feet for
8 proposed Lot 2 and to 11 feet for proposed Lot 3.
- 9 c. A reduction in minimum lot area per dwelling unit from 6000 square feet to allow
10 three dwelling units on proposed Lot 1 with a total lot area of roughly 10,482 square
11 feet.

12
13
14 Section 4. In order to accomplish the objectives of this ordinance, the City Council
15 authorizes the city manager to vary the requirements of Section 6-6-7, "Mitigation of Trees or
16 Plants Removed or Destroyed," B.R.C. 1981, related to the removal of the existing tree in the 9th
17 Street right of way adjacent to 905 Marine Street and to find that the planting of new street trees
18 in accordance with Section 9-9-13, "Streetscape Design Standards," B.R.C. 1981, satisfies the
19 requirements of Section 6-6-7, "Mitigation of Trees or Plants Removed or Destroyed," B.R.C.
20 1981.

21
22 Section 5. All other City of Boulder regulations that have not been specifically
23 mentioned herein continue to apply to the Property.
24
25

1 Section 6. The City Council authorizes the city manager to waive the due dates of any
2 applicable fees and taxes associated with the moving, constructing, or otherwise making the
3 Cottages habitable structures under the Boulder Revised Code; however, the Applicant shall pay
4 any such waived fees or taxes by the later date of the date required under the Boulder Revised
5 Code and May 1, 2014, but in no event later than receipt of a certificate of occupancy related to
6 any moving permit for the Cottages onto the Property.

7
8 Section 7. This ordinance shall be considered an amendment to Chapter 6-6, "Protection
9 of Trees and Plants," B.R.C. 1981, Title 9, "Land Use Code," B.R.C. 1981, and Title 10,
10 "Structures," B.R.C. 1981. To the extent that this ordinance conflicts with any other ordinance
11 of the City, such ordinance shall be suspended for the limited purpose of implementing this
12 ordinance. Nothing in this ordinance shall be construed as a waiver of the City's police power.

13
14 Section 8. The City Council finds that this ordinance furthers important historic
15 preservation goals for the City of Boulder. Further the City Council finds that the benefits of the
16 City's historic preservation goals made possible through this ordinance outweigh benefits that
17 accrue to the city ordinances that are waived by this ordinance.

18 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
19 the residents of the City, is consistent with the goals and policies of the Boulder Valley
20 Comprehensive Plan, and covers matters of local concern.

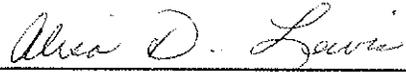
21
22 Section 10. The City deems it appropriate that this ordinance be published by title only
23 and orders that copies of this ordinance be made available in the office of the city clerk for public
24 inspection and acquisition.

25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 22nd day of October, 2013.

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5 _____
Mayor

6 Attest:

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8 _____
City Clerk

9 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
10 PUBLISHED BY TITLE ONLY this 19th day of November, 2013.

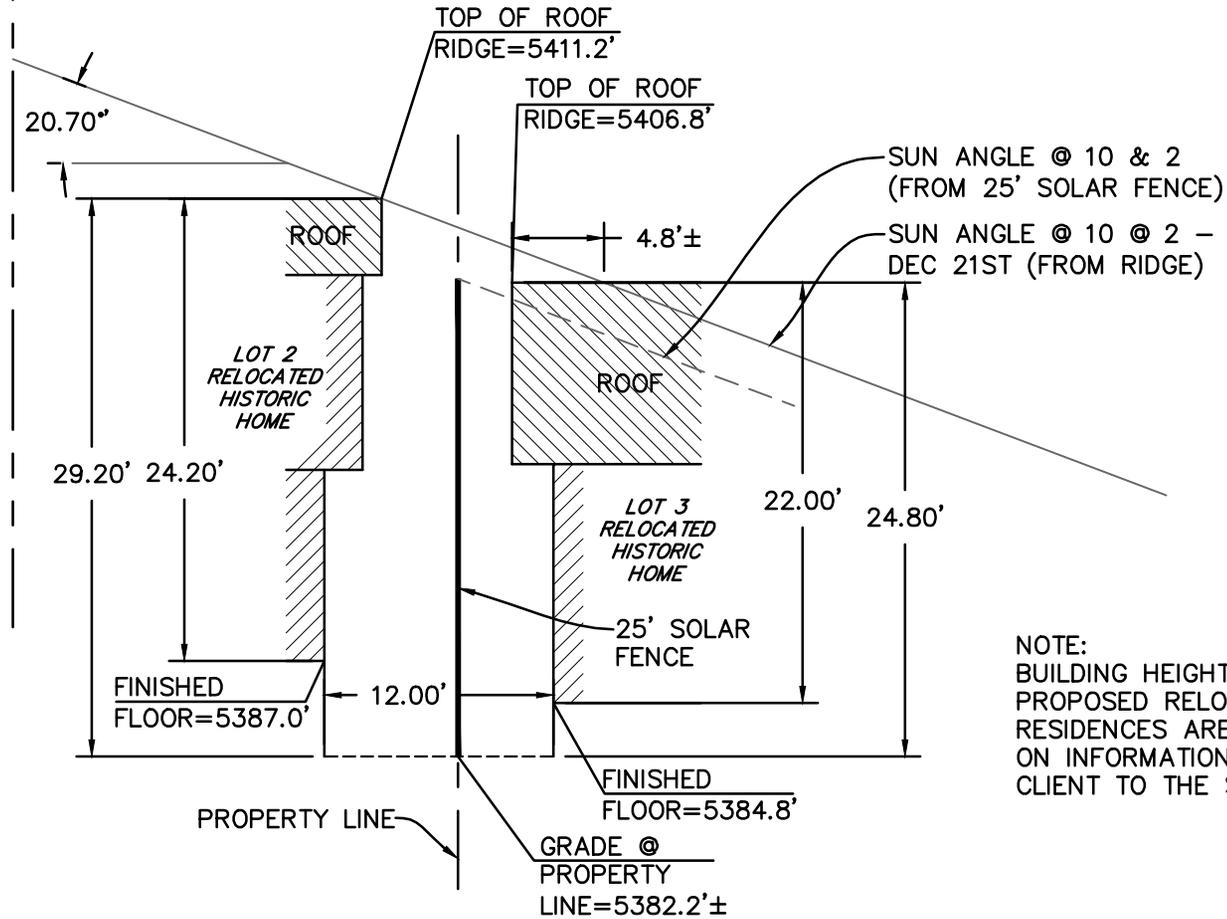
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Mayor

14 Attest:

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City Clerk

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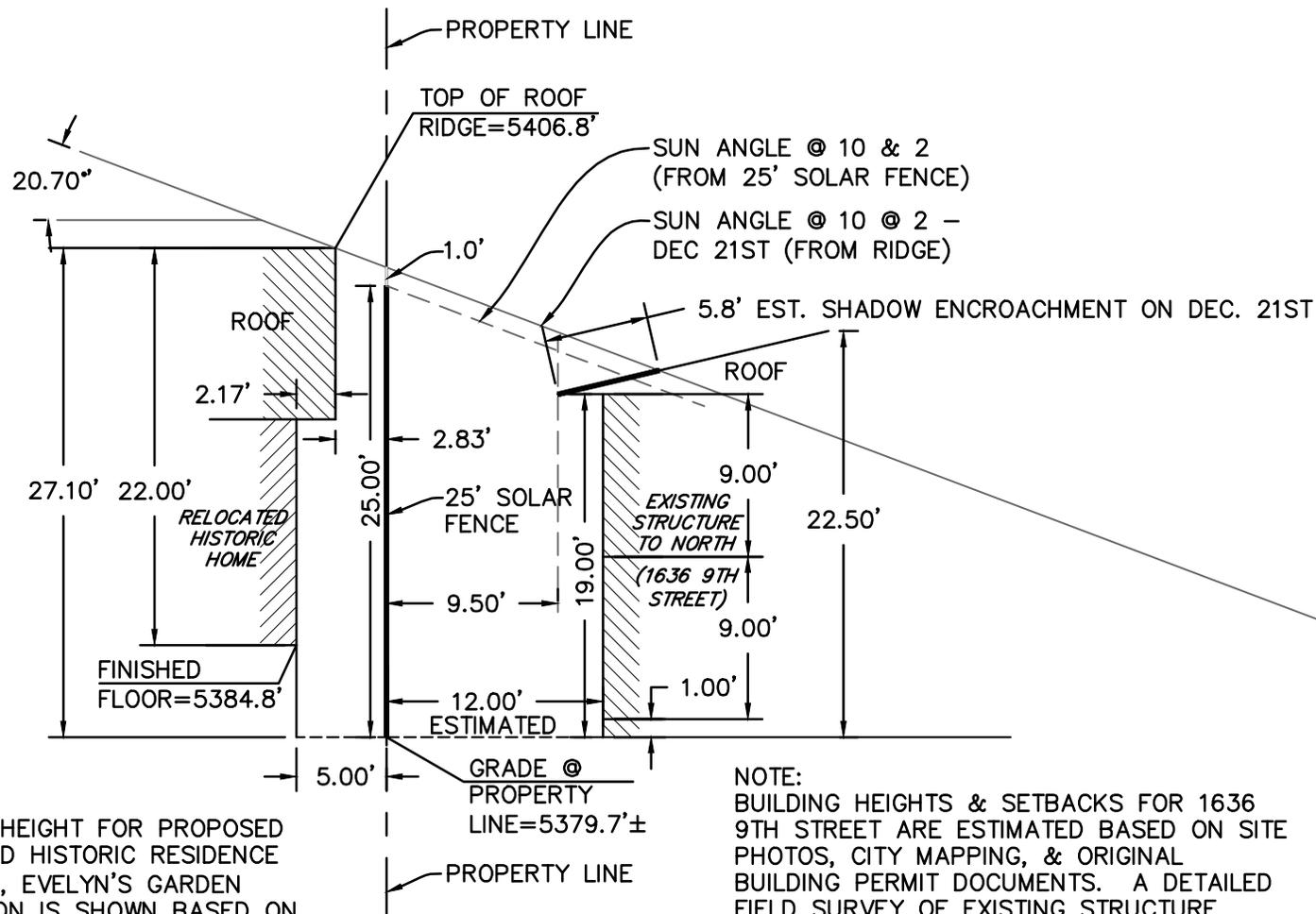
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NOTE:
BUILDING HEIGHTS FOR PROPOSED RELOCATED HISTORIC RESIDENCES ARE SHOWN BASED ON INFORMATION SUPPLIED BY CLIENT TO THE SANITAS GROUP.

EXHIBIT MAP - SOLAR ACCESS
CROSS-SECTION BETWEEN PROPOSED LOTS 2 & 3

		The Sanitas Group, LLC 1022 Willow Place Louisville, CO 80027 www.thesanitasgroup.com (303) 981-9238	
		PROJECT NAME: 905 MARINE ST	PROJECT NUMBER: B1041
DRAWN BY: CCS	CHECKED BY: TSG	DRAWING SCALE: 1"=10'	
ISSUE SOLAR ACCESS		DATE 12-4-13	



NOTE:
BUILDING HEIGHT FOR PROPOSED RELOCATED HISTORIC RESIDENCE ON LOT 3, EVELYN'S GARDEN SUBDIVISION IS SHOWN BASED ON INFORMATION SUPPLIED BY CLIENT TO THE SANITAS GROUP.

NOTE:
BUILDING HEIGHTS & SETBACKS FOR 1636 9TH STREET ARE ESTIMATED BASED ON SITE PHOTOS, CITY MAPPING, & ORIGINAL BUILDING PERMIT DOCUMENTS. A DETAILED FIELD SURVEY OF EXISTING STRUCTURE HEIGHTS HAS NOT BEEN COMPLETED.

EXHIBIT MAP - SOLAR ACCESS

CROSS-SECTION AT NORTHERN PROPERTY LINE BETWEEN LOT 3 & 1636 9TH STREET

		The Sanitas Group, LLC 1022 Willow Place Louisville, CO 80027 www.thesanitasgroup.com (303) 981-9238	
		PROJECT NAME: 905 MARINE ST	PROJECT NUMBER: B1041
DRAWN BY: CCS	CHECKED BY: TSG	DRAWING SCALE: 1"=10'	
ISSUE SOLAR ACCESS		DATE 12-4-13	



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE: Consideration of a motion to adopt a resolution approving and authorizing an application for a Great Outdoors Colorado School Play Yard Initiative Grant.

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Bob Eiche, Finance Director /Acting Executive Director of Administrative Services,

Kirk W. Kincannon, CPRP, Director of Parks and Recreation

Jeff Dillon, Parks and Planning Superintendent

EXECUTIVE SUMMARY

The purpose of this agenda item is to request consideration and approval of a resolution authorizing an application for a Great Outdoors Colorado (GOCO) School Play Yard Initiative Grant due on January 17, 2014 (Attachment A). This grant, if awarded, will provide an additional \$100,000 of funding for the renovation of the school playground at University Hill Elementary School, 956 16th Street.

The GOCO grant program is a competitive process open to cities, counties, parks and recreation districts, non-profit land conservation organizations, political subdivisions of the state and Colorado Parks and Wildlife. This special initiative encourages partnerships between local government and school and/or school district, to construct or improve school play yards for the benefit of children in rural and urban communities across the state. Eligible entities can sponsor projects on behalf of entities that are ineligible for GOCO funding. For example, a city can apply for a GOCO grant on behalf of a school district for the construction of a playground on school property.

University Hill Elementary School (Uni Hill) would like to partner with the Parks and Recreation Department as a sponsor for the GOCO grant application. The entire project will be constructed on Boulder Valley School District (BVSD) property therefore the school and school district will lead the planning process, application submission and construction project management. The school and school district will also be responsible for matching funds, supporting funds prior to reimbursement and submission of final project report for reimbursement.

Uni Hill lies directly southwest of the University of Colorado main campus and in the University Hill neighborhood with many residential homes and the main housing area for CU students with little city park space within the vicinity. Though the school building received an addition in 2010, much of the outdoor campus has not seen upgrades in over 15 years. To improve the outdoor play environment, the school raised money and purchased new play equipment for the upper grade levels, which was installed this year in 2013. The renovation will integrate and increase the recreation, play and learning opportunities for the school and the neighborhood. (Attachment B)

GOCO School Play Yard Initiative Grant funding will help fulfill the immediate needs of the school and neighborhood for age appropriate play equipment, nature-base play opportunities, community social gathering spaces, walking paths and an informal recreation field. Specific improvements are to be determined during the master plan process to be carried out in November and December of 2013. The school campus is used solely by students, grades PreK-5, while school is in session. Outside of school hours, community members including children, families, adult neighbors, and University of Colorado students will have access to the amenities. Although the school was able to recently upgrade a small portion of the play yard with new upper grade play equipment, this grant would allow the school to rejuvenate the overall campus to provide a more comprehensive and developmentally appropriate play, recreation, learning and social outdoor environment for enriched children's activities and community social opportunities. Particular needs include upgrading the dated kindergarten and preschool play areas; addressing accessibility issues between the upper and lower play areas; and improving seating and gathering space for students, staff and neighbors which are virtually nonexistent.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving the GOCO Grant application allowing for the development of the University Hill Elementary School Playground Renovation.

Suggested Motion Language:

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

Motion to adopt a Resolution approving and authorizing an application for a Great Outdoors Colorado School Play Yard Initiative grant and acceptance of funds for University Hill Elementary School Playground Renovation.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: A successful GOCO grant application would supplement existing school funds to make the University Hill Elementary School Playground Renovation a possibility as well as allow the school to better serve its students and their needs as a Federal Title 1 status school.
- Environmental: The nature based play areas will offer opportunities for environmental learning and nature discovery for Uni Hill students and neighborhood children helping to foster a sense of place within the native Colorado flora and fauna and to foster future stewards of the environment.

- Social: The University Hill Elementary School Playground Renovation master plan will be created in partnership with University Hill students, staff and parents, members of the University Neighborhood Association, park and school neighbors, the University of Colorado's Environmental Design School, Boulder Valley School District, and interested adjacent church organizations.

OTHER IMPACTS

- Fiscal: A 25 percent match by the grant recipient(s) is required for the GOCO School Play Yard Initiative Grants. Uni Hill is providing the grant match for this project. The minimum match needed for the grant is \$33,500 of which \$13,300 shall be in cash and \$20,200 shall be in-kind donations. The Uni Hill Parent Teacher Association and Site Improvement Committee have endorsed the line item for the University Hill Playground Renovation project as part of their 2013-2014 budget. The required in-kind donations and services will be provided through the efforts of the Uni Hill community throughout the duration of the allowed grant timeframe. BVSD has agreed to fund the project for up to \$100,000 prior to the grant reimbursement at project completion.
- Staff time: University Hill Elementary School will lead the planning and grant application process with support from BVSD and minimal oversight by the Parks and Recreation Department. Construction Project Management and final reporting for grant reimbursement will also be the responsibility of the school and school district with minimal oversight from the Parks and Recreation Department. An intergovernmental agreement between Parks and Recreation and BVSD must be signed as part of the grant agreement. A similar intergovernmental agreement was recently drafted which should reduce the review process of future documents.

BOARD AND COMMISSION FEEDBACK

The Parks and Recreation Advisory Board (PRAB) is in support of University Hill Elementary School Playground Renovation. The board will receive updates throughout the collaborative process through 2014.

PUBLIC FEEDBACK

There will be multiple avenues for community input and collaboration including two playground master plan meetings. In collaboration with Uni Hill Elementary staff, students, and parents, the Uni Hill neighborhood association, the CU Environmental Design School, city staff, and adjacent neighbors will be invited to a playground planning meeting with various methods to convey comments and input including both a written questionnaire and photo survey. Also, through a hands-on design workshop with model making, Uni Hill students will be able to creatively design potential play elements for their playground. Students will then present their ideas to the neighbors, the CU community, staff, parents, and families of University Hill at the final playground master plan presentation.

The school will continue to engage the community throughout the duration of the project in an appropriate manner to ensure that the community is informed and included throughout the entire project.

BACKGROUND

Uni Hill approached the Parks and Recreation Department in September of 2013 with a request for sponsorship on a Great Outdoors Colorado Grant in the amount of \$100,000. The immediate need for the school is to create a better-integrated, better connected, and more age-appropriate school playground offering much needed elements of a neighborhood park for students and neighbors. Parks and Recreation will function only as a pass-through sponsor for this project.

BVSD will work with the Uni Hill Principal and Site Improvement Committee (that includes a parent who is a licensed landscape architect) to create a playground master plan for this innovative playground project. The first phase of work to be constructed will fulfill as many of the immediate needs as possible with current available funding as a match for the GOCO grant. Future phases will be developed as funding becomes available. The role of the Parks and Recreation Department will be limited to minimal oversight of the process and to enter in to a contractual agreement with GOCO and BVSD ensure the longevity of the renovation.

ANALYSIS

The deadline for this GOCO special initiative grant is January 17, 2014. GOCO is scheduled to review the School Play Yard Initiative Grant applications in February/March with an award date in April of 2014. The University Hill Elementary School Playground Renovation construction portion of the project is anticipated to begin fall of 2014 or no later than spring of 2015.

ATTACHMENTS

- A. Resolution
- B. Site Map

RESOLUTION NO. 1132

**RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A SCHOOL PLAY
YARD GRANT FROM THE STATE BOARD OF THE GREAT OUTDOORS
COLORADO (GOCO) TRUST FUND AND THE COMPLETION OF UNIVERSITY
HILL ELEMENTARY SCHOOL PLAYGROUND RENOVATION**

WHEREAS, the City of Boulder supports the Great Outdoors Colorado grant application for University Hill Elementary School Playground Renovation; and.

WHEREAS, the City of Boulder supports the completion of University Hill Elementary School Playground Renovation if the grant is awarded; and.

WHEREAS, the City of Boulder has partnered with University Hill Elementary to request \$100,000 from Great Outdoors Colorado for University Hill Elementary School Playground Renovation;

BE IT RESOLVED, That the Mayor and the City Council of the City of Boulder strongly support the application for a grant to Great Outdoors Colorado; and

BE IT RESOLVED, That if the grant is awarded, the Mayor and the City Council of the City of Boulder strongly support the completion of the project; and

BE IT RESOLVED, That if the grant is awarded, the Mayor and the City Council of the City of Boulder will enter into an intergovernmental agreement with Boulder Valley School District to confirm the funding necessary to meet the terms and obligations of any Grant awarded.

BE IT RESOLVED, That if the grant is awarded, the Mayor and the City Council of the City of Boulder will enter into an intergovernmental agreement with Boulder Valley School District to ensure the maintenance of the University Hill Elementary School Playground Renovation project in a high quality condition for its useful life. It will be stated in the Intergovernmental Agreement that the Boulder Valley School District will appropriate funds for maintenance in its annual budget.

BE IT FURTHER RESOLVED, That this resolution is to be in full force and effect from and after its passage and approval.

APPROVED this 17th day of December, 2013

Mayor, Matt Appelbaum

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University Hill Elementary School

NORTH 

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE: Consideration of a motion to authorize the City Manager to enter into a Letter of Intent between the University Hill General Improvement District (UHGID) and Del Mar Interests, LLC, regarding the feasibility of a public/private partnership redevelopment of UHGID's 14th Street parking lot.

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Bob Eiche, Chief Financial Officer

David Driskell, Executive Director, Community Planning and Sustainability

David Gehr, Deputy City Attorney, City Attorney's Office

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

EXECUTIVE SUMMARY

The purpose of this agenda item is to seek Council's authorization as the board of directors of the University Hill General Improvement District (UHGID) for the City Manager to enter into a non-binding Letter of Intent with Del Mar Interests (**Attachment A**) to explore the feasibility of a public/private partnership to redevelop the 14th Street parking lot into residential apartments and structured parking. An initial project schematic is shown in **Attachment B**. The Letter of Intent expresses that both parties will enter into good faith negotiations and conduct additional legal and financial feasibility analysis with the intent of entering into a Global Agreement should both parties wish to proceed to the next step.

Del Mar Interests (DMI) proposes to finance, design and build the project – apartment units and parking spaces - under a long-term ground lease from UHGID. UHGID would convey its property to DMI for \$1 for a period of up to 40 years. DMI would lease back to UHGID approximately 200 parking spaces. DMI is proposing UHGID pay the developer 90% of the annual net operating income generated by the public parking

spaces. At the end of the long-term ground lease, the project would be subdivided in a manner consistent with the Colorado Common Interest Community Act and the UHGID Parking Unit would be conveyed to UHGID.

Based on the analysis to date, staff recommends taking the next step of entering into the Letter of Intent with DMI and then pursuing further negotiations and detailed analysis regarding the benefits and risks to UHGID and impacts to the commercial area. Staff will return to City Council with a final recommendation about whether to proceed with the Global Agreement and under what terms.

STAFF RECOMMENDATION

Suggested Motion Language:

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

The City Council, acting as the board of directors of UHGID, authorizes the City Manager to enter into a Letter of Intent, as substantially represented in **Attachment A**, between UHGID and Del Mar Interests regarding the public/private partnership redevelopment of UHGID's 14th Street parking lot.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Providing additional parking on University Hill will promote the long term economic sustainability of the Hill commercial district and encourage a greater diversity of destination uses in addition to those currently focused primarily on the daily needs of students.
- Environmental – Redevelopment within the established urban centers maximizes the use of all access modes. Providing additional housing in close proximity to the university lessens dependence on automobile trips. The site has excellent transit access with the Skip and HOP, as well as other services.
- Social – Creating a greater diversity of uses on the Hill will invite a broader spectrum of the community to visit and enjoy this unique area.

OTHER IMPACTS

- Fiscal – In order to continue UHGID's due diligence analysis regarding the proposed public/private redevelopment, additional expenditures of approximately \$20,000 will be needed to hire the appropriate economic and parking consultants.
- Staff time – Staff time on the project is covered under the existing work program.

BOARD AND COMMISSION FEEDBACK

The redevelopment of the 14th Street lot has been a priority of the University Hill Commercial Area Management Commission (UHCAMC) for several years. The proposal from DMI has been presented to the UHCAMC on numerous occasions, most recently at their meetings on August 21 and again on November 20. UHCAMC has consistently supported the project as a cost efficient way for the district to gain additional parking as well as support the redevelopment of the Hill. Parking availability is an important

consideration in attracting potential destination tenants. At the November meeting only one member was in attendance due to a combination of having one vacancy, foreign travel and illness. Dahl offered her support to enter into the Letter of Intent.

BACKGROUND

UHGID is a general improvement taxing district created in 1970 for parking and parking-related improvements within the University Hill commercial district. In the mid-1980s, UHGID expanded its powers to include public space maintenance. UHGID owns two parcels which are both used for surface parking: Pleasant Street lot, 49 spaces, and the 14th Street lot, 54 spaces. Other parking resources within the district are the Pennsylvania lot owned and managed by the University of Colorado (CU), 37 spaces, and 160 on-street parking spaces. There are a total of 300 public parking spaces in the commercial district.

As a parking district, UHGID is responsible for supplying the present and future public parking needs, excluding residential uses, for the commercial area. The district has two opportunities for future expansion: the 14th and Pleasant Street lots. The 2004 Business Plan for the Hill commercial area identified that, due to the configuration of parcels on the Hill, redevelopment would be best served through the congregation of adjacent parcels and exploring mixed use development. In 2005, the city sponsored a charrette to explore the possible redevelopment options for the three parking lots on the Hill. The proposal for the 14th Street lot included a parking garage, live/work space and a hotel.

For several years, DMI and UHGID have been exploring a mixed use, public/private partnership development of residential and parking on UHGID's 14th Street parking lot. (See **Attachment B**.) The proposal is for approximately 25 apartments to be built above underground and surface parking serving both the residents, as required by zoning, and the district users. An estimated 200 spaces could be leased by UHGID from the developer. The project area is larger than the 14th Street parking lot alone. DMI has options on two adjacent properties - 1080 13th Street and the underground portion of the rear, undeveloped properties at 1005, 1019 and 1027 14th Street. Both areas would include additional units, residential and parking.

The developer has had very preliminary discussions with CU about the project and has requested CU's support and assistance in helping determine if this project would be desirable for occupancy by CU staff or graduate students, and if so, would CU help DMI market the project to these target markets and publically support it. CU needs more information about the project before it can make the decision.

An attractive component of the proposal to UHGID would be the garage entry off of 13th Street accessing the garage through an underground ramp beneath the alley. Changes to the College and 14th Street intersection in the 1990s limited access to the 14th Street lot from Broadway. Currently, southbound cars need to access the site by travelling up 13th, east on Euclid and then travelling north on 14th. Garage access off of 13th Street would greatly reduce traffic through the residential neighborhood.

ANALYSIS

In order to explore the potential benefit and risk to UHGID, staff undertook the following preliminary analysis in order to assess whether there was value to UHGID to enter into a Letter of Intent with DMI.

Letter of Intent

The city manager requests that the city council authorize the city manager to sign a form of the Letter of Intent that is attached to this memorandum.

The Letter of Intent lays out the preliminary plans and process for developing additional structured parking on a parcel of land owned by UHGID at 14th and College Ave.

Parking will be constructed and financed by Del Mar.

DMI is in a unique situation as a partner in this project. DMI has secured an option to purchase the properties that are located at 1080 and 1068 13th Street (collectively, the "13th Street Property"). DMI also has an interest in the Jones Drug Property at 1350 College. That building was constructed such that the basement could be further excavated for additional parking. Combining all of the properties could allow an underground parking system that could greatly improve the Hill commercial area parking circulation. It could have entrance and exit points on both 13th and 14th Streets, removing the need to circulate into the neighborhood for parking as now often happens.

DMI proposes to construct 240 parking spaces within the parking garage: approximately 200 for UHGID and 35 for the residential use. In exchange, UHGID will enter into a 40-year lease purchase arrangement and will own the parking at the end of the term. DMI will construct approximately 25 residential units to be located above the parking garage.

In the next step of feasibility, UHGID and DMI will analyze the potential to add up to 25 parking spaces in the Jones Drug basement if it is found to be financially and practically feasible. As mentioned above, DMI has also secured options to purchase the properties at 1080 and 1068 13th Street. UHGID and DMI will analyze the potential for adding additional parking below and at grade. If the parties determine that there is the potential for a feasible mixed use public/private partnership, then this property will be brought into the development plan and a global agreement related to the ownership and operational requirements of the project.

If UHGID goes forward with this effort, two work plan items will need to be completed. DMI will prepare an initial set of plans (called the initial schematic in the letter) that will be used in the next step of feasibility study. The plans will be of sufficient detail for the parties to determine initial feasibility of the project for the purpose of determining initial construction costs, regulatory compliance, and land use programs and plans. UHGID will be required to develop a parking market feasibility study that is intended to demonstrate, based on reasonable growth and market assumptions within the general improvement district boundaries, that the parking usage and revenue projections are sufficient to support the financial feasibility of the public/private partnership.

This agreement is intended to set the parameters of good faith negotiations with DMI for a public/private partnership. If the council authorizes the city manager to sign this Letter of Intent, UHGID will take the next steps toward potential construction of the mixed use project.

If the council authorizes UHGID's further exploration of this effort, it is just that, a further exploration. The Feasibility Study will be presented to the City Council for approval upon completion. If the City Council approves the feasibility study, the staff and DMI will negotiate the terms of a global development agreement, which will also be presented to council. The council will also have to approve any disposal of land in the future that is necessary to make this project possible. Staff anticipates that it will have complete further outreach efforts, including land use approvals for the development before any land disposals are requested.

If the project goes as anticipated in the Letter of Intent, UHGID will convey the property to DMI. DMI will construct the project. UHGID and DMI will enter into a lease purchase arrangement where it will own the parking, as a condominium-type unit, at the end of a 40-year lease term. UHGID will be responsible for owning and managing the parking portion of the project. The lease purchase arrangement will provide payments to DMI over time, to compensate it for its initial investment in the parking structure.

The major policy decision with regard to the letter of intent is the issue of working with one developer/property owner. It is staff's view that it is appropriate in this case, given the DMI's proposal, together with its ability to amalgamate properties in the area in order to create a unified development plan and gain garage access off of 13th Street.

A copy of the letter of intent can be found in **Attachment A**.

Bonding Capacity of UHGID

Initially, UHGID considered a self-financing approach to the public/private mixed use development. The traditional financing model for parking district development is to use the general improvement district's bonding capacity to finance debt service for the garage. This approach has been used most recently in CAGID financing for both the 15th and Pearl and 1000 Walnut parking facilities. However, CAGID's first parking garage, the Randolph Center, did not involve CAGID bond financing. For the Randolph Center, CAGID entered into a long-term lease, with its private partner making annual lease payments until CAGID's portion of the cost was paid off. The ultimate ownership arrangement was through the creation of a condominium association, approved by City Council on November 19, 2013.

Based on UHGID's property evaluation from Boulder County, the city's financial advisor, Piper Jaffray & Company, determined that district's property tax would need to be increased from 2.038 mills (generating \$28, 690) to 19.5 mills, a 856% increase, to support the debt to finance UHGID's projected portion of the costs. Because of the small scale of the district and its low property value, as well as the significant property tax increase, Piper Jaffray determined that the bond market would not consider this approach

an economically feasible enterprise. As a comparison, CAGID's current mill levy collection rate is 5.190, generating \$1.1 million. Because of UHGID's fiscal limitations, the city and DMI explored an alternative option as presented in the letter of intent.

Build-out Projections and Parking Demand

Because UHGID is responsible for providing for the parking needs of the district both in the present and the future, it is necessary to estimate future development which creates the parking and access needs within the commercial area. Staff contracted with RRC Associates to develop high and low development projections considering a range of commercial and residential uses. (**See Attachment C.**) The analysis was based on a number of assumptions, including that the district would not be built out to the maximum 1.85 FAR and the two UHGID parking lots would redevelop as mixed use with additional district parking. A total of 498,974 square feet of development (an addition of 194,736 square feet) is expected for total build out sometime in the future. The ultimate parking demand will be dependent upon the types of uses within the commercial spaces as well as the pace of development.

Using the development projections developed by RRC, Fox Tuttle, transportation consultants, estimated the commercial parking demand at build-out, based on two spaces per 1,000 square feet, to be 690 spaces. (**See Attachment D.**) (The number of potential spaces has changed since the initial analysis in February 2013.) If both UHGID parking lots redevelop with additional parking, the district has either deficit or surplus of approximately 40 spaces. Should the Pleasant Street not be part of a joint venture redevelopment, the district will have a parking space deficit. Currently there is no interest from the property owners adjacent to the 14th Street lot to consider any multi-parcel redevelopment options.

Property Appraisal

The city's Open Space and Mountain Parks department conducted a real property appraisal 1095 14th Street. The value is estimated at \$2,625,000.

Development Proposal Evaluation

Economic and Planning Systems, Inc. (EPS) was engaged to conduct an analysis of the financial feasibility and impacts of the DMI proposal to UHGID. The full report is found in **Attachment E**. Based on the summary of findings outlined below, EPS recommends that UHGID and the developer enter into the letter of intent to negotiate the business terms and conditions in preparation of the Global Agreement.

Summary findings by EPS:

- Based on the current assumptions, UHGID could receive modest net revenues after an initial period of final loss during construction based on the proposed percentage of 90% payment to the developer of net operating income. The revenue would build over time.
- The developer would achieve a modest rate of return for incorporating the parking into the larger project. Most of the profits would be from the residential development above the parking.

- The project represents a win-win for the district and the developer in that the district gains desired parking and the developer provides the parking at a modest cost in return for the ability to make a greater profit on the residential development.
- It is more economically beneficial to UHGID to have the developer provide the parking than for UHGID to build on its own. Another attractive component of the proposal is that UHGID can lease the parking spaces on an as-needed basis.

Next Steps:

Should City Council authorize the City Manager to proceed with the Letter of Intent, staff will work with consultants to conduct the necessary due diligence and legal, design and financial feasibility analyses and pursue further negotiations with the developer in order to make a final recommendation to City Council. Staff will seek input from the UHCAMC advisory committee and the Hill stakeholders.

The additional analysis will include the following:

- Update the existing analysis with the current development proposal
- Confirm the land transaction between UHGID and DMI as a long-term ground lease
- Determine legal issues associated with the Global Agreement
- Evaluate the proposal in terms of the entire project to determine a fair and equitable return to the developer as well as to UHGID
- Review and approval of the proposed design to ensure operational compatibility
- Conduct further detailed analysis of estimated parking costs and revenues
- Determine of the equitable distribution of parking revenues
- Conduct analysis of parking demand rates including multi-modal use

ATTACHMENTS

- Attachment A: Letter of Intent between UHGID and DMI
- Attachment B: Concept Project Design
- Attachment C: Memorandum from RRC Associations
- Attachment D: Memorandum from Fox Tuttle Re Parking Analysis
- Attachment E: UHGID 14th Street Parking Lot Development Proposal Evaluation by EPS

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[September **, 2013]

City of Boulder
P.O. Box 791
Boulder, Colorado 80306

University Hill General Improvement District
1500 Pearl Street, Suite 302
Boulder, Colorado 80302

Del Mar Interests, L.L.C.
c/o Michael Boyers
1526 Spruce Street, Suite 260
Boulder, CO 80302

Ladies and Gentlemen:

This letter serves as a declaration of the intent of University Hill General Improvement District, a general improvement district ("**UHGID**"), Del Mar Interests, L.L.C., a Colorado limited liability company ("**DMI**"), (collectively, the "**Parties**"), to pursue good faith negotiations to determine the feasibility of a public-private partnership related to development of the 14th and College parking lot owned by UHGID (the "**UHGID Lot**"), a parcel of land, consisting of approximately ** acres, commonly known as 1080 and 1068 13th Street, Boulder, Colorado (collectively the "**13th Street Property**") to which DMI holds an option to purchase, and the basement area of the real property legally described as Lot 45C, University Place Addition, Replat C and commonly known as 1350 and 1352 College Avenue, Boulder, Colorado (the "**Jones Drug Basement**"), owned by College Associates. Some of the salient terms and conditions related to the exploration of such a public-private partnership are as follows:

1. The Parties anticipate that the public-private partnership will result in the creation of a unified development plan that would include the UHGID Lot and the 13th Street Property, and potentially the 1350 College Avenue Basement, for the creation of public at and below grade parking (the "**Parking Garage**"), access to the Parking Garage from 13th Street and 14th Street and residential units above the Parking Garage (collectively the "**Project**").
2. The Parties anticipate that, upon completion, the Project will consist of approximately two hundred and forty (240) parking spaces within the Parking Garage and approximately twenty-five (28) residential units to be located above the Parking Garage. Of the two hundred and forty (240) parking spaces within the Parking Garage, two hundred and five (205) of the parking spaces (the "**UHGID Parking Area**") will be leased by UHGID pursuant to Sections 8 and 9 below and then later conveyed to UHGID pursuant to Section 9 below, and thirty-five (35) of

the parking spaces with the Parking Garage (the “**Residential Parking Area**”) will be used by the residential tenants.

3. If the Parties find it to be financially and practically feasible, they intend to consider adding up to twenty-five (25) additional parking spaces in the 1350 College Avenue Basement (the “**Additional Basement Parking Spaces**”). Access to the Additional Basement Parking Spaces, if any, will come from the UHGID Lot and if so built may comprise a portion of the Parking Garage.
4. DMI proposes to finance, design and build the Project, including payment of all associated third-party costs approved by DMI, and to apply for and obtain all required City approvals and permits necessary for proceeding with development of the Project. DMI will prepare, in consultation with UHGID, the initial (schematic) design for the Project (the “**Initial Schematic**”). The design of the Initial Schematic will be of sufficient detail for the Parties to determine initial feasibility of the Project.
5. After the initial feasibility of the Project has been approved by the Parties, the Parties will negotiate a Purchase, Sale, Development and Lease-Back Agreement (the “**Global Agreement**”), which such Global Agreement will document in detail each Parties’ rights, duties, obligations and responsibilities with respect to the Project. The Global Agreement will be consistent with the terms and conditions of this letter of intent, except as modified, amended and adjusted pursuant to the mutual agreement of the Parties.
6. DMI has an option to purchase the 13th Street Property. DMI will purchase the 13th Street Property only after the feasibility of the Project has been approved by the Parties and after mutual execution of the Global Agreement. DMI’s purchase of the 13th Street Property will be in accordance with the terms and conditions of the Global Agreement.
7. UHGID will convey the UHGID Lot to DMI for a purchase price of \$1.00 only after the feasibility of the Project has been approved by the Parties and after the mutual execution of the Global Agreement. UHGID’s conveyance of the UHGID Lot will be in accordance with the terms and conditions of the Global Agreement.
8. The Project will be subdivided, or otherwise separated in a manner that is consistent with the Colorado Common Interest Community Act at the discretion of DMI and College Associates, and in accordance with applicable laws, with the approval and consent of UHGID such that DMI can convey title to the UHGID Parking Area to UHGID at the end of the Lease Term (as defined in Section 9 below).
9. The Parties intend and acknowledge that all City and UHGID contracting procedures and real estate disposal procedures, will be complied with prior to entering into any contracts, leases, or conveyance of land.

10. UHGID will lease the UHGID Parking Area for a period of forty (40) years (the “Lease Term”) or such term that is mutually agreeable to the Parties, commencing on completion of the Parking Garage. The rental rate for the Lease Term payable by UHGID is intended to be structured such that DMI is compensated for the finance, design and construction costs of the Parking Garage, including all associated costs. The rental rate for the lease term and consideration for the any lease purchase arrangement is also intended to provide UHGID with at least fair market value for the value of the land that it will place into the Project. After the expiration of the Lease Term, DMI will convey the UHGID Parking Area to UHGID in accordance with the terms and conditions of the Global Agreement. DMI will at all times retain ownership and use of the Residential Parking Area and College Associates will at all time retain ownership and use of the Jones Drug Basement, including the Additional Basement Parking Spaces, if any.
11. UHGID will be responsible for the operation and management of the UHGID Parking Areas. DMI will be responsible for the operation and management of the Residential Parking Area. College Associates will be responsible for the operation and management of the Additional Basement Parking Spaces, if any. All parking will be managed with an integrated approach, to the extent practical with one system including equipment and software that provides access to the parking spaces of each party in a manner that does not impede availability or access to the spaces of the other party. Notwithstanding the foregoing, the Parties intend that the Global Agreement will include a Lease Back Agreement, which such Lease Back Agreement will include an equitable method of allocating the cost of maintenance, operation, and replacement of the Parking Garage between the UHGID Parking Area and the Residential Parking Area and the Additional Basement Parking Spaces, if any.
12. The Global Agreement will include a reasonable due diligence period for DMI to, among other things, (a) inspect title and physical conditions of the UHGID Lot and the 13th Street Property, (b) obtain a loan commitment from a lending institution or acquire private investor funds for the Project; and (c) obtain the necessary governmental approvals or entitlements, or both, for completion of the Project.
13. Within thirty business days after mutual execution and delivery of this letter of intent and approval of the Initial Schematics, UHGID will commission and pay for a parking market study (the “**Feasibility Study**”) that is intended to demonstrate, based on reasonable growth and market assumptions within the general improvement district boundaries, that the parking usage and revenue projections are sufficient to support the financial feasibility of the public-private partnership and the Global Agreement. A copy of the Feasibility Study will be provided to DMI and College Associates promptly upon completion of the same, but in no event later than 30 days after approval of the Initial Schematics by the

Parties. [Is the timing right on this work. Also GID approval process for this LOI should be discussed and stated.]

14. Upon approval of the Feasibility Study by the Parties, the same will be presented to the City Council for approval. Upon approval of the Feasibility Study by the City Council, the Parties will move forward to draft the Global Agreement.
15. Notwithstanding anything to the contrary contained in this letter of intent, the Parties agree that DMI, Michael Boyers, or any combination of the foregoing, may create one or more entities (the “**Related Entities**”) for the purpose of acquiring the 13th Street Property or completing the Project, or both, so long as Michael Boyers, or any entity(ies) that either of them manage or control, is a member of the Related Entities. To the extent the Related Entities are created, all or a portion of this letter of intent or the Global Agreement, or both, may be assigned to the Related Entities. Except as expressly set forth herein, the Parties agree that this letter of intent is not otherwise assignable.
16. This letter of intent will not be construed as creating any obligations, contractual or otherwise, on the part of the Parties until the Parties have executed the Global Agreement. Actions taken by any of the Parties, including but not limited to expenditure of funds, incurring or canceling other commitments or acts taken to implement any of the provisions of this letter of intent, will not be construed as part performance of the terms and conditions contained herein, nor will the party taking such action be regarded as having changed its position in reasonable reliance on the terms and conditions contained herein, so as to give rise to a claim of promissory estoppel or other equitable claims.

Sincerely,

Del Mar Interests, L.L.C.,
a Colorado limited liability company

By: _____

Name: Michael Boyers

Title: _____

Attest: _____

Attest: _____

City of Boulder

By: _____

Attest: _____

City Clerk on behalf of the Director
of Finance and Record

By: _____

Attest: _____

Secretary

**University Hill General Improvement
District, a general improvement district**

By: _____

Attest: _____

Secretary

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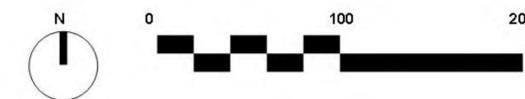
CONTEXT MAP



SITE A
 UHGID LAND
 AREA 18,750 SF
 FAR LIMIT: 1.85
 GROSS BUILDABLE SF: 34,688 GSF

SITE B
 1068 13TH STREET
 AREA 6,250 SF
 GROSS BUILDABLE SF: 5,029 GSF

SITE C
 14TH STREET
 AREA: 7,500 SF
 UNDERGROUND DEVELOPMENT RIGHTS



SITE MAP



ARCHITECTURE
URBAN DESIGN
INTERIOR DESIGN

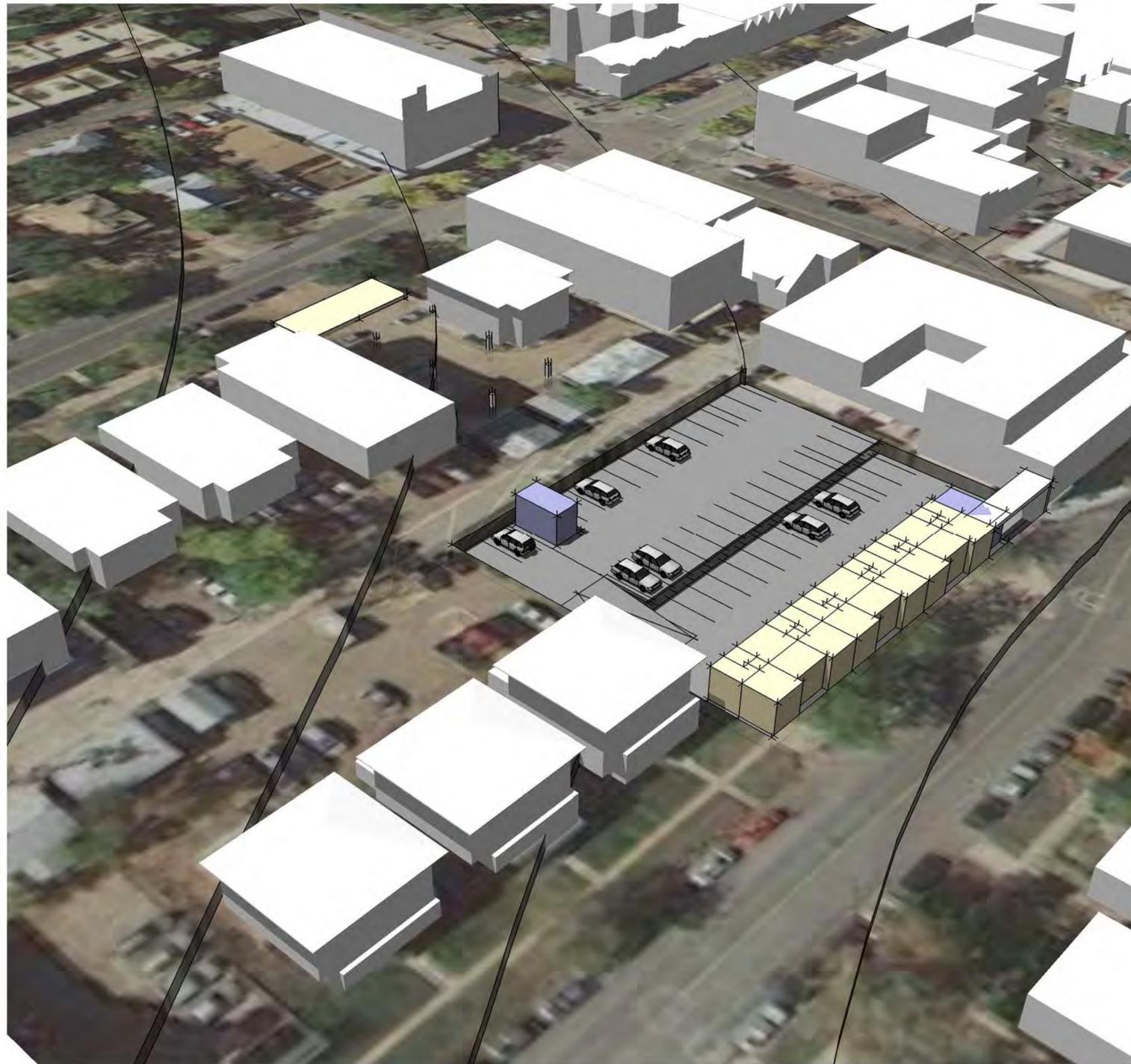
THE HILL BOULDER, CO

DEL MAR & BRINKMAN PARTNERSHIP | 113290.00 • SITE STUDIES • 12.06.2013

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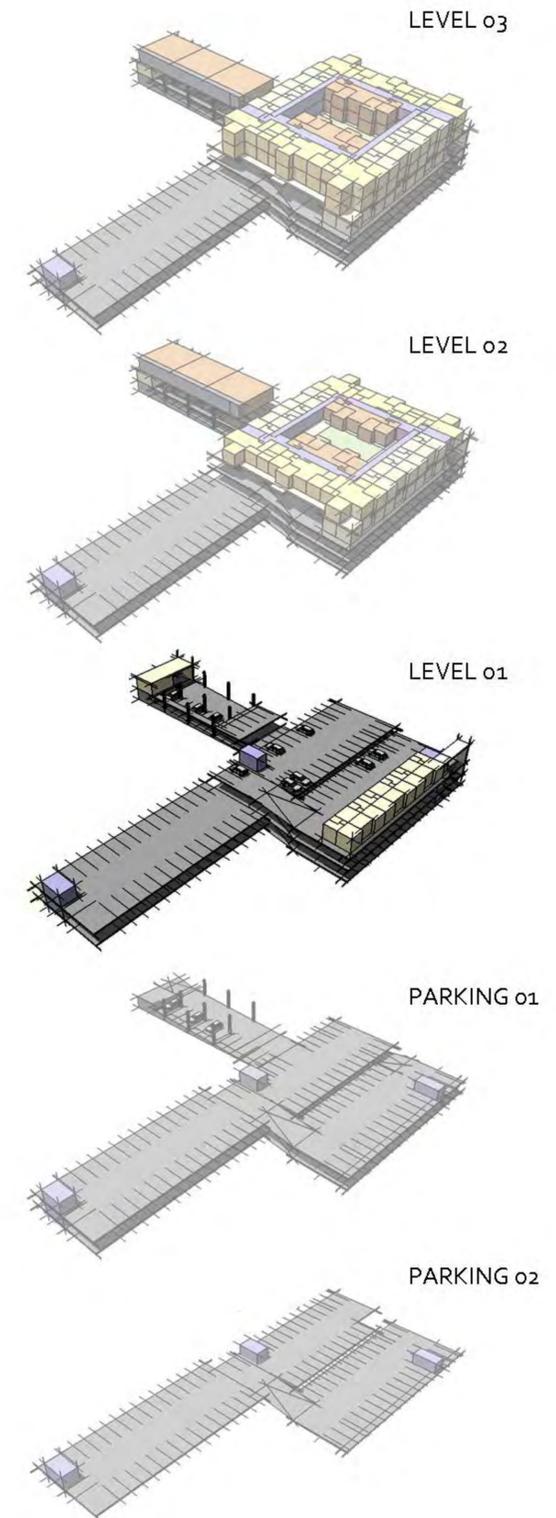
PHONE: 303.861.5704
FAX: 303.449.3886
WWW.OZARCH.COM





PLAN DIAGRAMS

	2BR	3BR	4BR	Total
Level 01	3			3
Level 02	4	6	5	15
Level 03	4	8	2	14
Units	11	14	7	32
Unit Area	850	950	1,200	
Circulation 15%	9,350	13,300	8,400	31,050
	1,403	1,995	1,260	4,658
	10,753	15,295	9,660	35,708
Mix	34%	44%	22%	
Beds	22	42	28	92
Parking available		209		spaces
	ratio	0.7		space/bed
Parking for residential		64.4		spaces
		64		spaces
Parking for city		145		spaces



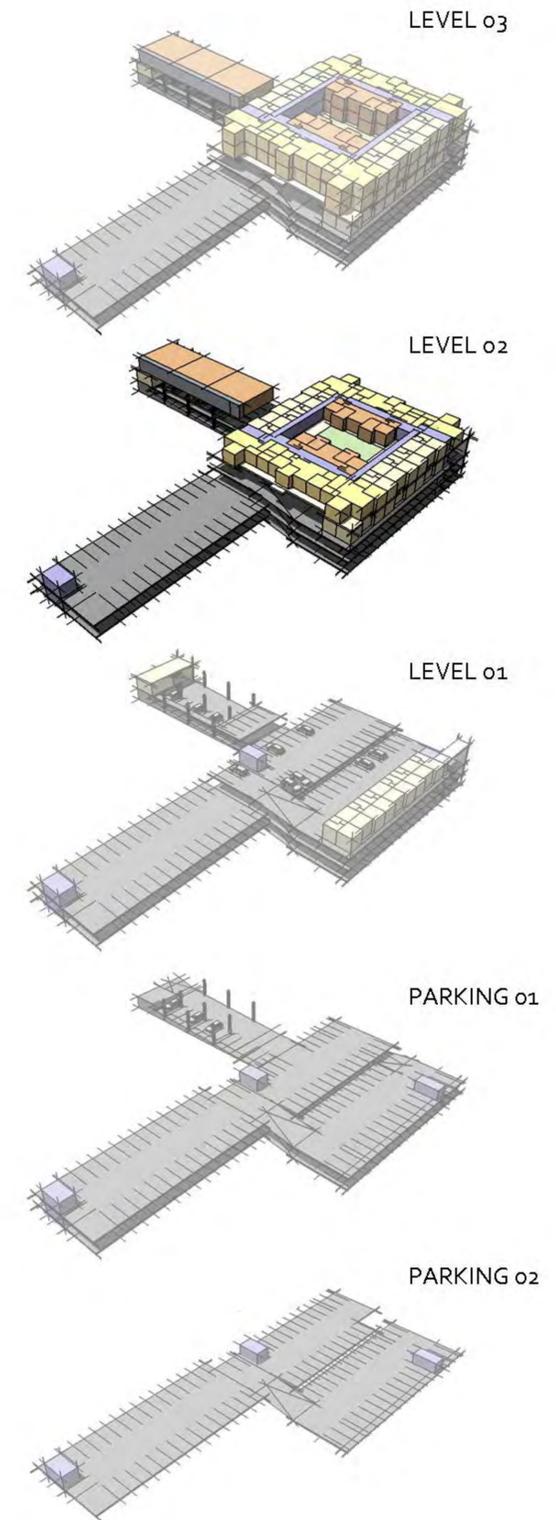
LEVEL 01





PLAN DIAGRAMS

	2BR	3BR	4BR	Total
Level 01	3			3
Level 02	4	6	5	15
Level 03	4	8	2	14
Units	11	14	7	32
Unit Area	850	950	1,200	
Circulation 15%	9,350	13,300	8,400	31,050
	1,403	1,995	1,260	4,658
	10,753	15,295	9,660	35,708
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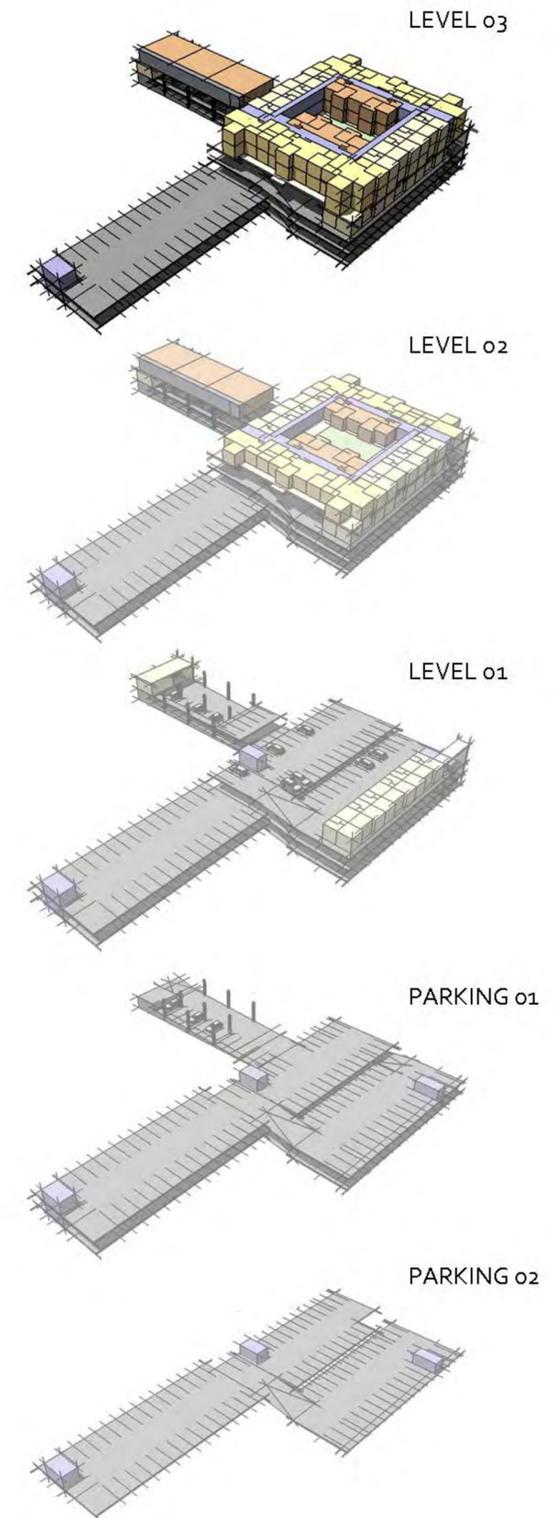
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PLAN DIAGRAMS

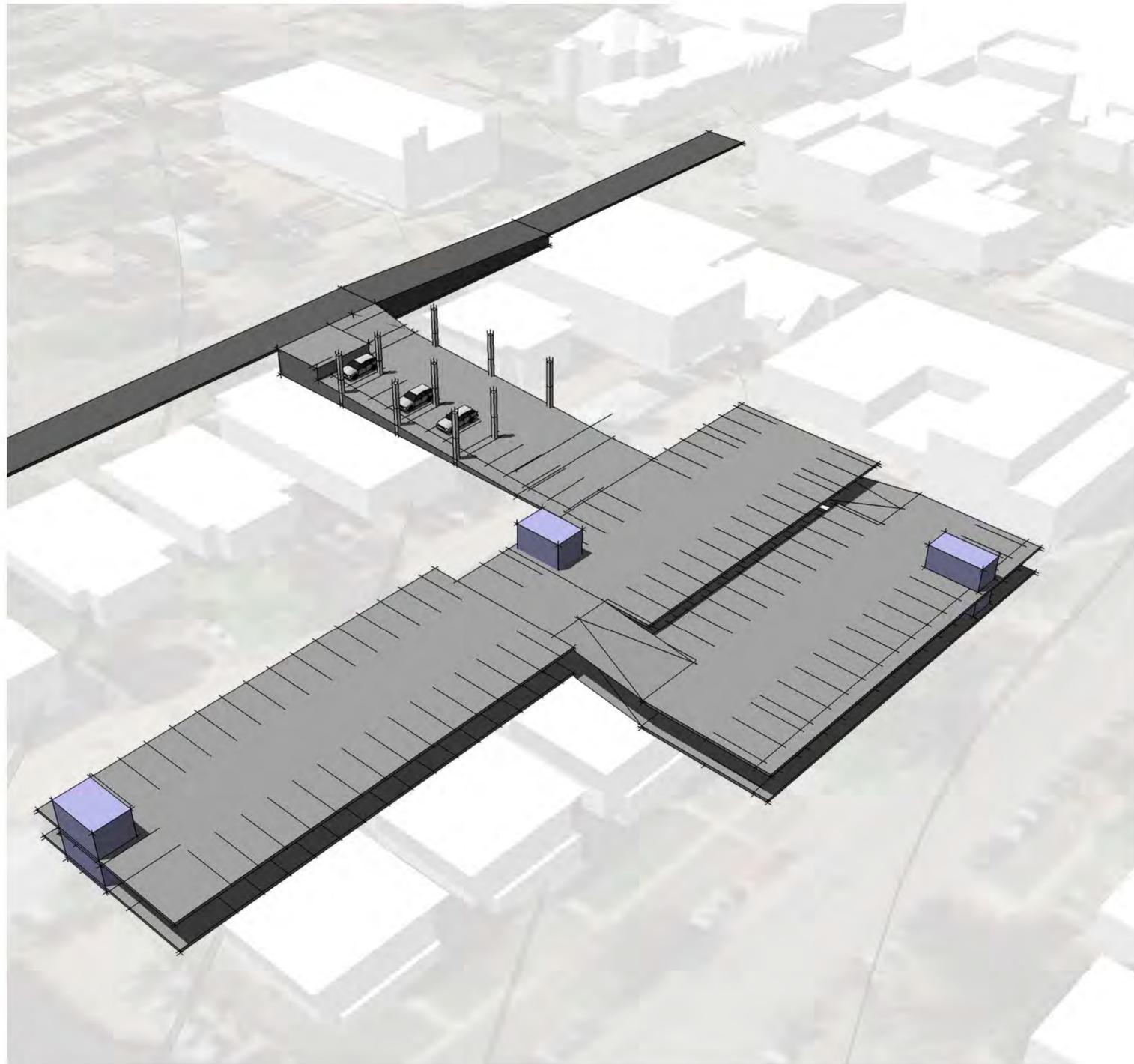
	2BR	3BR	4BR	Total
Level 01	3			3
Level 02	4	6	5	15
Level 03	4	8	2	14
Units	11	14	7	32
Unit Area	850	950	1,200	
Circulation 15%	9,350	13,300	8,400	31,050
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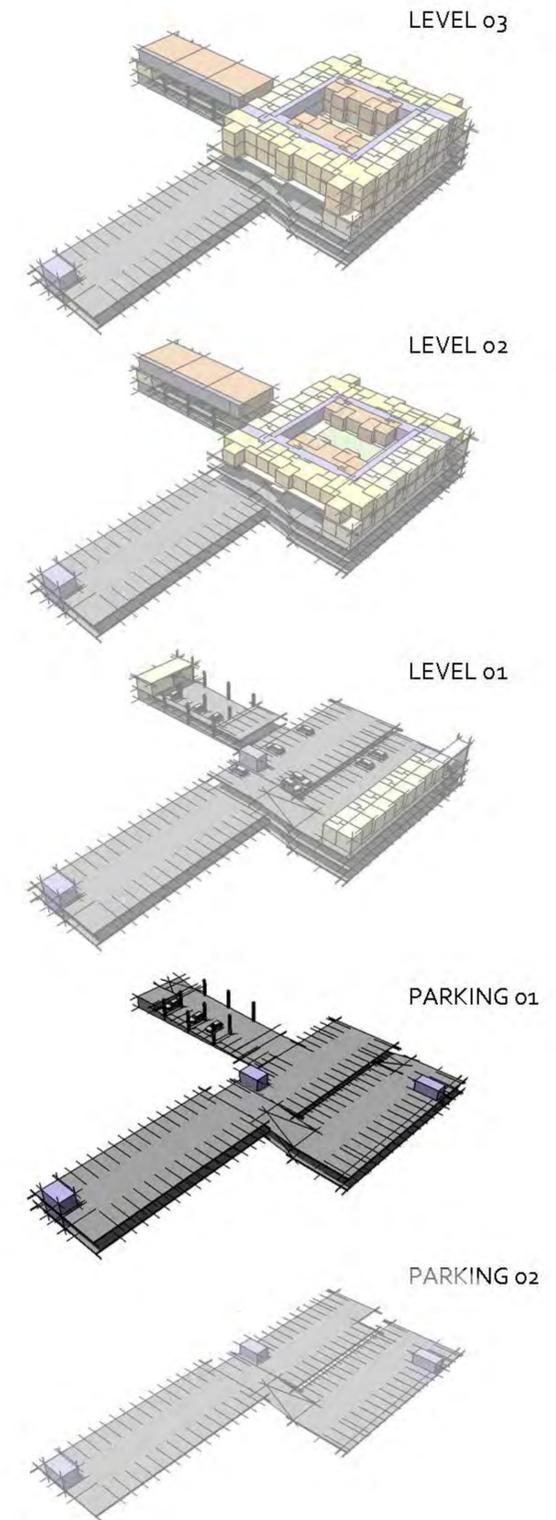
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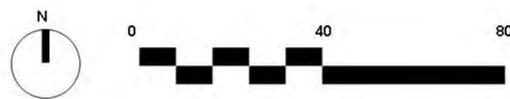
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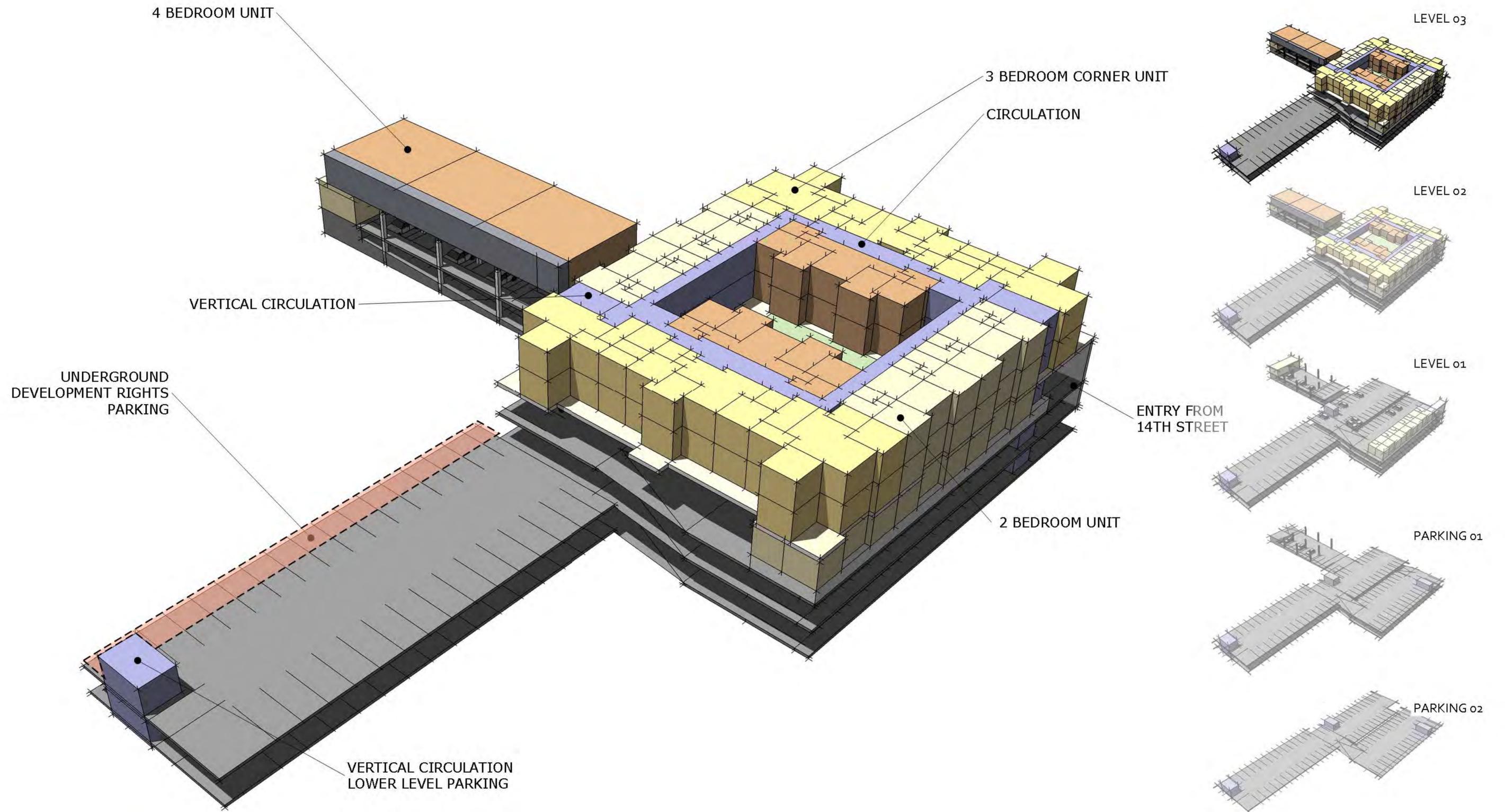
	2BR	3BR	4BR	Total
Level 01	3			3
Level 02	4	6	5	15
Level 03	4	8	2	14
Units	11	14	7	32
Unit Area	850	950	1,200	
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PARKING 01



PLAN DIAGRAMS



ARCHITECTURE
URBAN DESIGN
INTERIOR DESIGN

THE HILL BOULDER, CO

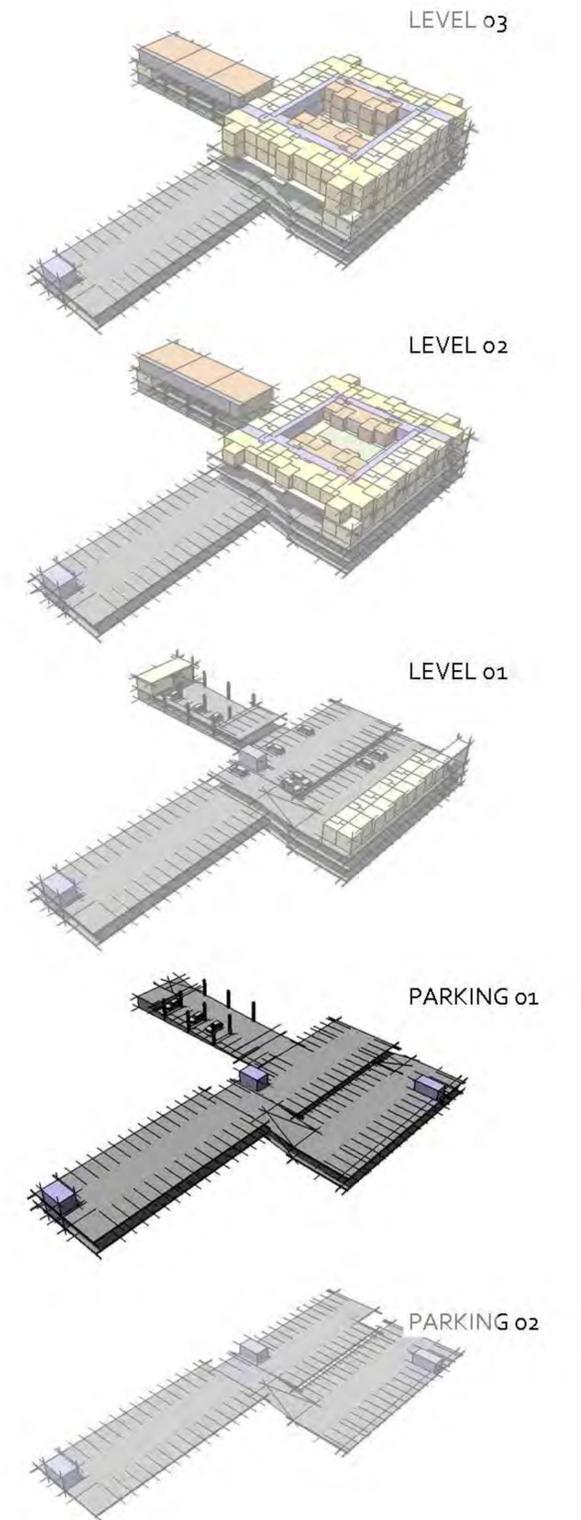
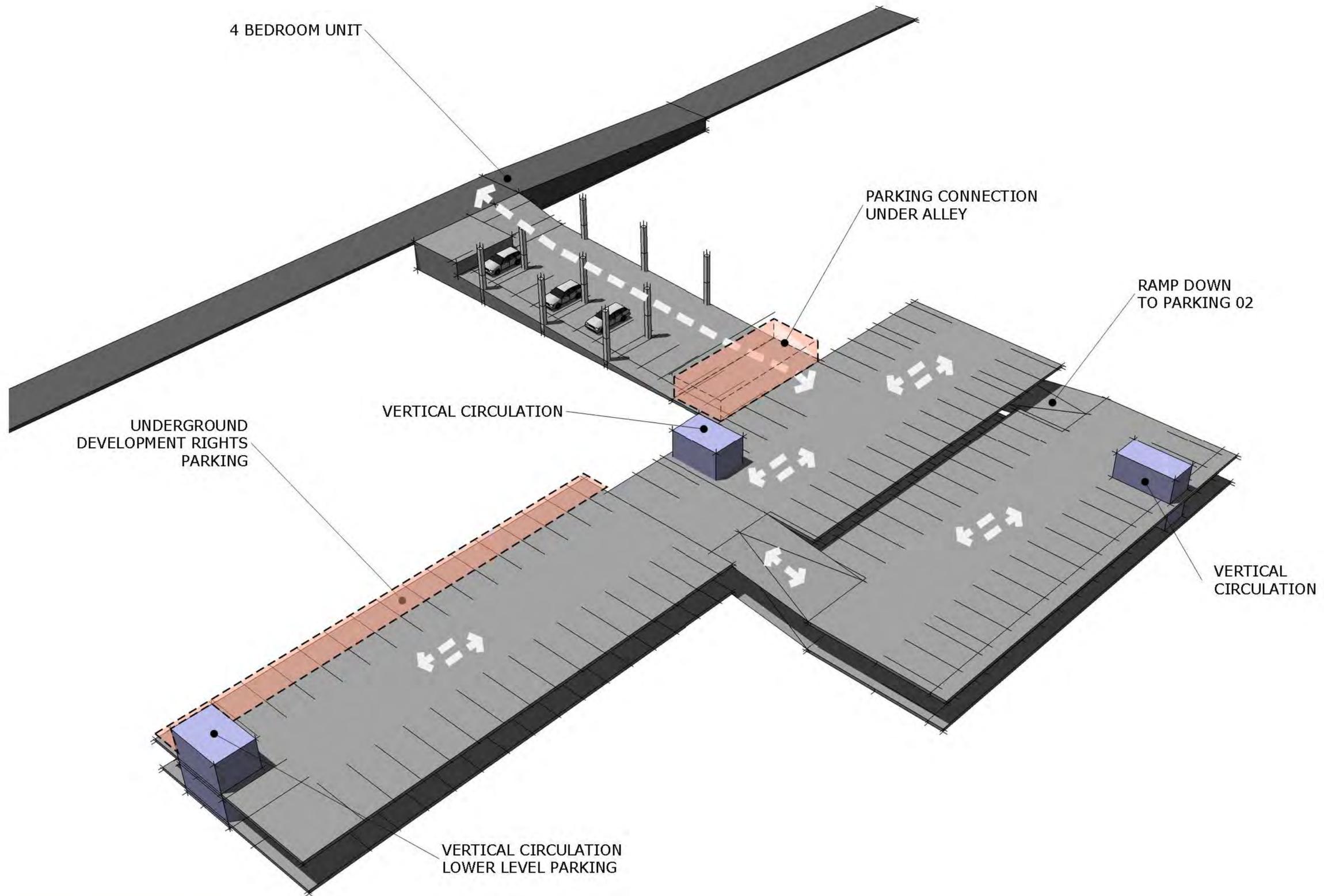
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PLAN DIAGRAMS





M E M O R A N D U M

TO: Molly Winter, DUHMD/PS Director
FROM: David Becher and Nolan Rosall, RRC Associates
RE: Existing Land Use Conditions and Future Buildout Projections in the UHGID Area - UPDATE
DATE: February 21, 2013

SUMMARY

This memo contains revised development projections for the UHGID area, pursuant to a meeting/conference call with DUHMD/PS staff, the UHGID parking analysis consultant team, and Mike Boyers, a developer active on the Hill, on February 19, 2013.

RRC has previously prepared development projections for the UHGID area, as summarized in memos dated January 31, 2013 and January 23, 2013. The purpose of this memo is to provide revised development projections for the UHGID area, based on the February 19, 2013 meeting. Additionally, this memo provides interim projections of development which might occur by the year 2025.

In response to the February 19 meeting, the sole change RRC has made to the buildout development projections via this memo (relative to the Jan. 31 projections) is to reduce the assumed average size of incremental, new residential units constructed in the UHGID area to an average of 1000 sqft/unit from 1100 sqft/unit assumed previously. This is based on an expectation that the market for large residential units may become saturated (particularly for 4 bedroom units), and developers may opt to build more smaller units (e.g. 2-3 bedroom units which are easier to rent or sell) going forward, relative to our January 31 assumptions. All other assumptions contained in our revised development projections have remained unchanged from the January 31 projections, including use, density, and average square footage per bedroom assumptions for incremental new development. The density assumptions, which imply that the study area ultimately builds out to 85 percent of its maximum zoned potential, are recognized as possibly high, but we feel they are reasonable for planning purposes in light of the extended, indefinite timeframe of the study horizon.

Table 1 to follow summarizes the updated development projections produced in this memo, as well as the earlier projections contained in our January 31 and January 23 analyses. As shown, the sole difference between the February 21 and January 31 projections pertains to the number of residential units at buildout, which increase by approximately 4-5 percent in both the high commercial scenario (175 units in 2/21 projections vs. 168 units in 1/31 projections), and the high residential scenario (214 units in 2/21 projections vs. 203 units in 1/31 projections). This is due to the reduction in assumed average unit size. The projected number of bedrooms at buildout has not changed, since our assumption that new residential units will average of 350 sqft per bedroom has remained unchanged.

(However, the projected average number of bedrooms per unit at buildout has decreased slightly, to 2.4 – 2.5 in the 2/21 projections, from 2.5 – 2.6 in the 1/31 projections.)

Table 1
Built Square Footage, Commercial/Residential Mix, and Residential Unit Characteristics: Current and at Buildout Comparison of February 21, January 31, and January 23, 2013 Projections

	Total Sq Ft	Comm'l Sq Ft	Resid'l Sq Ft	# Res. Units	# Res. BRs	Avg BRs/ Unit	% Comm'l Sq Ft	% Res Sq Ft	Above- grade FAR	FAR as a % of 1.85 FAR limit
Existing conditions	304,238	228,597	75,641	97	192	2.0	75%	25%	0.91	49%
Updated projections in 2/21/13 memo:										
At buildout: High commercial scenario	498,974	345,438	153,535	175	415	2.4	69%	31%	1.58	85%
At buildout: High residential scenario	498,974	306,491	192,482	214	526	2.5	61%	39%	1.58	85%
Updated projections in 1/31/13 memo:										
At buildout: High commercial scenario	498,974	345,438	153,535	168	415	2.5	69%	31%	1.58	85%
At buildout: High residential scenario	498,974	306,491	192,482	203	526	2.6	61%	39%	1.58	85%
Original projections in 1/23/13 memo:										
At buildout: High density / high commercial scenario	570,478	388,341	182,137	194	496	2.6	68%	32%	1.82	98%
At buildout: High density / high residential scenario	570,478	335,093	235,385	242	648	2.7	59%	41%	1.82	98%
At buildout: Low density / high commercial scenario	521,423	358,908	162,515	176	440	2.5	69%	31%	1.65	89%
At buildout: Low density / high residential scenario	521,423	315,471	205,952	215	564	2.6	61%	39%	1.65	89%

Source: RRC Associates; Boulder County Assessor; City of Boulder GIS, building permit, zoning review & rental license databases.

DERIVATION OF DEVELOPMENT PROJECTIONS

Table 2 to follow summarizes how the development projections were derived. The methodological approach and key assumptions underlying the analysis are also described below. (Additional methodological and study background is contained in RRC's January 31 and January 23 memos.)

- **General methodological approach:** In the projections contained in this memo, existing development is assumed to remain steady in terms of general use mix and density in the future, while future incremental development has been projected under specified density and use assumptions.¹ Conditions at buildout are assumed to represent the sum of existing development and projected incremental future development. Two buildout scenarios have been prepared (a “high commercial” scenario and “high residential” scenario), based on a single set of density assumptions and two alternate sets of use assumptions.

For purposes of the projections, the study area has been separated into two groups of parcels – “larger” sites and “smaller” sites – and different development assumptions have been applied to each. Figure 1 to follow maps the location of each respective set of parcels. The “larger” sites as a group tend to be clustered at the northern and southern ends of the study area, and include each of the public parking lots as well as the parcels/parcel clusters that generally have the greatest remaining zoned development capacity. The “smaller” sites are more concentrated in the center of the study area, and tend to have less remaining zoned development capacity.

¹ In practice, a division between “existing” and “incremental future” development is an oversimplification, since significant redevelopment of existing properties would be necessary to achieve the projections included in this memo. While this hypothetical division helps facilitate the modeling effort, in practice, the buildout projections should more properly be understood as reflecting a future state which incorporates both new development and redevelopment of numerous existing properties.

- Group 1 – “larger” sites: Parcels assigned to Group 1 were assumed to redevelop such that 80 percent of their remaining zoned development capacity is eventually built.
- Group 2 – “smaller” sites: Parcels assigned to Group 2 were assumed to redevelop such that 50 percent of their remaining zoned development capacity is eventually built.
- Use scenarios for incremental new development: Both “Group 1” and “Group 2” sites were evaluated under two use scenarios, as described below.
 - High commercial scenario: Incremental additional square footage built is assumed to develop at a ratio of 60 percent commercial / 40 percent residential. (Existing development is assumed to retain its existing use mix.)
 - High residential scenario: Incremental additional square footage built in the study area is assumed to develop at a ratio of 40 percent commercial / 60 percent residential. (Existing development is assumed to retain its existing use mix.)
- Average gross residential square feet per bedroom and per residential unit: Assumptions regarding average gross residential square footage (including common space) per bedroom were based roughly on patterns observed in the recently-constructed Lofts on College and Lofts on the Hill. In aggregate, these projects are estimated to average roughly 340 gross residential sqft/bedroom across all units, and roughly 350 gross residential sqft/bedroom across 2–3 bedroom units. RRC further assumed an average of approximately 1000 sqft/unit, which is similar to the average size for combined 2-3 bedroom units in these projects. The 1000 sqft/unit assumption and 350 sqft/bedroom assumptions imply an assumed average of 2.9 bedrooms per unit in incremental new residential development, down from the average of 3.7 bedrooms/unit in Lofts on College and Lofts on the Hill.

As shown in Table 2, the Group 1 – “larger” sites currently account for a small share of existing development in the study area (53,499 built sqft, or 18 percent of the total), but a large share of the additional zoned development capacity (184,946 sqft, or 66 percent of the total). In aggregate, the “Group 1” sites currently have an above-grade FAR of 0.38. Pursuant to the development assumptions, at buildout, the Group 1 sites are projected to have an above-grade FAR of 1.56, which is equivalent to 84 percent of 1.85 FAR maximization.

The Group 2 sites are currently more heavily developed, with an existing above-grade FAR of 1.31. At buildout, pursuant to the development assumptions outlined above, the Group 2 sites are projected to have an aggregate above-grade FAR of 1.59, equivalent to 86 percent of 1.85 FAR maximization, and similar to the Group 1 sites.

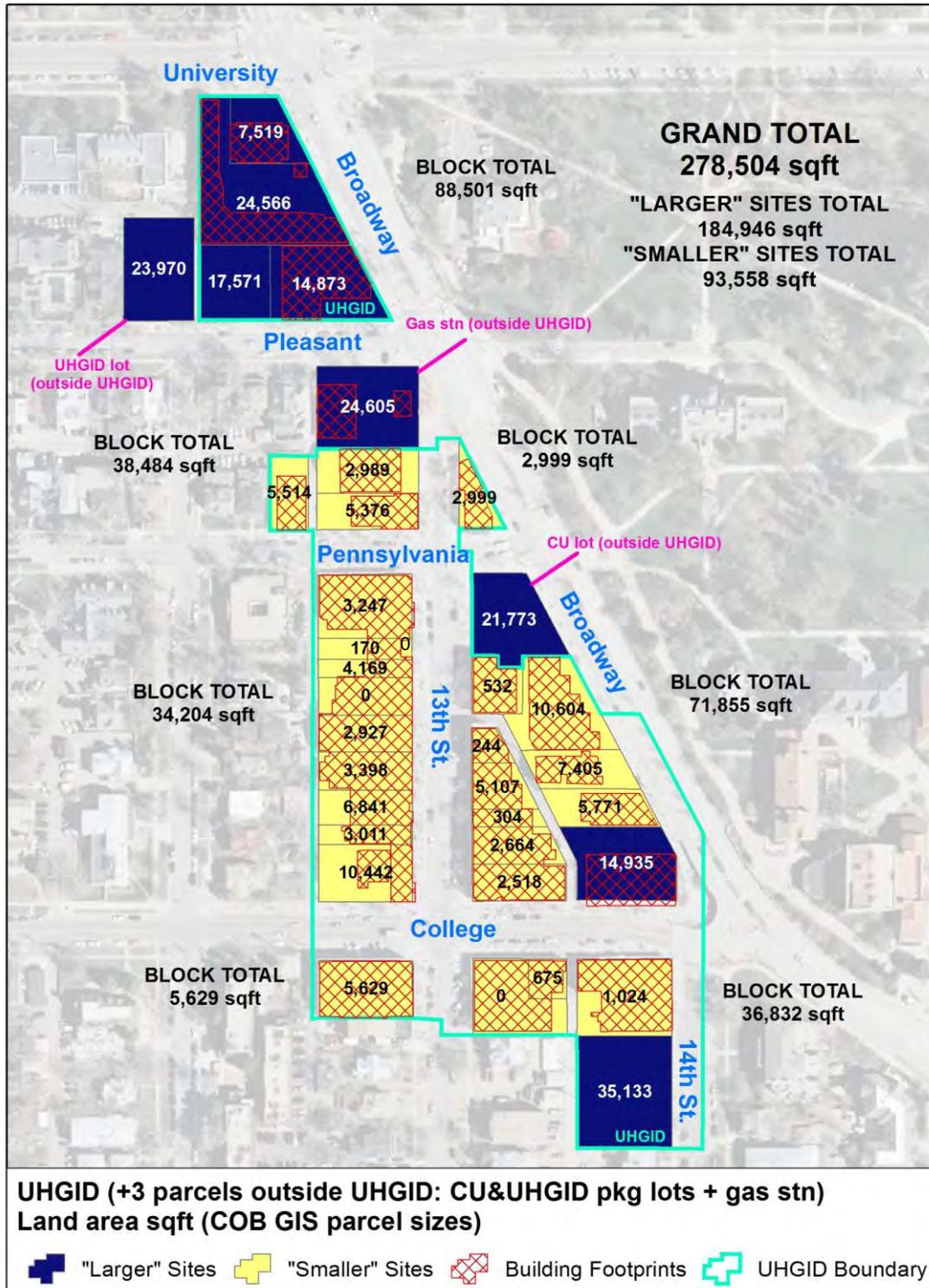
At buildout, then, both the Group 1 and Group 2 sites are projected to have similar above-grade FARs (1.56 and 1.59 respectively). However, Group 1 is projected to account for a larger amount of incremental new development (147,957 sqft) than Group 2 (46,779 sqft), due in large part to its greater amount of additional zoned capacity (184,946 sqft vs. 93,558 sqft), and the perceived greater ease/likelihood of redevelopment on many of its constituent parcels / parcel groups.

Table 2
Derivation of Updated Development Projections (2/21/2013)
Projected Development at Buildout is Highlighted in Yellow

	Group 1: "larger" sites	Group 2: "smaller" sites	Total
Existing conditions:			
Existing commercial sqft	50,331	178,266	228,597
Existing residential sqft	3,168	72,473	75,641
Existing total built sqft	53,499	250,739	304,238
Lot sqft	125,559	165,824	291,383
Existing gross FAR	0.43	1.51	1.04
Existing below-grade sqft	6,161	33,609	39,770
Existing above-grade sqft	47,338	217,130	264,468
Existing above-grade FAR	0.38	1.31	0.91
Existing residential units	2	95	97
Existing residential bedrooms	8	184	192
Total projected additional built sqft:			
Maximum additional buildable sqft (1.85 above-grade FAR limit)	184,946	93,558	278,504
Assumed share of remaining developable sqft that will ultimately get built	80%	50%	70%
Assumed amount of remaining developable sqft that will get built	147,957	46,779	194,736
Projected additional built sqft - high commercial scenario:			
Total remaining sqft to be built	147,957	46,779	194,736
Share of remaining sqft assumed to be commercial	60%	60%	60%
Share of remaining sqft assumed to be residential	40%	40%	40%
Amount of remaining sqft assumed to be commercial	88,774	28,067	116,841
Amount of remaining sqft assumed to be residential	59,183	18,712	77,894
# Residential units (@ 1000 sqft/unit)	59	19	78
# Residential bedrooms (@ 350sqft/br)	169	53	223
Projected additional built sqft - high residential scenario:			
Total remaining sqft to be built	147,957	46,779	194,736
Share of remaining sqft assumed to be commercial	40%	40%	40%
Share of remaining sqft assumed to be residential	60%	60%	60%
Amount of remaining sqft assumed to be commercial	59,183	18,712	77,894
Amount of remaining sqft assumed to be residential	88,774	28,067	116,841
# Residential units (@ 1000 sqft/unit)	89	28	117
# Residential bedrooms (@ 350sqft/br)	254	80	334
Total sqft at buildout - both scenarios (high commercial & high residential)			
Total sqft	201,456	297,518	498,974
Gross FAR	1.60	1.79	1.71
Above-grade FAR	1.56	1.59	1.58
Above-grade FAR as a % of 1.85 FAR	84%	86%	85%
Total sqft at buildout - high commercial scenario			
Total commercial sqft	139,105	206,333	345,438
Total residential sqft	62,351	91,185	153,535
Total sqft	201,456	297,518	498,974
Total residential units	61	114	175
Total residential bedrooms	177	237	415
Total sqft at buildout - high residential scenario			
Total commercial sqft	109,514	196,978	306,491
Total residential sqft	91,942	100,540	192,482
Total sqft	201,456	297,518	498,974
Total residential units	91	123	214
Total residential bedrooms	262	264	526

Source: RRC Associates; Boulder County Assessor; City of Boulder GIS, building permit, zoning review & rental license databases.

Figure 1: Map of "Larger" and "Smaller" Sites, and Total Incremental Additional Buildable Square Footage Assuming Maximum Buildout to 1.85 FAR (For Illustrative Purposes Only)



Source: RRC Associates; Boulder County Assessor; City of Boulder GIS, building permit and zoning review records.

INTERIM DEVELOPMENT PROJECTIONS THROUGH YEAR 2025

Table 3 to follow summarizes RRC's interim development projections for the study area through the year 2025. RRC has developed two development volume scenarios: a "high 2025" scenario and a "low 2025" scenario. In the "high 2025" scenario, it is assumed that 40 percent of total anticipated future incremental development in the study area will be developed by 2025 – or specifically, an additional 77,894 sqft (out of a projected total of 194,736 sqft) will be built between 2013 and 2025. In the "low 2025" scenario, it is assumed that 25 percent of total anticipated future incremental development will be developed by 2025 (or 48,684 incremental sqft). We would note that approximately 18,000 sqft of additional floor area has been added in the study area over the past six years (2007 – 2012 period), which equates to a pace of about 36,000 sqft over 12 years. The future projections, of approximately 49,000 to 78,000 sqft over the next 13 years, represent an acceleration from these past trends, but are believed to be within the realm of possibility given favorable market conditions and the present time, and the success of recently developed projects in the study area.

The "high 2025" and "low 2025" volume scenarios have each been evaluated under "high residential" and "high commercial" use scenarios, for a matrix of four total outcomes by 2025, highlighted in yellow shading in Table 3. Depending on the density and use scenario, total commercial development in the study area by year 2025 is projected to be approximately 248,000 to 275,000 sqft; total residential development is projected to be 95,000 to 122,000 sqft; total residential units are projected to be 116 to 144 units; and total residential bedrooms are projected to be 248 to 326 bedrooms.

Table 3
 Derivation of Interim Projected Development by 2025
Projected Development at 2025 is Highlighted in Yellow

	High 2025 scenario	Low 2025 scenario
Existing conditions:		
Existing commercial sqft	228,597	228,597
<u>Existing residential sqft</u>	<u>75,641</u>	<u>75,641</u>
Existing total built sqft	304,238	304,238
Existing residential units	97	97
Existing residential bedrooms	192	192
Projected incremental development occurring 2013-2025		
Assumed amount of remaining developable sqft that will get built at practical buildout	194,736	194,736
Share of total future projected incremental development which will occur by 2025	40%	25%
Incremental new development which will get built in 2013 - 2025	77,894	48,684
Projected additional sqft built 2013-2025: high commercial scenario:		
Total sqft to be built	77,894	48,684
Share of remaining sqft assumed to be commercial	60%	60%
Share of remaining sqft assumed to be residential	40%	40%
Amount of remaining sqft assumed to be commercial	46,737	29,210
Amount of remaining sqft assumed to be residential	31,158	19,474
# Residential units (@ 1000 sqft/unit)	31	19
# Residential bedrooms (@ 350sqft/br)	89	56
Projected additional sqft built 2013-2025: high residential scenario:		
Total sqft to be built	77,894	48,684
Share of remaining sqft assumed to be commercial	40%	40%
Share of remaining sqft assumed to be residential	60%	60%
Amount of remaining sqft assumed to be commercial	31,158	19,474
Amount of remaining sqft assumed to be residential	46,737	29,210
# Residential units (@ 1000 sqft/unit)	47	29
# Residential bedrooms (@ 350sqft/br)	134	83
Total development at 2025: high commercial scenario		
Total commercial sqft	275,334	257,807
<u>Total residential sqft</u>	<u>106,799</u>	<u>95,115</u>
Total sqft	382,132	352,922
Total residential units	128	116
Total residential bedrooms	281	248
Total development at 2025: high residential scenario		
Total commercial sqft	259,755	248,071
<u>Total residential sqft</u>	<u>122,378</u>	<u>104,851</u>
Total sqft	382,132	352,922
Total residential units	144	126
Total residential bedrooms	326	275

Source: RRC Associates; Boulder County Assessor; City of Boulder GIS, building permit and zoning review records.

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MEMORANDUM

To: Molly Winter

From: Bill Fox

Date: February 7, 2013

Project: University Hill Parking Analysis

Subject: Buildout Parking Projections Using Current RRC Land Use Scenarios

I have recalculated the projected parking supply needed using the two revised land use scenarios provided by David Becher in his memorandum dated 1/31/13. The results are summarized in the following table, and key assumptions are detailed below.

UHGID Buildout Parking Supply and Demand Projections:

Parameter / Scenario:	Updated density – high commercial	Updated density – high residential
<i>Land Use Projections:</i>		
Total Floor Area (sq. ft.)	499,000	499,000
Commercial Floor Area (sq. ft.):	345,000	306,000
Residential Dwelling Units:	168	203
Residential Bedrooms:	415	526
<i>Commercial Parking Demand / Supply:</i>		
Commercial Parking Demand:	690	612
Potential UHGID Parking Supply:		
On-street:	160	160
Pleasant Lot Joint Venture:	247	247
14 th Street Lot Joint Venture:	243	243
Total UHGID Supply:	650	650
UHGID Surplus or Deficit:	-40	+38
<i>Additional Residential Parking Supply Needed:</i>		
Total Parking Supply Needed:	942	917

Key Assumptions:

- 100% of area reaches buildout density as defined in the RRC projections.
- UHGID develops parking supply with two large joint ventures using both existing lots. These projections are consistent with current planning on the 14th Street lot and historic projections related to the Bova parcel and the Pleasant Street lot.

-
- Residential parking demand has been calculated at 1.5 spaces per DU. This is based on the current RRC projection of approximately 2.5 bedrooms per DU, and the assumption that on average, one occupant per DU does not need to park a car on the Hill.
 - Commercial parking demand at 2.5 spaces per 1,000 sq. ft. (which is higher than existing demand rate), plus a “20% Boulder reduction factor”. Net demand of 2.0 spaces per 1,000 sq. ft.

With these projections it appears that UHGID will have a small deficit (less than 50 spaces) in the commercial parking space supply in the High Commercial scenario, and a small surplus (less than 50 spaces) in the High Residential scenario. It is important to note that residential developers will need to provide an additional 250 to 300 parking spaces for the residential units, depending on the land use scenario.

Key questions that remain include:

- Are the two large joint venture parking supply projects reasonable? They are critical to UHGID’s ability to provide the necessary commercial parking.
- Can the necessary residential parking spaces be physically supplied within the UHGID or surrounding area? If not, what will be the impact on surrounding residential areas and NPP zones?
- Is it a valid assumption that the character of the Hill area will change (intensify) as it builds out such that the parking demand rates (per commercial floor area) will increase over time relative to today?

I hope this helps the conversation. Let me know if you have any questions.

Draft Report

UHGID 14th Street Parking Lot Development Proposal Evaluation

The Economics of Land Use



Prepared for:

University Hill General Improvement District

Prepared by:

Economic & Planning Systems, Inc.

October 10, 2013

EPS #123080

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Table of Contents

1.	EXECUTIVE SUMMARY	1
	Introduction	1
	Development Proposal	1
	Summary of Findings	4
	Additional Considerations	7
	Recommendation	8
2.	PARKING NEEDS	9
	Development Projections	9
	Parking Demand	10
	Development and Parking Phasing	12
3.	FINANCIAL EVALUATION.....	15
	Parking Costs and Revenues.....	15
	Development Financial Evaluation	18
	Net Value Comparison	21
	Developer Evaluation.....	26
4.	CONCLUSIONS AND NEXT STEPS	29
	Conclusions.....	29
	Additional Considerations.....	32
	Recommendation	33

List of Tables

Table 1	Net Benefit of Developer Proposal	5
Table 2	Net Benefit of Developer Proposal vs. UHGID Constructing Garage Itself.....	6
Table 3	University Hill Development Projections	9
Table 4	University Hill Parking Demand Projections.....	10
Table 5	University Hill Parking Demand Projections at Buildout.....	11
Table 6	University Hill Parking Supply and Demand Projections	13
Table 7	University Hill New Parking Demand and Supply Projections	14
Table 8	UHGID Financial Evaluation	17
Table 9	Developer Financial Evaluation.....	20
Table 10	UHGID Developer Proposal Evaluation Summary.....	22
Table 11	UHGID Alternative- District Builds Spaces	24
Table 12	UHGID Net Comparison.....	25
Table 13	Developer Proposal Net Benefit	27
Table 14	Net Benefit of Developer Proposal	30
Table 15	Net Benefit of Developer Proposal vs. UHGID Constructing Garage Itself.....	31

List of Figures

Figure 1 University Hill District 3

1. EXECUTIVE SUMMARY

Introduction

This report summarizes Economic & Planning Systems (EPS) analysis of the financial feasibility and impacts of an unsolicited proposal to develop the University Hill General Improvement District parking lot at 1095 14th Street on University Hill in Boulder to build a new shared parking garage and up to 35 student-oriented residential apartments.

University Hill (The Hill) is a 7.5-acre+ commercial district located along Broadway adjacent to the University of Colorado (CU) largely occupied by campus-oriented restaurant and retail businesses. The University Hill General Improvement District (UHGID) provides parking and general maintenance services for the property owners located in the District. The Hill is mostly built-out; only three vacant lots exist today, two of which are owned and operated as surface parking lots by UHGID. However, a number of recent redevelopment projects have added new residential and commercial space and, based on increasing land values, this trend is expected to continue into the future which will trigger the need for additional parking.

UHGID expects that it will need additional parking in the future. The District first retained RRC Associates to conduct an analysis of the future development (buildout) potential of The Hill District. The expected future parking needs for the District based on the buildout analysis was then estimated by Fox Tuttle. EPS was subsequently retained to conduct this financial feasibility and impact analysis to evaluate whether the proposed project meets its needs and the financial terms and conditions are reasonable and beneficial to the District.

Development Proposal

Del Mar Interests (a development entity controlled by Boyers Properties, a Boulder-based real estate development company), has proposed a public-private partnership to build 35 new residential units and up to 216 structured parking spaces on the UHGID 14th Street parking lot and on an adjacent 13th Street property as shown on **Figure 1**.

The 14th Street site is currently a 54-space surface parking lot (1095 14th Street) owned and operated by UHGID. The 13th Street site, which Del Mar Interests (Developer) has an option to purchase, is comprised of two detached housing units on two lots totaling 12,292 square feet of land that have been subdivided into student oriented apartments. It is located just outside of the UHGID boundaries.

The Developer proposes to gain control of the UHGID parking lot (for purchase price of \$1.00) and purchase the 13th Street property on the open market to build the housing units and parking. He would lease back to UHGID up to 191 parking spaces in a two level garage under the housing for up to 40 years to provide additional District parking anticipated to be needed to serve future commercial development. The proposed Development business terms are summarized below:

- The Developer will construct up to 28 residential units and 146 parking spaces (at grade and underground) at the 1095 14th Street UHGID lot, and seven residential units and 70 parking spaces (at grade and underground) at the 13th Street. This results in a total of 35 new residential units and 216 new structured parking spaces.
- The Developer would lease back to UHGID up to a maximum of 191 parking spaces for up to 40 years to provide public parking to the district. The remaining 25 spaces are required by zoning for the new residential units.
- UHGID would have the option to lease as many spaces as needed on an annual basis up to the maximum 191 spaces (with six-month notice). The uncommitted remaining spaces would be rented out by the Developer on a monthly basis for residential parking.
- The Developer would “purchase” the 1095 14th Street for \$1.00. The land would be deeded back to UHGID at no cost along with the number of agreed upon leased spaces assumed to be the maximum 191 spaces. The parking structure and residential improvements would remain under the ownership of the Developer (or future party in case of a sale).
- To finance the cost of parking construction, UHGID would pay the Developer 90 percent of annual net operating income (NOI) generated by the public spaces.

Figure 1
University Hill District



Summary of Findings

The Del Mar Interests unsolicited development proposal is a public private partnership whereby UHGID is investing its existing parking lot land and 90 percent of its future parking revenues in a privately developed mixed use project that includes additional commercial district parking as well as a student oriented apartment project. The proposed Development would provide UHGID with a substantial portion of its estimated future parking needs up to a total of 191 spaces. It allows the District to lease only the amount of parking determined to be needed on an annual basis. UHGID would gain the use of up to 191 spaces (137 net new spaces) without coming out of pocket for any capital or annual operating expenses.

The proposed mixed use project would require UHGID to invest in this parking earlier than it might otherwise need if it were building the parking separately. It will also lose most of the modest \$63,000 in annual revenues it is collecting from the existing parking lot. The positive tradeoffs are the City and The Hill gain additional housing units, and potential retail and commercial customers. The UHGID parking would be transferred from a surface parking plot to a first level parking structure beneath the residential development.

Assuming that UHGID and the City agree that the proposed Development meets its parking and development objectives, the proposed business and financial terms and conditions are, in EPS' opinion, reasonable and provide benefits to both UHGID and the Developer as summarized below.

1. UHGID would pay the Developer 90 percent of the future net operating income from its parking to finance the Developer's costs for building the structured parking.

Annual net revenues from the 14th Street parking lot are estimated to be a modest \$62,796 in 2014. This revenue stream will be lost going forward as the parking lot would be replaced by the proposed mixed use project. Under the phasing scenario tested, UHGID would lease 122 spaces starting in 2015 increasing to 172 spaces in 2018 and 191 spaces in 2030. The Developer would receive 90 percent of the parking revenues estimated at \$105,041 in 2015, \$157,082 in 2018, and \$133,354 in 2030. UHGID would receive 10 percent of the net operating income from these parking spaces estimated at \$11,671 in 2015, \$17,454 in 2018, and \$20,518 in 2030.

2. The Developer would offset his costs for providing the additional UHGID public parking spaces but the project profits are largely associated with the residential development built above the parking structure.

Separating the UHGID parking from the larger mixed use project, the Developer would achieve a very modest 3.0 percent internal rate of return (2.8 percent return on costs) for incorporating the public parking into his project. This is close to a break-even proposition within the margin of error of the planning level costs and revenue assumptions used for this financial analysis. Also, given a target hurdle rate of 10 to 12 percent IRR, a developer would not undertake this project alone. The Developer will therefore realize most of his profits from the residential development built above the parking structure.

3. The proposed business terms provides a positive economic benefit to UHGID.

The net present value (NPV), tested at a 5 percent discount rate over 40 years, of the cost and revenues of the proposed partnership were estimated to measure the net benefit to both UHGID and the developer. The proposed partnership results in a positive net benefit of \$177,076 for UHGID. This is compared to a negative net benefit of \$1,945,448 for the Developer (for the parking portion only) as shown in **Table 1**. If the net present value of the land 14th Street lot (given to the developer) and the value of the transferred parking spaces (given to UHGID after 40 years) are also considered, the Developer’s net benefit improves to a negative \$566,216 as shown. This reflects the estimated 3.0 percent IRR previously shown. The project therefore represents a win – win for the District and the Developer in that the District gains the desired parking and the Developer provides the parking at a modest cost in return for the ability to make a greater profit on the residential development.

**Table 1
 Net Benefit of Developer Proposal**

Description	Developer Proposal - NPV over 40 years		
	UHGID	Developer (w/out land value)	Developer (with land value)
Current			
14th Street Lot	54 spaces	0 spaces	0 spaces
Net Revenue	\$1,532,594	\$0	\$0
Proposed			
New Garage	191 spaces	25 spaces	25 spaces
Costs			
Land Costs	\$0	(\$1,720,880)	(\$1,720,880)
Construction Costs	\$0	(\$4,491,823)	(\$4,491,823)
Parking Space Transfer	---	---	(\$1,245,768)
Total	\$0	(\$6,212,703)	(\$7,458,471)
Revenue			
Land Value	---	---	\$2,625,000
Property Tax	\$80,897	\$0	\$0
Net Revenue from Parking	\$383,005	\$4,104,196	\$4,104,196
Parking Space Residual Value	\$1,245,768	\$163,059	\$163,059
Total	\$1,709,670	\$4,267,255	\$6,892,255
Total	\$1,709,670	(\$1,945,448)	(\$566,216)
Net Benefit (NPV @ 5%)	\$177,076	(\$1,945,448)	(\$566,216)

Source: Economic & Planning Systems
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4. The proposed development partnership has a higher economic return than would be achieved if UHGID built its own parking structure.

If UHGID built an above ground parking structure on the 14th Street lot and 13th Street properties, it would generate a negative net benefit of \$1.3 million compared to a positive \$177,076 under the proposed Development partnership as shown in **Table 2**. In addition, the propose project allows UHGID to lease the parking on an as needed basis with six-month’s notice. The developer would presumably lease out any unused parking spaces to area residents for monthly parking.

**Table 2
 Net Benefit of Developer Proposal vs. UHGID Constructing Garage Itself**

Description	Developer Proposal vs. UHGID Alternative - NPV over 40 years	
	UHGID	UHGID Alternative
Current		
14th Street Lot	54 spaces	54 spaces
Net Revenue	\$1,532,594	\$1,532,594
Proposed		
New Garage	191 spaces	191 spaces
Costs		
Land Costs	\$0	(\$1,843,800)
Construction Costs	\$0	(\$3,056,000)
Total	\$0	(\$4,899,800)
Revenue		
Property Tax	\$80,897	\$0
Net Revenue from Parking	\$383,005	\$4,173,760
Parking Space Residual Value	\$1,245,768	\$958,491
Total	\$1,709,670	\$5,132,251
Total	\$1,709,670	\$232,451
Net Benefit (NPV @ 5%)	\$177,076	(\$1,300,143)

Source: Economic & Planning Systems

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Additional Considerations

It is EPS' opinion that the proposed P-3 project is worthy of consideration and further negotiation if UHGID ultimately determines 1) its impending parking needs are worthy of moving ahead with planning for additional parking at this time recognizing that there will be a modest loss in current income as a tradeoff for the investment in additional parking, and 2) the City determines that the proposed mixed use residential project is consistent with the Comprehensive Plan, area zoning and any applicable design guidelines.

There are a number of outstanding business and legal terms and conditions that would need to be resolved before a development agreement could be signed by both parties including the following:

- **Land Ownership and Reversion** – the Developer has requested the City transfer fee simple ownership of the parking lot to Del Mar Interests and that the property and parking would be transferred back at the end of the parking lease term in 40 years. It is not clear how this would be done or even if it is the best structure. In other P-3 projects we have worked on, the development is usually done on a long term unsubordinated land lease where the public entity continues to control the land and its assets over the long term.
- **Equitable Distribution of Parking Revenues** – The Developer's proposal to use 90 percent of the net parking revenues and rebate 10 percent to UHGID appears reasonable and fair - within the bounds of the planning level cost estimates used in this financial model and analysis. The City and UHGID would need to evaluate a more detailed project pro forma to fully determine whether the proposed revenue split is equitable or whether the City should receive a higher percentage. Further, it would be our recommendation that the City/UHGID require the Developer to submit a project pro forma on the entire mixed use project so that the Developer's costs, revenues, and expected returns on the entire project be vetted to determine a fair and equitable return.
- **Estimated Parking Costs and Revenues** – The assumptions used by EPS for structured parking cost and revenues are very rough and based on CAGID parking garage figures. UHGID should do additional planning to determine if the estimated annual parking revenues and operating costs are achievable. Additionally, a cost allowance for capital maintenance in the garage and who pays for these costs has not been addressed. The reversion value of parking at the end of the lease will also be affected by whether the structure has been updated and maintained or rather its useful life has been depleted.
- **Project Design** – The analysis to date has been done on rough sketches of how the public parking would be configured and accessed. The proposed plan to acquire property on 13th to provide full service access to the lot has a lot of merit and could potentially improve UHGID's parking utilization. But small parking garages under residential or hotel properties can be tight and hard to access, and therefore underutilized. Should this be the case, the project would not achieve its objectives and the expected parking revenues would also not be reached. While parking operations are beyond our expertise, UHGID, needs some additional level of conceptual planning to ensure that the project will be successful.

Recommendation

If UHGID and the City agree the proposal has merit, EPS recommends that the City and the Developer enter into an Exclusive Negotiating Agreement to negotiate the proposed business terms as input to signing a Development Agreement.

2. PARKING NEEDS

This section of the report presents the RRC estimates of future commercial and residential space on The Hill and Fox Tuttle’s estimates of parking demand to serve the projected development. Based on the projected demand, EPS prepared a parking phasing program to be used for testing the financial terms and performance of the proposed Development program.

Development Projections

In order to determine the potential need for additional parking on the Hill, RRC Associates estimated the buildout potential of the District under alternative assumptions of the mix of commercial and residential space. Fox Tuttle was then engaged to estimate the associated parking needs related to this future development potential.

RRC compared current development levels to the zoned capacity of the district. The Hill currently has approximately 304,000 square feet of total development, representing a FAR of 0.91. The Hill has a zoned maximum FAR of 1.85, or approximately 539,000 square feet. It is likely that future development will only achieve some portion of this theoretical maximum density, so for the purposes of this analysis, RRC assumed that the Hill could reach an estimated 85 percent of the zoned maximum, resulting in a total of 498,973 square feet of development or an additional 195,000 square feet of development at buildout, as shown in **Table 3**.

Residential and commercial developments have different parking impacts for UHGID. Residential projects are intended to be self-parked and not create a public parking need while UHGID was created to provide public parking to serve District commercial uses. RRC developed two land use scenarios to account for the potential mix of land uses with the first High Commercial Scenario emphasizing commercial development and the second High Residential Scenario emphasizing residential development.

Table 3
University Hill Development Projections

Description	Existing	New		Net New	
		High Comm.	High Res.	High Comm.	High Res.
Commercial	228,597	345,438	306,491	116,841	77,894
Residential					
Units	97	168	203	71	106
Sq. Ft.	75,641	153,535	192,482	77,894	116,841
Total	304,238	498,973	498,973	194,735	194,735
FAR	0.91	1.58	1.58	0.67	0.67
% Max Buildout	49.2%	85.4%	85.4%	36.2%	36.2%

Source: RRC Associates; Economic & Planning Systems

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Parking Demand

Fox Tuttle estimated the parking demand associated with the two RRC development buildout scenarios. Assuming 2.0 spaces per 1,000 square feet for commercial development and 1.5 spaces per unit for residential development, the estimated 498,973 square feet of development at buildout will generate demand for 917 to 942 total parking spaces, as shown in **Table 4**.

UHGID is primarily responsible for the provision of shared parking available to support commercial businesses. It is assumed that the majority of new spaces required for residential development will be the responsibility of the individual developers as required by zoning. Therefore, UHGID would need to provide an estimated 612 spaces for the High Residential Scenario and 690 parking spaces for the High Commercial Scenario to serve the potential additional demand from commercial space as shown.

Table 4
University Hill Parking Demand Projections

Description	Factor	High Comm.	High Res.
Development			
Commercial		345,000	306,000
Residential			
Units		168	203
Sq. Ft.		154,000	193,000
Total		499,000	499,000
Parking Demand			
Commercial Demand	2.0 spaces/1,000 sq. ft.	690	612
Residential Demand	1.5 spaces/unit.	252	305
Total		942	917
District Responsibility¹		690	612

¹UHGID only responsible for commercial parking

Source: Fox Tuttle Transportation Group, RRC Associates; Economic & Planning Systems

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UHGID currently controls and manages 389 public spaces composed of 160 surface lot spaces and 229 on-street meters. Therefore at buildout, there could be an estimated shortfall of 301 spaces under the High Commercial Scenario and 223 spaces under the High Residential Scenario as shown in **Table 5**. If the additional 191 UHGID parking spaces were built, the shortfall would be reduced to 164 space under the High Commercial Scenario and 86 spaces under the High Residential Scenario as shown.

**Table 5
 University Hill Parking Demand Projections at Buildout**

Description	Existing		Potential	
	High Comm.	High Res.	High Comm.	High Res.
<u>Parking Demand</u>				
District Responsibility¹	690	612	690	612
<u>Parking Supply</u>				
Lots				
1095 14th St.	54	54	0	0
13th and Penn	38	38	38	38
105 Pleasant St.	68	68	68	68
Subtotal	160	160	106	106
Meters	229	229	229	229
Garages				
Pleasant Lot Joint Venture ²	0	0	0	0
14th Street Joint Venture ²	0	0	191	191
Subtotal	0	0	191	191
Total	389	389	526	526
Net (Over Supply/Under Supply)	(301)	(223)	(164)	(86)

¹UHGID only responsible for commercial parking

²Assumes public-private partnership to build structured parking on surface lots. Based on estimate provided by Fox Tuttle and Boyer Properties

Source: Fox Tuttle Transportation Group, RRC Associates; Economic & Planning Systems

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The above parking projections are for the ultimate buildout of the District. It is not clear whether or how soon this parking might be needed. The Developer's proposal does allow the District to lease the number of spaces needed on an annual basis with six months' notice. The other location where UHGID could provide additional parking is at its surface lot at 105 Pleasant Street. UHGID studied a similar joint venture to provide parking on the Pleasant Street lot in the Hill Redevelopment Workshop conducted in April 2005). This study showed that a public private project could potentially add another 247 spaces, or net of 179 new spaces (247 new structured spaces less 68 existing surface spaces). Thus, a second public private venture could address any future shortfalls. However, this second joint venture is purely speculative at this time and therefore not included in this analysis.

Development and Parking Phasing

As stated above, the proposed Development would allow UHGID to lease the number of spaces estimated to be needed on an annual basis. To estimate the number of spaces anticipated to be leased, EPS assumed that the new development would occur in roughly three increments as summarized below and shown in Table 6 on the following page.

- The Developer proposes the completion of the new housing units in 2015.
- A total of 25,000 square feet of commercial development is proposed to be completed by 2020.
- An additional 35 housing units and 25,000 square feet of commercial development is estimated to be completed by 2030.
- The remaining 36 housing units and 27,894 square feet of commercial development are estimated to be completed by 2040 which is buildout as identified by RRC.

Using the parking demand assumptions used by Fox Tuttle, total parking demand as of 2013 is estimated to be 603 spaces, 457 of which are commercial spaces and the potential responsibility of UHGID. As a residential project, the proposed Development would not generate demand for any new UHGID spaces. As a result of future commercial development, total demand for UHGID spaces is estimated to reach 507 spaces by 2020, 557 spaces by 2030, and 613 spaces by 2040 as shown.

As previously mentioned, UHGID currently has a total supply of 389 spaces, including 160 spaces across three surface lots and 229 metered spaces. Thus, assuming no onsite commercial spaces exist, there is currently an estimated shortfall of approximately 68 parking spaces, as shown in Table 5. As additional development is completed, the parking shortfall is anticipated to grow to approximately 224 spaces by 2040, as shown in **Table 6**.

Under the Developer Proposal of 216 new structured spaces on the 13th Street site and the 1095 14th Street lot, UHGID would gain a net of 137 new spaces. This includes the 191 new spaces available to UHGID and the loss of the 54 surface spaces currently at the lot. Thus, the additional proposed spaces create an oversupply of approximately 69 spaces in 2015, as shown in **Table 7**. This oversupply is sufficient to support an additional 35,000 square feet of commercial development, after which another parking shortfall begins. Including the Developer Proposal, the parking shortfall to the district is estimated to reach 87 spaces at buildout.

Table 6
University Hill Parking Supply and Demand Projections

Description	Factor	0 2013	1 2014	2 2015	3 2016	4 2017	5 2018	6 2019	7 2020	16 2030	26 2040	36 2050	40 2054	Total
Development														
New Development														
Residential (units)		0	0	35	0	0	0	0	0	35	36	0	0	106
Residential (sq. ft.)		0	0	38,580	0	0	0	0	0	38,580	39,682	0	0	116,841
Commercial (sq. ft.)		0	0	0	0	0	25,000	0	0	25,000	27,894	0	0	77,894
Total		0	0	38,580	0	0	25,000	0	0	63,580	67,576	0	0	194,735
Total Development														
Residential (units)		97	97	132	132	132	132	132	132	167	203	203	203	203
Residential (sq. ft.)		75,641	75,641	114,221	114,221	114,221	114,221	114,221	114,221	152,800	192,482	192,482	192,482	192,482
Commercial (sq. ft.)		228,597	228,597	228,597	228,597	228,597	253,597	253,597	253,597	278,597	306,491	306,491	306,491	306,491
Total		304,238	304,238	342,818	342,818	342,818	367,818	367,818	367,818	431,397	498,973	498,973	498,973	498,973
Demand														
New Spaces Demanded														
Residential	1.5 spaces/unit	0	0	53	0	0	0	0	0	53	54	0	0	159
Commercial	2.0 spaces/1,000 sq. ft.	0	0	0	0	0	50	0	0	50	56	0	0	156
Subtotal		0	0	53	0	0	50	0	0	103	110	0	0	315
Total Spaces Demanded														
Residential	1.5 spaces/unit	146	146	198	198	198	198	198	198	251	305	305	305	305
Commercial	2.0 spaces/1,000 sq. ft.	457	457	457	457	457	507	507	507	557	613	613	613	613
Subtotal		603	603	655	655	655	705	705	705	808	917	917	917	917
District Responsibility¹		457	457	457	457	457	507	507	507	557	613	613	613	613
District Spaces Supplied														
Lots														
1095 14th St.		54	54	54	54	54	54	54	54	54	54	54	54	54
13th and Penn		38	38	38	38	38	38	38	38	38	38	38	38	38
105 Pleasant St.		68	68	68	68	68	68	68	68	68	68	68	68	68
Subtotal		160												
Meters		229												
Garages		0												
Total		389												
District Under Supply/Over Supply		(68)	(68)	(68)	(68)	(68)	(118)	(118)	(118)	(168)	(224)	(224)	(224)	(224)

¹UHGID only responsible for commercial parking

Source: Economic & Planning Systems

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**Table 7
 University Hill New Parking Demand and Supply Projections**

Description	Factor	0 2013	1 2014	2 2015	3 2016	4 2017	5 2018	6 2019	7 2020	16 2030	26 2040	36 2050	40 2054	Total
District Responsibility¹		457	457	457	457	457	507	507	507	557	613	613	613	613
<u>New District Spaces Supplied</u>														
Lots														
1095 14th St.			(54)											(54)
13th and Penn														0
105 Pleasant St.														0
Subtotal		0	(54)	0	0	0	0	0	0	0	0	0	0	(54)
Meters														
Garages														
1095 14th Street				141										141
13th Street				50										50
Others														0
Subtotal		0	0	191	0	0	0	0	0	0	0	0	0	191
Total		0	(54)	191	0	0	0	0	0	0	0	0	0	191
Total District Spaces Supplied														
Lots		160	106	106	106	106	106	106	106	106	106	106	106	106
Meters		229	229	229	229	229	229	229	229	229	229	229	229	229
Garages		0	0	191	191	191	191	191	191	191	191	191	191	191
Total		389	335	526	526	526	526	526	526	526	526	526	526	526
District Under Supply/Over Supply														
		(68)	(122)	69	69	69	19	19	19	(31)	(87)	(87)	(87)	(87)

¹UHGID only responsible for commercial parking

Source: Economic & Planning Systems

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3. FINANCIAL EVALUATION

This section of the report evaluates the financial feasibility of the proposed Development including the proposed business terms and estimated costs and returns to UHGID and the Developer. EPS also defined and tested an alternative development scenario with UHGID developing its own parking structure on the 14th Street site as a comparison of risks and returns.

Parking Costs and Revenues

The Developer proposes to replace the 1095 14th Street lot with the proposed project, therefore UHGID would lose the annual income currently generated by the existing 54 surface spaces at the 14th Street lot. As of 2012, the 1095 14th Street lot generates approximately \$66,000 in gross revenues annually or \$1,222 per space, as shown in **Table 8**.

Because UHGID is responsible for maintenance of the entire Hill, the marginal cost to operate and maintain these spaces is minimal. Based on discussions with UHGID staff, the only direct cost attributable to the surface lot is the onsite payment center, which averages approximately \$3,000 or \$56 per space. Thus, the annual net revenues associated with the 14th Street lot are estimated to be \$62,976 in 2014 as shown.

While UHGID would lose the net operating revenue generated by the 14th Street lot, UHGID would gain property tax from the proposed residential units and parking spaces, as well as a portion of the annual operating revenue of the 191 new structured spaces. Also, because the ownership of the 191 spaces would revert back UHGID upon the expiration of the lease, UHGID would also gain the residual value of the 191 spaces at the end of 40 years.

To estimate the additional property taxes generated by the Developer Proposal, EPS used the average assessed value of existing residential units in the Hill (\$289,000), as well as the approximate assessed value of a downtown parking structure (\$15,000 per space). The current mill levy assessed by UHGID is 2.276. Assuming 35 residential units and 216 privately-owned parking spaces, the Developer Proposal would generate approximately \$3,800 annually. Receipt of property tax revenue is projected on a one-year delay to account for billing cycles.

To estimate the potential operating revenue from the 191 new structured spaces, EPS analyzed historical parking revenues and costs from the parking structures owned and operated by the downtown Central Area General Improvement District (CAGID). Since 2005, the annual average revenue generated by the five CAGID garages is approximately \$1,445 per space. While 191 spaces would be available to UHGID, the parking demand analysis shows that UHGID would not need all of these 191 spaces until additional commercial development is completed.

Thus, EPS assumed UHGID would only use the number of spaces needed in a given year until demand exceeds 191. To estimate annual operating expenses, EPS also applied average data on the five CAGID parking garages in downtown. Since 2008, the average annual operating expense per space for a CAGID lot without a parking attendant was approximately \$509. Applying the per space revenues and expenses to the anticipated number of utilized UHGID spaces, net operating income (NOI) is estimated to total approximately \$117,000 in 2015.

Per the terms of the Developer Proposal, UHGID would pay the Developer 90 percent of this annual NOI, or approximately \$105,000 in 2015, in exchange for the use of the spaces. This results in net revenue to UHGID of approximately \$11,671. Summing estimated property tax and operating revenue, UHGID is estimated to earn \$15,668 in 2016, \$22,232 in 2020, \$29,518 in 2030, \$35,983 in 2040, and \$43,863 in 2050.

To estimate the value of the parking spaces that would be retained by UHGID upon the expiration of the lease, EPS assumed the construction value of \$20,795 per space for 191 spaces, escalated at 2.0 percent annually. This results in an estimated 2054 value of approximately \$8.8 million in 2054 at the end of the 40 year lease.

Finally, to estimate the total net benefit (or loss) as a result of the Developer Proposal, the existing annual revenue from the 54 spaces must be netted against the future annual net revenue of the 191 spaces. Because current annual revenue (\$63,000) actually exceeds future annual revenue (\$12,000), accepting the proposal would result in a loss of annual revenue to UHGID of approximately \$53,000 in 2015. Future loss of revenue is estimated to be \$49,000 in 2020, \$57,000 in 2030, \$69,000 in 2040, and \$85,000 in 2050. In 2054, UHGID retains the ownership of the 191 spaces, resulting in net revenue of approximately \$8.7 million. Assuming a 5.0 percent discount rate, the present value of net annual revenue over the life of the lease (40 years) is estimated to be approximately \$177,000.

**Table 8
UHGID Financial Evaluation**

Description	Factor	0	1	2	3	4	5	6	16	26	36	40	Total
		2014	2015	2016	2017	2018	2019	2020	2030	2040	2050	2054	
			2.0%	2.0%	2.0%	2.0%	2.0%	2.0%					
Current													
Lot		54	54	54	54	54	54	54	54	54	54	54	54
Revenue	\$1,222 per space ¹	\$66,000	\$67,320	\$68,666	\$70,040	\$71,441	\$72,869	\$74,327	\$90,604	\$110,446	\$134,633	\$145,731	\$4,132,262
Expenses	\$56 per space ²	(\$3,024)	(\$3,084)	(\$3,146)	(\$3,209)	(\$3,273)	(\$3,339)	(\$3,406)	(\$4,151)	(\$5,060)	(\$6,169)	(\$6,677)	(\$189,333)
Net		\$62,976	\$64,236	\$65,520	\$66,831	\$68,167	\$69,531	\$70,921	\$86,453	\$105,385	\$128,464	\$139,054	\$3,942,929
Proposed													
New Garage		0	122	122	122	172	172	172	191	191	191	191	191
Property Tax		\$0	\$0	\$3,763	\$3,839	\$3,915	\$3,994	\$4,074	\$4,966	\$6,053	\$7,379	\$7,987	\$219,164
Operations													
Revenue	\$1,445 per space ³	\$0	\$180,102	\$183,704	\$187,378	\$269,331	\$274,718	\$280,212	\$378,882	\$461,855	\$562,999	\$609,408	\$16,299,180
Expenses													
Operations	\$509 per space ⁴	\$0	(\$63,390)	(\$64,658)	(\$65,951)	(\$94,796)	(\$96,692)	(\$98,625)	(\$133,354)	(\$162,558)	(\$198,157)	(\$214,492)	(\$5,736,778)
Subtotal		\$0	\$116,712	\$119,046	\$121,427	\$174,535	\$178,026	\$181,587	\$245,528	\$299,297	\$364,842	\$394,916	\$10,562,402
Lease	90%	\$0	(\$105,041)	(\$107,141)	(\$109,284)	(\$157,082)	(\$160,223)	(\$163,428)	(\$220,975)	(\$269,367)	(\$328,357)	(\$355,425)	(\$9,506,162)
Net		\$0	\$11,671	\$11,905	\$12,143	\$17,454	\$17,803	\$18,159	\$24,553	\$29,930	\$36,484	\$39,492	\$1,056,240
Estimated Parking Space Value ⁵	\$20,795 per space	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$8,770,193	\$8,770,193
Total		\$0	\$11,671	\$15,668	\$15,981	\$21,369	\$21,796	\$22,232	\$29,518	\$35,983	\$43,863	\$8,817,671	\$10,045,596
Net Present Value	5.0%	(\$62,976)	(\$52,564)	(\$49,852)	(\$50,849)	(\$46,798)	(\$47,734)	(\$48,689)	(\$56,934)	(\$69,402)	(\$84,601)	\$8,678,618	\$6,102,668
Net Present Value		\$240,052											
Net Present Value		\$177,076											

¹ 2012 budgeted revenue per space

² Based on discussions with UHGID management, the district incurs approximately \$3,000 annually for the onsite meter. No other direct costs are incurred

³ 8-year average of CAGID parking garages

⁴ 4-year CAGID average without attendant

⁵ Assumes 2014 construction value escalated at 2.0 percent annually

Source: Economic & Planning Systems

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Development Financial Evaluation

The Developer's cost estimate is \$20,795 per space and he believes this to be a reasonable estimate of construction costs considering both underground and above-ground parking. In total, parking costs are estimated at approximately \$4.5 million.

Financial Model

The Developer is gaining the use of the 1095 14th Street lot at no land cost; however, in order to accommodate the full development program, the two lots on 13th Street, totaling 12,292 square feet, must be acquired. UHGID commissioned an appraisal of the 14th Street Lot from Rothweiler Group, Inc. who estimated the market value of the lot at \$2,625,000, which equates to \$140 per square foot. For the purposes of this analysis, EPS estimates the land value per square foot of the 13th Street site to be the same as the 14th Street lot.

The remaining assumptions in the financial model shown in **Table 9** are summarized below:

- Total site acquisition costs are for the 14th Street parking lot and 13th Street properties are estimated to total approximately \$1.72 million. It should be noted that some portion of this land cost is attributable to the seven residential units on the 13th Street lot. However, for the purposes of this analysis, all land is assigned to the parking development costs, resulting in a total upfront capital cost of approximately \$6.2 million.
- The Developer plans to lease parking spaces that are unused by UHGID to residential renters in the area. EPS estimated a monthly lease rate of \$100 per space, or \$1,200 annually. Applying this estimate to the 94 spaces anticipated to be used by the Developer in 2015 generates \$114,819.
- The Developer would receive 90 percent of the UHGID lease payments for the parking spaces anticipated to be used by UHGID, which is 122 spaces in 2015, or \$105,041.
- Annual operating expenses related to the Developer spaces are estimated to be the same as the UHGID spaces, or \$509 per space annually.
- Net annual revenue to the Developer is estimated to total \$171,196 in 2015, \$197,537 in 2020, \$244,704 in 2030, \$298,293 in 2040, and \$363,617 in 2050.

In addition to the net annual revenue, the Developer will retain the value of the 25 spaces upon the expiration of the lease at the end of 2054. Escalating the construction value of \$20,795 per space at 2.0 percent annually, EPS estimates the value of the 25 spaces in 2054 to be approximately \$1.1 million. Thus, the net annual revenue to the Developer in 2054 is estimated to total approximately \$1.5 million.

Developer Returns

The annual IRR to the Developer based on total net revenue over the 40-year lease term is estimated to be 3.0 percent with a cash-on-cash return of approximately 2.8 percent. These returns are significantly lower than typical private sector development project which generally be 10 to 12 percent (unlevered) or greater on an IRR basis and 9 to 10 percent or greater on a cash-on-cash basis depending on the level of project risk.

However, is not expecting to make a full financial return on the parking. His motivation for the project is that in addition to the parking revenue stream, the Developer is gaining the development rights to construct up to 35 residential units. Thus, the majority of the Developer's financial return will be generated through the residential development.

**Table 9
Developer Financial Evaluation**

Description	Factor	0	1	2	3	4	5	6	16	26	36	40	Total	
		2014	2015	2016	2017	2018	2019	2020	2030	2040	2050	2054		
Spaces Constructed														
Developer Spaces		25												
District Spaces		191												
Subtotal		216	0	0	0	0	0	0	0	0	0	0	216	
Spaces Managed														
Developer Spaces		0	94	94	94	44	44	44	25	25	25	25	25	
District Spaces		0	122	122	122	172	172	172	191	191	191	191	191	
Subtotal		0	216	216	216	216	216	216	216	216	216	216	216	
Capital Costs														
Land Costs														
1095 14th Street	18,750	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
13th Street	12,292	\$140.00	(\$1,720,880)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$1,720,880)	
Subtotal	31,042		(\$1,720,880)	\$0	(\$1,720,880)									
Construction Costs	\$20,795 per space	¹	(\$4,491,823)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$4,491,823)	
Total			(\$6,212,703)	\$0	(\$6,212,703)									
Operations														
Revenue														
Space Revenue	\$1,200 per space	²	\$0	\$114,819	\$117,115	\$119,457	\$56,900	\$58,038	\$59,199	\$41,184	\$50,203	\$61,197	\$66,241	\$2,433,666
District Lease Revenue			\$0	\$105,041	\$107,141	\$109,284	\$157,082	\$160,223	\$163,428	\$220,975	\$269,367	\$328,357	\$355,425	\$9,506,162
Subtotal			\$0	\$219,859	\$224,256	\$228,741	\$213,982	\$218,262	\$222,627	\$262,159	\$319,570	\$389,554	\$421,666	\$11,939,828
Expenses	\$509 per space	³	\$0	(\$48,663)	(\$49,636)	(\$50,629)	(\$24,116)	(\$24,598)	(\$25,090)	(\$17,455)	(\$21,277)	(\$25,937)	(\$28,075)	(\$1,031,454)
Net			\$0	\$171,196	\$174,620	\$178,112	\$189,866	\$193,664	\$197,537	\$244,704	\$298,293	\$363,617	\$393,591	\$10,908,374
Estimated Parking Space Value⁴	\$20,795 per space		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,147,931	\$1,147,931	
Net Present Value			(\$6,212,703)	\$171,196	\$174,620	\$178,112	\$189,866	\$193,664	\$197,537	\$244,704	\$298,293	\$363,617	\$1,541,522	\$5,843,602
Net Present Value	5.0%		\$4,267,255											
Net Present Value			(\$1,945,448)											
IRR			3.0%											
ROR			2.8%											

¹ Average cost of parking space from Boyer Properties

² Assumes monthly per space rate of: \$100

³ 4-year CAGID average without attendant

⁴ Assumes 2014 construction value escalated at 2.0 percent annually

Source: Economic & Planning Systems

Net Value Comparison

EPS performed a comparison of the net present value (NPV) of 1) the Developer's P-3 proposal to build public parking as a component of a mixed use project, and 2) UHGID building its own parking structure on the 14th Street lot.

Developer Proposal

EPS applied the appraisal land value of 1095 14th Street site of \$140 per square foot as a development cost which results in a potential UHGID contribution of land value of \$2.6 million, as shown in **Table 10**.

By accepting the Developer Proposal, UHGID is sacrificing the value of the current lease revenue generated by the existing 54 surface spaces. The present value of this revenue stream is estimated to total approximately \$1.5 million. Thus, total costs to UHGID under the Developer Proposal are estimated to be approximately \$4.2 million.

In exchange for the use of the 1095 14th Street lot, UHGID is gaining the estimated property tax revenue generated by new development, as well as the use rights of 191 new structured spaces. Based on the assumptions in the analysis, the present value of the increase in property tax revenue over the 40-year lease is estimated to total \$81,000. Per the terms of the Developer Proposal, the present value of the lease revenue associated with the 191 spaces is estimated to total \$383,000. Upon the expiration of the lease at the end of 2054, UHGID becomes fee owner of the 191 spaces. The present value of these spaces is estimated to total approximately \$1.2 million.

Under the terms of the proposal, UHGID would forego the land value of its current surface lot, as well as the current revenue generated by the existing 54 surface spaces, in exchange for increased annual property tax revenue, annual parking revenue generated by the 191 spaces, and the value of the ownership of the 191 spaces at the end of the lease. The net value of the proposal to UHGID is a loss of \$2.48 million as shown. In order for UHGID to break even financially, UHGID would need to receive approximately 73 percent (vs. 10 percent proposed) of the NOI generated by the leased spaces.

Table 10
 UHGID Developer Proposal Evaluation Summary

Description	Developer Proposal Total Appraisal	
<u>UHGID Costs</u>		
1095 14th Street	18,750 sq. ft.	\$140.00 per sq. ft.
Land Subtotal		\$2,625,000
Current Parking Revenue ¹		\$1,532,594
Total		\$4,157,594
<u>UHGID Revenue</u>		
Property Tax Revenue ¹		\$80,897
New Parking Revenue ¹		\$383,005
Parking Spaces	191 spaces	\$20,795 per space
Parking Subtotal²		\$1,245,768
Total		\$1,709,670
Net Value to UHGID		(\$2,447,924)
Breakeven NOI Share		73%

¹Present value of revenue stream over 40 years, discounted at 5.0 percent

²Present value of construction value after 40 years, discounted at 5.0 percent

Source: Economic & Planning Systems

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UHGID Alternative (District Builds Spaces)

As an alternative to providing future parking, UHGID could potentially construct a parking structure on the 1095 14th Street lot. UHGID would likely need to purchase the 13th Street site to accommodate a more efficient design and adequate ingress and egress. Assuming no land cost of the 14th Street lot and the 13th Street lot with an assumed value of \$140 per square foot based on the appraisal of the 14th Street lot, EPS estimates land costs related to this alternative to be \$1.7 million, as shown in **Table 11**.

Assuming a parking structure only with no mixed use development, UHGID could construct the all of the spaces above ground. According to the Carl Walker Parking Structure Cost Outlook 2013, the average construction cost for a structured parking space in the Denver region is approximately \$16,000. Applying this cost to the 191 structured spaces results in a parking structure cost of approximately \$3.1 million.

Just as is the case under the Developer Proposal, UHGID would be sacrificing the annual parking revenue generated by the existing 54 surfaces spaces at the 1095 14th Street lot. The present value of this revenue over 40 years is estimated to total \$1.5 million. Thus, the total cost to UHGID, should it elect to build its own structured spaces, is estimated to be \$6.3 million.

UHGID would receive 100 percent of the annual revenue associated with these spaces. Assuming the same per space revenue and cost assumptions as outlined in the previous analysis, EPS estimates the present value of this revenue stream over 40 years to be approximately \$4.2 million. As fee simple owner of the 191 spaces, UHGID would have the ability to sell the spaces at some point in the future.

For the purposes of this analysis, EPS assumes UHGID would realize the fee simple ownership of these spaces, either through the expiration of a lease or through the sale of the spaces, at the end of 40 years. Based on the assumed construction value of \$16,000 per space escalated at 2.0 percent annually over 40 years, the present value of the 191 spaces is estimated to be approximately \$960,000. Thus, the value of revenue to UHGID under the outlined alternative is estimated to total approximately \$5.1 million. Netting the estimated costs against the estimated revenues and the assumed land value related to the 13th Street lot, EPS estimates the net value to UHGID, should it elect to construct the spaces itself, to be -\$1.17 million.

Table 11
UHGID Alternative- District Builds Spaces

Description	District Builds Spaces	
		Total Appraisal
<u>UHGID Costs</u>		
1095 14th Street	18,750 sq. ft.	\$0.00 per sq. ft.
13th Street	12,292 sq. ft.	\$140.00 per sq. ft.
Land Subtotal		\$1,720,880
Parking Spaces	191 spaces	\$16,000 per space
Parking Subtotal		\$3,056,000
Current Parking Revenue ¹		\$1,532,594
Total		\$6,309,474
<u>UHGID Revenue</u>		
New Parking Revenue ¹		\$4,173,760
Parking Spaces	191 spaces	\$16,000 per space
Parking Subtotal²		\$958,491
Total		\$5,132,251
Net Value to UHGID		(\$1,177,223)

¹Present value of revenue stream over 40 years, discounted at 5.0 percent

²Present value of construction value after 40 years, discounted at 5.0 percent

Source: Economic & Planning Systems

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Net Comparison

To understand the implications of each alternative, EPS compared the net value of the Developer Proposal to the net value of the alternative for UHGID to build the spaces itself. While both alternatives result in a loss of value to UHGID, the Developer Proposal results in a greater loss to UHGID than constructing the spaces itself, as shown in **Table 12**. Thus on a financial basis, should UHGID have the available capital, it would be better off constructing the spaces itself rather than accepting the Developer Proposal. There is however, unspecified value or benefits to having the Developer undertake the project as summarized in the Conclusions below.

Table 12
UHGID Net Comparison

Description	Net Comparison	
	Total Appraisal	
<u>Developer Proposal</u>		
UHGID Costs		\$4,157,594
UHGID Revenue		<u>\$1,709,670</u>
Net Value		(\$2,447,924)
<u>District Builds Spaces</u>		
UHGID Costs		\$6,309,474
UHGID Revenue		<u>\$5,132,251</u>
Net Value		(\$1,177,223)
Difference		(\$1,270,702)

Source: Economic & Planning Systems
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Developer Evaluation

Developer Proposal

In order to quantify the financial gain or loss to the Developer, EPS applied a similar methodology as the previous analysis, comparing the estimated value the potential assets to be exchanged. As a result of the proposal, the Developer must purchase the 13th Street site in order to construct the garage. Assuming the same commercial land values, EPS estimates the cost to the Developer of acquiring the 13th Street site is to be \$1.7 million, as shown in Table 13. In addition to the land, the Developer is paying for the construction of all 216 spaces. At \$20,795 per space, the parking structure has an estimated construction value of approximately \$4.5 million. Upon the expiration of the lease at the end of 2054, the Developer proposes to deed over the fee simple ownership of the 191 spaces to UHGID. Based on the construction costs, EPS estimates the present value of these 191 spaces to be approximately \$1.2 million. Summing the cost of the land acquisition, construction of the 216 parking spaces, and the value of the 191 spaces to be deeded over to UHGID at the end of the lease, EPS estimates the total cost to the Developer as a result of the proposal to be \$7.5 million.

In exchange for constructing the spaces, the Developer is gaining the use of the 1095 14th Street lot at no cost. The value of 14th Street lot is estimated to be \$2.6 million. The Developer is also gaining the revenue stream generated by the private lease of the 25 spaces, as well as the lease with UHGID for the 191 spaces (90 percent of NOI). The present value to the Developer of the combined revenue stream of the 216 spaces is estimated to total approximately \$4.1 million. Upon the expiration of the lease, the Developer retains the value of the 25 privately-leased spaces. Assuming the sale of these spaces at the end of 2054, the present value of these spaces is estimated to total approximately \$163,000. Summing the value of the 14th Street lot, the new parking revenue, and the terminal value of the 25 privately-leased spaces, EPS estimates the value of the potential revenue generated to the Developer as a result of the Developer Proposal to be \$6.9 million, as shown in **Table 13**.

Thus, netting the estimated value of the Developer costs against the value of the estimated Developer revenue, EPS estimates the net value to the Developer as a result of the Developer Proposal to be -\$566,216.

**Table 13
 Developer Proposal Net Benefit**

Description		Developer Proposal Total A
<u>Developer Costs</u>		
13th Street	12,292 sq. ft.	\$140.00 per sq. ft.
Land Subtotal		\$1,720,880
Parking Spaces	216 spaces	\$20,795 per space
Parking Subtotal		\$4,491,823
UHGD Spaces	191 spaces	\$20,795 per space
UHGD Spaces Subtotal²		\$1,245,768
Total		\$7,458,471
<u>Developer Revenue</u>		
1095 14th Street	18,750 sq. ft.	\$140.00 per sq. ft.
Land Subtotal		\$2,625,000
New Parking Revenue ¹		\$4,104,196
Parking Spaces	25 spaces	\$20,795 per space
Parking Subtotal²		\$163,059
Total		\$6,892,255
Net Value to Developer		(\$566,216)

¹Present value of revenue stream of privately-leased spaces and UHGID leased spaces over 40 years, discounted at 5.0 percent

²Present value of construction value after 40 years, discounted at 5.0 percent

Source: Economic & Planning Systems

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Additional Information

In addition to the parking-related financial benefit, the Developer is acquiring land at no cost to support the construction of the proposed 35 residential units. Because the value of the land to support the residential units and the parking spaces is intrinsically tied to one another, this value is difficult to estimate, but should be considered in the analysis. EPS performed static analysis on the financial feasibility of the residential project with and without the Developer Proposal. To simplify this analysis, EPS assumed that the Developer would build the same number of residential units (35) in either alternative. If the Developer built the residential project on his own, he would have to acquire the 14th Street property at market price, but would only need to build the amount of spaces necessary to serve the units. Under the Developer Proposal, he acquires the 1095 14th Street property at no cost, but must construct the full 216 spaces. Based on EPS' assumptions regarding potential rents and operating expenses of the residential units, as well as factoring in the annual income resulting from the parking, the Developer return improves between 0.5 percent and 1.0 percent. Thus, it is EPS' opinion that the Developer is not gaining any substantial profit as a result of the proposal.

4. CONCLUSIONS AND NEXT STEPS

Conclusions

The Del Mar Interests unsolicited development proposal is a public private partnership whereby UHGID is investing its existing parking lot land and 90 percent of its future parking revenues in a privately developed mixed use project that includes additional commercial district parking as well as a student oriented apartment project. The proposed Development would provide UHGID with a substantial portion of its estimated future parking needs up to a total of 191 spaces. It allows the District to lease only the amount of parking determined to be needed on an annual basis. UHGID would gain the use of up to 191 spaces (137 net new spaces) without coming out of pocket for any capital or annual operating expenses.

The proposed mixed use project would require UHGID to invest in this parking earlier than it might otherwise need if it were building the parking separately. It will also lose most of the modest \$63,000 in annual revenues it is collecting from the existing parking lot. The positive tradeoffs are the City and The Hill gain additional housing units, and potential retail and commercial customers. The UHGID parking would be transferred from a surface parking plot to a first level parking structure beneath the residential development.

Assuming that UHGID and the City agree that the proposed Development meets its parking and development objectives, the proposed business and financial terms and conditions are, in EPS' opinion, reasonable and provide benefits to both UHGID and the Developer as summarized below.

- Annual net revenues from the 14th Street parking lot are estimated to be a modest \$62,796 in 2014. This revenue stream will be lost going forward as the parking lot would be replaced by the proposed mixed use project. Under the phasing scenario tested, UHGID would lease 122 spaces starting in 2015 increasing to 172 spaces in 2018 and 191 spaces in 2030. The Developer would receive 90 percent of the parking revenues estimated at \$105,041 in 2015, \$157,082 in 2018, and \$133,354 in 2030. UHGID would receive 10 percent of the net operating income from these parking spaces estimated at \$11,671 in 2015, \$17,454 in 2018, and \$20,518 in 2030.
- Separating the UHGID parking from the larger mixed use project, the Developer would achieve a very modest 3.0 percent internal rate of return (2.8 percent return on costs) for incorporating the public parking into his project. This is close to a break-even proposition within the margin of error of the planning level costs and revenue assumptions used for this financial analysis. Also, given a target hurdle rate of 10 to 12 percent IRR, a developer would not undertake this project alone. The Developer will therefore realize most of his profits from the residential development built above the parking structure.

- The net benefit of the proposal to UHGID based on the net present value (NPV), tested at a 5 percent discount rate over 40 years, of the cost and revenues of the proposed partnership results in a positive benefit of \$177,076. This is compared to a negative benefit of \$1,945,448 for the Developer as shown in **Table 14**. If the value of the land (given to the developer) and the value of transferred parking spaces (given to UHGID) are added in, the Developer's net benefit improves to a negative \$566,216 at a 5 percent discount rate as shown. This reflects the estimated 3.0 percent IRR previously shown. The project therefore represents a win – win for the District and the Developer in that the District gains the desired parking and the Developer provides the parking at a modest cost in return for the ability to make a greater profit on the residential development.

Table 14
Net Benefit of Developer Proposal

Description	Developer Proposal - NPV over 40 years		
	UHGID	Developer (w/out land value)	Developer (with land value)
Current			
14th Street Lot	54 spaces	0 spaces	0 spaces
Net Revenue	\$1,532,594	\$0	\$0
Proposed			
New Garage	191 spaces	25 spaces	25 spaces
Costs			
Land Costs	\$0	(\$1,720,880)	(\$1,720,880)
Construction Costs	\$0	(\$4,491,823)	(\$4,491,823)
Parking Space Transfer	---	---	(\$1,245,768)
Total	\$0	(\$6,212,703)	(\$7,458,471)
Revenue			
Land Value	---	---	\$2,625,000
Property Tax	\$80,897	\$0	\$0
Net Revenue from Parking	\$383,005	\$4,104,196	\$4,104,196
Parking Space Residual Value	\$1,245,768	\$163,059	\$163,059
Total	\$1,709,670	\$4,267,255	\$6,892,255
Total	\$1,709,670	(\$1,945,448)	(\$566,216)
Net Benefit (NPV @ 5%)	\$177,076	(\$1,945,448)	(\$566,216)

Source: Economic & Planning Systems

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- The proposed development partnership has a higher economic return than would be achieved if UHGID built its own parking structure. If UHGID built an above ground parking structure on the 14th Street lot, it would have a negative \$1.3 million compared to a positive \$177,076 under the proposed Development partnership as shown in **Table 15**. In addition, the propose project allows UHGID to lease the parking on an as needed basis with six-month's notice. The developer would presumably lease out any unused parking spaces to area residents for monthly parking.

Table 15
Net Benefit of Developer Proposal vs. UHGID Constructing Garage Itself

Description	Developer Proposal vs. UHGID Alternative - NPV over 40 years	
	UHGID	UHGID Alternative
Current		
14th Street Lot	54 spaces	54 spaces
Net Revenue	\$1,532,594	\$1,532,594
Proposed		
New Garage	191 spaces	191 spaces
Costs		
Land Costs	\$0	(\$1,843,800)
Construction Costs	\$0	(\$3,056,000)
Total	\$0	(\$4,899,800)
Revenue		
Property Tax	\$80,897	\$0
Net Revenue from Parking	\$383,005	\$4,173,760
Parking Space Residual Value	\$1,245,768	\$958,491
Total	\$1,709,670	\$5,132,251
Total	\$1,709,670	\$232,451
Net Benefit (NPV @ 5%)	\$177,076	(\$1,300,143)

Source: Economic & Planning Systems

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Additional Considerations

It is EPS' opinion that the proposed P-3 project is worthy of consideration and further negotiation if UHGID ultimately determines 1) its impending parking needs are worthy of moving ahead with planning for additional parking at this time recognizing that there will be a modest loss in current income as a tradeoff for the investment in additional parking, and 2) the City determines that the proposed mixed use residential project is consistent with the Comprehensive Plan, area zoning and any applicable design guidelines.

There are a number of outstanding business and legal terms and conditions that would need to be resolved before a development agreement could be signed by both parties including the following:

- **Land Ownership and Reversion** – the Developer has requested the City transfer fee simple ownership of the parking lot to Del Mar Interests and that the property and parking would be transferred back at the end of the parking lease term in 40 years. It is not clear how this would be done or even if it is the best structure. In other P-3 projects we have worked on, the development is usually done on a long term unsubordinated land lease where the public entity continues to control the land and its assets over the long term.
- **Equitable Distribution of Parking Revenues** – The Developer's proposal to use 90 percent of the parking revenues and rebate 10 percent to UHGID appears reasonable and fair - within the bounds of the planning level cost estimates used in this financial model and analysis. The City and UHGID would need to evaluate a more detailed project pro forma to fully determine whether the proposed revenue split is equitable or whether the City should receive a higher percentage. Further, it would be our recommendation that the City/UHGID require the Developer to submit a project pro forma on the entire mixed use project so that the Developer's costs, revenues, and expected returns on the entire project be vetted to determine a fair and equitable return.
- **Estimated Parking Costs and Revenues** – The assumptions used by EPS for structured parking cost and revenues are very rough and based on CAGID parking garage figures. UHGID should do additional planning to determine if the estimated annual parking revenues and operating costs are achievable. Additionally, a cost allowance for capital maintenance in the garage and who pays for these costs has not been addressed. The reversion value of parking at the end of the lease will also be affected by whether the structure has been updated and maintained or rather its useful life has been depleted.
- **Project Design** – The analysis to date has been done on rough sketches of how the public parking would be configured and accessed. The proposed plan to acquire property on 13th to provide full service access to the lot has a lot of merit and could potentially improve UHGID's parking utilization. But small parking garages under residential or hotel properties can be tight and hard to access, and therefore underutilized. Should this be the case, the project would not achieve its objectives and the expected parking revenues would also not be reached. While parking operations are beyond our expertise, UHGID, needs some additional level of conceptual planning to ensure that the project will be successful.

Recommendation

If UHGID and the City agree the proposal has merit, EPS recommends that the City and the Developer enter into an Exclusive Negotiating Agreement to negotiate the proposed business terms as input to signing a Development Agreement.

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
MEETING DATE: December 17, 2013**

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance No. 7952, granting a one year extension to Comcast of Colorado IV, LLC, to use public rights of way to provide cable television services and to authorize the city manager to execute the cable television franchise agreement between the city of Boulder and Comcast of Colorado IV, LLC.

PRESENTERS

Jane S. Brautigam, City Manager
Don Ingle, Director, Information Technologies
Patrick von Keyserling, Communication Director
Debra Kalish, Senior Assistant City Attorney
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

The city is party to a non-exclusive franchise agreement with Comcast of Colorado IV, LLC ("Comcast") which allows Comcast to use the city's public rights of way to provide cable television services (the "Existing Franchise," **Attachment A**). This agreement, originally set to expire on December 31, 2011, was extended through and including December 31, 2013. The extension was approved by council on June 13, 2011, by Ordinance 7785 (the "Franchise Extension," **Attachment B**). The primary purpose of that extension was to allow time for the city to benefit from the cable franchise agreements that were being negotiated between Comcast and Denver and Comcast and Aurora. Four months ago, those agreements were finalized and converted into model franchise agreement by the Colorado Communications and Utility Alliance (CCUA). CCUA is a coalition of cities and counties in Colorado who collaboratively protect the interests of their communities in all matters related to local telecommunications issues. Boulder

has been a dues-paying member of CCUA since the spring of 2013 and is generally supportive of the model franchise agreement.

The purpose of this item is to consider an ordinance (**Attachment C**) authorizing the city to enter into a second extension of the Existing Franchise until December 31, 2014. Boulder is unique in Colorado for having a detailed cable code that addresses most matters that in other cities would be addressed exclusively in a franchise agreement. A fundamental challenge during negotiations is to resolve the many differences between Boulder's Cable Code, § 11-6-1, *et seq.*, B.R.C. 1981, and the CCUA-endorsed model franchise agreement. City staff and Comcast are hopeful to resolve these differences soon and to be able to bring a proposed long-term agreement to council by the spring of 2014. Nonetheless, a one year extension is requested to allow for unanticipated difficulties that may be encountered in the process.

Council approved the first reading of this ordinance on December 3, 2013, with no comments.

FISCAL IMPACTS

The city currently collects an annual franchise fee equal to five percent of Comcast's "gross revenue," as that term is defined in Section 11-6-2 of the Boulder Revised Code. In 2012, this amounted to \$1,192,070.48. This revenue is directed to the city's general fund.

The city also collects \$.50 per subscriber in public, educational and government ("PEG") access channel fees. Since the discontinuation of Public Channel 54 in 2008, the city has allocated the PEG fees for Educational Channel 22 and for Government Channel 8. In 2012, the PEG revenue generated from these fees amounted to a combined \$146,684.50 for both stations. This revenue is limited by federal law to capital costs associated with these access channels.

BACKGROUND

The city last renewed its franchise agreement with Comcast in February 2004. This agreement was set to expire on December 31, 2011. In the winter of 2009, the city requested that Comcast submit a renewal proposal for consideration. Late in the summer of 2010, Comcast instead proposed an extension of the franchise with the same terms for up to two years. The primary reason that Comcast proposed the two-year extension was that it was consistent with a proposal it had made to members of Denver's Greater Metro Telecommunication Consortium (GMTC, since renamed the CCUA). The GMTC had asked Comcast to support a regional model agreement and, failing that, for extensions to expiring member franchise agreements until 2013. Such extensions would allow GMTC members to benefit from the renewal of the City and County of Denver's and Aurora's franchise agreement, which were scheduled for the end of 2012. Comcast refused to offer a model regional agreement but agreed to the two-year extension. The City of Boulder ultimately agreed that it shared similar interests with GMTC members and approved a two-year extension of the Existing Franchise (**Attachment B**).

On behalf of Comcast, but with input from the city, *Talmey-Drake Research & Strategy, Inc.*, a public opinion research firm in Boulder, conducted a resident survey in November 2009 and again in May 2013. Key findings from that most recent survey were:

- Almost six of ten cable customers (57%) in the City of Boulder say they are either very (21%) or somewhat (36%) satisfied with the cable service they receive, a rating that's down 11 points from 2009. They are most satisfied with the technical quality they receive (74%), followed by the quality of their channel line-up (68%). Like overall satisfaction with cable, the rating for satisfaction with customer service has also declined, going from 70% in 2009 to 58% today. Additionally, rates have become an increasingly important issue with Boulder customers, as 49% now say the rate they pay for cable is "way too high," compared to 38% back in 2009.
- When asked to rate the importance of each of the three access channels available to cable customers in Boulder, only one, Channel 8, had a higher positive (59% for "very" or "somewhat") than negative (40% for "not too" or "not at all") importance rating. The other two access channels, 22 and 63, did not fare nearly so well.

ANALYSIS

Generally speaking, franchise operators are entitled to renewal unless they have not been meeting the terms of their existing franchise agreements or, for a variety of reasons, will not be able to provide adequate service to meet the cable-related needs of the community in the future. Federal law precludes franchising authorities from imposing requirements related to the provision or content of cable services except as specifically permitted by federal law.

The issues that may be considered in deciding whether to renew the franchise agreement relate primarily to Comcast's:

- Substantial compliance with the terms of the Existing Franchise;
- Customer service, including signal quality, response to consumer complaints and billing practices;
- Technical ability to provide cable television service;
- Financial ability to provide cable television service; and
- Legal ability to provide cable television service.

The primary foci of franchise negotiations will include:

- The amount and calculation of franchise fees;
- Customer service standards; and
- The provision of Public, Education, and Government (PEG) access channels.

Federal law specifically precludes the city from conditioning franchise renewal upon Comcast's willingness to address other issues of interest to the community, such as cable service rates, channel programming and programming packages (including the ability to choose particular cable channels, also known as "a la carte service"), or telecommunication services (including Internet or voice over internet protocol (VOIP) services).

Boulder's Home Rule Charter, at Article VIII, § 108, requires a vote of the electorate to approve any franchises. However, this charter provision has been preempted by federal statutes. *See Qwest v. Boulder*, 151 F. Supp.2d 1236. This means that no election will be required for a renewal of the Comcast franchise agreement.

Based on information received to date, both from the public and from within the city organization, it appears that there will not be major issues to address during the Comcast franchise renewal. As a result, significant substantive changes to the terms of the Existing Franchise agreement are unlikely to be required.

NEXT STEPS

Staff is hopeful that it will be able to negotiate language for a new franchise agreement which could be brought forth to council in the second quarter of 2014 for a public hearing.

ATTACHMENTS:

Attachment A: City of Boulder's Current Franchise Agreement with Comcast

Attachment B: Ordinance 7785, the Franchise Extension

Attachment C: Ordinance 7952, the proposed Second Franchise Extension

FRANCHISE AGREEMENT
City of Boulder, Colorado
and
Comcast of Colorado IV, LLC

TABLE OF CONTENTS

1. Definitions..... 1

1.1 Applicable Law or Laws.....1

1.2 Cable Ordinance1

1.3 Cable System or System2

1.4 Channel.....2

1.5 Construction, Operation or Repair2

1.6 Franchise Agreement.....2

1.7 Franchisee.....2

1.8 Institutional Network or I-net.....2

1.9 Standard Drop.....2

1.10 Subscriber Network.....2

2. Scope of Franchise; Limits and Reservations 2

2.1 Scope.....2

2.2 Affiliates Must Comply.....4

2.3 Conflicts with the Cable Ordinance4

2.4 Relation to Other Provisions of Law4

2.5 Validity.....5

2.6 Effect of Franchise Acceptance.....5

2.7 Franchisee Bears Its Own Costs5

2.8 No Waiver5

2.9 No Monetary Recourse6

2.10 Severability6

2.11 Effect of Change in Law6

2.12 Grant of Other Franchises6

3. Transfers..... 7

3.1 No Transfer Without City Approval.....7

**3.2 Application for Transfer to be Considered in Accordance
 With Cable Ordinance.....7**

3.3 Mandatory Conditions7

3.4 Change in Control of Franchisee.....8

3.5 Intra-Corporate Transactions8

4. Franchise Fee..... 9

4.1 Payment to City.....9

4.2 Cable Modem Fees9

4.3 Not in Lieu of Any Other Assessments, Tax or Fee10

4.4 Payments.....10

4.5 No Accord or Satisfaction10

4.6 Payment Records10

4.7 Holdover Term.....10

5. Construction Provisions 10

- 5.1 Provision of Service: Franchise Area and Charges for Plant Extensions10
- 5.2 Construction Standards12
- 5.3 Continuity of Service13
- 5.4 Rights Upon Franchise Termination or Revocation14
- 5.5 Notice of Use15
- 5.6 Contractors and Subcontractors15
- 6. System Facilities, Equipment, and Services 15
 - 6.1 System Capabilities 15
 - 6.2 Transmission Technologies 17
 - 6.3 Emergency Alert System 18
 - 6.4 Parental Controls 18
 - 6.5 Support Equipment and Facilities..... 18
 - 6.6 Technical Standards 19
 - 6.7 Future Upgrades 19
 - 6.8 Testing Requirements 19
 - 6.9 Inspection..... 19
 - 6.10 Interconnection 19
 - 6.11 Free Cable Service to Certain Facilities.....20
 - 6.12 Provision of Broad Categories of Services21
 - 6.13 Uses of System21
- 7. Channels and Facilities for PEG Use 21
 - 7.1 Peg Use 21
 - 7.2 Return Lines for PEG Use 25
 - 7.3 Support for PEG Access 26
 - 7.4 Miscellaneous PEG Requirements 26
 - 7.5 Costs Not Franchise Fees.....27
- 8. Institutional Network..... 27
 - 8.1 Institutional Network.....27
- 9. Operation and Reporting Provisions 27
 - 9.1 Open Books and Records27
 - 9.2 Time for Production28
 - 9.3 Reports Required28
 - 9.4 Records Maintained.....28
 - 9.5 Relation to Privacy Rights.....28
- 10. Customer Service Standards..... 28
 - 10.1 Standards.....28
 - 10.2 Ascertainment of Programming and Customer Satisfaction28
- 11. Rate Regulation 29
- 12. Insurance; Surety; Indemnification 29
 - 12.1 Insurance Required29

12.2	Indemnification	29
12.3	No Limit of Liability	30
13.	Performance Guarantees and Remedies	30
13.1	Letter of Credit.....	30
13.2	Material Term	31
13.3	Remedies	31
13.4	Liquidated Damages	31
13.5	Procedures Prior to Revoking the Franchise	32
13.6	Revocation, or Termination of Franchise	33
13.7	Remedies Cumulative	33
13.8	Relation to Insurance and Indemnity Requirements	34
14.	No Evasion	34
15.	Rights of Individuals Protected	34
16.	Miscellaneous Provisions.....	34
16.1	Compliance With Laws	34
16.2	Governing Law.....	34
16.3	Force Majeure	34
16.4	Notices	35
16.5	Calculation of Time.....	35
16.6	Time of Essence; Maintenance of Records of Essence.....	35
16.7	Captions	35
16.8	Entire Franchise Agreement.....	35
16.9	Counterparts	36

**FRANCHISE AGREEMENT
BETWEEN THE CITY OF BOULDER, COLORADO
AND COMCAST OF COLORADO IV, LLC**

WHEREAS, the Boulder City Council accepted a draft ascertainment report (dated June 19, 2002) as a valid expression of customer concerns regarding current cable service in the City of Boulder (“City”) and as a valid expression of future cable-related community needs and interests; and

WHEREAS, the City has determined that any franchise must be subject to the terms and conditions set forth herein in order to serve the public interest; and

WHEREAS, Comcast of Colorado IV, LLC is willing to accept the terms and conditions of this Franchise Agreement, and

WHEREAS, the City has determined that, subject to the terms and conditions set forth herein and the provisions of Chapter 11-6, B.R.C 1981 (The Boulder Cable Code, hereinafter referred to as the “cable ordinance”), and other applicable provisions of the Boulder Revised Code and the Boulder City Charter, granting Comcast of Colorado IV, LLC a non-exclusive franchise pursuant to this Franchise Agreement is consistent with the public interest, and

NOW, THEREFORE, in consideration of the City's issuance of a franchise; Comcast of Colorado IV, LLC's promise to provide cable service to residents of the City under the terms and conditions set forth herein, the promises and undertakings herein; and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged,

THE SIGNATORIES HEREBY AGREE AS FOLLOWS.

1. Definitions

Except as otherwise provided herein, the definitions and word usage set forth in Section 11-6-1, B.R.C 1981 (The Boulder Cable Code) shall govern this Franchise Agreement. References to any City official or City office also refer to any official or office that succeeds to any or all of the responsibilities of the named official or office, whether by delegation, succession or otherwise. The following definitions shall apply:

1.1 *Applicable Law or Laws* All duly enacted and applicable federal, state and city constitutions, charters, laws, ordinance, codes, rules, regulations and orders, as the same may be adopted or amended from time to time

1.2 *Cable Ordinance* Chapter 11-6, B.R.C 1981, as amended from time to time.

1.3 *Cable System or System.* Defined as in the cable ordinance, as of the effective date of this Franchise Agreement, except where the context indicates otherwise, it specifically refers to Franchisee's cable system.

1.4 *Channel* A portion of the electromagnetic frequency spectrum, or a digitally encoded stream of content, which is used in a cable system and capable of delivering a television channel, as television channel is defined by the FCC by regulation. While a channel must be at least capable of delivering a video programming service, a channel is not restricted to the transmission of video programming services

1.5 *Construction, Operation or Repair* Encompass, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming.

1.6 *Franchise Agreement* This Franchise Agreement and any amendments or appendices hereto

1.7 *Franchisee* Comcast of Colorado IV, LLC, a limited liability company company, and its lawful and permitted successors and assigns.

1.8 *Institutional Network or I-net* A communication network which is constructed by Franchisee and which is available only to City authorized users

1.9 *Standard Drop* An aerial connection extending no more than 125 feet from the potential Subscriber's demarcation point to the point nearest the property line on the public right-of-way, or if closer, to the nearest point on the Cable System from which Cable Service can be provided to that Subscriber.

1.10 *Subscriber Network.* Fibers, coaxial cables and the electronic devices required to activate the same that are primarily used in the transmission of programming to residential subscribers.

2. **Scope of Franchise; Limits and Reservations**

2.1 *Scope.*

2.1.1 A cable system franchise is hereby granted to Franchisee This franchise grants the right, subject to conditions, to construct, operate and repair a cable system in, over, along and under City rights of way within the City of Boulder for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable

system, commencing on the effective date of this Franchise Agreement, January 1, 2004 through and including December 31, 2011, unless terminated prior to that date in accordance with this Franchise Agreement or applicable law. The franchise is subject to, and Franchisee must exercise all rights granted to it in accordance with, this Franchise Agreement and applicable law, including the cable ordinance. This Franchise Agreement and all rights and privileges granted under the franchise are subject to the City's police and other powers. However, once the franchise grant is effective, this Franchise Agreement is a contract and except as to those changes which are the result of the City's exercise of its police and other powers, neither party may take any unilateral action which materially changes the explicit mutual promises in this contract. Subject to the foregoing, Franchisee does not waive its right to challenge the lawfulness of any particular amendment to the cable ordinance or any other provision of the City code on the ground that a particular action is in excess of the City's power under Colorado or federal law or violates the Colorado or the United States Constitution.

2.1.2 This franchise does not confer rights upon Franchisee other than as expressly provided herein. No privilege or power of eminent domain is bestowed by this grant. All rights and powers of the City now existing or hereafter obtained are reserved except as expressly provided to the contrary in this Franchise Agreement. Nothing passes by implication under this Franchise Agreement. Subject to the foregoing, Franchisee shall provide the cable services required hereunder throughout the franchise term and any holdover term, and shall make any cable services it provides over its cable system available to all persons in its franchise area, subject to Section 5.3.1.

2.1.3 The franchise shall be interpreted to convey limited rights and interests only as to those City rights of way in which the City has an actual interest and only to the extent and for the purposes set out in this Franchise Agreement. The grant of the franchise is not a warranty of title or interest in any right of way; and it does not provide Franchisee any interest in any particular location within the right of way. The issuance of the franchise does not deprive the City of any powers, rights or privileges it now has or may later acquire in the future to use, perform work on or to regulate the use of and to control the City's rights of way covered by the franchise, including without limitation the right to perform work on its roadways, rights of way and drainage facilities, by constructing, altering, renewing, paving, widening, grading, blasting or excavating; and the right to build and install systems and facilities, with or without a franchise.

2.1.4 The grant of the franchise shall not become effective unless and until Franchisee has (a) filed an unconditional acceptance of the franchise grant, and (b) made all payments, posted all securities and guarantees, and supplied all information that it is required to supply prior to or upon the effective date of Franchise. If Franchisee fails to satisfy these obligations within thirty days of the ordinance authorizing the City to enter into this Franchise Agreement, the franchise grant shall be deemed rescinded five days after the City notifies

Franchisee in writing the obligations have not been satisfied, unless the obligations have been satisfied before the five day period has expired.

2.2 Affiliates Must Comply. Any affiliate of or joint venturer with or partner of Franchisee involved in the management or operation of the cable system in the City that would constitute a cable operator of the cable system is subject to the limitations of, and shall comply with the terms and conditions of, this Franchise Agreement. Franchisee shall be fully liable for an act or omission of an affiliate that controls Franchisee or is responsible in any manner for the management of the cable system that results in a breach of this Franchise Agreement or a violation of the cable ordinance, as if the act or omission was Franchisee's act or omission.

2.3 Conflicts with the Cable Ordinance. In the event of a conflict between the cable ordinance as it existed on the effective date of this Franchise Agreement, and this Franchise Agreement as of its effective date, the Franchise Agreement shall control except where expressly provided otherwise in this Franchise Agreement. However, although the exercise of rights hereunder is subject to the cable ordinance, the cable ordinance is not a contract. Nothing in this Section 2.3 prevents Franchisee from challenging a particular amendment to the cable ordinance as an impairment of this Franchise Agreement.

2.4 Relation to Other Provisions of Law.

2.4.1 The franchise issued and the franchise fee paid hereunder are not in lieu of any other required authorization, fee, charge or tax, unless expressly stated herein. Franchisee, among other things, must obtain all applicable permits, and comply with the conditions thereof, comply with zoning laws, and comply with other City codes, ordinances and regulations governing the construction of the cable system.

2.4.2 Franchisee is free to challenge any unilaterally imposed requirement of the City as unlawful and/or in excess of the City's police power, but not on the grounds that it imposes police power requirements over and above this Franchise Agreement.

2.4.3 This franchise is only for the provision of cable services. It shall not act as a bar or in any respect prevent imposition of additional or different conditions, including additional fees or authorizations related to the provision of, or the use or occupancy of the rights of way to provide, non-cable services. Nothing in this Section is intended to expand or contract the City's rights, if any, to regulate non-cable services.

2.4.4 The provisions of this Franchise Agreement shall be construed in accordance with Colorado and federal law regarding cable franchises.

2.5 *Validity* Both parties waive, as of the effective date of this Franchise Agreement, any claim or defense that any provision of this Franchise Agreement, as it existed on the effective date of this Franchise Agreement, is unenforceable or otherwise invalid or void. Neither party waives the right to challenge the validity of any applicable law.

2.6 *Effect of Franchise Acceptance.* By accepting the franchise, Franchisee:

2.6.1 Acknowledges and accepts the City's legal right to issue and enforce the franchise;

2.6.2 Agrees that it will not oppose intervention by the City in any proceeding affecting its cable system, subject to Section 12.2.2,

2.6.3 Accepts and agrees to comply with each and every provision of this Franchise Agreement;

2.6.4. Agrees that it will not claim that any difference between this Franchise Agreement, and the franchise granted by the City to Wide Open West effective October 17, 2000, or between this Franchise Agreement and the interim permit granted by the City to US West effective January 4, 2000, is discriminatory, anti-competitive, or in any way violates any applicable law; provided, however, that Franchisee reserves the right to challenge the US West permit as discriminatory, anti-competitive or otherwise in violation of applicable law if as of December 31, 2004, US West or its successor is operating under the interim permit, and therefore has no requirement to provide cable service within the entire boundaries of the City, nor provide similar levels of capital support as Franchisee for PEG and any institutional network (as defined in the Cable Act) provided by U.S. West or its successors

2.6.5 Agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary

2.7 *Franchisee Bears Its Own Costs.* Unless otherwise expressly provided in this Franchise Agreement, all acts that Franchisee is required to perform under this Franchise Agreement or the cable ordinance must be performed at its own expense; provided that nothing contained in this Section 2.7 is intended to restrict or limit Franchisee's rights under applicable law to offset, assess, recover, or pass through costs to subscribers

2.8 *No Waiver.*

2.8.1 The failure of the City or Franchisee on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the cable ordinance, or any other applicable law, shall not be deemed to constitute a waiver of such right

or a waiver of compliance or performance, unless such right has been specifically waived in writing; provided that nothing in this Section is meant to alter any renewal protections afforded by 47 U.S.C. Section 546 (d) or the operation of any applicable statute of limitations

2.8 2 Waiver of a breach of this Franchise Agreement is not a waiver of any other breach, whether similar or different from that waived. Neither the granting of the franchise nor any provision herein shall constitute a waiver, bar or expansion to the exercise of any governmental right or power of the City, including without limitation the right of eminent domain.

2 9 *No Monetary Recourse.* Without limiting such immunities as the City or other persons may have under applicable law, Franchisee will have no monetary recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of Franchisee's construction, operation or repair of its cable system, or the activities of the City or any entity authorized by the City to use public rights-of-way or other public property.

2 10 *Severability* In the event that a court or agency of competent jurisdiction makes a final judgment that any specific provision of this Franchise Agreement is unenforceable according to its terms, or otherwise void, said provision shall be considered a separate, distinct, and independent part of this Franchise Agreement, and such holding shall not affect the validity and enforceability of all other provisions hereof.

2.11 *Effect of Change in Law.* Subject to Section 2.10, in the event that state or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Franchise Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such state or federal law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City

2.12 *Grant of Other Franchises* In the event that the City enters into a franchise agreement, permit, license, or other authorization with any other person or entity other than Franchisee to enter into the City's rights of way for the purpose of constructing or operating a cable system to provide cable service to any part of the franchise area, in which Franchisee is actually providing cable service under the terms and conditions of this Franchise Agreement or to which it is required to extend cable service under the provisions of this Franchise Agreement, the material provisions thereof shall be reasonably comparable to those contained herein for comparable situations, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. The City shall not grant a franchise for less than the entire City, unless legally compelled to do so.

3. Transfers

3.1 *No Transfer Without City Approval.* Franchisee agrees that the rights granted to it by the City are personal in nature and held in trust. No transfer may occur without the prior consent of the City. An application for a transfer, containing all information and complying with the requirements of applicable law, and the application fee of \$5000, which amount shall be refunded if not expended in the review process, must be filed before a request for a transfer will be considered by the City.

3.2 *Application for Transfer to be Considered in Accordance With Cable Ordinance* An application for a transfer will be considered in accordance with the cable ordinance, and the standards set forth therein as of the effective date of this Franchise Agreement shall govern the City's review of the transfer application, subject to amendments the City may adopt to comply with or reflect changes in applicable state and federal law and the specific provisions in Sections 3.3 – 3.5, below. Requests for approval of a transfer will not be unreasonably withheld.

3.3 *Mandatory Conditions – Transfers* No transfer application shall be granted unless the proposed transferee:

3.3.1 Agrees in writing that it will abide by and accept the terms of the cable ordinance, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by the transferee with such Franchise Agreement;

3.3.2 Agrees in writing to assume and be responsible for the obligations and liabilities of Franchisee, known and unknown, under this Franchise Agreement and applicable law;

3.3.3 Provides reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations by the proposed transferee,

3.3.4 Agrees in writing that, except as provided in Section 626 of the Cable Act concerning use of previous non-compliance evidence in renewal proceedings following a transfer, approval by the City of the transfer shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or applicable law whether arising before or after the effective date of the transfer; and

3.3.5 Posts all required bonds, securities in a manner to ensure that there is no gap in coverage

3.4 *Change in Control of Franchisee.* No application for a change in the control of Franchisee or its parents will be granted unless:

3.4.1 Franchisee unconditionally reaffirms that it will abide by and accept the terms and conditions of the cable ordinance, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by Franchisee with such Franchise Agreement;

3.4.2 Franchisee reaffirms that it remains responsible for all of its obligations and liabilities, known and unknown, under the Franchise Agreement and applicable law for all purposes, including but not limited to renewal under Section 626,

3.4.3 Franchisee and the entity that will own and control Franchisee provide reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations,

3.4.4 Franchisee and the entity that will own and control Franchisee agree that the approval of the change of control by the City shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or applicable law, whether arising before or after the change of control,

3.4.5 Required bonds, securities and the like must be maintained so that there is no gap in coverage, if there will be any change in the same as a result of the change of control

3.5 *Intra-Corporate Transactions*

3.5.1 The parties find it appropriate to exempt certain intra-corporate transactions from the transfer approval requirement, as permitted by the cable ordinance. No City approval shall be required in connection with any addition, deletion or consolidation of wholly-owned subsidiaries in the ownership chain above Franchisee, so long as the conditions in Section 3.5.2 are met.

3.5.2 To qualify for exemption from transfer approval, the following conditions must be met:

3.5.2.1 Franchisee and the party being added to the chain of control unconditionally reaffirm that Franchisee will abide by and accept the terms and conditions of the cable ordinance and this Franchise Agreement,

3.5.2.2 Franchisee and the party being added to the chain of control reaffirm that Franchisee shall be responsible for all of Franchisee's obligations and liabilities, known and

unknown under the Franchise Agreement and applicable law for all purposes, including but not limited to renewal under Section 626;

3 5.2.3 Required bonds, securities and the like must be maintained so that there is no gap in coverage, if there will be any change in the same as a result of the transaction;

3 5.2.4 The Franchisee and party being added to the chain of control must agree in writing that there shall be no waiver or release of any right of the City (whether such right arises before or after the transaction) under this Franchise Agreement or applicable law, as a result of the transaction; and

3 5.2.5 The party being added to the chain of control must be a wholly-owned subsidiary of Comcast Cable Holdings, LLC, and Comcast Cable Holdings, LLC must agree to guarantee unconditionally the performance of the Franchisee and party being added to the chain of control

4. Franchise Fee

4.1 *Payment to City.* Franchisee shall pay the City a franchise fee in an amount equal to five percent of gross revenues as that term is defined in the cable ordinance as of the effective date of this Franchise Agreement, subject to amendments the City may adopt to comply with changes in applicable state and federal law. Fees or charges collected by Franchisee for PEG, for sales taxes, and for user fees assessed by the FCC, shall not be counted as part of gross revenues. Gross revenues shall include revenue received by any entity other than Franchisee where necessary to prevent evasion or avoidance of the obligation to pay franchise fees on all cable services.

4.2 Cable Modem Fees

4.2.1 In a Declaratory Ruling and Notice of Proposed Rulemaking released March 15, 2002, the FCC stated that cable modem service is not a cable service under the Communications Act of 1934, as amended, and initiated a rulemaking to, among other things, examine States' and local governments' authority to regulate cable modem service and the scope of the FCC's jurisdiction to regulate cable modem service. If the FCC's ruling that cable modem service is not a cable service is modified in a final, non-appealable decision by the FCC or a court of competent jurisdiction to the extent that cable modem service is determined to be a cable service, then the definition of gross revenues set forth in Section 11-6-2, B.R.C. 1981, shall include revenues Franchisee receives from providing cable modem services in the franchise area in accordance with the FCC's ruling. If payments are made pursuant to this Franchise Agreement as provided for in this Section, this Franchise Agreement will be interpreted to grant rights and authorizations to use and occupy the public rights of way to provide the cable modem service on which the fee is paid.

4.2.2 Nothing in the Franchise Agreement shall be construed as a waiver of any right the City may have to assess a fee on Franchisee's provision of cable modem service consistent with applicable law

4.3 *Not in Lieu of Any Other Assessments, Tax or Fee* The franchise fee is in addition to all other fees, assessments, taxes or payments that Franchisee may be required to pay under applicable law, subject to any limitations set forth in 47 U.S.C. §542.

4.4 *Payments.* Franchise fees shall be paid in accordance with the schedule set forth in the cable ordinance, and late payments shall be subject to the additional charges set forth in the cable ordinance.

4.5 *No Accord or Satisfaction* No acceptance of any payment by the City shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under the cable ordinance or for the performance of any other obligation of Franchisee.

4.6 *Payment Records.* Subject to Section 9 of this Franchise Agreement, the City shall have the right, from time to time, and upon reasonable advance written notice, to inspect, audit, copy and review all books and records of Franchisee reasonably necessary to the determination of whether gross revenues and franchise fees have been accurately computed and paid

4.7 *Holdover Term.* During any holding over after the scheduled date for expiration or other termination of the franchise, without the consent of the City, Franchisee shall continue to pay the franchise fee as set forth above, in addition to honoring all other provisions of this Franchise Agreement.

5. Construction Provisions

5.1 *Provision of Service: Franchise Area and Charges for Plant Extensions.*

5.1.1 *Franchise Area* Franchisee's franchise area shall be the corporate limits of the City of Boulder, as they may be altered during the franchise term.

5.1.2 Except where Franchisee is unable to obtain required easements or permits and subject to Section 5.1.4, Franchisee shall extend cable service to any residence within the City as of the effective date of this Franchise Agreement upon the request of a potential subscriber at its then-prevailing installation charge for such service. There shall be no charge for extending plant to a point where service can be provided with a standard drop, or (if closer) to a point on the property line of the potential subscriber from which service can be provided to the potential

subscriber. For areas where Franchisee has not extended its cable system as of the effective date of this Franchise Agreement, the foregoing will apply after January 1, 2004.

5.1.3 For non-residential locations in the City and for areas annexed to the City after the effective date of this Franchise Agreement, except where Franchisee is unable to obtain required easements or permits and subject to Section 5.1.4, Franchisee shall provide service upon request at its then-prevailing installation charge, but may charge for any required plant extension as provided in this paragraph. Franchisee shall extend its plant at no charge so that it can provide service with a standard drop where there is either a minimum density of twenty-five residential units per mile or where fifteen commercial locations per mile agree to subscribe to Franchisee's cable service for one year at commercial rates. Where these standards are not satisfied, Franchisee may condition service extensions at the then-prevailing charge upon the person or persons requesting service agreeing to pay a *pro rata* share of the cost of extending the plant to a point where service can be provided with a standard drop. For purposes of this subsection, in areas where Franchisee has not constructed cable system lines as of the effective date of this Franchise Agreement, each dwelling unit within a multiple dwelling unit ("MDU") will count as a residential unit if and only if Franchisee can obtain access to the MDU on reasonable terms and conditions. Notwithstanding the foregoing, Franchisee may charge any potential subscriber located in a mall or strip mall for any line extension greater than 100' required to cross a parking lot to provide cable service.

5.1.4 Franchisee is not required to provide cable service to any

5.1.4.1 occupant of a mall or strip mall as set forth in Section 5.1.3 where such occupant is unwilling to pay its portion of any applicable line extension costs,

5.1.4.2 commercial occupant of commercial structures above the first floor, where inside wiring necessary to provide the cable service is not already present, or where the owner or occupant is unwilling to install or pay for the inside wiring necessary to provide the cable service,

5.1.4.3 occupant of unlawful dwelling units, or

5.1.4.4 potential subscriber in a building where Franchisee is denied access

5.1.5 Franchisee must extend its plant so that service may be provided to the subscriber at the lowest cost to the subscriber that meets Franchisee's technical standards unless a subscriber directs otherwise. If Franchisee contends that it cannot obtain the easements necessary to provide service to a particular location, Franchisee shall have the burden of proving that it cannot obtain those easements.

5.1.6 Nothing in this Section 5.1 shall be construed to prohibit experimental or "test bed" services being extended to a segment of the community during the period of the experiment

5.1.7 Except as lawful rate orders may otherwise provide, the "then-prevailing installation charge" is the lowest lawful charge that would apply at any given time to a particular class of users. For example, if free installation is then being provided for installations involving aerial drops of 125 feet or less, any person requesting cable service that could be served by an aerial drop of 125 feet or less and anyone to whom Franchisee is required to extend services under Sections 5.1.1 and 5.1.2 could take advantage of that installation offer. Similarly, if Franchisee has established a lawful fee for installations that recovers additional costs for sidewalk and other pavement cuts which is charged to persons throughout the City, that charge may be applied on a non-discriminatory basis. If applicable law permits, nothing in this Franchise Agreement prohibits Franchisee from establishing separate charges for separate classes of drops, such as, for example, underground and aerial drops, so long as drop costs are treated consistently. Notwithstanding the foregoing, Franchisee may not charge for a drop crossing a paved portion of the roadway, not to exceed sixty feet, to provide service, except for good cause shown to the City.

5.1.8 Where electric and telephone service is currently above ground, but a subscriber or potential subscriber requests to locate its cable drop underground, Franchisee shall locate the drop underground, but in addition to the then-prevailing installation charge, Franchisee may charge the subscriber for the actual difference in cost of installing the underground, rather than an aerial drop, including the costs, if any, of any easement necessary for such underground cable drop.

5.1.9 Franchisee shall construct and extend its cable system to low income areas at least as quickly as it is extended to higher income areas.

5.2 *Construction Standards* Franchisee agrees that:

5.2.1 The construction, operation, and repair of the cable system shall be governed by the cable ordinance, and in all events shall be performed in accordance with all applicable laws. In addition, without limiting the foregoing, at a minimum, Franchisee shall comply with its Manual of Construction Procedures in effect as of the date of the Franchise Agreement, or such other manual as the City may accept in lieu thereof, IEEE standards, the National Electric Code, the National Electrical Safety Code and any other applicable safety codes. The most stringent applicable code or standard will apply in the event of any conflict (except insofar as that standard, if followed, would result in a system that could not meet requirements of federal, state or local law)

5.2.2 Subject to this Section 5.2.2, whenever feasible, Franchisee shall install its cable system underground in order to avoid damage from the unique wind storms to which the City is subject. Franchisee shall, at no cost to the City or adjacent subscribers, underground its cable system when poles to which Franchisee's facilities are attached are no longer in use for electrical or telephone plant; provided, however, that Franchisee waives no right to reimbursement from any funds raised for undergrounding pursuant to C.R.S. §29-8-101, *et seq.* Franchisee does not waive the right to claim the City is obligated to raise funds pursuant to C.R.S. §29-8-101, *et seq.* for any particular undergrounding project. Franchisee shall exercise its best efforts to protect its cable system from flood hazards, by undergrounding creek crossings and burying them deeply enough and with sufficient protection to avoid damage in a 100-year flood event. But all of Franchisee's cable system as of the effective date of this Franchise Agreement is acceptable until portions are replaced, when the criteria of this Section shall apply to the replaced portions.

5.2.3 Franchisee shall install, locate, relocate and remove its cable system in accordance with the cable ordinance and all other applicable laws, including, without limitation, all lawful street cut fees. Franchisee shall not place or maintain its cable system, including any poles or other structures, in public rights of way or on private property except in strict accordance with the requirements of the cable ordinance and all other applicable laws.

5.2.4 Franchisee shall restore and replace public and private property that is disturbed or damaged during the construction, operation, maintenance or repair of the cable system within the times and in the manner provided in the cable ordinance. Franchisee shall compensate any entity, only to the extent of any injury or damage caused by Franchisee, whose person or property is damaged by Franchisee, or any contractor, subcontractor or agent of Franchisee in the course of the construction, operation, maintenance or repair of the cable system where the property is not fully restored by Franchisee. This Section is not meant to alter the tort liability, if any, of Franchisee to third parties, or of any contractor or subcontractor to third parties or to Franchisee.

5.2.5 In an emergency, or where the cable system creates or is contributing to an imminent danger to public health, safety, or property, the City may remove, relay, or relocate any or all parts of the cable system without prior notice; however, the City will make reasonable efforts to provide prior notice. The City is not responsible for any loss or expense associated with its removal, relaying or relocation of Franchisee's cable system under this Section, nor is it responsible for restoring the property to its prior condition after the emergency.

5.3 *Continuity of Service.*

5.3.1 Subject to the provisions of Section 5.1, concerning line extensions, it is the right of each subscriber in the City to receive all available cable services from Franchisee as long as the subscriber's financial and other obligations to Franchisee are satisfied. Nothing in this Section

shall limit the right of Franchisee to deny cable service for non-payment of previously provided cable services, refusal to pay any required deposit, theft of cable service, damage to Franchisee's equipment, or abusive and/or threatening behavior toward Franchisee's employees or representatives. Abusive behavior includes, but is not limited to, use of fighting words or behavior taken by the customer that creates a risk or a reasonable expectation that Franchisee's employee may be harmed. In the event a customer complains to the City that Franchisee has unreasonably denied cable service, (a) Franchisee will inform the City of the precise nature of the situation; (b) the City will provide the customer an opportunity to submit a response to the allegations, and (c) Franchisee will allow for a determination by the City as to whether or not the customer shall continue to be denied service. The City's consent to withhold service from an abusive customer will not be unreasonably withheld.

5.3.2 Franchisee shall ensure that all subscribers receive continuous uninterrupted cable service. At the City's request, Franchisee shall operate its system for a temporary period (the "transition period") following the termination of its franchise or any transfer, as necessary to maintain service to subscribers, and shall cooperate with the City to assure an orderly transition from it to another entity. The transition period shall be no longer than the reasonable period required to select another entity and to build a replacement system, and shall not be longer than thirty-six months, unless extended by the City for good cause. During the transition period, Franchisee will continue to be obligated to comply with the terms and conditions of this Franchise Agreement and applicable laws.

5.3.3 The City shall be entitled to, at its option, operate the cable system or designate another entity to operate the system or revoke the franchise, if:

5.3.3.1 Franchisee, for any twenty-four hour period, willfully and without cause, refuses to provide cable service in accordance with this Franchise Agreement over a substantial portion of the City;

5.3.3.2 Franchisee abandons its system.

5.3.4 Nothing in this Section 5.3 shall be read to limit any rights the City may have to purchase the cable system.

5.4 *Rights Upon Franchise Termination or Revocation.* If the City revokes the franchise, or the franchise otherwise terminates, the City shall have the following rights, in addition to the rights specified in this Franchise Agreement or under applicable law:

5.4.1 The City may require Franchisee to remove its facilities and equipment at Franchisee's expense. If Franchisee fails to do so within a reasonable period of time, the City may have the removal done at Franchisee's expense, subject to any right of abandonment that may be provided for under applicable law.

5.4.2 In the event of a lawful non-renewal of the franchise, if the City acquires ownership of the cable system or effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at fair market value, with no value assigned to the franchise itself. In the event of a lawful revocation, if the City acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be at an equitable price. The terms “equitable price” and “fair market value” shall be interpreted in accordance with 47 U.S.C. §547.

5.5 *Notice of Use.* At least annually Franchisee will notify the City of any agreements for third parties to use of its poles and conduits. Copies of agreements for use of Franchisee’s conduits or poles in public rights of way will be made available for review upon the City’s request subject to any confidentiality restrictions in such agreements.

5.6 *Contractors and Subcontractors* Franchisee shall be responsible for the acts and omissions of all of its contractors and subcontractors as if the work were performed by Franchisee itself, and shall ensure that all work is performed in compliance with and shall correct such acts or omissions that violate this Franchise Agreement, or any ordinance, law and regulation of the City, and shall be jointly and severally liable for all damages and correcting all damages by them as if Franchisee performed that work itself. Franchisee shall ensure that each contractor and subcontractor complies with the requirements of this Franchise Agreement and any ordinance and regulation of the City in the course of constructing, operating, maintaining and repairing the cable system. This Section is not meant to alter the tort liability, if any, of Franchisee to third parties, or of any contractor or subcontractor to third parties or to Franchisee. Franchisee shall ensure that any contractor or subcontractor used for work on construction, operation, or repair of the cable system is properly licensed under laws of the State of Colorado and all applicable City ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as Franchisee would have under this Franchise Agreement and applicable law if the work were performed by Franchisee. Franchisee shall institute procedures adequate to ensure that the work performed by its contractors and subcontractors complies with the requirements of this Franchise Agreement and any applicable laws.

6. System Facilities, Equipment, and Services

6.1 System Capabilities.

6.1.1 Franchisee shall maintain an activated two-way capable cable system so that all active components on the subscriber network have a rating of no less than 860 MHz and all passive components have a rating of no less than 1 GHz.

6.1.2 Franchisee will maintain a fiber to the node architecture, with an average node size of no greater than 1,500 subscribers per node. Franchisee reserves the right to change node size in accordance with industry standards.

6.1.3 The entire cable system must be two-way activated and must include the facilities and equipment (except customer premises equipment) required to provide broadband interactive cable services.

6.1.4 Franchisee shall maintain a redundant fiber optic link or equivalent technology between the Denver headend and the Boulder secondary hubsite in order to prevent catastrophic service outages to the entire Boulder franchise area due to vandalism, storm damage, construction related breaks, or other interruptions in one of the fiber trunk pathways. If equivalent technology is used, the link must have all the characteristics, including without limitation the reliability, scalability, upgradeability, ease of upgradeability and scalability, capacity and security that would be afforded by a dedicated fiber optic link.

6.1.5 There must be reliable, continuous, auto-start back-up power at the headend. Back-up power shall also be provided at each node as activated through the use of backup power supplies that are suitably sized and located so as to carry their individual loads for a minimum of three hours. In addition, to the extent technically possible, cable system active components shall be designed to parallel the power company grid such that a loss of power at a particular active component would likely be accompanied by a loss of power to the majority of homes served by that component of the cable system.

6.1.6 The cable system must include the facilities and equipment required to provide full system status monitoring of power supplies at the nodes as activated. The status monitoring equipment must, at a minimum, permit Franchisee to identify where and when power outages affecting the node have occurred, and when and where the cable system has switched to battery back-up power supplies.

6.1.7 Franchisee must install and maintain facilities and equipment (including without limitation modulators, antennae, amplifiers and other electronics) that permit and are capable of passing through the signals received at the headend without substantial alteration or deterioration (thus, for example, the system shall include components such that a signal received at the headend in color may be received by a subscriber in color, and a stereo signal in stereo). Facilities and equipment shall be installed and operated so that subscribers can receive closed-captioning and secondary audio. Any program-related data encoded in vertical or horizontal blanking intervals, secondary audio signals, and closed-captioned signals must be available to all customers who subscribe to the services associated with such signals.

6.1.8 Franchisee shall comply with all applicable laws concerning system compatibility with subscribers' consumer electronics equipment. Franchisee shall provide the facilities and equipment necessary to make its services (including its customer services) reasonably accessible to persons with disabilities. For example, Franchisee should employ TTY or similar technologies to permit communication between the hearing-impaired community and cable system representatives

6.1.9 The system facilities and equipment must be capable of continuous twenty-four hour daily operation, without severe material degradation of signal, except during extremely inclement weather, or immediately following extraordinary storms which adversely affect utility services or which damage major cable system components

6.1.10 The cable system must utilize facilities and equipment generally used in high-quality, reliable, systems of similar design (except where inconsistent with the specific requirements of this Franchise Agreement). The cable system must have the level of reliability required to support a high-quality, broadband information service

6.1.11 Franchisee shall provide as-built maps of the cable system, without notation of electronic components, in a publicly available electronic format compatible with City geographic information systems and other City data systems. The City shall assert protection of confidential commercial data from disclosure under the Colorado Public Records Act, Section 24-72-204, C.R.S.

6.2 *Transmission Technologies.* Franchisee may use any transmission technology (as that term is defined in federal law), provided that the cable system is constructed and maintained so that it will have characteristics that in all relevant respects meet or exceed the characteristics of the cable system described in Section 6.1. Franchisee affirms that it has constructed a cable system that meets or exceeds all the requirements of Section 6.1. If City determines that Franchisee has not constructed the cable system as required by Section 6.1 or has failed to maintain the cable system as required by Section 6.1, and the City determines that the cable system does not or is not likely to satisfy Section 6.1, the City may declare a breach of the franchise, and, in addition to exercising any other remedy available to it, order Franchisee to upgrade the cable system by a time specified by the City, and require such securities as are necessary to ensure the work is timely performed, unless the City determines that the cable system as actually constructed meets or exceeds the following characteristics: (a) the cable system must be highly reliable compared to the most modern cable systems being constructed; (b) the cable system must have adequate, initial activated capacity and be designed so that it can deliver additional bandwidth to and from each subscriber, without substantial delay or construction; (c) the cable system must be able to respond to changing subscriber needs and interests with the minimum delay or disruption, (d) the cable system must be designed so that power outages affect, to the extent possible, only those subscribers who are not receiving power at their home, and (e) the cable system must be designed so that the amount of required maintenance, and

the mean time to repair, is minimized.

6.3 *Emergency Alert System.* Within six months of City's written request, at City's cost, Franchisee must install and maintain an emergency alert system that can override audio and video on all channels to provide an emergency alert that reaches only the City of Boulder, while continuing to allow participation in regional and national emergency alert systems. If such a system is installed at the request of the City, the City agrees that it shall assume all risks associated with operating its EAS and shall be solely responsible for all liability arising out of operating the Boulder-specific EAS. The City will operate the Boulder specific EAS in accordance with all applicable state and federal law. The system must be designed and maintained so that local officials designated by the City can activate the system remotely without the assistance of Franchisee, using a telephone and secure password or by such other technical means as the City may approve. The system must be designed and maintained so that the designated officials, from a touch-tone telephone, can activate a pre-recorded text message, and at such officials' option, an accompanying live audio voice message for up to two minutes. The City and Franchisee shall meet periodically to discuss operational procedures for use of the emergency alert system. As part of those discussions, the parties may agree on alternative capabilities and activation procedures for the emergency alert system. In addition, Franchisee shall provide emergency capabilities required under other applicable laws.

6.4 *Parental Controls.* In addition to satisfying any obligations that it has under applicable law to provide parental control devices, or otherwise block programming on the cable system, Franchisee shall ensure that any system for ordering movies or other pay-per-view programming is designed, through use of systems such as PIN number systems, to prevent children from ordering programming without parental consent. Franchisee shall avoid the use of channels 3 and 4 for analog preview channels that advertise adult programming.

6.5 *Support Equipment and Facilities.*

6.5.1 Franchisee must have sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and the trained and skilled personnel required so that Franchisee complies with each and every requirement of applicable law, including applicable customer service requirements, technical standards, maintenance standards and requirements for responding to system outages. This includes the facilities, equipment and staff required to (a) properly test the system and conduct an ongoing and active program of preventive maintenance and quality control; and (b) be able to quickly respond to customer complaints and resolve system problems.

6.5.2 Franchisee must install and maintain equipment necessary to measure its performance with applicable customer services standards that the City may adopt from time to time; except that Franchisee may obtain relief temporarily from this requirement if it shows that

(a) it has a high level of subscriber satisfaction; (b) there are alternative, adequate ways to review its performance; or (c) for other good cause shown.

6.5.3 Franchisee must ensure that its headend has adequate space, and is otherwise properly designed in order to accommodate the equipment and facilities necessary to meet its obligations under this Franchise Agreement.

6.6 *Technical Standards.* The cable system must meet or exceed the technical standards set forth in 47 C.F.R. §76.601 and any other applicable standards, as amended from time to time, provided that nothing in this provision is intended to permit the City to exercise any authority that it is prohibited from exercising under applicable federal law

6.7 *Future Upgrades* It is Franchisee's responsibility to make such improvements to its cable system as are necessary so that the cable system performs as promised as subscribers to services are added.

6.8 *Testing Requirements.*

6.8.1 Franchisee shall perform acceptance tests on each upgraded and newly constructed area prior to subscriber connection. The tests must demonstrate that the system components are operating as expected and that there is no signal degradation on PEG channels from origination points to subscribers. Franchisee shall have the obligation, without further notice from City, to take corrective action if any segment is not operating as expected

6.8.2 Franchisee conducts the semi-annual performance testing required by the FCC in January/February and July/August of each year. If the City gives notice to Franchisee by December 15 prior to the winter test period or by June 15 prior to the summer test period, the City may observe Franchisee's Proof-of-Performance test required by the FCC. Franchisee shall provide the proof of performance test results promptly to the City upon request.

6.9 *Inspection* The City shall have the right to inspect the cable system during and after its construction to ensure compliance with the cable ordinance, this Franchise Agreement, and applicable law, and may require Franchisee to perform additional tests based on the City's investigation of cable system performance or on subscriber complaints.

6.10 *Interconnection.*

6.10.1 Franchisee shall, in accordance with this subsection, interconnect the access channels of the cable system with any other contiguous cable system upon the directive of the City. Interconnection of channels may be done by direct cable connection, microwave link, satellite or other appropriate methods. The City shall not direct interconnection except under circumstances where it can

be accomplished without undue burden or excessive costs to the subscribers. Franchisee shall not be required to interconnect with a cable system unless the operator of that system is willing to do so and pays for its own cost of constructing and maintaining the interconnect up to the demarcation point. Franchisee shall continue the interconnections with systems serving Boulder County as of the effective date of this Franchise Agreement.

6.10.2 Franchisee shall only be required to interconnect access channels with another cable or open video system in the City in the event that the City determines in its sole discretion that it would be economically burdensome to its subscribers to construct and maintain return lines directly from the origination point(s) of the access channel(s) versus interconnecting with Franchisee. In the event Franchisee receives a directive from the City to interconnect with another cable or open video system in the City, Franchisee shall immediately initiate negotiations with the other affected cable or open video system or systems and shall report to the City the results of such negotiations no later than sixty days after such initiation. The receiving cable or open video system shall be responsible for Franchisee's costs in constructing and maintaining the interconnect. If the parties cannot reach agreement on the terms of the interconnect, including compensation and timing, the dispute shall be submitted to the City for determination and resolution. Additionally, Franchisee shall only be required to interconnect with a receiving cable or open video system if the receiving cable or open video system is providing similar support for access as required of Franchisee pursuant to this Franchise Agreement. This obligation shall continue until the City determines that it is no longer economically burdensome to its subscribers for other affected cable system or systems to construct and maintain lines directly from the origination link of the access channels.

6.11 *Free Cable Service to Certain Facilities.* Franchisee shall, at no cost to the City, continue to provide one outlet of Basic Service and Expanded Basic Service to all City owned and occupied buildings, and public libraries where such service is provided as of the effective date of this Franchise Agreement, as shown on Exhibit A. In addition, Franchisee shall provide, at no cost to the City or other entity, one outlet of Basic and Expanded Basic Service to owned or leased and occupied City buildings, schools and libraries not included on Exhibit A, upon request if the drop line from the feeder cable to such building does not exceed a standard drop, or if the City or other entity agrees to pay the incremental cost of such drop line in excess of a standard drop. For purposes of the previous sentence, "school" means all State-accredited K-12 public and private schools. Outlets of Basic and Expanded Basic Service provided in accordance with this subsection may be used to distribute cable services throughout such buildings; provided such distribution can be accomplished without causing cable system disruption and signal leakage and general technical standards are maintained. Such outlets may only be used for lawful purposes. Except as shown on Exhibit A, this obligation to provide free cable service shall not extend to public areas of City buildings where Franchisee would normally enter into a commercial contract to provide such cable service (e.g., golf courses, airport restaurants and concourses, and recreation center work-out facilities).

6 12 *Provision of Broad Categories of Services.* This paragraph shall be interpreted consistent with the limitations set forth in 47 U.S.C. §544(b)(2)(B). In addition to such other service requirements as may be contained in this agreement, Franchisee agrees to provide at least twelve locally-available FM radio stations, or if lower, the number of locally available FM radio stations from which Franchisee can obtain retransmission consent at no cost (the term costs refers to a payment made to an FM station for the right to carry the station's signal, and does not include copyright payments that may be required). The availability of FM radio service on the cable system shall be publicized, and the channel line-up of such FM stations shall be included in all channel lineup publications.

6 13 *Uses of System.* Upon request, Franchisee shall advise the City of all active uses of the system, for both entertainment and other purposes, such as data transmission, local area networks, and voice transmission. Nothing in this Section 6 shall be construed to convey any regulatory power to the City. If Franchisee believes that City is exceeding its franchise authority with such a request, Franchisee may seek appropriate redress.

7. Channels and Facilities for PEG Use

7 1 PEG Use

7 1 1 Franchisee shall activate and make available public, educational and governmental ("PEG") channels to each subscriber on the subscriber network as specified in this Section 7. The channels provided under this Section are subject to Franchisee's rights to use the channels for the provision of services when they are not being used for their intended purposes

7 1 2 The management of the PEG channels is the responsibility of the City. The City may designate an entity or entities to manage all or any part of the PEG channels (The entity or entities so designated are referred to as a "designated access provider"). The City may designate designated access providers; it may designate channels provided under this Franchise Agreement for public, educational, government or combined PEG use. Nothing herein shall prevent a designated access provider from allowing PEG capacity designated for a particular PEG use to be used for other PEG uses.

7 1.3 PEG channels shall be provided on the basic service tier (except as the City and Franchisee may otherwise agree), or if there is no basic service tier, as part of the service provided to any subscriber. If channel choices are selected by a menu, PEG channels must be displayed equally as prominently as commercial channel choices offered by Franchisee. It is the responsibility of the designated access providers to provide the necessary channel information to Franchisee or its designated menu programmer in a timely manner. If it is technically feasible, at City's cost, Franchisee will also allow PEG program information to be displayed on any menu

listings offered by Franchisee that include such detail of commercial channels, provided that Franchisee directly controls such menu listings or can cause such listings to be included. In such event, it will be the responsibility of the designated access providers to provide the program information to Franchisee or its designated menu programmer in a timely manner.

7 1 4 It is the responsibility of Franchisee to transmit PEG signals from points designated by the City, and to deliver them without alteration in content or material degradation in quality to each subscriber, in a form and manner so that the subscriber may receive the signals without additional equipment or cost beyond that required to receive the level of cable services to which the subscriber has subscribed.

7 1 5 Except as expressly permitted by applicable law, Franchisee shall not exercise any editorial control over the content of communications on the designated PEG channels (except for such communications as Franchisee may produce and cablecast on such channels). Subject to all other limitations of this Franchise Agreement, the PEG channels may be used for any communication, in any form, the full signal provided must be carried

7 1 6 PEG channels may not be used to cablecast anything prohibited by federal law. PEG channels may not be used to cablecast commercial matter. "Commercial matter" means time sold or used to propose a commercial transaction or for the express purpose of selling a commercial product or service. Nothing in this Section prevents the levy of a fee to defray costs of the City or a designated access entity associated with the operation, activation or maintenance of PEG channels, facilities and equipment. By way of example and not limitation, the parties do not intend to limit sponsorship announcements comparable to those that might be carried on a non-commercial broadcast station, or to prevent schools from charging course fees, and then delivering the course via the PEG channels; or to solicit financial support for the provision of PEG access by designated access providers and for charitable, educational or governmental purposes. The City agrees that it will not use or authorize use of its designated educational and governmental access channels for any for-profit, commercial purposes by the City or third parties. Franchisee shall have the right to audit the use of such facilities to ensure compliance with this paragraph, which shall be reasonably construed in accordance with Franchisee's practices in other Denver-area jurisdictions. Use by City enterprise funds and agencies is not "for profit" or "commercial" solely because the enterprise or agency has more revenues than expenses, or because the activity in which it is engaged is provided on a for-profit basis by private entities in other communities or the City. Nothing prevents the City from authorizing charges to users or viewers to pay for such non-commercial services, such as fees for instructional programming or charges to recover the cost of special use equipment, or as the City may be required to charge under applicable law.

7 1 7 *Access Channels.*

7.1.7.1 Subject to the provisions of Sections 7.1.9.2 – 7.1.9.9, on and after the effective date of this Franchise Agreement, Franchisee shall provide four downstream 6 MHz PEG channels: one public access channel, one educational access channel and two local government access channels. The City may require Franchisee to activate an additional 6 MHz channel for PEG use, up to a total maximum of five channels under the procedures specified below.

7.1.7.2 If a designated access provider believes that additional PEG channels are needed, the designated access provider may file a request with the City Manager. The City Manager will determine whether additional PEG channels should be activated, considering, among other factors, the following: the community's needs and interests, the utilization of the existing channels, the plans of designated access providers for utilizing the additional channels, the interest of the community in additional PEG use of the cable system, whether it is feasible for designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, whether several designated access providers should combine their programming onto a single access channel, and the impact of the activation of the additional channels on existing programming.

7.1.7.3 Should the City Manager in his or her sole discretion find that activation of additional channels is justified, then the City Manager shall provide his/her decision in writing, and Franchisee shall activate the channels within ninety days of receiving the decision. Franchisee may appeal the decision of the City Manager to the City Council within thirty days of the date of the City Manager's decision, and if it does so, may delay activation of the channels. The City Council, after reviewing the decision of the City Manager, and after a public hearing, may in its discretion approve, modify or reject the decision of the City Manager in its sole discretion. If the City Council orders Franchisee to activate additional channels, the channels shall be activated within sixty days of the date the City Council makes its decision. The decision shall be final and unappealable.

7.1.7.4 Franchisee and the City agree that it is their mutual goal to effectively and efficiently use PEG channels. Franchisee shall be permitted to use underutilized time on PEG channels, as provided below.

7.1.7.5 If Franchisee believes that any PEG channel has underutilized time, it may file a request with the City Manager to use that time. In response to the request, the City Manager will consider a combination of factors, including without limitation the community's needs and interests, the utilization of the existing channels, the plans of the designated access provider for utilizing the channels (including whether the underutilized capacity is being used for intermittent programming that could otherwise not be easily provided on the same basis), if the channels are being underutilized, the reasons for underutilization, whether it is feasible for the designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, whether

several designated access providers should combine their programming onto a single access channel, and whether Franchisee is in full compliance with its PEG obligations.

7.1.7.6 The City Manager shall render a decision regarding the request for utilization within sixty days of receiving the request. Should the City Manager find, in his or her sole discretion, that a PEG channel or a portion of a PEG channel may be used by Franchisee, then Franchisee may begin using such time ninety days after receipt of the decision. Franchisee's request shall not be unreasonably denied. Any permission granted pursuant to this subsection for use of a PEG channel or a portion thereof shall be considered temporary.

7.1.7.7 At such time as a designated access provider believes that it wishes to utilize the PEG channel time currently used by Franchisee pursuant to this subsection, a designated access provider may request that the City Manager return such channel or portion of the channel for PEG use. In response to the request, the City Manager will consider a combination of factors, including without limitation the community's needs and interests, the utilization of the existing channels, the plans of the designated access provider for utilizing the channels, the impact of Franchisee use on PEG use of the cable system, whether it is feasible for the designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, and whether several designated access providers should combine their programming onto a single access channel.

7.1.7.8 The City Manager shall render his/her decision regarding the matter within sixty days of receiving the request. Should the City Manager find in his or her sole discretion that the PEG channel or portion of the PEG channel should be returned for PEG use, then Franchisee shall surrender the channel or portion of the channel, as directed, within ninety days of receiving the decision. The designated access provider's request shall not be unreasonably denied.

7.1.7.9 The decision of the City Manager shall be final and unappealable as to both Franchisee and designated access providers. Franchisee may not request a return of a channel, or any portion of a channel within two years of the initial activation of the PEG channels required by Section 7. The City Manager may deny Franchisee the right to utilize all or a portion of a PEG channel, or revoke on thirty days notice an authorization to utilize all or a portion of a PEG channel if Franchisee is not in full compliance with its PEG obligations.

7.1.7.10 In addition to the maximum five channels required above, (a) if Franchisee does not carry C-SPAN as part of its commercial service, and C-SPAN is available for carriage, Franchisee will provide an additional PEG channel for the carriage of C-SPAN. If technically feasible, Franchisee will downlink and insert C-SPAN on the appropriate PEG channel; (b) if Franchisee does not carry C-SPAN2 as part of its commercial service, and C-SPAN2 is available for carriage, Franchisee will provide an additional PEG channel for the carriage of C-SPAN2. If technically feasible, Franchisee will downlink and insert C-SPAN2 on the appropriate

PEG channel, and (c) if Franchisee does not carry the Radio Reading Service of the Rockies as part of its commercial service, and it is available for carriage, Franchisee will provide an FM band PEG channel for carriage of the service. Any additional PEG channels provided under this Section 7.1 7.10 (a) or (b) will be offered on the Basic or Expanded Basic Service tier.

7.1 7.11 Franchisee and the City will cooperate to help promote the use and viewership of the PEG channels. Consistent with this cooperative approach, except where required by federal law, Franchisee shall not change PEG channel locations without advance notice to the City. Franchisee will also cooperate with other cable systems and open video systems in the City to attempt to develop uniform channel locations for the PEG channels. If Franchisee determines that a change to a PEG channel assignment is necessary, it shall provide the City with a minimum of sixty days notice, and use its best efforts to provide 120 days notice, prior to the time that public, educational, and governmental access channel designations are changed. Franchisee shall pay all costs associated with replacing or adjusting equipment, as necessary for the channel redesignation. In addition, Franchisee shall pay the reasonable cost of replacing materials and supplies, changing signs and remarketing the channels up to a maximum of fifty cents (\$0.50) per subscriber per channel changed. Any such amounts paid by Franchisee may be added, at Franchisee's discretion and in accordance with the applicable FCC regulations, to the price of cable services and collected from such subscribers as "external costs" as such term is required by applicable law. Franchisee, at Franchisee's expense, shall place the City's notices of the channel change on its regular monthly billings, upon the City's request.

7.2 *Return Lines for PEG Use.*

7.2.1 Franchisee shall maintain the activated upstream links set forth in Exhibit B. Franchisee agrees that it will provide and maintain activated capacity to enable transmission of a second PEG channel from each of the PEG facilities located at 1000 Canyon Blvd and 2590 Walnut

7.2.2 The City or any designated access provider may upgrade the connections at its cost. The City shall provide Franchisee of its intent to upgrade its connections in writing. Franchisee shall provide reasonable access to and space at its facilities to accommodate the PEG return line upgrade. The City may use the PEG capital funds provided in this Franchise Agreement for any such upgrade costs. Franchisee shall upgrade such requested connections in a timely manner

7.2.3 If the headend is moved or replaced, Franchisee shall transfer the link(s) to the new location (including, without limitation, moving terminal equipment and splicing fiber, as necessary)

7.2.4 The City may request that Franchisee construct new return lines for PEG use. Such return lines shall be constructed at the City's cost, however, the City may use the PEG capital

funds provided in this Franchise Agreement for any such costs. Franchisee shall construct such requested return lines in a timely manner.

7.3 *Support for PEG Access.*

7.3.1 Franchisee shall continue to collect and remit the current \$ 0.50 (50 cents) per month per residential and commercial subscriber until a new rate is made effective as set forth below. Following City Council decision, made by motion, Franchisee shall provide the City with up to \$0.75 (75 cents) per month per residential and commercial subscriber for PEG use, capital facilities and equipment support. Any change in the amount of this support will become effective sixty days after Franchisee receives written notice of the City's Council decision. Additional increases may be required by ordinance (including a mandatory public hearing) no sooner than 42 months after the effective date of this Franchise Agreement, to an amount over \$0.75 (75 cents), but in no event will the amount exceed a total of \$1.00 (one dollar) per residential and commercial subscriber per month and such amount must be applicable to all franchised cable operators in the City. Any change in the amount of this support will become effective sixty days after Franchisee receives written notice of the City Council's decision. No fees shall be charged on gratis accounts. The City shall be solely responsible for all liability to any third party arising out of the City's use of PEG use capital funds that will be collected and paid to the City in accordance with this Section. Any payment under this Section shall be due on a quarterly basis, payable concurrently with franchise fees for such quarter.

7.4 *Miscellaneous PEG Requirements*

7.4.1 Upon reasonable advance notice, but no more often than once per calendar year, Franchisee will provide the City with an insert space in subscribers' cable bills to promote PEG programming. Franchisee shall provide the City with the printing specifications for the inserts. The City shall be responsible for the content and printing costs of the insert, and for the cost of shipping the printed inserts to Franchisee's billing agent. The City shall only pay incremental mailing costs if the City's insert results in an increase to the standard mailing costs normally incurred by Franchisee in sending its subscriber billing statements. In addition, Franchisee shall use reasonable efforts to accommodate PEG promotional spots received from the City on a reasonable basis in Franchisee's cross-channel ad avails, up to a maximum of 100 30-60 spots per year. Any such ad avails provided for PEG promotional spots shall be at no cost to the City or its designated access providers.

7.4.2 If Franchisee makes changes to its cable system that necessitate modifications to PEG facilities and equipment (including without limitation the upstream paths), Franchisee shall provide any additional facilities or equipment necessary to implement such modifications within thirty days of the date that the system changes are made, so that PEG facilities and equipment may be used and operated as intended, including, among other things, so that live and taped communications can be produced and cablecast efficiently to subscribers. By way of example, and

not limitation, should Franchisee cease delivery of all signals in an analog format to subscribers, it will provide the facilities and equipment necessary so that PEG signals can be delivered in a digital format

7.4.3 Any downstream and upstream PEG Channels provided pursuant to this Section may be further subdivided, compressed or decompressed at the sole discretion and sole expense of a designated access provider. As a condition of Franchisee's allowing such use, the designated access provider must fully cooperate with Franchisee in order not to cause any perceptible adverse effect on the performance of Franchisee's cable system, and shall take no action causing Franchisee to be unable to satisfy the performance requirements specified by this Franchise Agreement.

7.4.4 Except as otherwise provided in this Franchise Agreement, the channels provided for PEG use (except as expressly provided with respect to the I-net) shall be at Franchisee's cost

7.5 *Costs Not Franchise Fees* The parties agree that any cost to Franchisee associated with providing any support for PEG use required under this Franchise Agreement (including the provision of the I-Net) and payments made outside this Franchise Agreement for PEG and I-Net support, if any, are not a franchise fee within the meaning of 47 U.S.C. §542 and fall within one or more of the exceptions listed in 47 U.S.C. § 542(g)(2)

8. Institutional Network

8.1 *Institutional Network* Franchisee agrees that it will construct an institutional network ("I-net") in accordance with the Cable Act, as requested by the City, at its actual incremental construction costs. Additionally, the parties may reach an agreement as to Franchisee's maintenance of the City's I-net. The parties agree that the City may use PEG capital funds provided pursuant to Section 7.3.1 to pay Franchisee for I-net capital costs directly related to an I-net built by Franchisee. PEG capital funds collected and paid to the City pursuant to Section 7.3.1 may be used to construct the I-net only if Franchisee constructs the I-net.

9. Operation and Reporting Provisions

9.1 *Open Books and Records.* Without limiting its obligations under Section 2, Franchisee agrees that it will collect and make available books and records for inspection and copying by the City in accordance with the cable ordinance as it existed as of the effective date of this Franchise Agreement. Franchisee shall be responsible for collecting the information and producing it.

9.2 *Time for Production.* Books and records shall be produced to the City at the Boulder Municipal Building, or such other location as the parties may agree. If Franchisee objects to a request for books and records, it must nonetheless produce the books and records requested, unless the City agrees that they need not be produced, or a court of competent jurisdiction rules otherwise. Notwithstanding any provision of the cable ordinance, if documents are too voluminous or for security reasons cannot be produced at the Boulder Municipal Building or mutually agreeable location within the City, then Franchisee may produce the material at another central location, provided it also agrees to pay the additional reasonable travel costs incurred by the City to access the materials. The parties agree that any amounts paid are not a franchise fee within the meaning of 47 U.S.C. § 542 and fall within one of the exceptions thereto.

9.3 *Reports Required.* Franchisee shall file the reports that it is required to provide under the cable ordinance as of the effective date of this Franchise Agreement.

9.4 *Records Maintained.* Franchisee shall maintain the records required by the cable ordinance as of the effective date of this Franchise Agreement. Franchisee shall maintain records, required by the cable ordinance; required to prepare all reports required under the cable ordinance; and sufficient to demonstrate whether or not Franchisee has complied with its obligations under this Franchise Agreement or applicable law. Records shall be kept for at least three years.

9.5 *Relation to Privacy Rights.* Franchisee shall take all steps required, if any, to ensure that it is able to provide the City all information which must be provided or may be requested under this Franchise Agreement, including without limitation by providing appropriate subscriber privacy notices. Nothing in this Section 9.5 shall be read to require Franchisee to violate 47 U.S.C. § 551. Franchisee shall be responsible for redacting any data that federal law prevents it from providing to the City.

10. Customer Service Standards

10.1 *Standards.* Franchisee shall meet or exceed the customer service standards of the cable ordinance and applicable law. In the event of a conflict among standards, the stricter standard shall apply.

10.2 *Ascertainment of Programming and Customer Satisfaction.* Upon the request of the City, but no more often than every two years, Franchisee shall, at the sole expense of Franchisee, undertake a survey of community views of cable operations in the City including without limitation programming, response to community needs, satisfaction and dissatisfaction with cable services offered by Franchisee, and customer service. Franchisee shall consult and cooperate with the City in developing and implementing an ascertainment methodology. The final form and content of the survey shall be as mutually agreed upon by Franchisee and the City. Franchisee shall provide the results of such survey to the City within two months after completing the survey. Upon request,

Franchisee shall also provide a copy of results from any other survey of subscribers in the City conducted independently by Franchisee within the previous year. Any survey results conducted within the City which are intended for external publication shall also be provided to the City. Nothing herein shall be construed to limit the right of the City to conduct its own surveys at its own expense. Nothing in this Section shall be construed as requiring the renegotiation of this Franchise Agreement. Any such survey conducted may include subscribers from other communities in addition to the City, provided that the City's results are displayed separately.

11. Rate Regulation

The City may regulate Franchisee's rates and charges as provided by applicable law. All rates that are subject to regulation by the City must be reasonable and, except as applicable law provides otherwise, can only be changed with the prior approval of the City

12. Insurance; Surety; Indemnification

12.1 *Insurance Required.* Franchisee agrees to maintain adequate insurance throughout the entire length of the franchise period as required by the cable ordinance as of the effective date of this Franchise Agreement

12.2 Indemnification.

12.2.1 Franchisee shall, at its sole cost and expense, except for the City's liability as described in Section 6.3, indemnify, hold harmless, and faithfully defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system by Franchisee, its employees, affiliates or agents, copyright infringements or a failure by Franchisee to secure consents from the owners, authorized distributors, or Franchisees of programs to be delivered by the cable system, the conduct of Franchisee's business in the City; or in any way arising out of Franchisee's enjoyment or exercise of the franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by applicable law or this Franchise Agreement, except in cases where liability is: (a) solely caused by the gross negligence of the person or persons covered by the indemnity, or (b) results from programming contributed or produced by the City and transmitted over the cable system.

12.2.2 Without limiting the foregoing, Franchisee shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the City, and its officers, agents, and employees from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to Section 638 of the Cable Act, 47 U.S.C. § 558, arising out of or alleged to arise out of the construction, operation, maintenance or repair of its system by Franchisee, its employees, affiliates

or agents, including without limitation any claim against Franchisee for invasion of the right of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation. This indemnity does not apply to intervention by the City in regulatory proceedings brought by Franchisee or to the programming carried on any channel set aside for public, educational, or government use, or channels leased pursuant to 47 U.S.C. § 532, unless Franchisee was in any respect engaged in determining the editorial content of the program, or adopts a policy of pre-screening programming for the purported purpose of banning or regulating indecent or obscene programming, and except for programming contributed or produced by Franchisee

12.2.3 The indemnity provision includes, but is not limited to, the City's reasonable attorneys' fees consented to by Franchisee and payment for any labor and expenses of the city attorney's office at the going rate for legal services in Boulder County. Such consent shall not be unreasonably withheld

12.3 *No Limit of Liability.* The provisions of this Section 12 shall not be construed to limit the liability of Franchisee for damages

13. Performance Guarantees and Remedies

13.1 Letter of Credit.

13.1.1 In satisfaction of the security fund requirements of the cable ordinance, Paragraph 11-6-13(a)(1), B.R.C. 1981, as the same existed on the effective date of this Franchise Agreement, Franchisee shall provide a letter of credit in the amount of \$100,000 prior to the effective date of this Franchise, and shall maintain that letter of credit throughout the franchise term. The letter of credit shall be in a form satisfactory to the City Attorney, (including without limitation specification of venue in Boulder), and with a financial institution satisfactory to the City. The City may require Franchisee to increase the amount of the letter of credit once every three years to reflect increases in the U.S. City Average of the Consumer Price Index. The letter of credit set forth in the Greater Metro Telecommunications Consortium franchise may be used to satisfy this requirement, as long as the Consortium agrees to procedures acceptable to the City for draws on such letter of credit. The City may draw upon the letter of credit for the reasons and after providing the notice specified in the cable ordinance as it existed as of the effective date of this Franchise Agreement. Franchisee's recourse, in the event Franchisee believes any taking of security funds is improper, will be through legal action after the security has been drawn upon, pursuant to the provisions of Section 13.1.3

13.1.2 Franchisee shall provide proof that the letter of credit complies with this Franchise Agreement and with all requirements of the cable ordinance

13 1.3 Franchisee agrees that it shall not attempt, through litigation or otherwise, to prevent or inhibit the City from drawing on the letter of credit. Franchisee shall have the right to appeal to the Boulder City Council for reimbursement in the event that it believes that the letter of credit was drawn upon improperly. Franchisee shall also have the right of a de novo court appeal if it believes the letter of credit has not been properly drawn in accordance with this Franchise Agreement. Any funds that the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Franchisee with interest from the date of withdrawal at a rate equal to the prime rate of interest as quoted by the Bank of New York within thirty business days of a final determination that the withdrawal was in error or wrongful.

13 2 *Material Term.* The letter of credit is a material term of this Franchise Agreement.

13.3 *Remedies.* In addition to any other remedies available at law or equity, the City may apply any one of the following remedies in the event Franchisee violates this Franchise Agreement or applicable law.

13 3.1 Revoke the franchise pursuant to the procedures specified in Section 13.5. Provided that, any amendments to the cable ordinance or the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the cable ordinance and quasi-judicial procedures as the same existed on the effective date of this Franchise Agreement.

13.3.2 In addition to or instead of any other remedy, seek legal or equitable relief from any court of competent jurisdiction.

13.3.3 Obtain liquidated damages as provided herein.

13.4 *Liquidated Damages.* Because Franchisee's failure to comply with provisions of this Franchise Agreement will result in injury to the City, and because it will be difficult to estimate the extent of such injury, the City and Franchisee agree to the following liquidated damages for the following violations, which represent both parties' best estimate of the damages to the City resulting from the specified injury. To maintain that estimate, the parties agree that the liquidated damage amounts are in 2003 dollars as of the effective date of this Franchise Agreement (inflated by the US City Average of the Consumer Price Index), and shall be increased each year by the full amount of the increase in the U.S. City Average of the Consumer Price Index, once inflation from the effective date of this Franchise Agreement has exceeded twenty percent. Thus, treating 2003 as the base year, indexed as 100, the liquidated damages shall be increased in the first year when the index reaches 120, and once every year after that year as each annual increase becomes available.

13 4.1 For transferring the franchise without approval \$1,000/day for each violation for each day the violation continues.

13.4.2 For failure to comply with requirements for public, educational, and governmental use of the System: \$250/day for each violation for each day the violation continues

13.4.3 For violation of customer service standards: \$150 per violation, except for violations of applicable customer service standards for which Franchisee's compliance is not measured in terms of its response to individual customers, \$250 a month for any period during which it fails to meet applicable performance standards

13.4.4 For all other material violations of this Franchise Agreement for which actual damages may not be ascertainable: \$100/day for each violation for each day the violation continues

13.4.5 The City may impose liquidated damages as provided in this Section 13.4.5. Within fifteen days of the date of a notice of violation is sent to Franchisee, Franchisee may request, in writing, a public hearing before the City Council, pursuant to the procedures specified in the cable ordinance. The City may impose liquidated damages, accruing from the date of notice of the violation after the hearing unless it finds that (a) there was no violation; or (b) damages should not be imposed. Any amendments to the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the quasi-judicial procedures as the same existed on the effective date of the Franchise Agreement. Nothing herein prevents Franchisee from raising a defense to the imposition of liquidated damages from the date of violation based upon laches, waiver, statute of limitations, or any other similar defense. Franchisee may appeal any imposition of liquidated damages to a court of competent jurisdiction

13.5 *Procedures Prior to Revoking the Franchise.*

13.5.1 The City shall have the right to revoke the franchise for the reasons specified in the cable ordinance as of the effective date of this Franchise Agreement, and in Section 13.5 of this Franchise Agreement, pursuant to the revocation procedures specified in the cable ordinance. Provided that, any amendments to the cable ordinance must provide the same level of due process as is provided under the procedures provided for under the cable ordinance as the same existed on the effective date of this Franchise Agreement. Prior to initiating a revocation action, the City shall provide Franchisee with a detailed written notice of any franchise violation upon which it proposes to take action, and a sixty day period within which Franchisee may: (a) demonstrate that a violation does not exist or cure an alleged violation, or (b) if the nature of the violation prevents correction of the violation within sixty days, to initiate a reasonable plan of action to correct such violation (including a projected date by which it will be completed) and notify the City of such plan of action, or (c) show that the defect in performance should be excused. However, in any case involving repeated violations, the time period allowed for cure

may be reasonably reduced at the election of the City, and revocation proceedings shall follow the process set forth at Section 11-6-12(d), B.R.C. 1981, as amended.

13.5.2 If Franchisee fails to disprove or correct the violation within sixty days to the City's satisfaction or, in the case of a violation which cannot be corrected in sixty days, if Franchisee has failed to initiate a reasonable plan of corrective action and to correct the violation within a time satisfactory to the City, then the City may declare Franchisee in default, which declaration must be in writing. In the event that the City declares Franchisee in default, the City shall have the right to exercise any other rights and remedies afforded to the City in law or equity.

13.5.3 At any time after fifteen days of sending the written declaration of default to Franchisee, the City may revoke the franchise. However, within fifteen days of the date the declaration is sent to Franchisee, Franchisee may request, in writing, a public hearing before the City Council pursuant to the procedures specified in the cable ordinance. If Franchisee requests the hearing, Franchisee may not be revoked until after the hearing is conducted. The City may revoke after hearing unless it finds that (a) there was no default; or (b) the default has been fully cured, or there is a timetable for cure satisfactory to the City. Provided that, any amendments to the cable ordinance or the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the cable ordinance and quasi-judicial procedures as the same existed on the effective date of this Franchise Agreement. Franchisee shall have the right to appeal the revocation to a court of competent jurisdiction.

13.6 *Revocation or Termination of Franchise* In addition to all other rights of the City under this Franchise Agreement, the City shall have the right to revoke the franchise. For the reasons specified in the cable ordinance as of the effective date of this Franchise Agreement; for a felony conviction for defrauding or attempting to defraud the City or subscribers; if Franchisee abandons the cable system, or, for any 24 hour period, willfully refuses to provide service to the City or any substantial portion of the City in accordance with this Franchise Agreement; and as otherwise provided herein.

13.7 *Remedies Cumulative.* All remedies under the cable ordinance and this Franchise Agreement are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve Franchisee of its obligations to comply with this Franchise Agreement. Remedies may be used singly or in combination; in addition, the City may exercise any rights it has at law or equity at any time. Except that, the City is not entitled to recover damages for the same injury under two separate Sections where doing so would result in a double recovery.

13 8 *Relation to Insurance and Indemnity Requirements.* Recovery by the City of any amounts under insurance, the construction/performance bond, the letter of credit, or otherwise does not limit Franchisee's duty to indemnify the City in any way; nor shall such recovery relieve Franchisee of its obligations under this Franchise Agreement, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have

14. No Evasion

Franchisee shall not take any action to evade any provision of this Franchise Agreement or the cable ordinance. This provision shall be read to prohibit, among other things, Franchisee requiring any subscriber to waive any right (including without limitation privacy rights) as a condition of obtaining service, but this provision shall not be deemed to prohibit reasonable mandatory arbitration clauses as a condition of subscription.

15. Rights of Individuals Protected

No cable, line, wire, amplifier, converter, or other piece of equipment owned or controlled by Franchisee shall be installed by Franchisee inside a dwelling or other occupied structure without first securing the written permission of the owner of the property involved, except in those cases where Franchisee is permitted by federal or state law to install such facilities and equipment inside the structure without permission.

16. Miscellaneous Provisions

16.1 *Compliance With Laws.* Franchisee and the City shall comply with all applicable laws and regulations as they become effective, unless otherwise stated herein.

16.2 *Governing Law.* This Franchise Agreement shall be governed in all respects by the laws of the State of Colorado.

16.3 *Force Majeure.* Franchisee shall not be deemed in default with provisions of this Franchise Agreement where performance was rendered impossible by war, acts of terrorism, or riots, civil disturbances, unforeseeable shortage of materials or qualified labor, withholding of necessary permits and authorizations, strikes, floods, or other natural catastrophes beyond Franchisee's control, and the franchise shall not be revoked or Franchisee penalized for such non-compliance, provided that Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with this Franchise Agreement without unduly endangering the health, safety, and integrity of Franchisee's employees or property, or the health, safety, and integrity of the public, public rights of way, public property, or private property.

16.4 *Notices* Unless otherwise expressly stated herein, notices required under this Franchise Agreement shall be faxed or mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party

16.4.1 Notices to Franchisee shall be mailed to:

Comcast of Colorado IV, LLC
ATTN Local Government Affairs
8000 E. Iliff Ave.
Denver, Colorado 80231

With a copy to.

Comcast of Colorado IV, LLC
Attn. Legal Department
1500 Market Street
Philadelphia, PA 19102

16.4.2 Notices to City shall be mailed to.

City Manager
Post Office Box 791
Boulder, Colorado 80306

16.5 *Calculation of Time.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the completion thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration/time.

16.6 *Time of Essence, Maintenance of Records of Essence.* In determining whether Franchisee has substantially complied with this Franchise Agreement, the parties agree that time is of the essence to this Franchise Agreement. The maintenance of records and provision of reports in accordance with this Franchise Agreement is also of the essence to this Franchise Agreement

16.7 *Captions.* The captions and headings of this Franchise Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Franchise Agreement

16.8 *Entire Franchise Agreement.* This Franchise Agreement represents the entire Franchise Agreement between the parties.

16.9 *Counterparts.* This Franchise Agreement may be executed in counterparts

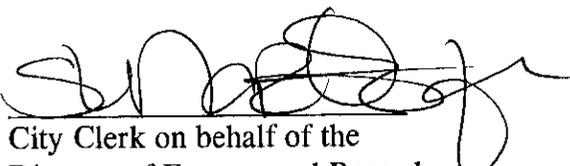
16.10 *Effective Date.* The effective date of this Agreement shall be January 1, 2004.

AGREED TO THIS 11 DAY OF February, 2004.

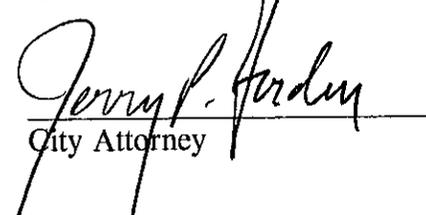
City of Boulder

By: 
City Manager

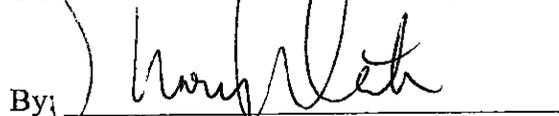
ATTEST:


City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:

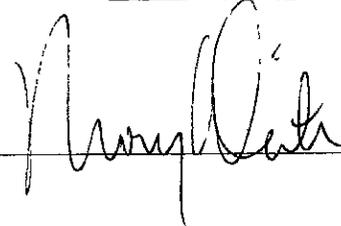

City Attorney

COMCAST OF COLORADO IV, LLC

By: 
Mary White, Senior Vice President

ACCEPTANCE

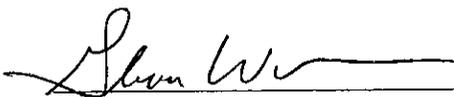
Comcast of Colorado IV, LLC hereby accepts unconditionally and agrees to be bound by all the terms and conditions of this Franchise Agreement, dated this 4th day of February, 2004, as granted by the Boulder City Council.

By: 

STATE OF Colorado)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of February, 2004, by Mary White, SVP

Witness my hand and official seal


Notary Public

My commission expires: 11/31/2007

(seal)

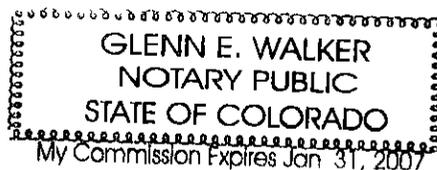


EXHIBIT A

LIST OF LOCATIONS RECEIVING FREE CABLE SERVICE

Offices located at	
Municipal Building	1777 Broadway
Park Central Building	1739 Broadway
New Britain Building	1101 Arapahoe
Atrium Building	1300 Canyon
Main Library Building	1000 Canyon Blvd
Boulder Municipal Courts	6th & Canyon
Public Works Administrative Center	5050 East Pearl
Public Safety Building	1805 33 rd
Spruce Pool and Youth Services Building	2160 Spruce
Parks & Recreation Administrative Offices	3198 Broadway
Parks Maintenance	5200 East Pearl
East Boulder Community Center	660 Sioux
West Senior Center	909 Arapahoe
Carnegie Branch Library	1125 Pine Street
Meadows Branch Library	4800 Baseline
Reynolds Branch Library	3595 Table Mesa Drive
Municipal Channel 8	1000 Canyon Blvd
Dauy Center for the Arts	2590 Walnut St
Fire Station #1	2441 13th St
Fire Station #2	2225 Baseline Rd
Fire Station #3	1585 30th St
Fire Station #4	4100 Dailey
Fire Station #5	4365 19th
Fire Station #6	5145 N 63rd
Fire Station #7	1380 55th
North Boulder Recreation Center	3170 Broadway
South Boulder Recreation Center	1360 Gillespie

EXHIBIT B

RETURN LINES

- 1) 1000 Canyon Blvd to Comcast Boulder headend (33rd & Walnut)
technology fiber, modulator provided and maintained by Comcast
use sole use is upstream transmission of PEG signal
- 2) 1777 Broadway to 1000 Canyon Blvd
technology coax, mod/demod provided and maintained by Comcast
use relay of programming originating in City Council Chambers
- 3) 1805 33rd to Comcast Boulder headend (33rd & Walnut)
technology coax, modulator provided and maintained by Comcast
use x5 year on test basis, designed as back up to main PEG facility
at 1000 Canyon in event of emergency that shuts down main studio
- 4) 2590 Walnut to Comcast Boulder headend (33rd & Walnut)
technology fiber, modulator provided and maintained by Comcast
use upstream carriage of PEG signal
- 5) CU stadium to Comcast Boulder headend (33rd & Walnut)
technology coax, modulator provided and maintained by Comcast
use upstream carriage of educational access programming
- 6) 6500 E Arapahoe to Comcast Boulder headend
technology coax, modulator provided and maintained by Comcast
use upstream carriage of school district board meetings to Comcast Boulder headend for insertion on
Government channel

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ORDINANCE NO. 7785

AN ORDINANCE AMENDING THE CABLE TELEVISION
FRANCHISE AGREEMENT BETWEEN THE CITY OF
BOULDER AND COMCAST OF COLORADO IV, LLC, TO
EXTEND THE TERM OF THE FRANCHISE; AND SETTING
FORTH RELATED DETAILS.

The City Council finds that:

A. On February 3, 2004, the Boulder City Council ("City") adopted Ordinance No. 7324 approving the grant of a nonexclusive franchise to Comcast of Colorado IV, LLC ("Comcast") for its construction and operation of a cable television system within the City (the "Franchise").

B. Comcast has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the Franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 ("Cable Act").

C. The existing Franchise will expire on December 31, 2011, unless it is extended.

D. City staff and Comcast representatives have discussed the renewal of the Franchise. Each has agreed that its interests will be served by extending the existing Franchise for two years.

E. The city council, having been advised of the benefits of extending the existing Franchise, is agreeable to extending the term of the Franchise until December 31, 2013, and amending the Franchise Agreement accordingly.

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

Section 1. The city council adopts, approves, and authorizes the city manager to enter into the Comcast franchise extension, entitled "Amendment to the Franchise Agreement Between the City of Boulder, Colorado and Comcast of Colorado IV, LLC Dated January 1, 2004," attached as Exhibit A and incorporated by this reference, extending the term of the Franchise until December 31, 2013. The city manager is authorized to approve any minor changes as may be necessary prior to final execution by the parties.

1 Section 2. Except as specifically modified hereby, the Franchise shall remain in full
2 force and effect.

3 Section 3. Neither party waives any right which it enjoys under law as a result of
4 agreeing to this Franchise extension, and Comcast shall not be required to file any additional
5 request or document in order to preserve its right of renewal under Section 626 of the Cable Act.
6

7 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
8 the residents of the city, and covers matters of local concern.

9 Section 5. The city council deems it appropriate that this ordinance be published by title
10 only and orders that copies of this ordinance be made available in the office of the city clerk for
11 public inspection and acquisition.
12

13 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
14 TITLE ONLY this 1st day of March 2011.

15 
16 _____
17 Mayor

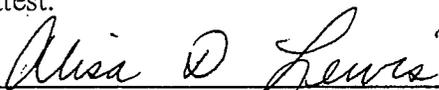
17 Attest:

18 
19 _____
20 City Clerk on behalf of the
21 Director of Finance and Record

22 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
23 PUBLISHED BY TITLE ONLY this 3rd day of May 2011.

24 
25 _____
26 Mayor

26 Attest:

27 
28 _____
29 City Clerk on behalf of the
30 Director of Finance and Record

**AMENDMENT TO THE FRANCHISE AGREEMENT
BETWEEN THE CITY OF BOULDER, COLORADO
AND COMCAST OF COLORADO IV, LLC
DATED JANUARY 1, 2004**

This Amendment is made as of the _____ day of _____, 2011, by and between the City of Boulder, Colorado, a Colorado home rule city ("City"), and Comcast of Colorado IV, LLC ("Comcast"). Hereinafter the City and Comcast may be referred to individually as a "Party" or collectively as the "Parties."

A. The Parties entered into a Franchise Agreement dated January 1, 2004, to permit Comcast to construct, operate, and repair a cable system in, over, along, and under City rights of way within the City for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable system from January 1, 2004, through and including December 31, 2011 (the "Franchise Agreement").

B. The Parties wish to amend the terms of the Franchise Agreement by extending the scope of the Franchise Agreement for an additional two years through and including December 31, 2013.

NOW THEREFORE, in consideration of the promises and obligations set forth below, the parties agree to amend the Franchise Agreement as follows:

1. The second sentence of Section 2, subsection 1, paragraph 1 of the Franchise Agreement is replaced by the following sentence, to read:

2.1.1 ...This franchise grants the right, subject to conditions, to construct, operate and repair a cable system in, over, along and under City rights of way within the City of Boulder for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable system from January 1, 2004, through and including December 31, 2013.

2. By this amendment the Parties agree to extend the term of the Franchise Agreement through December 31, 2013. Comcast shall provide the City with a certificate of insurance evidencing coverage each year during the extended term of the Franchise Agreement.

3. Except as amended herein, the Franchise Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have set their hands to this Amendment on the day and year above first written.

[SIGNATURE PAGE FOLLOWS]

COMCAST OF COLORADO IV, LLC

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Acknowledged before me, a notary public, this _____ day of _____ 2011, by _____, as _____ for Comcast of Colorado IV, LLC.

Witness my hand and official seal.
My commission expires:

Notary Public

(SEAL)

CITY OF BOULDER

City Manager

ATTEST:

City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:

City Attorney's Office

ORDINANCE NO. 7952

AN ORDINANCE AMENDING THE CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF BOULDER AND COMCAST OF COLORADO IV, LLC, TO EXTEND THE TERM OF THE FRANCHISE; AND SETTING FORTH RELATED DETAILS.

The City Council finds that:

A. On February 3, 2004, the Boulder City Council (“City”) adopted Ordinance No. 7324 approving the grant of a nonexclusive franchise to Comcast of Colorado IV, LLC (“Comcast”) for its construction and operation of a cable television system within the City (the “Franchise”).

B. Comcast has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the Franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 (“Cable Act”).

C. The existing Franchise was scheduled to expire on December 31, 2011.

D. On March 1, 2011, the City adopted Ordinance No. 7785 authorizing the city manager to enter into a two-year Franchise extension agreement with Comcast, since executed, to make the existing Franchise scheduled to expire on December 31, 2013.

D. City staff and Comcast representatives have discussed the renewal of the Franchise. Each has agreed that its interests will be served by extending the existing Franchise for one additional year.

E. The City Council, having been advised of the benefits of extending the existing Franchise, is agreeable to extending the term of the Franchise until December 31, 2014, and amending the Franchise Agreement accordingly.

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

Section 1. The City Council adopts, approves, and authorizes the city manager to enter into the Comcast franchise extension, entitled “Second Amendment to the Franchise Agreement Between the City of Boulder, Colorado and Comcast of Colorado IV, LLC Dated January 1, 2004,” attached as Exhibit A and incorporated by this reference, extending the term of the

Franchise until December 31, 2014. The city manager is authorized to approve any minor changes as may be necessary prior to final execution by the parties.

Section 2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.

Section 3. Neither party waives any right which it enjoys under law as a result of agreeing to this Franchise extension, and Comcast shall not be required to file any additional request or document in order to preserve its right of renewal under Section 626 of the Cable Act.

Section 4. 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 5. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 3rd day of December 2013.

Attest:

Mayor

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 17th day of December, 2013.

Attest:

Mayor

City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE: Update on Boulder's Energy Future Municipalization Exploration Project.

PRESENTERS

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Kathy Haddock, Senior Assistant City Attorney
Debra Kalish, Senior Assistant City Attorney
Bob Eiche, Chief Financial Officer
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development
David Driskell, Executive Director of Community Planning and Sustainability
Maureen Rait, Executive Director of Public Works
Jonathan Koehn, Regional Sustainability Coordinator
Yael Gichon, Residential Sustainability Coordinator
Kelly Crandall, Sustainability Specialist II
Bob Harberg, Principal Engineer - Utilities
Kara Mertz, Environmental Action Project Manager
Carl Castillo, Policy Advisor
Sarah Huntley, Media Relations/Communications Manager
Andrew Barth, Communication Specialist III

I. INTRODUCTION/PURPOSE

The purpose of this agenda item is to:

- Present information to council and receive council feedback on the next phase of the Municipalization Exploration Project work plan, including updates on:
 - The City of Boulder-Xcel Energy (Xcel) Partnership Task Force discussions, including:
 - Formation of subcommittees
 - Subcommittees' work to date

- Timeline for report on outcomes
- Legal and regulatory actions
- Transition Plan development
- Energy Services Plan for 2014
- Working Groups
 - Solar Working Group
 - Natural Gas Working Group
 - Governance Working Group
- Public processes and input received related to this issue
- Next steps

II. EXECUTIVE SUMMARY AND BACKGROUND

The City of Boulder has been through an extraordinary process with respect to the municipalization evaluation effort. Over the last year and a half, city staff, consultants and more than 75 community members have collected and evaluated data, built financial, resource, and probabilistic models, vetted assumptions and stressed the municipal model by adding varying levels of risk. Throughout this process, staff was challenged by experts, supporters and detractors, and continued to improve the city's analysis. In addition, members of the public and staff increased their knowledge about what a local utility can do to further the community's energy future goals. By studying what other communities are doing with respect to increasing renewables, expanding distributed generation, and providing energy services targeted to their individual community needs, it has become clear that a city-owned utility has flexibility and capabilities a regulated utility may not have.

Throughout this process, the city has, nonetheless, remained open to exploring other ways of achieving our community's energy supply goals. These include the possibility of forming a new partnership or participating in new product and service offerings from Xcel Energy (Xcel). From April through July, a group of community leaders was formed to help the city and Xcel look at options related to alternatives to municipalization.

In July, city staff presented the results of the quantitative modeling and the qualitative research to council, as well as an update about progress that had been made at that time in terms of partnership discussions with Xcel. In August, council authorized staff to move forward to: 1) continue discussions with Xcel in order to learn more about the potential products and services the company could provide; and, 2) proceed down a concurrent path toward acquiring the assets of Xcel and forming a locally owned utility.

This is staff's first formal update with council since that time, but there has been considerable activity. Two ballot items related to the development of a local utility were presented to the community. On Nov. 5, Boulder voters supported moving forward with the project but imposed an additional requirement that the cost of acquisition and any lump-sum payment for stranded costs cannot exceed \$214 million. The approved measure also includes several significant provisions related to how out-of-city customers, if there are any, would be represented in future utility decisions.

Some of the tasks completed between August and now include:

- The city/Xcel partnership task force has continued to meet and has developed two subcommittees to further develop and vet Xcel's proposed programs. Xcel has stated it will have a recommendation ready to present to council the second quarter of 2014. Staff has worked with the task force to develop a schedule for completing this process.
- Colorado Public Utilities Commission (PUC) filings by Xcel have required attention by both legal and energy future staff, and it has become apparent that the city will need to dedicate resources to working with the PUC as it moves forward.
- The city filed for and received approval to become members of North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC), which are the reliability oversight authorities with respect to the bulk power system of the country and region. This will allow city staff to obtain training and participate in these organizations, specifically related to reliability and planning for the bulk power system.
- City staff has been working with consultants, engineers, and the legal team to identify and value the electric assets needed to support a locally owned utility in preparation for negotiation and potential condemnation actions and acquisition.
- City staff has begun the process of developing transition plans to ensure that all aspects of operation are covered. A Request for Proposal (RFP) has been issued for consulting help to develop a detailed work plan to encompass everything from substation maintenance to administrative processes such as customer accounting. Once a consultant is hired, the team anticipates it will take three to four months to develop the work plan and then 18 months to two years to implement it.
- City staff has continued to explore opportunities for enhancing energy services and reducing emissions without owning poles and wires. While the benefits that could be realized are limited in comparison to the possibilities of a full retail utility and wholesale power purchaser, several ideas are being vetted for new pilot initiatives that could advance Boulder's Energy Future goals and demonstrate opportunities that could eventually be taken to scale. This process also provides a forum for integrating energy initiatives with other aspects of the city's sustainability work, both in terms of synergies between different infrastructure systems and investments, and in terms of creating one-stop customer service platforms. Staff anticipates presenting pilot initiatives for council's input early next year.
- Various issues related to energy resources have developed at national and regional levels. Staff has formed two new working groups – solar and natural gas – to guide the city in these important policy areas and develop recommendations as the project moves forward.
- Lastly, in July, the governance working group presented a set of recommendations that council adopted and which won overwhelming support in the ballot election. As part of the next phase of municipalization evaluation, the governance working group had topics its members would like to further develop related to a utility advisory board appointment process, terms of service, delegation of powers, and advisory board/ staff relationship. If council so directs, staff will reconvene that working group to address these issues.

There is significant work ahead, but this effort continues to represent a great opportunity for Boulder to make its goals a reality and truly move toward a sustainable low carbon future. This is no small task and the plan is likely to evolve as new information or agreements are developed. This will require both the discipline of having a well-developed plan and the flexibility to adjust

as appropriate. The work plan for 2014 (**Attachment A**) presents some exciting opportunities for community collaboration and moves the city closer to achieving a low-carbon future.

III. WORK PLAN UPDATE

City of Boulder-Xcel Energy (Xcel) Partnership Discussions

As mentioned previously, the City of Boulder and Xcel convened a task force of knowledgeable community members earlier this year to consider possible partnership options for achieving the city's energy goals and develop new initiatives that Xcel might offer to the city and other communities throughout its utility system.

During discussions with the task force, Xcel officials agreed to explore with Boulder an initial set of eight possible products and services to reduce energy demand; increase the use of renewable energy and distributed generation; reduce the use of coal for generating electricity; modify retail rates for customers; and reduce carbon emissions. Several of these concepts were first suggested by the city in its [December 2012 white paper](#). With the exception of products or services tied to SmartGridCity infrastructure, these would be made available to other municipalities as well and, where applicable, to individual customers. Many of the products and services, if instituted in partnership with Xcel, would be subject to approval by the PUC.

In July, Xcel presented a [proposal](#) to the task force that included a high-level analysis of the potential emission reductions, costs and overall impacts and benefits of a package of products and services. At its July 23 Study Session, City Council directed staff to continue to meet with Xcel as the company fleshed out the concepts presented to the task force and modeled the impact to Boulder ratepayers with regard to costs and benefits through increased renewable energy and emissions reductions. City Council affirmed this direction after a presentation by task force members at the Aug. 6 City Council meeting. At that time, Xcel indicated it could have a recommendation by the end of the year.

Since Aug. 6, staff from the city, Xcel and the citizen members of the task force have continued to meet regularly. To streamline the work effort, the task force formed two sub-committees that are working in parallel. The first is working on the issues related to developing the details of the specific Xcel program offerings, while the second is focused on quantitative modeling tasks. The purpose of the ongoing meetings has been to identify the potential benefits of the company's proposal for how it can support achieving the city's Energy Future goals. The subcommittees include original task force members along with additional community experts approved by both the city and Xcel.

Programs Subcommittee

The scope of the Program Development subcommittee is to take the products and services proposed by Xcel in July and flesh them out from a concept to a more defined program that would meet the goals of the city. This would include defining the goal of the program/service, description of the services to be offered, implementation (regulatory approval) and targeted customers, whether it will be a pilot program or included in Xcel's tariff (i.e., open to all customers), and funding. The programs will need to be developed in enough detail to allow the

modelers to calculate the cost, benefits, and carbon reduction of the program, both in the city and in Xcel's service territory.

So far, the Programs Subcommittee has discussed current Xcel programs and services related to demand-side management (DSM), SmartGridCity and distributed generation. Task force members suggested a number of new opportunities, including re-evaluating the cost-effectiveness metrics used to determine which energy efficiency programs Xcel operates; a one-stop shop for Xcel, city and county incentives, allowing for a single point of contact to facilitate access to funding; on-bill financing to support access for low income residential customers to energy efficiency or demand side management improvements; energy performance contracts to finance upgrades; looking at better data to segment customers for more effective marketing; and providing residential, commercial, and institutional customers with more real-time data. These are just a few examples of the many ideas submitted by the subcommittee.

Modeling Subcommittee

The scope of the Modeling Subcommittee is to review the inputs and assumptions used by Xcel and the city in their respective modeling. The subcommittee will also provide feedback as to the process that provides outputs and compares them to the city models to ensure comparability in the modeling. Xcel will be modeling using its Strategist tool, but incorporating updated and agreed upon resource assumptions for fossil fuel, wind, solar, carbon, etc. prices. The city used different software for resources called HOMER. The only assumptions that will be comparable will be in the resource modeling since this is where the impact of the programs and services will be reflected. In other words, the modeling process will not incorporate costs related to acquisition, start-up or ongoing debt not associated with purchasing energy. Xcel will model the programs assuming Boulder is part of the system and using the same process it would for its system.

The Modeling Subcommittee has made significant progress in identifying a joint set of assumptions that can be modeled by the city and by Xcel. This is highly detailed and time-consuming work because it requires identifying the different inputs and assumptions to be used in HOMER and Xcel's Strategist¹ model. City staff and Xcel staff have been discussing this separately with a goal of bringing forward a proposal to the task force in December.

The modeling process takes a set of resource assumptions, such as wind prices, transmission costs and load forecasts that both Xcel and the city can agree to include in their independent models. Once agreement is reached on reasonable assumptions for this process, Xcel will use them to model its proposed programs and services, which can be compared to a municipalization model using the same resource assumptions. Both carbon reduction and cost of power will be compared under each scenario.

Next Steps

Originally, the task force intended to present the findings of the Xcel products and services analysis to City Council on Dec. 17. However, due to the time required for products and services

¹ Ventyx Strategist is the modeling software utilized by Xcel.

ideas to go through Xcel's internal vetting process, Xcel has indicated its representatives will not be ready to present a final package to council until June 2014.

The task force met Dec. 9 to hear a presentation by Xcel on the outcome of its internal evaluation of new DSM programs (those suggested by the task force, as well as any new proposals by Xcel). At that meeting, Xcel agreed to proceed with evaluating four of the 18 ideas suggested by the task force, and presented one new concept for piloting wifi thermostats². In addition, Xcel introduced eight product concepts it is evaluating such as LED midstream rebates, HID to CFL retrofits, LED parking garage fixtures, ECM for HVAC and small-building tune up.

The modeling process will focus on finalizing a list of specific assumptions related to pricing of electric resources, which Xcel will then use to model the impact of any new products or services, as compared to their current base case. The modeling done by Xcel will then be compared by the city to municipalization model with respect to benefits, costs and how it well the proposal achieves the community Energy Future goals.

The task force members agreed the subcommittees had served their purpose and will begin meeting monthly as a whole to be briefed on the outcome of Xcel's analysis. They established a schedule through March to meet each month with the April meeting devoted to Xcel presenting a draft of their final recommendation. At the June meeting, Xcel will present additional detail on the various products and services included in the Xcel proposal. The city expects this to include a more detailed description of what each offering could achieve, how the program might be rolled out to Boulder and Colorado customers and what type of regulatory approvals would be necessary moving forward.

Lastly, Xcel has indicated company officials do not wish to sign a memorandum of understanding (MOU) for this part of the working group process. Previously, the MOU was used to protect the discussions between the parties from being used in litigation, which supported an open sharing of information. At the Dec. 9 meeting, the task force requested city staff to prepare an MOU for both parties to sign.

Communications

When appropriate, information related to outcomes of the partnership work will be communicated to the public through already available communication channels such as news releases and media pitches, the Energy Future website, Channel 8 programming, social media websites (Facebook and Twitter), the project email listserv and the project newsletter. Additional assistance is anticipated as the group approaches the second quarter of 2014 and makes its presentation to City Council.

² Xcel had previously agreed to work with Energy Efficiency Business Coalition and others on a stakeholder group to explore "smart" thermostats as part of its 2014 DSM Plan; it invited Boulder to participate as part of this process.

Legal and Regulatory Actions

Public Utilities Commission (PUC)

Dockets Related to Municipalization

Boulder is currently participating in two dockets related to municipalization: Xcel's 2011 Electric Resource Plan (ERP) and Xcel's application for declaratory orders regarding service to electric utility customers outside the city.

2011 ERP

Regulated investor-owned utilities in Colorado must file their plans for the acquisition of additional electric generation with the PUC every four years. Xcel filed its plan in October 2011. In its initial filing, Xcel recognized the possibility that Boulder could be leaving the Xcel system. Consequently, the company proposed that it acquire energy through short-term contracts with independent power producers. Throughout 2012 and 2013, Boulder filed testimony and comments that proposed that it work with Xcel and the PUC to gradually transition away from Xcel's system, thereby reducing the need to acquire additional generation. This would save other ratepayers the cost of that acquisition. On Sept. 10, 2013, Xcel submitted its preferred resource acquisition plan, which included significant amounts of solar and wind power. Boulder filed comments in support of the acquisition of renewable energy, but expressed concern regarding Xcel's acquisition of more power than needed and much sooner than needed. The city also noted Xcel's failure to take into account the uncertainty of Boulder remaining a retail customer of Xcel. Staff from the Office of Consumer Counsel also suggested in its comments that Xcel should acquire fewer resources because of the likelihood of Boulder leaving the system. The commission is scheduled to reach a decision in this proceeding on Dec. 9. Staff will update council on the outcome of this proceeding at the Dec. 17 meeting.

Xcel's Petition for Declaratory Orders

On May 9, 2013, Xcel filed a petition for declaratory orders in which it sought rulings from the PUC that: (1) its right to serve customers located outside the city could only be taken away if a new utility could prove through a hearing before the PUC that Xcel was "unwilling or unable" to serve those customers; and, (2) having to build replacement facilities (presumably to replace facilities acquired by the city) did not constitute an inability to serve. The commission issued its decision in this proceeding on Oct. 29. The city filed an application for rehearing, reargument or reconsideration (RRR) of that decision on Nov. 18. In its application for RRR, the city argued that, contrary to the PUC's decision, it is council's role to determine which assets should be acquired through condemnation and that the condemnation proceeding should be filed before the city seeks approval of a transfer of assets or the right to serve from the PUC. On Nov. 26, the PUC granted Xcel's request to respond, on a limited basis, to some of the issues Boulder raised. This response was filed on Dec. 3, and the PUC is expected to issue a written ruling soon. Staff will update council on the outcome of this issue at the Dec. 17 meeting.

The "Boulder Docket"

Staff is also preparing for the likelihood that Xcel will re-file the "Boulder docket" (12A-155E). In this docket, Xcel sought to prevent Boulder residents and businesses from participating in energy efficiency and renewable energy programs. In 2012, Xcel's application was dismissed

and the docket was closed in 2013. Before Xcel filed that petition, it suggested that the city agree to a proposal it made with regard to how to handle the city's ongoing participation in these programs in light of the city's exploration of municipalization, but refused to provide the information staff believed was important for council to have to make an informed decision regarding the proposal. The docket was closed "without prejudice," meaning that Xcel could refile its request at a more appropriate time. Xcel has indicated to city staff that it believes this is the appropriate time to refile its request and has made another offer of settlement. Staff sent discovery requests in the original proceeding to obtain the information necessary to evaluate the proposal, but Xcel refused to answer the requests and the docket was closed before the city could file a motion to compel Xcel to answer.

Dockets Unrelated to Municipalization

Boulder is participating in four other dockets on issues unrelated to municipalization. Two are focused on Xcel's demand-side management (DSM) programs, including the 2014 Plan for DSM programs and a "strategic issues" docket, which looks at overarching issues related to cost recovery and energy savings goals for 2015 through 2020.

Boulder joined in the settlement for the 2014 Plan because it included provisions that could be helpful to local governments that are considering enhancing energy efficiency partnerships.

Staff filed testimony in the strategic issues docket that supported the development of a new LED street lighting rebate program, but opposed cost recovery for unspecific distribution voltage optimization investments (investments on the utility side of the meter that reduce line losses) through DSM funding. Staff also promoted the idea of enhancing collaboration between utilities and local governments, based on governments' ability to provide tailored services and leverage alternate funding sources. Part of Boulder's involvement in DSM includes sending staff to quarterly "DSM Roundtable" meetings at which Xcel staff offer progress updates.

Boulder is also a party in Xcel's 2014 Renewable Energy Standard Compliance Plan, which has raised significant concerns about impacts to net metering and solar incentives. The city is still evaluating whether more active participation is warranted.

Finally, PUC advisory staff recently opened an energy data access and privacy proceeding to discuss the current status of the energy data privacy rules, whether they should be expanded to data regarding customer natural gas usage, and whether the data privacy rules should be modified. This is a significant issue for Boulder because of the rules' impacts on community-wide greenhouse gas reporting and energy efficiency program operation. Boulder filed extensive comments and joined with a group of 10 communities, including two municipal utilities whose customers receive natural gas service from Xcel, to request that the rules include provisions that facilitate local government climate action and sustainability programs. The filings note that these programs have saved residents and businesses hundreds of thousands of dollars. Access to useful energy data to identify baselines and measure progress remains an important area of concern for numerous Front Range communities.

Condemnation

On Aug. 20, 2013, council authorized acquisition of Xcel's facilities and property, including by condemnation, if necessary, in Ordinance 7918. Under the law, the city must conduct good faith negotiations with Xcel prior to filing a petition in the district court. The first step is for the city to send a Notice of Intent to Acquire to Xcel. This notice will describe the property the city intends to acquire, advise Xcel that it is entitled to an appraisal at the city's expense, and seek the names of the individuals with whom the city should negotiate. The notice of intent is not the same thing as initiating condemnation proceedings. Instead, it begins good faith negotiations, or a formal effort to start a dialogue with Xcel about the acquisition of the necessary assets to support a municipal utility. If negotiations are successful, the city will proceed to work with its financial advisors to issue bonds to acquire the funds to acquire the electrical system. If negotiations are not successful, the city would file a petition of condemnation with the Boulder District Court to pursue municipalization.

Although the ordinance allows for condemnation to be filed Jan. 1, because negotiations will be starting later than originally anticipated, the city does not expect any condemnation action to be filed that soon. On the other hand, Xcel has stated that it does not want to sell the assets, so it may shorten the time for good-faith negotiations so that it can make its legal challenges.

At the Dec. 17 council meeting, staff will present a graphic of how the main components of the municipalization project overlap.

North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) Memberships

The city recently submitted for membership in both NERC and WECC. NERC is a self-regulatory organization, subject to oversight by the U.S. FERC. NERC develops and enforces reliability standards; assesses adequacy; monitors the bulk power system; audits owners, operators, and users for preparedness; and educates, trains, and certifies industry personnel. NERC reliability standards define the requirements for planning and operating the North American bulk power system. Members have the responsibility to promote, support and comply with the purposes of NERC. Membership allows Boulder to participate in the development and enforcement of reliability standards. The motivation for becoming a member now is to raise industry awareness of Boulder's efforts and to allow the city to gain access to education and training opportunities for its personnel.

The WECC is the regional entity responsible for coordinating and promoting Bulk Electric System reliability in the Western Interconnection. In addition, WECC provides an environment for coordinating the operating and planning activities of its members. As a member of WECC, the city will gain access to power and stability computer simulations, transmission data, and participate in standards development, and the transmission planning process.

For NERC, Boulder has been approved as a member. Registration as an entity regulated by NERC will come with actual formation of the utility.

For WECC, the city will become a voting member under the existing bylaws rather than amendments that are planned for the near future. The form of the application has been reviewed and approved by WECC staff. The city will hear formally in December soon after the application is filed.

Communications

As expected, communications assistance for legal and regulatory actions is limited because information surrounding this aspect of the municipalization study needs to be confidential to protect the city's position in current and future legal proceedings. Communications has and will continue to help when documents and outcomes enter the public domain either through a legal filing that makes them public or if the city decides that the information no longer needs to remain confidential. It is likely that communications assistance will be critical as more previously confidential information becomes public through the filing of condemnation proceedings. Information provided to the public on costs, infrastructure acquisition, negotiations and other litigation will need to be communicated in a way that the general public can understand and follow along, should they choose to. Information will be released to the public through already available communication channels such as news releases and media pitches, the Energy Future website, Channel 8 programming, social media websites (Facebook and Twitter), the project email listserv and the project newsletter.

It is also likely that communications assistance will be necessary to help with media requests as information is made public. Communications staff will help coordinate interviews and will also track the corresponding stories to ensure that the city's messages are being conveyed accurately and understood by the public.

Transition Plan

On Nov. 27, the city issued an RFP to solicit proposals from qualified consultants to create a Transition Plan that builds upon the engineering, legal and financial work completed to-date and incorporates a work plan suitable for regulatory review. The anticipated outcome is a detailed Transition Plan work plan for use by the city that lays out the transition from current status to a full-retail utility operation. The plan would ensure that a city-owned electric utility can have the same or better reliability as Xcel and can keep rates at or below Xcel's at the time of transition in accordance with Charter requirements.

The transition plan will address both the initial start-up requirements and ongoing operations including:

1. Administrative and Overhead Support Functions
2. Distribution Operations and Maintenance
3. Transmission Operations and Maintenance
4. Resource Planning and Acquisition
5. Reliability
6. Asset Management
7. Regulatory Requirements and Compliance Processes
8. Customer Service
9. Energy Resources (management and acquisition)

10. Construction
11. Rates and Fees
12. Tasks related to legal process (acquisition, stranded costs, state regulatory, etc.) and internal process (utility formation, debt issuance, etc.)

It is anticipated that a final transition plan will be completed early in the second quarter of 2014.

Communications

Communications assistance around the transition plan is expected to be a significant part of the 2014 work plan. It will be important that members of our community understand what the process is for establishing this plan and what it means for the potential creation of a local electric utility. The plan is one of the first opportunities potential customers will have to see how a city utility would operate and provide them with service, both from a technical perspective and from a customer service perspective. Staff will be engaging the public during this process, similar to earlier phases, by creating a working group to review the detailed transition plan and ensure it incorporates any community desires or concerns. It is also likely that a webpage within the BoulderEnergyFuture.com website will be created and dedicated to explaining the plan. The communications team will create the website and announce the plan's availability using already available communication channels such as news releases and media pitches, Channel 8 programming, social media websites (Facebook and Twitter), the project email listserv, and the project newsletter. Other dissemination tactics will be evaluated as needed.

Energy Services Plan for 2014

The staff team associated with this project is working with other city departmental representatives to evaluate expanding existing and developing potential pilot projects that could be undertaken in 2014 to help advance Boulder's Energy Future goals, achieve emission reductions, and exploit potential synergies between the city's different infrastructure systems, investments and services.

Most of the project ideas under consideration would piggy-back onto other areas of work already underway or contemplated as part of the 2014 work program, targeting specific opportunities for demonstrating local energy initiatives and piloting the concept of "energy as a service." As specific ideas are further developed and vetted, the staff team will seek input from community experts as well as council. Implementation of pilot projects would also provide the opportunity to start building the organizational capacity for undertaking ongoing energy work, and to test alternative ideas of how an ongoing energy services entity could best be positioned in relation to other areas of "sustainability service." One possibility would be to create an energy services utility as an interim step toward creating a full retail utility, which could be funded by fees as an enterprise under TABOR or through a voter-approved tax. This would be a policy discussion for council at a later date.

If Boulder municipalizes its electric system, these groundlaying energy services efforts could provide a framework for a city utility that provides electricity to Boulder customers. If Boulder does not municipalize, this would be a vehicle for continuing to further Boulder's energy future goals, focusing on activities at the state level to enable quicker progress in decarbonizing the community's energy supply.

It is important to note that without owning and operating a retail utility there would be limits to what the city has the authority to do. It was the city's previous analysis of energy options—namely the potential for pursuing aggressive demand-side programs and on-site renewable generation—that led to the focus on changing the city's energy supply and the exploration of municipalization. While demand side programs and on-site renewable can and will play an important role in the city's overall efforts, there are significant limits on what can be achieved without having the full authority of the retail utility.

Examples of services that could be provided, with appropriate funding, include: enhanced energy efficiency programs, increased local solar installations, the purchase and upgrade of street lights to increase energy efficiency, and testing of innovative technologies such as “behind-the meter” microgrids. Variations of these and other ideas are being explored as part of the pilot project discussions, and evaluated in terms of legal, technical, and financial barriers to implementation.

Exploring Organizational Options

Since council passed the acquisition ordinance, staff has been moving forward with the next steps towards acquiring the electric distribution system infrastructure. One of the major work efforts is a transition plan that will detail how the utility will provide reliable service, organize itself, and be prepared to operate on “Day 1.” In other words, how will this entity be organized before the infrastructure is acquired?

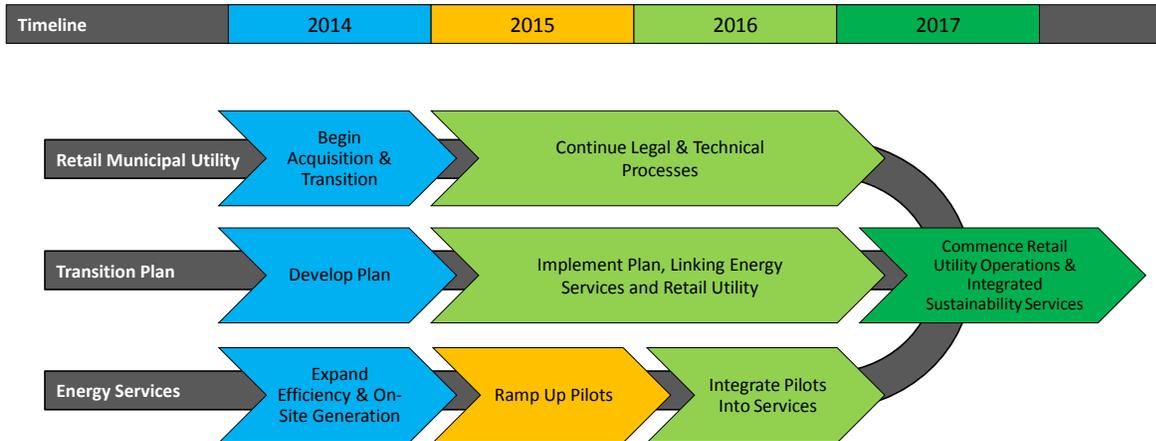
A central focus of a new Boulder utility would be to design the “utility of the 21st century,” which would treat energy as a service, rather than a commodity. This utility would not be just about buying the poles and wires. There would need to be an appropriate organizational structure in order to implement the new utility model rather than replicate the utility model of the past.

The time required for legal and regulatory processes provides a great opportunity to bring together energy activities that the city is currently providing or planning and look at them through the lens of a utility as well as integrating the city's climate commitment and resiliency efforts, which are currently happening parallel to this process. For example, from the recent flood, a community conversation around neighborhood planning and resiliency has emerged with consideration of new models for neighborhood engagement. This effort could have significant applications with regard to energy goals as well. Staff intends to use this opportunity to integrate services within the city organization to address common goals.

Examples of questions that need to be considered include:

- 1) How might formation of a utility in the future inform the development of near-term pilot projects and new services?
- 2) What current efforts are providing energy as a service?
- 3) What processes and structures need to be in place to support our vision of “the utility of the future,” and how do they relate to other parts of the city organization and its work?
- 4) What is the business model for energy-as-a-service and alternative strategies for funding near-term as well as long-term projects and services?

TIMELINE & STEPS: Where We Are Headed



Next Steps

There is a great deal of work ahead as we look to expand energy services. The list below highlights some of the work plan items but is by no means all inclusive of the work ahead. Some of the major milestones for 2014 and 2015 include:

1. Identifying a core project team
2. Developing a matrix and refine criteria for pilot projects with input from community working groups
3. Analyzing funding/financing options and local generation potential – including what is possible to implement without ownership of the distribution system.
4. Developing an organizational structure in coordination with the city management team
5. Developing and implementing a public process and communications plan including:
 - a. Engaging working groups on the proposed pilot projects
 - b. Returning to council for input
 - c. Engaging the community on the proposed services to pilot or pursue for full implementation
6. Developing any necessary legal and financial structures and putting the necessary organizational resources into place
7. Implementing initial offerings

Staff intends to return to council in early 2014 for a study session on a proposed plan. Community input would be sought shortly thereafter with staff hoping to return to council for the ordinance process in late 2014. Selection of new pilot programs could be ready for implementation in early 2014 with additional service offerings available in 2015.

Communications

Announcing the desired expansion of energy services and educating the public about what this means for Boulder will be at least as important as sharing information about the transition plan. This step will underscore the city's commitment to providing energy services to meet the goals of the community regardless of the outcome of acquisition proceedings. At the appropriate time, communications will assist with all messaging and potential branding, if any, around the creation of energy services. This will include the creation of a webpage within the BoulderEnergyFuture.com website and updating it regularly with new information that will help potential audiences learn about and get involved in the formation of a non-retail electric utility in Boulder. Communications will also assist in creating and updating talking points, fact sheets and other documents that will aid in the public's understanding of the city's work. Staff will use traditional communications tactics like news releases, listserv messages, Channel 8 programming and social media sites to provide new and timely information to the public.

Because this project will require enhanced public involvement to help shape its vision and framework, it is also anticipated that there will be a need for communications efforts that invite the public to participate and provide feedback. This may include open-house style informational meetings and the creation of videos that focus on energy services. These videos will be shared via the project website and city social media platforms and also disseminated through existing external networks in order to further the reach of the information to people who may not already be involved in the Energy Future project.

Working Groups

Solar Working Group

Because of the success of the Municipalization Exploration Project working groups in vetting complex information, staff formed a Solar Working Group to provide information and recommendations on several aspects related to local solar development. More specifically, this group originated because of concerns that have been expressed by both solar industry representatives and by residents and businesses who have or want solar about what would happen to incentives contracts with Xcel, both in the near and long term, if the city municipalizes. While the city has committed to work to make those who have signed solar contracts financially whole, staff needs more information about what customers expect, what existing contracts include and how the city can best develop local solar resources.

The purpose of the group is to focus on two key questions: (1) how Solar*Rewards contracts should be treated by Boulder and Xcel to provide certainty in the marketplace; and (2) how Boulder can best foster local distributed solar development, whether or not it becomes a local electric utility—i.e., defining the role of local distributed solar in the electric utility of the future. The working group has approximately 26 members representing diverse perspectives, including industry representatives, financiers, large customers, engineers, renters, low-income representatives, and researchers. The list of members and scope and purpose of the Solar Working Group is provided in **Attachment B**.

The Solar Working Group held its first meeting on Nov. 14, at which members provided feedback as to their goals for the working group process. In general, attendees at the first meeting

expressed concerns about the discussion that is occurring in multiple states about the value of solar power in the regulated utility industry. This seems to be taking precedence over concerns about the process of transitioning existing and near-future solar contracts should Boulder form a local electric utility. Working group members suggested that the group explore opportunities related to solar, including developing new market-based, rather than incentive-based, business models; looking at the city's ability to reduce "soft costs" related to taxes, fees, and permits; examining how new technologies and financing approaches could facilitate access to solar by customers who are beyond the early adopters; and looking at how to value solar more effectively. The working group seemed certain that solar will play a large role in the utility of the future.

The Solar Working Group is expected to meet once per month through April or May 2014. The group is expected to make recommendations around the role of solar in the electric utility of the future and will be meeting in conjunction with the existing Resource, Financial, and Reliability working groups for further input.

Natural Gas Working Group

Given the tremendous growth in natural gas production in Colorado, the current and future use of natural gas as an energy source for Boulder customers has raised concerns over fracking -- a process that uses a pressurized water mixture to release oil or natural gas from deep underground. On Nov. 5, Boulder voters passed a ballot measure that would institute a five-year moratorium on fracking in Boulder and on Boulder-owned open space property. This allows the community time to provide input on resource options as the city evaluates sources of future electricity.

In addition to concerns over fracking, there is a growing concern of methane leakage. While it is widely accepted that *burning* natural gas emits significantly less carbon dioxide than burning coal, recent studies have found that *using* natural gas may actually release more greenhouse gases over its lifecycle. That's because quantities of raw methane, a major component of natural gas, can escape into the atmosphere during natural gas extraction, production and distribution. Natural gas is likely to be a necessary transition energy source as Boulder makes what the city hopes will be a dramatic shift away from coal and other fossil fuels toward renewable sources. The feasibility modeling associated with municipalization identified a number of resource portfolio scenarios; each of these included some amount of generation coming from natural gas³ for some period. If Boulder chooses to municipalize, before a commitment is made to a particular energy portfolio, it will be important to address concerns around the use of natural gas supplied from fracking and how any negative impacts could be mitigated through best practices or other means.

The Natural Gas Working Group consists of industry specialists and local stakeholders and was formed to explore concerns and opportunities related to the use of natural gas to generate electricity for the City of Boulder, should it decide to form a local electric utility. This working group will provide valuable recommendations, as natural gas will likely play a significant role in Boulder's energy portfolio, whether the community continues to be served by Xcel or by a municipal utility. While the focus of the group's work will be to examine issues and concerns

³The city's modeling evaluated five scenarios that included natural gas as a fuel source. The modeled percentages ranged from 32 to 46 percent in 2017.

related to fracking and methane releases, it will also be exploring current and possible industry best practices and potential alternatives for gas replacement.

The working group will also provide input into future city comments on rules related to this issue. For example, the Colorado Air Quality Control Commission was recently presented with proposed regulations to streamline the state air quality program and address the growth in oil and gas development. The purpose of the rulemaking is to begin the process of developing and implementing programs necessary to meet federal air quality standards for ground-level ozone and protect public health. Oil and gas activity is now the largest contributor to harmful ozone levels and the only source expected to grow⁴. The city is part of a local Government Coalition intended to support regulatory changes that streamline air pollution controls for all sources, where appropriate, and address the rapid growth in emissions from the oil and gas industry.

The working group members represent diverse perspectives and include representation from a number of stakeholders. The list of members and scope and purpose of the Natural Gas Working Group is provided in **Attachment C**. The working group held its first meeting on Dec. 5, at which they discussed options for identifying specific topics for group discussion, and near-term analysis necessary to develop draft guiding principles related to the procurement and use of natural gas in the future. As it develops recommendations, the working group will meet in conjunction with the existing Resource, Financial and Reliability working groups to receive additional input.

Governance Working Group

In May of this year, a Governance Working Group was created to work with city staff to understand the flexibility and limitations of the Boulder City Charter electric utility advisory board language, specifically Article XIII “Light and Power Utility,” and to develop a recommendation for City Council on any necessary ordinance amendments or other suggestions about how the utility should be governed. It was important to convene this group for a variety of reasons, most notably to ensure the appropriate level of customer participation in the governance structure, including those who might be within the service territory but outside the city’s boundaries.

The working group consisted of 15 members selected on the basis of their diverse backgrounds and perspectives. It met four times beginning on May 29 and ending on June 26. During this time, the members reviewed the system of governance already provided for by Boulder’s Charter and the types of decisions that the City Council and the utility advisory board could be expected to face.

On July 15, the Governance Working Group made several recommendations to City Council, all of which are captured in a memo available by clicking [here](#). Two of these recommendations, pertaining to requiring the utility advisory board to advise the council on rate making and for out-of-city customers to be represented on the utility advisory board, were incorporated into the city’s 2013 Ballot Question 2E, which passed Nov. 5.

⁴Regional Air Quality Council, 2013

The working group was not able to consider recommendations on several other topics, including:

- Advisory board appointment process
- Advisory board term limits
- Delegation of powers from council to the advisory board
- Advisory board/staff relationship

While these topics were of interest to one or more members, time limitations prevented them from being evaluated. Moreover, it was determined that it might be best to seek council direction on whether it wanted to receive recommendations on these or other topics of governance later this year or at a date closer to the creation of a local electric utility. If City Council is interested in receiving recommendations on these or other governance related topics, staff will reconvene the Working Group in 2014 for such purpose.

Communications

Communications assists with all community working groups by creating and maintaining group webpages and by attending meetings in order to take notes, provide guidance and answer questions. Communications also helps disseminate any report issued by a working group that should be seen and understood by City Council, members of the public and any other audience that may be relevant. Communications is also assisting with media coordination and story tracking.

IV. FISCAL IMPACT

The municipalization exploration work plan represents a significant undertaking. In particular, the legal and technical work necessary to determine the final costs for potential acquisition of the local distribution system and launch of a municipal utility is a considerable investment.

Recognizing this, in 2011, city voters approved an increase to the Utility Occupation Tax in the amount of \$1.9 million a year. The use of this tax revenue has been allocated to legal services, consulting services related to possible municipalization and separation of Xcel's system (engineering and appraisal services), salary and benefits and purchased services and supplies.

The 2013 total budget of \$3,251,935 is funded from the Utility Occupation Tax as well as a one-time General Fund request of \$303,000 allocated to support staffing needs for this project and \$1,048,935 prior year carryover from 2012. The carryover reflects savings from hiring the director mid-year in 2012 and a delay in spending for legal fees to negotiate the purchase of the system and engineering fees to assess and determine the technical capabilities of the system. To date, expenditures have been within budget. A more detailed description of 2013 budget is included in the Dec. 17 information packet.

The approved budget for 2014 is \$2,312,000; \$1,957,000 is funded from the Utility Occupation Tax (\$1.9 million, plus a three percent tax increase approved by council on Oct. 25, 2013, pursuant to the original ordinance) and \$355,000 that is funded through one-time savings in the General Fund to support salaries and benefits for high priority staffing needs. It is anticipated

that there will be additional funds carried over from legal and consulting purchase orders encumbered in 2013.

The work anticipated in 2014 will involve significant expenditures. In addition to the work plan items that have been anticipated since the start of this project, additional tasks have emerged and are likely to emerge as the legal and regulatory processes unfold. City Council should anticipate the possibility that additional resources will be needed in 2014. Staff will bring these needs and proposals forward as they arise.

V. NEXT STEPS

Next steps include:

Fourth Quarter 2013

- 1) Send a notice of intent to acquire to Xcel and initiate negotiations for the electric system (if Xcel comes forward with a new set of programs and services that meet the community needs, negotiations and condemnation can be discontinued) (December)
- 2) Addressing outcomes from PUC decisions on who serves what customers as well as the impact of acquiring electric assets outside the city limits. City staff will work with PUC staff to address their concerns for a smooth transition. (October- ongoing)

First Quarter 2014

- 1) Continue negotiations with Xcel to acquire electric assets, if not successful file for condemnation.
- 2) Bring all working groups together to kick off the next phase of the project (January)
- 3) Select a consultant to develop transition work plan and begin the detailed tasks of preparing to own and operate an electric utility. If Xcel offers a better alternative, these plans can be adjusted to respond to the alternative. (January)
- 4) City-Xcel Partnership Task Force monthly updates to City Council (January through March)
- 5) Exploring and piloting energy services programs.
- 6) Reconvene the Governance working group, if so directed by council, to flesh out remaining issues should the city moves forward with municipalization and attempt to serve out-of-city customers
- 7) Working with Solar and Gas working groups to address community concerns and create alternatives to support reduced emissions and increased local generation (January through ongoing)
- 8) City Council Study Session

Second Quarter 2014

- 1) Presentation from Xcel on the recommended products and services that have been vetted by the task force and the Xcel organization that will achieve the city's energy future goals (April)
- 2) City Council Study Session

- 3) Presentation from Xcel to City Council on the recommended products and services that have been vetted by the task force and the Xcel organization that will achieve the city's energy future goals (June)

Third Quarter 2014

- 1) City Council Study Session

Fourth Quarter 2014

- 1) City Council Study Session

Roundtable meetings may be scheduled as topics arise.

VI. ATTACHMENTS

- | | |
|---------------|---------------------------------------------------------|
| Attachment A: | Draft Work Plan |
| Attachment B: | Solar Working Group Membership, Purpose and Scope |
| Attachment C: | Natural Gas Working Group Membership, Purpose and Scope |

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ATTACHMENT A

December 11, 2013

2014 DRAFT High Level Work Plan (dates shown where known or able to be estimated; subject to modification throughout the year)

Xcel Partnership Task Force

Ongoing	Monthly meetings of task force
December 2013	Base modeling inputs completed
January - March 2014	Xcel Energy presents SmartGrid and distributed generation offerings to task force
February 2014	Evaluate Xcel's assumptions, make additional assignments if necessary
March 2014	Finalize modeling assumptions to model new products and services
March 2014	Gather data to perform comparative analyses between muni and status quo
April 2014	Presentation from Xcel to the task force on the full package of offered products and services
May 2014	Follow up from task force to answer and refine products and services and form recommendation to City Council
June 2014	Xcel Presentation to City Council on the full package of offered products and services

Regulatory Activity

<i>Anticipated</i>	CPUC Boulder Docket
December 2013 - March 2014	2014 Renewable Energy Standard proceeding
January - March 2014	Energy Data Access and Privacy proceeding
December 2013 - June 2014	Demand-Side Management Strategic Issues proceeding
Ongoing	Other energy related/municipalization related proceedings
January - March 2014	Manage membership applications with NERC and WECC

Condemnation Activities

<i>Order and timing will vary</i>	Notice of Intent
<i>Order and timing will vary</i>	File condemnation petition
<i>Order and timing will vary</i>	Good faith negotiations with Xcel
<i>Order and timing will vary</i>	Receive Xcel's appraisal
<i>Order and timing will vary</i>	Condemnation case
<i>Order and timing will vary</i>	Amend petition if necessary
<i>Order and timing will vary</i>	Authority to condemn granted
<i>Order and timing will vary</i>	Case management order issued

ATTACHMENT A

Condemnation Activities (continued)

<i>Order and timing will vary</i>	Refine separation plan
<i>Order and timing will vary</i>	Discovery process
<i>Order and timing will vary</i>	Jury trial
<i>Order and timing will vary</i>	FERC activities

Regional collaboration

Ongoing	Meet with other municipal utilities and surrounding communities
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Energy Services Plan

January 2014	Form project team
January 2014	Pecan Street pilot project set-up and recruitment period
January 2014	Develop list and criteria for prioritizing pilot projects
First Quarter 2014	Inventory existing energy services and enhancements
February 2014	Analyze funding options for pilots
February 2014	Communications planning
February - March 2014	Pecan Street equipment installed and web portal activated
April 2014	Pecan Street Mobile Application live
April 2014	Council check in on energy services
March - December 2014	Community outreach
June 2014	Council check in on proposed pilots and energy services
June - September 2014	Engage community to design services
August - November 2014	Refine initial offerings
Fourth Quarter 2014	Develop any enabling ordinance(s)
Ongoing	Quarterly reports and project refinement

Local Generation Assessment

February 2014	Engage working groups in assessment priorities and process
March 2014	Complete Scope of Work, guiding principles and RFP for local generation assessment
April 2014	Select consultant
May - August 2014	Analysis and assessment of generation potential

ATTACHMENT A

Local Generation Assessment (continued)

August 2014	Review preliminary findings with working groups
September 2014	Refine assessment and analysis
October 2014	Present preliminary key findings to council/community

Transition Plan

January 2014	Interview and select transition planning consultants
January 2014	Establish transition planning working group
February 2014	Collaborate with existing city admin and support functions for transition work plan
March - April 2014	Review draft transition work plan with other city departments
April 2014	Final transition work plan
June 2014	Review transition work plan with City Council
2015-20xx	Execute transition work plan

Solar Working Group

December - April 2014	Meet monthly
April 2014	Evaluate Solar Working Group findings with other working groups
May 2014	Finalize recommendations for review by council or other governing entity

Natural Gas Working Group

January - February 2014	Participation in CDPHE Stakeholder Oil and Gas Rulemaking process
December 2013 - April 2014	Gather data and research related to hydraulic fracturing, fugitive methane, industry best practices and natural gas alternatives
April 2014	Identify guiding principles related to natural gas issues; coordinate with other working groups
May 2014	Finalize guiding principles and proposed incentives programs to go to City Council or, if it exists at that time, a Utility Advisory Board

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ATTACHMENT B

Solar Working Group

Purpose and Scope

The solar working group is convening to focus on questions related to the development of solar power in Boulder, included but not limited to: current and future incentives, barriers to solar development, and the future development of innovative distributed generation (DG) pilot projects. The group will attempt to address the following issues:

1. Develop guiding principles: what is the role of distributed generation such as solar in the utility of the future, either through the creation of a new municipal utility or through a continued partnership with Xcel Energy?
2. What barriers currently exist to achieving the future role of distributed generation?
3. Regarding the “Boulder docket”¹:
 - Are there barriers in the current solar marketplace specifically related to the municipalization effort?
 - What is a fair way to address new solar contracts that occur prior to municipalizing that provides certainty in the marketplace without compromising Boulder’s ability to incentivize local solar in the future?
4. Should the group determine an appropriate increase in solar installations, what is the place for roof-top versus utility scale solar? What are the benefits and risks of each?
 - How can a future vision of solar in Boulder be realized through a municipal utility? Through a partnership with Xcel?
 - What incentivizes solar development from both the developer and the customer perspective?
 - What type of analysis or evaluation is necessary to understand issues such as capacity, site suitability or incentive structures?
 - To the extent funding is required, where do we get the money and how do we direct it?

Working Group Meetings

The working group will meet once per month from November 2013 through May or June 2014.

- Sept./Oct. 2013 – Recruit members
- Nov. 2013 – Kickoff working group and discuss guiding principles (i.e., role of distributed solar in the utility of the future).
- Dec. 2013 to Apr. 2014 – identify (1) approaches to handle new Solar*Rewards contracts in Boulder docket and (2) incentive programs for

¹ The “Boulder docket” is a petition by Xcel to limit the future participation of Boulder customers in its Solar*Rewards, Solar*Rewards Community, and demand-side management (energy efficiency and demand response) programs. The Commission decided the application, filed in early 2012, was premature, but Xcel has stated that it may seek to revisit this issues based on Council approving moving forward with condemnation in August. The docket can be found here:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=12A-155E

ATTACHMENT B

the municipal utility or for a local energy service utility. Anticipate 4-5 meetings depending on holiday scheduling.

- Apr. 2014 – take guiding principles and proposals to other working groups for review (Resource, Financial, Reliability).
- May 2014 – finalize guiding principles and proposed incentives programs to go to City Council or, if it exists at that time, a Utility Advisory Board.

Working Group Members

COMMUNITY MEMBERS (Members CVs are provided [here](#))

Anne Guilfoile
Annie C. Lappé
Becky English
Bill Ellard
Cameron McGregor
Chad Parsons
Craig Jarvis
Dan Kramer
Dave Hatchimonji
Jason Wiener
Jim Hartman
John E Johnson
John Street
Kai Abelkis
Ken Gamauf
Matt Lehrman
Paul Melamed
Phil Klam
Phil Wardwell
Puneet Pasrich
R.T. Weber
Scott E. Stevenson
Scott Franklin
Steve Hoge
Todd Stewart
Tom Christoffel
Meghan Nutting
Dietrich Hoefner

STAFF

Yael Gichon – Energy Sustainability Coordinator
Kelly Crandall – Energy Sustainability Specialist
Jonathan Koehn – Regional Sustainability Coordinator
Andrew Barth – Communications Specialist

Natural Gas Working Group

Purpose and Scope

The working group will focus on questions related to the use of natural gas to generate electricity for the City of Boulder. Natural gas will likely play a significant role in Boulder's energy portfolio, whether the community continues to be served by Xcel Energy or by a municipal utility. The focus of the group's work will be to examine issues and concerns related to hydraulic fracturing ("fracking") and methane releases and to explore current and possible industry best practices in order to inform any process moving forward. The group will also explore viable alternatives to natural gas that support the Boulder Energy Future goals. The group's recommendations will be discussed in a joint working group session with the Resource Working Group in 2014, and the final guiding principles and recommendations will be presented to City Council or, if it exists at that time, a Utility Advisory Board.

The group will attempt to address the following issues:

1. Develop guiding principles: what is the role of natural gas, either through the creation of a new municipal utility or through a continued partnership with Xcel Energy?
2. Understand how the use of natural gas for electricity differs from that which is used for heating (i.e., quantities, source, delivery methods, etc).
3. As Boulder pursues a portfolio that addresses both environmental and economic drivers, what role should natural gas play in meeting Boulder's short and long-term resource needs? What are the associated benefits and risks?
4. What alternatives or industry best practices exist that eliminate or reduce the risks associated with fracking or fugitive methane release? What is the best way that Boulder can promote those best practices?
5. If Boulder does not form a local retail electric utility, what are ways to minimize harmful impacts from natural gas associated with Xcel energy's resource portfolio?
6. What type of analysis or evaluation is necessary to understand issues above?

Working Group Meetings

The working group will meet once per month from December 2013 through May or June 2014.

- Oct./Nov. 2013 – Recruit members
- Dec. 2013 – Kickoff working group and discuss purpose and issues; discuss current issues related to natural gas; identify additional working group members
- Dec. 2013 to Apr. 2014 – Gather data and research to support guiding principles; explore issues, risks and alternatives related to (1) fracking and methane release (2) industry best practices, responsible sourcing options and alternatives. Staff anticipates 4-5 meetings depending on holiday scheduling.
- Apr. 2014 – take guiding principles and proposals to other working groups for review.

ATTACHMENT C

- May 2014 – finalize guiding principles and proposed incentives programs to go to City Council or, if it exists at that time, a Utility Advisory Board.

Working Group Members

COMMUNITY MEMBERS (Members CVs are provided [here](#))

Bill Ellard
Alison Burchell
David Scott
Jim Look
Lynn Segal
Micah Parkin
Neshama Abraham
Pam Milmoie
Pete Morton
Puneet Pasrich
Robyn Kube
Sharon Klipping
Tim Thomas
Todd Bryan
Tom Asprey
Dickey Lee Hullinghorst

STAFF

Jonathan Koehn- Regional Sustainability Coordinator
Yael Gichon – Residential Sustainability Coordinator
Kelly Crandall – Sustainability Specialist
Sarah Huntley – Media Relations/Communications Coordinator



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2013

AGENDA TITLE: Request for direction on the 2014 Community Survey

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Patrick von Keyserling, Communications Director
Jean Gatza, Sustainability Planner

EXECUTIVE SUMMARY

Staff seeks direction regarding the proposed questions for the 2014 Community Survey. The purpose of the survey is to learn from residents, to receive feedback about what is working or not working with local government services, to understand from residents what they value as community priorities for government services and programs and to monitor trend lines.

The city staff team and the City Council Subcommittee (Council members Jones and Young) have developed draft questions for the 2014 questionnaire. These include revisions to the 2011 survey questions, as well as a few new questions. The survey consultant, National Research Center, will complete the final wording of the questions based on this draft and council direction.

STAFF RECOMMENDATION

Staff requests council direction regarding the proposed questions for the 2014 Community Survey.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** There are no direct economic impacts or benefits to the community from the community survey. The results of the survey may inform decision-making regarding the city budget, including Boulder Economic vitality efforts.
- **Environmental:** There are no direct environmental impacts or benefits from the information presented in the report. However, the results of survey include issues that may affect decision making as it relates to environmental sustainability.
- **Social:** A primary purpose of the survey is to conduct a public outreach effort that will provide results of a representative sample of the views of Boulder residents. Residents will be asked to make judgments about what is working well and what is not working well in city service delivery, quality of life in Boulder, and community priorities.

OTHER IMPACTS

Fiscal: \$45,000 is the budget for the project.

Staff time: It is anticipated that staff support of the community survey process will be completed within existing resources.

BACKGROUND

Purpose of the Community Survey

The purpose of the survey is to learn from Boulder residents how they feel about local government; to understand what they believe is working well and what is not in city service delivery; and to learn what issues residents believe will affect Boulder in the future. The City of Boulder has conducted a community survey about every two years from 1987 to 2001 and then again in 2007 and 2011.

Proposed Schedule

The schedule for the 2014 Community Survey has been developed in order to have the results back in April and May to inform the 2015 budget process. Depending on direction from City Council and recommendations by the selected survey consultant, the schedule may change from what is listed here.

December 17	Present draft survey questions to City Council
Early January	Deadline for final materials
January-February	Consultant distributes and collects surveys
March-April	Consultant compiles results
Early-April	Receive Draft Results - city staff review & feedback
May 1	Receive final report
May	Public presentation of results to City Council & community

ANALYSIS

The draft questionnaire for the 2014 Community Survey is included in **Attachment A**.

The City Council Subcommittee (Jones, Young) reviewed the draft survey and provided feedback. The subcommittee supported the goals and approach, recommended wording

changes that are reflected in the attachment, and requested potential new questions related to the city's flood response, funding priorities and arts and cultural priorities.

Council members are asked to review the draft survey and focus their feedback on whether the topic areas or mix of topic areas covered in the survey reflect the type of information council wishes to obtain from the public. As the questionnaire is further reviewed by staff throughout the organization there may be additional wording changes and the order of the questions will likely be revised.

Recommendations

- **Subtitles.** For questions with many topics, subtitles based on the sustainability framework categories will be added to help the respondents better understand what is meant by the question or service described.
- **New question about safety with geographic areas.** Question #3 is new, asking the respondent about their perception of safety in various places in the city. One key purpose in asking this question is to get baseline data to see how these perceptions change in the future.
- **Frequency of use.** Question #4 asks how often the respondent does certain activities or uses services. Many of these questions are asked in other outreach venues or the data may be interesting but it is not essential. Questions proposed for elimination are shown in strikethrough. Questions where this information is not collected in other ways will be retained. These include: climate action, recycling, composting, energy upgrades, parks and recreation, and OSMP use.
- **Combined importance and rating question.** In past surveys importance of key services and rating of programs and services were asked in separate questions. This was revised to allow the respondent to consider these services in one place instead of two separate questions. The new question #8 includes the categories from each of the two past questions with a few revisions.
- **Perception of flood response.** "Responding to emergencies and natural disasters (wildfire, flood)" was added to question #6 to gauge perception of the city's responsiveness.
- **New question about library services.** Question #14 is new and was requested by Library staff and the Library Commission to include if space allows.
- **Open-ended questions.** Open-ended questions allow the respondent to provide more information about their response and to raise issues that may not otherwise be identified through the standard questions. Opportunities for open-ended responses will be included for key questions about the city's performance and importance of programs.
- **Survey length.** Adjustments to language and questions may be made in order to keep the survey to six pages.

National Research Center, Inc. (NRC), the Boulder-based survey consultant that has conducted the city's community surveys in past years, has been selected to conduct the 2014 survey. NRC will write the final questions to ensure non-biased wording and consistency with trends, as well as comparisons with other communities.

Communications and Outreach

Communications assistance around the 2014 Community Survey is expected to be a significant part of 2014's first quarter work plan. It will be important that members of our community are aware that the city is conducting a statistically valid random sample survey and understand how the survey results will help inform budget decisions. It also will be important for members of the community not selected for the random sample to understand how they may share their input with staff.

The outreach plan for the statistically valid random survey portion of the 2014 Community Survey includes a postcard mailing to selected households followed by a mailed survey. Prior to the mailings, the Communications team will issue a news release and utilize Channel 8 to announce the upcoming survey and provide a high-level overview of its purpose. Immediately after the statistically valid random survey closes, the city will launch an open online community survey to all residents. Staff will engage the public during this process by using already available communication channels such as news releases and media pitches, Channel 8 programming, social media websites (Facebook and Twitter), city email listservs, and community partners. In addition to the online survey, staff also will promote survey opportunities to Spanish speakers, university students and Boulder youth through city programs and in partnership with community organizations.

ATTACHMENTS

A: Draft questionnaire for the 2014 Community Survey



DRAFT

CITY OF BOULDER 2014 COMMUNITY SURVEY

1. Please read the following questions and circle the number which most closely reflects your opinion.

How do you rate . . .	very good	good	neither good nor bad	bad	very bad	N.A.* or don't know
Your overall quality of life in Boulder, taking all things into consideration.....	1	2	3	4	5	6
Overall quality of your neighborhood.....	1	2	3	4	5	6
The sense of community in Boulder.....	1	2	3	4	5	6
Community acceptance of all people	1	2	3	4	5	6
Race and ethnic relations in Boulder.....	1	2	3	4	5	6
Boulder as a place to work	1	2	3	4	5	6
Overall Boulder city government operations.....	1	2	3	4	5	6
Overall ease of getting to the places you usually visit.....	1	2	3	4	5	6
Quality of the natural environment.....	1	2	3	4	5	6
Quality of indoor and outdoor recreation	1	2	3	4	5	6
Opportunities to attend arts/cultural events.....	1	2	3	4	5	6
Quality or character of new development	1	2	3	4	5	6
Access to a variety of housing options.....	1	2	3	4	5	6
Employment opportunities	1	2	3	4	5	6
Shopping opportunities.....	1	2	3	4	5	6

2. Please rate how safe you feel from each of the following in Boulder:

	very safe	somewhat safe	neither safe nor unsafe	somewhat unsafe	very unsafe
Violent crimes (e.g., rape, robbery, homicide).....	1	2	3	4	5
Property crimes (e.g., burglary, theft, criminal mischief).....	1	2	3	4	5
Structural/house fires	1	2	3	4	5
Wildland fires.....	1	2	3	4	5
Floods	1	2	3	4	5
Traffic-related incidents (road rage, bike-car conflicts, etc.).....	1	2	3	4	5
Discrimination due to your background or personal characteristics	1	2	3	4	5

3. Please tell us how safe you feel in each of the following areas in Boulder.

	always safe	usually safe	sometimes safe sometimes unsafe	usually unsafe	always unsafe	N.A*. or don't know
Downtown Commercial Area during the day	1	2	3	4	5	6
Downtown Commercial Area at night.....	1	2	3	4	5	6
Municipal Campus / Main Library area during the day	1	2	3	4	5	6
Municipal Campus / Main Library area at night	1	2	3	4	5	6
Your neighborhood during the day	1	2	3	4	5	6
Your neighborhood at night	1	2	3	4	5	6
City Parks	1	2	3	4	5	6
Multi-use paths (e.g. Boulder Creek Path,)	1	2	3	4	5	6
Open Space Trails	1	2	3	4	5	6
Libraries	1	2	3	4	5	6

4. In the last 12 months, about how many times, if ever, have you done the following things?

	<u>never</u>	<u>1 to 2 times</u>	<u>3 to 12 times</u>	<u>13 to 26 times</u>	<u>more than 26 times</u>
Accessibility and Connectedness					
Used the Boulder Creek or other greenways bike and pedestrian path.....	1	2	3	4	5
Rode a high-frequency community transit network bus (e.g., HOP, SKIP, JUMP, etc.) within the City of Boulder	1	2	3	4	5
Rode another RTD bus within Boulder	1	2	3	4	5
Rode a bus between Boulder and Denver	1	2	3	4	5
Commuted to work by bicycle	1	2	3	4	5
Visited the City of Boulder Web site (www.bouldercolorado.gov)	1	2	3	4	5
Completed a service transaction using the city Web site (registered for an event or program, financial transaction, etc.)	1	2	3	4	5
Visited one of the city's social media Web sites (Facebook, Twitter, YouTube, Flickr)	1	2	3	4	5
Healthy and Socially Thriving Community					
Volunteered for a city program (such as neighborhood clean-up, trail maintenance, library, etc.)	1	2	3	4	5
Used the North, South or East Boulder Recreation Centers	1	2	3	4	5
Participated in City of Boulder recreation programs, activities or events...	1	2	3	4	5
Used the services or facilities of the East or West Senior Centers	1	2	3	4	5
Used any of the Boulder Public Libraries (Main and/or the Reynolds, Meadows, or Carnegie branches) or used library information services via their Web site(s)	1	2	3	4	5
Used the public computers or free Internet access at one of the Boulder Public Library facilities	1	2	3	4	5
Community Livability					
Visited a neighborhood park or playground (including tennis courts, Flatirons Golf Course, outdoor pools, and Boulder Reservoir)	1	2	3	4	5
Economically Vitality					
Visited the Pearl Street Mall	1	2	3	4	5
Visited Twenty-Ninth Street retail center	1	2	3	4	5
Visited the University Hill business district	1	2	3	4	5
Safety					
Reported a complaint about a neighborhood problem	1	2	3	4	5
Dialed 9-1-1	1	2	3	4	5
Environmental Sustainability					
Visited Boulder open space or mountain parks	1	2	3	4	5
Recycled used paper, cans or bottles from your home	1	2	3	4	5
Made energy improvements to your home or business	1	2	3	4	5
Good Governance					
Attended a public meeting or event about city matters	1	2	3	4	5
Attended a City Council meeting	1	2	3	4	5
Watched a City Council meeting on cable TV Channel 8	1	2	3	4	5
Watched a news program on cable TV Channel 8	1	2	3	4	5

5. Please rate to what extent you agree or disagree with the following statements.

	<u>strongly agree</u>	<u>agree</u>	<u>neither agree nor disagree</u>	<u>disagree</u>	<u>strongly disagree</u>
I am pleased with the overall direction the city is taking	1	2	3	4	5
I inform myself about major issues in the City of Boulder	1	2	3	4	5
I take the initiative to let elected officials or city staff know what I think	1	2	3	4	5
I feel included in the Boulder community	1	2	3	4	5

6. Please rate how well you think the City of Boulder does on each of the following:

	<u>very well</u>	<u>well</u>	<u>neither well nor poorly</u>	<u>poorly</u>	<u>very poorly</u>	<u>N.A.* or don't know</u>
Being responsive to residents and businesses	1	2	3	4	5	6
Effectively planning for the future	1	2	3	4	5	6
Working through critical issues facing the city.....	1	2	3	4	5	6
Gathering feedback from residents on new policies or projects; conducting public processes	1	2	3	4	5	6
Providing access to information about issues, events and meetings.....	1	2	3	4	5	6
Spending your tax dollars wisely	1	2	3	4	5	6
Informing the public about how their tax dollars are used	1	2	3	4	5	6
Responding to emergencies and natural disasters (flood, wildfire).....	1	2	3	4	5	6

7. Do you have any other comments about the job that the City of Boulder is doing?

8. For each of the following services provided by the City of Boulder, first please rate the quality of the service and then how important each of these services is in Boulder.

	<u>very good</u>	<u>good</u>	<u>neither good nor bad</u>	<u>bad</u>	<u>very bad</u>	<u>don't know</u>	<u>essential</u>	<u>very important</u>	<u>somewhat important</u>	<u>not at all important</u>	<u>don't know</u>
Good Governance											
Cable TV Channel 8 (council coverage, city news, local talk shows)	1	2	3	4	5	6	1	2	3	4	5
City of Boulder Web site (www.bouldercolorado.gov)	1	2	3	4	5	6	1	2	3	4	5
City social media Web sites (e.g. Facebook, Twitter, YouTube)	1	2	3	4	5	6	1	2	3	4	5
Livable Community											
Preserving the city's historic features and attributes	1	2	3	4	5	6	1	2	3	4	5
Neighborhood parks (play areas & playgrounds)	1	2	3	4	5	6	1	2	3	4	5
Housing affordable to low income people	1	2	3	4	5	6	1	2	3	4	5
Housing affordable to middle income people	1	2	3	4	5	6	1	2	3	4	5
Parks.....	1	2	3	4	5	6	1	2	3	4	5
Building and housing codes	1	2	3	4	5	6	1	2	3	4	5
Enforcement of residential over-occupancy ordinances.....	1	2	3	4	5	6	1	2	3	4	5
Noise control enforcement.....	1	2	3	4	5	6	1	2	3	4	5
Enforcement of ice and snow removal, trash and weed control on private property.....	1	2	3	4	5	6	1	2	3	4	5
Median maintenance	1	2	3	4	5	6	1	2	3	4	5
Accessible and Connected Community											
Decreasing congestion and improving traffic flow	1	2	3	4	5	6	1	2	3	4	5
High frequency transit (bus or rail) routes	1	2	3	4	5	6	1	2	3	4	5
Bike and pedestrian facilities (such as bike lanes, sidewalks, paths, etc.)	1	2	3	4	5	6	1	2	3	4	5
Snow and ice control on major streets.....	1	2	3	4	5	6	1	2	3	4	5
Street repair (potholes, crack repair, etc.)	1	2	3	4	5	6	1	2	3	4	5
Street sweeping	1	2	3	4	5	6	1	2	3	4	5
Street lighting.....	1	2	3	4	5	6	1	2	3	4	5

Sidewalk maintenance.....	1	2	3	4	5	6	1	2	3	4	5
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9. For each of the following services provided by the City of Boulder, first please rate the quality of the service and then how important each of these services is in Boulder (continued).

	very good	good	neither good nor bad	bad	very bad	don't know	essential	very important	somewhat important	not at all important	don't know
Economically Vital Community											
Assistance to businesses to keep them in Boulder.....	1	2	3	4	5	6	1	2	3	4	5
Attracting/retaining "discount" or "affordable" shopping opportunities	1	2	3	4	5	6	1	2	3	4	5
Retention and expansion of quality jobs in Boulder	1	2	3	4	5	6	1	2	3	4	5
Healthy and Socially Thriving Community											
North, South and East Recreation Centers programs and classes	1	2	3	4	5	6	1	2	3	4	5
Parks and recreation fields and courts (baseball, softball, soccer, tennis)	1	2	3	4	5	6	1	2	3	4	5
Parks and recreation specialized or single-use facilities (disc golf, pools, skate park)	1	2	3	4	5	6	1	2	3	4	5
Boulder Public Libraries & library services	1	2	3	4	5	6	1	2	3	4	5
Services for children (age 12 and under)	1	2	3	4	5	6	1	2	3	4	5
Services for youth (age 13 to 21)	1	2	3	4	5	6	1	2	3	4	5
Services for seniors (age 65 and older)	1	2	3	4	5	6	1	2	3	4	5
Services for low-income families	1	2	3	4	5	6	1	2	3	4	5
Providing spaces for and access to a variety of arts/cultural events.....	1	2	3	4	5	6	1	2	3	4	5
Art in public places	1	2	3	4	5	6	1	2	3	4	5
Reducing homelessness	1	2	3	4	5	6	1	2	3	4	5
Drinking water services	1	2	3	4	5	6	1	2	3	4	5
Environmentally Sustainable Community											
Acquiring open space lands	1	2	3	4	5	6	1	2	3	4	5
Energy conservation and efficiency programs ...	1	2	3	4	5	6	1	2	3	4	5
Renewable energy programs	1	2	3	4	5	6	1	2	3	4	5
Recycling and composting collection services....	1	2	3	4	5	6	1	2	3	4	5
Water conservation programs.....	1	2	3	4	5	6	1	2	3	4	5
Mosquito or pest control programs	1	2	3	4	5	6	1	2	3	4	5
Safe Community											
Crime prevention.....	1	2	3	4	5	6	1	2	3	4	5
Police presence in your neighborhood	1	2	3	4	5	6	1	2	3	4	5
Police presence in business/shopping districts (such as Pearl Street, University Hill, Twenty Ninth Street, etc.)	1	2	3	4	5	6	1	2	3	4	5
Police traffic enforcement	1	2	3	4	5	6	1	2	3	4	5
Police response to community problems or needs	1	2	3	4	5	6	1	2	3	4	5
Flood or natural hazard education	1	2	3	4	5	6	1	2	3	4	5
Emergency Preparation	1	2	3	4	5	6	1	2	3	4	5
Fire safety education	1	2	3	4	5	6	1	2	3	4	5
Fire response	1	2	3	4	5	6	1	2	3	4	5
Emergency medical services.....	1	2	3	4	5	6	1	2	3	4	5
Boulder Municipal Court.....	1	2	3	4	5	6	1	2	3	4	5

10. Do you have specific comments about your quality ratings for these programs and services?

11. Do you have specific comments about your answers on the importance of these programs and services?

12. If you have had phone, in-person or email contact with a Boulder city employee in the last 12 months, how would you rate your impression?

	<u>very good</u>	<u>good</u>	<u>neither good nor bad</u>	<u>bad</u>	<u>very bad</u>	<u>N.A.* or don't know</u>
Courteous, respectful and professional	1	2	3	4	5	6
I received the assistance I needed	1	2	3	4	5	6

13. Thinking of how you currently get information about events or issues in which you are interested, how likely, if at all, would you be to obtain information from the city about things like City Council meetings, community meetings, upcoming programs and events in the following formats?

	<u>very likely</u>	<u>likely</u>	<u>slightly likely</u>	<u>not at all likely</u>	<u>N.A.* or don't know</u>
Cable TV Channel 8	1	2	3	4	5
City of Boulder Web site (www.bouldercolorado.gov)	1	2	3	4	5
City social media Web sites (e.g. Facebook, Twitter, YouTube)	1	2	3	4	5
The Boulder Daily Camera	1	2	3	4	5
The Colorado Daily	1	2	3	4	5
Boulder County Business Report	1	2	3	4	5
Inserts in the water utility bill	1	2	3	4	5
Mailings to your home address.....	1	2	3	4	5
Listserve (where you sign up to be part of a group receiving e-mails from the city)	1	2	3	4	5
Are there any other ways you'd like to receive information? _____					

14. The library offers or is considering offering the following services with access from home. How likely are you to use each?

	<u>very likely</u>	<u>likely</u>	<u>slightly likely</u>	<u>not at all likely</u>	<u>N.A.* or don't know</u>
Streaming or downloadable movies	1	2	3	4	5
Streaming or downloadable music.....	1	2	3	4	5
Downloadable e-books and/or audiobooks.....	1	2	3	4	5
e-Magazines for tablet or phone.....	1	2	3	4	5
Online classes/courses (e.g. Lynda.com)	1	2	3	4	5
Research databases for school or business	1	2	3	4	5
Literary, film, concerts, dance, theater, history or science programming ..	1	2	3	4	5
Are there other services not currently offered you would like to see offered by the Boulder library? _____					

15. Are you eligible to have an Eco-Pass, an annual pass that allows you unlimited bus rides? (Please check all that apply.)

- don't know if I am eligible for an Eco-Pass → go to question #18
- no, I am not eligible for an Eco-Pass → go to question #18
- yes, through my employer
- yes, through my neighborhood program
- yes, a CU Boulder student Buff One pass
- yes, a CU Boulder faculty/staff Buff One pass
- yes, other pass: _____

16. Did you pick up your Eco-Pass?

- yes
- no → go to question #18

17. About how often, on average, do you use your Eco-Pass?

- more than once a week
- about once a week
- about once every two weeks
- about once a month
- less often than once a month

Other Comments

18. Do you have any other comments you would like to make?

31. Do you have regular, convenient access to the internet?

- No → go to question #32
- Yes → **Where? (check all that apply)**
 - at home
 - at work
 - on a "smart" phone or PDA
 - a public facility (e.g. library or school)

32. What is your age?

- 18-24 years old
- 25-34 years old
- 35-44 years old
- 45-54 years old
- 55-64 years old
- 65-74 years old
- 75 or older

33. What is the highest level of education you have completed?

- 0-11 years, no diploma
- High school graduate
- Some college, no degree
- Associate Degree
- Bachelor's Degree
- Master's Degree
- Doctorate Degree

34. Are you of Chicano/Mexican-American, Latino/Latina, or Hispanic origin?

- Yes
- No

35. Which best describes your race? (Please check all that apply)

- American Indian, Eskimo or Aleut

- Asian or Pacific Islander
- Black or African American
- White
- Other, please specify_____

36. What is your preferred first language?

- English → go to question #38
- Arabic
- Chinese
- French
- German
- Hebrew
- Italian
- Japanese
- Scandinavian languages
- Other, please specify_____
- Korean
- Mia, Hmong
- Portuguese
- Russian
- Spanish
- Vietnamese

37. Did you receive help completing this questionnaire in English?

- Yes
- No

38. What is your gender?

- Male
- Female

Please return completed surveys to:
*National Research Center
 2955 Valmont Road, Suite 300
 Boulder, CO 80301*

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TO: Members of Council
FROM: Dianne Marshall, City Clerk's Office
DATE: December 17, 2013
SUBJECT: Information Packet

1. Call Ups

- A. Vacation of a 4,122 square foot water main easement located along the southern border of the property at 4474 Broadway (ADR2013-00209)
- B. Vacation of a 1,230 square foot portion of an existing seven-foot utility easement that bisects the property at 1560 Cress Court (ADR2013-00216)

2. Information Item

- A. Boulder's Energy Future Budget Update
- B. E-911 Fee Increase
- C. Hydroelectric Program Update

3. Boards and Commissions

- A. Parks and Recreation Board – August 8, 2013
- B. Parks and Recreation Board – September 23, 2013
- C. Parks and Recreation Board – October 28, 2013

4. Declarations

None



**INFORMATION PACKET
MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Charles Ferro, Development Review Manager
Sloane Walbert, Planner I

Date: December 10, 2013

Subject: Call-Up Item: Vacation of a 4,122 square foot water main easement located along the southern border of the property at 4474 Broadway (ADR2013-00209).

EXECUTIVE SUMMARY:

The applicant requests vacation of an existing water main easement located along the southern border of the property at 4474 Broadway (refer to **Attachment D** for exact location). The easement was dedicated to the City of Boulder as a Grant of Easement, recorded May 22, 1986, for the “installation, construction, repair, maintenance and reconstruction of a water main and appurtenances thereto.” Since that time a multi-family residential development has been approved on the property and the water line previously located in the easement has been relocated to the public right-of-way on Violet Avenue.

The proposed vacation was approved by staff on November 22, 2013. There is one scheduled City Council meeting on December 17 within the 30 day call-up period.

CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 4,122 square foot water main easement. The date of final staff approval of the easement vacation was November 22, 2013 (refer to **Attachment E, Notice of Disposition**). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on December 23, 2013 unless the approval is called up by City Council.

FISCAL IMPACTS:

None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: None identified.
- Environmental: None identified.
- Social: None identified.

BACKGROUND:

The subject property is located at the northeast corner of Broadway and Violet Avenue, in a Mixed Use 2 (MU-2) zone district (refer to **Attachment A, Vicinity Map**). A multi-family residential development was approved in late 2010. The Violet Crossing development will consist of 98 residential units in a total of 10 buildings. The property is encumbered by an approximately five-foot water main easement that runs along the southern border of the property (please refer to **Attachment B, Site Plan**). The subject easement was dedicated to accommodate a water main in 1986. However, four of the planned structures for Violet Crossing encroach into the easement. The water main previously located in the easement has been relocated into the public right-of-way on Violet Avenue. In addition, a new utility easement will be dedicated to accommodate dry utilities on the southern edge of the property. The housing development is under construction and there are currently no encroachments into the subject easement. Given that there is no public need for the easement for which it was intended, failure to vacate the requested portion of easement would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:

Staff finds the proposed vacation of the 4,122 square foot water main easement consistent with the standard set forth in subsection (b) of section 8-6-10, “*Vacation of Public Easements*”, B.R.C. 1981. All agencies having an interest in the easement have indicated that no need exists, at present or in the future, for that portion of the easement to be vacated. Staff has determined that no public need exists for the portion of easement to be vacated due to the fact that a separate easement has been dedicated for public utilities on the property.

No vacation of a public easement shall be approved unless the approving agency finds that:

- ✓ 1. Change is not contrary to the public interest.
- ✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.
- ✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.

- ✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or
- The easement was dedicated in 1986 to accommodate the extension of a water main on the subject property (Rec. no. 760982). Since this time a multi-family development has been approved for the property and the water main has been relocated into public right-of-way. There is no public need for the easement to be vacated.*
- N/A b. Would provide a greater public benefit than retaining the property in its present status.

PUBLIC COMMENT AND PROCESS:

Notice of the vacation will be advertised in the Daily Camera within the 30 day call up period. Staff has received no written or verbal comments adverse to the vacation.

NEXT STEPS:

If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

ATTACHMENTS:

- Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition





For Administrative Purposes Only
Address: 4474 Broadway
Case No. ADR2013-00209

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the land, in a manner prescribed by Section 8-6-10(b), B.R.C. 1981, a water main easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Film 1409, Reception No. 760982 on the 22nd day of May, 1986, located at 4474 Broadway and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The above easement vacation and release of said easement at 4474 Broadway shall extend only to the portion and the type of easements specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 20____, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

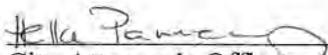
CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam,
City Manager

Attest:

City Clerk

Approved as to form:



City Attorney's Office

12-2-2013
Date



EXHIBIT A

SHEET 1 OF 2

Engineers/Surveyors

DREXEL, BARRELL & CO.

NOVEMBER 20, 2013

Boulder
Colorado Springs
Steamboat Springs
Grand Junction

LEGAL DESCRIPTION

1800 38th Street
Boulder, CO 80304-2620

A PORTION OF THAT TRACT OF LAND DESCRIBED ON FILM 1409 AS RECEPTION NO. 760982 WITHIN LOT 1, VIOLET CROSSING SUBDIVISION, ACCORDING THE PLAT THEREOF RECORDED APRIL 24, 2013 UNDER RECEPTION NO. 3307020, LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 18, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

303-442-4438
303-442-4377 fax

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE N00°09'00"W, 15.00 FEET ALONG THE WESTERLY LINE OF SAID LOT 1;

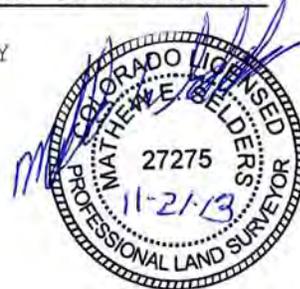
THENCE N89°34'26"E, 275.54 FEET TO A POINT ON THE WESTERLY LINE OF AN EXISTING UTILITY EASEMENT PER THE PLAT OF VIOLET CROSSING SUBDIVISION;

THENCE S05°11'50"W, 15.07 FEET ALONG SAID WESTERLY LINE OF AN EXISTING UTILITY EASEMENT TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 1;

THENCE S89°34'26"W, 274.14 FEET ALONG SAID SOUTHERLY LINE OF LOT 1 TO THE **TRUE POINT OF BEGINNING**.

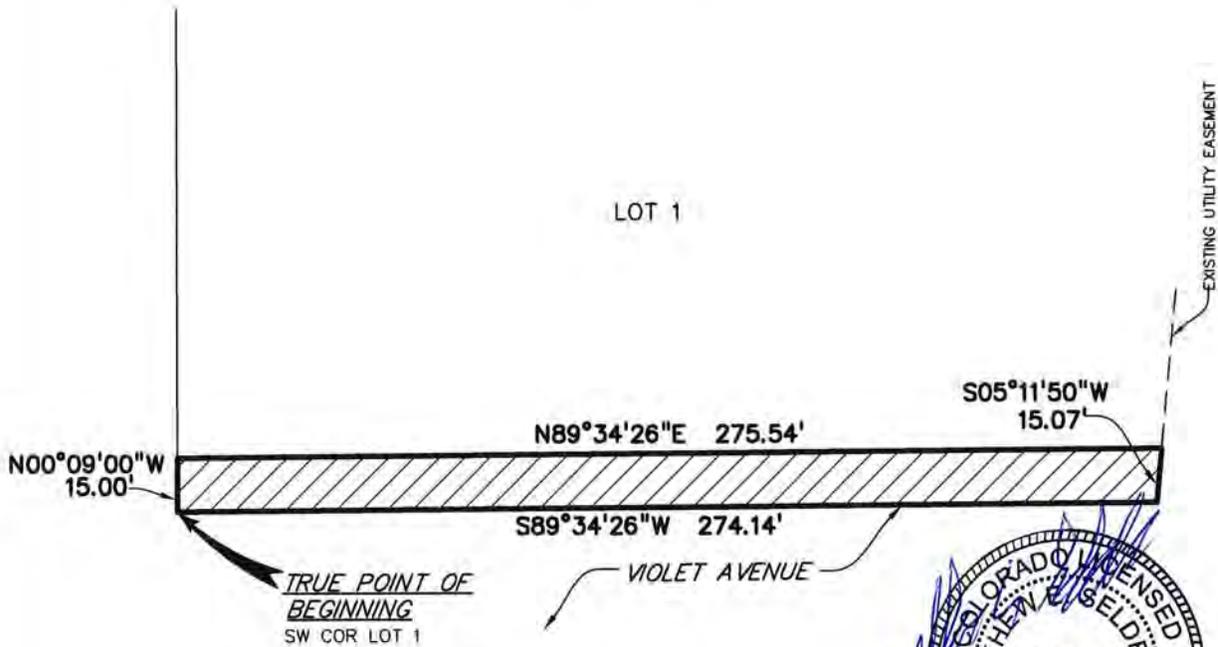
LEGAL DESCRIPTION PREPARED BY

MATHEW E. SELTERS
COLORADO LICENSE NO. 27275
1800 38TH STREET
BOULDER, CO 80301
303-442-4338



S:\S0419-8\Documents\Legals\Vacated Water Easement.doc

EXHIBIT A
SHEET 2 OF 2



PORTION OF WATER
EASEMENT TO BE VACATED
AREA = 4122 SQ. FT.



EXHIBIT MAP OF A PORTION OF THAT TRACT OF LAND DESCRIBED ON FILM 1409 AS RECEPTION NO. 760982 WITHIN LOT 1, VIOLET CROSSING SUBDIVISION, LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 18, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.



SCALE 1" = 50'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105:
NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co. Engineers/Surveyors
1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338



COLORADO SPRINGS, COLORADO (719) 260-0887
GRAND JUNCTION, COLORADO (970) 257-1350
STEAMBOAT SPRINGS, COLORADO (970) 879-1523

Revisions - Date	Date	Drawn By	Job No.
	11-20-13	SDS	S0419-8
	Scale	Checked By	Drawing No.
	1" = 50'	MES	IN FOLDER

S:\50419-8\Drawings\Exhibits\04198ex12.dwg, 11/20/2013 1:27:38 PM



CITY OF BOULDER
Community Planning and Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

ADMINISTRATIVE REVIEW
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION: Approved
DATE: November 22, 2013
REQUEST TYPE: Vacation/Easement
ADDRESS: 4474 Broadway
APPLICANT: North Broadway Center LLC
CASE #: ADR2013-00209
LEGAL DESCRIPTION: Lot 1, Violet Crossing Subdivision, City of Boulder, County of Boulder, Colorado

DESCRIPTION: EASEMENT VACATION to vacate a 4,122 square foot water main easement located along the south property line at 4474 Broadway.

FINAL DECISION STANDARDS:

Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval.

This approval is limited to the vacation of a 4,122 square foot water main easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder on Film 1409 at Reception No. 760982 on May 22, 1986.

No public need exists for the easement to be vacated because the water main previously located in the easement has been relocated within the public right-of-way on Violet Avenue. The relocation of the water main was done in association with an approved site review for the Violet Crossing multi-family residential development.

INFORMATIONAL COMMENTS:

Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

Approved By:

Swaibert
Sloane Walbert, Planning



**INFORMATION PACKET
MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Charles Ferro, Development Review Manager
Sloane Walbert, Planner I

Date: December 10, 2013

Subject: Call-Up Item: Vacation of a 1,230 square foot portion of an existing seven-foot utility easement that bisects the property at 1560 Cress Court (ADR2013-00216).

EXECUTIVE SUMMARY:

The applicant requests vacation of a 1,230 square foot portion of an existing seven-foot utility easement at 1560 Cress Court (refer to **Attachment D** for exact location) to accommodate a future addition to the existing home located on the property. The easement was originally dedicated on the original Warne Subdivision plat, recorded May 20, 1964. It appears the easement was reserved for future utility connections along the boundaries of the subdivision. However, there is no public need for the portion of utility easement to be vacated because all public utilities have been placed in public right-of-way on Cress Court and in the remaining portion of easement. The vacation will maintain a fourteen-foot utility easement straddling the property's north property line.

The proposed vacation was approved by staff on December 2, 2013. There is one scheduled City Council meeting on December 17 within the 30 day call-up period.

CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 1,230 square foot portion of an existing seven-foot utility easement. The date of final staff approval of the easement vacation was December 2, 2013 (refer to **Attachment E, Notice of Disposition**). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on January 2, 2014 unless the approval is called up by City Council.

FISCAL IMPACTS:

None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: None identified.

- Environmental: None identified.

- Social: None identified.

BACKGROUND:

The subject property is a large 21,512 square foot lot located in the Residential - Estate (RE) zone district (refer to **Attachment A**, *Vicinity Map*). The property is encumbered by a seven-foot utility easement that bisects the property and runs along the northwest property line (please refer to **Attachment B**, Site Plan). The portion of utility easement to be vacated originally ran along the southern property line of Lot 8, at the boundary of the Warne Subdivision. However, the subject property was combined with unplatted land to the south since the initial subdivision and the easement currently bisects the property.

It appears the portion of easement to be vacated was reserved in 1964 for future utility connections along the boundaries of the subdivision. Presently water and sewer services are located in the public right-of-way in Cress Court and surrounding streets. A water meter pit is located in the subject easement along the north property line. There are no plans to extend water or sewer services through the subject easement. There are no public or private utilities located in the portion of easement to be vacated.

The subject easement currently limits the building envelope for the existing home and a portion of the driveway, a water feature, and a frame shed currently encroach into the easement. The property owner would like the option to expand the building footprint into the current easement area at some point in the future. Given that there is no public need for the easement for which it was intended, failure to vacate the requested portion of easement would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:

Staff finds the proposed vacation of a 1,230 square foot portion of the existing seven-foot utility easement consistent with the standard set forth in subsection (b) of section 8-6-10, “*Vacation of Public Easements*”, B.R.C. 1981. Specifically, staff has determined that no public need exists for the portion of easement to be vacated due to the fact that all public utilities are located within the public-right-of way and existing private utilities will be located within the remaining portion of easement.

No vacation of a public easement shall be approved unless the approving agency finds that:

- ✓ 1. Change is not contrary to the public interest.

- ✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.
- ✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.
- ✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or
The applicant would like the option to expand the existing home at some point in the future. The utility easement reservation unnecessarily limits the building envelope to the west and south. The portion of easement to be vacated is not necessary because all utilities are accommodated in the remaining portion of easement. There is no public need for the easement.
- N/A b. Would provide a greater public benefit than retaining the property in its present status.

PUBLIC COMMENT AND PROCESS:

Notice of the vacation will be advertised in the Daily Camera within the 30 day call-up period. Staff has received no written or verbal comments adverse to the vacation.

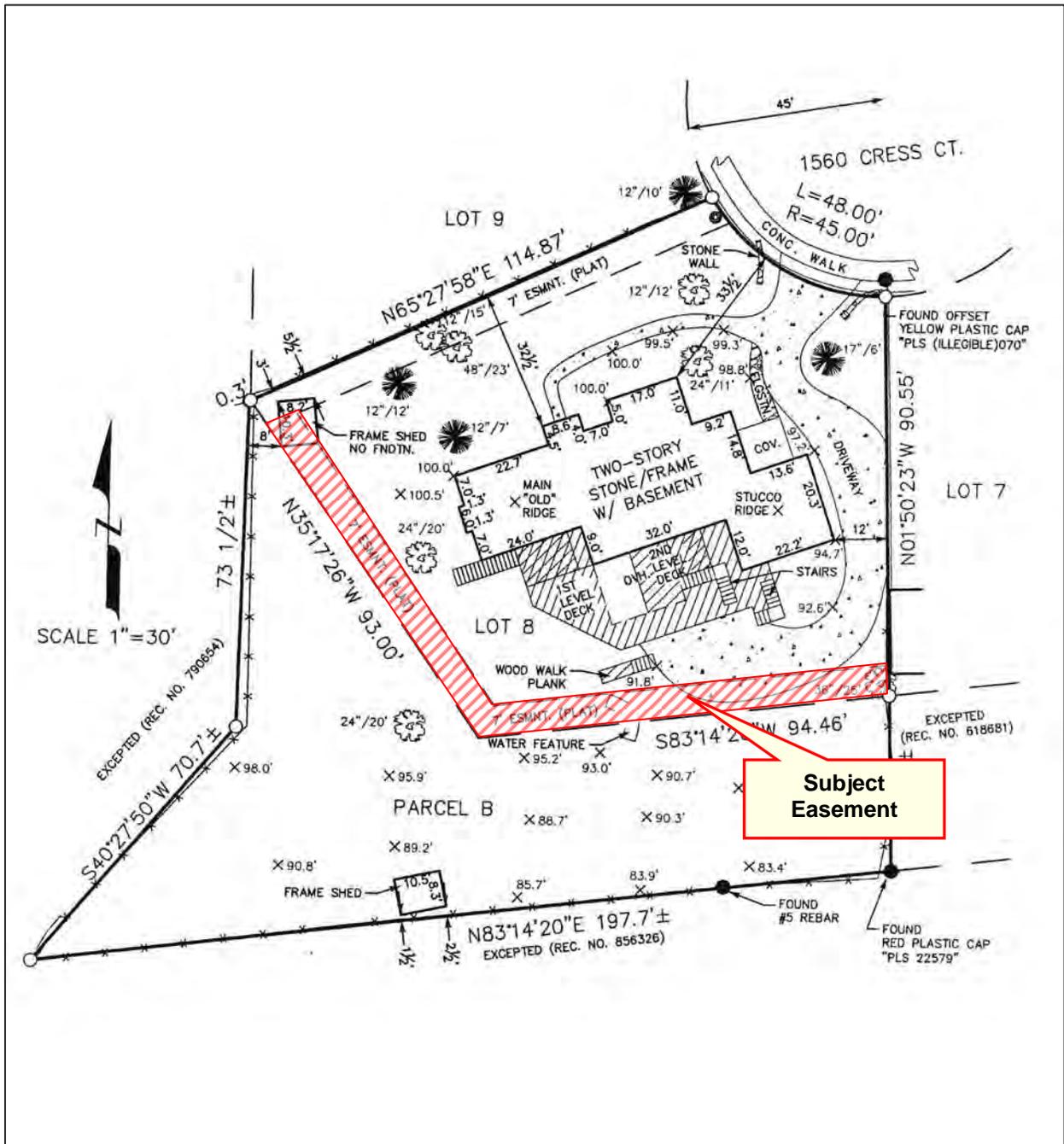
NEXT STEPS:

If the requested vacation is not called-up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called-up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

ATTACHMENTS:

- Attachment A: Vicinity Map
- Attachment B: Site Plan
- Attachment C: Deed of Vacation
- Attachment D: Exhibit A
- Attachment E: Notice of Disposition





For Administrative Purposes Only
Address: 1560 Cress Ct.
Case No. ADR2013-00216

DEED OF VACATION

The City of Boulder, Colorado does hereby vacate and release to the present owners of the subservient land, in a manner prescribed by Section 8-6-10(b), B.R.C. 1981, the following portion of utility easement previously dedicated to the City of Boulder and recorded on the plat of Warne Subdivision in the records of the Boulder County Clerk and Recorder at Reception No. 90756402 on the 20th day of May, 1964, located at 1560 Cress Ct. and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The within easement vacation and release of said easement shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way or easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 20__, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam,
City Manager

Attest:

City Clerk

Approved as to form:

Hilke Pannell
City Attorney's Office

12-6-2013
Date

EXHIBIT "A"

LOCATED IN THE NORTHWEST QUARTER OF SECTION 19,
TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT AS SHOWN ON THE PLAT OF WARNE SUBDIVISION, RECORDED AT RECEPTION NO. 756402, PLAN FILE R-1-1-37 IN THE RECORDS OF BOULDER COUNTY TO BE VACATED OVER AND ACROSS A PORTION OF LAND, LOCATED IN THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THAT PARCEL RECORDED AS RECEPTION NO. 1116325 TO BEAR S01°50'23"E, A DISTANCE OF 134.31 FEET BETWEEN A FOUND OFFSET YELLOW PLASTIC CAP "PLS (ILLEGIBLE)070" AND A FOUND RED PLASTIC CAP "PLS 22579", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID OFFSET, THENCE S01°50'23"E ALONG THE EASTERLY LINE OF LOT 8, WARNE SUBDIVISION, A DISTANCE OF 94.41 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 8 AND THE POINT OF BEGINNING;

THENCE S83°14'20"W ALONG THE SOUTHEASTERLY LINE OF SAID LOT 8, A DISTANCE OF 94.46 FEET;
THENCE N35°17'26"W ALONG THE SOUTHWESTERLY LINE OF SAID LOT 8, A DISTANCE OF 85.87 FEET;
THENCE N65°27'58"E, A DISTANCE OF 7.13 FEET;

THENCE S35°17'26"E PARALLEL TO SAID SOUTHWESTERLY LINE, A DISTANCE OF 80.38 FEET;
THENCE N83°14'20"E PARALLEL TO SAID SOUTHEASTERLY LINE, A DISTANCE OF 90.90 FEET TO A POINT ON SAID EASTERLY LINE OF LOT 8,

THENCE S01°50'23"E ALONG THE EAST LINE OF SAID LOT 8, A DISTANCE OF 7.03 FEET TO THE POINT OF BEGINNING.

SAID VACATED EASEMENT CONTAINING 1,230 SQ.FT. OR 0.03 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS,



FSI JOB NO. 13-61,858

JOB NUMBER: 13-61,858
DRAWN BY: W. BECKETT
DATE: NOVEMBER 1, 2013

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics



3825 IRIS AVE, STE 395
 BOULDER, CO 80301
 PH: (303) 443-7001
 FAX: (303) 443-9830
www.FlatironsInc.com

BY:SBENNINK FILE:61858-ESMT-VACATE.DWG DATE:11/4/2013 2:55 PM



CITY OF BOULDER
Community Planning and Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

ADMINISTRATIVE REVIEW
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION: Approved
DATE: December 2, 2013
REQUEST TYPE: Vacation/Easement
ADDRESS: 1560 Cress Ct.
APPLICANT: Carlo Persichetti, CPwest Design & Construction, Inc.
CASE #: ADR2013-00216
LEGAL DESCRIPTION: See Exhibit A

DESCRIPTION: EASEMENT VACATION to vacate a 1,230 square foot portion of a utility easement that bisects the property at 1560 Cress Ct.

FINAL DECISION STANDARDS:

Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval.

This approval is limited to the vacation of a 1,230 square-foot portion of an existing seven-foot utility easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder in Plan File R-1-1-37 at Reception Number 756402 on the 20th day of May, 1964.

INFORMATIONAL COMMENTS:

Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

Approved By:

Sloane Walbert, Planning

EXHIBIT A

LEGAL DESCRIPTION:
(PROVIDED BY FIDEILITY NATIONAL TITLE)

PARCEL A:

LOT 8, WARNE SUBDIVISION,
COUNTY OF BOULDER,
STATE OF COLORADO.

PARCEL B:

ALL THAT PORTION OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SECTION 19; WHENCE THE NORTHWEST CORNER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M. BEARS NORTH 753.57 FEET; THENCE NORTH 62°02' EAST, 713.26 FEET; THENCE NORTH 73°01' EAST, 698.50 FEET; THENCE SOUTH 533.43 FEET; THENCE SOUTH 89°49' WEST, 1295.15 FEET TO THE PLACE OF BEGINNING; LESS THE AREA NOW OCCUPIED BY COUNTY ROAD,

EXCEPT THAT TRACT OF LAND AS CONVEYED BY OLIVER G. WARNE AND ETHEL WARNE TO W.F. MCQUIGG AND ALMA MCQUIGG BY INSTRUMENT RECORDED FEBRUARY 29, 1944 IN BOOK 740 AT PAGE 497 AND ALSO EXCEPT THAT TRACT OF LAND AS CONVEYED BY OLIVER G. WARNE AND ETHEL WARNE TO SHIRLEY F. BUCHANAN BY INSTRUMENT RECORDED AUGUST 9, 1955 ON FILM 541 UNDER RECEPTION NO. 790654 AND ALSO EXCEPT THAT TRACT OF LAND AS CONVEYED BY OLIVER G. WARNE AND ETHEL WARNE TO LEACH & ARNOLD CONSTRUCTION, INC. BY INSTRUMENT RECORDED AUGUST 29, 1967 ON FILM 612 UNDER RECEPTION NO. 856326 AND ALSO EXCEPT THAT TRACT OF LAND AS CONVEYED BY INTRAWEST BANK, TRUSTEE TO JULIA C. HYND BY INSTRUMENT RECORDED MAY 3, 1984 ON FILM 1301 UNDER RECEPTION NO. 618681 AND ALSO EXCEPT THAT TRACT OF LAND AS CONVEYED BY INTRAWEST BANK, TRUSTEE TO JACK W. LACY AND PATRICIA ANN LACY BY INSTRUMENT RECORDED MAY 3, 1984 ON FILM 1301 UNDER RECEPTION NO. 618682 AND ALSO EXCEPT WARNE SUBDIVISION AND ALSO EXCEPT MOSS ROCK RIDGE,
COUNTY OF BOULDER,
STATE OF COLORADO.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development

Date: December 17, 2013

Subject: Information Item: Boulder's Energy Future Budget Update

Budget Update

The municipalization exploration work plan represents a significant undertaking. In particular, the legal and technical work necessary to determine the final costs for potential acquisition of the local distribution system and launch of a municipal utility will be a considerable investment. Recognizing this, in 2011, city voters approved an increase to the Utility Occupation Tax in the amount of \$1.9 million a year. The use of this tax revenue has been allocated to the following categories:

- Legal services (condemnation and FERC Counsel)
- Consulting services related to possible municipalization and separation of Xcel Energy's (Xcel's) system (engineering and appraisal services)
- Salary and benefits (Executive Director of Energy Strategy and Electric Utility Development)
- Purchased services and supplies (office space and supplies)

Following the voter approval in November 2011, the city has focused its "energy future" work efforts on exploring municipalization. Work plan items completed since the last budget update to council include:

- In July, city staff presented to council the quantitative modeling and qualitative research results and an update on the partnership discussions with Xcel.
- In August, council authorized staff to: 1) continue discussions with Xcel in order to learn more about the potential products and services the company could

provide; and, 2) proceed down a concurrent path toward acquiring the assets of Xcel and forming a locally owned utility.

- In November, Boulder voters supported moving forward with the project, but imposed an additional requirement that the cost of acquisition and any lump-sum payment for stranded costs cannot exceed \$214 million.
- The city/Xcel partnership task force has developed two subcommittees to further develop and vet Xcel's proposed programs.
- Colorado Public Utilities Commission (PUC) filings by Xcel have required attention by both legal and energy future staff, and it has become apparent that the city will need to dedicate resources to working with the PUC as it moves forward.
- City staff, consultants, engineers, and the legal team have been working together to identify and value the electric assets needed to support a locally owned utility in preparation for negotiation and potential condemnation actions and acquisition.
- City staff has issued a Request for Proposal (RFP) for consulting services to develop a detailed transition work plan.
- City staff has continued to explore opportunities for enhancing energy services and reducing emissions without owning the poles and wires.
- Staff formed two new working groups – solar and natural gas – to guide the city in these important policy areas and develop recommendations as the project moves forward.

2013 Budget

The 2013 total budget of \$3,251,935 is funded from the Utility Occupation Tax, a one-time general fund request of \$303,000 allocated to support high priority staffing needs for this project and \$1,048,935 prior year carryover from 2012. The carryover reflects savings from hiring the director mid-year in 2012 and a delay in spending for legal fees to negotiate the purchase of the system and engineering fees to assess and determine the technical capabilities of the system. Expenditures have been within the limitations of this budget.

The 2013 sources and uses for this effort are provided in the chart below. In the uses section, payments for expenditures as well as contract commitments and agreements are reflected through November 2013.

2013 Energy Strategy and Electric Utility Development Department Budget

2013 SOURCES:

Utility Occupation Tax	1,900,000
One-time General Fund	303,000
2012 Encumbrance Carryover (\$1.9M Utility Occupation Tax)	417,364
2012 Carryover (Environmental Reserve GF)	10,000
2012 Carryover (\$1.9M Utility Occupation Tax)	621,571
Total 2013 Sources	3,251,935

<u>2013 USES:</u>	<u>Budget</u>	<u>Contingency Allocation</u>	<u>Paid</u>	<u>Encumbered</u>	<u>Balance</u>
Personnel	663,000		581,387	81,613	0
Legal Services	1,400,067		690,650	531,054	178,363
Consulting Services	431,036	514,923	703,689	398,177	-155,907
Purchased Services & Supplies	126,261	116,648	179,670	63,239	0
2012 Carryover	631,571				
Total 2013 Uses	3,251,935		2,155,396	1,074,083	22,456

Other staff resources assigned to this effort have been allocated within existing budgets and are separate from the \$1.9 million Utility Occupation Tax revenue and \$303,000 one-time General Fund request. This is in alignment with the overall priority of this effort and existing roles, responsibilities and funding, as well as the approach historically taken with other significant and cross-departmental city projects. As a reminder, an organizational chart showing those assigned to this project and their areas of focus is included as **Attachment A**. A list of staff working on this effort, the percentage of time spent in 2013 on the project and associated budget allocation is provided in **Attachment B**.

2014 Budget

The approved budget for 2014 is \$2,312,000; \$1,957,000 is funded from the Utility Occupation Tax (\$1.9 million, plus a three percent tax increase approved by council on Oct. 25, 2013, pursuant to the original ordinance) and \$355,000 that is funded through one-time savings in the General Fund to support salaries and benefits for high priority staffing needs. It is anticipated that there will be additional funds carried over from legal and consulting purchase orders encumbered in 2013.

The work anticipated in 2014 will involve significant expenditures. In addition to the work plan items that have been anticipated since the start of this project, additional tasks have emerged and are likely to emerge as the legal and regulatory processes unfold. City

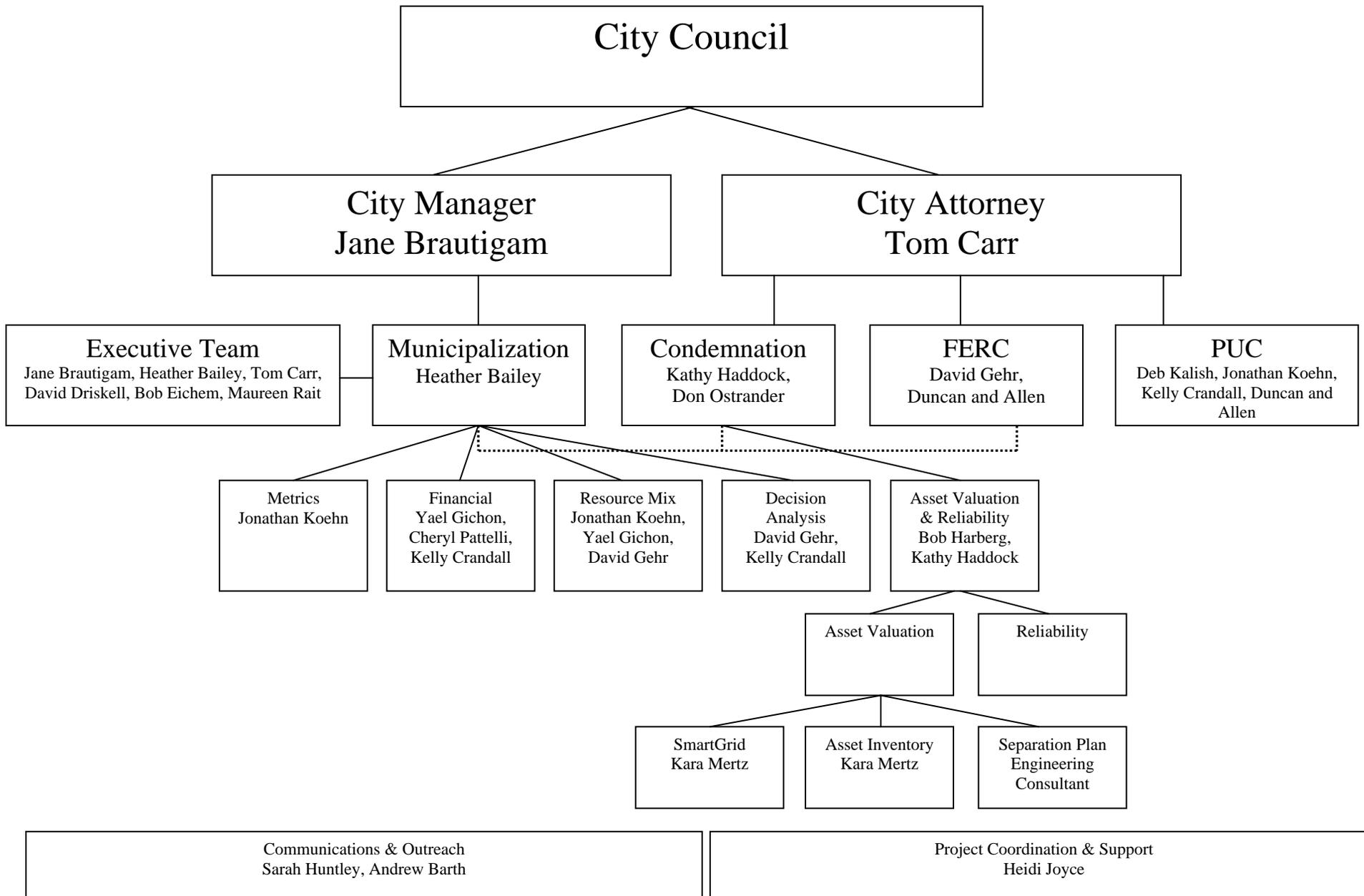
Council should anticipate the possibility that additional resources will be needed in 2014. Staff will bring these needs and proposals forward as they arise.

Attachments:

Attachment A: Organizational Chart

Attachment B: Staffing Resources

**ATTACHMENT A
Organizational Chart**



ATTACHMENT B

Boulder's Municipalization Exploration Project
 2013 Staffing Resources
 January - November, 2013

Executive Director	Source of Funding	% of Time
Heather Bailey	Utility Occupation Tax	100
\$303,407 Utility Occupation Tax		

Executive Team	Source of Funding	% of Time
Jane Brautigam	CMO Budget	7
Tom Carr	CAO Budget	12
David Driskell	CP&S Budget	5
Bob Eichem	Finance Budget	6
Maureen Rait	PW Budget	7
Patrick Von Keyserling	Communications Budget	2
\$75,335 Estimated Cost		

Project Team	Source of Funding	% of Time
Andrew Barth (Backfill)	General Fund (One-time GF Request)	100
Kelly Crandall	CP&S (CAP Budget)	91
David Gehr (Backfill)	CAO Budget	100
Yael Gichon	CP&S (CAP Budget)	99
Kathy Haddock	CAO Budget	58
Robert Harberg	PW Budget	19
Sarah Huntley	Communications Budget	29
Heidi Joyce	General Fund (One-time GF Request)	100
Deb Kalish	CAO Budget	30
Jonathan Koehn	CP&S Budget	80
Kara Mertz	CP&S (CAP Budget)	46
Cheryl Pattelli	Finance Budget	6
\$689,189 Estimated Cost		

Support	Source of Funding	% of Time
Wynne Adams	General Fund (One-time GF Request)	100, part-time hours
Tanya Ariowitsch	CP&S Budget	5
Brenda Dageforde	PW Budget	4
Joanna Domaglska	CP&S Budget	3
Brett Hill	CP&S Budget	2
Don Jensen	General Fund (One-time GF Request)	Temporary, hours vary
Ruth McHeyser	General Fund (One-time GF Request)	Temporary, hours vary
Sean Metrick	CP&S Budget	33
\$106,681 Estimated Cost		

Total:
\$303,407 Utility Occupation Tax
\$276,887 \$303K One-time GF Request
\$584,318 Other Funding Sources



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mark R. Beckner, Boulder Police Chief, BRETSA Chairperson
Larry D. Donner, Boulder Fire Chief, BRETSA Vice Chair

Date: December 17, 2013

Subject: Information Item: Update on E-911 Fee Increase

EXECUTIVE SUMMARY

The City is a member of the Boulder Regional Emergency Telephone Service Authority (BRETSA). BRETSA, which is authorized to set fees for E-911 service, currently levies a surcharge of .50 per telephone number. If approved by the Public Utilities Commission (PUC), that fee for service will increase to .75 per telephone number effective July 1, 2014 in order to continue to pay for current and future infrastructure and maintenance needs. CRS 29-11-103 (3)(a) requires cities, counties, towns and special districts to annually establish a 9-1-1 surcharge for each calendar year. Since this level of increase exceeds what is allowed, (PUC) approval is required. The BRETSA board has applied for PUC approval and expects to receive approval in the coming weeks.

FISCAL IMPACT

If approved by the PUC, the rate increase would have no fiscal impact on the city. If the rate increase is not approved by the PUC, the city may have to budget for expenses currently paid through the E-911 service fee.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Social: BRETSA, which is one of 58 Authorities in Colorado - covers 751 square miles and serves over 294,000 citizens. To provide countywide E9-1-1 services, BRETSA supports and works closely with four PSAPs commonly known as Communications or Dispatch Centers. These PSAPs are managed by the Longmont Department of Public Safety, the Boulder

County Sheriff's Office, the Boulder Police Department and the University of Colorado Police Department. On average, these PSAPs collectively process 655,000 calls annually. The value and importance of these PSAPs in providing public safety services was no more apparent than during the recent flood with all the emergency calls they handled, processed and dispatched.

BACKGROUND

The Boulder Regional Emergency Telephone Service Authority (BRETSA) was formed in 1987 through a countywide Intergovernmental Agreement (IGA). Utilizing the money collected through the 9-1-1 surcharge, BRETSA provides significant assistance in bringing Enhanced 9-1-1 (E9-1-1) telephone and dispatching services to Boulder County and the cities, towns and fire protection districts located in Boulder County. BRETSA is governed by Colorado Statutes, the IGA, and is managed through a Board. The board consists of four permanent members and one rotating member having a one year term. (See **Exhibit D**, Organizational Chart.) While BRETSA contracts out for needed services and support, as an emergency telephone service authority it has no employees.

Council does not need to approve the fee increase because the authority to set a fee is delegated to BRETSA in Section 3-1-4(a) B.R.C. 1981, which allows BRETSA to charge a fee equal to the maximum charge permitted pursuant to Section 29-11-102, C.R.S.

ANALYSIS

While the cost of responding to 9-1-1 calls is covered by the various emergency response agencies within the county and their respective budgets, BRETSA funds and maintains network and Public Safety Answering Point (PSAP) specific E9-1-1 mission critical systems and enterprise infrastructure. This networked system routes the 9-1-1 caller to the appropriate PSAP and provides extensive computer and software support to manage and process the call so the appropriate resources can be quickly and efficiently dispatched to the emergency. Currently, funding from BRETSA is primarily used to cover support and operating expenses for E9-1-1 telephone services, emergency notification systems (e.g., reverse 9-1-1), computer aided dispatch (CAD), digital loggers (phone/radio recorders), other capital/non-capital equipment and maintenance needs, network infrastructure to include inter-connecting the PSAPs (fiber, redundancy, backup support), technical training needs, and the maintenance of massive databases which directly support CAD: Geographic Information System (GIS), Master Street Address Guide (MSAG), and Automatic Location Information (ALI).

Since 1994, BRETSA's surcharge rate – currently the 3rd lowest in the state - has not been higher than .50 per month per telephone number. The average rate in Colorado is .86 and 19 Authorities have rates between \$1.00 and \$1.50. While BRETSA's level of funding has been adequate for 14 years and the request is to continue the current rate for the first half of 2014, increasing costs, additional critical needs, revenue vs. expense projections including the need to maintain a fund balance (reserves) to cover major purchases and unexpected expenses, and the need to offset inflation have resulted in BRETSA asking for a .25 per month increase in the rate. (See **Exhibit A**, .50 Revenue & Expense Graph, and **Exhibit B**, Value of .50 Graph.)

This small increase will allow BRETSA to support the PSAPs as follows:

- Continue to fund the standard annual operating expenses that BRETSA currently funds such as 9-1-1 telephone services, including E9-1-1 routing, Language Line (interpreter services), emergency notification services, etc.; CAD system & software; maintenance of CAD supporting databases & network infrastructure; vendor support; contracted services; standard equipment purchases; and training. As with most things, the costs to provide this support are increasing and based on current growth patterns, the future revenue stream is only expected to increase slightly. Without a rate increase, and given the critical need to fund the additional needs noted below, revenues will no longer fully support these ongoing and essential operating expenses as illustrated in **Exhibit A**, .50 Revenue and Expense Graph.
- Increase PSAP support by replacing obsolete radio consoles in 2014 at a cost of approximately \$2,900,000. For the Boulder PSAP, this means the replacement of its ten Motorola radio consoles used to maintain radio communications with field units. The current consoles are being discontinued in 2014 which will make support and finding replacement parts increasingly difficult and eventually impossible. The analog technology is out of date, can no longer support updates and needs to be replaced with IP based technology to ensure reliability and continued interoperability. Without the rate increase, this required cost would have to be covered by the City.
- Provide much needed on site technical support by providing funding to each PSAP to hire a dedicated, full time, systems specialist. Due to the advanced level of technology required to provide E9-1-1 telephone and dispatching services (hardware, software, infrastructure, network, etc.), the necessity to maintain and update these services and technology, and the critical need to be able to troubleshoot and fix problems and issues quickly, it has become apparent that each PSAP must have their own in-house technical support.

Without the additional funding, providing these specialists will not be possible, and the PSAPs would need to rely on what support their existing personnel can provide. This presents two problems. One, relying on current staff already strained supporting BRETSA technology solutions and their own existing internal operations (24/7/365). Two, it pulls staff away from other needed duties. This will also create a heavier reliance on outside vendors who rarely have immediate response times and may not have global knowledge of PSAP operations.

In addition to meeting these needs, BRETSA's reserves need to be maintained. **Exhibit A**, .50 Revenue and Expense Graph, shows BRETSA has been operating in the red for the most part since 2011. Reserves were used to not only make up differences when needed, but to purchase a much needed multi-million dollar CAD system in 2011 that came on line in 2012. Following the radio console purchase next year, BRETSA's reserves will be significantly reduced. Without a rate increase, the current reserves will become exhausted in early 2018. With a rate increase, the reserves will begin to rebuild. (See **Exhibit C**, .75 Revenue and Expense Graph. This graph, which illustrates reserves being depleted by 2024, is based on a full CAD replacement in 2023

and another radio console replacement in 2024. However, with changing technology it is difficult to accurately predict the needs and costs that far into the future.)

While sufficient reserves are needed to cover BRETSA asset replacement, they are also needed to deal with contingencies, e.g., emergency replacement of equipment unexpectedly failing, significant or catastrophic damage to a PSAP due to a natural or manmade disaster, preparing for the future of 9-1-1 services, etc. Another reason sufficient reserves are needed is that BRETSA cannot borrow money nor create debt service.

The minimal rate increase being requested will still be below the statewide average, and will provide the following benefits:

1. PSAPs will continue to keep up with technology needs to meet operational changes.
 - o The level of E9-1-1 services to our communities can be sustained.
2. BRETSA will continue to support and enhance existing PSAP operations.
 - o E9-1-1 costs will not be redirected to local agencies;
 - o An immediate need for radio consoles costing \$2.9 million can be met and can be met without impacting local budgets; and
 - o Existing enterprise E9-1-1 support & maintenance needs can be met and enhanced with dedicated technical support.
3. BRETSA will sustain a regionalized and collaborative approach
 - o Economies of scale and efficiencies in procurements will continue; and
 - o Existing system redundancies and backup of mission-critical applications will be maintained.

Without the surcharge increase, BRETSA will not be able to purchase the radio consoles that must be replaced nor provide the much needed in-house technical support for each PSAP. In addition, it will find itself in a position of negative revenue from 2014 forward with its reserves being reduced each year to cover the difference between revenue and operating expenses. BRETSA's ability to handle unforeseen contingencies would eventually become severely compromised.

NEXT STEPS

State law requires that surcharge rates exceeding .70 must be approved by the PUC. The application process has already begun and the PUC's approval is anticipated shortly.



**INFORMATION PACKET
MEMORANDUM**

To: Mayor Appelbaum and City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Joe Taddeucci, Water Resources Manager
Kevin Clark, Utilities Engineering Project Manager
Jake Gesner, Hydroelectric Manager

Date: December 17, 2013

Subject: Information Item: Hydroelectric Program Update

EXECUTIVE SUMMARY:

Boulder began developing the hydroelectric power potential of its municipal water system in the 1980s. Between 1985 and 2004, the city built or acquired eight hydroelectric power plants with a current capacity of roughly 16 megawatts (MW). Currently, the city has four hydroelectric facilities on its raw water delivery system and four facilities on the treated water system. The city produces an average of approximately 45,000 megawatt hours (MWh) of hydroelectricity per year, which results in about \$2 million of annual revenue for the water utility. This revenue offsets capital and operating costs that would otherwise be borne by water utility customers through higher water rates.

Since the 1980s, it has been city policy to develop hydroelectric potential within the municipal water supply system where environmentally and economically feasible. Hydropower projects have been environmentally feasible since municipal water supply infrastructure is already in place. Economic feasibility has been defined as a hydroelectric facility's ability to pay for its construction, operation and maintenance costs over its lifetime. Seven of the city's facilities have met or are expected to meet this goal in less than 20 years, including Boulder Canyon Hydro (BCH), which underwent a major renovation in 2012 at a cost to the city of \$4.75 million.

While much of the municipal water system hydroelectric potential has been developed, staff continues to monitor potential hydroelectric development options within the system. Future projects may rely upon additions to the water supply infrastructure, operational adjustments, future power sales markets and advancements in hydroelectric generation technology.

This assessment of the hydro program's overall status is being presented to provide City Council with background information in advance of projects that will be submitted to council in the next several years as part of the Capital Improvement Program. An overview and update on the hydroelectric program was also presented to the Water Resources Advisory Board on July 15, 2013.

FISCAL IMPACT

The hydroelectric program generates an average \$2 million in annual revenue, which offsets water utility costs. Customers water rates would be higher without this revenue.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** It has been city policy that hydroelectric installations should be able to pay for associated construction, operation and maintenance costs over the assumed 50-year lifetime. The infrastructure therefore has a zero net cost in the long-term and generates revenue in excess of facility costs.
- **Environmental:** Hydroelectricity is clean, renewable energy. The city's program has developed the hydroelectric potential of the municipal water supply system, which would exist with or without the hydro facilities. Environmental disturbance associated with the hydro facilities themselves, usually limited to the power plant building and associated appurtenances, has been minimal. Since 1985, when the first hydro plant went into service, the city has generated more than 645,000 MWh of electricity, which has produced more than \$31 million in revenue and displaced the need to burn more than 300,000 tons of coal – the amount needed to produce an equivalent amount of electricity at a traditional coal-fired generation plant.
- **Social:** Development of the hydroelectric potential of the city's water supply system, where environmentally and economically feasible, is generally supported by the community as a means to increase renewable energy and reduce greenhouse gas emissions. The use of hydropower revenue to avoid or delay water rate increases benefits all water customers in the community. Average annual hydroelectric generation is sufficient to meet the annual needs of approximately 8,000 households.

BACKGROUND

Although Boulder first recognized the hydroelectric power potential of its water system as far back as 1906, serious consideration of this potential began in the early 1980s, and Boulder's first hydroelectric power plant was completed in 1985. Today, the city's water utility enterprise operates eight hydroelectric power plants within its raw and treated water supply systems. Four facilities - Silver Lake, Lakewood, Betasso and Boulder Canyon – are located on the raw water transmission system. The Orodell, Sunshine, Maxwell and Kohler hydro facilities are located on the treated water distribution system below the Betasso Water Treatment Facility. The eight facilities have a combined rated capacity of approximately 16 MW. The hydroelectric facility locations are shown on Attachment A and facility descriptions are given in Attachment B.

Hydropower generation is subordinate to water supply within the city's water utility. The city does not deplete its water supply reservoirs solely for hydropower generation. The one exception is BCH, which delivers water back to Boulder Creek using water from the city's

hydropower water rights. Much of the system's hydro generation results from high water demand and availability during the warmer summer months.

The city sells all hydroelectricity produced to electric utilities under the terms and conditions of power purchase agreements (PPAs). Seven of the eight existing PPAs are with the Public Service Company of Colorado (PSCo)¹ (a wholly owned subsidiary of Xcel Energy). These PPAs expire after a set term based on the date they went into effect.

The city operates all eight of its hydroelectric facilities under conduit exemptions from the Federal Energy Regulatory Commission (FERC)² licensing. Advantages of this type of exemption include issuance in perpetuity (i.e., no periodic costly relicensing process), no annual charges by FERC, and limited federal jurisdiction over project facilities (usually just the power plant itself).

ANALYSIS:

Recent Events

The city completed its Boulder Canyon Hydroelectric Modernization Project (Attachment C) in 2012 and resumed commercial operation on June 12, 2013. This effort replaced the one operable 10 MW turbine/generator with a state-of-the-art 5 MW unit. The modernization project also separated previously comingled city and PSCo facilities at BCH. In June 2013, the city and the Tri-State Generation and Transmission Association, Inc. entered into a new five-year PPA for BCH, with an estimated \$500,000 in annual revenue.

The city also completed the Betasso Area Pipelines Replacement Project in 2011, which had numerous benefits to the hydro program, including:

- reestablishing the Betasso Hydroelectric plant to its full 3.1 MW capacity;
- converting the old Betasso penstock into a new Orodell pipeline that supplies Orodell Hydro); and
- converting the original Orodell pipeline into a raw water discharge line to be used during hydroelectric operations tests.

Though not a completed project, the September 2013 flood is an important event relative to the city's hydro program. During the flood, seven of the eight³ hydro plants automatically tripped offline in response to disruptions in the electrical transmission and distribution system and temporarily ceased generation. The BCH power plant office flooded, but none of the generation equipment was damaged at any of the facilities. Generation at all of the city's hydro plants, except Orodell Hydro, resumed within a few weeks of the flood.

¹ In June 2013, the city entered into a new PPA for Boulder Canyon Hydro with Tri-State Generation and Transmission Association, Inc. This PPA is discussed further under "Analysis."

² The city has been issued a conduit exemption from licensing for BCH. The exemption will go into effect once the U.S. Forest Service issues a Special Use Permit authorizing occupancy of federal land for portions of the Barker Gravity Pipeline.

³ Orodell Hydro was already offline for maintenance prior to the flood.

Upcoming Projects

The hydropower maintenance plan provides for a thorough inspection of each facility every five years. Every 10 years, the units are disassembled for a full internal inspection and maintenance overhaul. Lakewood Hydro is the next facility scheduled for major maintenance in 2014.

Five of the existing PPAs will expire between 2015 and 2017. The city has the option to extend these agreements, most of which are for a 30-year term. Staff will research potential hydropower sales options, including city use of the power under a municipalization scenario, to make sure the city obtains the most favorable PPA terms in the future.

Long-range Planning

Much of the current environmentally and economically feasible hydro potential within the city's water system has been developed. However, potential opportunities remain for additional hydropower generation within the system, pending construction of other water supply infrastructure.

- *Carter Lake Pipeline Hydro* – This pipeline is considered the best long-term solution to increase the reliability of the city's Colorado-Big Thompson and Windy Gap water supplies. The pipeline would provide an opportunity to develop a new hydroelectric facility, and funding for construction of this facility is allocated in 2019 as part of the proposed 2014-2019 Capital Improvement Program (CIP). During budget discussions in recent years, City Council has indicated that the hydroelectric potential of the Carter Lake Pipeline is a favorable component of the overall pipeline project.
- *Hannah Barker Hydro* - The Barker Dam outlet gates and related facilities are more than 100 years old and in need of significant rehabilitation or replacement. Funding for final design and construction of these important outlet works modifications is currently proposed for 2017 and 2018 in the projected 2014-2019 CIP. The outlet facilities would provide an opportunity to develop a new, year-round hydroelectric facility, and funding for construction of this facility is also proposed for 2018.

Prior to proceeding with design and construction, both the Carter Lake Pipeline Hydro and the Barker outlet works and hydro projects will be subject to review as part of the annual budget process and other applicable project approval processes.

In addition to the Carter Lake Pipeline and Barker Hydro projects, other future potential power development projects include:

- adding hydroelectric equipment at 101 Pearl St., which currently only has a pressure-reducing valve; and
- replacing one of two pressure-reducing valves at Sunshine Hydro with a micro turbine/generator for use during winter, when pipeline flows are too low for the existing hydroelectric equipment.

While these potential projects are currently not economically feasible, they could be in the future depending on future power sales opportunities and/or technological advancements.

Current federal permitting requirements for small hydro projects are time-consuming and costly. New, streamlined regulations could significantly reduce permitting costs for the future development of city hydroelectric projects. The Hydropower Regulatory Efficiency Act (H.R. 267), signed by President Obama in August 2013, promotes the development of small hydropower and conduit projects and aims to shorten regulatory timeframes of low-impact hydropower projects.

Program Economics

The city’s policy is to develop hydropower within its water system where environmentally and economically feasible. Economic feasibility means the ability for a project to pay for itself within its lifespan (50 years is typically conservatively assumed for hydroelectric facilities), including construction, operation and maintenance³. Current midlife modeling (combining actual historical and estimated future information) of the city’s eight hydroelectric facilities over a 50-year lifecycle is provided in the following table.

Table 1 – City of Boulder Hydroelectric Program Economics Analysis Summary

Facility	Size (MW)	In Service Year	Benefit-Cost Ratio over 50 Year Project Life	Present Value of Net Revenue over Project Life*	Payback Period (Years)
Betasso	3.100	1987	2.9	\$19,785,000	7
Orodell	0.225	1987	0.6**	\$ (425,800)**	NA**
Sunshine	0.800	1987	1.8**	\$ 3,696,000**	13**
Kohler	0.150	1986	1.8	\$ 838,000	14
Maxwell	0.950	1985	1.7	\$ 591,000	15
Silver Lake	3.200	1998	1.7	\$ 9,318,000	14
Lakewood	3.400	2004	2.7	\$14,052,000	7
Boulder Canyon	5.000	2013	1.3	\$ 4,186,000	17
Total	15.970	-	-	\$51,449,000	-

*Present Value of Net Revenue = Net Present Value (NPV - economic term), which takes into account gross revenue and subtracts gross cost and brings the future value back to present day (2013 dollars used for analysis).

**Orodell Hydro can be considered along with Sunshine Hydro as one integrated system due to present city water supply operation and water system flow connectivity.

Six of eight hydro facilities have already paid for themselves. A seventh (BCH) is expected to pay for itself by 2030. The total net present value (NPV) for the city’s eight facilities is currently modeled at \$51.4 million over 50 years. The one exception within the system is Orodell Hydro, which does not have a positive NPV and has a benefit-cost ratio (BCR) less than 1.0 when considered as an independent facility. Due to water delivery operational changes,

³ Operations and maintenance costs include payroll expenses as well as materials, equipment and contractor costs for upkeep of the hydroelectric plants. While there is not a lot of variation in the annual hydro operating budget, the distribution of those funds among the eight facilities varies significantly from year to year, depending on maintenance priorities. From 2007 through 2012, operations and maintenance costs averaged about \$400,000 per year.

Orodell Hydro is not generating as much power as initially modeled. The original Orodell Hydro economic analysis assumed year-round operation, but the city currently generates at Sunshine Hydro during winter (with Orodell Hydro offline) because of favorable power generation terms and operational constraints on the downstream Orodell Pipeline system. Orodell Hydro and Sunshine Hydro, when viewed as a combined system, have a positive combined NPV of \$3.27 million over the 50 year expected equipment life.

NEXT STEPS:

Staff will continue to operate and maintain the existing hydroelectric units, address PPA renewals, and look for new opportunities to develop hydroelectric potential within the city's water supply system. Additional information will be presented as projects associated with the city's hydro system (new or enhancements to the existing system) come up for consideration during the capital improvement and budgeting process.

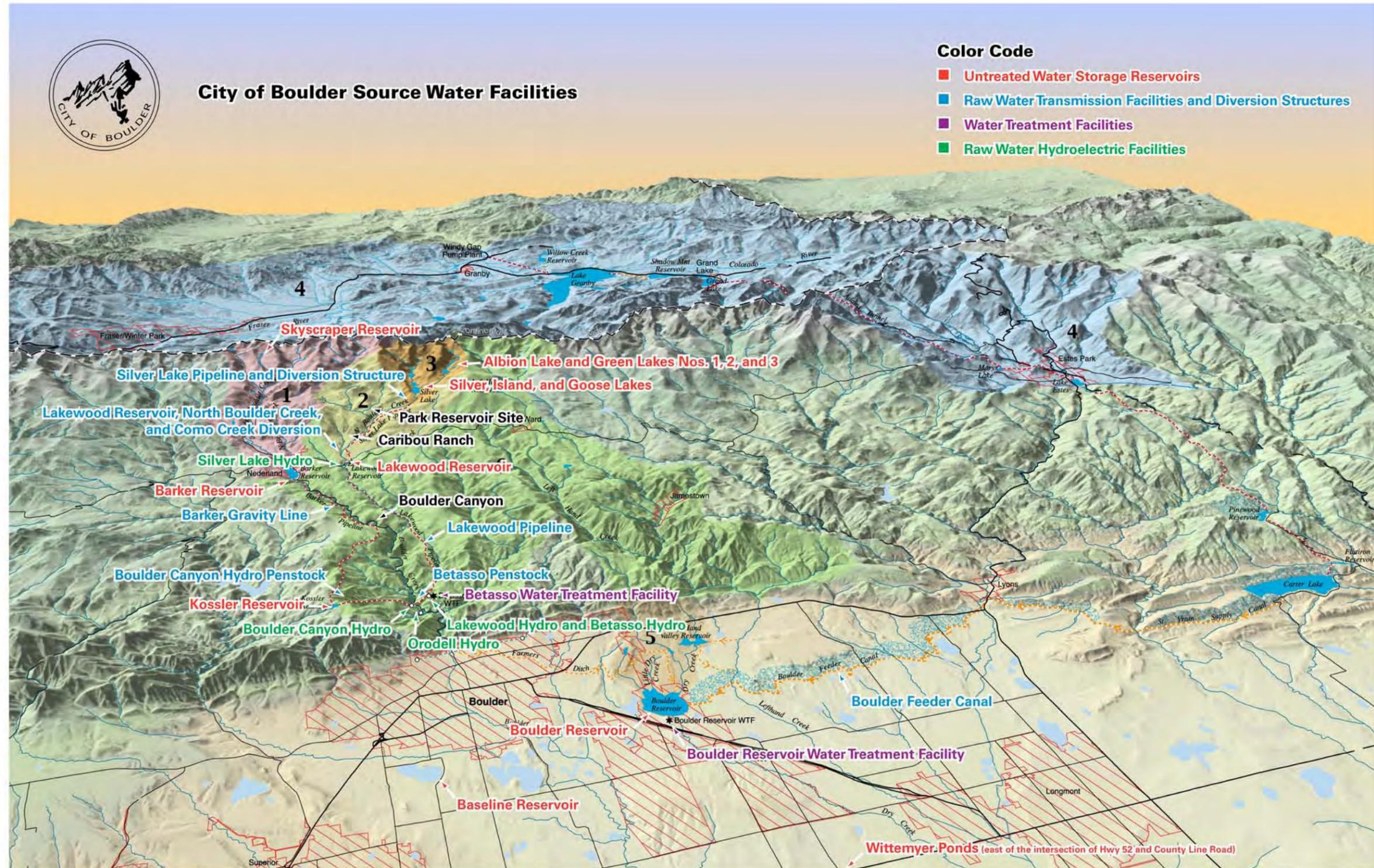
ATTACHMENTS:

Attachment A: City of Boulder Source Water Facilities

Attachment B: City of Boulder Hydroelectric Facility Summary

Attachment C: Boulder Canyon Hydroelectric Modernization Project Summary

Attachment A
CITY OF BOULDER SOURCE WATER FACILITIES



Attachment B

City of Boulder Hydroelectric Facility Summary

Name	Pressure Source	Head on U/S Side Turbine (ft)	Type of Turbine	2013 Nameplate Capacity (kW)	Generator Make	Commercial Operation Date	2011 Generation (kWh)	2011 Revenue	Construction Cost
Maxwell (Pump/Generator)	Treated Water (Zone 3)	200	Reaction (Francis)	95	General Electric	March 1985	576,000	\$25,400	\$344,000
Kohler (Pump/Generator)	Treated Water (Zone 3)	140 -240	Reaction (2 Francis)	150	Marathon XRI	November 1986	754,000	\$32,700	\$431,000
Orodell.	Treated Water (Orodell Pipeline)	413	Reaction (Francis)	225	Primeline	September 1987	390,000	\$13,000	\$406,000
Sunshine	Treated Water (Sunshine Pipeline)	750	Reaction (Francis)	800	Unimega-Hitachi	September 1986	3,845,000	\$165,700	\$1,790,000
Betasso	Raw water (Betasso Penstock)	1,094	Impulse (Pelton)	3,100	Kumming Elec	December 1987	18,398,000 (combined with Lakewood)	\$1,936,000 (includes Lakewood and Silver Lake)	\$3,200,000
Silver Lake	Raw water (Silver Lake Pipeline)	1,406	Impulse (Pelton)	3,200	Alconza	March 1998	14,779,000	See Betasso	\$7,224,000
Boulder Canyon	Raw water (Kossler/Barker)	1,847	Impulse (Pelton)	5,000	Hydudai-Ideal	Original August 1910 (COB Purchased March 2001) June 2013 after 5 MW replacement	11,525,000	\$290,000	\$5,900,000
Lakewood	Raw water (Lakewood Pipeline)	1,554	Impulse (Pelton)	3,400	Alconza	June 2004	Included with Betasso	See Betasso	\$3,431,000
Total							50,267,000	\$2,463,000	\$22,726,000

Since beginning operation through 2011 these hydros have displaced 305,000 tons of burning coal and generated 609,879,000 kilowatt hours. Total revenue through 2011 was approximately \$ 29,054,000.

ATTACHMENT C**SUMMARY OF THE BOULDER CANYON HYDROELECTRIC PROJECT
MODERNIZATION**

The Boulder Canyon Hydroelectric Project (BCH) was purchased by the City of Boulder, CO (the city) in 2001. Project facilities were originally constructed in 1910 and upgraded in the 1930s and 1940s. By 2009, the two 10 MW turbine/generators had reached or were nearing the end of their useful lives. One generator had grounded out and was beyond repair, reducing plant capacity to 10 MW. The remaining 10 MW unit was expected to fail at any time.

When the BCH power plant was originally constructed, a sizeable water supply was available for the sole purpose of hydroelectric power generation. Between 1950 and 2001, that water supply had gradually been converted to municipal water supply by the city. By 2001, the water available for hydroelectric power generation at BCH could not support even one 10 MW unit. Boulder lacked the financial resources to modernize the facilities, and Boulder anticipated that when the single, operational historical unit failed, the project would cease operation.

In 2009, the City of Boulder applied for and received a U.S. Department of Energy (DOE) grant for \$1.18 million toward a total estimated project cost of \$5.155 million to modernize BCH. The federal funding allowed Boulder to move forward with plant modifications that would ensure BCH would continue operation. Federal funding was made available through the American Recovery and Reinvestment Act (ARRA) of 2009.

Boulder determined that a single 5 MW turbine/generator would be the most appropriate capacity, given the reduced water supply to the plant. Average annual BCH generation with the old 10 MW unit had been about 8,500 MW-hr, whereas annual generation with a new, efficient turbine could average 11,000 to 12,000 MW-hr. The incremental change in annual generation represents a 30% increase in generation over pre-project conditions.

The old turbine/generator was a single nozzle Pelton turbine with a 5-to-1 flow turndown and a maximum turbine/generator efficiency of 82%. The new unit is a double nozzle Pelton turbine with a 10-to-1 flow turndown and a maximum turbine/generator efficiency of 88%. This alone represents a 6% increase in overall efficiency. The old turbine operated at low efficiencies due to age and non-optimal sizing of the turbine for the water flow available to the unit. It was shut down whenever water flow dropped to less than 4-5 cfs, and at that flow, efficiency was 55 to 60%. The new turbine will operate in the range of 70 to 88% efficiency through a large portion of the existing flow range and would only have to be shut down at flow rates less than 3.7 cfs. Efficiency is expected to increase by 15-30%, depending on flow.

In addition to the installation of new equipment, other goals for the project included:

- Increasing safety at Boulder Canyon Hydro
- Increasing protection of the Boulder Creek environment
- Modernizing and integrating control equipment into Boulder's municipal water supply system, and
- Preserving significant historical engineering information prior to power plant modernization.

From January 1, 2010 through December 31, 2012, combined consultant and contractor personnel hours paid for by both the city and the federal government have totaled approximately 40,000. This equates roughly to seven people working full time on the project from January 2010 through December 2012.

This project also involved considerable material expense (steel pipe, a variety of valves, electrical equipment, and the various components of the turbine and generator), which were not accounted for in terms of hours spent on the project. However, the material expense related to this project did help to create or preserve manufacturing/industrial jobs throughout the United States. As required by ARRA, the various components of the hydroelectric project were manufactured or substantially transformed in the U.S.

BCH is eligible for nomination to the National Register of Historic Places due in part to its unique engineering features and innovative construction techniques. Special efforts were directed toward documenting the (largely original) interior of the plant and installing new equipment without modifying the power plant exterior in order to preserve the historical significance of the facility. In addition, a significant portion of the historical equipment within the power plant was preserved in place.

The modernization project began with DOE grant award on January 1, 2010, and the project was completed on December 31, 2012. In addition to city engineering and hydroelectric staff, major project participants included AECOM (design/engineering) Canyon Industries (turbine/generator manufacture), Gracon Corporation (general construction contractor), Exponential Engineering Company (electrical engineering) and URS Corporation (historical documentation), as well as numerous other subcontractors and consultants.



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Parks and Recreation Advisory Board
DATE OF MEETING: 8/26/13
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Sally Dieterich
NAMES OF MEMBERS AND STAFF: MEMBERS: Rick Thayer, Mike Conroy, Myriah Conroy, Michelle Estrella, Kelly Wyatt, Mike Guzek, Marty Gorce STAFF: Kirk Kincannon, Jeff Dillon, Alice Guthrie, Sally Dieterich, Sarah DeSouza, Alison Rhodes, Jennifer Bray, Stacy Cole, Andrew MacLean
TYPE OF MEETING: Regular monthly business meeting
SUMMATION: Call to Order: 6:00 APPROVAL OF AGENDA: Approved FUTURE BOARD ITEMS AND TOURS: <ul style="list-style-type: none">• 9/17/13 city council meeting – Public hearing on Parks and Recreation department master plan acceptance• 9/23/13 PRAB meeting – E Bike policy pilot program• 9/23/13 PRAB meeting – Smoking ban discussion• 9/23/13 PRAB meeting – 2014 USA Cyclocross Nationals update• 9/23/13 PRAB meeting – Valmont City Park south planning process update CONSENT AGENDA: <u>A. Minutes</u> from July 22, 2013 were approved as written. <u>B. Informational Items:</u> The park development, Pottery lab RFP and 2013 department master plan updates were approved as written. ITEMS FOR ACTION: None ITEMS FOR DISCUSSION/INFORMATION: <u>A. North Boulder Park Art:</u> – Timeline update: <ul style="list-style-type: none">• Fund raising committee formed• Approval to move forward received• Staff redesigning North Boulder Park due to public utilities detected beneath public art site• Boulder Cycling Monument project will be within new public art policy guidelines• Establishment of art selection panel to review and provide recommendation• Arts Commission and PRAB will review• Decision to be provided by Boulder city manager MATTERS FROM THE DEPARTMENT: <u>A. No Smoking Ordinance – Parks/Civic Areas/Bike Paths/Bus Stops:</u> Council has asked the department to research drafting a no smoking ordinance to be presented to council by the 4 th quarter

2013. This item will return to PRAB in September.

B. Boulder Reservoir July 4, 2013 Event Report:

- Event successful with positive changes
- Attendance significantly less than 2012
- Numerous free programs provided
- Live music and DJ provided
- No impacts to Valhalla neighborhood
- Alcohol consumption limited to on-site beer garden
- Increased communication
- Lower revenues due to decreased attendance
- 2014 – Staff to evaluate continuing limiting alcohol, increasing family activities, staffing levels and fee options

C. PLAY Boulder Foundation Update: Proposal:

- Appoint five members
- PRAB members to be on foundation
- Form PRAB subcommittee

MATTERS FROM BOARD MEMBERS: None

ADJOURNMENT: 7:26 p.m.

Public comments: There were no public comments.

Next meeting: September 23, 2013 at Valmont Bike Park Platt farmhouse, Airport and Valmont Roads, Boulder, CO 80301



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Parks and Recreation Advisory Board
DATE OF MEETING: 9/23/13
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Sally Dieterich
NAMES OF MEMBERS AND STAFF: MEMBERS: Rick Thayer, Mike Conroy, Myriah Conroy, Michelle Estrella, Kelly Wyatt, Mike Guzek, Marty Gorce STAFF: Kirk Kincannon, Jeff Dillon, Alice Guthrie, Sally Dieterich
TYPE OF MEETING: Regular monthly business meeting
SUMMATION: Call to order: 6:06 p.m. APPROVAL OF AGENDA: Approved FUTURE BOARD ITEMS AND TOURS: <ul style="list-style-type: none">• 10/28/13 PRAB meeting – Pottery Lab RFP update• 10/28/13 PRAB meeting – Park development and recreation programs update• 10/28/13 PRAB meeting – Flood update/department impact CONSENT AGENDA: <ul style="list-style-type: none">A. Due to the 2013 Boulder flood, approval of minutes from August 26, 2013 was deferred to the October 28, 2013 PRAB meeting.B. Due to the 2013 Boulder flood, Informational Items were deferred to the October 28, 2013 meeting. ITEMS FOR ACTION: None ITEMS FOR DISCUSSION/INFORMATION: <ul style="list-style-type: none">A. <u>Flood update – Department Impact</u>: Dillon and Guthrie provided a power point presentation of the September 2013 Boulder flood, detailing damage to parks and recreation facilities. Updates will be included during future monthly meetings.B. <u>E Bike Policy</u>: At council’s request, Kincannon asked PRAB for input on the E Bike pilot program, which would allow electric assisted bicycles to operate on roads and bike paths, but not on multi-use paths and sidewalks. PRAB was generally in favor of the pilot program, having some reluctance with regard to the speed of e-bikes on bike paths. MATTERS FROM THE DEPARTMENT: None MATTERS FROM BOARD MEMBERS: None ADJOURNMENT: 7:26 p.m.
Public comments: There were no public comments.
Next meeting: October 28, 2013 at Valmont Bike Park Platt farmhouse, Airport and Valmont Roads, Boulder, CO 80301



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Parks and Recreation Advisory Board
DATE OF MEETING: 10/28/13
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Sally Dieterich
NAMES OF MEMBERS AND STAFF: MEMBERS: Rick Thayer, Mike Conroy, Myriah Conroy, Kelly Wyatt, Mike Guzek, Marty Gorce STAFF: Jeff Dillon, Alice Guthrie, Sally Dieterich, Jeff Haley, Kady Doelling, Jennifer Bray, Mike Eubank INVITED GUESTS: Matt Chasansky, Boulder Public Library Arts and Cultural Services Manager
TYPE OF MEETING: Regular monthly business meeting
SUMMATION: Call to Order: 6:03 p.m. APPROVAL OF AGENDA: Approved FUTURE BOARD ITEMS AND TOURS: <ul style="list-style-type: none">• 11/18/13 PRAB meeting – Pottery Lab RFP update and Chautauqua update• 1st quarter 2014 – Council public hearing on department master plan acceptance• Next 2-3 months – Parks & Recreation department fees discussion• PRAB study session will be scheduled to discuss CIP flood impacts and smoking ban follow up CONSENT AGENDA: <ul style="list-style-type: none">A. Minutes from 8/26/13 and 9/23/13 were approved as written.B. Informational items: The park development update was approved as written. ITEMS FOR ACTION: None ITEMS FOR DISCUSSION/INFORMATION: <ul style="list-style-type: none">A. <u>2014 Cyclocross Nationals</u>: Eubank provided an update on the upcoming 2014 Cyclocross Nationals to be held in Boulder in Jan. 2014.B. <u>Flood Art Project</u>: Chasansky spoke on the Flood Art Project as a response to the 2013 Boulder flood. The project will collaborate with BMoCA and local businesses. Four artists were chosen to design installations involving eco arts, sustainable and social practices and dealing with the community in artwork installation creation. The project will continue for one year.C. <u>Flood Recovery Update</u>: Haley and Doelling provided an update on Parks and Recreation department flood recovery, detailing the FEMA process:<ul style="list-style-type: none">• 9/14/13 – Declaration date• 12/6/13 – Damage identification (60 days)• 3/14/14 – Debris removal (6 months)• 3/14/14 – Emergency work (6 months)• 3/14/15 – Permanent work (18 months)D. <u>Valmont City Park – South Development</u>: Haley gave an update on the south development of Valmont City Park including the timeline:

- 11/13-1/14 – Data gathering
- 11/13 – 2/14 – Opportunities/constraints (data analysis, summary report, athletic fields study results, community survey results, needs analysis report)
- 3/14-5/14 – Concept alternatives development
- 5/14-7/14 – Recommended concept plan
- 8/14-10/14 – Final concept plan completion

E. Discussion on Smoking Ban in Urban Parks and Municipal Campus: Guthrie led a discussion on a smoking ban in urban parks and the municipal campus. Council asked PRAB for input on a potential ban. The general feeling from PRAB was not supportive.

MATTERS FROM THE DEPARTMENT: None

MATTERS FROM BOARD MEMBERS: None

ADJOURNMENT: 8:28 p.m.

PUBLIC COMMENTS: Peter Richards, resident, questioned the City of Boulder's participation in the Silver Sneakers program, as he views it to be a non-revenue producing program.

Next meeting: November 18, 2013 at the Iris Center, 3198 Broadway, Boulder, CO 80304.

Council Working Agreements

Council Process:

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Date	Status	Topic	Time
01/14/14		Hold for CMO - No Meeting	
01/28/14			
02/11/14			
02/25/14	Need Approval	TMP Update	6-9 PM
03/06/14	Approved	Board and Commission Interviews	6-9 PM
03/11/14	Need Approval	Dinner with Sister City Alliance and Members	5-6 PM
03/11/14	Approved	Board and Commission Interviews	6-9 PM
03/11/14	Need New Date	Boulder's Energy Future	6-7:30 PM
03/11/14	Need New Date	Human Services Master Plan Update	6-8 PM
03/13/14	Approved	Board and Commission Interviews	6-9 PM
03/25/14		Spring Break	
03/25/14		Spring Break	
04/08/14			
04/22/14	Need Approval	TMP Update	6-7:30 PM
04/29/14			
05/13/14			
05/27/14			
06/10/14			
06/24/14		Council Recess	
07/08/14		Council Recess	
07/22/14			
07/29/14			
08/12/14			
08/26/14			
09/09/14			
09/23/14			
09/30/14			
10/14/14			
10/28/14			
11/11/14		Veteran's Day	
11/25/14		Tuesday Before Thanksgiving	
12/09/14			
12/23/14		Week of Christmas	
12/30/14		Tuesday before New Year's	

January 7, 2014 Start Time: 6:00 PM Business Meeting Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:		
OPEN COMMENT:		45 Minutes
CONSENT:	October 15, 2013 Minutes	15 Minutes
	October 29, 2013 Minutes	
	November 19, 2013 Minutes	
	December 3, 2013 Minutes	
PUBLIC HEARINGS:	Second reading designating the building and property at 2003 Pine St. as an individual landmark under the Historic Preservation Ordinance	15 Minutes
	Second reading designating the building and property at 1922 20th St. as an individual landmark under the Historic Preservation Ordinance	15 Minutes
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	1.50

January 12-13, 2014 Start Time: 9:00 AM to 5:00 PM Retreat Location: TBD		
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January 21, 2014 Start Time: 6:00 PM Business Meeting Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:		
OPEN COMMENT:		45 Minutes
CONSENT:	2nd reading ordinance to relocate two historic residential structures to 905 Marine	15 Minutes
	1st reading Landmark Designation of 1815 Mapleton Ave	
	December 17, 2013 Minutes	
PUBLIC HEARINGS:	2nd Reading Boulder Jewish Commons Annexation	2 Hours
MATTERS FROM CITY MANAGER:	Options for securing trash from Bears	45 Minutes
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	3.75

March 4, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:		
OPEN COMMENT:		45 Minutes
CONSENT:		15 Minutes
PUBLIC HEARINGS:	Recommendations on changes to panhandling ordinance	1 Hour
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	2.00

March 18, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:		
OPEN COMMENT:		45 Minutes
CONSENT:	Update report on mobile food vehicle pilot program and changes to MFV ordinance	15 Minutes
PUBLIC HEARINGS:		
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:	Board and Commission appointments	45 min.
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	1.75

April 1, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:	Board and Commission Reception & Farewell @ 5:00	1 Hour
OPEN COMMENT:		45 Minutes
CONSENT:		15 Minutes
PUBLIC HEARINGS:		
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	1.50

April 15, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	Item Name	Time
SPECIAL PRESENTATIONS:		
OPEN COMMENT:		45 Minutes
CONSENT:		15 Minutes
PUBLIC HEARINGS:	Changes to Mobile Food Vehicle Pilot Ordinance	30 Minutes
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	1.00

City Council Goals – 2013

Top Priorities:

1. Boulder's Energy Future

The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

2. Climate Action Plan

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

3. Affordable Housing

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

4. Civic Center Master Plan

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

Next Tier Priorities:

1. University Hill Revitalization

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

2. Homelessness

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

3. Boulder Junction Implementation

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council
2013 Work Plan by Council Goal**

TOP PRIORITIES

GOAL: Boulder's Energy Future			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – based on the strategies approved by Council in 1st Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session

GOAL: Climate Action Plan			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder Canyon Hydroelectric Project ▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools ▪ Energy Efficiency: <ul style="list-style-type: none"> ○ Launch of 2013 program priorities ○ Upgrades in City Buildings – employee education and outreach project (IP) ▪ Disposable Bag Fee – implementation plan and revised budget (IP) ▪ Transportation Master Plan (TMP) – 	<ul style="list-style-type: none"> ▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session) ▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems ▪ Electric/ Hybrid vehicles – project closeout ▪ Energy Efficiency – finalize Market Innovations approach (Study Session) ▪ Solar/ Wind Generation Facility Code Changes ▪ SmartRegs – code changes 	<ul style="list-style-type: none"> ▪ CEES – adopt Energy Rating and Reporting Ordinance ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency – launch Market Innovations competition ▪ Zero Waste Master Plan (ZWMP) – draft 	<ul style="list-style-type: none"> ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency <ul style="list-style-type: none"> ○ Upgrades in City Buildings – results of employee education and outreach (IP) ▪ SmartRegs – options for quality control of rental housing inspections



initial results of Transportation Funding Task Force (Study Session)			
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GOAL: Affordable Housing

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ ADU/ OAU – study results (IP) ▪ Comprehensive Housing Strategy issues - stakeholder engagement process ▪ Density and Distribution of affordable and special needs housing - report ▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process ▪ Mobile Homes Parks – legislative agenda 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy <ul style="list-style-type: none"> ○ Stakeholder engagement process ○ Study Session 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process

GOAL: Civic Area Plan

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ Board and community input ▪ Council participation in Ideas Competition 	<ul style="list-style-type: none"> ▪ Council direction on preferred option(s) and strategies ▪ Draft plan <ul style="list-style-type: none"> ○ Development ○ Community input ○ Study Session ▪ Municipal Space Study Final Report 	<ul style="list-style-type: none"> ▪ Boulder Civic Area vision and plan <ul style="list-style-type: none"> ○ Study session ○ Public hearings on adoption 	



NEXT TIER PRIORITIES

GOAL: University Hill Revitalization			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 2013 action priorities confirmed by Council at January retreat ▪ Hill Residential Service District – update ▪ Innovation District - update 	<ul style="list-style-type: none"> ▪ Action on other priorities ▪ Hill Residential Service District – 1st reading of petition 	<ul style="list-style-type: none"> ▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process 	

GOAL: Addressing Homelessness			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ City and Community Efforts – Denver sleeping ordinance (IP) ▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP) ▪ Work plan check in and priority – Council retreat 	<ul style="list-style-type: none"> ▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs ▪ Ten Year Plan to Address Homelessness – progress update (IP) 	<ul style="list-style-type: none"> ▪ Analysis and recommendations regarding banning panhandling on street corners 	<ul style="list-style-type: none"> ▪ Ten Year Plan to Address Homelessness – progress update (IP)

GOAL: Boulder Junction Implementation			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Depot Square implementation – update ▪ MU-4 zone change - consideration ▪ TDM District Implementation Update (IP) ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Boulder Junction Access District Parking – update ▪ TDM Access District implementation - IP 	



OTHER

GOAL: Other City Goals and Work Plan Items			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 13th Street Plaza - IP ▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up ▪ Acquisition Plan Update - OSMP ▪ Alcohol/ Land Use Code Changes – options and recommendations ▪ Boating on Barker Reservoir ▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities ▪ BVCP Area III Planning Reserve Amendments (if approved by County) ▪ Chautauqua Guiding Principles, Next Steps –update on progress ▪ Civic Use Task Force – update from Council members ▪ Cultural Master Plan ▪ Design and Construction Standards Update – consideration of minor updates ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Hogan Pancost – annexation and site review ○ Wonderland Creek Townhouses – potential call up ○ 28th and Canyon (Eads/ Golden Buff) – potential call up ○ Landmark Lofts II (970 28th Street) – potential call up ▪ East Arapahoe Study – potential action on limited zoning changes ▪ Economic Sustainable Strategies – 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – study session ▪ Alcohol Land Use Code Changes - action ▪ Baseline Underpass East of Broadway CEAP – Call up ▪ Bike Parking Ordinance Updates ▪ Capital Improvement Bond Projects status update - IP ▪ Capital Projects – carry over and first supplemental ▪ Critical Facilities Ordinance – public hearing and motion ▪ Education Excise Tax – consideration of City Manager funding recommendations ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Human Rights Ordinance – proposed changes regarding age discrimination ▪ Integrated Pest Management Program Changes - IP ▪ International Building and Energy Codes – public hearing ▪ North Boulder Subcommunity Plan - IP ▪ Old Hire Fire and Police Pension Plans – Study Session 	<ul style="list-style-type: none"> ▪ 2014 Budget Process ▪ Access and Parking Management strategies (update) ▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP) ▪ Capital Improvement Program – study session ▪ Carter Lake Pipeline – thru CIP process ▪ Contractor Licensing – proposed changes (IP) ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Blue Spruce Auto (4403 Broadway) – potential call up ○ Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up ○ Colorado Building Parking Lot (1301 Walnut) - ordinances ○ 1000 Alpine – potential call up ○ 3085 Bluff – potential call up ○ 3390 Valmont (Former Sutherlands Site) – potential call up ▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility ▪ FAM Master Plan – study session ▪ Harbeck-Bergheim House – Future Use Options (IP) ▪ North Trail Study Area – study 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – update ▪ Agriculture Plan (OSMP) – public hearing ▪ Capital Improvement Program – adoption of CIP; 2nd budget supplemental ▪ Contractor Licensing – consideration of proposed changes ▪ Design and Construction Standards Update – consideration of additional changes ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Village Shopping Center Hotel (26th and Canyon) – potential call up ▪ East Arapahoe Study – check in on project scope and work plan (3/4Q) ▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP) ▪ FAM Master Plan – consideration of acceptance ▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up ▪ Human Relations Commission Work Plan update - IP ▪ Human Services Fund allocations - IP ▪ Light Response Vehicle Pilot Program - IP ▪ OSMP Natural Resources Overarching Issues – Study session



<p>study session</p> <ul style="list-style-type: none"> ▪ Education Excise Tax Allocation of Funds – refine RFP criteria ▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP) ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Hazardous Materials Management IGA ▪ Hydroelectric operations and opportunities - IP ▪ Keep It Clean IGA ▪ Mobile Food Vending – options for ordinance changes ▪ Multi-hazard mitigation plan – possible consent item ▪ Nuisance Mosquito Control Pilot Project Evaluation - IP ▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics ▪ Police Department Master Plan – Study Session ▪ State of the Court Presentation ▪ Sustainable Streets & Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy ▪ Transportation Funding (SS) ▪ TMP Update – additional direction 	<ul style="list-style-type: none"> ▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> ○ Temporal Regulations ○ Penalties for violations ○ Multi-modal access and parking opportunities ○ Analysis of trail network and distribution of activities ▪ Parks and Recreation Master Plan ▪ Pearl Street Mall Code Changes ▪ Police Department Master Plan ▪ Randolph Center Condominium Declaration ▪ Recirculation of wastewater – CU Williams Village North (IP if necessary) ▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion ▪ Smoking Ban on Pearl Street Mall - IP ▪ Snow and Ice Control Evaluation – study session ▪ Transportation Funding – study session ▪ TMP Update – additional direction ▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion ▪ Water budgets – commercial, industrial and institutional – Council direction ▪ Water supply status – IP 	<p>session or dinner discussion</p> <ul style="list-style-type: none"> ▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process ▪ Parks and Recreation Master Plan ▪ Regional Trail Connections (OSMP) – IP ▪ South Boulder Creek Flood Mitigation Study – public hearing and motion ▪ Transportation Demand Management Toolkit - IP ▪ Valmont Butte Future Use Discussions – study session ▪ Water Conservation Futures Study ▪ Youth Opportunities Funding allocations - IP 	<p>on remaining topics</p> <ul style="list-style-type: none"> ▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance ▪ Water budgets – commercial, industrial and institutional – consideration of changes
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<ul style="list-style-type: none"> ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired) ▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update ▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up ▪ Zero Waste Master Plan Update 			
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KEY

ADU	Accessory Dwelling Units
BVCP	Boulder Valley Comprehensive Plan
CEAP	Community and Environmental Assessment Process
CIP	Capital Improvement Program
CU	University of Colorado
DUHMD/PS	Downtown and University Hill Management District/ Parking Services (City Division)
FAM	Facility and Asset Management
ICC	International Code Council
IGA	Intergovernmental Agreement
IP	Information Packet
OAU	Owner Accessory Units
OSMP	Open Space/Mountain Parks Department
RFQ	Request for Qualifications
RFP	Request for Proposals
TDM	Transportation Demand Management
TMP	Transportation Master Plan
ZWMP	Zero Waste Master Plan



**CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012**

TOP PRIORITIES:

GOAL: BOULDER’S ENERGY FUTURE

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder’s energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city’s Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS¹

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

Key:

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
Lisa Morzel	Mayor Pro Tem
Macon Cowles	Council Member
Suzanne Jones	Council Member
George Karakehian	Council Member
Tim Plass	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Mary Young	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Community Planning + Sustainability - Executive Director
Paul J. Fetherston	Deputy City Manager
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Larry Donner	Fire Chief
Mary Ann Weideman	Housing, Assistant City Manager for Human Resources (Acting) Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
Valerie Maginnis	Library and Arts Director
Lynne C. Reynolds	Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Kirk Kincannon	Parks and Recreation Director
Mark Beckner	Police Chief
Maureen Rait	Public Works - Executive Director
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass
Boulder County Consortium of Cities	Karakehian
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones
Housing Authority (Boulder Housing Partners)	
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board	Plass, Morzel (at large seat)
Rocky Flats Stewardship	Morzel, Plass (1 st alternate), Castillo (2 nd alternate)
University of Colorado (CU) / City Oversight	Jones, Karakehian
US36 Mayors and Commission Coalition	Appelbaum,
US36 Commuting Solutions	Karakehian
Urban Drainage and Flood Control District	Morzel

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Cowles
Boulder Convention and Visitors Bureau	Plass
Dairy Center for the Arts	Karakehian
Downtown Business Improvement District Board	Plass, Jones

INTERNAL CITY COMMITTEES

Audit Committee	Morzel, Cowles
Boards and Commissions Committee	Plass
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	
Charter Committee	Morzel, Cowles, Karakehian
Civic Use Pad/ 9 th and Canyon	Morzel, Jones
Council Budget Action Plan Committee	Plass
Evaluation Committee	Karakehian, Morzel
Legislative Committee	Karakehian, Jones

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	
Dushanbe, Tajikistan	Karakehian
Yamagata, Japan	
Mante, Mexico	Plass
Yateras, Cuba	Cowles
Sister City Sub-Committee	Morzel, Cowles