

**BOULDER CITY COUNCIL MEETING  
MUNICIPAL BUILDING, 1777 BROADWAY  
Tuesday, August 18, 2015  
6 PM**

**AGENDA**

- 1. CALL TO ORDER AND ROLL CALL**
  - A. Declaration in **Support of Boulder’s CityLinks Climate Adaptation Partnership with Shimla, India**
  
- 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. ( Roll Call vote required )**
  - A. Consideration of a motion to approve the **minutes** for the **February 17, 2015 City Council Regular Meeting**
  
  - B. Consideration of a motion to approve the **minutes** for the **August 4, 2015 City Council Regular Meeting**
  
  - C. Consideration of a motion to authorize the city manager to execute a **20-year water lease agreement with the University of Colorado**
  
  - D. Consideration of a motion to authorize the City Manager to sign the updated **Office of Emergency Management Agreement between the City of Boulder, Colorado and the County of Boulder, Colorado**
  
  - E. Consideration of a motion to **approve Resolution No. 1164** concerning the proposed City of Boulder (acting through its Water Utility Enterprise and its Wastewater Utility Enterprise) **Water and Sewer Revenue Bonds, Series 2015**, in the aggregate principal amount of not to **exceed \$10,500,000, authorizing the notice of bond sale with respect to said Series 2015 bonds**; prescribing certain details concerning said proposed sale and said Series 2015 bonds; approving the form of a preliminary official statement; and providing the effective date of this resolution
  
  - F. Consideration of a motion to **approve Resolution No. 1165** declaring the city of Boulder’s official intent to **participate in a future issuance of bonds or certificates of participation and to reimburse itself for capital** expenditures undertaken in advance of such financing in connection with the **acquisition of the Boulder Community Health Broadway Campus**

- G. **Second reading** and consideration of a motion to order published by title only, **Ordinance No. 8060 vacating**, and authorizing the City Manager to execute a deed of vacation to vacate **a portion of a sidewalk easement at 2460 Iris Avenue**
- H. **Second reading** and consideration of a motion to **adopt Ordinance No. 8061 approving a supplemental appropriation for the Storm Water and Flood Management Revenue Bonds, Series 2015, in the aggregate principal amount of \$23,317,855**, for the purpose of providing funds for storm water and flood management improvements and for the costs of issuance of the Series 2015 Bonds
- I. **Second reading** and consideration of a motion to **adopt Ordinance No. 8063 approving supplemental appropriations to the 2015 Budget**
- J. **Second reading** and **consideration of a motion to adopt Ordinance No. 8066 repealing and reenacting Section 4-1-8 “Insurance Required,” B.R.C. 1981**, to update insurance requirements under the Boulder Revised Code in response to changes to the Colorado Governmental Immunity Act and in insurance industry practices, and setting forth related details
- K. Introduction, **first reading** and consideration of a motion to **adopt Emergency Ordinance No. 8062 adopting Supplement No. 124**, which codifies previously adopted Ordinance Nos. 8028, 8034, 8038, 8040, 8045, 8049, **and other miscellaneous corrections and amendments**, as an amendment to the Boulder Revised Code, 1981
- L. Introduction, **first reading** and consideration of a motion to order published by title only, **Ordinance No. 8064** placing before the voters at the November 3, 2015 general election **a ballot measure** amending the Boulder Home Rule Charter by adding a provision **requiring subcommunity planning and setting forth related details**
- M. Introduction, **first reading** and consideration of a motion to order published by **title only two Ordinances No. 8068 and 8069, setting the ballot titles for two initiated amendments to the Boulder Charter**, and setting forth related details

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

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A:

Call-up Item: **Landmark Alteration Certificate** to build a **451 sq. ft. detached, one-car garage with second-story studio** at **820 Spruce St. in the Mapleton Hill Historic District**, per section 9- 11-18 of the Boulder Revised Code 1981 (HIS2015-00151). This Landmark Alteration Certificate is subject to City Council call-up no later than **August 18, 2015**

**ORDER OF BUSINESS**

## 5. PUBLIC HEARINGS

Note: Any items removed from the Consent Agenda will be considered after any City scheduled Public Hearings.

- A. **Second reading** and consideration of a motion to **adopt Ordinance No. 8058, designating the building and property at 2245 Pine St., to be known as the Ravenscraft House, as an individual landmark** under the city's Historic Preservation Ordinance
- B. **Second reading** and consideration of a motion to **adopt Ordinance No. 8057** submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2015, **the question of authorizing the City Council to continue the Climate Action Plan tax** that was approved by the voters in November 2006 and implemented by the City Council in chapter 3-12, B.R.C. 1981, currently set to expire March 31, 2018, through March 31, 2023 for the purposes of implementing programs to increase energy efficiency, increase renewable energy use, reduce emission from motor vehicles, and take other steps toward the goal of reducing greenhouse gas emissions; setting forth the ballot title; and setting forth related details
- C. **Second reading** and consideration of a motion to **adopt Ordinance No. 8056** submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 3, 2015 **the question of authorizing the city council to extend the utility occupation tax on public utility companies that deliver energy to customers in the form of electricity and gas that was passed by the voters** pursuant to Ordinance no. 7751 (as amended by Ordinance no. 7808) at the rate \$4.1 million dollars, beginning January 1, 2011 be extended from December 31, 2017 December 31, 2022; setting forth the ballot title; making conforming changes to the Boulder Revised Code; and setting forth related details
- D. **Second reading** and consideration of a motion to **adopt Ordinance No. 8055 setting the ballot title for an initiated amendment to the Boulder Charter, and setting forth related details (Library)**
- E. **Second reading** and consideration of a motion to **adopt Ordinance No. 8052** submitting to the registered electors of the City of Boulder, at the general municipal coordinated election to be held on November 3, 2015, **an amendment to the Boulder Charter regarding City Council compensation, setting the ballot title and setting forth related details**

## 6. MATTERS FROM THE CITY MANAGER

- A. Emergency Disaster Declaration for May 2015

## 7. MATTERS FROM THE CITY ATTORNEY

## **8. MATTERS FROM MEMBERS OF COUNCIL**

- A. Potential Call-Ups-** Landmark Alteration Certificate to build a 451 sq. ft. detached, one-car garage with second-story studio at 820 Spruce St. in the Mapleton Hill Historic District, per section 9- 11-18 of the Boulder Revised Code 1981 (HIS2015-00151). This Landmark Alteration Certificate is subject to City Council call-up no later than August 18, 2015
- B.** Consideration of a motion regarding 2015 performance evaluations, and performance and equity based **salary adjustments for the City Manager, City Attorney, and Municipal Judge**
- C.** Request from B&C subcommittee to schedule Council Update and direction on **the Boards and Commission Televised Coverage Pilot Program**
- D.** “Nod of Five” regarding Council Member Cowles request for **resolution in opposition to Charter Initiatives**
- E.** **Colorado Municipal League & National League of Cities Committee** assignments

## **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** -Opportunity for Council to discuss how the meeting was conducted-5 min

## **12. ADJOURNMENT**

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Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk’s Office at (303) 441-3002, 8 a.m. – 5 p.m. Monday through Friday. 48 hours notification prior to the meeting or preparation of special materials **IS REQUIRED.**

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.

Electronic presentations to the city council must be pre-loaded by staff at the time of sign up and will NOT be accepted after 3:30 p.m. at regularly scheduled meetings. Electronic media must come on a prepared USB jump (flash/thumb) drive and no technical support is provided by staff.

**CITY COUNCIL PROCEEDINGS  
CITY OF BOULDER  
February 17, 2015**

**1. CALL TO ORDER AND ROLL CALL**

Mayor Appelbaum called the February 17, 2015 Regular City Council meeting to order at 6:04 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver and Young

Mayor Appelbaum moved, seconded by Council Member Jones, to amend the agenda by moving item 6A to 6B, 6B to 6C and adding a new 6A, direction to the city attorney regarding municipalization, and adding a check in regarding Board and Commission applications under Matters from Members of Council. The motion carried 9:0 at 6:07 PM.

**2. OPEN COMMENT and COUNCIL/STAFF RESPONSE**

1. Geri Mitchell-Brown – Represented Rally Sport – Asked that all businesses be required to recycle. Spoke in support of the Zero Waste.
2. Dan Matsch - Also spoke in support of the Zero Waste, noting the importance of ECO-cycle and Charm which provides electronic recycling options for the community.
3. Sarah Martinez – With Eco Products in Boulder – Spoke to the value of composting and recycling. Supported requirement for both in residential and commercial areas.
4. Kirk Cunningham – On behalf of Indian Peaks Sierra Club – Supported the Zero Waste efforts in Boulder.
5. Lorna Keeler – Also supported Eco-cycle and the Zero Waste
6. Julie McCabe – Spoke of the Smart Transit Riders application used by CU and suggested implementing the program for city residents.
7. Bethany Hentkowski – Supported Zero Waste, specifically curbside composting. Encouraged Council to include all residents in the program.
8. Will Toor – Supported a recycling and composting ordinance in the commercial and multi-family sectors.
9. Mike Marsh – Supported a neighborhood resolution (distributed to Council) which would allow all residents in a neighborhood to vote on any change in that neighborhood.
10. Rosie Briggs – CU student who toured The Provence, a new multi-housing development that did not offer recycling, and chose not to live there. Urged adoption of a recycling and composting ordinance for multi-housing units.
11. Steve Haymes – Opposed to Municipalization – Urged Council not to appeal the recent court decisions, but rather work with Xcel to develop a realistic separation plan.

12. Patrick Murphy – Opposition to Municipalization, provided calculations related to the City’s financial analysis that he found to be inaccurate.
13. Ross Sheldon – Worked for Eco-cycle in the ’70s and when they moved back they were pleased with the recycling and composting available to them as residents. Urged Council to take the next step by requiring the same services in commercial and multi-family units.
14. Randy Moorman – Community Campaigns Manager for Eco-cycle - Supported Zero Waste, noting the number improvements.
15. Linda Kinnamon – Spoke in favor of composting—noted the pilot project her building underwent with great success.
16. Rob Smoke – Supported Zero Waste and the creation of an electric Municipalization. Maintained City did not provide information to the public.
17. Leslie Glustrum – Supported moving forward with Municipalization. Suggested making an application to the Public Utility Commission.
18. Mark Hafen – Spoke to misappropriation of funds and time on Municipalization efforts.
19. Chris Hoffman - Supported the work toward Municipalization. Agreed with comments made by Leslie Glustrum.
20. Charlie Danahen – Resident in unincorporated Boulder County—Opposed Municipalization.
21. Karl Hanzel – Stated Zero Waste ought to be implemented without exemptions or exceptions.
22. Karey Christ-Janer – Spoke to Municipalization. Strongly supported Zero Waste.

**Staff Response:**

Heather Bailey and Jonathan Koehn spoke to Commercial energy credits, wind source energy and rate structures for municipalization.

**Council Response:**

**Council Member Morzel** spoke to rebuilding trust with neighborhoods and the actions council had taken to meet that need.

**Council Member Weaver** spoke to Wind source and RECs and the importance of discussions about rates. He also reminded all that council did not intend to provide service to areas outside of Boulder.

**Council Member Cowles** clarified the misinterpretation of spending and revenue increases which did balance.

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

- A. **CONSIDERATION OF A MOTION TO APPROVE THE SPECIAL CITY COUNCIL MEETING MINUTES FROM THE JANUARY 22, 2015 EXECUTIVE SESSION**

- B. **CONSIDERATION OF A MOTION TO ACCEPT THE JANUARY 13, 2015, STUDY SESSION SUMMARY ON THE PRE-RETREAT PLANNING**
- C. **CONSIDERATION OF A MOTION TO ACCEPT THE JANUARY 27, 2015, STUDY SESSION SUMMARY ON THE UNIVERSITY HILL MORATORIUM PROJECT AND THE CU HOTEL/CONFERENCE CENTER COMPARATIVE ANALYSIS**
- D. **CONSIDERATION OF A MOTION TO RE-APPOINT MOHAMMED AKACEM TO A THREE-YEAR (3) TERM AS THE CITIZEN-AT-LARGE TRUSTEE FOR THE CITY OF BOULDER “OLD HIRE” POLICE DEFINED BENEFIT PENSION PLAN**
- E. **CONSIDERATION OF A MOTION TO ADOPT RESOLUTION NO. 1156 SUPPORTING A GOCO CONSERVATION EXCELLENCE GRANT AWARD FOR \$50,000 TO PARTIALLY FUND A STUDY TO PROVIDE WATER RESOURCE MANAGEMENT STRATEGIES FOR THE BENEFIT OF THE ENVIRONMENT WITHIN THE OPEN SPACE AND MOUNTAIN PARKS SYSTEM**
- F. **THIRD READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8015, AMENDING CHAPTER 6-4, B.R.C. 1981, ADDING A NEW SECTION, 6-4-3.5 “SMOKING PROHIBITED IN PUBLIC PLACES,” INCLUDING ELECTRONIC SMOKING DEVICES IN THE DEFINITION OF SMOKING, AND SETTING FORTH RELATED DETAILS**
- G. **INTRODUCTION, FIRST READING, AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY MEASURE ORDINANCE NO. 8030 AMENDING TITLE 9, “LAND USE CODE,” B.R.C. 1981, TO LIMIT RESIDENTIAL USES WITHIN THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT IN THE BMS ZONING DISTRICT AND CORRECT BMS ZONE STANDARDS, AND SETTING FORTH RELATED DETAIL**
- H. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ADOPT EMERGENCY ORDINANCE NO. 8031 ADOPTING SUPPLEMENT NO. 122, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7957, 7967, 7982, 7983, 7992, 7996, 8004, 8005, 8011, 8016, 8018, 8020, APPENDIX COUNCIL PROCEDURE, AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981**

Council Member Jones moved, seconded by Council Member Young to approve Consent Agenda Items 3A through 3H. The motion carried 9:0 at 7:20 PM.

**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.

No interest was expressed in 8A-1 or 8A-2.

**5. PUBLIC HEARINGS**

**A. CONSIDERATION OF A MOTION AUTHORIZING THE CITY MANAGER TO TRANSFER OWNERSHIP OF 4525 PALO PARKWAY TO BOULDER HOUSING PARTNERS TO DEVELOP AFFORDABLE HOUSING ON THE 3.2 ACRE SITE -7:24 PM**

Presentation on the item was provided by Director of Community Sustainability and Planning David Driskell.

Council wondered if more frequent follow-up with City Council would take place and whether those who live in this site would be part of the process.

Staff indicated that checking in with Council would be through traditional process such as site review and concept plan review. Additional check-ins would be determined by Council.

Betsy Martin, Executive Director of Boulder Housing Partners, responded that it was much too early to know who would live there in terms of households, but during community engagement they gather the neighbors of the proposed site as well as future residents either from their current projects or a waiting list.

Susan Lithco with Flatirons Habitat for Humanity stated they had the same processes as mentioned by Ms. Martin, were farther ahead on family selection for their site, and planned to be involved in the building process.

Council asked how much of the site would be developed.

Staff responded that would be driven by site design, but expected there would be open space available.

The public hearing was opened:

1. Geri Mitchell-Brown—Spoke to a well thought out process and supported the proposal.
2. Lynn Segal – Asked that the City have documentation of all services available in all nodes of the city.
3. Janice Cooper –Suggested that a community garden be included at the Palo Park site.
4. Judy Langberg – Asserted affordable housing was not an issue, but high density was a concern. Opposed the transfer of the property to BHP. Maintained that proper due diligence was not done.
5. Nolan Rosall - Member of the Flatiron Habitat for Humanity Board of Directors—supported the proposal. H indicated that site plan had not been developed yet, but concerns would be addressed through that process.
6. Jennifer Johnson – Supported the project and indicated an ethical obligation to support diverse income residents in Boulder.

7. Sara Toole – A new resident of Boulder opposed to the development. Expressed concern that the voices of opposition were not heard. Increased traffic congestion would impact the neighborhood.
8. David Williard – Resident of Palo Park who participated in the neighborhood outreach meetings. Noted he was familiar with the area and urged a neighborhood park be developed to allow a place for the kids to play.  
Council Member Weaver asked Mr. Williard to explain how the area managed during the 2013 flood.  
David Williard responded that it managed well, but could have increased damage if hit a second time.
9. Dale Davies – Neighbor who spoke in opposition to the density. Asserted the traffic generated from a development on a dead end street would not be compatible with the area.
10. Christopher Weigand – Resident directly across the street from the site – Supported the process, but stated due diligence had not been done to address the raised concerns. Urged Council to withhold the transfer until due diligence occurred.

There being no further speakers the public hearing was closed.

Staff informed council that the park was part of unincorporated Boulder county although managed by the City of Boulder. There had been discussion over annexing it to become part of the City of Boulder, but nothing had been determined at that point.

**Council Member Morzel** clarified that the park was bought by the city in the '90s.

**Council Member Weaver** said that he heard there were 75 dwelling units per acre. Asked what covenants would be placed in the transfer that would protect the city.

**Council Member Shoemaker** stated that Boulder Housing Partners took the property and bared the risk that it was not entitled to a certain density. The reason they wanted the property was so that if they spent \$500,000 to entitle the project and it failed, they could then dispose of the property and be reimburse for entitlement cost.

**City Manager Brautigam** noted that before final documents were executed this would be brought back to council for review.

Council Member Plass moved, seconded by Council Member Weaver, to authorize the City Manager to convey the 3.2 acre property located at 4525 Palo Parkway to Boulder Housing Partners for affordable housing upon such terms and conditions as

she finds reasonable and advantageous to the city. The motion carried unanimously, at 8:23 p.m.

Open Comment was re-opened:

23. Nadia El Mallakn – Xcel Energy employee. Emphasized that the optimal path for Boulder was to work with Xcel energy.
24. Denise Perreault – With regard to the Zero Waste, spoke in support of exemption for businesses who utilize a creative re-use center.
25. Jackson Lombardi – Commented that lacking available recycling at Multi-Family Units was a real problem. Expressed this ought to be required.
26. Sam Kaiser – CU student government representative—spoke of an initiative to have a 90% diversion rate. UCSG passed a resolution that supported of Zero Waste.
27. Debra Ordway – Spoke to safety concerns and a lack of cleanliness due to panhandlers.
28. Shelby Kaminski – Represented 130 CU students in multifamily units who wanted the ability to recycle and compost. Supported the Zero Waste effort.
29. Mark Gelband – Noted a lack of transparency with regard to the municipalization effort. Maintained the city needed to be forthcoming with financial data.
30. John Pavelich – Described the core area of the Hill. Opposed an effort to redesign this area and urged Council to go forth slowly.

Council Member Cowles asked Mr. Pavelich to clarify if he owned a commercial or residential property on the Hill to better understand his position.

Mr. Pavelich responded that he rented a house.

31. Lynn Segal – Supported commercial recycling and fix-it centers.
32. Debra van den Honet – Asked on behalf of the 39 cottage owners to have a voice on the subcommittee for Chautauqua Lease. Urged Council to adopt a charter amendment to include this.

Response:

City Attorney noted that Xcel had never been willing to talk to the city. He farther stated that Panhandling is a constitutionally protected activity.

## **6. MATTERS FROM CITY MANAGER**

### **A. CONSIDERATION OF A MOTION TO PROVIDE DIRECTION TO THE CITY ATTORNEY REGARDING MUNICIPALIZATION. 8:55 PM**

Council Member Weaver moved, seconded by Council Member Morzel, to direct the City Attorney to file an appropriate application with the Public Utility Commission and forego any appeal to the court decisions.

**B. DIRECTION ON DRAFT ZERO WASTE STRATEGIC PLAN AND FEEDBACK ON PROPOSED ZERO WASTE REGULATIONS – 9:06 PM**

Mayor Pro Tem Jones recused herself from this item due to a conflict of interest.

Presentation on this item provided by Kara Mertz, Local Environmental Action Project Manager and Jamie Harkins, Sustainability Specialist II.

Council indicated support for moving forward and thanked staff for its excellent presentation.

**C. DISCUSSION AND CONSIDERATION OF A MOTION TO APPROVE THE JANUARY 23-24, 2015 CITY COUNCIL RETREAT SUMMARY AND THE 2015 CITY COUNCIL COMMITTEE ASSIGNMENTS**

City Manager Brautigam reviewed the summary and outlined next steps for council.

Council Member Jones moved, seconded by Council Member Weaver, to approve the January 23-24, 2015 City Council Retreat Summary and the 2015 City Council Committee Assignments

**7. MATTERS FROM CITY ATTORNEY**

**A. CONSIDERATION OF A MOTION ADOPTING A CHARTER TO CREATE A SUB-COMMITTEE FOR ANALYSIS OF, SOLICITATION OF PUBLIC INPUT ON AND NEGOTIATION OF THE CITY’S LEASE WITH THE COLORADO CHAUTAUQUA ASSOCIATION**

Presentation for this item was provided by City Attorney Tom Carr.

Council Member Weaver moved, seconded by Council Member Young, to adopt a charter to create a sub-committee for analysis of, solicitation of public input on and negotiation of the city’s lease with the Colorado Chautauqua Association as set forth in Attachment A as amended.

**8. MATTERS FROM MAYOR AND MEMBERS**

**A. CALL UPS**

1. Landmark Alteration Certificate to demolish an addition to a contributing house and demolish a c.1988 garage to make way for the construction of a 616 sq. ft. two-car garage and storage shed at 603 Highland Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code.

(HIS2014-00345). This Landmark Alteration Certificate is subject to City Council call-up no later than **February 17, 2015**.

No action was taken on this item.

2. 3059 6th Street Minor Site Review Amendment (LUR2014-00088)

No action was taken on this item.

**B. CONSIDERATION OF A MOTION AUTHORIZING AFFILIATE MEMBERSHIP IN THE WESTCONNECT COALITION**

Mayor Appelbaum addressed this item clarifying that a membership in the WestConnect Coalition did not indicate that Boulder was in support of the Jefferson Parkway but rather by having a seat on the coalition the city would be able to monitor what action was taking place by the group.

Council Member Weaver moved, seconded by Council Member Jones, to authorize an affiliate membership in the WestConnect Coalition and for Mayor Appelbaum to execute documents to effectuate such membership, and designation of the Mayor as the city's representative to the Coalition and the City's policy advisor as its alternate representative.

**9. PUBLIC COMMENT ON MATTERS (15 min.)**

- 1) Karey Christ-Janer spoke to the actions by council regarding Xcel.

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

Vote was taken on the motion to direct the City Attorney to file an appropriate application with the Public Utility Commission and forego any appeal to the court decisions. The motion carried 8:1 with Council Member Karakehian opposed at 10:48 PM.

Vote was taken on the motion to approve the January 23-24, 2015 City Council Retreat Summary and the 2015 City Council Committee Assignments. The motion carried 9:0 at 10:48PM.

Vote was taken on the motion to adopt a charter to create a sub-committee for analysis of, solicitation of public input on and negotiation of the city's lease with the Colorado Chautauqua Association as set forth in Attachment A as amended. The motion carried 9:0 at 10:48 PM.

Vote was taken on the motion to authorize an affiliate membership in the WestConnect Coalition and for Mayor Appelbaum to execute documents to effectuate such membership, and designation of the Mayor as the city's representative to the Coalition and the City's policy advisor as its alternate representative. The motion carried 9:0 at 10:49 pm.

11. **DEBRIEF** - none

12. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on February 17, 2015 at 10:50 PM.

Approved this 18th day of August, 2015.

APPROVED BY:

\_\_\_\_\_  
Matthew Appelbaum  
Mayor

ATTEST:

\_\_\_\_\_  
Alisa D. Lewis,  
City Clerk

**CITY OF BOULDER  
CITY COUNCIL PROCEEDINGS  
August 4, 2015**

**1. CALL TO ORDER AND ROLL CALL**

Mayor Appelbaum called the regular August 4, 2015 City Council meeting to order at 6:03 PM in Council Chambers.

Those present were: Mayor Appelbaum, Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker and Young. Council Member Weaver was absent.

Mayor Appelbaum moved, seconded by Council Member Young, to amend the agenda by moving the certification of the Charter Amendment petition to the August 6<sup>th</sup> meeting and to add agenda item 3N, calling for a special meeting at 5:30 PM on August 11<sup>th</sup> to provide direction on the Phase I Environmental Assessment for Boulder Community Health.

Council Member Karakehian moved, seconded by Council Member Morzel, to postpone indefinitely agenda item 5B, first reading ordinance relating to an Occupational Privilege tax.

Council discussion indicated support for pulling the item with consensus that an adequate public process was not allowed given the deadline for the November ballot. The council expressed an interest in having that conversation in 2016.

The motion to postpone indefinitely item 5B was accepted as a friendly amendment to the motion to amend the agenda by moving the certification of the Charter Amendment petition to the August 6<sup>th</sup> meeting and to add agenda item 3N, calling for a special meeting at 5:30 PM on August 11<sup>th</sup> to provide direction on the Phase I Environmental Assessment for Boulder Community Health. The motion carried 8:0, with Council Member Weaver absent, at 6:25 PM.

**A. DECLARATION REGARDING MODERN SLAVERY AND CLIMATE CHANGE- THE COMMITMENT OF THE CITIES**

Council Member Young presented this declaration in acknowledgement of the honor accorded the city in being invited to participate in an important global event at the Vatican in Rome and urging the United Nations to support the resolution adopted by the Pope and the participating cities.

**B. REPORT FROM AUDIT COMMITTEE REGARDING 2014 COMPREHENSIVE ANNUAL FINANCIAL REPORT**

This report was provided by David Fredrick, community member of the City of Boulder Audit Committee

**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.

- 1) Chris Allred spoke in opposition to the Trans-Pacific-Partnership and patterns that were developing world wide.
- 2) John Spitzer spoke to the process for the Chautauqua Lease negotiations indicating that Friends of Chautauqua had not been given ample opportunity to participate in discussions. He requested that the meetings be postponed.
- 3) Rob Smoke expressed concern regarding the recent shooting in Boulder.
- 4) Karl Anuta thanked Council for its decision to postpone the Occupation Privilege Tax. He agreed with the comments by John Spitzer and asked that Council take the same action on the Chautauqua Lease negotiations.

Staff and Council Response:

City Attorney Carr noted that there was an independent review board that was currently investigating the recent shooting.

Council Member Plass responded to concerns raised by Friends of Chautauqua, noting that there had been 6 meetings to date that were well attended with representatives from both Chautauqua and cottage owners. He indicated that while folks might not be happy with the direction the committee was taking, he stood behind the process.

**3. CONSENT AGENDA (to include first reading of ordinances) Vote to be taken on the motion at this time. 7 PM**

**A. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE APRIL 14, 2015 CITY COUNCIL SPECIAL MEETING**

**B. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE MAY 5, 2015 CITY COUNCIL REGULAR MEETING**

**C. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE MAY 19, 2015 CITY COUNCIL REGULAR MEETING**

**D. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE MAY 28, 2015 CITY COUNCIL SPECIAL MEETING**

**E. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE JUNE 16, 2015 CITY COUNCIL REGULAR MEETING**

**F. CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE JULY 28, 2015 CITY COUNCIL REGULAR MEETING**

- G. CONSIDERATION OF A MOTION TO APPROVE THE CITY MANAGER’S SIGNATURE, JANE BRAUTIGAM, ON AN INTERLOCAL AGREEMENT FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**
- H. CONSIDERATION OF A MOTION TO ADOPT RESOLUTION NO. 1162 ACCEPTING THE CITY OF BOULDER’S 2014 COMPREHENSIVE ANNUAL FINANCIAL REPORT AND INDEPENDENT AUDITOR’S REPORTS**
- I. CONSIDERATION OF A MOTION TO APPROVE RESOLUTION NO. 1163 AUTHORIZING THE CITY OF BOULDER TO EXECUTE A PUBLIC APPROVAL CERTIFICATE RELATING TO THE ISSUANCE OF PRIVATE ACTIVITY BONDS BY THE HOUSING AUTHORITY OF BOULDER, D/B/A BOULDER HOUSING PARTNERS FOR THE PURPOSE OF FINANCING ITS PROJECT RENOVATE PROGRAM**
- J. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY ORDINANCE NO. 8063 APPROVING SUPPLEMENTAL APPROPRIATIONS TO THE 2015 BUDGET**
- K. INTRODUCTION, FIRST READING, AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO. 8064 PLACING BEFORE THE VOTERS AT THE NOVEMBER 3, 2015 GENERAL ELECTION A BALLOT MEASURE AMENDING THE BOULDER HOME RULE CHARTER BY ADDING A PROVISION REQUIRING SUB-COMMUNITY PLANNING AND SETTING FORTH RELATED DETAILS**

This item was continued to August 18, 2015.

- L. INTRODUCTION, FIRST READING, AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO. 8065 SUBMITTING TO THE ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF, SHALL CITY OF BOULDER TAXES BE INCREASED BY UP TO \$350 THOUSAND ANNUALLY (IN THE FIRST FULL FISCAL YEAR) AND BY WHATEVER AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF A TAX ON SHORT TERM RENTALS NOT ALREADY TAXED AS HOTEL, MOTEL OR OTHER PUBLIC ACCOMMODATIONS TO FUND ADMINISTRATION, ENFORCEMENT AND THE CREATION OF ADDITIONAL AFFORDABLE HOUSING AND GIVING APPROVAL FOR THE COLLECTION, RETENTION AND EXPENDITURE OF THE FULL TAX PROCEEDS AND ANY EARNINGS RELATING TO THIS TAX NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION; AND SETTING FORTH RELATED DETAILS.**
- M. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO. 8066 REPEALING AND REENACTING SECTION 4-1-8 “INSURANCE REQUIRED,” B.R.C. 1981, TO UPDATE INSURANCE REQUIREMENTS UNDER THE BOULDER REVISED CODE IN RESPONSE TO CHANGES TO THE COLORADO GOVERNMENTAL IMMUNITY ACT AND IN INSURANCE INDUSTRY PRACTICES, AND SETTING FORTH RELATED DETAILS**

**N. CONSIDERATION OF A MOTION TO CALL A SPECIAL MEETING OF THE BOULDER CITY COUNCIL ON AUGUST 11, 2015 AT 5:30 PM FOR THE PURPOSE OF PHASE I ENVIRONMENT ASSESSMENT OF BOULDER COMMUNITY HEALTH IN THE CITY COUNCIL CHAMBERS, 1777 BROADWAY.**

Council Member Jones moved, seconded by Mayor Appelbaum, to approve consent agenda items 3A through 3N with item 3K continued to August 18. The motion carried 8:0 with Council Member Weaver absent at 7:08 PM

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

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

**ORDER OF BUSINESS**

**5. PUBLIC HEARINGS**

**A. Consideration of a motion to approve the South Boulder Creek Flood Mitigation Plan – 7:10 PM**

The presentation of this item was provided by Director of Utilities, Jeff Arthur and Public Utilities Project Manager, Kurt Bauer.

Council Members asked staff questions which included: Time frame to complete the project, construction of the large berm near US 36, maintenance and sediment deposit removal processes, the bike path construction currently underway in that area, the placement of the multi-use path, Phase 2-3 excavation and disturbance of Open Space Land, capacity increase of nearby canals and channels and map revisions for the flood plan.

The public hearing was opened:

- 1) Clint Heiple, representing Frasier Meadows Retirement Community, spoke in support of the Flood Mitigation Plan.
- 2) Dick Leupold spoke regarding his personal experience the evening of the flood in September of 2013 in which his wife was one of approximately 50 patients that were rescued that evening. His wife passed two months later. He supported the Plan.
- 3) Karl Anuta spoke in support of the Flood Mitigation Plan.
- 4) Kathie Joyner urged council to accept the study with Option D and do everything possible to expedite the process.
- 5) Steve Karakitsios supported the Plan.
- 6) Ryan Eisenbraun spoke on how the flood impacted residents in his apartment building. He urged Council action to accept the Plan.
- 7) Yael Cohen spoke on how letters were sent suggesting purchase flood insurance which helped financially.
- 8) James Johnson, a 6-year resident who lived in the Keewaiden neighborhood, asked Council to think outside the Phase I box and consider Phase II. He encouraged them to "Think ahead and plan."

- 9) Tim Johnson, CEO of Frasier Meadows Retirement Community, urged approval of the South Boulder Creek Mitigation study with Option D and asked to direct the City Manager to expedite the work.
- 10) Rick Mahan, a South Boulder Creek Action Group member, spoke on the impacts to his family and the importance of protecting the residents of Boulder.
- 11) Peter Orenstein expressed appreciation for the flood mitigation process and urged approval of the study.

There being no further speakers the public hearing was closed.

Council Member Morzel moved, seconded by Jones to accept the South Boulder Creek Flood Mitigation Plan. The motion carried 8-0 with Council Member Weaver absent at 8:49 PM.

Council members thanked staff for working on such a large project with so many variables and coming back with Option D, which seemed to meet the needs of the issue with relative costs for this type of flood mitigation work. Council members wanted to remind everyone that the working relationship between the City - CU and CDOT would be very crucial to the process of this project. Council felt local government had a priority to the public safety of its citizens and thanked the engagement of the community. Council directed staff within the parameters of safety to have the project progress quickly and efficiently.

- B. Introduction, first reading, and consideration of a motion to order published by title only, Ordinance No. 8067 submitting to the registered electors of the City of Boulder at the regular municipal coordinated election to be held on Tuesday, November 3, 2015, the question of authorizing the city council to establish an Occupation Privilege Tax, effective January 1, 2016; giving approval for the collection, retention, and expenditure of the full tax proceeds and any related earnings, notwithstanding any state revenue or expenditure limitation; and setting forth the effective date, ballot title, amendments to chapter Title 3. B.R.C. 1981 and related details**

NO DISCUSSION due to this item being POSTPONED INDEFINITELY. See beginning of Meeting.

- 6. MATTERS FROM THE CITY MANAGER**
- 7. MATTERS FROM THE CITY ATTORNEY**
- 8. MATTERS FROM MEMBERS OF COUNCIL**
  - A. Potential Call-Ups – none**

\*\*\*\*Other Matters\*\*\*\*

Council Member Morzel indicated a desire to extend the contract with the National Mobile Home Owners Association to allow the city to continue working with them.

**9. PUBLIC COMMENT ON MATTERS**

Public comment on any motions made under Matters

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

**11. DEBRIEF** Opportunity for Council to discuss how the meeting was conducted-5 min

**12. ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on August 4, 2015 at 8:57 PM.

Approved this 18<sup>th</sup> day of August, 2015.

APPROVED BY:

\_\_\_\_\_  
Matthew Appelbaum  
Mayor

ATTEST:

\_\_\_\_\_  
Alisa D. Lewis  
City Clerk



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE**

Consideration of a motion to authorize the city manager to execute a 20-year water lease agreement with the University of Colorado

**PRESENTERS**

Jane S. Brautigam, City Manager  
Maureen Rait, Executive Director of Public Works  
Jeff Arthur, Director of Public Works for Utilities  
Joe Taddeucci, Water Resources Manager

**EXECUTIVE SUMMARY**

The purpose of this memo is to request that the City Council consider a motion to authorize the city manager to execute a 20-year water lease agreement with the University of Colorado Boulder (CU). CU has requested that Boulder provide up to 0.6 acre-feet of water annually to the university's Mountain Research Station (MRS) property, located in the North Boulder Creek basin adjacent to the City of Boulder's Silver Lake watershed. If approved, the lease would allow CU to formalize its water supply for the MRS.

This lease would have negligible effects on the city's water supply and operations, and CU would compensate the city for the water. If council approves the agreement, staff anticipates that the lease would be in effect from 2015 to 2035, with an option to renew when the lease ends. Boulder regularly leases water for agricultural use through agreements that last one year. This lease requires a 20-year term to allow CU to meet the requirements of an associated water rights application for the MRS. A shorter duration lease would not work for that purpose.

The city and the MRS have enjoyed a beneficial and cooperative working relationship since the 1920s. The research conducted at the station helps us better understand the local effects of climate change and the long-term environmental issues associated with

the city's mountain watershed. Staff believes this lease agreement would continue that relationship and allow the MRS to continue to provide valuable alpine research without any interruption to the station's water supply. For these reasons, staff recommends that City Council authorize the city manager to execute the lease agreement with CU.

## **STAFF RECOMMENDATION**

### **Suggested Motion Language:**

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

Motion to authorize the city manager to execute a 20-year water lease agreement with the University of Colorado.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- *Economic* – The University of Colorado Boulder would pay the City of Boulder a lease rate of \$600 per year, adjusted annually for inflation.
- *Environmental* – This agreement would not negatively impact the environment. Providing water would indirectly support the scientific research and environmental education efforts that the MRS conducts.
- *Social* – The city benefits from research conducted at the MRS as it seeks to better understand the effects of climate change and long-term environmental issues associated with Boulder's mountain watershed.

## **OTHER IMPACTS**

- *Water Supply* – The lease agreement would require Boulder to provide the MRS with up to 0.6 acre-feet of water annually, except in the case of extreme drought or emergency. For comparison, one acre foot is roughly the amount of water that two typical three-member households use in one year. The lease agreement would have a negligible effect on municipal water supplies because of the relatively small amount of water and the terms associated with its delivery.
- *Staff time* – Operations associated with this lease would be part of the normal Water Resources work plan.

## BACKGROUND

The Mountain Research Station is an interdisciplinary research facility devoted to studying mountain ecosystems. Its mission is to facilitate research that examines the processes of biotic and physical systems in mountains, and how environmental changes - including those related to climate change - might influence those processes. The city's water utility routinely relies on data from the MRS Niwot Ridge precipitation gauges, which provide the most continuous records of daily precipitation in the area. **Attachment A** provides additional detail about the MRS.

The station's support facilities include laboratories, offices, classrooms, cabins, a dining hall and a bathhouse that currently get water from a natural spring. To comply with state water administration requirements, CU is preparing a water rights application to formalize use of the spring and two small ponds that are maintained in case of wildland fires.

A required component of CU's water rights application is an "augmentation plan" that explains how it will offset stream depletions caused by the station's use of the spring water and evaporative depletions from the ponds that would otherwise feed into North Boulder Creek. The water provided by the city's lease would be the water source for CU's augmentation plan.

The state requires that applications for augmentation plans identify permanent or long-term sources of water supply. Boulder's typical water leases have a one-year term, which would not be sufficient to meet the needs of the CU's water rights application. Therefore, CU requests a 20-year lease, which is the maximum term allowed by Boulder's Charter, so it can meet state requirements. If council approves the agreement, the lease would be in effect from 2015 to 2035. The lease could be renewed in 2035 by mutual agreement and subject to further approval by the Boulder City Council.

## ANALYSIS

Water for augmentation plans is not typically part of the city's supplemental water leasing program, due to the high demand and administrative efforts associated with such leases. Moreover, the cumulative effect of a large number of augmentation leases would result in a loss of source water operational flexibility. In some cases, however, unique factors can justify an augmentation lease, as staff believes is the case with the MRS because of the cooperative history between CU and the city.

Since late 2014, the city and CU have worked on the proposed lease to develop satisfactory terms and conditions that address operations, delivery requirements and costs associated with the water lease. City staff believes the conditions of the proposed lease allow for adequate protection of city water supplies while still meeting CU's water rights application requirements. **Attachment B** provides the draft lease agreement.

City Council's alternatives with regard to the MRS water lease include authorizing the city manager to approve the water lease or declining such authorization.

Authorizing the lease would indirectly support MRS endeavors, which include providing valuable climatological and environmental data that informs Boulder's water supply management and operations. This would also continue the support of complementary efforts to preserve the pristine area that provides much of the city's source water.

Declining the lease would eliminate the additional administrative steps required of Boulder's source water operations. However, by declining the lease, the city might miss an opportunity to support the Mountain Research Station and the important scientific research it provides.

Staff believes that the benefits of entering into the water lease outweigh any disadvantages associated with additional administrative efforts. Therefore, staff is recommending that City Council authorize the city manager to execute a 20-year water lease agreement with CU.

#### **ATTACHMENTS**

- A. University of Colorado Boulder: Mountain Research Station Summary
- B. Draft Lease Agreement and Associated Exhibits *i* and *ii*

**ATTACHMENT A**  
**University of Colorado- Boulder**  
**Mountain Research Station**

**General Information**

The Mountain Research Station (MRS) is an interdisciplinary research facility of the Institute of Arctic and Alpine Research (INSTARR) devoted to advancement of study of mountain ecosystems. Its mission is to facilitate research and education to better understand the unique patterns and processes of biotic and physical systems in mountains, and how environmental changes may influence these patterns and processes. The MRS generates approximately \$2-million annually in federally sponsored research contracts and grants.

Research at the MRS is performed by a multitude of investigators from numerous organizations, including NSF sponsored programs such as the Niwot Ridge Long-Term Ecological Research Program, the Boulder Creek Critical Zone Program, the National Ecological Observatory Network, and multiple individual investigators. The MRS is in charge of the Mountain Climate Program, established in 1952, which provides long-term climate data from the montane, subalpine, and alpine zones of the Colorado Front Range. Four main meteorological stations have been maintained continuously since the inception of the program.

The MRS runs undergraduate field courses, and provides site support for visiting K12, undergraduate, and graduate courses. Additionally the MRS organizes research conferences, including the Guild of Rocky Mountain Ecologists and Evolutionary Biologists meeting held in the autumn.

**Mission & History**

The MRS's teaching mission includes formal undergraduate field courses, which have become an integral part of the academic experience of many CU students. The disciplines of these courses include biology, geography and geology. The MRS also serves as a field facility for academic year CU courses run on the Boulder Campus, and for courses run through other Universities. Several K-12 courses also use the MRS as a site to introduce students to the wonders of field environmental science.

Undergraduate and graduate research training programs have used the MRS, including several NSF sponsored Research Experiences for Undergraduates site grants, the NSF sponsored Biosphere/Atmosphere Training Program, and the Department of Education sponsored Summer Minority Access to Research Training. Many of these programs are particularly oriented to increasing diversity of persons involved in academic research.

The Mountain Research Station is home to many signature efforts to monitor and document environmental change and climate change. It hosts the longest record of greenhouse gases in the atmosphere in North America; only the Mauna Loa record in

Hawaii is longer. NOAA's Greenhouse Gas monitoring program, located in Boulder, maintains the sampling site. MRS is also used extensively for testing air sampling equipment and preparing air standards that are used by groups around the world participating in monitoring greenhouse gases. MRS is also home to one the National Science Foundation's Long Term Ecological Research (LTER) sites. The Niwot Ridge LTER is one of the longest running such sites, and over the past few decades has documented changes in snowfall, nitrogen nutrient pollution, temperatures, seasons, and how plants and animals are impacted by, and are responding to, changes in Colorado's high country. MRS also hosts several individual climate change studies each year, typically funded by NOAA, NASA and the NSF. Climate change, and the changes it induces in ecosystems, are magnified at higher elevations, making MRS a key location for understanding and quantifying climate change. Finally, MRS hosts many student, teachers and courses each year, making it an important educational center and training ground for future investigators of the topic of climate change and environmental change.

The MRS participates in educational experiences for the general public aimed at policy decisions that affect our environment. Through formal interactions with federal agencies such as the US Forest Service, the EPA, and the National Park Service the MRS has provided expertise to help advise regulatory agencies make informed decisions about anthropogenic impacts on mountain ecosystems.

The support facilities of the MRS include laboratories, offices, classrooms, cabins, a dining hall, and a bathhouse. The MRS also manages the Niwot Ridge Biosphere Reserve for the US Forest Service as a site for research and education. The present site of the MRS was established in 1920, near Columbine Springs, on property leased from the U.S. Forest Service. In 1929, Congress and President Herbert Hoover deeded the land to the University.

### **Research & Natural History**

The MRS is located in the Front Range of the southern Rocky Mountains in Boulder County, Colorado, 40 km (26 miles) from the main campus. Most of the research is done on nearby Niwot Ridge, an east-west trending ridge running down from the continental divide (Navajo Peak 4087 m or 13,409 feet). Most of Niwot Ridge is managed as a Biosphere Reserve by the Forest Service. Researchers also work in the Green Lakes Valley, owned by the City of Boulder, immediately south of Niwot Ridge.

Research on Niwot Ridge has contributed substantially to our understanding of the environmental science of mountain systems and is recognized internationally for its excellence. In particular the MRS is probably the best known site specializing in alpine environmental science in the world. Research emphases include plant and animal ecology, biogeochemistry, hydrology, geomorphology, and atmospheric science.

**ATTACHMENT B  
AUGMENTATION WATER LEASE AGREEMENT**

This AUGMENTATION WATER LEASE AGREEMENT (“Agreement”), dated this \_\_\_\_ day of \_\_\_\_\_, 2015, is between THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate, on behalf of the University of Colorado at Boulder (“University”), and THE CITY OF BOULDER, a Colorado municipal corporation and home rule city (“City”).

**RECITALS**

- A. The University operates a Mountain Research Station within the North Boulder Creek drainage in Section 23, Township 1 North, Range 73 West of the 6<sup>th</sup> P.M. (“Mountain Research Station”).
- B. The Mountain Research Station was established in 1920 and conducts scientific research regarding the alpine environment and teaching activities. The City has long-supported the Mountain Research Station and benefits from its work by obtaining a better understanding of the long-term environmental issues associated with the City’s mountain watershed.
- C. The City and the University have enjoyed a long-standing relationship in supporting efforts to preserve the pristine area that provides much of the City’s raw water and the University’s outdoor research programs.
- D. The physical water supply for the Mountain Research Station is an un-decreed spring tributary to Como Creek, which is used solely for domestic purposes. There are also two small ponds on the property with a combined surface area of less than 0.2 acres. These ponds may be used in the future for fire mitigation purposes. There is no irrigation use of water on the Mountain Research Station property.
- E. The spring and ponds cause out-of-priority depletions to the flow of Como Creek, a tributary to North Boulder Creek, and require augmentation to prevent injury to downstream water rights, including the City of Boulder.
- F. The City is the owner of water and water rights that are available for use for augmentation purposes.
- G. The University and the City desire to work cooperatively to assure a water supply for the Mountain Research Station.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and in further consideration of the mutual covenants and agreements set forth below, the parties agree as follows:

## AGREEMENT AND LEASE

1. Lease of Augmentation Water. The City hereby agrees to lease to the University up to 0.6 acre-feet per year of water that is fully consumable and decreed for use for augmentation purposes (“Augmentation Water”). The Augmentation Water will be supplied to augment and replace the depletions associated with the operation of the spring and ponds at the Mountain Research Station as provided herein, and shall be used only for that purpose. Attached hereto as Exhibit *i* is an initial list of such water rights and water supplies that the City presently intends to have available for these purposes (“Potential Augmentation Water Sources”). The list of Potential Augmentation Water Sources shall be incorporated into and considered part of this Agreement. The City may supplement or revise the Potential Augmentation Water Sources from time to time in the future and shall provide notice to the University of any such supplementation or revision. The City shall cooperate with and provide reasonable assistance and information to the University, based on the City’s status as the owner and lessor of the water leased hereunder, to enable the University to obtain approval of an application for approval of an augmentation plan or substitute water supply plans (the "Augmentation Plan ") for the Mountain Research Station, which the University may desire to file. The City reserves the right to participate in any such proceedings to monitor compliance with the terms of this Agreement, or to protect its water rights if, in the City’s sole discretion, such application adversely affects the City’s water rights.
  
2. Term of Lease. The term of this Agreement shall begin on the date that the University files an application in the Water Court for approval of the Augmentation Plan(the "Water Court Filing Date") and end twenty years thereafter. The term of the lease may be extended or renewed for an additional term by mutual agreement properly executed by the parties, and subject to further approval by the Boulder City Council. The parties agree to initiate discussions regarding an extension or renewal of this Agreement for an additional term no later than June 1, 2033.
  
3. Delivery of Augmentation Water. The City shall make available to the University the Augmentation Water in the form of a monthly aggregated release during each year of the lease term up to the maximum monthly amounts specified in Exhibit *ii*. The Augmentation Water will be released (a) to North Boulder Creek immediately below the outlet to the City’s Silver Lake Reservoir; (b) to North Boulder Creek immediately below the outlet to the City’s Lakewood Reservoir; (c) to Boulder Creek immediately below the outlet to the City’s Barker Meadow Reservoir; (d) to Boulder Creek at a point immediately below the discharge of the Boulder Canyon Hydroelectric Plant at Orodell; (e) to Boulder Creek immediately below the City’s Wastewater Treatment Facility outfall; or (f) at such point or points on which the parties mutually agree in writing. The point of release shall be at the discretion of the City provided that the chosen point of release satisfies the requirements of the Augmentation Plan; however, under no circumstances shall the City be required to release the Augmentation Water at a point or points other than those described in (a) through (f) above. The University shall be responsible for ensuring the

administration of such Augmentation Water and shall bear any transit losses charged by the State water officials below such point(s). The City's obligation to deliver the Augmentation Water shall commence on the Water Court Filing Date or such later date as requested by the University.

4. Water Delivery Schedule and Administration. On or before April 1 of each year of this Agreement, the University shall submit to the City a 12 month schedule specifying the monthly delivery amounts of Augmentation Water projected by the University for the following year up to 0.6 AF. The University may update the 12 month projected schedule as may be necessary; however, the University must provide the City with at least 60 days advance written notice in order to increase the projected delivery amounts by the City. To the extent that deliveries specified in the schedule provided by the University total less than the maximum amounts in Exhibit *ii*, the City reserves the right to use the balance of the requested Augmentation Water for its own purposes during such Water Year. The City is under no obligation to deliver the Augmentation Water more frequently than on a monthly basis.

Operational notices as required by this Agreement may be provided by telephone if followed up by email. The City's designated contact for such operational notices shall be Joanna Bloom, Water Resources Source Water Administrator; telephone number (303) 441-4251; email address [bloomj@bouldercolorado.gov](mailto:bloomj@bouldercolorado.gov). The University's designated contact for such operational notices shall be David Danielson, Assistant Vice Chancellor for Facilities Management;; telephone (303) 492-5511; email address [david.danielson@colorado.edu](mailto:david.danielson@colorado.edu). Either party may change the contact information for their contact person by notice given pursuant to Section 8 below.

5. Obligation to Deliver Augmentation Water. The City's obligation to deliver the Augmentation Water under this Agreement may be curtailed under the following circumstances:
- a. If, in the City's sole discretion, it imposes mandatory city-wide water use restrictions to address drought conditions, dam or pipeline failure, or other catastrophic circumstance limiting the City's ability to satisfy the indoor water usage needs of its customers, the City may curtail deliveries of Augmentation Water to the University under this Agreement so long as and to the extent that, delivery is prevented or delayed by such cause.
  - b. If an accident, act of war, natural catastrophe, fire, explosion, or other cause beyond the reasonable control of the City prevents or delays its ability to deliver the Augmentation Water pursuant to this Agreement, the City may curtail delivery of the Augmentation Water so long as, and to the extent that, delivery is prevented or delayed by such cause.
  - c. If, at any time, the domestic uses of the spring and ponds related to research activities at the Mountain Research Station are permanently discontinued and cause no

further depletions to Como Creek and North Boulder Creek, the City's Augmentation Water delivery obligation under this Agreement shall terminate and be of no further force and effect.

In the event that the City terminates or suspends its Augmentation Water delivery obligation under this Agreement in accordance with these provisions, it shall provide the University with a minimum of 30 days written notice to the extent reasonably possible. Termination or suspension of the City's delivery obligation pursuant to these provisions shall not give rise to any liability or claim against the City for damages or restitution.

6. Lease Payments. In full consideration for all rights and interests granted, costs incurred, and services rendered or to be rendered or performed by the City hereunder, the University shall make an annual lease payment to the City in the amount of \$1,000.00 in 2015 dollars for the 0.6 AF of Augmentation Water made available to the University each year under this Agreement. The initial lease payment shall be due within 30 days of execution of this Agreement by the parties, and thereafter the annual lease payment shall be due on each annual anniversary of the date of execution of this Agreement. The annual lease payment amount shall be adjusted annually with the Consumer Price Index for all Urban Consumers for the Denver Metropolitan Area. In the event that the Consumer Price Index is no longer calculated for the Denver Metropolitan Area, the parties will mutually agree on an appropriate measure of inflation. Failure to timely pay the annual lease payment shall result in suspension of deliveries of Augmentation Water and termination of this Agreement if such payment is not cured within thirty (30) days after the City provides a written notice of non-payment to the University pursuant to Section 8 below.
7. Water Rights Used for Augmentation Water. The City may use and deliver the Augmentation Water from any of the Potential Augmentation Water Sources, as the same may be supplemented or revised pursuant to paragraph 1 hereinabove, or any combination thereof, provided that such water rights or water supplies are fully consumable and decreed for use for augmentation purposes. Except as set forth in this Agreement, the City does not make any express or implied warranties or representations concerning the quality of the leased water or its suitability for use for augmentation and replacement purposes by the University. The University shall be responsible for obtaining administrative or other approvals, if any, necessary to allow the University to use the leased water for augmentation and replacement purposes.
8. Notices. Except as otherwise provided herein, any notices or other documents required by this Agreement shall be sent to the following addresses, or such other addresses as the parties may indicate in writing, by postage prepaid, certified or registered mail:

To the University:

Vice Chancellor for Administration  
University of Colorado at Boulder

024 UCB  
303 Regent Administrative Center  
Boulder, Colorado 80309

To the City:

The City of Boulder  
Attn: Water Resources Manager  
P. O. Box 791  
1739 Broadway  
Boulder, Colorado 80306

9. Use of Lease Rights. The Augmentation Water leased herein is non-transferable by the University or its successors and may not be used by the University for purposes other than those specifically described in this Agreement.
10. No Acquired Rights or Vesting in Water Rights or in Water System. The University shall not, by reason of any provision of this Agreement or the use of water hereunder or otherwise, acquire any vested or adverse right, in law or equity, in the water rights or water system owned by the City. The University shall not assert or claim any vested rights to the continued use of water owned by the City. The University's use of City-owned water and the City's obligations hereunder are expressly subject to Section 121 of the Boulder Home Rule Charter and §11-1-32 of the Boulder Revised Code.
11. Preservation of the City's Decrees. The University will not jeopardize the City's water rights decrees by taking any action that causes, or could potentially cause, a reopening of any of the City's water rights decrees; provided, however, that seeking approval of the Augmentation Plan and a related substitute water supply plan utilizing the Potential Augmentation Water Sources shall not violate the provision of this Section 11. During the term of this Agreement, the University agrees not to oppose any water court applications the City may file to adjudicate water rights on North Boulder Creek, including any applications or other administrative approvals the City may pursue to confirm diversions under its existing decrees on North Boulder Creek.
12. No Third Party Beneficiaries/No Waiver of Governmental Immunity. This Agreement shall not create any duty of care or liability with respect to any person or entity not a party to this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, or other protections provided the University or the City under the provisions of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., as amended ("Act"). The parties understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the University or the City and their officers, agents or employees are controlled and limited by the provisions of the Act.

13. Breach and Default. An event of default hereunder shall not be deemed to have occurred unless the non-defaulting party provides written notice of default to the defaulting party setting forth the nature of the default and the curative actions required, and the defaulting party does not cure such default within 30 days of such notice.
14. Remedies. Upon an event of default hereunder, the non-defaulting party (a) may terminate this Agreement by written notice to the other party, or (b) shall have the right to specific performance of the defaulting party's obligations under this Agreement.
15. Captions. The captions of the paragraphs of this Agreement are for convenience only and shall not govern or influence the interpretation of the Agreement.
16. Computation of Time. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. Unless expressly indicated otherwise, all days shall be "calendar days," which means consecutive days including all holidays, Saturdays and Sundays. "Business days" exclude federal holidays, Saturdays and Sundays. If a deadline under this Agreement falls on a federal holiday, Saturday, or Sunday, the deadline shall be the next business day.
17. Colorado Law. The Agreement shall be governed by the laws of the State of Colorado, insofar as any matter is regulated by applicable laws of the United States.
18. Entire Agreement. The making, execution and delivery of this Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement embodies the entire understanding of the parties as to the subject matter hereof and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly referred to in this Agreement. Modification of this Agreement by the parties may be made only by a writing signed by the party or parties to be bound by the modification.
19. Severability. The invalidity or unenforceability of any of the provisions of the Agreement shall not affect any other provision of this Agreement which shall thereafter be constructed in all respects as if such invalid or unenforceable provision were omitted.
20. Duplicate Originals. This Agreement may be executed in duplicate originals and each duplicate original shall be valid and enforceable against each party.
21. Binding Effect. This Agreement shall bind the parties hereto, their agents, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed this Augmentation Water Lease Agreement.

THE REGENTS OF THE UNIVERSITY OF COLORADO,  
A Body Corporate

\_\_\_\_\_  
VC for Administration  
Boulder Campus

Approved by: \_\_\_\_\_  
University Counsel

CITY OF BOULDER

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney's Office

**EXHIBIT i TO  
AUGMENTATION WATER LEASE AGREEMENT**

**Potential Augmentation Water Sources**

The water rights that may be used for augmentation include:

1. Windy Gap Return Flows. Fully consumable return flows from the use of Windy Gap water for municipal purposes in Boulder's water supply system. Such water is available to Boulder through its ownership of 37 units (3,700 acre-feet) of water supplied by the Windy Gap Project of the Municipal Subdistrict of the Northern Colorado Water Conservancy District. Windy Gap water is fully consumable and reusable. The original decrees for the water rights for the Windy Gap Project were entered by the District Court, Water Division No. 5, in Case Nos. 1768, W-4001 and 80CW108, on October 27, 1980. The sources of water are the Colorado River and Willow Creek, a tributary of the Colorado River. The features, structures, appropriation dates, amounts, and beneficial uses of the Windy Gap Project water rights are as set forth in the decrees in Case Nos. 1768, W-4001 and 80CW108.
  
2. North Boulder Farmers Water Rights. Water rights represented by the City's ownership of 656.2 shares of stock in North Boulder Farmers Ditch as these shares and rights are decreed for the alternate uses in Case No. 94CW285, District Court, Water Division No. 1, entered on December 22, 1997. The North Boulder Farmers Water Rights are more fully described as follows:
  - a. Description of Water Rights: The North Boulder Farmers Ditch Company is a mutual ditch company with 5,712 shares of stock outstanding. The North Boulder Farmers Ditch Company operates the North Boulder Farmers Ditch. The following water rights are decreed to the North Boulder Farmers Ditch:
    - i. Dates, Case Nos. and Court for Previous Decrees: June 2, 1882, Original Adjudication of Water Rights in Water District 6, District Court in and for Boulder County; June 9, 1914, Case No. 6582, District Court in and for Boulder County.
    - ii. Decreed Point of Diversion: The decreed point of diversion for the North Boulder Farmers Ditch is on the north bank of Boulder Creek in the SW1/4 SW1/4, Section 30, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., commonly known as the 12<sup>th</sup> Street Bridge Headgate at the intersection of Broadway with Boulder Creek, between Canyon Boulevard and Arapahoe Avenue in the City of Boulder, Colorado.
    - iii. Source: Boulder Creek.
    - iv. Appropriate Dates and Amounts: June 1, 1862 for 10.78 cfs; June 1, 1863 for 37.22 cfs.

3. Lower Boulder and Baseline Water Rights. Water rights represented by the City's ownership of 7 shares of the preferred capital stock and 10 shares of the common capital stock of the New Consolidated Lower Boulder Reservoir and Ditch Company and its pro-rata share of the water rights decreed to Baseline Reservoir represented by 11.265 shares of stock of the Base Line Land and Reservoir Company decreed for the alternate uses in Case No. 94CW284, District Court, Water Division No. 1, entered on May 8, 2000. The Lower Boulder and Baseline Water Rights are more fully described as follows:
- a. Description of Lower Boulder Ditch Water Rights: The New Consolidated Lower Boulder Reservoir and Ditch Company ("New Lower Boulder Company") is a mutual ditch company. The New Lower Boulder Company operates the Lower Boulder Ditch. The following water rights are decreed to the Lower Boulder Ditch:
    - i. Date, Case No. and Court: June 2, 1882, Civil Action No. 1282, District Court in and for Boulder County.
    - ii. Decreed Point of Diversion: The headgate of the Lower Boulder Ditch is located on the south bank of Boulder Creek at a point in the SW1/4 SW1/4, Section 16, Township 1 South, Range 69 West, 6th P.M., Boulder County, Colorado.
    - iii. Source: Boulder Creek.
    - iv. Appropriation Dates and Amounts: October 1, 1859 for 25.0 cfs; June 1, 1870 for 97 cfs.
  - b. Description of Baseline Reservoir Water Rights: The Base Line Land and Reservoir Company ("Base Line Company") is a mutual ditch company with 553 shares of stock outstanding. The Base Line Company operates Baseline Reservoir. The following water rights are decreed to Baseline Reservoir:
    - i. Dates, Case Nos. and Court: June 21, 1926, Civil Action No. 6672; January 9, 1935, Civil Action No. 6672 (supplemental decree); September 28, 1953, Civil Action No. 12111; all Boulder County District Court.
    - ii. Decreed Point of Diversion: Baseline Reservoir is located in Sections 2 and 3, Township 1 South, Range 70 West, 6th P.M., and in Sections 34 and 35, Township 1 North, Range 70 West, 6th P.M., all in Boulder County, Colorado. Water has historically been diverted into Baseline Reservoir from Boulder Creek, Bear Creek and South Boulder Creek at the following points:
      1. A point on the south or east bank of Boulder Creek near the east line of the NE1/4 NE1/4, Section 35, Township 1 North, Range 71

West, 6th P.M., Boulder County, Colorado. The structure is known as the Anderson Ditch.

2. A point on the south bank of Bear Creek in the SW1/4 SE1/4, Section 5, Township 1 South, Range 70 West, 6th P.M., Boulder County, Colorado. The structure is known as the Anderson Extension Ditch.
  3. A point on the east bank of South Boulder Creek in the SW1/4 SW1/4, Section 3, Township 1 South, Range 70 West, 6th P.M., Boulder County, Colorado. The structure is known as the New Dry Creek Carrier and the Enterprise Ditch.
- iii. Source: Boulder Creek, Bear Creek and South Boulder Creek.
- iv. Appropriation Dates and Amounts: November 4, 1904 in the amount of 2,929.9 acre-feet; November 29, 1922 in the amount of 1,671.7 acre-feet; November 30, 1935 in the amount of 847 acre-feet; December 31, 1929 in the amount of 1,395 acre-feet (refill).
4. 99CW217 Decree Barker Reservoir Water Storage Rights. Water diverted pursuant to the water rights decreed to the Barker Meadow Reservoir in Case No. 99CW217 by the District Court for Water Division No. 1 on April 5, 2013, which rights are more particularly described as follows:
- a. Legal description: Barker Meadow Reservoir is located on Middle Boulder Creek, in the West 2, Section 17, and in Section 18, Township 1 South, Range 72 West of the 6th P.M., and in the East 2 of Section 13, Township 1 South, Range 73 West of the 6th P.M., Boulder County, Colorado.
  - b. Source: Middle Boulder Creek, a tributary of Boulder Creek.
  - c. Date of appropriation: November 17, 1999.
  - d. How appropriation was initiated: By formation of intent to appropriate and signing of Term Sheet for purchase of all remaining interest in Barker Meadow Reservoir from Public Service Company of Colorado.
  - e. Amount: 3,687 acre-feet per year fill, CONDITIONAL; 1,307 acre-feet per year refill, CONDITIONAL.
  - f. Use: All municipal purposes including, without limitation, domestic, irrigation, commercial, industrial, power generation, fire protection, recreation, fish and wildlife preservation and propagation, exchange, substitution, augmentation, replacement and recharge, within the Boulder service area and outside the Boulder service area for such extra-territorial customers as Boulder may serve

from time to time pursuant to City Charter and contracts. Such use shall include the right to make a fully consumptive first use of the water and to use, reuse and successively use the water to extinction for the purposes described in the foregoing sentence. Return flows from the use of the water shall not be reused or successively used until the amount and location of such return flows are determined in a subsequent decree of this court or any successor court.

**EXHIBIT *ii* TO  
AUGMENTATION WATER LEASE AGREEMENT**

**MAXIMUM MONTHLY WATER DELIVERIES  
(Values in Acre-Feet)**

<b>January</b>	<b>0.05</b>
<b>February</b>	<b>0.05</b>
<b>March</b>	<b>0.05</b>
<b>April</b>	<b>0.10</b>
<b>May</b>	<b>0.20</b>
<b>June</b>	<b>0.20</b>
<b>July</b>	<b>0.20</b>
<b>August</b>	<b>0.20</b>
<b>September</b>	<b>0.20</b>
<b>October</b>	<b>0.20</b>
<b>November</b>	<b>0.05</b>
<b>December</b>	<b>0.05</b>
<b>Annual Total Not To Exceed</b>	<b>0.60</b>



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**Consideration of a motion to authorize the City Manager to sign the updated Office of Emergency Management Agreement between the City of Boulder, Colorado and the County of Boulder, Colorado.**

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Michael Calderazzo, Fire Chief  
Greg Testa, Police Chief  
Maureen Rait, Executive Director of Public Works

**EXECUTIVE SUMMARY**

The Boulder Office of Emergency Management is established primarily to improve the local response to natural and human-made disasters as well as coordinate response activities during and after such events. It is a jointly operated office of the city and county, reports to a board of directors comprised of the Boulder police and fire chiefs as well as the county sheriff. Funding for the office is shared equally between the city and the county.

The intergovernmental agreement establishing the city/county Office of Emergency Management was originally approved in 1993. The presents updates serve: to clarify some of the office's disaster preparedness roles; incorporate consideration for dispute resolution between the city and county; and to add the position of a deputy director for better governance and succession planning. Financial impact on the city is expected to be minimal. It is recommended that council authorize the city manager to renew the intergovernmental agreement with the incorporated changes (see attachment A).

## STAFF RECOMMENDATION

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

Motion to authorize the city manager to sign the updated Office of Emergency Management agreement between the City of Boulder, Colorado and the County of Boulder, Colorado.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic/Environmental** – No direct economic or environment impacts are expected with the approval of this intergovernmental agreement; however, the purpose of the Office of Emergency Management is to plan for and coordinate the emergency response of resources into the Boulder region in the event of disaster. Assessing risk and collaborating with the private sector and environmental groups is part of the office’s regional responsibilities.
- **Social** – Assessing, planning for and coordinating the response of resources into the cities and county of Boulder affect all residents of the region including the City of Boulder.

## OTHER IMPACTS

- **Fiscal** – The updated agreement creates the position of deputy director and all staff positions under the agreement become county employees. Cost sharing remains a 50/50 split between the city and the county after any federal funding is applied. For fiscal year 2015, the creation of a deputy director position and an associated position upgrade is expected to increase the city’s share approximately \$12,000.00.
- **Staff time** – No additional staff time is expected with the execution of this updated agreement.

## BOARD AND COMMISSION FEEDBACK

Not applicable.

## PUBLIC FEEDBACK

No public feedback was solicited.

## BACKGROUND

The Office of Emergency Management’s mission is to reduce the vulnerability of residents and visitors of the city and county of Boulder to damage, injury, and loss of life and property resulting from natural or human-made disasters. The joint agreement or IGA, sets forth the governance of the office, which is a three-member board comprised of the Boulder police and fire chiefs as well as the county sheriff. A director reports to and

is evaluated by the board. The director is responsible for managing the activities of the office, for carrying out the board's policies and for preparing the annual budget for board approval. Cost-share funding between the city and the county is determined after federal monies are used to offset annual expenses.

The proposed IGA, originally signed in 1993, continues the operation of the joint city/county office of emergency management. The agreement was last amended in February, 2005, and in 2009, council approved the city/county emergency operations plan, which is a required product of the office's disaster planning and response efforts.

## **ANALYSIS**

It is recommended that council authorize the city manager to sign the updated emergency management IGA. The updates allow for succession planning and should help improve recruitment and retention for staffing the various office positions with minimal impact to the city's cost share. Also included in the revisions are updates to disaster planning responsibilities and consideration for dispute resolution.

## **ATTACHMENTS**

Attachment A - Proposed Joint Agreement Establishing the Office of Emergency Management

## JOINT AGREEMENT ESTABLISHING THE OFFICE OF EMERGENCY MANAGEMENT

This agreement between the County of Boulder, Colorado (“County”) and the City of Boulder, Colorado (“City”), originally dated June 8, 1993, is hereby Revised this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Whereas, City and County wish to enter into an inter-jurisdictional agreement pursuant to the provisions of the Colorado Disaster Emergency Act, 1992, C.R.S. § 24-32-2101, et seq., for the purpose of establishing an Office of Emergency Management to serve the people of the City and the County in case of a natural or human-made disaster, therefore, the parties agree as follows:

1. A joint office, to be known as the Office of Emergency Management of the City and County of Boulder ("Office") is established in accordance with C.R.S. § 24-32-2107, for the purpose of reducing the vulnerability of the people of the City and County to damage, injury, and loss of life and property resulting from natural or human-made disaster.

2. In order to accomplish this purpose the Office shall:

- a. Prepare and keep current preparedness, mitigation, emergency operations resource mobilization, hazard specific disaster response, and recovery plans for the City and County consistent with the standards promulgated by the Colorado office of Emergency Management;
- b. Prepare, keep current and distribute to appropriate officials, a yearly written work plan of the emergency and disaster responsibilities for the office of emergency management and all local agencies and officials;
- c. Develop an ongoing process of disaster risk assessment, prioritization of risks, action plan for risk reduction, after action reporting process, improvement plan implementation, and evaluation of results. This process is to be facilitated through coordination and collaboration with all local, state and federal agencies, volunteer groups and private sector;
- d. Coordinate disaster planning, training and education effort;
- e. Coordinate with all state and federal agencies to obtain services, equipment, supplies, materials and funds for responding to and recovering from disaster which are beyond the response capabilities of the City or County;

- f. Negotiate on behalf of the City and County with other duly constituted governmental agencies with the State of Colorado for establishment of such mutual aid agreements as may be necessary, and pledge the assistance and cooperation of City and County in return for the pledges from other governmental agencies subject to the approval of the Board of County Commissioners and City Manager;
  - g. Operate the Emergency Operations Center and coordinate the Multiple Agency Coordinating System (MACS), a voluntary organization, which coordinates the activities of political jurisdictions in Boulder County, so as to minimize suffering and loss of life and property in any natural or human-made disaster through the effective utilization of critical resources;
  - h. Coordinate with a local Volunteer Organizations Active in Disasters (VOAD) capability to ensure volunteer resources can be utilized to the individual needs of the elderly, infirm or handicapped during disasters or other emergency situations which impose hardships on such individuals;
  - i. Seek to secure federal grant funding and programs for emergency management programs, community preparedness, disaster response, mitigation and recovery to meet local requirements in mitigating natural or human-made disasters;
  - j. Manage federal grant funding and programs as awarded with those standards established by federal agencies;
3. A Director of the Office shall be appointed by a Board of Directors. The Director shall be accountable to the Sheriff for fulfilling the daily responsibilities of the Office. A Board of Directors shall consist of the City Police Chief, City Fire Chief and the Sheriff. The Sheriff shall, with input from the Board of Directors, evaluate the Director annually for satisfactory performance. The Office shall additionally be staffed by a Deputy Director and other supporting personnel as deemed appropriate, who shall be responsible to the Director. In the absence of the Director, the Deputy Director assumes full authority of the office, including reporting to the Board of Directors. Written job descriptions for the Director, Deputy Director and staff shall be kept on file by the City and the County.
  4. The Director and the Board shall meet at least twice annually. The agenda of the meeting shall include review, planning and direction of emergency management activities for the appropriate season. Additional meetings may be held to address other potential hazards or matters as needed.

5. All funding necessary to maintain the operation of the office, in excess of federal and state monies appropriated to the Office, will be provided equally by City and County, in accordance with a joint budget approved by the Board of County Commissioners and the City Manager and City Council. Upon receipt of the City's budget work sheet, the Director in consultation with the County Finance Director and the City Budget Officer, prepare the proposed joint City-County Budget. Any supplemental funding allocation requested by the Office shall be approved by both the County and City before the allocation is granted. No supplemental allocation shall be approved for funding request which are necessitated by differences in personnel policies between the County and the City.
6. All of the administrative function of the Office, including, but no limited to, payroll, finance administrative records, and receipt and disbursement of state and federal warrants, shall be undertaken and accomplished by the County.
7. For purpose of defending any liability claims made by persons not parties to this agreement and arising out of the acts or omissions of the employees of the Office of Emergency Management, those employees shall be deemed to be County employees if the acts or omissions giving rise to liability were or should have been undertaken solely by the County were it not for this agreement establishing this inter-jurisdictional office. If the acts or omissions cannot be so attributed with a reasonable degree of certainty or if such acts or omissions were undertaken on behalf of both parties, then the employees of the Office shall be deemed employees of both City and County and any financial responsibility to third parties arising by the virtue of employment relationship shall be shared equally.
8. The provisions of this agreement may be modified only upon written approval of each of the parties.
9. Either party to this agreement shall have the right to terminate the agreement upon 180 days written notice to the other party, which shall be sent by certified mail, return receipt requested to the governing body of the non-terminating party. The Parties will attempt in good faith to resolve any dispute or claim arising out of or in relation to this Agreement through negotiations prior to terminating the agreement.
10. The enforcement of the terms and conditions of this agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the City, and nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the parties to this agreement that any person receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

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Deb Gardner, Chair  
Board of County Commissioners  
Boulder County, Colorado

Attest:

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Cecilia Lacey  
Deputy Clerk to the Board

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Jane S. Brautigam  
City Manager  
City of Boulder

Attest:

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City Clerk  
City of Boulder



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:**

Consideration of a motion to approve Resolution No. 1164 concerning the proposed City of Boulder (acting through its Water Utility Enterprise and its Wastewater Utility Enterprise) Water and Sewer Revenue Bonds, Series 2015, in the aggregate principal amount of not to exceed \$10,500,000, authorizing the notice of bond sale with respect to said Series 2015 bonds; prescribing certain details concerning said proposed sale and said Series 2015 bonds; approving the form of a preliminary official statement; and providing the effective date of this resolution.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Maureen Rait, Executive Director of Public Works  
Jeffrey Arthur, Director of Public Works for Utilities  
Tom Carr, City Attorney  
Kathy Haddock, Senior Assistant City Attorney  
Bob Eichen, Chief Financial Officer  
Cheryl Pattelli, Director of Finance  
Ron Gilbert, Assistant Controller  
Ken Baird, Financial Manager, Utilities

**EXECUTIVE SUMMARY:**

City Council is asked to consider approval of a resolution (**Attachment A**) that authorizes the City Manager to call for a public sale of City of Boulder Water and Sewer Revenue Bonds, Series 2015, in the aggregate principal amount not to exceed \$10,500,000 and to approve a Preliminary Official Statement (POS) (**Attachment B**).

The bond proceeds will be used to construct, acquire, improve and equip certain treatment and capacity improvements to the City's wastewater treatment and collection facilities by the Utility and to pay necessary issuance costs. For the specific projects please see the Background and Analysis: Key Project Identification section later in this agenda memo.

**STAFF RECOMMENDATION:**

**Suggested Motion Language:**

Staff requests council to consider this matter and action and make the following motion:

Motion to adopt Resolution No. 1164 (**Attachment A**) concerning the proposed City of Boulder Water and Sewer Revenue Bonds, Series 2015, in a principal amount not to exceed \$10,500,000, authorizing the notice of bond sale with respect to said Series 2015 bonds; prescribing certain details concerning said proposed sale and said Series 2015 bonds; approving the form of a preliminary official statement (**Attachment B**); and providing the effective date of this resolution.

**COUNCIL SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- Economic: Maintaining the structural integrity of the wastewater collection system is one of the critical components of the utility's asset management goals. The cured-in-place pipe (CIPP) lining rehabilitation program is a very cost effective way to extend the infrastructure's useful life compared to full replacement. The wastewater treatment facility (WWTF) upgrades using bond proceeds represent a long-term economically viable solution to meet Colorado Department of Public Health and Environment (CDPHE) effluent regulations.
- Environmental: Maintaining the wastewater collection system is critical to meeting the City's environmental goals by minimizing sanitary sewer overflows. The WWTF upgrades will allow the facility to meet more stringent CDPHE nitrogen effluent discharge regulations.
- Social: Achieving quality and reliable wastewater conveyance and treatment is necessary to the health, safety, and well being of the community. Wastewater conveyance and treatment is a critical Public Works goal and priority.

**OTHER IMPACTS:**

- Fiscal: The issuance of the bonds will address major capital needs of the utility that are summarized in the Key Project Identification section of this agenda memo. The rates required to finance the annual debt service payments are included in the rate increases that were approved by City Council and implemented in January of 2015.
- Staff time: Administration of the revised debt service on this bond issue is part of normal staff time that is included in the appropriate department budgets.

**BACKGROUND AND ANALYSIS:**

**Key Project Identification:** Projects to be funded by the 2015 Water and Sewer Revenue Bonds, Series 2015 consist of capital improvements to the City's Wastewater Utility. The bond proceeds will fund improvements to the City's 75<sup>th</sup> Street Wastewater Treatment Facility (WWTF). A WWTF Nitrogen Upgrade project will involve the construction of new facilities to help meet more stringent

effluent discharge requirements. Bonds proceeds will also be used for the Wastewater collection system by funding two years of the City's ongoing cured-in-place sewer lining program. The goal of the sewer lining program is to extend the useful life of the system by providing structural integrity while minimizing the amount of unwanted inflow and infiltration entering the system.

To complete this bond offering, the City Council is requested to approve the attached resolution which does two things: (1) authorizes the City Manager to call for a public sale of a maximum of \$10,500,000 in Water and Sewer Revenue Bonds, Series 2015, on such date as the Manager determines (currently set as September 1, 2015) and (2) approves the Preliminary Official Statement (POS) that is included as Attachment B. The POS is required to provide potential bond buyers information to make an informed financial decision regarding the possible purchase of the bonds. The bond issue was originally sized at \$10 million, and that is the amount Council authorized in the reimbursement resolution that was passed on June 16, 2015. Since then, it has been decided that the higher amount will be required for this bond issue and is the amount of bond proceeds that will be spent within the timeline allowed by the Internal Revenue Service for tax exempt bonds.

### **Additional Information Regarding a Bond Sale by the City**

**Ratings** - The City has applied to Moody's and Standard & Poor's for ratings on these bonds. They are two of the major rating services in the United States. These ratings will be available the night of the council meeting. The current ratings for the Water and Sewer Revenue bonds are Aa2 from Moody's and AAA from Standard and Poor's. These are excellent ratings for this type of bond in Colorado. Credit ratings are made after analyzing the credit worthiness of the issuer and the quality of the bond being issued. The ratings are then used by potential buyers of the bonds as one of the determinants in whether they will purchase the bonds or not. The highest investment grade rating given is AAA and the lowest is BBB.

**Lowest Bid Evaluation** – The Charter of the City of Boulder requires that all bonds issued or refunded by the city be conducted by competitive bid. Because it incorporates the time value of money, the True Interest Cost (TIC) method of evaluating the cost of an issue has become the norm in the industry to determine winning bids for competitive underwritings. Technically it is defined as that semiannual discount rate which equates the principal and interest payments on the bonds to the purchase price paid by the underwriters to the issuer. In a competitive sale all of the bonds are purchased by one bidder and the bids are submitted electronically.

**Continuing Disclosure Procedures and Required Follow Up Over the Lifetime of the Bonds** – Due to actions taken by the Securities Exchange Commission (SEC) in 2014, continuing disclosure and adherence to reporting requirement commitments has become a much more serious concern in the eyes of the SEC. Council discussed this topic at their November 18, 2014 City Council meeting. The agenda memo can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/126951/Electronic.aspx>

The public sale of the bonds is proposed for the morning of September 1<sup>st</sup>, 2015. At the Council meeting that night the bond sale ordinance will be presented for adoption. Council will receive a list of all underwriting companies that bid and the TIC rates they submitted. The lowest rate will have been confirmed by the City's financial advisor. Staff will recommend that Council award the bid to the company that submitted the lowest bid. The acceptance of the bond sale will be by emergency

ordinance because the bids are only good for twenty four hours and if not accepted in that timeframe the bid is no longer valid. This timeframe is the norm for competitive bond sales in the industry and has been in the past for the City of Boulder.

**Next Steps:**

- September 1st: 10:00a.m. Public Sale of Bonds – Bids received from underwriters for the estimated \$10,500,000.
- September 1st: City Council Meeting – Adoption of Emergency Bond Sale Ordinance. Sale of the bonds will be awarded to the lowest bidder.
- October 1st: Closing on the Bond Sale – Mayor will have signed documents and the funds from the sale will be received.

**ATTACHMENTS:**

- A. Resolution – Notice of Sale
- B. Draft Preliminary Official Statement (POS)

**RESOLUTION NO. 1164**

A RESOLUTION CONCERNING THE PROPOSED CITY OF BOULDER, COLORADO (ACTING THROUGH ITS WATER UTILITY ENTERPRISE AND ITS WASTEWATER UTILITY ENTERPRISE), WATER AND SEWER REVENUE BONDS, SERIES 2015 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,500,000; AUTHORIZING THE NOTICE OF BOND SALE WITH RESPECT TO SAID 2015 BONDS; PRESCRIBING CERTAIN DETAILS CONCERNING THE PROPOSED SALE OF THE 2015 BONDS; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT; AND PROVIDING THE EFFECTIVE DATE OF THIS RESOLUTION.

WHEREAS, the City of Boulder, Colorado, in the County of Boulder and State of Colorado (the "City"), is a municipal corporation duly organized and existing as a home rule city pursuant to Article XX of the Constitution of the State of Colorado (the "Constitution") and the home rule charter of the City (the "Charter"); and

WHEREAS, Article X, Section 20 of the Constitution ("TABOR") requires that bonded debt (other than certain refunded debt) not be issued without prior voter approval unless the issuer is an "Enterprise" as defined in TABOR; and

WHEREAS, Ordinance No. 5601, introduced, read, passed and adopted on the 9th day of November 1993, added new sections 11-1-55 to -61 to the Boulder Revised Code, 1981 (the "City Code") providing for the establishment of the City's water system as a "water activity enterprise" within the meaning of Part 1 of Article 45.1 of Title 37, Colorado Revised Statutes, as amended, and naming the City's water system the "Water Utility Enterprise"; and

WHEREAS, Ordinance No. 5601 also added new sections 11-2-36 to -42 to the City Code, providing for the establishment of the City's sanitary sewer system as a "water activity enterprise" within the meaning of Part 1 of Article 45.1 of Title 37, Colorado Revised Statutes, as amended, and naming the City's sanitary sewer system the "Wastewater Utility Enterprise"; and

WHEREAS, pursuant to the Charter and the City Code, the City Council of the City (the "Council") is the governing body of the Water Utility Enterprise and the Wastewater Utility Enterprise and the Council need not announce or acknowledge that actions taken by the Council are taken by the governing body of the Water Utility Enterprise and/or the Wastewater Utility Enterprise; and

WHEREAS, pursuant to the Charter and the City Code, the Water Utility Enterprise and the Wastewater Utility Enterprise may issue revenue bonds payable from revenues derived from the operation of such Enterprise without voter approval so long as such Enterprise qualifies as an "Enterprise" within the meaning of TABOR in the City's fiscal year of the issuance of such revenue bonds; and

WHEREAS, the Water Utility Enterprise and the Wastewater Utility Enterprise are “Enterprises” within the meaning of TABOR; and

WHEREAS, the Council deems it advisable and necessary to issue revenue bonds of the City in an aggregate principal amount of not to exceed \$10,500,000 designated Water and Sewer Revenue Bonds, Series 2015 (the “2015 Bonds”) for the purpose of providing funds to construct, acquire, improve and equip certain treatment and capacity improvements to the City’s wastewater treatment and collection facilities, establishing a reserve fund and paying all necessary, incidental and appurtenant expenses in connection therewith, including the costs of issuance of the 2015 Bonds.

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

**Section 1.** The 2015 Bonds shall be, and the same hereby are ordered to be, publicly sold, and the Council shall cause sealed bids to be received and to be opened publicly for the purchase of the 2015 Bonds on September 1, 2015 or on such other date as shall be determined by the City Manager of the City (the “City Manager”). Upon making such a public sale date determination, the City Manager shall notify the Chief Financial Officer of the City (the “Chief Financial Officer”) as to the date, hour and place that sealed bids shall be received and opened. The City shall indicate in the notice hereinafter described the date, the hour and the place that sealed bids shall be received and opened.

**Section 2.** The Mayor of the City (the “Mayor”) and the Chief Financial Officer are hereby authorized and directed to provide for the publication of the Notice of Bond Sale in *The Daily Camera* at such times as they deem adequate to give reasonable notice of the proposed sale, but no less than once after the date hereof and at least five (5) days prior to the sale date hereinabove designated. The Notice of Bond Sale shall be in substantially the following form, with such changes therein, including but not limited to changes in dates, principal amounts and maturities and completions thereto, as the Chief Financial Officer shall direct and shall deem to be in the best interest and to the best advantage of the City, the execution of such notice by the Mayor and the Chief Financial Officer to indicate conclusively the approval of any and all such changes:

[Form of Notice of Bond Sale]

**NOTICE OF BOND SALE**

**\$10,210,000\***  
**CITY OF BOULDER, COLORADO**  
**(Acting through its Water Utility Enterprise**  
**and its Wastewater Utility Enterprise)**  
**WATER AND SEWER REVENUE REFUNDING BONDS**  
**SERIES 2015**

(Payable solely from certain net income of the municipal water system and municipal sanitary sewer system.)

PUBLIC NOTICE IS HEREBY GIVEN that electronic bids will be received for the purchase of the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise) Water and Sewer Revenue Refunding Bonds, Series 2015 (the “2015 Bonds”), more particularly described below. As more fully described in the Preliminary Official Statement, dated August [25], 2015 (the “Preliminary Official Statement”), the City of Boulder, Colorado (the “City”), is causing the 2015 Bonds to be offered and issued pursuant to the Bond Ordinance of the City to be adopted on September 1, 2015 (the “Ordinance”). Bids for the purchase of the 2015 Bonds must be submitted through the BIDCOMP/PARITY electronic bidding system (“PARITY”). The date and time for submitting bids will be as follows:

**Bid Date: September 1, 2015**

**Bid Time: Between 11:30 a.m. and 12:00 noon Eastern Time (Between 9:30 a.m. and 10:00 a.m. Mountain Time)**

**Submit Bid to: BIDCOMP/PARITY electronic bidding system as set forth in “TERMS OF SALE—Submission of Bids”**

**Delivery Date: October 1, 2015**

Information relating to this auction may be obtained from the City’s Financial Advisor, Piper Jaffray & Co. (the “Financial Advisor”), at 720-556-0167 or 303-405-0863 (P. Jonathan Heroux or Jonathan Ruth) or from PARITY at 212-849-5021.

To bid, each bidder must have both (1) a subscription to BIDCOMP and (2) requested and received admission to the bidding of the 2015 Bonds, as described under “TERMS OF SALE—Submission of Bids” below. The use of PARITY shall be at the bidder’s risk and expense, and neither the City, the Financial Advisor, Kutak Rock LLP (“Bond Counsel”) nor U.S. Bank National Association (the “Paying Agent”) shall have any liability with respect thereto.

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\*Preliminary; subject to adjustment as set forth herein.

**Neither the City, the Paying Agent, the Financial Advisor, nor Bond Counsel shall be responsible for, and each bidder expressly assumes the risk of, any incomplete, inaccurate, or untimely bid submitted by Internet transmission by such bidder, including, without limitation, by reason of garbled transmissions, mechanical failure, engaged telephone or telecommunications lines, or any other cause arising from delivery by Internet transmission. Additionally, the PARITY time stamp will govern the receipt of all electronic bids. The official bid clock does not automatically refresh. Bidders must refresh the auction page periodically to monitor the progression of the bid clock and to ensure that their bid will be submitted prior to the termination of the auction. All bids will be deemed to incorporate the provisions of this Notice of Bond Sale.**

**This Notice of Bond Sale, and the information set forth herein, are not to be treated as a complete disclosure of all relevant information with respect to the 2015 Bonds. The information set forth herein is subject, in all respects, to a more complete description of the 2015 Bonds and the security therefor set forth in the Preliminary Official Statement.**

### **BOND DETAILS**

*Terms.* The City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2015 will be issued in the aggregate principal amount set forth in the caption of this Notice of Bond Sale, and will be dated the date of delivery. The proceeds of the 2015 Bonds are being used to (a) construct, acquire, improve and equip certain treatment and capacity improvements to the City's wastewater treatment and collection facilities; (b) fund the Reserve Fund; and (c) pay all necessary, incidental and appurtenant expenses in connection therewith, including the costs of issuance of the 2015 Bonds. Interest on the 2015 Bonds will be payable on each June 1 and December 1, commencing on December 1, 2015. The 2015 Bonds will mature on December 1 in each of the designated amounts and years as follows:

### Maturity Schedule \*

Maturity Date (December 1)	Principal Amount	Maturity Date (December 1)	Principal Amount
2016	\$430,000	2026	\$500,000
2017	430,000	2027	515,000
2018	435,000	2028	525,000
2019	435,000	2029	540,000
2020	445,000	2030	560,000
2021	450,000	2031	575,000
2022	455,000	2032	595,000
2023	465,000	2033	610,000
2024	475,000	2034	630,000
2025	490,000	2035	650,000

\* Preliminary; subject to adjustment as set forth in “TERMS OF SALE—Adjustment of Principal Amount and of Maturities After Determination of Best Bid” herein.

The 2015 Bonds will be issued in registered form, in denominations of \$5,000 or integral multiples thereof. The 2015 Bonds will be issued in book-entry form utilizing the services of The Depository Trust Company, New York, New York (“DTC”) as securities depository.

***Adjustment of Aggregate Principal Amount and of Maturities After Determination of Best Bid.*** The aggregate principal amount and the principal amount of each maturity of the 2015 Bonds described above are subject to adjustment by the City, after the determination of the best bid. Changes to be made will be communicated to the successful bidder by the time of award of the 2015 Bonds to the successful bidder, and will not reduce or increase the aggregate principal amount of the 2015 Bonds by more than 25% in total principal amount. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

By submitting its bid, each bidder agrees to purchase the 2015 Bonds in such adjusted principal amounts and to modify the purchase price for the 2015 Bonds to reflect such adjusted principal amounts. The bidder further agrees that the interest rates for the various maturities as designated by the bidder in its bid will apply to any adjusted principal amounts designated by the City for such maturities.

***Amendment of Notice.*** In addition, the City reserves the right to amend this Notice of Bond Sale at any time prior to the date and time for receipt of bids by publishing the amendments via TM3.com and/or Bloomberg wire service.

***Interest Rates and Limitations.*** Interest from the date of delivery will be payable on December 1, 2015, and semiannually thereafter on June 1 and December 1 in each year, as calculated based on a 360-day year of twelve 30-day months.

Only one interest rate shall be specified for any one maturity of the 2015 Bonds.

Each interest rate specified must be stated in a multiple of 1/8 or 1/20 of 1 percent per annum.

The maximum differential between the lowest and highest interest rates permitted for the issue is two percent (2.0%) (*i.e.*, the maximum rate of interest accruing on any 2015 Bond prior to its maturity may not exceed the lowest rate of interest accruing on any other 2015 Bond prior to its maturity by more than two percent (2.0%)).

A zero rate is not permitted. No supplemental or “B” interest shall be allowed.

The interest rates on the 2015 Bond shall be in level or ascending order from lowest to highest.

***Optional Redemption.*** The 2015 Bonds maturing on and after December 1, 2024 are callable for redemption at the option of the City, in whole or in part in such order of maturities as the City shall determine and by lot within a maturity, on December 1, 2023 and on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

***Term Bonds; Mandatory Sinking Fund Redemption.*** A bidder may request that any Bonds maturing on and after December 1, 2026 be aggregated to form one or two term bonds. Any such term bond will be subject to mandatory sinking fund redemption in the same amounts and on the same dates as the 2015 Bonds would have matured if they were not included in a term bond. 2015 Bonds redeemed pursuant to mandatory sinking fund redemption will be redeemed at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date, in the manner as otherwise provided in the Ordinance. Any election to designate 2015 Bonds as being included in a term bond must be made at the time the prospective bidder submits a bid for the 2015 Bonds via PARITY. See “TERMS OF SALE—Submission of Bids.”

***Security.*** The 2015 Bonds will be payable from, and will constitute a first and prior (but not exclusive) lien on the Net Income (hereinafter defined) of the municipal water system and the sanitary sewer system and moneys on deposit in the Bond Fund and the Reserve Fund established and continued by the Ordinance. Net Income of the municipal water system and sanitary sewer system means the gross income derived from the operation and use of the water system and the sanitary sewer system as may be designated after the deduction of the operation and maintenance expenses as more fully described in the Preliminary Official Statement prepared by the City with respect to the 2015 Bonds. Reference is made to the Preliminary Official Statement for a more complete description of the security for the 2015 Bonds.

***Reserve Fund.*** A Reserve Fund is established by the Ordinance. [Upon delivery of the 2015 Bonds, the City will utilize a reserve fund surety policy from Assured Guaranty] to fund the Reserve Fund in an amount equal to the average annual debt service on the 2015 Bonds. The Reserve Fund will be used to pay debt service on the 2015 Bonds to the extent that the net income of the municipal water system and sanitary sewer system is insufficient therefor.

**Additional Bonds; Outstanding Parity Bonds.** The Ordinance will permit the issuance of additional bonds of the City, payable from a lien on the Net Income on a parity with, or subordinate to, the lien thereof of the 2015 Bonds. Upon the issuance of the 2015 Bonds, there will be \$1,630,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B; \$2,145,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2005C; \$10,290,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007, \$8,380,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010; \$12,510,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011; and \$24,325,000 City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012 outstanding payable from the Net Income on a parity with the 2015 Bonds.

**Ratings.** Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and Moody's Investors Service Inc., have assigned the 2015 Bonds municipal bond ratings of "[ ]" and "[ ]," respectively. See "RATINGS" in the Preliminary Official Statement.

**Authorization.** The 2015 Bonds are authorized to be issued by the Constitution of the State of Colorado, the Charter of the City, the laws of the State of Colorado, the Ordinance and the Supplemental Public Securities Act.

## TERMS OF SALE

**Submission of Bids.** A prospective bidder must electronically submit a bid for the 2015 Bonds via PARITY. Bids may be submitted electronically via PARITY in accordance with this Notice of Bond Sale, until 10:00 a.m. Mountain Time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in PARITY conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about PARITY, potential bidders may contact the Financial Advisor at Piper Jaffray & Co., 1200 Seventeenth Street, Suite 1250, Denver, Colorado, Telephone 720-556-0167 or 303-405-0863, or Bidcomp/PARITY at 1359 Broadway, 2<sup>nd</sup> Floor, New York, New York 10018, Telephone (212) 404-8153; Fax (212) 849-5021.

**Bidding Parameters.** Bidders are required to submit unconditional bids specifying the rate of interest and premium, if any, at which the bidder will purchase all and not less than all of the 2015 Bonds.

**Information Regarding Bids.** Bidders may change and submit bids as many times as they wish during the bidding. During the bidding, no bidder will see any other bidder's bid, but each bidder will be able to see its own ranking (i.e., "Leader," "Cover," "3<sup>rd</sup>," etc.).

***Bids Constitute an Irrevocable Offer.*** Each bid submitted through PARITY shall be deemed an irrevocable offer to purchase the 2015 Bonds on the terms provided in this Notice of Bond Sale and shall be binding upon the bidder.

***Purchase Price.*** The purchase price bid shall not be less than 100% of the par amount, nor will any net discount or commission be allowed or paid on the sale of the 2015 Bonds.

***Basis of Award.*** The 2015 Bonds will be sold to the bidder offering to purchase the 2015 Bonds at the lowest true interest cost (“TIC”). The actuarial yield on the 2015 Bonds using the TIC method will be computed at that yield which, if used to compute the present value of all payments of principal and interest on the 2015 Bonds as of the date of the 2015 Bonds (i.e., October 1, 2015), produces an amount equal to the aggregate bid price. Such calculation will be made based upon a 360-day year and a semi-annual interval for compounding.

The winning bid will be indicated on PARITY and the auction results, as posted on such website, will be subject to verification by the City and the Financial Advisor. The City and the Financial Advisor will verify the auction results immediately following the close of the bidding period and notice of confirmation by the City and the Financial Advisor of the winning bidder will be made by a posting on PARITY under the “Results” link.

**If two or more bids have the same TIC, the first bid submitted, as determined by reference to the time stamp displayed on PARITY, shall be deemed to be the leading bid.**

***Sale Reservations.*** The City reserves the right (a) to reject any and all bids for any 2015 Bonds, (b) to reoffer any 2015 Bonds for public or negotiated sale and (c) to waive any irregularity or informality in any bid.

***Good Faith Deposit.*** A good faith deposit will not be required in connection with the submission of a bid for the bonds. The winning bidder will be required to wire One Hundred Five Thousand Dollars (\$105,000) (1.00% of the par amount) to the City as bid security by 3:00 p.m. Mountain Time on October 1, 2015. The City will provide wire instructions to the winning bidder. The bid security will be retained by the City and: (a) will be applied, without allowance for interest, against the purchase price when the 2015 Bonds are delivered to and paid for by such winning bidder or (b) will be retained by the City as liquidated damages if the bidder defaults with respect to the bid or (c) will be returned to the bidder if the 2015 Bonds are not issued by the City for any reason which does not constitute a default by the bidder.

***Manner and Time of Delivery.*** The 2015 Bonds will be delivered to DTC for the account of the winning bidder at the expense of the City on October 1 2015 or such later date as the City and the winning bidder may agree. The winning bidder will not be required to accept delivery of the 2015 Bonds if they are not tendered for delivery by the City on October 1, 2015, or such later date as the City and the winning bidder may agree; provided that delivery of any 2015 Bonds is conditioned upon the receipt by the City of a certificate as to their issue price. See “—Certification of Issue Price” below. Payment of the purchase price due at delivery must be made in Federal Reserve funds for immediate and unconditional credit to the City.

The good faith deposit of the winning bidder will be credited to the purchaser at the time of delivery of the 2015 Bonds (without accruing interest). If the winning bidder for the 2015

Bonds fails or neglects to complete the purchase of the 2015 Bonds within five days after such 2015 Bonds are made ready and are tendered for delivery, the amount of its good faith deposit will be forfeited (as liquidated damages for non-compliance with the bid) to the City, except as hereinafter provided.

**Official Statement.** The Preliminary Official Statement, dated August [25], 2015, and the information contained therein have been deemed final by the City as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (“Rule 15c2-12”) with permitted omissions, but is subject to change without notice and to completion or amendment in the Final Official Statement in final form (the “Final Official Statement” or the “Official Statement”). The Notice of Bond Sale and the Preliminary Official Statement may be viewed and downloaded at [www.meritos.com](http://www.meritos.com) and at [www.i-dealprospectus.com](http://www.i-dealprospectus.com) or a physical copy may be obtained by contacting the City’s Financial Advisor. See “—Information” below.

The City, at its expense, will make available to the winning bidder, within seven (7) business days after the award of the sale of the 2015 Bonds, up to 10 physical copies of the Final Official Statement, and additional copies of the Final Official Statement may be provided at the winning bidder’s expense. The winning bidder must cooperate in providing the information required to complete the Final Official Statement. The City will also provide the Final Official Statement to the winning bidder in electronic form.

The winning bidder shall comply with the requirements of Rule 15c2-12 and the rules of the Municipal Securities Rulemaking Board.

**Continuing Disclosure Undertaking.** The City has covenanted to provide, in a timely manner, to the municipal securities information repository at <http://emma.msrb.org> notice of the occurrence of specified, material events and to provide certain financial information on an annual basis as more fully set forth in the Preliminary Official Statement. The City is not currently in default on any undertaking for disclosure.

**State Securities Laws.** The City has taken no action to qualify the offer or sale of the 2015 Bonds under the securities laws of any state. Should any such qualification be necessary, the City agrees to cooperate with the winning bidder in such matters, provided that the City reserves the right not to consent to service of process outside its boundaries and expenses related to any such qualification shall be the responsibility of the winning bidder.

**CUSIP Numbers.** CUSIP numbers will be issued and printed on the 2015 Bonds. Any error or omission in printing such numbers on the 2015 Bonds will not constitute cause for the winning bidder to refuse delivery of any 2015 Bond. All expenses in relation to obtaining the CUSIP numbers and printing of the CUSIP numbers on the 2015 Bonds shall be paid for by the winning bidder.

**Legal Opinion, 2015 Bonds and Transcript.** The validity and enforceability of the 2015 Bonds will be approved by the City’s Bond Counsel:

Kutak Rock LLP  
 1801 California Street  
 Suite 3100  
 Denver, Colorado 80202  
 (303) 297-2400  
 FAX: (303) 292-7799  
 www.kutakrock.com

The purchaser of the 2015 Bonds will receive a certified transcript of legal proceedings which will include, among other items:

(a) a certificate of the City to the effect that, as of its date, the Preliminary Official Statement was deemed final within the meaning of Rule 15c2-12, except for the omissions permitted under Rule 15c2-12;

(b) a certificate executed by officials of the City to the effect that there is no litigation pending or, to their knowledge, threatened affecting the validity of the 2015 Bonds as of the date of their delivery;

(c) a certificate of the City to the effect that, as of the date of the Official Statement and at all times to and including the date of delivery of the 2015 Bonds, the Official Statement did not contain any untrue statement of a material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(d) the opinion dated the date of the delivery of the 2015 Bonds, of Butler Snow LLP, Special Counsel to the City, to the effect that although they have made no independent investigation or verification of the correctness and completeness of the information included in the Official Statement, nothing that came to their attention in rendering legal services in connection with the preparation of the Official Statement causes them to believe that the Official Statement (excepting financial, demographic, economic and statistical information, any forecasts, estimates and assumptions, and any expressions of opinion, as to which they will express no belief), as of its date, contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

***Certification of Issue Price.*** THE SUCCESSFUL BIDDER SHALL MAKE A BONA FIDE PUBLIC OFFERING OF THE 2015 BONDS AT THE INITIAL OFFERING PRICES AND SHALL PROVIDE THE RELATED CERTIFICATION DESCRIBED BELOW.

Upon award of the Bonds, the successful bidder shall advise the City and the Financial Advisor of the initial reoffering prices to the public of each maturity of the 2015 Bonds (the "Initial Reoffering Prices"). SIMULTANEOUSLY WITH OR BEFORE DELIVERY OF THE 2015 BONDS, THE SUCCESSFUL BIDDER SHALL FURNISH TO THE CITY A CERTIFICATE ACCEPTABLE TO BOND COUNSEL (A) CONFIRMING THE INITIAL REOFFERING PRICES; AND (B) CERTIFYING (i) THAT THE SUCCESSFUL BIDDER

HAS MADE A BONA FIDE PUBLIC OFFERING OF THE 2015 BONDS AT THE INITIAL REOFFERING PRICES; (ii) THAT A SUBSTANTIAL AMOUNT OF THE 2015 BONDS WAS SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT SUCH INITIAL REOFFERING PRICES; AND (iii) THE PRICES AT WHICH A SUBSTANTIAL PORTION OF EACH MATURITY OF THE 2015 BONDS WERE SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS, AND OTHER INTERMEDIARIES). Bond Counsel advises that (A) such certificate must be made on the best knowledge, information and belief of the successful bidder; (B) the sale to the public of 10% or more in par amount of the 2015 Bonds of each maturity at (or below) the Initial Reoffering Prices would be sufficient to certify as to the sale of a substantial amount of the 2015 Bonds; and (C) reliance on other facts as a basis for such certification would require evaluation by Bond Counsel to assure compliance with the statutory requirement to avoid the establishment of an artificial price for the 2015 Bonds. Any questions concerning such certification should be directed to Kutak Rock LLP, Bond Counsel.

***Right to Modify or Amend Notice of Bond Sale.*** The City reserves the right to modify or amend this Notice of Bond Sale and the Bid Form, prior to the bid date. If any modifications occur, supplemental information with respect to the 2015 Bonds will be communicated by posting on the PARITY website not later than 3:00 p.m. Mountain Time on the day preceding the day on which proposals may be submitted, and bidders shall bid upon the 2015 Bonds based upon the terms thereof set forth in this Notice of Bond Sale, as so modified by such supplemental information.

***Postponement of Sale.*** The City reserves the right to postpone the date and time established for the receipt of bids. Any such postponement will be announced by posting on PARITY prior to commencement of the bidding. If any date and time fixed for the receipt of bids and the sale of the 2015 Bonds is postponed, an alternative sale date and time will be announced at least one business day prior to such alternative sale date. On any such alternative sale date and time, any bidder may submit bids electronically as described above for the purchase of the 2015 Bonds in conformity in all respects with the provision of this Notice of Bond Sale, except for the date and time of sale and except for any changes announced by posting on PARITY at the time the sale date and time are announced.

By order of the City Council of the City of Boulder, Colorado, dated this 18<sup>th</sup> day of August, 2015.

By /s/ Matt Appelbaum  
Mayor, City of Boulder, Colorado

By /s/ Robert W. Eichen  
Chief Financial Officer,  
City of Boulder, Colorado

(End of Notice of Bond Sale)

**Section 3.** Bids for the 2015 Bonds shall be received at the time and place and in the manner provided in the Notice of Bond Sale as herein prescribed.

**Section 4.** The Council hereby approves the distribution and use in connection with the offering of the 2015 Bonds of the Preliminary Official Statement in substantially the form presented to the Council at this meeting, with such changes therein, if any, as are approved by the Chief Financial Officer or the City Attorney.

**Section 5.** The officers of the City and its financial advisor are hereby authorized and directed to take all other action necessary or appropriate to effectuate the provisions of this resolution. All action heretofore taken (not inconsistent with this resolution) is hereby ratified, approved and confirmed.

**Section 6.** If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

**Section 7.** This resolution shall take effect immediately upon its introduction and passage.

INTRODUCED, READ, PASSED AND ADOPTED this 18<sup>th</sup> day of August, 2015.

[CITY SEAL]

CITY OF BOULDER, COLORADO

By \_\_\_\_\_  
Mayor

Attest:

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

**PRELIMINARY OFFICIAL STATEMENT DATED \_\_\_\_\_, 2015****NEW ISSUE  
BOOK-ENTRY ONLY****RATINGS: S&P “\_\_\_\_”  
Moody’s “\_\_\_\_”**

*In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming the accuracy of certain representations and continuing compliance by the City of Boulder, Colorado (the “City”) with certain covenants, interest on the 2015 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel is also of the opinion that, to the extent excludable from gross income for federal income tax purposes, interest on the 2015 Bonds is not subject to State of Colorado income taxation and is not included in the calculation of alternative minimum taxable income for purposes of the Colorado alternative minimum tax. See “TAX MATTERS” herein for a more detailed discussion.*

**\$10,210,000\***  
**CITY OF BOULDER, COLORADO**  
**(ACTING THROUGH ITS WATER UTILITY ENTERPRISE**  
**AND ITS WASTEWATER UTILITY ENTERPRISE)**  
**WATER AND SEWER REVENUE BONDS**  
**SERIES 2015**

**Dated: Date of Delivery****Due: December 1, as shown herein**

The City, acting through its Water Utility Enterprise and its Wastewater Utility Enterprise, is issuing its Water and Sewer Revenue Bonds, Series 2015 (the “2015 Bonds”) are issued as fully registered bonds in denominations of \$5,000, or any integral multiple thereof. The 2015 Bonds initially will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), the securities depository for the 2015 Bonds. Purchases of the 2015 Bonds are to be made in book-entry form only. Purchasers will not receive certificates representing their beneficial ownership interest in the 2015 Bonds. See “THE 2015 BONDS--Book-Entry Only System.” The 2015 Bonds bear interest at the rates set forth herein, payable on December 1, 2015, and semiannually thereafter on June 1 and December 1 of each year, to and including the maturity dates shown on the inside cover hereof (unless the 2015 Bonds are redeemed earlier), to the registered owner of the 2015 Bonds, initially Cede & Co. The principal of, and premium, if any, on the 2015 Bonds will be payable upon presentation and surrender at U.S. Bank National Association, at its operations center in St. Paul, Minnesota, or its successor, as the paying agent for the 2015 Bonds. See “THE 2015 BONDS.”

THE 2015 BONDS WILL NOT CONSTITUTE AN INDEBTEDNESS OR A DEBT OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL, CHARTER OR STATUTORY PROVISION OR LIMITATION; THE 2015 BONDS WILL NOT BE PAYABLE FROM THE PROCEEDS OF GENERAL PROPERTY TAXES; AND THE 2015 BONDS WILL NOT BE CONSIDERED OR HELD TO BE GENERAL OBLIGATIONS OF

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\* Subject to change.

THE CITY, BUT WILL BE ITS SPECIAL OBLIGATIONS, PAYABLE SOLELY OUT OF THE GROSS INCOME TO BE DERIVED FROM THE CITY'S WATER AND SEWER FACILITIES, LESS ONLY OPERATION AND MANAGEMENT EXPENSES (OTHER THAN DEPRECIATION AND AMORTIZATION) WITH RESPECT THERETO, WHICH AMOUNT WILL BE SO PLEDGED.

The 2015 Bonds are subject to redemption prior to maturity at the option of the City as described in "THE 2015 BONDS--Redemption of the 2015 Bonds."

Proceeds of the 2015 Bonds will be used to: (i) finance wastewater projects; and (ii) pay the costs of issuing the 2015 Bonds, including the cost of a reserve fund surety bond. See "SOURCES AND USES OF FUNDS."

**This cover page contains certain information for quick reference only. It is not a summary of the issue. Investors must read the entire Official Statement to obtain information essential to making an informed investment decision.**

[PIPER LOGO]

The 2015 Bonds are offered when, as, and if issued by the City and accepted by the Underwriter subject to the approval of legality of the 2015 Bonds by Kutak Rock LLP, Denver, Colorado, Bond Counsel, and the satisfaction of certain other conditions. Butler Snow LLP, Denver, Colorado, has acted as special counsel to the City in connection with the Official Statement. Certain legal matters will be passed upon for the City by the City Attorney. Piper Jaffray & Co., Denver, Colorado, is acting as financial advisor to the City. It is expected that the 2015 Bonds will be available for delivery through the facilities of DTC, on or about October 1, 2015.\*

This Official Statement is dated \_\_\_\_\_, 2015

**\$10,210,000\***  
**CITY OF BOULDER, COLORADO**  
**WATER AND SEWER REVENUE BONDS**  
**SERIES 2015**

**MATURITY SCHEDULE\***  
**(CUSIP© 6-DIGIT ISSUER NUMBER: \_\_\_\_\_)**

<u>Maturing (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price or Yield</u>	<u>CUSIP© Issue Number</u>	<u>Maturing (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price or Yield</u>	<u>CUSIP© Issue Number</u>
2016	\$430,000				2026	\$500,000			
2017	430,000				2027	515,000			
2018	435,000				2028	525,000			
2019	435,000				2029	540,000			
2020	445,000				2030	560,000			
2021	450,000				2031	575,000			
2022	455,000				2032	595,000			
2023	465,000				2033	610,000			
2024	475,000				2034	630,000			
2025	490,000				2035	650,000			

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\* Subject to change.

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## USE OF INFORMATION IN THIS OFFICIAL STATEMENT

This Official Statement, which includes the cover page, the inside cover page and the appendices, does not constitute an offer to sell or the solicitation of an offer to buy any of the 2015 Bonds in any jurisdiction in which it is unlawful to make such offer, solicitation, or sale. No dealer, salesperson, or other person has been authorized to give any information or to make any representations other than those contained in this Official Statement in connection with the offering of the 2015 Bonds, and if given or made, such information or representations must not be relied upon as having been authorized by the City or the Underwriter. The City maintains an internet website; however, the information presented there is not to be relied upon in making an investment decision with respect to the 2015 Bonds.

The information set forth in this Official Statement has been obtained from the City, from the sources referenced throughout this Official Statement and from other sources believed to be reliable. No representation or warranty is made, however, as to the accuracy or completeness of such information received from parties other than the City. This Official Statement contains, in part, estimates and matters of opinion which are not intended as statements of fact, and no representation or warranty is made as to the correctness of such estimates and opinions, or that they will be realized.

In accordance with their responsibilities under federal securities laws, the Underwriter has reviewed the information in this Official Statement but does not guarantee its accuracy or completeness.

The information, estimates, and expressions of opinion contained in this Official Statement are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the 2015 Bonds shall, under any circumstances, create any implication that there has been no change in the affairs of the City, or in the information, estimates, or opinions set forth herein, since the date of this Official Statement.

This Official Statement has been prepared only in connection with the original offering of the 2015 Bonds and may not be reproduced or used in whole or in part for any other purpose.

The 2015 Bonds have not been registered with the Securities and Exchange Commission due to certain exemptions contained in the Securities Act of 1933, as amended. The 2015 Bonds have not been recommended by any federal or state securities commission or regulatory authority, and the foregoing authorities have neither reviewed nor confirmed the accuracy of this document.

THE PRICES AT WHICH THE 2015 BONDS ARE OFFERED TO THE PUBLIC BY THE UNDERWRITER (AND THE YIELDS RESULTING THEREFROM) MAY VARY FROM THE INITIAL PUBLIC OFFERING PRICES OR YIELDS APPEARING ON THE INSIDE COVER PAGE HEREOF. IN ADDITION, THE UNDERWRITER MAY ALLOW CONCESSIONS OR DISCOUNTS FROM SUCH INITIAL PUBLIC OFFERING PRICES TO DEALERS AND OTHERS. IN ORDER TO FACILITATE DISTRIBUTION OF THE 2015 BONDS, THE UNDERWRITER MAY ENGAGE IN TRANSACTIONS INTENDED TO STABILIZE THE PRICE OF THE 2015 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

**CITY OF BOULDER, COLORADO**

**CITY COUNCIL**

Matthew Appelbaum, Mayor  
Suzanne Jones, Mayor Pro Tem  
Lisa Morzel, Council member  
Macon Cowles, Council member  
George Karakehian, Council member  
Tim Plass, Council member  
Andrew Shoemaker, Council member  
Sam Weaver, Council member  
Mary Young, Council member

**CITY OFFICIALS**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Bob Eichen, Chief Financial Officer

**BOND COUNSEL**

Kutak Rock LLP  
Denver, Colorado

**SPECIAL COUNSEL**

Butler Snow LLP  
Denver, Colorado

**REGISTRAR AND PAYING AGENT**

U.S. Bank National Association

**FINANCIAL ADVISOR**

Piper Jaffray & Co.  
Denver, Colorado

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## OFFICIAL STATEMENT

### \$10,210,000\* CITY OF BOULDER, COLORADO WATER AND SEWER REVENUE BONDS SERIES 2015

## INTRODUCTION

### General

This Official Statement, including the cover page, the inside cover page and appendices, is furnished by the City of Boulder (the “City”), a home rule city of the State of Colorado (the “State”), to provide information about the City and the \$10,210,000\* Water and Sewer Revenue Bonds, Series 2015 (the “2015 Bonds”), to be issued by the City acting through its Water Utility Enterprise and its Wastewater Utility Enterprise. The 2015 Bonds will be issued pursuant to an ordinance (the “Bond Ordinance”) adopted by the City Council of the City (the “City Council”) prior to the issuance of the 2015 Bonds.

*The offering of the 2015 Bonds is made only by way of this Official Statement, which supersedes any other information or materials used in connection with the offer or sale of the 2015 Bonds. The following introductory material is only a brief description of and is qualified by the more complete information contained throughout this Official Statement. A full review should be made of the entire Official Statement and the documents summarized or described herein. Detachment or other use of this “INTRODUCTION” without the entire Official Statement, including the cover page, the inside cover page and appendices, is unauthorized. Unless otherwise provided, capitalized terms used herein have the meanings given to them in the Bond Ordinance.*

### The Issuer

The City is a municipal corporation duly organized and existing under the laws of the State of Colorado. In particular, the City is a home rule city and adopted a charter pursuant to Article XX of the Colorado Constitution by vote of the electorate on October 30, 1917 (the “City Charter”). The City is located in north central Colorado, approximately 25 miles northwest of Denver. The City is situated at the base of the foothills of the Front Range of the Rocky Mountains at an altitude of 5,354 feet. The City encompasses 25 square miles, and is the county seat of Boulder County (the “County”). As of 2013, the population of the City was estimated to be approximately 104,000 persons. See “THE CITY.”

The City operates a municipal water system (as defined in the Bond Ordinance, the “Water System”) and a municipal sanitary sewer or wastewater system (as defined in the Bond Ordinance, the “Sewer System”) and related facilities, which provide services to the residents of the City and to residents of the area immediately surrounding the City. The City’s Water System and Sewer System served 28,741 and 27,436 of such accounts, respectively, as of 2014.

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\* Subject to change.

## Authority for Issuance

The 2015 Bonds are issued pursuant to the Constitution and laws of the State, including particularly the City Charter, the Bond Ordinance and Part 2, Article 57, Title 11 of the Colorado Revised Statutes (the “Supplemental Public Securities Act”).

## Purpose

Proceeds of the 2015 Bonds will be used to: (i) finance wastewater improvements (the “Project”); and (ii) pay the costs of issuing the 2015 Bonds, including the cost of a reserve fund surety bond. See “SOURCES AND USES OF FUNDS.”

## Security

The 2015 Bonds will be payable solely from and secured by the Net Income of the City’s water and sewer systems, which Net Income consists of the Gross Income of the water and sewer systems (collectively, the “Facilities”), less only reasonable and necessary Operation and Maintenance Expenses related to the Facilities. Following the issuance of the 2015 Bonds, the Net Income will secure the 2015 Bonds as well as the following parity bonds (collectively, the “Parity Bonds”): the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B (the “2005B Bonds”) currently outstanding in the aggregate principal amount of \$1,630,000; the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2005C (the “2005C Bonds”) currently outstanding in the aggregate principal amount of \$2,145,000; the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007 (the “2007 Bonds”) currently outstanding in the aggregate principal amount of \$10,290,000; the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010 (the “2010 Bonds”) currently outstanding in the aggregate principal amount of \$8,380,000; the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011 (the “2011 Bonds”) currently outstanding in the aggregate principal amount of \$12,510,000; the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012 (the “2012 Bonds”) currently outstanding in the aggregate principal amount of \$24,325,000; and any bonds that are hereafter issued and secured by a lien on the Net Income of the Facilities on a parity with the lien thereon of the 2005B Bonds, the 2005C Bonds, the 2007 Bonds, the 2010 Bonds, the 2011 Bonds, the 2012 Bonds and the 2015 Bonds.

Upon delivery of the 2015 Bonds, the City will fund a Reserve Fund for the 2015 Bonds in an amount equal to \$\_\_\_\_\_,\* which is the average annual debt service on the 2015 Bonds and all other Parity Bonds, less amounts on deposit in any reserve fund in connection with Parity Bonds heretofore or hereafter issued (the “Minimum Bond Reserve”). At the time the 2015 Bonds are issued, the Minimum Bond Reserve will be funded using a reserve fund surety bond provided by Assured Guaranty Municipal Corp. (the “2015 Reserve Policy”). The 2015 Reserve Policy will be used to pay debt service on the 2015 Bonds to the extent that the Net

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\* Subject to change.

Income of the Facilities is insufficient therefore, as provided in the Ordinance. See “SECURITY FOR THE 2015 BONDS—Reserve Fund.”

The 2015 Bonds will not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, will not be payable from the proceeds of general property taxes, and will not be considered or held to be general obligations of the City, but will be its special obligations, payable as aforesaid.

*Rate Covenant.* The City will covenant in the Ordinance authorizing the 2015 Bonds to set its rates, fees and other charges for usage of the Facilities such that Gross Income will be adequate annually to pay the annual Operation and Maintenance Expenses and 125% of the actual annual debt service requirements on the Parity Bonds and any other bonds payable annually from Gross Income..

*Additional Parity Bonds and Subordinate Bonds.* Additional bonds may be issued which will be payable from the Net Income of the Facilities on a parity with the lien 2015 Bonds and the Parity Bonds upon the conditions set forth in the Bond Ordinance, as described in this Official Statement. See “THE BOND ORDINANCE—Additional Bonds” herein. Further, bonds are permitted to be issued and secured by a lien on the Net Income of the Facilities subordinate to the lien thereon of the 2005A Bonds, the 2005B Bonds, the 2005C Bonds, the 2007 Bonds, the 2010 Bonds, the 2011 Bonds and the 2012 Bonds.

### **The 2015 Bonds; Prior Redemption**

The 2015 Bonds are issuable as fully registered bonds in the denominations of \$5,000 and integral multiples thereof. The 2015 Bonds are dated as of the date of delivery and bear interest from their date or such later date to which interest has been paid, payable semiannually on June 1 and December 1 of each year, commencing on December 1, 2015. The 2015 Bonds bear interest at the rates and mature in the amounts and on the dates set forth on the inside cover page of this Official Statement.

The 2015 Bonds will be issued as fully registered bonds without coupons and will initially be registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company (“DTC”), as securities depository for the 2015 Bonds. Purchases of the 2015 Bonds are to be made in book entry only form in principal amounts of \$5,000 or any integral multiple thereof. The principal of and premium, if any, on the 2015 Bonds are payable at U.S. Bank National Association, at its operations center in St. Paul, Minnesota (together with any successors or assignees, the “Paying Agent”). Payment of interest on any 2015 Bond will be payable by wire transfer on the interest payment date to Cede & Co. Payments to the owners of the 2015 Bonds are to be made as described in “APPENDIX B – Book Entry Only System.”

The City has made arrangements for custodial deposit of the 2015 Bonds with DTC in New York, New York. The Bond Ordinance contains such provisions and provides for the issuance of the 2015 Bonds in such a manner as to make them eligible for such custodial deposit. After the initial deposit of the 2015 Bonds with DTC, they may not be removed from such custodial deposit, transferred or exchanged except as provided in the Bond Ordinance.

The 2015 Bonds are subject to redemption prior to maturity at the option of the City as described in “THE 2015 BONDS--Redemption of the 2015 Bonds.”

## **Professionals**

Kutak Rock LLP, Denver, Colorado, has acted as Bond Counsel in connection with the execution and delivery of the 2015 Bonds. Butler Snow, LLP, Denver, Colorado, has acted as special counsel to the City in connection with this Official Statement. As is customary, the fees of Kutak Rock LLP and Butler Snow LLP will be paid only at closing from the proceeds of the 2015 Bonds. Certain legal matters will be passed on for the City by the City Attorney. U.S. Bank National Association, will act as the paying agent and registrar for the 2015 Bonds (the “Paying Agent” and “Registrar”). The basic financial statements of the City included in this Official Statement as Appendix A have been audited by BKD LLP, Certified Public Accountants and Advisors, Denver, Colorado. See “INDEPENDENT AUDITORS.” Piper Jaffray & Co., Denver, Colorado, is acting as the Financial Advisor to the City (the “Financial Advisor”). The fees of the Financial Advisor also will be paid only from 2015 Bond proceeds at closing.

## **Tax Status**

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming the accuracy of certain representations and continuing compliance by the City with certain covenants, interest on the 2015 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel is also of the opinion that interest on the 2015 Bonds is not subject to State of Colorado income taxation and is not included in the calculation of alternative minimum taxable income for purposes of the Colorado alternative minimum tax. See “TAX MATTERS” herein for a more detailed discussion.

## **Continuing Disclosure Undertaking**

The City will enter into a continuing disclosure undertaking (the “Disclosure Undertaking”) at the time of the closing for the 2015 Bonds. The Disclosure Undertaking will be executed for the benefit of the beneficial owners of the 2015 Bonds and the City will covenant in the Bond Ordinance to comply with the terms of the Disclosure Undertaking. The Disclosure Undertaking will provide that so long as the 2015 Bonds remains outstanding, the City will provide the following information to the Municipal Securities Rulemaking Board, through the Electronic Municipal Market Access (“EMMA”) system: (i) annually, certain financial information and operating data; and (ii) notice of the occurrence of certain material events; each as specified in the Disclosure Undertaking. The form of the Disclosure Undertaking is attached hereto as Appendix C.

The City has previously entered into several similar continuing disclosure undertakings. In certain circumstances in the past five years, the City has accidentally delayed filing updated data for tables presented in previous official statements. The City has since updated the information contained in those tables on EMMA. The City additionally notes that it did not file material event notices with respect to bond insurer downgrades or global recalibrations by rating agencies as the City does not consider those changes to be material. The City has procedures in place to assist with compliance with its continuing disclosure undertakings in the future.

## **Additional Information**

This introduction is only a brief summary of the provisions of the 2015 Bonds, the Bond Ordinance and the Project; a full review of the entire Official Statement should be made by potential investors. Brief descriptions of the 2015 Bonds, the Bond Ordinance and the City are included in this Official Statement. All references herein to the 2015 Bonds, the Bond Ordinance and other documents are qualified in their entirety by reference to such documents. *This Official Statement speaks only as of its date and the information contained herein is subject to change.*

Additional information and copies of the documents referred to herein are available from the City and the Financial Advisor:

City of Boulder, Colorado  
Attn: Finance Department  
1777 Broadway  
Boulder, Colorado 80302  
Telephone: (303) 441-3040

Piper Jaffray & Co.  
1200 17th Street, Suite 1250  
Denver, Colorado 80202  
Telephone: (303) 405-0848.

**SOURCES AND USES OF FUNDS**

**Sources and Uses of Funds**

The proceeds from the sale of the 2015 Bonds are expected to be applied in the following manner:

Sources and Uses of Funds

<u>Sources of Funds:</u>	<u>Amount</u>
Par amount of 2015 Bonds.....	
Plus: original issue premium.....	
Total .....	
 <u>Uses of Funds:</u>	
The Project .....	
2015 Reserve Policy.....	
Costs of issuance (including Underwriter’s discount) .....	
Total .....	

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Source: The Financial Advisor.

**The Project**

The Project will consist of capital improvements in the City’s Wastewater Utility. It is anticipated that this will include improvements the City’s 75th Street wastewater treatment facility (“WWTF”) and also fund rehabilitation of the wastewater collection system. The WWTF nitrogen upgrades project will involve the construction of new facilities to help meet more stringent effluent discharge requirements. In addition, the Project is anticipated to include two years of the City’s ongoing cured-in-place lining sewer lining program. The goal of the sewer lining program is extend the utility’s useful life by providing structural integrity, while minimizing the amount of unwanted inflow and infiltration entering the system. The city also anticipates receiving approximately \$1,000,000 from the Colorado Department of Public Health and Environment for the Project.

## **THE 2015 BONDS**

### **Description**

The 2015 Bonds are issuable as fully registered bonds in the denominations of \$5,000 and integral multiples thereof. The 2015 Bonds are dated as of the date of delivery and bear interest from their date or such later date to which interest has been paid, payable semiannually on June 1 and December 1 of each year, commencing on December 1, 2015. The 2015 Bonds bear interest at the rates and mature in the amounts and on the dates set forth on the inside cover page of this Official Statement.

### **Book-Entry Only System**

The 2015 Bonds will be issued as fully registered bonds without coupons and will initially be registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company (“DTC”), as securities depository for the 2015 Bonds. Purchases of the 2015 Bonds are to be made in book entry only form in principal amounts of \$5,000 or any integral multiple thereof. The principal of and premium, if any, on the 2015 Bonds are payable at U.S. Bank National Association, at its operations center in St. Paul, Minnesota (together with any successors or assignees, the “Paying Agent”). Payment of interest on any 2015 Bond will be payable by wire transfer on the interest payment date to Cede & Co. Payments to the owners of the 2015 Bonds are to be made as described in “APPENDIX B — Book Entry Only System.”

The City has made arrangements for custodial deposit of the 2015 Bonds with DTC in New York, New York. The Bond Ordinance contains such provisions and provides for the issuance of the 2015 Bonds in such a manner as to make them eligible for such custodial deposit. After the initial deposit of the 2015 Bonds with DTC, they may not be removed from such custodial deposit, transferred or exchanged except as provided in the Bond Ordinance.

### **Discontinuation of Book Entry Only System**

The Beneficial Owners of the 2015 Bonds have no right to a Securities Depository for the 2015 Bonds. DTC or any successor Securities Depository may resign as Securities Depository for the 2015 Bonds by giving notice to the City and discharging its responsibilities under applicable law. In addition, the City may remove DTC or a successor Securities Depository at any time. In such event, the City will (a) appoint a Securities Depository qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, notify the prior Securities Depository of the appointment of such successor Securities Depository and transfer one or more separate bond certificates to such successor Securities Depository or (b) notify the Securities Depository of the availability through the Securities Depository of bond certificates and transfer one or more separate bond certificates to Direct Participants having 2015 Bonds credited to their accounts at the Securities Depository. In such event, such 2015 Bonds will no longer be restricted to being registered in the name of the Securities Depository or its nominee, but may be registered in the name of the successor Securities Depository or its nominee, or in whatever name or names the Direct Participants receiving such 2015 Bonds designate, in accordance with the provisions of the Bond Ordinance.

If no qualified Securities Depository is a registered owner of the 2015 Bonds, the Beneficial Owners will be paid by the Paying Agent by check for interest mailed to the person

registered on the Record Date as the holder of the 2015 Bonds and upon presentation at the principal office of the Paying Agent for the principal of the 2015 Bonds.

### **Transfer and Exchange**

The following provisions do not apply as long as the 2015 Bonds are in book entry only form.

The Paying Agent will maintain on behalf of the City books for the purpose of registration and transfer of the 2015 Bonds, and such books will specify the person entitled to the 2015 Bonds and the rights evidenced thereby, and all transfers of the 2015 Bonds and the rights evidenced thereby. The 2015 Bonds may be transferred or exchanged without cost, except for any tax or governmental charge required to be paid with respect to such transfer or exchange, at U.S. Bank National Association in Denver, Colorado. The 2015 Bonds may be exchanged for a like aggregate principal amount of 2015 Bonds of other authorized denominations of the same maturity and interest rate. Upon surrender for transfer of any 2015 Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or the Registered Owner's attorney duly authorized in writing, the City will execute and the Paying Agent will authenticate and deliver in the name of the transferee or transferees a new 2015 Bond or 2015 Bonds of the same maturity and interest rate for a like aggregate principal amount. The Person in whose name any 2015 Bond is registered will be deemed and regarded as the absolute owner thereof for all purposes.

### **Additional Bonds**

The Bond Ordinance will permit the issuance of additional bonds on a parity with the 2015 Bonds under certain conditions and the issuance of bonds payable from the net income by a lien thereon subordinate to the lien thereon of the 2015 Bonds. See the captions "THE BOND ORDINANCE— Additional Bonds."

### **Redemption of 2015 Bonds\***

*Optional Redemption.* The 2015 Bonds maturing on and after December 1, 2024 are callable for redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City determines and by lot within a maturity on December 1, 2023, and on any date thereafter, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date.

*Mandatory Sinking Fund Redemption.* The 2015 Bonds maturing on December 1, \_\_\_\_\_ shall be subject to mandatory sinking fund redemption by lot, in the manner designated by the Paying Agent, on the dates and in the principal amounts as follows:

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\* Subject to change.

2015 Bonds Maturing  
December 1, \_\_\_\_\_

Date (December 1)	Principal Amount
	\$

\_\_\_\_\_  
\* Final Maturity.

The 2015 Bonds maturing on December 1, \_\_\_\_\_ shall be subject to mandatory sinking fund redemption by lot, in the manner designated by the Paying Agent, on the dates and in the principal amounts as follows:

The City must give the Paying Agent notice of its intent to redeem 2015 Bonds at least 45 days prior to the redemption date.

*Notice of Redemption.* Notice of any redemption will be given by the Paying Agent in the name of the City, by sending a copy of such notice by certified or registered first class, postage prepaid mail, at least 30 days prior to the redemption date, to the Registered Owners of each of the 2015 Bonds being redeemed. Such notice shall specify the number or numbers of the 2015 Bonds so to be redeemed and the redemption date. If any of the 2015 Bonds shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in the Bond Fund, funds sufficient to pay the redemption price of such 2015 Bonds at the redemption date, then said 2015 Bonds shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Any 2015 Bonds redeemed prior to their maturity by call for prior redemption or otherwise shall not be reissued and shall be cancelled the same as 2015 Bonds paid at or after maturity.

## **SECURITY FOR THE 2015 BONDS**

### **Net Income**

*The 2015 Bonds will not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, will not be payable from the proceeds of general property taxes, and will not be considered or held to be general obligations of the City, but rather are the City's special obligations payable solely from the Net Income derived from the operation and use of the Facilities. Net Income consists of all Gross Income of the Facilities (i.e., all income derived directly or indirectly by the City from the operation and use of the Facilities), less only reasonable Operation and Maintenance Expenses related to the Facilities. Net Income will be irrevocably pledged to the payment of debt service on the 2015 Bonds, the outstanding Parity Bonds, and any Parity Bonds hereafter issued pursuant to the terms and conditions of the Bond Ordinance.*

The Bond Ordinance will also permit the City to apply the Net Income for other lawful purposes, including a pledge thereof to secure payment of bonds subordinate to the 2015 Bonds. See the captions “THE BOND ORDINANCE—Pledge Securing 2015 Bonds” and “—Additional Bonds” herein.

### **Special Funds under the Bond Ordinance**

The Bond Ordinance will establish certain special funds and continue the authorization of other special funds which include the Water Income Fund, the Sewer Income Fund, the Sewer System Operation and Maintenance Fund, the Water System Operation and Maintenance Fund, the Bond Fund, the Reserve Fund, the Issuance Expense Fund and the Rebate Fund. As described under the caption “THE BOND ORDINANCE—Administration of Income Funds,” the income from the Facilities will be required to be distributed to certain of the above funds on certain dates and in certain priorities. Also, as described under the caption “THE BOND ORDINANCE—Bond and Reserve Funds,” deposits to the Bond Fund will be made on a monthly basis. Moneys in the Bond Fund and the Reserve Fund will be irrevocably pledged to payment of the 2015 Bonds.

### **Reserve Fund**

The Bond Ordinance establishes the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 Reserve Fund” (the “Reserve Fund”). Upon the issuance of the 2015 Bonds, the Reserve Fund shall be funded in an amount equal to the average annual debt service on the 2015 Bonds, less amounts on deposit in any reserve fund in connection with Parity Bonds heretofore or hereafter issued in accordance with the Bond Ordinance (the “Minimum Bond Reserve”). Pursuant to the Ordinance, the City will utilize a debt service reserve fund surety bond (the “2015 Reserve Policy”) provided by Assured Guaranty Municipal Corp. (“Assured Guaranty” or the “2015 Reserve Policy Provider”). See “THE BOND ORDINANCE—Bond and Reserve Funds – Reserve Fund” and “—Defraying Delinquencies.”

*Reserve Fund Surety.* Assured Guaranty has made a commitment to issue the 2015 Reserve Policy for the Reserve Fund with respect to the 2015 Bonds, effective as of the date of issuance of the 2015 Bonds. Under the terms of the 2015 Reserve Policy, Assured Guaranty will unconditionally and irrevocably guarantee to pay that portion of the scheduled

principal and interest on the 2015 Bonds that becomes due for payment but shall be unpaid by reason of nonpayment by the City (the “Insured Payments”).

Assured Guaranty will pay each portion of an Insured Payment that is due for payment and unpaid by reason of nonpayment by the City to the Paying Agent, as beneficiary of the 2015 Reserve Policy on behalf of the holders of the 2015 Bonds on the later to occur of (i) the date such scheduled principal or interest becomes due for payment, or (ii) the business day next following the day on which Assured Guaranty receives a demand for payment therefor in accordance with the terms of the 2015 Reserve Policy.

No payment shall be made under the 2015 Reserve Policy in excess of the Minimum Bond Reserve (the “2015 Reserve Policy Limit”). Pursuant to the terms of the 2015 Reserve Policy, the amount available at any particular time to be paid to the Paying Agent shall automatically be reduced to the extent of any payment made by Assured Guaranty under the 2015 Reserve Policy, provided, that, to the extent of the reimbursement of such payment to Assured Guaranty the amount available under the 2015 Reserve Policy shall be reinstated in full or in part, in an amount not to exceed the 2015 Reserve Policy Limit.

The 2015 Reserve Policy does not insure against nonpayment caused by the insolvency or negligence of the Paying Agent.

The 2015 Reserve Policy is not covered by any insurance or guaranty fund established under New York, California, Connecticut or Florida insurance law.

*Assured Guaranty Municipal Corp.*

AGM is a New York domiciled financial guaranty insurance company and an indirect subsidiary of Assured Guaranty Ltd. (“AGL”), a Bermuda-based holding company whose shares are publicly traded and are listed on the New York Stock Exchange under the symbol “AGO”. AGL, through its operating subsidiaries, provides credit enhancement products to the U.S. and global public finance, infrastructure and structured finance markets. Neither AGL nor any of its shareholders or affiliates, other than AGM, is obligated to pay any debts of AGM or any claims under any insurance policy issued by AGM.

AGM’s financial strength is rated “AA” (stable outlook) by Standard and Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business (“S&P”), “AA+” (stable outlook) by Kroll Bond Rating Agency, Inc. (“KBRA”) and “A2” (stable outlook) by Moody’s Investors Service, Inc. (“Moody’s”). Each rating of AGM should be evaluated independently. An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies, including withdrawal initiated at the request of AGM in its sole discretion. In addition, the rating agencies may at any time change AGM’s long-term rating outlooks or place such ratings on a watch list for possible downgrade in the near term. Any downward revision or withdrawal of any of the above ratings, the assignment of a negative outlook to such ratings or the placement of such ratings on a negative watch list may have an adverse effect on the market price of any security guaranteed by AGM. AGM only guarantees scheduled principal and scheduled interest payments payable by the issuer of bonds insured by AGM on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance with the terms of the relevant insurance policy), and does not guarantee the market price or liquidity of the

securities it insures, nor does it guarantee that the ratings on such securities will not be revised or withdrawn.

### *Current Financial Strength Ratings*

On June 29, 2015, S&P issued a credit rating report in which it affirmed AGM's financial strength rating of "AA" (stable outlook). AGM can give no assurance as to any further ratings action that S&P may take.

On November 13, 2014, KBRA assigned an insurance financial strength rating of "AA+" (stable outlook) to AGM. AGM can give no assurance as to any further ratings action that KBRA may take.

On July 2, 2014, Moody's issued a rating action report stating that it had affirmed AGM's insurance financial strength rating of "A2" (stable outlook). On February 18, 2015, Moody's published a credit opinion under its new financial guarantor ratings methodology maintaining its existing rating and outlook on AGM. AGM can give no assurance as to any further ratings action that Moody's may take.

For more information regarding AGM's financial strength ratings and the risks relating thereto, see AGL's Annual Report on Form 10-K for the fiscal year ended December 31, 2014.

### *Capitalization of AGM*

At March 31, 2015, AGM's policyholders' surplus and contingency reserve were approximately \$3,730 million and its net unearned premium reserve was approximately \$ 1,702 million. Such amounts represent the combined surplus, contingency reserve and net unearned premium reserve of AGM, AGM's wholly owned subsidiary Assured Guaranty (Europe) Ltd. and 60.7% of AGM's indirect subsidiary Municipal Assurance Corp.; each amount of surplus, contingency reserve and net unearned premium reserve for each company was determined in accordance with statutory accounting principles.

### *Incorporation of Certain Documents by Reference*

Portions of the following documents filed by AGL with the Securities and Exchange Commission (the "SEC") that relate to AGM are incorporated by reference into this Official Statement and shall be deemed to be a part hereof:

- (i) the Annual Report on Form 10-K for the fiscal year ended December 31, 2014 (filed by AGL with the SEC on February 26, 2015); and
- (ii) the Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2015 (filed by AGL with the SEC on May 8, 2015).

All consolidated financial statements of AGM and all other information relating to AGM included in, or as exhibits to, documents filed by AGL with the SEC pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, excluding Current Reports or portions thereof "furnished" under Item 2.02 or Item 7.01 of Form 8-K, after the filing of the last document referred to above and before the termination of the offering of the Bonds shall be deemed incorporated by reference into this Official Statement and to be a part hereof from the

respective dates of filing such documents. Copies of materials incorporated by reference are available over the internet at the SEC's website at <http://www.sec.gov>, at AGL's website at <http://www.assuredguaranty.com>, or will be provided upon request to Assured Guaranty Municipal Corp.: 31 West 52nd Street, New York, New York 10019, Attention: Communications Department (telephone (212) 974-0100). Except for the information referred to above, no information available on or through AGL's website shall be deemed to be part of or incorporated in this Official Statement.

Any information regarding AGM included herein under the caption "SECURITY FOR THE 2015 BONDS—Reserve Fund – Assured Guaranty Municipal Corp." or included in a document incorporated by reference herein (collectively, the "AGM Information") shall be modified or superseded to the extent that any subsequently included AGM Information (either directly or through incorporation by reference) modifies or supersedes such previously included AGM Information. Any AGM Information so modified or superseded shall not constitute a part of this Official Statement, except as so modified or superseded.

#### *Miscellaneous Matters*

AGM or one of its affiliates may purchase a portion of the 2015 Bonds or any uninsured bonds offered under this Official Statement and such purchases may constitute a significant proportion of the bonds offered. AGM or such affiliate may hold such 2015 Bonds or uninsured bonds for investment or may sell or otherwise dispose of such 2015 Bonds or uninsured bonds at any time or from time to time.

AGM makes no representation regarding the 2015 Bonds or the advisability of investing in the 2015 Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading "SECURITY FOR THE 2015 BONDS—Reserve Fund – Assured Guaranty Municipal Corp.".

#### **Rate Covenant**

The City will covenant in the Bond Ordinance to set its rates, fees and other charges for usage of the Facilities such that Gross Income will be adequate annually to pay the annual Operation and Maintenance Expenses and 125% of the actual annual debt service requirements on the 2015 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor).

#### **No Pledge of Property**

The payment of the 2015 Bonds will not be secured by an encumbrance, mortgage or other pledge of property of the City, except for the Net Income and any other moneys that may be lawfully pledged for the payment of the 2015 Bonds pursuant to the Bond Ordinance. No property of the City, except as above stated, will be liable to be forfeited or taken in payment of the 2015 Bonds.

## THE FACILITIES

### Generally

The City operates the Facilities pursuant to Article XX of the Constitution of the State, the City's Charter and ordinances, including the Enterprise Ordinance, adopted by the City Council. Policy direction for the Facilities is set by the City Council, and the Facilities are administered by the City Manager. The Utilities Division of the Public Works Department directs the day to day operations of the water, sewer and storm water/flood management utilities. Although the three utilities are each financially independent, all three are managed in an integrated fashion. For purposes of the Ordinance and the security for the 2015 Bonds, the Facilities consist only of the water and sewer utilities, and do not include the City's Storm Water and Flood Management Utility Enterprise.

As of December 31, 2014, the Facilities provided water and sewer service to approximately 28,829 and 27,436 accounts, respectively, within the City limits and the area immediately adjacent to the City.

### Governing and Administrative Personnel; Employees

The City Council is responsible for policy decisions with respect to the Facilities. The City Council consists of nine members elected for staggered four and two year terms. A presiding member of the City Council, as selected by the members thereof, is designated as Mayor. Currently there are no vacancies on the City Council. See "THE CITY— Governing Body."

Various individuals are responsible for implementation of the City Council's actions with respect to the Facilities, and the day-to-day operation and maintenance of, and collection of revenues from, the Facilities. These persons include the City Manager and the Utilities Director, as well as other persons described below.

Biographical information with respect to various individuals responsible for the Facilities is as follows:

***Maureen Rait, Executive Director of Public Works.*** Ms. Rait has been the Executive Director of Public Works since February 2008. In this role, she directly manages the Development & Support Services Division and oversees the Utilities and Transportation Divisions. She also co-manages information and administrative resources with the Department of Community Planning & Sustainability. Ms. Rait joined the City in 1990 as the Assistant Director of Public Works for Development and Inspection Services. Her responsibilities expanded in 1995 to include facilities and asset management, and again in 1998 to include fleet services. She served as the Acting Director of Public Works from August 1997 to August 1998. From 2001 - 2008, Ms. Rait partnered with colleagues to jointly manage the Public Works Department. Prior to working in Boulder, Ms. Rait worked in the municipal engineering field for other local governments in Colorado and California and in the private sector. Ms. Rait received a Bachelor of Science Degree in Civil Engineering from Ohio Northern University, and a Master of Public Administration Degree from California State University, Fullerton. She is a licensed Professional Engineer in the states of California and Colorado.

**Jeff Arthur, Director of Public Works for Utilities.** Mr. Arthur has been Director of Public Works for Utilities since October 2011. In this role, he manages the city's Water, Wastewater, and Stormwater/Flood Control utilities including a staff of approximately 170 employees. He previously served the City as the Engineering Review Manager (2002-2011) and as a Civil Engineer (1997-2002). Prior to joining the City of Boulder, he served as the Assistant Town Engineer and Utilities Superintendent for the Town of Essex, Vermont (1994-1997). Mr. Arthur received a Bachelor of Science Degree in Civil Engineering from Clarkson University, Potsdam, NY.

**Kenneth C. Baird, Utilities Financial Manager.** Mr. Baird has been the Utilities Financial Manager since April 2011. In this position he coordinates budget development, monitors revenues and expenditures, and develops rates and fees for the three utility funds. The total budget for the utility funds is approximately \$70 million plus any additional bond proceeds. He also manages transaction processing functions and utility billing operations. Prior to this position, Mr. Baird was the Financial Analyst for the City of Boulder's Transportation division (2007-2011), and a Budget Analyst for the Office of Management and Budget in Broward County, Florida (2003-2007) working with the Water and Wastewater Utility. He received a Bachelor of Science degree in Sociology in 2001 and a Master of Public Administration degree in 2003 from Brigham Young University.

**Robert J. Harberg, Principal Engineer.** Mr. Harberg has been the Utilities Planning and Project Coordinator since July 1990. In this position he manages the Utilities Division Capital Improvement Program. This program includes long range planning, design and construction for the City's water, wastewater, flood control and drainage utilities. Facilities included in this work program include water storage, transmission, pumping and distribution; wastewater and storm water conveyance; flood mitigation; hydroelectric; cogeneration and solar photovoltaic; water and wastewater treatment. He manages a professional staff of ten people and an annual budget of approximately \$23 million in addition to projects funded with bond proceeds. In addition, Mr. Harberg managed the design and construction of the City's telecommunications network infrastructure including fiber optic cable and conduit. Prior to this position he was a Project Manager for Utilities (1989-1990) and worked on a variety of capital improvement projects including a major expansion to the City's wastewater treatment and sludge processing facilities. He worked as a civil engineer for Black & Veatch Engineering (1978-1989) where he was involved in water supply and treatment; wastewater collection and treatment; and hazardous waste cleanup projects. Mr. Harberg received his Bachelor of Science in Civil Engineering from the University of Nebraska, his Master of Science in Civil Engineering from the University of Colorado and he is a licensed professional engineer in Colorado and a Certified Floodplain Manager. He authored the book *Planning and Managing Reliable Urban Water Systems* (American Water Works Association, 1997) and has served as an expert witness in water system reliability proceedings. Most recently, Mr. Harberg has taken on a temporary roll of coordinating the separation engineering and reliability analysis associated with the city's municipalization exploration project.

**Douglas Sullivan, Acting Principal Engineer for Water, Wastewater, & Stormwater.** Mr. Sullivan has been an Engineering Project Manager at the City of Boulder since May 1999. In this position, he manages the Capital Improvements Program for the Wastewater Utility as well as large capital Stormwater Utility projects. The Wastewater Utility program includes long-range planning, design and construction for the City's 25-mgd wastewater treatment facility, a large sewage lift station, and the wastewater collection system comprised of 360 miles of sanitary sewer pipe. He manages an annual budget of approximately \$4 million in

addition to projects funded with bond proceeds. In addition to managing the Wastewater Utility, he has managed large capital Stormwater Utility projects including multi-million dollar major drainage projects, and stormwater drainage projects. Prior to this position, Douglas worked in the consulting engineering sector for 10 years in Denver, Colorado – first with Brown & Caldwell Engineers and then with RTW Engineers. He specialized in water and wastewater treatment facilities, pump stations, and collection system evaluations. Mr. Sullivan received his Bachelor of Science Degree in Civil Engineering from Villanova University in Pennsylvania, and is a licensed professional engineer in Colorado.

***Joe Taddeucci, Water Resources Manager.*** Mr. Taddeucci has been the Water Resources Manager since August 2012. In this position, he manages the operations of the City’s raw water delivery systems, water rights portfolio and hydroelectric facilities. Prior to that, he worked for the City’s Department of Public works as a Utilities Engineering Project Manager starting in 2005. Prior to joining the City, Mr. Taddeucci was a water resources Project Director for TCB (now AECOM), a national design and consulting firm. Mr. Taddeucci received his Bachelor of Science in Civil Engineering from Michigan Technological University in Houghton, Michigan in 1991. He is a licensed Professional Engineer in Colorado.

***Tom Settle, Water Treatment Manager.*** Mr. Settle has been the Water Treatment Manager since March 2014. In this position he manages the operations of the city’s two water treatment facilities. Mr. Settle has 39 years experience, starting as a plant operator and working in all facets of drinking water supply including raw water delivery, watershed management, and water quality compliance. He has held a Colorado Class A Water Facility Operator certification since 1978 and has a Master’s degree in Public Administration from the University of Colorado. He also currently serves in a Governor-appointed position as the Vice-chair of the Colorado Water/Wastewater Facility Operators Certification Board.

***Christopher J. Douville, Wastewater Treatment Manager.*** Mr. Douville has been the Manager of Wastewater Treatment since July 2008. Prior to joining the City, Mr. Douville was a Senior Engineer and Construction Manager in the Wastewater Practice for Brown and Caldwell Engineers, a national environmental engineering design and consulting firm. He holds a Class “A” Wastewater Treatment Operator Certification. Mr. Douville received his Bachelor of Science in Environmental Resources Engineering from Humboldt State University in Arcata, California in 1995. He received his Master of Science Degree in Civil Engineering from the University of Colorado at Boulder in 1999. Mr. Douville is a licensed Professional Engineer in Colorado and Hawaii.

***Bret Linenfelser, Water Quality and Environmental Services Manager.*** Mr. Linenfelser has been the Manager for Water Quality and Environmental Services Group since August 2006. Prior to joining the City, Mr. Linenfelser was an Associate and Water Resources Practice Leader for the Denver office of Brown and Caldwell, a national environmental engineering consulting firm. Mr. Linenfelser received his Bachelor of Science in Watershed Sciences from Colorado State University in 1987 and his master’s degree in mineral resource ecology from Colorado School of Mines in 1993. Mr. Linenfelser is a Professional Hydrologist under certification from the National Institute of Hydrology.

***Gregory M. Izzo, Public Works Maintenance Manager.*** Mr. Izzo joined the City of Boulder in January 2015 from Seattle, Washington. Prior to joining the City, Mr. Izzo was the Director of Street Use & Urban Forestry for the Seattle Department of Transportation. Mr. Izzo has national and international engineering experience in both transportation and utility system

design and operations. Mr. Izzo received his Bachelor of Science in Civil Engineering from Widener University in Chester, Pennsylvania 1994 and is a licensed Professional Engineer in Pennsylvania, Virginia, and Washington. Mr. Izzo is currently in the process of obtaining licensure in Colorado.

The Utilities Division of the Department of Public Works is charged with the operation and maintenance of the water, sewer, and storm water/flood management utilities and is comprised of 166.92 full time employees. Non-management employees are unionized, and are represented by the Boulder Municipal Employees Association. The current contract with the employees expires on December 20, 2016. See “GENERAL INFORMATION REGARDING THE CITY—Labor Relations” below. The City considers its employee relations to be satisfactory.

### **Existing Facilities**

The Facilities are comprised of two main components, those being the Water System and the Sewer System for wastewater. The service area of the Facilities consists of approximately 58 square miles, including all of the City and certain adjacent areas, as limited by the topography of the area and political or community decisions.

**Water System.** The City obtains its raw water supplies from three geographical sources: (a) the City owned Silver Lake Watershed and North Boulder Creek via Lakewood Reservoir, (b) Middle Boulder Creek watershed via Barker Reservoir and (c) West Slope water via Boulder Reservoir.

The Silver Lake Watershed is situated directly east of the continental divide on North Boulder Creek. The United States Congress granted the City ownership of the Silver Lake Watershed through three Congressional acts in 1907, 1919 and 1927. The stated Congressional intent of the grants was to provide a clean, healthy and reliable water supply for the City. Seven reservoirs located in the Silver Lake Watershed store snowmelt water during high streamflow periods. The reservoirs then release water during low streamflow periods to meet the water needs of the City. Water from these reservoirs is delivered into Silver Lake Pipeline at a diversion structure located on North Boulder Creek two miles downstream of Silver Lake Reservoir. The water flows by gravity through the Silver Lake Pipeline for approximately 3.6 miles to Lakewood Reservoir. At Lakewood Reservoir, the water is diverted into the Lakewood Pipeline along with additional diversion of water from North Boulder Creek at Lakewood Reservoir. The water flows by gravity through the Lakewood Pipeline for 10 miles to the Betasso Water Treatment Facility (“WTF”) and is treated for municipal use.

Lakewood Pipeline and Silver Lake Pipeline were originally constructed in 1906 and 1919, respectively. The pipelines were constructed to protect the City’s water supply from contamination from tungsten, gold and silver mine drainage, and from human encampment along the creek. In 1919, the City closed the Silver Lake Watershed to public access to protect the quality of the water supply. Since 1997, the City has reconstructed the Silver Lake and Lakewood Pipelines. In conjunction with the pipeline projects, the City constructed the Silver Lake and Lakewood Hydroelectric Facilities to dissipate pressure developed in the pipelines. The power generated from these facilities is sold to Xcel Energy.

The Middle Boulder Creek watershed is situated east of the continental divide near Nederland, Colorado, and drains directly into Barker Reservoir. The Barker system,

comprised of Barker Reservoir, Barker Gravity Pipeline, Kossler Reservoir and the Boulder Canyon Penstock, was originally constructed as a hydroelectric power generating system in 1909 and was owned and operated by Public Service Company of Colorado (“PSCo”). The City had a series of agreements with PSCo since the 1950’s, permitting the City to divert and store water in Barker Reservoir and to use the associated pipelines. In 2001, the City acquired Barker Reservoir and its related facilities from PSCo at a total cost of approximately \$12.4 million.

Water from Barker Reservoir flows through a gravity pipeline to Kossler Reservoir. Water is then diverted into a high pressure pipeline (penstock) at Kossler Reservoir and flows to the Boulder Canyon Hydroelectric Facility, located in Boulder Canyon west of Boulder. The City redirects the municipal use portion of the water into a pipeline at a point just above the hydroelectric turbines in the power plant. Any remaining water is used to generate power at the Boulder Canyon Hydroelectric Facility which is sold to Tri-State Generation and Transmission Association under a power purchase agreement. The municipal use portion of the water is conveyed to the Betasso WTF via a pressurized pipeline. Just prior to the water entering the treatment plant, excess pressure is used to generate hydroelectric power at the City’s Betasso Hydroelectric Facility which is sold to Xcel Energy.

The West Slope water is derived from two Colorado River projects, the Colorado Big Thompson (“CBT”) Project and the Windy Gap Project. These two Colorado River projects are operated by the Northern Colorado Water Conservancy District (“NCWCD”). Reservoirs, located on tributaries of the upper Colorado River on the Rocky Mountains’ western slope, collect and store water, which then flows through the Adams Tunnel (under the continental divide) to the eastern slope of the Rocky Mountains. A series of reservoirs store this water before final delivery through open canals for storage at Boulder Reservoir, located northeast of the City. This water is then treated for municipal use at the Boulder Reservoir WTF.

Both the Betasso WTF and Boulder Reservoir WTF use conventional treatment technology with pre-chlorination, chemical stabilization, coagulation, flocculation and sedimentation (air floatation at the Boulder Reservoir WTF), filtration, post chlorination and fluoridation. Treated water from the Betasso WTF flows by gravity via two transmission lines to the City. Treated water from the Boulder Reservoir WTF is pumped into the City. Water delivered to Betasso WTF consists mostly of snowmelt which is relatively free of contaminants due to limited public access into the Silver Lake Watershed and wilderness areas and delivery of the raw water through pipelines rather than creeks. Water treated at Boulder Reservoir WTF is delivered through open canals and, while still high-quality, is not as pristine as water delivered to Betasso. Due to the need for more chemicals to treat this water and the need to pump the treated water into the City, it costs more to treat and deliver water at the Boulder Reservoir WTF than at the Betasso WTF.

The Betasso WTF can treat 40 million gallons per day (“mgd”) of water and the Boulder Reservoir WTF was upgraded in 2010 to provide a firm 16 mgd of treatment capacity, for a total of 56 mgd of treatment capacity. In 2013 and 2014, the City treated an average of 15.7 mgd of water each day. The peak days of water treatment in 2013 and 2014 were 35.9 mgd and 33.5 mgd, respectively.

The water distribution system services areas with elevations ranging from 5,750 feet on the west side of the City to 5,150 feet in the eastern section. Due to this large elevation differential, the system is divided into three pressure zones to keep water pressures within practical limits. Zone 1 serves areas generally below an elevation of 5,270 feet, Zone 2 serves areas between 5,270 and 5,450 feet and Zone 3 serves areas above an elevation of 5,450 feet. Excess water

pressure that develops in each zone as water is delivered from the Betasso WTF is reduced by pressure reducing valves and four small hydroelectric facilities. The power that is generated is sold to Xcel Energy. Water from the Boulder Reservoir WTF is pumped to Zone 1 and can be delivered to Zones 2 and Zone 3 by pump stations.

The water distribution system consists of a grid of approximately 460 miles of interconnected mains varying in size from 4 to 30 inches. The system is in generally good condition.

There are eight storage tanks for treated water in the distribution system: Gunbarrel reservoir (2.0 mg) and Boulder Reservoir WTF (2.3 mg) serve Zone 1; Maxwell (9.5 mg) and Kohler (9.4 mg) storage tanks serve Zone 2; and Chautauqua (8.0 mg), Booton (3.5 mg), Devil's Thumb (5.0 mg), and Betasso WTF (4.0 mg) storage tanks serve Zone 3. Connected to the Maxwell and Kohler storage tanks are combination pressure reducing hydroelectric and emergency pump stations, which generate electricity sold to Xcel Energy during normal operations and pump water from the tank to higher pressure zones during emergencies. There are also two pressure reducing hydroelectric generation facilities (Sunshine and Orodell) on existing transmission lines. The City owns and operates a total of eight hydroelectric facilities which generate power that is sold to Xcel Energy. In 2011, revenue from hydroelectric power totaled about \$2.5 million.

**Wastewater System.** The wastewater system (or Sewer System) is composed of a collection system and treatment facility. Approximately 350 miles of collection lines deliver wastewater, primarily by gravity flow, to the City's 75<sup>th</sup> Street Wastewater Treatment Facility. The collection system has one lift station that pumps wastewater from small developed areas in the northeastern part of the City to a gravity line which then flows to the treatment plant.

The 75<sup>th</sup> Street wastewater treatment facility treats all wastewater from the City and can provide 25.0 mgd of treatment capacity (monthly average). In 2013 and 2014 this facility treated an average of 15 mgd and 14.8 mgd, respectively, of wastewater. The peak days of wastewater treatment in 2013 and 2014 were 50 mgd and 25.3 mgd, respectively. Higher than normal flows in 2013 and 2014 were heavily influence by the significant weather of 2013. The plant is composed of the following components: headworks facilities where large materials are screened out and grit is removed; primary clarifiers where some solids settle out; a pump station where sewage is pumped to aeration basins, where microbiological activity reduces dissolved organics and removes a portion of the total nitrogen through nitrification (ammonia reduction) and denitrification (nitrate conversion); aerated solids contact basins where the further reduction of dissolved organics and ammonia occurs; final clarifiers where remaining settleable solids are removed; and ultraviolet light (UV) facilities for disinfection.

The treated effluent is then discharged to Boulder Creek. Sludge is removed from the primary and final clarifiers, thickened in gravity sludge thickeners and dissolved air floatation thickeners, and then biologically degraded in anaerobic digesters. The methane gas produced in this process is burned in engine generators that produce electricity and heat which is captured. The heat captured from the engines is used to heat the anaerobic sludge digesters as well as many of the buildings on the facility grounds. The stabilized sludge (biosolids) from the digesters is dewatered in centrifuges and transported to agricultural land by a contract hauling company. There, it is applied to the land as a soil conditioner and fertilizer.

## Water Supply Firm Yield and Uses

The operation of the City's raw Water System involves intricate relationships between water rights, laws and legal agreements, streamflows, storage facilities, transmission facilities, treatment capacity and water demands. During the peak streamflow period in the spring, snowmelt in the mountains causes high creek flows and water supplies are generally available for all users. However, because streamflows will quickly drop, many water users, like the City, store water in reservoirs and regulate the release of water to satisfy their needs throughout the year. It is also important for the City to store excess water in its reservoirs during wet years to carry over into dry years to assure a reliable water supply.

Water rights in Colorado are administered according to the Appropriation Doctrine, which has frequently been described as "first in time, first in right." Those water users who first put water to beneficial use gained a senior right to the water. Use by junior appropriators is curtailed during a water shortage. The City owns a diverse portfolio of water rights and water delivery contracts that allow the City to use water both from the local Boulder Creek basin and from the western slope through the CBT system. The City also holds decreed exchange rights that, in effect, allow the trade of CBT water in Boulder Reservoir and water in Baseline Reservoir for Boulder Creek basin water high in the mountains.

Use of available water is sequenced according to many factors including water quality, economics, delivery system restrictions and the need to maintain adequate carry-over storage for droughts. As described under "Existing Facilities" above, the City receives its raw water supply from three geographical sources: (a) the Silver Lake Watershed via Lakewood Reservoir; (b) Middle Boulder Creek watershed via Barker Reservoir; and (c) West Slope water from the CBT and Windy Gap Projects via Boulder Reservoir. Under normal operations, the water from Lakewood and Barker Reservoirs are used preferentially to meet the water demands of the City to the extent that the long-term reliable yield of the Water System is not reduced. The balance of the water demand is met by Boulder Reservoir.

The City has recognized that it would be prohibitively expensive to acquire sufficient water rights to provide a full supply of water for all uses under all conditions. The City's Drought Plan, 2010 (the "Drought Plan") and its adopted water system reliability criteria state that it has planned to provide water for all needs in 19 out of 20 years on average. This means that the City expects to reduce its water demands in response to drought in about five years out of a hundred. During a drought as severe as that experienced in 2002, planned water use reductions such as lawn watering limitations would be instituted. The City manages its reservoirs to achieve the adopted reliability criteria through conditions as severe as those found within the historic streamflow record for Boulder Creek as extended back to the early 1500s using tree-ring records. This record contains several multi-year drought periods. Therefore, officials of the City believe that the City owns adequate raw water supplies to serve the maximum population projected under the 2011 Water Utility Master Plan at the levels defined in its Drought Plan.

It is estimated that the City's water rights could reliably meet a demand level of more than 28,600 acre feet even in moderately dry years. It is projected that the City's average annual treated water demand at build-out will be approximately 24,000 acre-feet. The City's current water use over the past few years for municipal treated water supply needs has averaged about 18,300 acre-feet. Another 1,250 to 1,300 acre-feet has been provided for the Boulder Creek Instream Flow Program. The remainder of the City's water portfolio remains available for future municipal treated water supply, as well as for instream flow and agricultural leasing uses.

The following table details the quantities of water drawn over the past five years from each of the City's water sources:

Treated Water Deliveries in Million Gallons

Year	Silver Lake / Lakewood System	Barker System	Colorado-Big Thompson System	Total Water Treated
2010	3,677	1,004	1,007	5,688
2011	1,240	3,088	1,417	5,745
2012	892	3,220	2,348	6,460
2013	3,012	1,766	1,345	6,123
2014	3,254	2,007	944	6,205

Additional amounts of CBT and direct flow water are leased directly as irrigation water to downstream farmers and other uses on an as-available basis. These amounts are not included in the table above entitled "Treated Water Deliveries in Million Gallons." Listed below are the amounts leased:

Leased Water Amounts in Acre Feet

Year	Leased
2014	7,321
2013	8,244
2012	4,491
2011	2,263
2010	2,600

### **Future Capital Improvements**

The City estimates that capital improvements for the Facilities will be as follows for the years 2015 through 2019:

Capital Improvements for the Facilities 2015-2019

	2015	2016	2017	2018	2019
Water Improvements	\$13,638,331	\$33,449,251 <sup>(2)</sup>	\$8,679,585	\$41,107,591 <sup>(2)</sup>	\$11,196,676
Sewer Improvements	21,800,178	4,355,600	5,987,421	5,571,420	7,335,867

<sup>(1)</sup>The proposed Capital Improvements Program is shown, and adoption by City Council is anticipated in October, 2015.

<sup>(2)</sup>The City plans to issue approximately \$24,000,000 of Water and Wastewater revenue bonds in 2016 to fund improvements to the Betasso Water Treatment Facility, and also approximately \$37,600,000 in Water and Sewer revenue bonds in 2018 for the Carter Lake Pipeline project and other improvements.

### Customers

The Water System served a customer base of 28,829 accounts as of December 31, 2014. Of this 2014 total, 27,961 accounts were inside the City and 868 accounts were outside the City limits. See the caption “—Rates and Charges—Water Rates” below. In 2014, residential customers made up 61% of the total customers of both the Water and Sewer Systems, while Commercial and Industrial customers made up 39% of the total.

The five largest users of the City’s water in 2014, their respective usage and the revenues derived by the City therefrom are as follows:

Largest Water Users as of December 31, 2014

Customer	Total Consumption (in 1,000 gallons)	2014 Revenues Generated	Percentage of 2014 Revenues
University of Colorado	294,214	\$966,685	4.8%
City of Boulder <sup>(1)</sup>	190,189		
International Business Machines Corp (IBM)	114,544	374,783	1.9%
Boulder Valley Schools	81,711	323,867	1.6%
National Institute of Standards and Technology	41,193	177,257	0.9%

<sup>(1)</sup>The City of Boulder does not charge its departments for municipal water use.

The sewer system served a customer base of 27,436 accounts as of December 31, 2014. Of this 2014 total, 26,476 accounts were inside the City and 960 accounts were outside the City limits. See the caption “—Rates and Charges—Sewer Rates” below.

The following table shows a history of the City’s water and sewer accounts.

History of Customer Accounts

	2010	2011	2012	2013	2014

Water	28,519	28,560	28,759	28,674	28,741
Sewer	27,187	27,301	27,346	27,396	27,436

## Rates and Charges

**Introduction.** Water and sewer charges are reviewed annually by the Utilities Division to ensure that adequate revenues are collected to meet the financial obligations of each utility. In addition, a financial consultant is hired periodically to review the utilities' rates and fees. The City has hired such financial consultants several times over the last few years to (1) assisted with the review and update of water rates since the implementation of the water budget rate structure in 2007, (2) review revenue impacts for a change in wastewater bill calculation implemented in 2012, (3) update the wastewater rate model in 2008 to reflect the upgrades made to the treatment processes at the Wastewater Treatment Facility which were funded by the 2005 Water and Sewer Revenue Bonds, and (4) review and analyze changes to the methodology used in assessing Utilities Plant Investment Fees, or system development charges, to ensure an equitable system that reinforces the goals of the water budget rate structure.

Recommended rate increases are generally reviewed and approved by City Council as part of the annual budget process. Rates are designed to maintain revenues sufficient to meet debt service requirements on revenue bonds; to pay operation, maintenance and capital expenses with respect to the Facilities; to meet all reserve requirements and to meet rate covenant requirements such as those contained in the Ordinance. The City's water and sewer rates are not subject to Public Utilities Commission review.

The City utility rates are computed through an analysis of revenues compared to revenue requirements. The projections of revenue requirements are based upon an examination of current costs incurred in providing utility service, projected capital infrastructure needs and reflect anticipated changes in the future level of costs. Increases in future costs are primarily due to replacements and additions to the system, growth and inflationary conditions. Projections of revenue are based on the estimated future number of customers to be served and associated water usage or sewage treatment for those customers.

Comparison of projected revenue requirements with projected revenue under existing rates measures the degree of adequacy of the overall level of current charges. Based on this analysis, adjustments to the existing rate schedule are recommended to the City Council. The primary basis of this rate setting method is the recovery of costs from customers in a manner reasonably commensurate with services provided.

**Water Rates.** Water rates consist of a fixed service charge levied each billing period and a quantity charge which is applied to the amount of water consumed. Service charges are designed to recover meter reading, billing and collection which are attributable to each customer regardless of the quantity used and are assessed based on meter size. The monthly service charge also recovers a portion of the capital costs to further ensure revenue stability as water sales are influenced by the weather and can fluctuate year to year. Quantity charges primarily recover those costs that are incurred to provide customer average and peak water usage requirements. The City's quantity rate varies with water usage, but not by meter size.

Since 1988, the City has administered an increasing block rate structure to encourage the efficient use of water. As the amount of water used increases and moves into the next rate block the quantity charge, or the cost per 1,000 gallons, increases. In January 2007 the city

implemented a new water rate structure that uses “water budgets” and a more aggressive pricing strategy to further encourage water conservation. The rate structure is intended to further promote water conservation and the efficient use of water, support community goals, reflect the value of water, send a price signal to customers who exceed their water budget (waste water) and avoid the costs of new water development and expanded water treatment. The City’s municipal code also contains provisions for an emergency water conservation plan that can be invoked if needed. The plan includes lawn watering restrictions, excess usage surcharges and enforcement provisions. The City did invoke mandatory water use restrictions during the drought year of 2002.

A monthly water budget is developed for each customer using criteria such as number of people in the household, historic usage and specific irrigable area. The budgets for residential customers and irrigation-only accounts are shaped throughout the year to reflect outdoor watering patterns. The City still uses increasing block rates and correlates the block/price changes to the customer’s individual water budget. Water use above a monthly water budget is billed at increasingly higher rates than water use that is within a monthly water budget. The block rate structure for the quantity charge portion of the water bill is shown in the following table.

#### Water Block Rate Structure

	Rate Per 1,000 Gallons	Water Usage (Gallons) Billed in Each Rate Block
Block 1	$\frac{3}{4}$ the Block 2 Rate	Usage up to 60% of the monthly budget
Block 2	Block 2 Rate	Usage between 60-100% of the monthly budget
Block 3	2 times the Block 2 Rate	Usage over monthly budget up to 150% of monthly budget
Block 4	3 times the Block 2 Rate	Usage between 150% and 200% of monthly budget
Block 5	5 times the Block 2 Rate	Usage over 200% of monthly budget

The following table, Table X, shows water rate changes since 2011. The table shows the service charges per billing period, and quantity charges per 1,000 gallons of water used. In addition, the table also includes the number of accounts by meter size as of December 31, 2014. Approximately 22% of the total revenue from monthly water sales comes from the monthly service charge and 78% from the quantity charges.

#### History of Water Rates for the City

##### **Inside City**

##### Service Charge

Meter Size	Accounts	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
3/4"	23,484	8.91	8.91	9.16	9.40	9.67
1"	2,423	14.97	14.97	15.42	15.81	16.27
1 1/2"	1,342	32.22	32.22	33.23	34.08	35.04
2"	418	56.41	56.41	58.21	59.70	61.38
3"	141	125.43	125.43	129.50	132.81	136.54
4"	52	222.06	222.06	229.31	235.17	241.76
6"	7	498.29	498.29	514.60	527.75	542.52
8"	6	884.97	884.97	913.97	937.34	963.56

##### Quantity Charge

Per 1000 gal

Block 1	2.18	2.25	2.32	2.42	2.55
Block 2	2.90	3.00	3.09	3.23	3.40
Block 3	5.80	6.00	6.18	6.46	6.80
Block 4	8.70	9.00	9.27	9.69	10.20

Block 5	14.50	15.00	15.45	16.15	17.00
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**Outside City**Service Charge

Meter Size	Accounts	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
3/4"	763	13.37	13.37	13.74	14.10	14.51
1"	82	22.46	22.46	23.13	23.72	24.40
1 1/2"	13	48.33	48.33	49.85	51.12	52.57
2"	5	84.61	84.61	87.32	89.56	92.08
3"	2	188.18	188.18	194.25	199.22	204.81
4"	1	333.09	333.09	343.96	352.75	362.63
6"	1	747.43	747.43	771.89	791.63	813.78
8"	1	1,327.45	1,327.45	1,370.95	1,406.00	1,445.34

Quantity Charge

Per 1000 gal

Block 1	2.18	2.25	2.32	2.42	2.55
Block 2	2.90	3.00	3.09	3.23	3.40
Block 3	5.80	6.00	6.18	6.46	6.80
Block 4	8.70	9.00	9.27	9.69	10.20
Block 5	14.50	15.00	15.45	16.15	17.00

The average annual charge for water service for a typical single family residential customer has been as follows:

Typical Customer Annual Water Bill (1)Bill for Inside City Customer

	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
Service Charge	106.92	106.92	109.92	112.80	116.04
Quantity Charge	276.00	285.00	293.80	306.60	323.00
Total Charge	382.92	391.92	403.72	419.40	439.04

Bill for Outside City Customer

	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
Service Charge	160.44	160.44	164.88	169.20	174.06
Quantity Charge	276.00	285.00	293.80	306.60	323.00
Total Charge	436.44	445.44	458.68	475.80	497.06

- (1) Profile of the Typical Customer:  
Customer Class = Single Family Residential  
Meter Size = 3/4"  
Irrigable Area = 5,200 square feet  
Annual Water Consumption = 120,000 gallons  
Monthly Average Winter Water Consumption = 5,000 gallons

**Wastewater Rates.** The basic schedule of sewer rates consists of a monthly service charge, which varies by water meter size, and a quantity charge. The quantity charge for customers with average strength sewage is based on the average winter water consumption (AWC) by the customer during the months of December through March. The residential customer's wastewater charges are based on the customer's AWC or on the quantity of water consumed in the current billing period, whichever is less. All non residential customers with

average strength sewage that have only an indoor water budget allocation are billed for wastewater based on actual water consumed during the billing period throughout the year. Non-residential customers that have both an indoor and outdoor water budget allocation will be billed based on the actual water use or their indoor water budget allocation, whichever is lower. Wastewater charges are not assessed against irrigation-only accounts. Customers with above average strength sewage are billed according to the excess strength charges. There are only a few customers paying a sewer charge based on excess strength waste, and the City's revenues derived therefrom are minimal.

The following table shows how sewer rates have changed over the past five years. Service charges are shown for each billing period, and quantity charges for each 1,000 gallons of consumption as described above. Approximately 4% of the total revenue from monthly wastewater sales comes from the monthly service charge and 96% from the quantity charges.

#### History of Wastewater Rates for the City

##### **Inside City**

###### Service Charge

Meter Size	Accounts	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
3/4"	22,699	1.00	1.00	1.05	1.10	1.43
1"	2,020	1.75	1.75	1.84	1.93	2.51
1 1/2"	1,203	4.00	4.00	4.20	4.41	5.73
2"	363	7.05	7.05	7.40	7.77	10.10
3"	132	15.85	15.85	16.64	17.47	22.71
4"	48	28.20	28.20	29.61	31.09	40.42
6"	6	63.45	63.45	66.62	69.95	90.94
8"	5	112.80	112.80	118.44	124.36	161.67

###### Quantity Charge

Per 1000 gal	3.92	4.02	4.22	4.43	5.76
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##### **Outside City**

###### Service Charge

Meter Size	Accounts	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
3/4"	724	1.50	1.50	1.58	1.66	2.15
1"	215	2.65	2.65	2.78	2.92	3.76
1 1/2"	13	5.95	5.95	6.25	6.56	8.60
2"	3	10.60	10.60	11.13	11.69	15.15
3"	2	23.80	23.80	24.99	26.24	34.07
4"	2	42.30	42.30	44.42	46.64	60.63
6"	0	95.15	95.15	99.91	104.91	136.40
8"	1	169.15	169.15	177.61	186.49	242.50

###### Quantity Charge

Per 1000 gal	5.83	6.00	6.30	6.61	8.64
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The average annual charge for sewer service for a typical single family residential customer has been as follows:

Typical Customer Annual Wastewater Bill (1)Bill for Inside City Customer

	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
Service Charge	12.00	12.00	12.60	13.20	17.16
Quantity Charge	235.20	241.20	253.20	265.80	354.54
Total Charge	247.20	253.20	265.80	279.00	371.70

Bill for Outside City Customer

	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
Service Charge	18.00	18.00	18.96	19.92	25.80
Quantity Charge	349.80	360.00	378.00	396.60	518.40
Total Charge	<u>367.80</u>	<u>378.00</u>	<u>396.96</u>	<u>416.52</u>	<u>544.20</u>

- (1) Profile of the Typical Customer:  
Customer Class = Single Family Residential  
Meter Size = 3/4"  
Annual Water Consumption = 120,000 gallons  
Monthly Average Winter Water Consumption = 5,000 gallons

**Operations.** The utility billing office carries out payment processing, billing, collections and customer service functions for all three City utilities. The staff supporting this effort includes one billing supervisor, four customer service representatives and 3/4 technical support person for the billing system. Meter reading, maintenance, testing and repair are accomplished by an additional staff of eight people.

Approximately 1,500 water meters are read each day. These meter readings are uploaded into the utility billing computer system on a daily basis, generating bills which are mailed on the following day. Each account receives one bill per month that includes water, sewer and storm water/flood management charges.

Payment for utility services is due within 10 days of the date of the bill. If payment has not been received at the time of the next regular billing, a message noting that a portion of the bill is past due will appear on the bill. When payment is not received within two months and ten days from the date of the original billing, a notice of delinquency is automatically produced through the billing system and mailed to the customer. When payment is not received within three months and 10 days from the date of the original billing, a late fee is charged and a second notice of delinquency is automatically generated which notifies the customer they have 10 days to make a payment before water service is discontinued. If the account remains unpaid, then a door tag is placed at the property before the water is turned off. Historically the City has experienced a less than one percent delinquency rate. If a partial payment is made the payment is automatically applied to the flood management utility first, then the wastewater utility and finally the water utility. If all collection efforts fail, the City's code provides that service may be terminated and delinquent charges may be certified to the Boulder County Treasurer for collection as part of property taxes.

**Comparison to Other Cities' Rates.** The City annually completes a survey for fifteen Front Range Communities of the average annual water and sewer bills for a hypothetical inside city, single family residence with a 3/4" meter using 120,000 gallons annually. For 2015, of the fifteen Colorado Front Range cities surveyed, the City ranked third lowest with respect to

water bills; sixth highest with respect to sewer bills and sixth lowest for combined water and sewer bills.

## **Budgets**

The City-wide 2015 budget was developed using a priority-based budgeting approach that scores or rates individual program to community defined results (or goals) to ensure resources are being allocated to areas deemed most important to the community. Annual operating budget proposals are developed by the managers of each functional group within the Utilities Division. The Utility manager responsible for Planning and Project Management formulates the Capital Improvement Program (“CIP”) for the upcoming six years. These proposals are reviewed and modified by successive levels of management within the department until a final proposal is approved by the Executive Director of Public Works. The department budget proposal is then submitted to the Water Resources Advisory Board and the Planning Board for their review and recommendation. The City Manager considers these recommendations, along with public comment, before submitting the staff recommended budget to City Council, which makes the final determination regarding the budget. While the Utilities Division budget is developed in a cohesive manner (e.g. programs or projects that affect more than one utility fund), the water and wastewater budgets are entirely independent, each relying upon separate revenues and each maintained as a separate accounting entity.

## THE BOND ORDINANCE

Summary of certain provisions of the Bond Ordinance are as follows:

### Definitions

The terms in this Section defined for all purposes of the Bond Ordinance except where the context by clear implication otherwise requires, shall have the meanings specified below:

“*Bond Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds Series 2015 Interest and Bond Retirement Fund” created in the Bond Ordinance.

“*Charter*” means the charter of the City.

“*Chief Financial Officer*” means the Chief Financial Officer of the City.

“*City*” means the City of Boulder, Colorado, and its successors.

“*Clerk*” means the City Clerk of the City.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Council*” means the City Council of the City.

“*DTC*” means The Depository Trust Company, New York, New York, or its successors or assigns and any other securities depository for the 2015 Bonds.

“*Event of Default*” means any of the events stated in Section 10.03 of the Bond Ordinance.

“*Facilities*” means, collectively, the Sewer System and the Water System of the City.

“*Federal Securities*” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States of America or evidences of such indebtedness which are noncallable at the option of the issuer thereof.

“*Financial Advisor*” means Piper Jaffray & Co.

“*Fiscal Year*” for the purposes of the Bond Ordinance means the Fiscal Year as provided by State law.

“*Gross Income*” means all income and revenues derived directly or indirectly by the City from the operation and use of the Sewer System,” and the Water System, as may be designated, or any part thereof, whether resulting from improvements, extensions, enlargements, repairs or betterments thereto, or otherwise, including interest earnings on moneys in any fund or account created by the Bond Ordinance and includes all revenues earned by the City therefrom, including without limiting the generality of the foregoing, all rentals, fees, rates and other charges for the use thereof, or for any service rendered by the City in the operation thereof, but

excluding any moneys received as grants, appropriations or gifts from the United States of America, the State, or other sources, the use of which is limited by the grantor or donor to the construction of capital improvements therefor, except to the extent any such moneys will be received as payments for the use of the Facilities, or any part thereof.

“*Independent Accountant*” means any certified public accountant, or any firm of such certified public accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Council, in the name of the City, as determined by the Council:

(i) who is, in fact, independent and not under the domination of the City;

(ii) who does not have any substantial interest, direct or indirect, with the City; and

(iii) who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

“*Insured Bank*” means a bank which is a member of the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

“*Issuance Expense Fund*” means the “City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2015 Issuance Expense Fund” created in the Bond Ordinance.

“*Manager*” means the City Manager or Acting City Manager of the City.

“*Mayor*” means the Mayor of the City.

“*Minimum Bond Reserve*” means an amount equal to not less than the average annual debt service on the 2015 Bonds and all other Parity Bonds, less amounts on deposit in any reserve fund in connection with Parity Bonds heretofore or hereafter issued.

“*Net Income*” means the Gross Income derived from the operation and use of the Sewer System and the Water System as may be designated, after the deduction of the Operation and Maintenance Expenses other than those Operation and Maintenance Expenses set forth in clause (a) of the definition of Operation and Maintenance Expenses set forth in the Bond Ordinance.

“*Operation and Maintenance Expenses*” means all reasonable and necessary current expenses of the City, paid or accrued, for operating, maintaining and repairing the Water System” and the Sewer System as may be designated; and the term may include at the City’s option (except as limited by law), without limiting the generality of the foregoing, (a) engineering, auditing, reporting, legal and other overhead expenses of the City directly related to the administration, operation and maintenance thereof, (b) insurance and fidelity bond premiums, (c) the reasonable charges of the Paying Agent and any other depositary bank appertaining thereto, (d) payments to pension, retirement, health and hospitalization funds, (e) any taxes, assessments or other charges which may be lawfully imposed on the City or its income or operations of any properties under its control and appertaining thereto, (f) ordinary and current rentals of equipment or other property, (g) refunds of any revenues lawfully due to others, (h)

expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Income, (i) the expenses and compensation of any trustee or other fiduciary, (j) contractual services and professional services required by the Bond Ordinance, (k) salaries, labor and the cost of materials and supplies used for current operation, and (l) all other third party administrative, general and commercial expenses, but (i) excluding any allowance for depreciation or any amounts for capital replacements; (ii) excluding the costs of improvements, extensions, enlargements and betterments (or any combination thereof) that qualify as capital items in accordance with generally accepted accounting principles, or any reserves therefor; (iii) excluding any reserves for operation, maintenance or repair of the Facilities; (iv) excluding any allowance for the redemption of any bond or other security evidencing a loan, or the payment of any interest thereon, or any reserve therefor; and (v) excluding liabilities incurred by the City as the result of its negligence in the operation of the Facilities or other ground of legal liability not based on contract, or any reserve therefor.

“*Ordinance No. 7421*” means Ordinance No. 7421, introduced, passed and adopted by the Council on the 3rd day of May, 2005.

“*Ordinance No. 7440*” means Ordinance No. 7440, introduced, passed and adopted by the Council on the 8th day of November, 2005.

“*Ordinance No. 7524*” means Ordinance 7524, introduced, passed and adopted by the Council on the 5th day of June, 2007.

“*Ordinance No. 7754*” means Ordinance No. 7754, introduced, passed and adopted by the Council on the 7th day of September, 2010.

“*Ordinance No. 7781*” means Ordinance No. 7781, introduced, passed and adopted by the Council on the 18th day of January, 2011.

“*Ordinance No. 7875*” means Ordinance No. 7875, introduced, passed and adopted by the Council on the 16th day of October, 2012.

“*Original Purchaser*” means the original purchaser of the 2015 Bonds as designated in the Bond Ordinance.

“*Outstanding*” when used with reference to bonds as of any particular date means all bonds payable from the Net Income of the Facilities in any manner theretofore and thereupon being executed and delivered:

(a) except any bond canceled by the City, by the Paying Agent, or otherwise on the City’s behalf, at or before said date;

(b) except any bond for the payment or the redemption of which moneys at least equal to the principal amount of, any prior redemption premium due in connection with, and the interest on the bond to the date of maturity or the prior redemption date, will have theretofore been deposited with a commercial bank in escrow or in trust for that purpose, as provided in Section 9.01 of the Bond Ordinance; and

(c) except any bond in lieu of or in substitution for which another bond will have been executed and delivered pursuant to Section 3.08, Section 3.09 or Section 11.08 of the Bond Ordinance.

“*Parity Bonds*” means bonds or other obligations payable from Net Income on a parity with the 2015 Bonds authorized to be issued in the Bond Ordinance.

“*Paying Agent*” means U.S. Bank National Association, or its successors, acting under the Bond Ordinance as, among other things, paying agent, registrar and authenticating agent.

“*Permitted Investments*” means any investment permitted by the laws of the State and the City’s investment policies.

“*Person*” means a corporation, firm, other body corporate, partnership, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“*Project*” means the construction, improvement, acquisition and equipping of certain treatment and capacity improvements to the City’s wastewater treatment facilities and other capital improvements with respect to the Facilities.

“*Project Fund*” means the “City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2015 Project Fund” created in the Bond Ordinance.

“*Rebate Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 Rebate Fund” created in the Bond Ordinance.

“*Rebate Income Account*” means the Rebate Income Account created in the Bond Ordinance.

“*Rebate Principal Account*” means the Rebate Principal Account created in the Bond Ordinance.

“*Record Date*” means the 15th day of the month prior to each interest payment date with respect to the 2015 Bonds.

“*Registered Owner*” or “*holder*” means the Person or Persons in whose name or names a bond will be registered on the registration books of the City maintained by the Paying Agent.

“*Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 Reserve Fund” created in the Bond Ordinance.

“*Sewer Income Fund*” means the “City of Boulder Sewer Income Fund,” created and designated as the “City of Boulder Gross Income Sewer Fund” in Section 9, Ordinance No. 2000, and directed to be continued and redesignated in the Bond Ordinance.

“*Sewer System*” means the City’s municipally owned sanitary sewer system, consisting of all properties, real, personal, mixed, or otherwise, now owned or hereafter acquired by the City, through purchase, construction, or otherwise, and used in connection with the sanitary sewer system of the City, and in any way appertaining thereto, whether situated within or without the corporate boundaries of the City, or both within and without the corporate boundaries of the City.

“*Sewer System Operation and Maintenance Fund*” means the “City of Boulder Sewer System Operation and Maintenance Fund” created by Ordinance No. 2577, and directed to be continued in Ordinance No. 7421, Ordinance No. 7440, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781 and in the Bond Ordinance.

“*State*” means the State of Colorado.

“*Subordinate Bonds*” means bonds payable from Net Income subordinate and junior to the lien of the 2015 Bonds authorized to be issued.

“*Superior Bonds*” means bonds payable from Net Income superior to the lien of the 2015 Bonds authorized to be issued.

“*Tax Letter of Instructions*” means the Tax Letter of Instructions, dated the date of delivery of the 2015 Bonds, delivered by Kutak Rock LLP to the City, as the same may be superseded or amended as provided in the Bond Ordinance.

“*2005B Bonds*” means the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B,” authorized by Ordinance No. 7421.

“*2005B Bond Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2005B Interest and Bond Retirement Fund” created in Ordinance No. 7421.

“*2005B Minimum Bond Reserve*” means the “Minimum Bond Reserve” as defined in Ordinance No. 7421.

“*2005B Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2005B Reserve Fund” created in Ordinance No. 7421.

“*2005C Bonds*” means the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2005C” authorized by Ordinance No. 7440.

“*2005C Bond Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2005C Interest and Bond Retirement Fund” created in Ordinance No. 7440.

“*2005C Minimum Bond Reserve*” means the “Minimum Bond Reserve” as defined in Ordinance No. 7440.

“*2005C Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2005C Reserve Fund” created in Ordinance No. 7440.

“*2005C Reserve Policy*” means the Municipal Bond Debt Service Reserve Insurance Policy issued by Financial Security Assurance Inc. and deposited in or credited to the Series 2005C Reserve Fund pursuant to Ordinance No. 7440.

“*2007 Bonds*” means the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007, authorized by Ordinance No. 7524.”

“*2007 Bond Fund*” means the “City of Boulder, Colorado Water and Sewer Revenue Bonds Series 2007 Interest and Bond Retirement Fund,” created in Ordinance No. 7524.

“*2007 Minimum Bond Reserve*” means the “Minimum Bond Reserve,” as defined in Ordinance No. 7524.

“*2007 Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2007 Reserve Fund,” created in Ordinance No. 7524.

“*2007 Reserve Policy*” means the Municipal Bond Debt Service Reserve Insurance Policy issued by Financial Security Assurance Inc. and deposited in or credited to the 2007 Reserve Fund pursuant to Ordinance No. 7524.

“*2010 Bonds*” means the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010, authorized by Ordinance No. 7754.”

“*2010 Bond Fund*” means the “City of Boulder, Colorado Water and Sewer Revenue Bonds Series 2010 Interest and Bond Retirement Fund,” created in Ordinance No. 7754.

“*2010 Minimum Bond Reserve*” means the “Minimum Bond Reserve,” as defined in Ordinance No. 7754.

“*2010 Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2010 Reserve Fund,” created in Ordinance No. 7754.

“*2011 Bonds*” means the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011,” authorized by Ordinance No. 7781.

“*2011 Bond Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2011 Interest and Bond Retirement Fund,” created in Ordinance No. 7781.

“*2011 Minimum Bond Reserve*” means the “Minimum Bond Reserve,” as defined in Ordinance No. 7781.

“*2011 Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2011 Reserve Fund,” created in Ordinance No. 7781.

“*2012 Bonds*” means those bonds designated as the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012.”

“*2012 Bond Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2012 Interest and Bond Retirement Fund,” created in Ordinance No. 7875.

“*2012 Minimum Bond Reserve*” means the “Minimum Bond Reserve,” as defined in Ordinance No. 7875.

“*2012 Reserve Fund*” means the “City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2012 Reserve Fund,” created in Ordinance No. 7875.

“*2012 Reserve Policy Agreement*” means the Reserve Policy Insurance Agreement, dated as of November 1, 2012, by and between the City and the 2012 Reserve Policy Provider with respect to the 2012 Bonds and the 2012 Reserve Policy.

“*2012 Reserve Policy Provider*” means Assured Guaranty Municipal Corp., and its successors and assigns.

“*2012 Reserve Policy*” means the municipal bond debt service reserve insurance policy issued by the 2012 Reserve Policy Provider guaranteeing certain payments from the Reserve Fund with respect to the 2012 Bonds, which shall be deposited to the 2012 Reserve Fund.

“*2015 Reserve Policy Agreement*” means the Reserve Policy Insurance Agreement, by and between the City and the 2015 Reserve Policy Provider with respect to the 2015 Bonds and the 2015 Reserve Policy.

“*2015 Reserve Policy Provider*” means Assured Guaranty Municipal Corp., and its successors and assigns.

“*2015 Reserve Policy*” means the municipal bond debt service reserve insurance policy issued by the 2015 Reserve Policy Provider guaranteeing certain payments from the Reserve Fund with respect to the 2015 Bonds, which shall be deposited to the 2015 Reserve Fund.

“*2015 Bonds*” means those bonds issued under the Ordinance and designated as the “City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2015.

“*Water Income Fund*” means the “City of Boulder Water Income Fund,” created and designated as the “City of Boulder Gross Income Water Fund” in Section 9, Ordinance No. 2000, and directed to be continued and redesignated in the Bond Ordinance.

“*Water System*” means the City’s municipally-owned water system, consisting of all properties, real personal, mixed or otherwise, now owned or hereafter acquired by the City, through purchase, construction, or otherwise, and used in connection with the water system of the City, and in any way appertaining thereto, whether situated within or without the City limits, or both within and without the City limits.

“*Water System Operation and Maintenance Fund*” means the “City of Boulder Water System Operation and Maintenance Fund” created in Ordinance No. 5491 and directed to

be continued in Ordinance No. 7421, Ordinance No. 7440, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875 and the Bond Ordinance.

### **Ordinance to Constitute Contract**

In consideration of the purchase and the acceptance of the 2015 Bonds by those who will hold the same from time to time, the provisions of the Bond Ordinance will be deemed to be and will constitute contracts between the City and the holders from time to time of the 2015 Bonds; and the covenants and agreements in the Bond Ordinance set forth to be performed on behalf of the City will be for the equal benefit, protection and security of the holders of any and all of the Outstanding 2015 Bonds, all of which, regardless of the time or times of their issue or maturity, will be of equal rank without preference, priority or distinction of any of the 2015 Bonds over any other thereof, except as otherwise expressly provided in or pursuant to the Bond Ordinance.

### **Pledge Securing 2015 Bonds**

Subject only to the right of the City to cause amounts to be withdrawn therefrom and paid on account of Operation and Maintenance Expenses of the Facilities, the Net Income and all moneys and securities paid, or to be paid to, or held, or to be held, in any account under Article V of the Bond Ordinance or under the Bond Ordinance are pledged to secure the payment of the principal of and the interest on the 2015 Bonds; and this pledge of the resulting Net Income will be valid and binding from and after the date of the first delivery of any 2015 Bonds, and the moneys, as received by the City and pledged, will immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge and the obligation to perform the contractual provisions made will have priority over any or all other obligations and liabilities of the City, and the lien of this pledge will be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

### **Income Deposits**

So long as any of the 2015 Bonds will be Outstanding, either as to principal or interest, or both, the entire Gross Income of the Facilities will be set aside and credited, as follows:

(a) *Sewer Income Fund.* For the purposes of the Bond Ordinance, a separate account will continue to be set aside, maintained and known as the “City of Boulder Sewer Income Fund” (the “Sewer Income Fund”). So long as any of the 2015 Bonds will be Outstanding, either as to principal or interest, all Gross Income derived from the operation of the Sewer System will continue to be credited to the Sewer Income Fund.

(b) *Water Income Fund.* For the purposes of the Bond Ordinance, a separate account will continue to be set aside, maintained and known as the “City of Boulder Water Income Fund” (the “Water Income Fund”). So long as any of the 2015 Bonds will be Outstanding, either as to principal or interest, all Gross Income derived from the operation of the Water System will continue to be credited to the Water Income Fund.

## Administration of Income Funds

So long as any of the 2015 Bonds authorized by the Bond Ordinance will be Outstanding, either as to principal or interest, or both, as provided in the Bond Ordinance, the following payments will be made from the Sewer Income Fund and the Water Income Fund:

(a) *Sewer O. & M. Expenses.* First, as a first charge thereon, there will be set aside from the Sewer Income Fund in an account heretofore created by Ordinance No. 2577 and reauthorized by Ordinance No. 7421, Ordinance No. 7440, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875 and the Bond Ordinance and known as the “City of Boulder Sewer System Operation and Maintenance Fund” (the “Sewer System Operation and Maintenance Fund”), moneys sufficient to pay Operation and Maintenance Expenses of the Sewer System as they become due and payable, and thereupon they will be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses will be transferred to the Sewer Income Fund and be used for the purposes thereof, as provided in the Bond Ordinance.

(b) *Water O. & M. Expenses.* Concurrently, as a first charge thereon, there will be set aside from the Water Income Fund in an account heretofore created and reauthorized by Ordinance No. 7421, Ordinance No. 7440, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875 and the Bond Ordinance, known as the “City of Boulder Water System Operation and Maintenance Fund” (the “Water System Operation and Maintenance Fund”), moneys sufficient to pay Operation and Maintenance Expenses of the Water System, as they become due and payable, and thereupon they will be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses will be transferred to the Water Income Fund and be used for the purposes thereof, as provided in the Bond Ordinance.

## Bond and Reserve Funds

**2005B Bond Fund Payments.** Second, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, there will be credited to the 2005B Bond Fund the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005B Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2005B Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005B Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2005B Bonds.

The moneys credited to the 2005B Bond Fund will be used to pay the principal of and interest on the 2005B Bonds as the same become due.

**2005B Reserve Fund Payments.** Third, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, except as provided in the Bond Ordinance, and in addition to the moneys required to be deposited in the 2005B Reserve Fund by Ordinance No. 7421, there will be credited to the 2005B Reserve Fund any moneys necessary to make up any deficiency in the 2005B Reserve Fund, to the extent moneys on deposit in the 2005B Reserve Fund are less than the 2005B Minimum Bond Reserve. No payment need be made into the 2005B Reserve Fund so long as the moneys therein are at least equal to the 2005B Minimum Bond Reserve. The moneys in the 2005B Reserve Fund will be maintained as a continuing reserve to be used, except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2005B Bonds resulting from the failure to deposit into the 2005B Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2005B Reserve Fund arises due to a transfer from the 2005B Reserve Fund to the 2005B Bond Fund, then such deficiency will be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2005B Reserve Fund in excess of the 2005B Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2005B Reserve Fund, may be withdrawn therefrom and transferred to the 2005B Bond Fund.

**2005C Bond Fund Payments.** Fourth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, there will be credited to the 2005C Bond Fund the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005C Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2005C Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005C Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2005C Bonds.

The moneys credited to the 2005C Bond Fund will be used to pay the principal of and interest on the 2005C Bonds as the same become due.

**2005C Reserve Fund Payments.** Fifth, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, except as provided in the Bond Ordinance and in addition to the moneys required to be deposited in the 2005C Reserve Fund by Ordinance No. 7440, there will be credited to the 2005C Reserve Fund any moneys necessary to make up any deficiency in the Reserve Fund, to the extent moneys on deposit in or credited to the 2005C Reserve Fund are less than the 2005C Minimum Bond Reserve. No payment need be made into the 2005C Reserve Fund so long as the moneys therein or credited thereto are at least equal to the 2005C Minimum Bond Reserve. The moneys in the 2005C Reserve Fund will be maintained as a continuing reserve to be used (including draws on the 2005C Reserve Policy), except as

provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2005C Bonds resulting from the failure to deposit into the 2005C Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2005C Reserve Fund arises due to a transfer from the 2005C Reserve Fund to the 2005C Bond Fund (or a draw on the 2005C Reserve Policy), then such deficiency will be made up from the Water Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2005C Reserve Fund in excess of the 2005C Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2005C Reserve Fund, may be withdrawn therefrom and transferred to the 2005C Bond Fund.

**2007 Bond Fund Payments.** Sixth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, there will be credited to the 2007 Bond Fund, the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2007 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2007 Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2007 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2007 Bonds.

The moneys credited to the 2007 Bond Fund will be used to pay the principal of and interest on the 2007 Bonds as the same become due.

**2007 Reserve Fund Payments.** Seventh, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, except as provided in the Bond Ordinance, and in addition to the moneys required to be deposited in the 2007 Reserve Fund by Ordinance No. 7524, there will be credited to the 2007 Reserve Fund any moneys necessary to make up any deficiency in the 2007 Reserve Fund, to the extent moneys on deposit in the 2007 Reserve Fund are less than the 2007 Minimum Bond Reserve. No payment need be made into the 2007 Reserve Fund so long as the moneys therein are at least equal to the 2007 Minimum Bond Reserve. The moneys in the 2007 Reserve Fund will be maintained as a continuing reserve to be used, except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2007 Bonds resulting from the failure to deposit into the 2007 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2007 Reserve Fund arises due to a transfer from the 2007 Reserve Fund to the 2007 Bond Fund, then such deficiency will be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2007 Reserve Fund in excess of the 2007 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2007 Reserve Fund, may be withdrawn therefrom and transferred to the 2007 Bond Fund.

**2010 Bond Fund Payments.** Eighth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, there will be credited to the 2010 Bond Fund the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2010 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2010 Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2010 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2010 Bonds.

The moneys credited to the 2010 Bond Fund will be used to pay the principal of and interest on the 2015 Bonds as the same become due.

**2010 Reserve Fund Payments.** Ninth, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, except as provided in Sections in the Bond Ordinance, and in addition to the moneys required to be deposited in the 2010 Reserve Fund by Ordinance No. 7754, there will be credited to the 2010 Reserve Fund any moneys necessary to make up any deficiency in the 2010 Reserve Fund, to the extent moneys on deposit in the 2010 Reserve Fund are less than the 2010 Minimum Bond Reserve. No payment need be made into the 2010 Reserve Fund so long as the moneys therein are at least equal to the 2010 Minimum Bond Reserve. The moneys in the 2010 Reserve Fund will be maintained as a continuing reserve to be used, except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2010 Bonds resulting from the failure to deposit into the 2010 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2010 Reserve Fund arises due to a transfer from the 2010 Reserve Fund to the 2010 Bond Fund, then such deficiency will be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2010 Reserve Fund in excess of the 2010 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2010 Reserve Fund, may be withdrawn therefrom and transferred to the 2010 Bond Fund.

**2011 Bond Fund Payments.** Tenth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, there shall be credited to the 2011 Bond Fund, created in Section 4.01 of the Bond Ordinance, the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2011 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2011 Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2011 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2011 Bonds.

The moneys credited to the 2011 Bond Fund will be used to pay the principal of and interest on the 2015 Bonds as the same become due.

**2011 Reserve Fund Payments.** Eleventh, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Water Income Fund, except as provided in the Bond Ordinance, and in addition to the moneys required to be deposited in the 2011 Reserve Fund by Ordinance No. 7754, there will be credited to the 2011 Reserve Fund any moneys necessary to make up any deficiency in the 2011 Reserve Fund, to the extent moneys on deposit in the 2011 Reserve Fund are less than the 2011 Minimum Bond Reserve. No payment need be made into the 2011 Reserve Fund so long as the moneys therein are at least equal to the 2011 Minimum Bond Reserve. The moneys in the 2011 Reserve Fund will be maintained as a continuing reserve to be used, except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2011 Bonds resulting from the failure to deposit into the 2011 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2011 Reserve Fund arises due to a transfer from the 2011 Reserve Fund to the 2011 Bond Fund, then such deficiency will be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2011 Reserve Fund in excess of the 2011 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2011 Reserve Fund, may be withdrawn therefrom and transferred to the 2011 Bond Fund.

**2012 Bond Fund Payments.** Twelfth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, there shall be credited to the 2012 Bond Fund the following:

(a) *Interest Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2012 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2012 Bonds then Outstanding.

(b) *Principal Payments.* Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2012 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2012 Bonds.

The moneys credited to the 2012 Bond Fund shall be used to pay the principal of and interest on the 2012 Bonds as the same become due.

**2012 Reserve Fund Payments.** Thirteenth, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any

moneys remaining in the Sewer Income Fund, except as provided in the Bond Ordinance, and in addition to the moneys required to be deposited in the 2012 Reserve Fund by Ordinance No. 7875, there shall be credited to the 2012 Reserve Fund any moneys necessary to make up any deficiency in the 2012 Reserve Fund, to the extent moneys on deposit in the 2012 Reserve Fund are less than the 2012 Minimum Bond Reserve or to repay the 2012 Reserve Policy Provider for a drawing on the 2012 Reserve Policy. No payment need be made into the 2012 Reserve Fund so long as the moneys therein are at least equal to the 2012 Minimum Bond Reserve and no draw has been made on the 2012 Reserve Policy deposited in the 2012 Reserve Fund. The moneys in the 2012 Reserve Fund shall be maintained as a continuing reserve to be used (including draws on the 2012 Reserve Policy), except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2012 Bonds resulting from the failure to deposit into the 2012 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the 2012 Reserve Fund arises due to a transfer from the 2012 Reserve Fund to the 2012 Bond Fund (or a draw on the 2012 Reserve Policy), then such deficiency shall be made up from the Water Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2012 Reserve Fund in excess of the 2012 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2012 Reserve Fund, may be withdrawn therefrom and transferred to the 2012 Bond Fund.

***Bond Fund Payments.*** Fourteenth, and concurrently with the payments required for the bond funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, there shall be credited to the Bond Fund, created in Section 4.01 of the Bond Ordinance, the following:

(a) **Interest Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2015 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2015 Bonds then Outstanding.

(b) **Principal Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2015 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2015 Bonds.

The moneys credited to the Bond Fund shall be used to pay the principal of and interest on the 2015 Bonds as the same become due.

***Reserve Fund Payments.*** Fifteenth, and concurrently with the payments required for the reserve funds of the Parity Bonds as set forth in the Bond Ordinance, from any moneys remaining in the Sewer Income Fund, except as provided in the Bond Ordinance, and in addition to the moneys required to be deposited in the Reserve Fund by the Bond Ordinance, there shall be credited to the Reserve Fund any moneys necessary to make up any deficiency in the Reserve Fund, to the extent moneys on deposit in or credited to the Reserve Fund are less than the Minimum Bond Reserve or to repay a drawing on the 2015 Reserve Policy. No payment need be made into the Reserve Fund so long as the moneys therein or credited thereto are at least equal to the Minimum Bond Reserve and no draw has been made on the 2015 Reserve Policy deposited to the Reserve Fund. The moneys in the Reserve Fund shall be maintained as a continuing

reserve to be used (including draws on the 2015 Reserve Policy), except as provided in the Bond Ordinance, only to prevent deficiencies in the payment of the principal of and the interest on the 2015 Bonds resulting from the failure to deposit into the Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided in the Bond Ordinance, if a deficiency in the Reserve Fund arises due to a transfer from the Reserve Fund to the Bond Fund (or a draw on the 2015 Reserve Policy), then such deficiency shall be made up from the Water Income Fund as soon as any moneys become available therein. Any moneys at any time in the Reserve Fund in excess of the Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the Reserve Fund, may be withdrawn therefrom and transferred to the Bond Fund.

### **Rebate Fund**

The City established the “City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2015 Rebate Fund” (the “Rebate Fund”), which will be expended in accordance with the provisions of the Bond Ordinance and the Tax Letter of Instructions, and there is further established within said Rebate Fund the Rebate Principal Account and the Rebate Income Account. The City will make deposits to and disbursements from the Rebate Fund in accordance with the Tax Letter of Instructions, will invest the Rebate Fund pursuant to said Tax Letter of Instructions, and will deposit income from said investments immediately upon receipt thereof in the Rebate Income Account, all as set forth in the Tax Letter of Instructions. The deposits required to be made to the Rebate Fund will be made from any Net Income of the Facilities, including amounts on deposit in any fund or account created by the Bond Ordinance. The City will make the calculations, deposits, disbursements and investments as may be required by the immediately preceding sentence or, to the extent it deems necessary in order to ensure the tax exempt status of interest on the 2015 Bonds, will employ at its expense a person or firm with recognized expertise in the area of rebate calculation, to make such calculations. The Tax Letter of Instructions may be superseded or amended by a new Tax Letter of Instructions drafted by, and accompanied by an opinion of, nationally recognized bond counsel addressed to the City to the effect that the use of said new Tax Letter of Instructions will not cause the interest on the 2015 Bonds to become includible in Gross Income for the purposes of federal income taxation.

The City will annually make the rebate deposit described in the Tax Letter of Instructions. Records of the determinations required by the Bond Ordinance and the Tax Letter of Instructions will be retained by the City until six years after the final retirement of the 2015 Bonds.

Not later than 30 days after the end of the fifth anniversary of the date of issuance of the 2015 Bonds and every five years thereafter, the City will pay to the United States of America 90% of the amount required to be on deposit in the Rebate Principal Account as of such payment date and 100% of the amount on deposit in the Rebate Income Account as of such payment date. Not later than 60 days after the final retirement of the 2015 Bonds, the City will pay to the United States of America 100% of the balance remaining in the Rebate Principal Account and the Rebate Income Account. Each payment required to be paid to the United States of America pursuant to Section 5.16 of the Bond Ordinance will be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment will be accompanied by a copy of the Internal Revenue Form 8038-G originally filed with respect to the 2015 Bonds and a statement summarizing the determination of the amount to be paid to the United States of America.

### **Termination of Deposits**

No payment need be made into the Bond Fund, the Reserve Fund, or both, if the amount in the Bond Fund and the amount in the Reserve Fund total a sum at least equal to the entire amount of the Outstanding 2015 Bonds, both as to principal and interest to their respective maturities, or to any prior redemption date on which the City shall have exercised or shall have obligated itself to redeem prior to their respective maturities the 2015 Bonds then Outstanding and thereafter maturing, and both accrued and not accrued, in which case, moneys in said two accounts in an amount, except for any interest or other gain to accrue from any investment of moneys in Permitted Investments from time to time of any such deposit to the time or respective times the proceeds of any such investment shall be needed for such payment, at least equal to such principal and interest requirements, shall be used together with any such gain from investments solely to pay such as the same become due; and any moneys in excess thereof in said two accounts and any other moneys derived from the operation of the Facilities may be used in any lawful manner determined by the Council.

### **Defraying Delinquencies**

If, in any month, the City shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Sewer Income Fund, then an amount shall be paid into the Bond Fund in such month from the Reserve Fund (or from a draw on the 2015 Reserve Policy), in accordance with the Bond Ordinance, equal to the difference between that paid from the Sewer Income Fund and the full amount so stipulated. The money so used shall be replaced in the Reserve Fund (or used to reimburse a draw on the 2015 Reserve Policy) from the first income thereafter received from the operation of the Facilities not required to be otherwise applied by the Bond Ordinance, but excluding any payments required for any Subordinate Bonds. In the event that other bonds are Outstanding, any lien to secure the payment of which on the Net Income is on a parity with the lien thereon of the 2015 Bonds, and the proceedings authorizing the issuance of those bonds require the replacement of moneys in a reserve fund therefor, then the moneys replaced in the Reserve Fund for the 2015 Bonds (or used to reimburse a draw on the 2015 Reserve Policy) and in each such other reserve fund shall be replaced on a pro rata basis as moneys become available therefor. If, in any month, the City shall for any reason fail to pay into the Reserve Fund (or reimburse a draw on the 2015 Reserve Policy) the full amount above stipulated, if any, from the Net Income, the difference between the amount paid and the amount so stipulated shall in a like manner be paid therein from the first Net Income thereafter received and not required to be applied otherwise by the Bond Ordinance, but excluding any payments required for any Subordinate Bonds. The moneys in the Bond Fund and in the Reserve Fund shall be used solely and only for the purpose of paying the principal of and the interest on the 2015 Bonds; provided, however, that any moneys at any time in excess of the Minimum Bond Reserve in the Reserve Fund may be withdrawn therefrom and used as provided for the payment of the 2015 Bonds as they become due or on any prior redemption date; and provided, further, that any moneys in the Bond Fund and in the Reserve Fund in excess of accrued and unaccrued principal and interest requirements to the respective maturities or designated prior redemption date of the Outstanding 2015 Bonds may be used as provided in Section 5.19 of the Bond Ordinance.

### **Payment of Additional Bonds**

Sixteenth, but either concurrently with, in the case of additional Parity Bonds, or subsequent to, in the case of additional Subordinate Bonds, the payments required by the Bond

Ordinance with respect to Parity Bonds, as provided in the Bond Ordinance, any moneys remaining in the Water Income Fund and in the Sewer Income Fund, after making the payments provided above, may be used by the City for the payment of interest on and the principal of additional bonds hereafter authorized to be issued and payable from the Net Income of the Facilities, including reasonable reserves therefor, as the same accrue; provided, however, that the lien of such additional bonds on the Net Income of the Facilities and the pledge thereof for the payment of such additional bonds will be on a parity with, in the case of additional Parity Bonds, or subordinate to, in the case of additional Subordinate Bonds, the lien and pledge of the bonds, as provided in the Bond Ordinance.

### **Facilities Income Pledge**

If moneys in the Water Income Fund or the Sewer Income Fund are at any time insufficient to pay the amounts required to be paid therefrom, after permitted transfers from the Reserve Fund, then moneys in either such fund will be used to pay all items payable therefrom pursuant to the Bond Ordinance.

### **Use of Remaining Revenues**

After making the payments required above pursuant to the Bond Ordinance, any remaining income derived from the operation of the Water System in the Water Income Fund, and any remaining income derived from the operation of the Sewer System in the Sewer Income Fund, will be used for any one of any combination of purposes, as follows:

(a) *Payment of Obligations.* For the payment of the interest on and principal of general obligation bonds, debt and other obligations, if any, incurred in the acquisition, construction and improvement of the Facilities;

(b) *Purchase of Obligations.* For the purchase in the open market of the 2015 Bonds or any other Outstanding bonds or other obligations incurred for any such purpose or purposes and payable from the Net Income of the Facilities, at the best price obtainable, not, however, in excess of the call price therefor then applicable, or if none be then applicable, not in excess of a reasonable price therefor;

(c) *Prior Redemption.* For the prior redemption of the 2015 Bonds or any other Outstanding bonds or other obligations payable from the Net Income of the Facilities, in accordance with the provisions of the 2015 Bonds or other obligations and any instrument authorizing their issuance, including but not necessarily limited to the Bond Ordinance, but not in excess of a price at which such 2015 Bonds or other obligations can be purchased in the open market;

(d) *Improvement.* For the repair, enlargement, extension, betterment and improvement of the Facilities;

(e) *O. & M. Expenses.* For defraying any Operation and Maintenance Expenses for which provision has not otherwise been made (i) of the sewer system with surplus water Gross Income or (ii) of the water system with surplus sewer Gross Income; and

(f) *Any Other Purpose.* For any lawful purpose or purposes authorized by the Constitution and laws of the State and the resolutions, ordinances and Charter of the City, as the same may be amended from time to time.

## **Project Fund**

*Use of Project Fund.* The moneys in the Project Fund, except as otherwise expressly provided in the Bond Ordinance, shall be used and paid out solely for the purpose of paying costs of the Project including, without limitation, interest during construction of the Project, engineering, inspection, fiscal and legal expenses, costs of financial, professional and other estimates and advice, contingencies, any reimbursements due to the federal government, or any agency, instrumentality or corporation thereof, of any moneys theretofore expended for or in connection with the Project, and all such other incidental expenses as may be necessary or incidental to the financing and construction of the Project, or any part thereof, the issuance of the 2015 Bonds and the placing of the Project in operation.

*Application of Project Fund.* Moneys, except as otherwise expressly provided in the Bond Ordinance, shall be withdrawn from the Project Fund for the purposes designated in the Bond Ordinance upon written direction of the Manager or her designee. Moneys shall be disbursed only upon receipt of bills or invoices indicating that the required sum is then due and owing for materials supplied or work satisfactorily completed in substantial accordance with the plans and specifications for the work involved. Any interest earnings on moneys deposited to the Project Fund shall be retained in the Project Fund until the Project shall have been completed and then shall be transferred as provided "Completion of the Project" below.

*Prevention of Bond Default.* The Chief Financial Officer shall use any 2015 Bond proceeds credited to the Project Fund, without further order or warrant, to pay the interest on and the principal of the 2015 Bonds as the same become due whenever and to the extent moneys in the Bond Fund or otherwise available therefor are insufficient for that purpose, unless such 2015 Bond proceeds shall be needed to defray obligations accrued and to accrue under any contracts then existing and appertaining to the Project. The Chief Financial Officer shall promptly notify the Council of any such use. Any moneys so used shall be restored to the Project Fund, as permitted by the Bond Ordinance, from the Net Income of the Facilities thereafter received and not needed to meet the requirements provided in the Bond Ordinance.

*Completion of Project.* When the Project shall have been completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses, shall have been paid, or for which full provision shall have been made, the Chief Financial Officer shall cause to be transferred to the Reserve Fund, all surplus moneys remaining in the Project Fund, if any, to the extent the amount on deposit in the Reserve Fund is less than the Minimum Bond Reserve, and any remaining surplus moneys shall be transferred to the Bond Fund, except for moneys to be retained to pay any unpaid accrued costs or contingent obligations. The Chief Financial Officer may cause to be transferred from the Project Fund to the Reserve Fund, to the extent of any deficiency, at any time prior to the termination of the Project Fund any moneys which will not be necessary for the Project.

*Original Purchaser Not Responsible.* The validity of the 2015 Bonds shall not be dependent on, nor be affected by, the validity or regularity of any proceedings relating to the acquisition, construction, reconstruction or replacement of the Project, or any part thereof, or to the completion of the Project. The Original Purchaser of the 2015 Bonds, any associate thereof,

and any subsequent holder of any 2015 Bond shall in no manner be responsible for the application or disposal by the City or by any of its officers, agents and employees of the moneys derived from the sale of the 2015 Bonds or any other moneys designated in the Bond Ordinance.

*Lien on Bond Proceeds.* Until the proceeds of the 2015 Bonds are applied as described above and used to defray costs of the Project from time to time, the 2015 Bonds shall be secured by a lien on such proceeds which are pledged for the benefit of the holders of the 2015 Bonds from time to time as provided in the Bond Ordinance.

### **Investment of Moneys**

Any moneys in any account designated in the Bond Ordinance, and not needed for immediate use, may be invested or reinvested by the Chief Financial Officer in securities or obligations which are lawful investments for such funds of the City and which constitute Permitted Investments. The Permitted Investments so purchased as an investment or reinvestment of moneys in any such account shall be deemed at all times to be part of the account, and (unless otherwise expressly provided in the Bond Ordinance) any interest accruing thereon and any other gain realized therefrom shall be credited to the account, and any loss resulting from such investment shall be charged to the account; provided, however, that any yield from investments of moneys in the Reserve Fund in excess of the Minimum Bond Reserve may be credited to the Sewer Income Fund or Water Income Fund on a pro rata basis based on each fund's share of the Reserve Fund. In computing the amount in any such account for any purpose under the Bond Ordinance, except as otherwise expressly provided in the Bond Ordinance, such obligation will be valued at the lower of the cost or market value thereof, exclusive of any accrued interest or any other gain. The expenses of purchase, safekeeping, sale and all other expenses incident to any investment or reinvestment of moneys pursuant to Section 6.03 of the Bond Ordinance will be accounted for as Operation and Maintenance Expenses. The Chief Financial Officer will present for redemption or sale on the prevailing market at the best price obtainable any Permitted Investments so purchased as an investment of moneys in the account whenever it will be necessary so to do to provide moneys to meet any withdrawal, payment or transfer from such account. The Chief Financial Officer will not be liable or responsible for any loss resulting from any such investment made in accordance with the Bond Ordinance.

### **First Lien Bonds**

The 2015 Bonds, subject to the payment of all necessary and reasonable Operation and Maintenance Expenses of the Facilities, constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the resulting Net Income derived from the operation and use of the Facilities on a parity with the lien thereon of the Outstanding Parity Bonds.

### **Equality of 2015 Bonds**

The 2015 Bonds from time to time Outstanding are equitably and ratably secured by a lien on Net Income and shall not be entitled to any priority one over the other in the application of the Net Income regardless of the time or times of the issuance of the 2015 Bonds, it being the intention of the Council that there shall be no priority among the 2015 Bonds regardless of the fact that they may be actually issued and delivered at different times.

## **Additional Bonds**

***Issuance of Parity Bonds.*** The City may issue additional bonds payable from Net Income and constituting a lien thereupon on a parity with, but not prior nor superior to, the lien of the 2015 Bonds, nor to prevent the issuance of bonds refunding all or a part of the 2015 Bonds; provided, however, that before any such additional Parity Bonds are authorized or actually issued (excluding any parity refunding bonds other than any bonds refunding Subordinate Bonds as permitted in the Bond Ordinance):

(a) *Absence of Default.* The City shall not have defaulted in making any payments required by Article V of the Bond Ordinance during the 24 calendar months immediately preceding the issuance of such additional bonds, or if none of the 2015 Bonds have been issued and Outstanding for a period of at least 24 calendar months, for the longest period any of the 2015 Bonds have been issued and Outstanding.

(b) *Facilities Earnings Test.* The annual Gross Income derived from the operation of the Facilities for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay the annual Operation and Maintenance Expenses of the Facilities for said Fiscal Year, and, in addition, sufficient to pay an amount representing 125% of the combined maximum annual principal and interest requirements of the Outstanding Parity Bonds of the City payable from and constituting a lien upon Net Income of the Facilities and the bonds proposed to be issued, except as otherwise expressly provided in the Bond Ordinance.

(c) *Reduction of Annual Requirements.* The respective annual principal and interest requirements (including as a principal requirement the amount of any prior redemption premiums due on any prior redemption date as of which any Outstanding bonds have been called or have been ordered to be called for prior redemption) shall be reduced to the extent such requirements are scheduled to be paid each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Insured Bank located within or without the State and exercising trust powers, including the known minimum yield from any investment in Federal Securities.

(d) *Consideration of Additional Expenses.* In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in Operation and Maintenance Expenses of the Facilities, that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional bonds.

(e) *Reserve Fund.* There shall be established a reserve fund in an amount equal to at least the average annual debt service on such additional Parity Bonds.

(f) *Reserve Policy Costs.* In addition to the requirements set forth in subsection (b) above, the annual Gross Income derived from the operation of the Facilities for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay 100% of the Policy Costs then due and owing on any reserve policy on any Outstanding Parity Bonds.

***Certification of Gross Income.*** A written certification by the Chief Financial Officer or an Independent Accountant that said annual Gross Income, when adjusted as provided

in the Bond Ordinance, is sufficient to pay said amounts, as provided in the Bond Ordinance, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional bonds on a parity with the 2015 Bonds.

***Subordinate Bonds Permitted.*** The Bond Ordinance does not prevent the City from issuing additional bonds payable from Net Income and having a lien thereon subordinate, inferior and junior to the lien of the 2015 Bonds authorized to be issued by the Bond Ordinance.

***Superior Bonds Prohibited.*** The Bond Ordinance does not permit permit the City to issue additional bonds payable from Net Income and having a lien thereon prior and superior to the 2015 Bonds.

***Issuance of Parity Refunding Bonds.*** No refunding bonds payable from Net Income shall be issued on a parity with the 2015 Bonds authorized in the Bond Ordinance unless:

(a) *Parity Lien.* The lien on Net Income of the Outstanding bonds so refunded is on a parity with the lien thereon of the 2015 Bonds; or

(b) *Default and Earnings Tests.* The refunding bonds are issued in compliance with the requirements set forth under “Issuance of Parity Bonds” above.

## **Protective Covenants**

***Adequacy and Applicability of Charges.*** There shall be charged against all purchasers of service and all users of the Facilities, such rates, fees and other charges as shall be adequate to meet the requirements of the Bond Ordinance. Such rates and amounts from the Facilities shall be sufficient to produce Gross Income or earnings annually to pay the annual Operation and Maintenance Expenses, 125% of both the principal of and the interest on the 2015 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor), all of which income, including any income received from the City, shall be subject to distribution to the payment of Operation and Maintenance Expenses of the Facilities and to the payment of principal of and interest on all bonds payable from any Net Income, including reasonable reserves therefor. No free service or facilities shall be furnished by the Facilities, except to the City in its discretion.

***Levy of Charges.*** The City will forthwith and, in any event, prior to the delivery of any of the 2015 Bonds authorized in the Bond Ordinance, fix, establish and levy the fees, rates and other charges which are required by the Bond Ordinance, if such action be necessary therefor. No reduction in any initial or existing rate schedule for the Facilities may be made:

(a) *Proper Application.* Unless the City has fully complied with the provisions of Article V of the Bond Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial rate schedule;

(b) *Sufficient Revenues.* Unless the audit required by the Independent Accountant by Section 8.30 of the Bond Ordinance for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule, after its proposed reduction, for the Facilities will be sufficient to pay an amount at least equal to the Operation and Maintenance Expenses of the Facilities for the said period and,

in addition, 125% of both the principal of and interest on 2015 Bonds and any other securities payable annually from any Net Income from the Facilities including reasonable reserves therefor.

***Efficient Operation and Maintenance.*** The City shall at all times operate the Facilities properly and in a sound and economical manner; and the City shall maintain, preserve and keep the same properly or cause the same to be so maintained, preserved, and kept, with the appurtenances and every part and parcel thereof in good repair, working order, and condition, and shall, from time to time, make or cause to be made all necessary and proper repairs, replacements and renewals so that, at all times, the operation of the Facilities may be properly and advantageously conducted, all as the City shall reasonably determine.

***Rules, Regulations and Other Details.*** The City, acting by and through the Council, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the Facilities. All compensation, salaries, fees and wages paid by it in connection with the maintenance, repair and operation of the Facilities shall be reasonable and no more than would be paid by other corporations, municipalities or public bodies for similar services. The City shall comply with all valid acts, rules, regulation, orders and directions of any legislative, executive, administrative or judicial body applicable to the Facilities or to the City.

***Payment of Governmental Charges.*** The City shall pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon, or in respect of, the facilities, or upon any part thereof, or upon any portion of the Net Income, when the same shall become due, and shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to any part of the Facilities; and the City shall not create or suffer to be created any lien or charge upon the Facilities, or any part thereof, or upon the Net Income, except the pledge and lien created by the Bond Ordinance for the payment of the principal of, any prior redemption premium due in connection with, and the interest on the 2015 Bonds, and except as otherwise permitted in the Bond Ordinance. The City shall pay or cause to be discharged or will make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Facilities, or any part thereof, or the Net Income; provided, however, that the City is not required to pay or to cause to be discharged or to make provision for any such lien or charge, so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

***Prejudicial Action Prohibited.*** No contract will be entered into nor any other action taken by the City which the rights of any holder of any 2015 Bond might be impaired or diminished.

***Protection of Security.*** The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might prejudice the security for the payment of the 2015 Bonds and the interest thereon according to the terms thereof.

***Corporate Existence.*** The City will maintain its corporate identity and existence so long as any of the 2015 Bonds authorized in the Bond Ordinance remain Outstanding, unless another body corporate and politic by operation of law succeeds to the duties, privileges, powers, liabilities, immunities and rights of the City and is obligated by law to operate and maintain the Facilities as provided in the Bond Ordinance without adversely affecting to any substantial degree the privileges and rights of any holder of any Outstanding 2015 Bond at any time.

***Disposal of Facilities Prohibited.*** Except for the use of the Facilities or services thereby rendered in the normal course of business, neither all nor a substantial part of the Facilities shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the 2015 Bonds have been paid in full, both principal and interest, or unless provision has been made therefor, or until the 2015 Bonds have otherwise been redeemed, including but not necessarily limited to the termination of the pledge authorized in the Bond Ordinance; and the City shall not dispose of its title to the Facilities or to any useful part thereof, including any property necessary to the operation and use of the Facilities and the lands and interest in lands comprising the sites of the Facilities, except as provided in the paragraph below.

***Disposal of Unnecessary Property.*** The City may sell, exchange, lease or otherwise dispose of at any time and from time to time any property constituting a part of the Facilities and not useful in the construction, reconstruction, or operation thereof, or which shall cease to be necessary for the efficient operation of the Facilities, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange, lease or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, and appertaining to the Sewer System or the Water System, shall be deposited by the City as Gross Income in the Sewer Income Fund or the Water Income Fund, respectively, to which the transaction appertains.

***Competing Facilities.*** As long as any of the 2015 Bonds hereby authorized are outstanding, the City shall not grant any franchise or license to any competing facilities, nor shall it permit during said period (except as it may legally be required so to do) any Person to sell water, water services, sanitary sewer services or any rights to use water facilities or sanitary sewer facilities to any consumer, public or private, within the City.

***Competent Management.*** The City shall employ experienced and competent management personnel for the Facilities who shall have full control over the Facilities and shall operate the Facilities for the City, subject to the reasonable control by and direction of the Council and the Manager.

***Employment of Management Engineers.*** In the event of default on the part of the City in paying principal of or interest on the 2015 Bonds promptly as each falls due, or in the keeping of any covenants contained in the Bond Ordinance, and if such default shall continue for a period of 60 days, or if the Net Income of the Facilities in any Fiscal Year should fail to equal at least the amount of the principal of and the interest on the Outstanding 2015 Bonds and other bonds (including all reserves therefor specified in the authorizing proceedings, including but not limited to the Bond Ordinance) payable from the Net Income in that Fiscal Year, the City shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the Facilities so long as such default continues or so long as the Net Income is less than the amount designated above. (The right of any holder or holders of the 2015 Bonds to require the appointment of such management engineers shall not be exclusive, and in the event of default as outlined in the Bond Ordinance, such holder or holders shall have the right to proceed in law or in equity to require the performance of the covenants contained in the Bond Ordinance or otherwise to proceed in any action which to them shall seem appropriate).

***Insurance and Reconstruction.*** The City shall, at all times, maintain fire and extended coverage insurance, worker's compensation insurance, public liability insurance, and all such other insurance as is customarily maintained with respect to facilities of like character against loss of, or damage to, the Facilities and against public and other liability to the extent

reasonably necessary to protect the interests of the City and of each holder of a 2015 Bond, except as otherwise provided in the Bond Ordinance. The City shall be deemed to have obtained sufficient insurance coverage under this section if it chooses to self insure the Facilities. If any useful part of the Facilities shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently prosecute the repair or replacement of the damaged or destroyed property so as to restore the same to use unless such property is deemed obsolete or unnecessary by the City. The proceeds of any such property insurance appertaining thereto shall be payable to the City and shall be deposited in the Sewer Income Fund or the Water Income Fund, respectively, as Gross Income, depending upon which fund or funds the insurance proceeds appertain. In the event that the costs of such repair and replacement of the damaged or destroyed property exceed the proceeds of such property insurance available for payment of the same, in the case of property pertaining to the Sewer System moneys in the Sewer Income Fund and in case of property pertaining to the Water System moneys in the Water Income Fund, shall be used to the extent necessary for such purposes, as permitted by the Bond Ordinance.

***Fire and Extended Coverage Insurance.*** Except for the time when the contractors, or any of them, engaged in constructing, furnishing and equipping any of the Facilities shall be responsible pursuant to the provisions of their respective contracts for loss or damage, the City shall procure and maintain, or continue to maintain, fire and extended coverage insurance of the Facilities, all in amounts at least sufficient to provide for not less than full recovery whenever the loss from perils insured against does not exceed 80% of the full insurable value, so long as any of the 2015 Bonds are Outstanding, except as otherwise provided in the Bond Ordinance.

***Other Insurance.*** Upon receipt of any proceeds from the sale of the 2015 Bonds, the City will be obligated, except as otherwise provided in the Bond Ordinance with respect to self insurance, to maintain in connection with the Facilities, other insurance to the extent considered reasonable and necessary as determined by comparison with other comparable facilities.

### ***Tax Covenants***

(a) The City covenants that it shall not use or permit the use of any proceeds of the 2015 Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any of the 2015 Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code, or would otherwise cause the interest on the 2015 Bonds to be includible in Gross Income for federal income tax purposes. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary in order to assure that interest paid by the City on the 2015 Bonds shall, for purposes of federal income taxation, not be includible in Gross Income under the Code or any other valid provision of law.

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

(i) Gross proceeds of the 2015 Bonds shall not be used in a manner which will cause the 2015 Bonds to be considered “private activity bonds” within the meaning of the Code.

(ii) The 2015 Bonds are not and shall not become directly or indirectly “federally guaranteed.”

(iii) The City shall timely file Internal Revenue Form 8038 G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(iv) The City shall comply with the Tax Letter of Instructions delivered to it on the date of issue of the 2015 Bonds with respect to the application and investment of 2015 Bond proceeds, subject to the provisions of the Bond Ordinance regarding the Rebate Fund.

## **Defeasance**

When all principal, interest and any prior redemption premiums due in connection with the 2015 Bonds have been duly paid, the pledge and lien and all obligations under the Bond Ordinance will be discharged and the 2015 Bonds will no longer be deemed to be Outstanding within the meaning of the Bond Ordinance. There will be deemed to be such due payment when the City has placed in escrow or in trust with a commercial bank located within or without the State and exercising trust powers an amount sufficient (including the known minimum yield from Federal Securities in which such amount, wholly or in part, may be initially invested) to meet all requirements of principal, interest and any prior redemption premiums due as the same become due to the final maturities of the 2015 Bonds or upon any prior redemption date as of which the City will have exercised or will have obligated itself to exercise its prior redemption option by a call of the 2015 Bonds for payment then. The Federal Securities will become due prior to the respective times on which the proceeds thereof will be needed in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule.

## **Events of Default**

Each of the following events is declared an “event of default,” that is to say:

(a) *Nonpayment of Principal and Premium.* Payment of the principal of any of the 2015 Bonds or any prior redemption premium due in connection therewith or both shall not be made when the same will become due and payable either at maturity or by proceedings for prior redemption or otherwise.

(b) *Nonpayment of Interest.* Payment of any installment of interest on the 2015 Bonds will not be made when the same becomes due and payable or within 30 days thereafter.

(c) *Incapable to Perform.* The City will for any reason be rendered incapable of fulfilling its obligations under the Bond Ordinance.

(d) *Nonperformance of Duties.* The City will have failed to carry out and to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to Gross Income or to the Facilities or otherwise and such failure will continue for 60 days after receipt of notice from either the Original Purchaser of the 2015 Bonds or from the holders of 10% in principal amount of the 2015 Bonds authorized by the Bond Ordinance and then outstanding.

(e) *Failure to Reconstruct.* The City will discontinue or shall unreasonably delay or will fail to carry out with reasonable dispatch the reconstruction of any part of the Facilities which will be destroyed or damaged and shall not be promptly repaired or replaced unless such failure to repair is due to obsolescence.

(f) *Appointment of Receiver.* An order or decree will be entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Facilities or for the Net Income of the Facilities or both or if an order or decree having been entered without the consent or acquiescence of the City will not be vacated or discharged or stayed on appeal within 60 days after entry.

(g) *Default of Any Provision.* The City will make default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the 2015 Bonds or in the Bond Ordinance on its part to be performed, and such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied will have been given to the City by either the Original Purchaser of the 2015 Bonds or by the holders of 10% in principal amount of the 2015 Bonds then Outstanding.

### **Remedies for Defaults**

Upon the happening and continuance of any of the events of default as provided above, then and in every case the holder or holders of not less than 10% in principal amount of the 2015 Bonds then Outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any holder of the 2015 Bonds under the Bond Ordinance by mandamus or by other suit, action or special proceedings in equity or at appointment of a receiver or for the specific performance of any covenant or agreement contained in the Bond Ordinance or in an award of execution of any power granted in the Bond Ordinance for the enforcement of any proper legal or equitable remedy as such holder or holders may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any holder of any 2015 Bond, or to require the City to act as if it were the trustees of an express trust or any combination of such remedies. All such proceedings at law or in equity will be instituted, had and maintained for the equal benefit of all holders of the 2015 Bonds then Outstanding.

### **Limitation Upon Amendments**

The Bond Ordinance may be amended or supplemented by instruments adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration, but with the written consent of the holders of more than 50% of the 2015 Bonds authorized by the Bond Ordinance and Outstanding at the time of the adoption of such amendatory or supplemental instrument (not including in any case any 2015 Bonds which may then be held or owned for the account of the City but including such refunding any of the 2015 Bonds authorized in the Bond Ordinance if such refunding securities are not owned by the City).

Notwithstanding the foregoing, so long as the 2005B Bonds, the 2005C Bonds, the 2007 Bonds, the 2010 Bonds, the 2011 Bonds, the 2012 Bonds and the 2015 Bonds remain outstanding, the Bond Ordinance may be amended or supplemented by instruments adopted by the Council in accordance with the constitution and laws of the State without receipt by the City

of any additional consideration and without receipt by the City of any additional consideration and without notice to and consent from the holders of any of the 2015 Bonds, for the purposes of (i) curing any ambiguity or defective or inconsistent provision contained in the Bond Ordinance as the City may deem necessary and desirable and not inconsistent with the provisions of the Bond Ordinance and which shall not materially adversely affect the interests of the owners of the 2015 Bonds or any other Parity Bonds, (ii) subjecting additional properties to the lien of the Bond Ordinance or (iii) amend the provisions of the Bond Ordinance relating to the City's continuing disclosure undertaking.

The foregoing paragraphs are subject to the condition, however, that no such instrument shall have the effect of permitting:

(a) *Changing Payment.* A change in the maturity or in the terms of redemption of the principal of any Outstanding 2015 Bond or any installment of interest thereon; or

(b) *Reducing Return.* A reduction in the principal amount of any 2015 Bond, the rate of interest thereon or any prior redemption premium payable in connection, therewith without the consent of the holder of the 2015 Bond; or

(c) *Prior Lien.* The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by the Bond Ordinance; or

(d) *Modifying Any Bond.* A reduction of the principal amount, percentages or otherwise affecting the description of 2015 Bonds the consent of the holders of which is required for any such modification or amendment; or

(e) *Priorities Between Bonds.* The establishment of priorities as between 2015 Bonds issued and Outstanding under the provisions of the Bond Ordinance; or

(f) *Partial Modification.* The modification of or otherwise affecting the rights of the holders of less than all of the 2015 Bonds then Outstanding.

## DEBT SERVICE REQUIREMENTS

Set forth below is a summary of the estimated debt service requirements for the 2015 Bonds, the combined debt service requirements for the Parity Bonds and the combined debt service payable on the 2015 Bonds and Parity Bonds.

### Debt Service Requirements(1)\*

<u>Year</u>	<u>Principal</u>	The 2015 Bonds	<u>Total</u>	Debt Service on	<u>Grand</u>
		<u>Interest</u>		<u>Parity Bonds</u>	<u>Total</u>
2015	\$430,000				
2016	430,000				
2017	435,000				
2018	435,000				
2019	445,000				
2020	450,000				
2021	455,000				
2022	465,000				
2023	475,000				
2024	490,000				
2025	500,000				
2026	515,000				
2027	525,000				
2028	540,000				
2029	560,000				
2030	575,000				
2031	595,000				
2032	610,000				
2033	630,000				
2034	650,000				
Total	\$10,210,000				

(1) Totals may not add due to rounding.

Source: The Financial Advisor.

\* Subject to change.

Set forth below is a pro forma debt service coverage chart showing what the City's coverage of the maximum annual debt service on the 2015 Bonds and the outstanding Parity Bonds (\$10,012,835)\* would have been in the years 2010 through 2014, inclusive, from the Net Income. The pro forma debt service coverage is not necessarily indicative of future coverage ratios.

<u>Debt Service Coverage*</u>					
(in thousands)					
	2010	2011	2012	2013	2014
Gross Income	\$38,626	\$41,412	\$41,390	\$42,526	\$46,519
Operation and Maintenance Expenses	20,199	23,026	23,503	24,347	27,657
Net Income	18,427	18,386	17,887	18,179	18,862
Projected Maximum Annual Debt Service on the 2015 Bonds and the Outstanding Parity Bonds	10,013	10,013	10,013	10,013	10,013
Debt Service Coverage	1.84x	1.84x	1.79x	1.82x	1.88x

<sup>1</sup>Gross income does not include non-cash developer contributed revenue or capital assets contributed revenue, both which are included in the CAFR.

Source: Derived from City's Comprehensive Annual Financial Reports and the City

\* Subject to change. Based in part on estimated debt service on the 2015 Bonds provided by the Financial Advisor.

## THE CITY

### Description

The City of Boulder, Colorado (the “City”) is a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State of Colorado (the “State”) and the home rule charter of the City. The City, with an estimated 2013 population of approximately 104,000 is located in north central Colorado, approximately 25 miles northwest of Denver, Colorado. The City encompasses 25 square miles, and is the county seat of Boulder County.

### Governing Body

The City operates under a council-manager form of government whereby all powers of the City are vested in an elected City Council. On November 2, 1999 voters approved an amendment to the City’s Charter removing term limits for City Council members. The present members of the Council, their principal occupations, lengths of service to the Council, and terms of office are as follows:

Name, Office	Principal Occupation	Years of Service	Term Expires
Matthew Appelbaum, Mayor	Software Consultant	15	2017
Suzanne Jones, Mayor Pro Tem	Nonprofit Executive Director	3	2015
Lisa Morzel	Geologist	15	2015
Macon Cowles	Attorney	9	2015
George Karakehian	Business Owner	5	2015
Tim Plass	Attorney	3	2015
Andrew Shoemaker	Attorney	1	2017
Sam Weaver	CEO	1	2017
Mary Young	Consultant	1	2017

### Administrative Personnel

The City Council consists of nine members elected for staggered four and two year terms. The presiding member of the City Council, as selected by the members thereof, is designated as Mayor.

Various individuals are responsible for implementation of the City Council’s actions with respect the day-to-day operation and maintenance of the City. The following paragraphs summarize the background and experience of selected City administrative personnel.

The City Manager manages the day to day business of the City government; sets strategic direction to achieve the City’s community sustainability goals; implements council determined policies; coordinates community issues between departments; and supervises the work of the departments.

**Jane S. Brautigam, City Manager.** Jane S. Brautigam was appointed City Manager in October of 2008 and is the City's first woman manager in its 90 year history. Before joining the City, Brautigam was city manager for Dublin, Ohio. Previously she worked as the city manager and city attorney for Loveland, Colorado and as assistant county attorney for Boulder County from 1983 to 1985. Ms. Brautigam began practicing law in 1976, where she focused on civil and municipal law, also serving as the city attorney for Greenwood Village, Colorado and assistant town attorney for the towns of Edgartown and Oak Bluffs, Massachusetts. Brautigam earned a Bachelor of Arts in history from Allegheny College and a law degree from the University of Pennsylvania Law School. She currently serves as a member of the Executive Board of the International City Manager's Association, one of three regional vice presidents representing the Mountain Plains region of the United States, and is a member of the board of directors of the Foothills United Way.

**Robert W. Eichen, Chief Financial Officer.** Mr. Eichen has been the Chief Financial Officer of the City since May 2005. He has 35 years of experience as a finance officer in Colorado local government. He has extensive experience in debt and investment portfolio management. He holds a bachelor's degree in business administration from Colorado State University. At the national level, he is the past president of the Government Finance Officers Association (GFOA) of the United States and Canada, and has served on the board of this organization for five years. He has served twice as the President of the Colorado Government Finance Officers Association and served as the Education Chairman of the organization for 11 years. He is a member of the American Institute of Certified Public Accountants and Colorado Society of Certified Public Accountants. Mr. Eichen is frequently asked to be a panel member, speaker or instructor at national and state conferences on a variety of local government finance topics.

## **Growth Policy**

The City and County have a jointly adopted comprehensive plan that directs new urban development to the City's service area, preserves lands outside the urban growth boundary, promotes a compact community, provides for affordable housing, and promotes alternative transportation modes.

In January 2014, the City and its service area (Areas I and II) had a population of approximately 113,690 and employment of 100,500. Approximately 30,000 students attend the University of Colorado. Over the next 20 years, the City is projected to add another 8,000 housing units, 16,000 people and 20,000 jobs. Since there is little vacant land left in the City's service area, most of this growth will occur through redevelopment.

## **Public Utilities**

Gas and electricity for the City are provided by Public Service Company of Colorado. Rates for gas, electricity and telephone service are regulated by the Public Utilities Commission. The City is in the process of creating a municipal energy utility. See "LEGAL MATTERS – Litigation."

## Retirement and Pension Matters

City employees are covered under several retirement plans and other, non-City funded postemployment benefits are available to employees. The matters are discussed in significant detail in Notes U, V and W to the City's audited financial statements appended hereto.

## Labor Relations

Non-management, non exempt employees of most City departments are presently represented by the Boulder Municipal Employees Association (the "BMEA") through the last pay period of 2016. There are 425 standard employees represented by the BMEA. In addition, the City also has economic contracts with the police association (169 employees), renewed through the last pay period of 2015 and the firefighters' association (97 employees) renewed through the last pay period of 2016. In the opinion of the City's Human Resources Director, Joyce Lira, the City's relationship with its employees is presently satisfactory.

## CITY FINANCIAL INFORMATION

### Debt Limitation

**Debt Limitation.** The Charter limits City indebtedness to no more than three percent of the total assessed valuation of real property within the City. The 2014 assessed valuation is \$2,599,361,894; therefore, the maximum general obligation debt permitted by the Charter is \$77,980,856. This limit does not include revenue bonds, even if there is a contingent pledge of the full faith and credit of the City. The City presently has no indebtedness outstanding which applies toward the debt limit.

**Revenue Obligations with General Obligation Pledge.** Set forth below are certain obligations of the City outstanding secured with a pledge of revenues other than the Net Income and are additionally secured by a pledge of the City's full faith and credit. *The Bonds are not secured by a pledge of the City's full faith and credit and are secured solely by a pledge of the Net Income.*

#### Outstanding Revenue Bonds Secured by a General Obligation Pledge

<u>Obligation</u>	<u>Outstanding Principal Amount</u>
Open Space Acquisition Bonds, Series 2006	\$8,975,000
Open Space Acquisition Refunding Bonds, Series 2007	6,435,000
Parks Acquisition Bonds, Series 2009	2,130,000
Waste Reduction Bonds, Series 2009	4,750,000
Open Space Acquisition Bonds, Series 2014	10,000,000
	<u>\$22,290,000</u>

**Other Revenue Obligations.** The City has the authority to issue revenue obligations payable from the net revenues derived from the operation of municipality-owned utilities or other income producing projects or from the revenue received from certain taxes other

than ad valorem property taxes. Such obligations do not constitute an indebtedness of the City; however, except for refinancing bonded debt at a lower interest rate, TABOR (as defined hereafter) requires that all multiple fiscal year obligations of the City have voter approval, unless the City qualifies the issuing utility as an enterprise, which would exempt the issuance of such debt from the provisions of TABOR. The following table sets forth the City's revenue obligations not secured by the Net Income (other than conduit issuances) which are outstanding as of the date of this Official Statement.

Other Outstanding Revenue Obligations

<u>Obligation</u>	<u>Outstanding Principal Amount</u>
Storm Water and Flood Management Revenue Refunding Bonds, Series 2010	\$ 1,430,000
Storm Water and Flood Management Revenue Bonds, Series 2015	<u>22,845,000</u>
TOTAL	<u>\$24,275,000</u>

**General Fund Bonds.** In 2010 the City issued its Taxable Pension Obligation Bonds, Series 2010, which are presently outstanding in the aggregate principal amount of \$7,720,000 and in 2012, the City issued its General Fund Bonds, Series 2012, which are presently outstanding in the aggregate principal amount of \$42,485,000. These bonds are not general obligations of the City but are secured by all legally available funds and revenues of the City's General Fund.

**Central Area General Improvement District.** In 1970, the City created the Central Area General Improvement District ("CAGID"), which consists of a portion of the City including its core downtown area. CAGID obligations are not obligations of the City as a whole, but are limited to the CAGID area. CAGID presently has outstanding \$5,450,000 aggregate principal amount of General Obligation Refunding Bonds, Series 2009 and \$6,545,000 aggregate principal amount of General Obligation Refunding Bonds, Series 2012. These bonds are secured by certain revenues pledged by CAGID as well as a pledge of the full faith and credit of CAGID, but not the City as a whole.

**Other Financial Obligations.** The City has the power to create special improvement districts and to issue special assessment bonds payable from assessments against benefited properties within the district. The City does not have any outstanding special improvement districts.

**Leases and Long Term Contracts.** The Council has the authority to enter into installment or lease option contracts, subject to annual appropriation, for the purchase of property or capital equipment without prior electoral approval as described in "LEGAL MATTERS--Certain Constitutional Limitations." The term of any such contract may not extend over a period greater than the estimated useful life of the property or equipment. As of December 31, 2014, the City had outstanding approximately \$7,178,000 of lease purchase revenue notes, subject to annual appropriation which are payable from revenues guaranteed by the City's sales and use tax.

## Mill Levy Limitations and Tax Rates

The Charter restricts the property tax levy to 13.0 mills on a dollar of assessed valuation. This limitation does not include special assessments for local improvements, payment of interest or principal on bonded indebtedness or the charter mill levy for health and hospital purposes. Article X, Section 20 of the Colorado Constitution, however, imposes limitations which are substantially more restrictive than those of the Charter. See “LEGAL MATTERS--Certain Constitutional Limitations.”

Earmarked funds from the property tax include 0.900 mills for the Permanent Park and Recreation Fund, 0.333 mills for the Library Fund, and 0.400 mills for human-services purposes. The 0.400 mills for human-services purposes is included in the City’s General Fund.

For levy/collection years 2004/2005 through 2008/2009, the City approved and certified a temporary mill levy rate reduction concurrently with its certification of its mill levy to the board of county commissioners. These credits were set off against the City’s “gross” mill levy to arrive at a “net” mill levy. Upon receipt of any tax warrant reflecting a temporary mill levy reduction for any local government, the county treasurer is only responsible for collecting taxes on behalf of such local government based upon that local government’s “net” mill levy. As such, the City’s “net” mill levies for levy/collection years 2004/2005 through 2008/2009 are used in Tables IX through XI below. See also “LEGAL MATTERS--Certain Constitutional Limitations.”

In the November 4, 2008 election, city voters approved the removal of the remaining TABOR restriction on property tax with a phase-in period and without any specific earmark for the use of the funds. Approval of this ballot issue had the effect of reducing the mill levy credit by up to .50 mill each year until the credit was completely eliminated. In 2012, the remaining mill levy credit completely was eliminated. The 2014 mill levy rate of 11.981 remained the same as in 2013.

## Summary of City Funds

The following tables provide historic information regarding the City’s General Fund, Water Utility Fund, and Wastewater Utility Fund. *The Bonds are secured solely by the Net Income and the inclusion of information regarding the City’s General Fund is for informational purposes only. The Bonds are not secured by a pledge of any assets or revenue allocable to the General Fund.*

Historical Revenues, Expenditures and Changes in Fund Balance - General Fund (in thousands)

Revenues:	2009	2010	2011	2012	2013	2014)
Taxes:						
Sales and use taxes	\$38,591	\$39,657	\$41,762	\$46,314	\$51,375	\$55,457
General property taxes	19,702	21,746	25,436	27,234	27,194	28,041
Accommodation taxes	3,049	3,199	4,668	4,890	5,192	6,443
Franchise taxes	7,909	9,023	8,457	10,460	10,938	10,410
Specific Ownership & Tobacco taxes	1,586	1,586	1,578	1,788	1,839	1,954
Excise taxes	491	182	585	361	329	790
Charges for Services	3,498	3,601	3,871	4,264	5,032	4,374
Sale of goods	49	61	179	423	197	350
Licenses, permits and fines	5,566	6,954	6,170	6,339	6,334	6,151
Intergovernmental	1,746	2,266	1,432	3,132	1,710	3,732
Leases, rents and royalties	202	216	214	221	219	214
Interest and investment earnings	468	482	653	257	128	251
Other	1,189	477	1,088	875	745	688
Total revenues	84,046	89,450	96,093	106,558	111,232	118,855
Expenditures:						
Current:						
General Government	10,324	12,121	15,809	13,390	18,575	14,831
Administrative Services	8,735	8,583	8,504	9,149	10,024	6,773
Public Safety	43,194	53,891	45,042	47,744	48,122	50,196
Public Works	4,366	4,502	4,962	5,196	5,529	6,052
Planning & Development Services	48	43	43	43	43	58
Culture and Recreation	4,080	4,196	11,444	12,474	12,585	13,768
Open Space and Mountain Parks	183	193	247	186	193	90
Housing and Human Services	5,338	5,827	6,263	9,614	10,278	7,466
Capital outlay	5,441	--	--	1,467	--	--
Debt service payments:						
Principal	5,906	1,250	1,850	2,420	3,115	2,920
Interest	226	333	650	1,546	2,341	2,261
Base rentals to Boulder Municipal Property Authority	598	594	598	601	--	--
Cost of issuance - bonds	--	--	104	--	--	--
Total expenditures	88,439	91,561	95,516	103,830	110,805	104,415
Excess (deficiency) of revenues over (under) expenditures	(4,393)	(2,111)	577	2,728	427	14,440
Other financing sources (uses):						
Sale of capital assets	6	9	12	--	--	1
Note payable issued	5,441	--	--	--	--	--
Bonds issued	6,000	9,203	--	--	--	--
Premium on bonds issued	72	--	--	--	--	--
Extraordinary item	--	--	(1,250)	--	1,888	956
Transfers in	8,274	9,099	15,498	11,026	10,283	1,444
Transfers out	(13,519)	(13,251)	(13,681)	(7,184)	(8,411)	(8,211)
Total other financing sources (uses)	6,274	5,060	579	3,842	3,760	(5,810)
Net change in fund balance	1,881	2,949	1,156	6,570	4,187	8,630
Fund balance, beginning of year	21,452	23,333	30,529 (1)	31,685	38,255	42,442
Fund balance, end of year	\$23,333	\$26,282	\$31,685	\$38,255	\$42,442	\$51,072

(1) The City's beginning fund balance for the year ended December 31, 2011, was amended to reflect a change in accounting practice pursuant to GASB 54.

Source: The City's audited financial statements for the years ended December 31, 2009-2014.

Historical Revenues, Expenditures and Changes in Fund Balance –  
Water Utility Fund (in thousands)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Operating revenues:					
Charges for services	\$21,594	\$22,916	\$24,558	\$23,239	\$22,917
Total operating revenues	21,594	22,916	24,558	23,239	22,917
Operating expenses					
Personnel	6,082	5,920	6,419	6,387	6,677
Non-personnel	4,982	5,967	6,027	6,811	7,332
Depreciation and amortization	5,025	5,186	5,385	5,583	5,684
Total operating expenses	16,089	17,073	17,831	18,781	19,693
Operating income (loss)	5,505	5,843	6,727	4,458	3,224
Nonoperating revenues (expenses)					
Interest and investment earnings	564	548	196	144	176
Leases, rents and royalties	39	34	32	30	32
Intergovernmental revenue	--	60	283	--	--
Interest expense	(2,004)	(1,561)	(1,394)	(1,268)	(1,080)
Contribution expense - future water rights	(1,870)	(1,818)	(1,777)	(1,831)	(1,474)
Gain (loss) on sale of capital assets	(34)	(17)	201	(44)	(555)
Other, net	11	7	34	50	7
Total nonoperating revenues (expenses)	(3,294)	(2,747)	(2,425)	(2,919)	(2,894)
Income (loss) before capital contributions and transfers	2,211	3,096	4,302	1,539	330
Capital contributions	2,570	5,049	3,102	4,411	8,697
Transfers in	167	532	529	424	181
Transfers out	(1,323)	(1,348)	(1,399)	(1,447)	(266)
Change in net position	3,625	7,329	6,534	4,927	8,942
Total net position, beginning of year	184,880	188,505	195,834	202,164 (1)	207,091
Total net position, end of year	\$188,505	\$195,834	\$202,368	\$207,091	\$216,033

(1) The City's beginning fund balance for the year ended December 31, 2013, was amended to reflect a change in accounting practice pursuant to GASB 65.

Source: The City's audited financial statements for the years ended December 31, 2009-14.

Historical Revenues, Expenditures and Changes in Fund Balance –  
Wastewater Utility Fund (in thousands)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Operating revenues:					
Charges for services	\$12,655	\$12,932	\$12,982	\$14,235	\$13,982
Total operating revenues	<u>12,655</u>	<u>12,932</u>	<u>12,982</u>	<u>14,235</u>	<u>13,982</u>
Operating expenses					
Personnel	4,090	4,307	4,581	4,513	4,508
Non-personnel	3,233	4,054	3,754	3,852	5,202
Depreciation and amortization	3,140	3,201	3,257	3,432	3,609
Total operating expenses	<u>10,463</u>	<u>11,562</u>	<u>11,592</u>	<u>11,797</u>	<u>13,319</u>
Operating income (loss)	<u>2,192</u>	<u>1,370</u>	<u>1,390</u>	<u>2,438</u>	<u>663</u>
Nonoperating revenues (expenses)					
Interest and investment earnings	410	309	35	43	56
Leases, rents and royalties	34	28	31	32	--
Intergovernmental revenue	37	--	--	--	--
Interest expense	(1,681)	(1,799)	(1,539)	(1,135)	(1,218)
Gain (loss) on sale of capital assets	(87)	(18)	79	(14)	(286)
Other, net	26		21	29	5
Total nonoperating revenues (expenses)	<u>(1,261)</u>	<u>(1,480)</u>	<u>(1,373)</u>	<u>(1,045)</u>	<u>(1,443)</u>
Income (loss) before capital contributions and transfers	<u>931</u>	<u>(110)</u>	<u>17</u>	<u>1,393</u>	<u>(780)</u>
Capital contributions	1,113	1,812	925	1,297	3,255
Extraordinary item	(1,024)	24	--	--	--
Transfers in	59	554	795	493	--
Transfers out	(992)	(1,023)	(1,443)	(1,084)	(231)
Change in net position	<u>87</u>	<u>1,257</u>	<u>294</u>	<u>2,099</u>	<u>2,244</u>
Total net position, beginning of year	<u>62,351</u>	<u>62,438</u>	<u>63,695</u>	<u>63,545 (1)</u>	<u>65,644</u>
Total net position, end of year	<u>\$62,438</u>	<u>\$63,695</u>	<u>\$63,989</u>	<u>\$65,644</u>	<u>\$67,888</u>

(1) The City's beginning fund balance for the year ended December 31, 2013, was amended to reflect a change in accounting practice pursuant to GASB 65.

Source: The City's audited financial statements for the years ended December 31, 2009-14.

## ECONOMIC AND DEMOGRAPHIC INFORMATION

This portion of the Official Statement contains general information concerning historic economic and demographic conditions in and surrounding the City. It is intended only to provide prospective investors with general information regarding the City's community. The information was obtained from the sources indicated and is limited to the time periods indicated. The information is historic in nature; it is not possible to predict whether the trends shown will continue in the future. The City makes no representation as to the accuracy or completeness of data obtained from parties other than the City.

### Population

The following table sets forth the respective populations of the City, Boulder County, and the State of Colorado for the time periods shown. Between 2000 and 2010, the population of the City increased 2.9% and that of Boulder County increased 9.2%. The State's population increased 16.9% during the same time period.

<u>Population</u>						
Year	City of Boulder	Percent Change	Boulder County	Percent Change	Colorado	Percent Change
1970	66,870	--	131,889	--	2,207,259	--
1980	76,685	14.7%	189,625	43.8%	2,889,735	30.9%
1990	83,312	8.6	225,339	18.8	3,294,394	14.0
2000 <sup>(1)</sup>	94,673	13.6	269,814	19.7	4,301,261	30.6
2010	97,385	2.9	294,567	9.2	5,029,196	16.9
2011	100,181	--	300,210	--	5,117,368	--
2012	101,363	1.2%	305,068	1.6%	5,188,504	1.4%
2013	102,760	1.4	309,874	1.6	5,264,890	1.5

(1) The 2000 figure for Boulder County was adjusted by the Colorado State Demography Office to reflect the 2001 creation of the City and County of Broomfield.

Sources: United States Department of Commerce, Bureau of the Census (1970-2010) and Colorado State Demography Office (2011-2013 estimates, which are subject to periodic revisions).

### Income

The following table sets forth annual per capita personal income levels for Boulder County, the State and the United States. Per capita levels in Boulder County have consistently exceeded State and national levels during the period shown.

### Annual Per Capita Personal Income

<u>Year<sup>(1)</sup></u>	<u>Boulder County</u>	<u>Colorado</u>	<u>United States</u>
2009	\$48,159	\$41,518	\$39,379
2010	48,983	41,689	40,144
2011	51,668	44,183	42,332
2012	54,502	46,315	44,200
2013	54,968	46,897	44,765

(1) Figures for Boulder County posted November 20, 2014. State and national figures posted September 30, 2014. All figures are subject to periodic revisions.

Source: United States Department of Commerce, Bureau of Economic Analysis.

### **Employment**

The following table presents information on employment within Boulder County, the State and the United States for the period indicated.

<u>Year</u>	<u>Labor Force and Percent Unemployed</u>				<u>United States</u>
	<u>Boulder County<sup>(1)</sup></u>		<u>Colorado<sup>(1)</sup></u>		<u>Percent</u>
	<u>Labor Force</u>	<u>Percent Unemployed</u>	<u>Labor Force</u>	<u>Percent Unemployed</u>	<u>Unemployed</u>
2009	176,023	6.8%	2,734,568	8.1%	9.3%
2010	175,253	6.9	2,722,913	9.0	9.6
2011	176,755	6.3	2,725,757	8.5	8.9
2012	179,702	5.9	2,746,210	7.8	8.1
2013	180,682	5.2	2,754,870	6.8	7.4
<u>Month of January</u>					
2014 <sup>(2)</sup>	181,263	5.1%	2,745,967	6.6%	6.6%
2015	176,355	3.7	2,809,425	4.7	5.7

(1) Figures for Boulder County and the State are not seasonally adjusted.

(2) 2014 figures for Boulder County and the State are preliminary.

Sources: State of Colorado, Department of Labor and Employment, Labor Market Information, Labor Force Data and United States Department of Labor, Bureau of Labor Statistics.

The following table sets forth the number of individuals employed within selected Boulder County industries which are covered by unemployment insurance. In 2013, the largest employment sector in Boulder County was professional and technical services (comprising approximately 14.8% of the county's work force), followed, in order, by educational services, health care and social assistance, manufacturing, and retail trade. For the twelve-month period ended December 31, 2013, total average employment in Boulder County increased 2.4% as compared to the same period ending December 31, 2012, and the average weekly wage increased by approximately 1.9% during the same period.

Average Number of Employees within Selected Industries - Boulder County

<u>Industry</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014<sup>(1)</sup></u>
Accommodation & Food Services	14,080	14,259	14,977	15,525	15,856	16,275
Administrative & Waste Services	5,655	5,832	6,492	6,617	6,832	6,986
Agriculture, Forestry and Fisheries	355	382	389	385	394	410
Arts, Entertainment & Recreation	2,673	2,749	2,788	2,813	2,861	2,983
Construction	4,565	4,086	3,831	3,993	4,259	4,641
Educational Services	18,789	18,986	19,150	19,537	19,955	20,352
Finance & Insurance	5,004	4,869	4,756	4,742	4,906	4,852
Government	7,537	7,590	7,565	7,609	7,667	7,876
Health Care & Social Assistance	17,585	17,605	18,314	18,853	19,558	19,858
Information	8,784	8,696	8,662	8,733	8,348	8,269
Management of Companies/Enterprises	994	923	939	1,029	1,068	1,078
Manufacturing	15,335	15,202	15,920	16,543	17,148	17,375
Mining	485	545	251	251	212	276
Non-classifiable	11	9	8	20	23	42
Other Services	4,337	4,429	4,430	4,566	4,773	4,832
Professional & Technical Services	21,827	21,504	22,628	23,721	24,422	25,420
Real Estate, Rental & Leasing	2,203	2,114	2,141	2,226	2,284	2,352
Retail Trade	15,521	15,181	15,582	16,009	16,177	16,326
Transportation & Warehousing	1,939	1,940	1,918	1,967	2,037	2,028
Utilities	312	332	306	292	284	290
Wholesale Trade	4,920	4,884	5,088	5,266	5,522	5,543
Total <sup>(2)</sup>	<u>152,909</u>	<u>152,116</u>	<u>156,134</u>	<u>160,697</u>	<u>164,583</u>	<u>168,065</u>

(1) Averaged figures through the third quarter of 2014.

(2) Figures may not equal totals when added, due to the rounding of averages or the inclusion in the total figure of employees that were not disclosed in individual classifications.

Source: State of Colorado, Department of Labor and Employment, Labor Market Information, Quarterly Census of Employment and Wages (QCEW).

## Major Employers

The following table sets forth a selection of the largest public and private employers in the Boulder County area, which includes Boulder County, the City and County of Broomfield, and southwest Weld County. No independent investigation of the stability or financial condition of the employers listed hereafter has been conducted; therefore, no representation can be made that these employers will continue to maintain their status as major employers in the area.

### Major Employers in the Boulder County Area

Name of Employer	Product or Service	Estimated Number of Employees <sup>(1)</sup>
University of Colorado at Boulder	Higher Education	7,964 <sup>(2)</sup>
Boulder Valley School District	K-12 Education	4,133 <sup>(3)</sup>
IBM	Computer Systems and Services	2,800
St. Vrain Valley School District	K-12 Education	2,535 <sup>(4)</sup>
Level 3 Communications Inc.	Communication and Internet Systems	2,500
Boulder Community Health	Healthcare	2,260 <sup>(5)</sup>
Ball Corp. <sup>(6)</sup>	Aerospace, Containers	2,014
Oracle Corp.	Software and Network Computer Systems	2,000
Covidien PLC <sup>(7)</sup>	Medical Devices and Products	1,780
Boulder County	Government	1,752 <sup>(8)</sup>
Walmart	General Merchandise Retail	1,450
Seagate Technology	Computer Hard Drives	1,387
City of Boulder	Government	1,261 <sup>(8)</sup>
Urban Lending Solutions	Mortgage Services	930
DigitalGlobe	Satellite Imagery Provider	927
Hunter Douglas Window Fashions Division	Window Coverings Manufacturing	912

- (1) Figures for private sector employers show full-time employees in the Boulder County area as posted on November 1, 2014.
- (2) Figure as of November 1, 2014. Figure does not include student employees.
- (3) Figure includes full-time and part-time employees as of January 1, 2014.
- (4) Full-time equivalent employees for fiscal year 2014.
- (5) Figure as of May 2014.
- (6) Ball Corp. includes Ball Aerospace & Technologies Corp.
- (7) Covidien PLC includes Surgical Solutions and Respiratory and Monitoring Solutions.
- (8) Full-time equivalent employees for fiscal year 2013.

Sources: *Daily Camera*, "Boulder County Area's Largest Employers in the Private Sector," posted November 1, 2014; Development Research Partners as posted by Metro Denver Economic Development Corporation; and individual public sector employers.

## Retail Sales

The following table sets forth annual retail sales figures for the City, Boulder County, and the State.

Retail Sales  
(in thousands)

Year	City of Boulder	Percent Change	Boulder County	Percent Change	Colorado	Percent Change
2009	\$3,515,720	--	\$7,975,222	--	\$134,058,593	--
2010	3,873,581	10.2%	8,474,164	6.3 %	143,670,319	7.2 %
2011	4,204,617	8.5	9,139,050	7.8	154,697,943	7.7
2012	4,459,244	6.1	9,632,691	5.4	164,387,648	6.3
2013	4,434,036	(0.6)	9,841,181	2.2	171,362,038	4.2
2014 <sup>(1)</sup>	988,768	--	2,214,986	--	40,684,517	--

(1) Figures are for January 1 through March 31, 2014.

Source: State of Colorado, Department of Revenue, "Sales Tax Statistics", 2009-2014.

### Building Activity

The following tables provide a history of building permits issued for new residential and commercial construction in the City and the unincorporated portions of Boulder County during the time period shown.

Building Permit Issuances for New Structures in the City of Boulder

Year	Single Family		Multi-Family <sup>(1)</sup>		Commercial/Industrial <sup>(2)</sup>	
	Buildings	Value	Buildings	Value	Buildings	Value
2010	60	\$14,498,758	34	\$62,798,265	9	\$6,254,296
2011	35	13,877,942	27	64,270,630	4	51,299,408
2012	50	23,978,967	11	50,498,662	9	63,573,730
2013	57	21,292,625	54	161,977,375	13	87,176,920
2014	83	47,911,360	42	103,430,970	20	115,793,193
2015 <sup>(3)</sup>	9	3,692,945	3	2,596,483	5	17,427,444

(1) Includes permits for condos, townhomes, and multi-family dwellings.

(2) Includes permits for hotels and motels; amusement, social and recreational; industrial; offices, banks and professional; and stores.

(3) Figures are for permits issued from January 1 through February 28, 2015.

Source: City of Boulder, Planning and Development Services.

Building Permit Issuances in Unincorporated Boulder County

<u>Year</u>	<u>New Residential</u>		<u>New Commercial/Industrial<sup>(1)</sup></u>	
	<u>Permits</u>	<u>Valuation</u>	<u>Permits</u>	<u>Valuation</u>
2010	44	\$24,294,536	-0-	-0-
2011 <sup>(2)</sup>	101	38,742,276	1	\$49,000
2012	58	22,436,299	1	692,000
2013	59	26,599,986	2	681,500
2014	43	27,150,645	4	2,829,000
2015 <sup>(3)</sup>	2	1,539,610	-0-	-0-

(1) Includes new industrial buildings and manufacturing plants; offices, banks, and professional buildings; and stores, customer service buildings, and restaurants.

(2) The unusually high number of new residential permits is partially due to permits issued to replace residences destroyed by wildfire.

(3) Figures are for permits issued from January 1 through February 28, 2015.

Source: Boulder County Land Use Department, Building Safety and Inspection Division.

**Foreclosure Activity**

The following table sets forth the number of foreclosures filed in Boulder County during the time period shown. Such information only represents the number of foreclosures filed and does not take into account foreclosures which were filed and subsequently redeemed or withdrawn.

History of Foreclosures

<u>Year</u>	<u>Boulder County</u>	<u>Percent Change</u>
2010	1,352	--
2011	965	(28.6)%
2012	789	(18.2)
2013	389	(50.7)
2014	256	(34.2)
2015 <sup>(1)</sup>	31	--

(1) Figures are for January 1 through February 28, 2015.

Sources: Colorado Division of Housing (2010 to 2013 figures) and Boulder County Public Trustee's Office (2014 and 2015 figures).

## TAX MATTERS

### Generally

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the 2015 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinions described in the preceding sentence assume the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended, that must be met subsequent to the issuance of the 2015 Bonds. Failure to comply with such requirements could cause interest on the 2015 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the 2015 Bonds. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the 2015 Bonds.

Bond Counsel is also of the opinion that, to the extent excludable from gross income for federal income tax purposes, interest on the 2015 Bonds is not subject to State of Colorado income taxation or in the calculation of alternative minimum taxable income for purposes of the Colorado alternative minimum tax.

Notwithstanding Bond Counsel's opinion that interest on the 2015 Bonds is not a specific preference item for purposes of the federal alternative minimum tax, such interest will be included in adjusted current earnings of certain corporations, and such corporations are required to include in the calculation of alternative minimum taxable income 75% of the excess of such corporation's adjusted current earnings over their alternative minimum taxable income (determined without regard to such adjustment and prior to reduction for certain net operating losses).

The accrual or receipt of interest on the 2015 Bonds may otherwise affect the federal income tax liability of the owners of the 2015 Bonds. The extent of these other tax consequences will depend upon such owner's particular tax status or other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the 2015 Bonds, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, taxpayers entitled to claim the refundable credit in Section 36B of the Code for coverage under a qualified health plan, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the 2015 Bonds.

A copy of the proposed form of opinion of Bond Counsel with respect to the 2015 Bonds is attached as Appendix D to this Official Statement.

### Original Issue Discount and Original Issue Premium

Certain of the 2015 Bonds are being sold at a premium (collectively, the "Premium Obligations"). An amount equal to the excess of the issue price of a Premium

Obligation over its stated redemption price at maturity constitutes original issue premium on such Premium Obligation. An initial purchaser of a Premium Obligation must amortize any premium over the term of such Premium Obligation using constant yield principles based upon the purchaser's yield to maturity (or, in the case of Premium Obligations callable prior to their maturity, by amortizing the premium to the call date, based upon the purchaser's yield to the call date and giving effect to any call premium). As premium is amortized, the amount of premium amortized in a payment period offsets a corresponding amount of the interest allocable to the corresponding payment period and the purchaser's basis in such Premium Obligation is reduced by a corresponding amount resulting in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Obligation prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. Purchasers of the Premium Obligations should consult with their tax advisors with respect to the determination and treatment of amortizable premium for federal income tax purposes and with respect to the state and local tax consequences of owning a Premium Obligation.

Certain of the 2015 Bonds are being sold at a discount (the "Discounted Tax Exempt Obligations"). The difference between the initial public offering prices of the Discounted Tax Exempt Obligations and their stated amounts to be paid at maturity or upon prior redemption, constitutes original issue discount treated as interest which is not includible in gross income for federal income tax purposes, subject to the caveats and provisions described above.

In the case of an owner of a Discounted Tax Exempt Obligation, the amount of original issue discount which is treated as having accrued with respect to such Discounted Tax Exempt Obligation is added to the cost basis of the owner in determining, for federal income tax purposes, gain or loss upon disposition of a Discounted Tax Exempt Obligation (including its sale, redemption or payment at maturity). Amounts received upon disposition of a Discounted Tax Exempt Obligation which are attributable to accrued original issue discount will be treated as tax exempt interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual Discounted Tax Exempt Obligation, on days which are determined by reference to the maturity date of such Discounted Tax Exempt Obligation. The amount treated as original issue discount on a Discounted Tax Exempt Obligation for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such Discounted Tax Exempt Obligation (determined by compounding at the close of each accrual period) and (ii) the amount which would have been the tax basis of such Discounted Tax Exempt Obligation at the beginning of the particular accrual period if held by the original purchaser; and (b) less the amount of any interest payable for such Discounted Tax Exempt Obligation during the accrual period. The tax basis is determined by adding to the initial public offering price on such Discounted Tax Exempt Obligation the sum of the amounts which have been treated as original issue discount for such purposes during all prior periods. If a Discounted Tax Exempt Obligation is sold between semiannual compounding dates, original issue discount which would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

The Code contains additional provisions relating to the accrual of original issue discount in the case of owners of a Discounted Tax Exempt Obligation who purchase such Discounted Tax Exempt Obligations after the initial offering. Owners of Discounted Tax Exempt Obligations including purchasers of the Discounted Tax Exempt Obligations in the secondary market should consult their own tax advisors with respect to the determination for federal income tax purposes of original issue discount accrued with respect to such obligations as of any date and with respect to the state and local tax consequences of owning a Discounted Tax Exempt Obligation.

### **Backup Withholding**

As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on tax-exempt obligations such as the 2015 Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments made to any owner of the 2015 Bonds who fails to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the 2015 Bonds from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax exempt obligations.

### **Changes in Federal Tax Law**

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to above or adversely affect the market value of the 2015 Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted, it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the 2015 Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the 2015 Bonds of the market value thereof would be impacted thereby. Purchasers of the 2015 Bonds should consult their tax advisor regarding any pending or proposed tax legislation. The opinions expressed by Bond Counsel are based upon existing legislation as of the date of issuance and delivery of the 2015 Bonds and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation.

## **LEGAL MATTERS**

### **Litigation**

The City has been advised that to the best knowledge of the City Attorney as of the date of this Official Statement, there are no suits or claims currently pending or threatened against the City that will materially and adversely affect the financial condition or operations of the City, the City's power to issue and deliver the 2015 Bonds; the proceedings and authority under which the 2015 Bonds are issued, the Fee is charged and collected, or the Net Income is collected, or affecting the validity of the 2015 Bonds or the pledge of said Net Income to the

repayment of the 2015 Bonds thereunder; and neither the corporate existence nor the boundaries of the City or the title of its present officers to their respective offices is being contested.

The City created a municipal energy utility in 2014. Public Service Company of Colorado (known by the trade name “Xcel Energy”) filed suit challenging the city decision to create a light and power utility through the adoption of Chapter 11-7, “Light and Power Utility,” B.R.C. 1981 (Ordinance No. 7969). **[On June 25, 2015 the Boulder District Court dismissed Xcel’s complaint for lack of subject matter jurisdiction.]** The City is presently seeking approval from the Colorado Public Utilities Commission for transfer to the city of Xcel’s assets serving Boulder customers for the city to operate its own municipal electric utility. After the Public Utilities Commission proceedings, the city intends to initiate good faith negotiations, and if necessary, condemnation proceedings to acquire such property and equipment.

Xcel Energy is presently the primary provider of electric service within the City. The transition to a municipal energy utility and the related issuance of up to \$214 million of bonds or other obligations to acquire existing assets of the electric system and for paying stranded costs in one complete payment have been approved by the City’s voters. The completion of this process is subject to certain conditions which may or may not be met. Any obligations issued on behalf of the municipal energy utility are not anticipated to be secured by the Net Income.

### **Governmental Immunity**

The Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S. (the “Immunity Act”), provides that, with certain specified exceptions, sovereign immunity acts as a bar to any action against a public entity, such as the City, for injuries which lie in tort or could lie in tort.

The Immunity Act provides that sovereign immunity is waived by a public entity for injuries occurring as a result of certain specified actions or conditions, including: the operation of a non-emergency motor vehicle owned or leased by the public entity; operation and maintenance of any public water, gas, sanitation, electrical, power or swimming facility; a dangerous condition of any public buildings; the operation of any public water facility; and a dangerous condition of a public highway, road or street as provided in the Immunity Act. In such instances, the public entity may be liable for injuries arising from an act or omission of the public entity, or an act or omission of its public employees, which are not willful and wanton, and which occur during the performance of their duties and within the scope of their employment. The maximum amounts that may be recovered under the Immunity Act, whether from one or more public entities and public employees, are as follows: (a) for any injury to one person in any single occurrence, the sum of \$350,000; (b) for an injury to two or more persons in any single occurrence, the sum of \$990,000; except in such instance, no person may recover in excess of \$350,000. The Immunity Act provides for increases in those amounts every four years pursuant to a formula based on the Denver-Boulder-Greeley Consumer Price Index. The City may not be held liable under the Immunity Act either directly or by indemnification for punitive or exemplary damages unless the City voluntarily pays such damages in accordance with State law.

The City may be subject to civil liability and damages including punitive or exemplary damages and it may not be able to claim sovereign immunity for actions founded

upon various federal laws, or other actions filed in federal court. Examples of such civil liability include suits filed pursuant to 42 U.S.C. § 1983 alleging the deprivation of federal constitutional or statutory rights of an individual. In addition, the City may be enjoined from engaging in anti-competitive practices which violate the antitrust laws. However, the Immunity Act provides that it applies to any State court having jurisdiction over any claim brought pursuant to any federal law, if such action lies in tort or could lie in tort.

### **Approval of Certain Legal Proceedings**

In connection with the 2015 Bonds, Kutak Rock LLP, as Bond Counsel, will render its opinion as to the validity of the 2015 Bonds and the treatment of interest thereon for purposes of federal and State income taxation. See Appendix D - Form of Bond Counsel Opinion. Butler Snow LLP is acting as special counsel to the City in connection with this Official Statement. Certain matters will be passed upon for the City by the City Attorney.

### **Certain Constitutional Limitations**

General. At the general election on November 3, 1992, the voters of Colorado approved Article X, Section 20 of the Colorado Constitution (“TABOR”). In general, TABOR restricts the ability of the State and local governments to increase revenues and spending, to impose taxes, and to issue debt and certain other types of obligations without voter approval. TABOR generally applies to the State and all local governments, including the City (“local governments”), but does not apply to “enterprises,” defined as government-owned businesses authorized to issue revenue bonds and receiving under 10% of annual revenue in grants from all state and local governments combined.

Some provisions of TABOR are unclear and will require further judicial interpretation. No representation can be made as to the overall impact of TABOR on the future activities of the City, including its ability to generate sufficient revenues for its general operations, to undertake additional programs or to engage in any subsequent financing activities.

Voter Approval Requirements and Limitations on Taxes, Spending, Revenues, and Borrowing. TABOR requires voter approval in advance for: (a) any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase, extension of an expiring tax, or a tax policy change causing a net tax revenue gain; (b) any increase in a local government’s spending from one year to the next in excess of the limitations described below; (c) any increase in the real property tax revenues of a local government from one year to the next in excess of the limitations described below; or (d) creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever, subject to certain exceptions such as the refinancing of obligations at a lower interest rate. The City’s Water Utility and Wastewater Utility are considered “enterprises” under TABOR, and therefore the 2015 Bonds may be issued without an election.

TABOR limits increases in government spending and property tax revenues to, generally, the rate of inflation and a local growth factor which is based upon, for school districts, the percentage change in enrollment from year to year, and for non-school districts, the actual value of new construction in the local government. Unless voter approval is received as described above, revenues collected in excess of these permitted spending limitations must be

rebated. Debt service, however, including the debt service on the 2015 Bonds, can be paid without regard to any spending limits, assuming revenues are available to do so.

At the November 2, 1993 election, City voters authorized the City to collect, retain, and expend without regard to the revenue and limitations imposed by TABOR, the full proceeds of the City's sales and use tax, admission tax, accommodations tax, and non-federal grants. At the November 8, 1994 election, City voters approved an increase in the City's trash tax and an education excise tax and allowed the City to collect and spend the full proceeds of such taxes and any interest thereon.

At the November 5, 1996 election, City voters authorized the City to remove TABOR restrictions on all revenues (except property tax) and expenditures of the City, and authorized the collect, retention and expenditures of all revenues of the City free from current revenue and expenditure limitations and from any limitations that may be enacted in the future without the amendment of the City's Charter by the electors of the City.

In addition, at the November 4, 2008 election, the City voters authorized the City to remove TABOR restrictions on property tax revenues collected above the limits imposed by TABOR. The election specified that retention above TABOR limits will not rise more than .5 mills annually for tax collection years 2009 and beyond up to the maximum allowable level of property taxes and that any tax monies that are collected above those that the City may retain will be credited to property owners as an offset against the subsequent year's taxes.

Emergency Reserve Funds. TABOR also requires local governments to establish emergency reserve funds. The reserve fund must consist of at least 3% of fiscal year spending. TABOR allows local governments to impose emergency taxes (other than property taxes) if certain conditions are met. Local governments are not allowed to use emergency reserves or taxes to compensate for economic conditions, revenue shortfalls, or local government salary or benefit increases. The City has set aside emergency reserves as required by TABOR.

Other Limitations. TABOR also prohibits new or increased real property transfer tax rates and local government income taxes. TABOR allows local governments to enact exemptions and credits to reduce or end business personal property taxes; provided, however, the local governments' spending is reduced by the amount saved by such action. With the exception of K-12 public education and federal programs, TABOR also allows local governments (subject to certain notice and phase-out requirements) to reduce or end subsidies to any program delegated for administration by the general assembly; provided, however, the local governments' spending is reduced by the amount saved by such action.

### **Police Power**

The obligations of the City are subject to the reasonable exercise in the future by the State and its governmental bodies of the police power inherent in the sovereignty of the State and to the exercise by the United States of America of the powers delegated to it by the Federal Constitution, including bankruptcy.

## **INDEPENDENT AUDITORS**

The financial statements of the City, included in this Official Statement as Appendix A have been audited by BKD LLP, Certified Public Accountants and Advisors, Denver, Colorado, independent auditors, as stated in their report appearing therein. BKD LLP has not participated in the preparation of this official statement.

## **FINANCIAL ADVISOR**

Piper Jaffray & Co. is acting as financial advisor to the City in connection with the issuance of the 2015 Bonds.

## **RATINGS**

Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business ("S&P") and Moody's Investors Service ("Moody's") have assigned the 2015 Bonds the ratings shown on the cover page of this Official Statement. An explanation of the significance of any S&P ratings may be obtained from S&P at 55 Water Street, New York, New York 10041. An explanation of the significance of any Moody's ratings may be obtained from Moody's at 7 World Trade Center at 250 Greenwich Street, New York, New York 10007.

Such ratings reflect only the views of the rating agencies, and there is no assurance that the ratings will be obtained or will continue for any given period of time or that the ratings will not be revised downward or withdrawn entirely by the applicable rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the 2015 Bonds. Other than the City's obligations under the Disclosure Undertaking, neither the City nor the Financial Advisor has undertaken any responsibility to bring to the attention of the owners of the 2015 Bonds any proposed change in or withdrawal of such rating once received or to oppose any such proposed revision.

## **PUBLIC SALE**

The City expects to offer the 2015 Bonds at public sale on September 1, 2015. See the Notice of Public Sale dated \_\_\_\_\_, 2015.

## **OFFICIAL STATEMENT CERTIFICATION**

The preparation of this Official Statement and its distribution have been authorized by the City Council. This Official Statement is hereby duly approved by the City Council as of the date on the cover page hereof.

CITY OF BOULDER, COLORADO

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

## **APPENDIX A**

### **AUDITED BASIC FINANCIAL STATEMENTS OF THE CITY AS OF AND FOR THE FISCAL YEAR ENDED DECEMBER 31, 2014**

NOTE: The audited basic financial statements of the City for the year ended December 31, 2014, have been excerpted from the City's Comprehensive Annual Financial Report for that year. Certain statistical tables and other information were purposely excluded from this Appendix A. Such statements provide supporting details and are not necessary for a fair presentation of the general purpose financial statement of the City.

## APPENDIX B

### BOOK-ENTRY ONLY SYSTEM

DTC will act as securities depository for the 2015 Bonds. The 2015 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the 2015 Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of 2015 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2015 Bonds on DTC's records. The ownership interest of each actual purchaser of each 2015 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2015 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in 2015 Bonds, except in the event that use of the book-entry system for the 2015 Bonds is discontinued.

To facilitate subsequent transfers, all 2015 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of 2015 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2015 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2015 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect

Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of 2015 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2015 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the 2015 Bond documents. For example, Beneficial Owners of 2015 Bonds may wish to ascertain that the nominee holding the 2015 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the 2015 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the 2015 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts 2015 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, interest and redemption proceeds on the 2015 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Paying Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, interest or redemption proceeds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the 2015 Bonds at any time by giving reasonable notice to the City or the Registrar and Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, 2015 Bond certificates are required to be printed and delivered.

The City may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, 2015 Bond certificates will be printed and delivered to DTC.

*The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.*

## APPENDIX C

### FORM OF CONTINUING DISCLOSURE UNDERTAKING

This Continuing Disclosure Undertaking (this “Agreement”) is executed and delivered by the City of Boulder, Colorado (the “City”) in connection with the issuance of \$\_\_\_\_\_ aggregate principal amount of the City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 (the “Bonds”). The Bonds are being issued pursuant to an Ordinance of the City dated as of \_\_\_\_\_, 2015 (the “Bond Ordinance”).

In consideration of the issuance of the Bonds by the City and the purchase of such Bonds by the owners thereof, the City hereby covenants and agrees as follows:

**Section 1. Purpose of this Agreement.** This Agreement is executed and delivered by the City as of the date set forth below, for the benefit of the holders and owners (the “Bondholders”) of the Bonds and in order to assist the Participating Underwriter (as defined below) in complying with the requirements of the Rule (as defined below). The City represents that it will be the only obligated person (as defined in the Rule) with respect to the Bonds at the time the Bonds are delivered to the Participating Underwriter and that no other person is expected to become an obligated person at any time after the issuance of the Bonds.

**Section 2. Definitions.** The terms set forth below shall have the following meanings in this Agreement, unless the context clearly otherwise requires.

“*Annual Financial Information*” means the financial information and operating data described in Exhibit I.

“*Annual Financial Information Disclosure*” means the dissemination of disclosure concerning Annual Financial Information and the dissemination of the Audited Financial Statements as set forth in Section 4.

“*Audited Financial Statements*” means the City’s annual financial statements, prepared in accordance with GAAP for governmental units as prescribed by GASB, which financial statements shall have been audited by such auditor as shall be then required or permitted by the Charter, and as described in Exhibit I hereto.

“*Commission*” means the Securities and Exchange Commission.

“*Dissemination Agent*” means any agent designated as such in writing by the City and which has filed with the City a written acceptance of such designation, and such agent’s successors and assigns.

“*EMMA*” means the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Material Event*” means the occurrence of any of the events with respect to the Bonds set forth in Exhibit II.

“*Material Events Disclosure*” means dissemination of a notice of a Material Event as set forth in Section 5.

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Participating Underwriter*” means each broker, dealer or municipal securities dealer acting as an underwriter in any primary offering of the Bonds.

“*Prescribed Form*” means, with regard to the filing of Annual Financial Information, Audited Financial Statements and notices of Material Events with the MSRB at [www.emma.msrb.org](http://www.emma.msrb.org) (or such other address or addresses as the MSRB may from time to time specify), such electronic format, accompanied by such identifying information, as shall have been prescribed by the MSRB and which shall be in effect on the date of filing of such information.

“*Rule*” means Rule 15c2 12 adopted by the Commission under the Exchange Act, as the same may be amended from time to time.

“*State*” means the State of Colorado.

“*Undertaking*” means the obligations of the City pursuant to Sections 4 and 5.

**Section 3. CUSIP Number/Final Official Statement.** The CUSIP Number of the Bonds is \_\_\_\_\_. The final Official Statement relating to the Bonds is dated \_\_\_\_\_, 2015 (the “Final Official Statement”).

**Section 4. Annual Financial Information Disclosure.** Subject to Section 9 of this Agreement, the City hereby covenants that it will disseminate the Annual Financial Information and the Audited Financial Statements (in the form and by the dates set forth below and in Exhibit I) by delivering such Annual Financial Information and the Audited Financial Statements to the MSRB by July 31<sup>st</sup> of each year.

The City is required to deliver such information in Prescribed Form and by such time so that such entities receive the information by the dates specified.

If any part of the Annual Financial Information can no longer be generated because the operations to which it is related have been materially changed or discontinued, the City will disseminate a statement to such effect as part of its Annual Financial Information for the year in which such event first occurs.

If any amendment is made to this Agreement, the Annual Financial Information for the year in which such amendment is made (or in any notice or supplement provided to the MSRB) shall contain a narrative description of the reasons for such amendment and its impact on the type of information being provided.

**Section 5. Material Events Disclosure.** Subject to Section 9 of this Agreement, the City hereby covenants that it will disseminate in a timely manner, not in excess of 10 business days after the occurrence of the event, Material Events Disclosure to the MSRB in Prescribed Form. Notwithstanding the foregoing, notice of optional or unscheduled redemption of any Bonds or defeasance of any Bonds need not be given under this Agreement any earlier than the notice (if any) of such redemption or defeasance is given to the owners of the Bonds pursuant to the Bond Ordinance. From and after the Effective Date, the City is required to deliver such Material Events Disclosure in the same manner as provided by Section 4 of this Agreement.

**Section 6. Duty To Update EMMA/MSRB.** The City shall determine, in the manner it deems appropriate, whether there has occurred a change in the MSRB's e-mail address or filing procedures and requirements under EMMA each time it is required to file information with the MSRB.

**Section 7. Consequences of Failure of the City To Provide Information.** The City shall give notice in a timely manner, not in excess of 10 business days after the occurrence of the event, to the MSRB in Prescribed Form of any failure to provide Annual Financial Information Disclosure when the same is due hereunder.

In the event of a failure of the City to comply with any provision of this Agreement, the Bondholder of any Bond may seek specific performance by court order to cause the City to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an Event of Default under the Bond Ordinance or the Agreement or any other agreement, and the sole remedy under this Agreement in the event of any failure of the City to comply with this Agreement shall be an action to compel performance.

**Section 8. Amendments; Waiver.** Notwithstanding any other provision of this Agreement, the City may amend this Agreement, and any provision of this Agreement may be waived, if:

- (i) The amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the City or type of business conducted;
- (ii) This Agreement, as amended, or the provision, as waived, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and
- (iii) The amendment or waiver does not materially impair the interests of the Bondholders of the Bonds, as determined either by parties unaffiliated with the City or by an approving vote of the Bondholders of the Bonds holding a majority of the aggregate principal amount of the Bonds (excluding Bonds held by or on behalf of the City or its affiliates) pursuant to the terms of the Bond Ordinance at the time of the amendment; or
- (iv) The amendment or waiver is otherwise permitted by the Rule.

**Section 9. Termination of Undertaking.** The Undertaking of the City shall be terminated hereunder when the City shall no longer have any legal liability for any obligation on or relating to the repayment of the Bonds. The City shall give notice to the MSRB in a timely manner and in Prescribed Form if this Section is applicable.

**Section 10. Dissemination Agent.** The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent.

**Section 11. Additional Information.** Nothing in this Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information Disclosure or notice of occurrence of a Material Event, in addition to that which is required by this Agreement. If the City chooses to include any information from any document or notice of occurrence of a Material Event in addition to that which is specifically required by this Agreement, the City shall not have any obligation under this Agreement to update such information or include it in any future disclosure or notice of the occurrence of a Material Event.

**Section 12. Beneficiaries.** This Agreement has been executed in order to assist the Participating Underwriter in complying with the Rule; however, this Agreement shall inure solely to the benefit of the City, the Dissemination Agent, if any, and the Bondholders of the Bonds, and shall create no rights in any other person or entity.

**Section 13. Recordkeeping.** The City shall maintain records of all Annual Financial Information Disclosure and Material Events Disclosure, including the content of such disclosure, the names of the entities with whom such disclosure was filed and the date of filing such disclosure.

**Section 14. Past Compliance.** The City represents that it has complied with the requirements of each continuing disclosure undertaking entered into by it pursuant to the Rule in connection with previous financings to which the Rule was applicable.

**Section 15. Assignment.** The City shall not transfer its obligations under the Financing Agreement unless the transferee agrees to assume all obligations of the City under this Agreement or to execute a continuing disclosure undertaking under the Rule.

**Section 16. Governing Law.** This Agreement shall be governed by the laws of the State.

[Signature on Following Page]

CITY OF BOULDER, COLORADO

By \_\_\_\_\_  
Chief Financial Officer

Dated: \_\_\_\_\_, 2015

**EXHIBIT I****ANNUAL FINANCIAL INFORMATION AND TIMING AND AUDITED FINANCIAL STATEMENTS**

“*Annual Financial Information*” means financial information and operating data exclusive of Audited Financial Statements as set forth below of the type appearing or incorporated by reference as set forth on page iv of the Final Official Statement.

All or a portion of the Annual Financial Information and the Audited Financial Statements as set forth below may be included by reference to other documents which have been submitted to the MSRB or filed with the Commission. The City shall clearly identify each such item of information included by reference.

Annual Financial Information will be provided to the MSRB by July 31<sup>st</sup> of each year. Audited Financial Statements as described below should be filed at the same time as the Annual Financial Information. If Audited Financial Statements are not available when the Annual Financial Information is filed, unaudited financial statements shall be included, and Audited Financial Statements will be provided to the MSRB within 10 business days after availability to the City.

Audited Financial Statements will be prepared in accordance with generally accepted accounting principles in the United States as in effect from time to time.

If any change is made to the Annual Financial Information as permitted by Section 4 of the Agreement, including for this purpose a change made to the fiscal year-end of the City, the City will disseminate a notice to the MSRB of such change in Prescribed Form as required by such Section 4.

## EXHIBIT II

### EVENTS WITH RESPECT TO THE BONDS FOR WHICH MATERIAL EVENTS DISCLOSURE IS REQUIRED

1. Principal and interest payment delinquencies
2. Nonpayment-related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
7. Modifications to rights of security holders, if material
8. Bond calls, if material, and tender offers
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities, if material
11. Rating changes
12. Bankruptcy, insolvency, receivership or similar event of the City \*
13. The consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material

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\* This event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

14. Appointment of a successor or additional trustee or the change of name of a trustee, if material

**APPENDIX D**  
**FORM OF BOND COUNSEL OPINION**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE: Consideration of a motion to approve Resolution No. 1165 declaring the city of Boulder's official intent to participate in a future issuance of bonds or certificates of participation and to reimburse itself for capital expenditures undertaken in advance of such financing in connection with the acquisition of the Boulder Community Health Broadway Campus.**

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Bob Eichen, Chief Financial Officer  
Cheryl Pattelli, Director of Finance

**EXECUTIVE SUMMARY**

The passage of this resolution will allow the City to use some of their fund balance to fund expenditures prior to receiving bond or COP proceeds anticipated later in the year. This reimbursement is available for funds expended up to sixty days prior to the date of this resolution. The use of a reimbursement resolution is commonly used when issuing debt. The City has used the methodology with other bond issues to provide for effective and efficient use of resources.

The passage of this resolution is a formality required by federal tax law to allow the City to reimburse itself from proceeds for capital improvements prior to the financing proceeds arriving. This resolution does not authorize the COP or bond sale.

On July 14, 2015, the City Council approved the agreement in principle to purchase the Boulder Community Hospital Broadway campus for \$40 million. This agreement specifies that the city provide initial earnest money deposit of \$3 million. This reimbursement resolution will be used to reimburse the city for the \$3,000,000 once the financing is available.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

Move to adopt Resolution No. 1165 authorizing up to \$3,000,000 of reimbursement from bond or COP proceeds that could be expended between now and the arrival of the proceeds.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

The passage of a reimbursement resolution has no economic, environmental or social impact on residents of the City of Boulder.

**OTHER IMPACTS**

- There are no fiscal or other impacts that occur due to the passage of a reimbursement resolution.

**BACKGROUND AND ANALYSIS**

On some occasions, the receipt of bond proceeds cannot be timed to coincide with when money will be needed. By passing a reimbursement resolution, fund balances could be used to fund capital improvement projects. The funds will then be reimbursed from the bond or COP proceeds when they are received.

The resolution is required by federal law to comply with tax exempt bonding requirements. The following items must be included in the resolution:

- An announcement and acknowledgement of the municipality's expectation to issue bonds.
- An announcement and acknowledgement that the municipality will reimburse itself from bond proceeds for capital expenditures.

If this action is not approved, the city cannot reimburse itself from bond or COP proceeds if there is an unforeseen delay in the issuance. The resolution is written to allow flexibility in the timeline in case some unexpected delay occurs.

**ATTACHMENT**

A: Reimbursement Resolution No. 1165

**RESOLUTION No. 1165**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, TO PARTICIPATE IN A FUTURE ISSUANCE OF BONDS OR CERTIFICATES OF PARTICIPATION AND TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES UNDERTAKEN IN ADVANCE OF SUCH FINANCING IN CONNECTION WITH THE ACQUISITION OF THE BOULDER COMMUNITY HEALTH BROADWAY CAMPUS

WHEREAS, the City of Boulder (the “City”), in the State of Colorado (the “State”), is a political subdivision duly organized and existing pursuant to the constitution and laws of the State; and

WHEREAS, the City Council of the City (the “Governing Body”) is the governing body of the City; and

WHEREAS, the Governing Body has determined that it is in the best interest of the City to make or cause to be made certain capital expenditures relating to the acquisition and subsequent redevelopment of the Boulder Community Health Care Broadway campus (the “Project”); and

WHEREAS, the Governing Body currently intends and reasonably expects to participate in a tax-exempt or taxable borrowing to finance the Project, including an amount not-to-exceed \$40,000,000 for reimbursing the City for capital expenditures associated with the Project incurred or to be incurred subsequent to a period commencing 60 days prior to the date hereof, and ending prior to the later of 18 months of the date of such capital expenditures or the placing in service of the Project (but in no event more than 3 years after the date of the original expenditure of such moneys); and

WHEREAS, the Governing Body hereby desires to declare its official intent, pursuant to 26 C.F.R. § 1.150-2, to reimburse the City for such capital expenditures with a portion of the proceeds of the City’s future tax-exempt or taxable borrowing.

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

Section 1. ***Declaration of Official Intent.*** The City shall, presently intends, and reasonably expects to finance the Project with proceeds of tax exempt or taxable bonds or certificates of participation to be issued by the City at a later date.

Section 2. ***Dates of Capital Expenditures.*** All of the capital expenditures covered by this Resolution will be made on and after the date which is 60 days prior to the effective date of this Resolution.

Section 3. ***Issuance of Bonds, Notes, Certificates of Participation or Other Obligations.*** The City presently intends and reasonably expects to participate in a tax-exempt or taxable

borrowing within 18 months of the date of the expenditure of moneys on the Project or the date upon which the Project is placed in service, whichever is later (but in no event more than 3 years after the date of the original expenditure of such moneys), and to allocate from said borrowing an amount not to exceed \$40,000,000 of the proceeds thereof to reimburse the City for its expenditures in connection with the Project.

Section 4. ***Confirmation of Prior Acts.*** All prior acts and doings of the officials, agents and employees of the City which are in conformity with the purpose and intent of this Resolution, and in furtherance of the Project, shall be and the same hereby are in all respects ratified, approved and confirmed.

Section 5. ***Effective Date of Resolution.*** This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED at a regular meeting this 18<sup>th</sup> day of August, 2015.

CITY OF BOULDER, COLORADO

\_\_\_\_\_  
Mayor

[SEAL]

Attest:

\_\_\_\_\_  
Clerk



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE**

Second reading and consideration of a motion to order published by title only, Ordinance No. 8060 vacating and authorizing the City Manager to execute a deed of vacation to vacate a portion of a sidewalk easement at 2460 Iris Avenue.

Applicant/Property Owner: Thomas A. O'Banion

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Bob Eichem, Finance Director /Acting Executive Director of Administrative Services,  
David Driskell, Executive Director of Community Planning and Sustainability  
Charles Ferro, Development Review Manager  
Sloane Walbert, Planner I

**EXECUTIVE SUMMARY**

The applicant and property owner requests vacation of a 10,735 square foot portion of an existing sidewalk easement at 2460 Iris Avenue. The easement was originally dedicated to the public by means of a grant of easement recorded November 6, 1980. The easement was intended to allow for the construction and use of a public sidewalk along the north property line. This sidewalk has since been installed and is in use today. The property owner recently attempted to submit a building permit for a new deck and discovered that the sidewalk easement encumbers the entire property. It appears that the legal description for the dedication was incorrect and the subject easement was inadvertently dedicated across the entire property. The subject easement has carried pedestrian traffic and must be vacated by ordinance, with City Council approval. A 17-foot wide portion of the easement will remain in the location of the existing sidewalk. Therefore, no public need exists for the portion of the easement to be vacated.

On July 28, 2015, City Council approved first reading of the draft ordinance and did not have any questions for staff.

## STAFF RECOMMENDATION

Staff finds that the criteria of section 8-6-9, “Vacation of Public Rights-of-Way and Public Access Easements,” B.R.C. 1981 can be met and recommends that the City Council take the following action:

### Suggested Motion Language:

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

Motion to:

Adopt Ordinance No. 8060 vacating and authorizing the City Manager to execute a deed of vacation to vacate a portion of a sidewalk easement at 2460 Iris Avenue.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: None identified.
- Environmental: None identified.
- Social: None identified.

## OTHER IMPACTS

- Fiscal: No impact.
- Staff time: The vacation application has been processed through the provisions of a standard vacation process and is within normal staff work plans.

## BOARD AND COMMISSION FEEDBACK

Notification was sent to the Planning Board on July 17, 2015 in conformance with Section 79 of the Boulder City Charter.

## PUBLIC FEEDBACK

All notice requirements of section 9-4-3, “Public Notice Requirements,” B.R.C. 1981 have been met. Public notice of this proposed vacation was sent to property owners within 600 feet of the project on February 21, 2015. Staff has received no comments from the public.

## BACKGROUND

The subject property is located in North Boulder, south of and adjacent to Iris Avenue, west of 25<sup>th</sup> Street in a Residential – Estate (RE) zoning district (a vicinity map with zone districts is provided in *Attachment A*). The subject 130-foot wide sidewalk easement covers the entire property (refer to *Figure 1* on the following page). The easement was dedicated to the public by means of a grant of easement recorded November 6, 1980. Original dedication of the sidewalk easement was intended to allow for the construction and maintenance of a public sidewalk along Iris Avenue. The public sidewalk has since been installed and is in use today.



*Figure 1: Subject Easement*



*Figure 2: Portion of Easement to Remain*

The property owner recently attempted to submit a building permit for a new deck and discovered that the sidewalk easement encumbers the entire property. It appears that the legal description was incorrect when the grant of easement was recorded and that the legal description was for the entire property, rather than the area necessary for the sidewalk. The proposed vacation would reduce the extent of the existing access easement to 17 feet, which has been determined to be a width large enough to allow for the maintenance and use of the sidewalk. The subject easement has carried pedestrian traffic and must be vacated by ordinance, with City Council approval.

## ANALYSIS

The subject easement was declared open to the public when it was dedicated and thus must be vacated by ordinance passed by City Council. In order for the existing easement to be vacated, the council would have to conclude that the criteria under subsection 8-6-9(c), B.R.C. 1981 are met. Staff has reviewed this vacation request and has concluded that the criteria can be met as discussed as follows.

- (1) The applicant must demonstrate that the public purpose for which an easement or right-of-way was originally acquired or dedicated is no longer valid or necessary for public use;***

The subject 130-foot wide sidewalk easement was originally dedicated to the public by means of a grant of easement recorded November 6, 1980. The purpose of the easement was to accommodate a public sidewalk along the south side of Iris Avenue. The proposed vacation will maintain a 17-foot wide easement for the sidewalk, which will fulfill the intended purpose of the easement. The easement was intended for a specific and limited purpose, which will continue to be met with the proposed vacation.

- (2) All agencies and departments having a conceivable interest in the easement or right-of-way must indicate that no need exists, either at present or conceivable in the future, to retain the property as an easement or right-of-way, either for its original purpose or for some other public purpose unless the vacation ordinance retains the needed utility or right-of-way easement;***

The proposed vacation has been evaluated by the Planning, Public Works and Transportation Departments and it has been collectively concluded that the public entities would have no conceivable future interest in the portion of the easement to be vacated since the necessary 17-foot wide portion of the easement will remain to accommodate the sidewalk. CenturyLink, Comcast, and Xcel have also approved the request.

- (3) The applicant must demonstrate, consistent with the Boulder Valley Comprehensive Plan and the City's land use regulations, either:***
- (A) That failure to vacate an existing right-of-way or easement on the property would cause a substantial hardship to the use of the property consistent with the Boulder Valley Comprehensive Plan and the City's land use regulations;***  
***or***

The sidewalk easement currently encumbers the entire property. It appears that the dedication was done in error since the intent of the easement was for the construction and maintenance of a sidewalk along the north property line. Failure to vacate the proposed portion of the easement would cause a substantial hardship since the easement precludes the construction of any

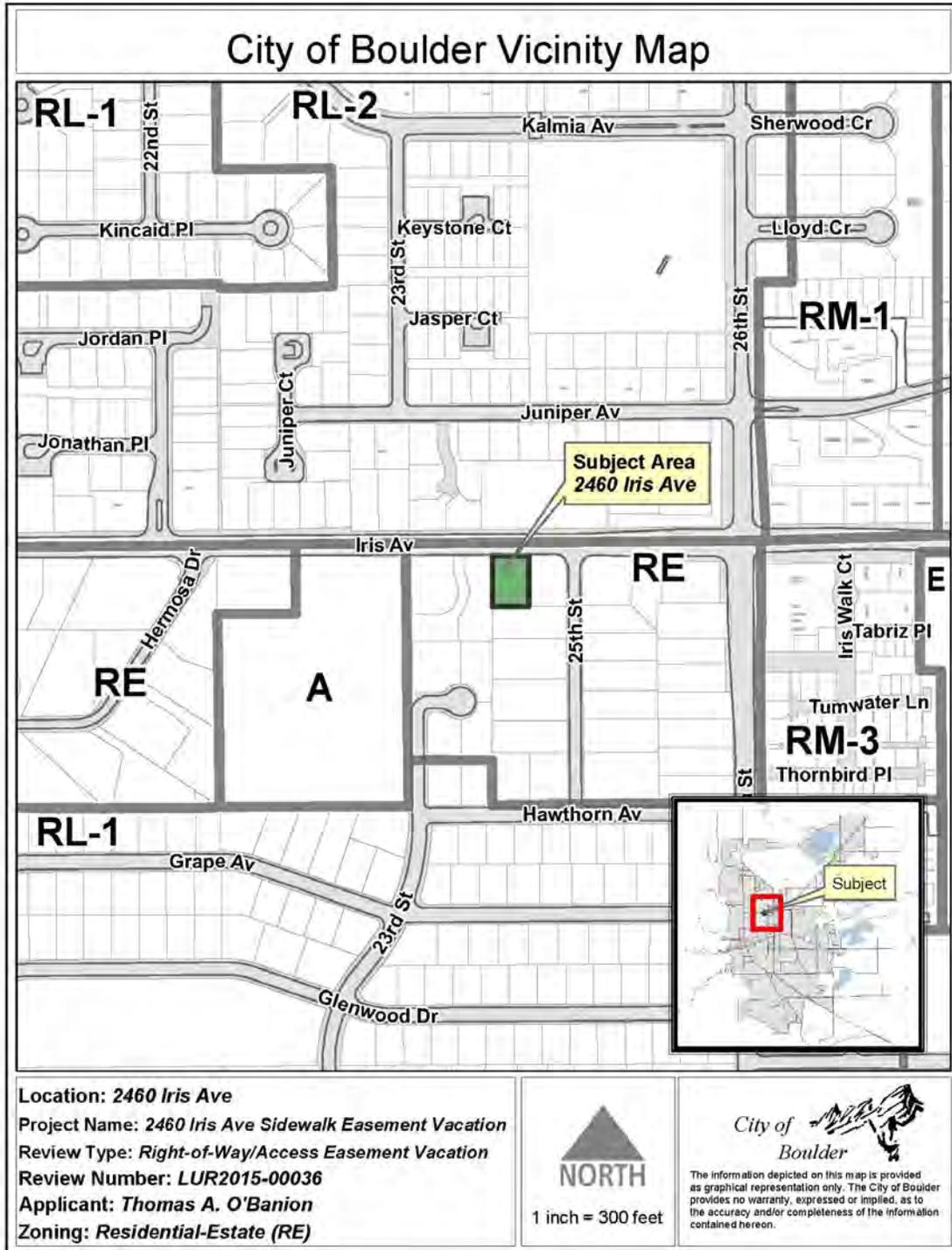
permanent structures or improvements on the property The easement currently unnecessarily affects the use and value of the property.

***(B) That vacation of the easement or right-of-way would actually provide a greater public benefit than retaining the property in its present status.***

Not Applicable.

**ATTACHMENTS**

- Attachment A: Vicinity Map
- Attachment B: Ordinance No. 8060
- Attachment C: Deed of Vacation



ORDINANCE NO. 8060

AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION FOR A PORTION OF A SIDEWALK EASEMENT GENERALLY LOCATED AT 2460 IRIS AVENUE AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER FINDS AND RECITES THAT:

A. Thomas A. Obanion, the owner of the property located at 2460 Iris Avenue, Boulder, CO, has requested that the city vacate a portion of a Sidewalk Easement located within the Broadacres Subdivision; and

B. The City Council is of the opinion that the requested vacation is in the public interest and that said right-of-way is not necessary for the public use.

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

Section 1. The City Council vacates and authorizes the city manager to execute a deed of vacation for a portion of the sidewalk easement as dedicated to the City of Boulder on the Grant of Easement dated October 21, 1980 and recorded in the records of the Boulder County Clerk and Recorder at Film No. 1141, Reception No. 421014 on the 6th day of November, 1980 and as more particularly described in **Exhibit A**.

Section 2. 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 3. 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.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 28<sup>th</sup> day of July, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

Exhibit A

Flagstaff Surveying, Inc.

Page 1 of 2

**Sidewalk Easement Vacation Description**

Lot 3, less the North 130 feet of the East 95 feet and, less the South 80 feet of the East 130 feet of said Lot 3, BROADACRES SUBDIVISION. The plat of which is recorded in Plat Book 5 at Page 43-C, Except the South 80 feet of the west 60 feet of said Lot 3.

Excepting therefrom the North seventeen (17) feet, said easement lying in the Southeast quarter of Section 19, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., being more particularly described as follows:

Commencing at the Northwest corner of Lot 3, BROADACRES SUBDIVISION; thence South along the West line of Lot 3, a distance of seventeen (17) feet to the **Point of Beginning**;

Thence East along a line parallel with and seventeen (17) feet distant from the North line of Lot 3, a distance of 95 feet; thence South, a distance of 113 feet; thence West, a distance of 95 feet to a point on the West line of Lot 3; thence North, 113 feet along the West line of Lot 3 to the **Point of Beginning**.

Said easement contains 10,735 square feet.

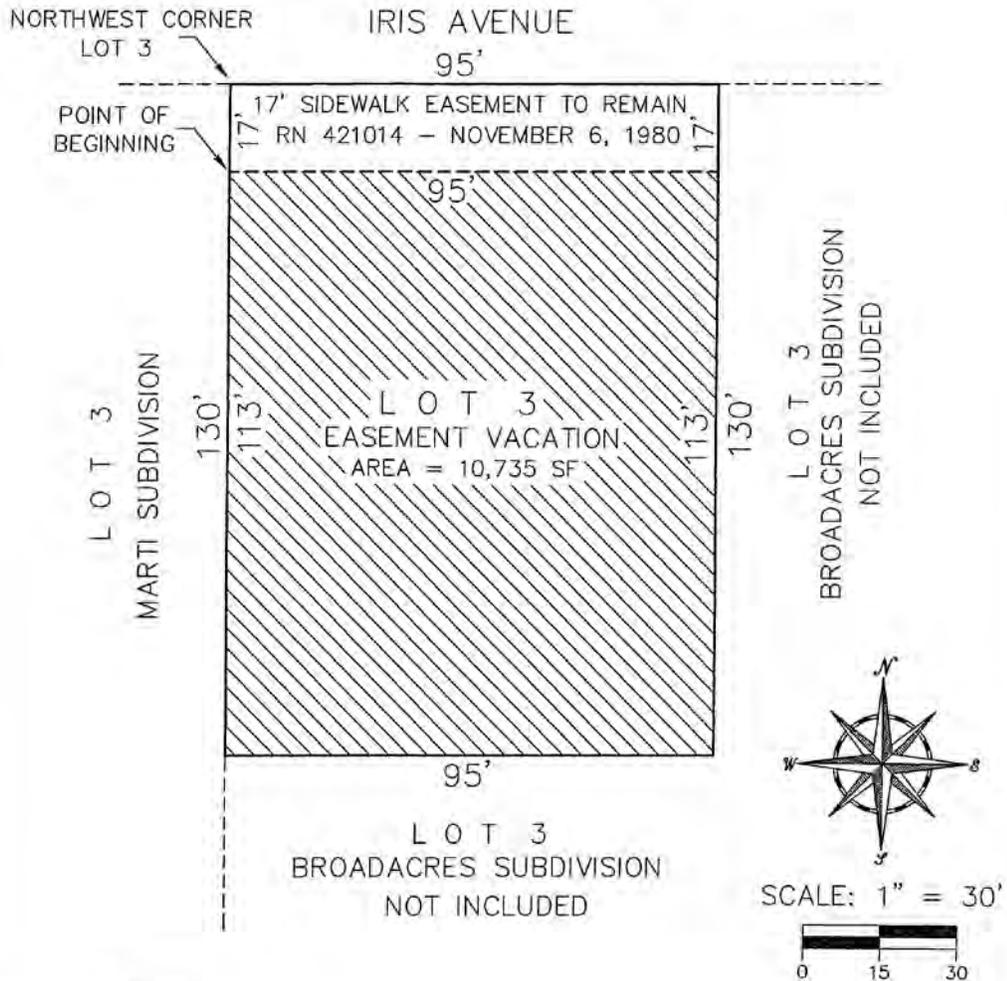
  
 Steven J. Sellars March 23, 2015  
 Colorado PLS #27615 17152-1.doc  


Table Mesa Shopping Center 637 South Broadway, Suite C Boulder, Colorado 80305  
 Phone: 303-499-9737 Fax: 303-499-9770  
 StevenSellars@FlagstaffSurveying.com

EXHIBIT A

SIDEWALK EASEMENT VACATION

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 19,  
TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M.,  
COUNTY OF BOULDER, STATE OF COLORADO



Legend

 PORTION OF SIDEWALK EASEMENT TO BE VACATED  
AREA = 10,735 SF

PREPARED BY STEVEN SELLARS  
COLORADO PLS 27615

Flagstaff Surveying Inc.

Table Mesa Shopping Center  
637 South Broadway, Suite C  
Boulder, Colorado 80305  
303-499-9737

17152A-1.DWG MARCH 23, 2015

For Administrative Purposes Only

Address: 2460 Iris Ave.

Case No. LUR2015-00036

**DEED OF VACATION**

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in the manner prescribed by Section 43-2-302, C.R.S., the following portion of a sidewalk easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Film 1141, Reception No. 421014 on the 6<sup>th</sup> day of November, 1980, located at 2460 Iris Avenue 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 2460 Iris Avenue 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, pursuant to Ordinance No. \_\_\_\_\_, adopted by 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:

H. R. [Signature]  
City Attorney's Office

5-19-2015  
Date

Exhibit A

Flagstaff Surveying, Inc.

Page 1 of 2

**Sidewalk Easement Vacation Description**

Lot 3, less the North 130 feet of the East 95 feet and, less the South 80 feet of the East 130 feet of said Lot 3, BROADACRES SUBDIVISION. The plat of which is recorded in Plat Book 5 at Page 43-C, Except the South 80 feet of the west 60 feet of said Lot 3,

Excepting therefrom the North seventeen (17) feet, said easement lying in the Southeast quarter of Section 19, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., being more particularly described as follows:

Commencing at the Northwest corner of Lot 3, BROADACRES SUBDIVISION; thence South along the West line of Lot 3, a distance of seventeen (17) feet to the **Point of Beginning**;

Thence East along a line parallel with and seventeen (17) feet distant from the North line of Lot 3, a distance of 95 feet; thence South, a distance of 113 feet; thence West, a distance of 95 feet to a point on the West line of Lot 3; thence North, 113 feet along the West line of Lot 3 to the **Point of Beginning**.

Said easement contains 10,735 square feet.

  
 Steven J. Sellars  
 Colorado PLS #27615

March 23, 2015  
 17152-1.doc

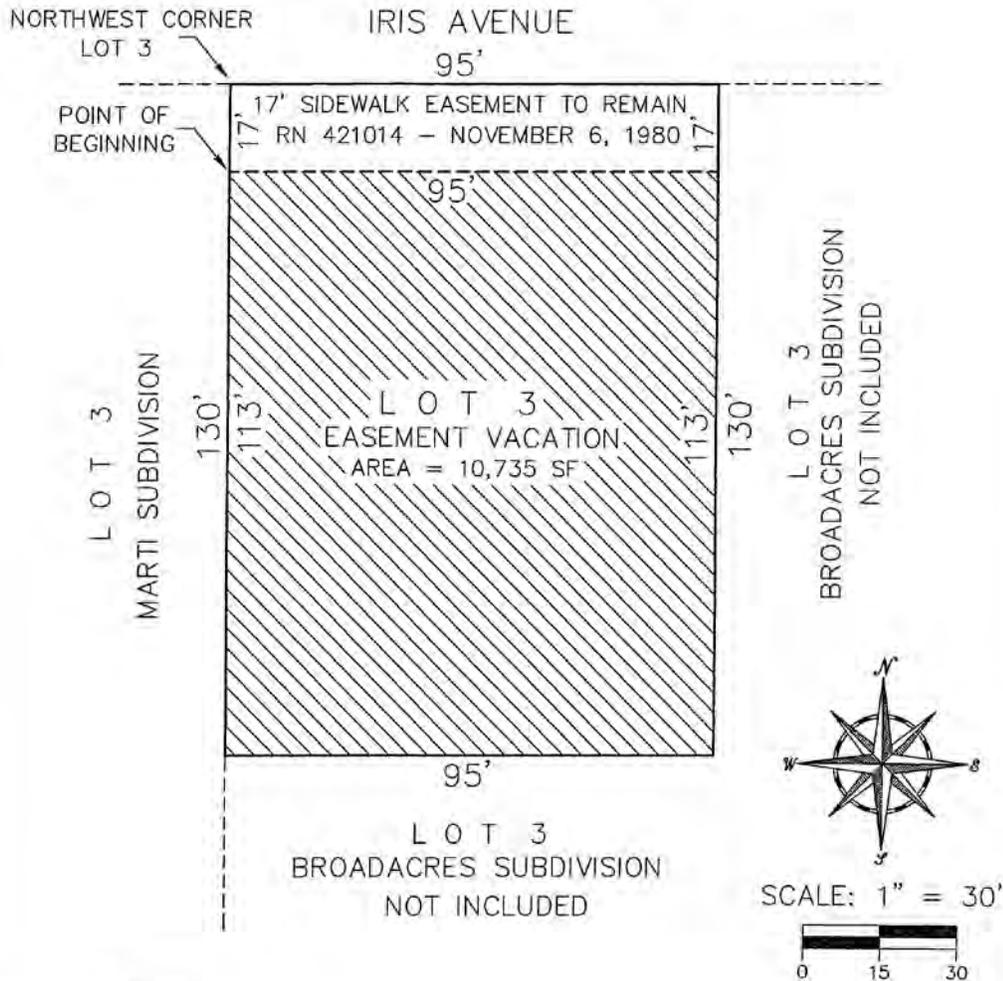


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EXHIBIT A

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LOCATED IN THE SOUTHEAST QUARTER OF SECTION 19,  
TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M.,  
COUNTY OF BOULDER, STATE OF COLORADO



Legend

 PORTION OF SIDEWALK  
EASEMENT TO BE VACATED  
AREA = 10,735 SF

PREPARED BY STEVEN SELLARS  
COLORADO PLS 27615

Flagstaff Surveying Inc.

Table Mesa Shopping Center  
637 South Broadway, Suite C  
Boulder, Colorado 80305  
303-499-9737

17152A-1.DWG MARCH 23, 2015



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:**

Second reading and consideration of a motion to adopt Ordinance No. 8061 approving a supplemental appropriation for the Storm Water and Flood Management Revenue Bonds, Series 2015, in the aggregate principal amount of \$23,317,855, for the purpose of providing funds for storm water and flood management improvements and for the costs of issuance of the Series 2015 Bonds.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Jeffrey Arthur, Director of Public Works for Utilities  
Bob Eichem, Chief Financial Officer  
Cheryl Pattelli, Director of Finance

**EXECUTIVE SUMMARY**

At the closing on July 20, 2015 of the sale of the \$22,845,000 in City of Boulder, Colorado, Storm Water and Flood Management Revenue Bonds, Series 2015, the bond proceeds along with \$472,855 in bond premium will be received. Funds requested to pay for storm water improvements will total \$23,000,000 and the costs of issuance will total \$317,855. These funds will be deposited into the Storm Water Fund. This ordinance is being proposed in order to make funds available shortly after bond revenue receipt.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

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

Motion to adopt Ordinance No. 8061 approving a supplemental appropriation for the Storm Water and Flood Management Revenue Bonds, Series 2015, in the aggregate principal amount of \$23,317,855, for the purpose of providing funds for storm water improvements and the costs of issuance of the Series 2015 Bonds.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Property damage and transportation and utilities disruption from flooding can cause substantial economic costs. The project associated with these bond proceeds will provide flood mitigation along Wonderland Creek from Foothills Parkway to Winding Trail Drive and also along Fourmile Canyon Creek from 22<sup>nd</sup> Street to 19<sup>th</sup> Street, reducing the risk to life and property and disruptions to business.
- Environmental: The flood mitigation measures include water quality and habitat improvement components. In addition, the project creates a path connection between Foothills Highway and the Diagonal Highway which will help reduce greenhouse gas emissions by promoting non motorized transportation. Reducing vehicle miles traveled helps meet the goals of the Transportation Master Plan and Climate Action Plan.
- Social: The flood mitigation measures will reduce the risk to life and damage to property along a portion of Wonderland Creek including an at-risk population facility. The proposed multi-use path will improve health and safety by providing a trail connection that includes a safe crossing of the railroad to the city's multi-use trail system that can be used by all members of the community.

## OTHER IMPACTS

- Staff time - Preparing for the issuance of the bonds is considered part of the normal work plan.

## ATTACHMENTS:

A: Proposed Ordinance

**ORDINANCE NO. 8061**

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

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

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

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated:

Section 1. Storm Water and Flood Management Utility Fund

Appropriation from Additional Revenue	\$23,317,855
---------------------------------------	--------------

Section 2. The City Council finds that this ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 3. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 4. The Council deems it appropriate that this ordinance be published by title only and order 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 28<sup>th</sup> day of July, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE this 18<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8063 approving supplemental appropriations to the 2015 Budget.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Bob Eichen, Chief Financial Officer  
Cheryl Pattelli, Director of Finance  
Peggy Bunzli, Budget Officer  
Elena Lazarevska, Senior Financial Analyst

**EXECUTIVE SUMMARY**

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

On July 14, 2015, the City Council approved the agreement in principle to purchase the Boulder Community Hospital Broadway campus for \$40 million. This agreement specifies that the city provide initial earnest money deposit of \$3 million. This packet includes budget supplemental for this earnest money deposit. A proposed ordinance is provided as **Attachment A** to this packet.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Second reading and consideration of a motion to adopt Ordinance No. 8063 approving supplemental appropriations to the 2015 Budget.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

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

**OTHER IMPACTS**

- Fiscal: In the **General Fund**, this ordinance will appropriate \$3,000,000 from fund balance. At an upcoming Council staff will bring forth a reimbursement resolution that would pay back the General Fund when the financing is completed for the purchase.
- Staff time for this process is allocated in the Budget Division’s regular annual work plan.

**ANALYSIS**

The BCH Broadway campus encompasses 8.8 acres of property in a rough rectangle bordered by Broadway, Balsam, Ninth and Alpine plus the parking garage with retail space, and office building fronting the south side of Alpine west of Broadway and two vacant lots south of the office building. The city’s main interest in acquiring the property is twofold. First, for this important site it is crucial that the development fits in with the community’s goals and visions. Development must be carefully managed to preserve the neighborhood and manage carefully the growth associated with the property.

Second, the city leases space spread throughout the city for its employees. This practice is both expensive and inefficient. With the New Britain and Park Central buildings identified for removal in the Civic Area Master Plan due to flood hazards, the BCH Broadway campus provides an opportunity to build a modern, centrally located government facility that can consolidate many city office functions as well as public facing services.

The BCH Broadway campus includes the following:

- The hospital and associated grounds at 1100 Balsam;
- The Medical Pavilion at 1155 Alpine;
- The parking garage and retail space at 2655 Broadway;
- The Brenton Building at 1136 Alpine Street; and

- The two vacant lots associated with the Brenton Building at 1125 and 1135 North Street

Altogether, the buildings on these properties represent over 355,000 square feet of existing building space; and a three story parking structure as well as two large surface parking areas. The buildings continue to house medical uses and related activities, although overall utilization of the property has been reduced significantly since BCH relocated its emergency room and acute care functions to its Foothills campus location.

City staff has negotiated an agreement in principle with BCH to purchase the campus. The purchase price is \$40 million. The purchase includes a non-refundable earnest money payment of \$3 million, which was deposited in escrow on July 17, 2015.

Additional information regarding the financing of the BCH site can be found in the July 14, 2015 council packet:

[https://www-static.bouldercolorado.gov/docs/20150714\\_Agenda\\_Packet-1-201507131520.pdf](https://www-static.bouldercolorado.gov/docs/20150714_Agenda_Packet-1-201507131520.pdf)

## **ATTACHMENTS**

- A. Proposed Ordinance containing supplemental appropriations to the 2015 Budget

**ORDINANCE NO. 8063**

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

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

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

WHEREAS, required public notice has been given;

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

Section 1. General Fund

Appropriation from Fund Balance	\$3,000,000
---------------------------------	-------------

Section 2. The City Council finds that this ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 3. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 4. The Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the Office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED

BY TITLE ONLY this 4<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8066 repealing and reenacting Section 4-1-8 “Insurance Required,” B.R.C. 1981, to update insurance requirements under the Boulder Revised Code in response to changes to the Colorado Governmental Immunity Act and in insurance industry practices, and setting forth related details.

**PRESENTERS:**

Tom Carr, City Attorney  
Hella Pannewig, Assistant City Attorney  
Stewart Ellenberg, Risk Manager

**EXECUTIVE SUMMARY:**

The purpose of this item is to repeal and reenact Section 4-1-8, “Insurance Required,” B.R.C. 1981. This code section sets forth the insurance requirements for permittees and licensees doing work or leasing property within the public right of way and other public property, as well as for persons applying for commercial licenses or permits within the city. The current language is outdated and does not reflect current practices within the insurance industry. Furthermore, the monetary insurance coverage requirements set forth in this section no longer protect the city to the full extent of the maximum liability that may be incurred by a local government for a single incident under the Colorado Governmental Immunity Act. The Colorado Governmental Immunity Act now caps liability for public entities at \$350,000 for an individual claim and \$990,000 for multiple claims arising under a single incident. The new code section is necessary in order for insurance requirements to align with current insurance industry practices and to reflect the monetary cap increases in the Colorado Government Immunity Act. The ordinance also amends other code sections with outdated insurance requirements and cleans up language that is duplicative and inconsistent with the updated Section 4-1-8.

**STAFF RECOMMENDATION:**

Suggested Motion Language:

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

Motion to adopt on second reading Ordinance No. 8066 repealing and reenacting Section 4-1-8 “Insurance Required,” B.R.C. 1981, to update insurance requirements under the Boulder Revised Code in response to changes to the Colorado Governmental Immunity Act and in insurance industry practices, and setting forth related details.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: The proposed code change increases the amount of insurance coverage required to be carried by city licensees, permittees, and lessees which can help minimize the risk of loss to the City in circumstances beyond its control.
- Environmental: Not applicable
- Social: Not applicable

**OTHER IMPACTS**

- Fiscal: There are no budgetary impacts.
- Staff Time: Implementing this ordinance can be accomplished within existing work plans.

**BACKGROUND AND ANALYSIS**

Section 4-1-8, B.R.C. 1981, was originally adopted in 1992 and amended most recently in 1994. The purpose of this section is to ensure that city licensees and permittees carry insurance in amounts sufficient to protect both public and private property. This section governs all licenses and permits issued under Title 4, as well as to persons seeking to lease or do work in the public right-of- way on public easements under Title 8, Chapter 6. An update to this section is long overdue.

Currently, this section requires that all licenses issued under Title 4 carry public liability insurance with minimum limits of \$150,000 for one person and \$600,000 for any one accident, and public property damage insurance with a minimum limit of \$100,000 for any one accident. Public liability insurance and public property damage insurance are no longer available on the insurance market. Current liability policies are now known as commercial general liability policies. Insurance cannot be purchased in \$600,000 increments. The monetary insurance limits required under this section are also below the monetary liability caps set by the Colorado Governmental Immunity Act, which are now set at \$350,000 for an individual claim and \$990,000 for multiple claims arising under a single incident.

The proposed code language increases the amount of coverage and will require that any licensee and/or permittee carry general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate. The proposed code language clearly states the minimum requirements of the insurance policy and the information to be set forth in the certificate of insurance. The proposed code language also provides the city manager with the discretion to modify any requirements of this section in order to protect the interests of the city. This code change will mirror the city's standard insurance requirements for many of its contracts, right-of-way permits, revocable licenses, leases and other city permits.

The new code language is necessary to align insurance requirements with current insurance industry practices and will reflect the monetary cap increases in the Colorado Government Immunity Act.

**ATTACHMENTS:**

Attachment A – Proposed Ordinance

ORDINANCE NO. 8066

AN ORDINANCE REPEALING AND REPLACING SECTION 4-1-8 "INSURANCE REQUIRED," B.R.C. 1981 TO UPDATE MINIMUM INSURANCE REQUIREMENTS FOR LICENSEES AND PERMITTEES, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-1-8, B.R.C. 1981 is repealed in its entirety and replaced with the following:

**4-1-8. Insurance Required.**

(a) Whenever insurance is required of a licensee or permittee under this title, such licensee or permittee shall at all times maintain in force worker's compensation insurance as required by state law and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit.

(b) Any licensee, permittee, or lessee who performs any activity on or any activity affecting city property, rights of way, easements, or grounds or any city-owned or city-contracted utility system shall carry the minimum insurance coverage provided for in subsection (a) of this section.

(c) Insurance shall:

(1) Provide primary coverage.

(2) Carry limits as provided in this section.

(3) Issue from a company licensed to do business in Colorado having an AM Best rating of at least A-VI.

(4) Be procured and maintained in full force and effect for duration of the license, permit, or lease.

(d) Any licensee, permittee, or lessee required to maintain insurance under subsection (b) of this section shall provide the city a certificate of insurance evidencing the existence of a valid and effective policy. The policy shall name the City of Boulder and its officials and employees as additional insureds to the limits required by this section. The certificate of insurance shall show the following:

(1) The limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds.

1 (2) A statement that licensee, permittee, or lessee or its insurance broker shall notify the  
2 city of any cancellation or reduction in coverage within seven days of receipt of  
3 insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith  
4 obtain and submit proof of substitute insurance in the event of expiration or  
5 cancellation of coverage.

6 (3) City of Boulder at 1777 Broadway, P.O. Box 791, Boulder, CO 80306 shall be listed  
7 as certificate holder.

8 (e) The city manager may modify or waive the requirements of this section if the manager finds  
9 that adequate insurance coverage is provided to protect the interests of the city, its employees  
10 and officials.

11 (f) The city manager may require insurance coverage in excess of the requirements of this  
12 section if the manager finds such coverage is necessary to protect the interests of the city, its  
13 employees and officials.

14 Section 2. Section 4-6-3, B.R.C. 1981 is amended to read:

15 **4-6-3. - License Application.**

16 ....

17 (b) The applicant shall ~~provide~~ maintain insurance during the period of the license as required  
18 evidence of insurance coverage required by Section 4-1-8, "Insurance Required," B.R.C.  
19 1981, and shall name the city as an insured party under the required policies of public  
20 liability insurance.

21 ....

22 Section 3. Section 4-11-10, B.R.C. 1981 is amended to read:

23 **4-11-10. - Kiosk Lease.**

24 ....

25 (k) The holder of a kiosk lease shall indemnify and hold harmless the city, its officers,  
employees and agents against any and all claims arising from any occurrence occasioned by  
the permitted use, and shall maintain insurance during the period of the lease ~~comprehensive~~  
~~general public liability and property damage insurance,~~ as required ~~prescribed by~~ sSection 4-  
1-8, "Insurance Required," B.R.C. 1981, ~~naming the city, its officers, employees and agents~~  
~~as insureds; providing that the insurance is primary insurance and that no other insurance~~  
~~maintained by the city will be called upon to contribute to a loss covered by the policy; and~~  
~~providing for thirty days' notice of cancellation or material change to the city.~~

Section 4. Section 4-11-12, B.R.C. 1981 is amended to read:

**4-11-12. - Mobile Vending Cart Permit.**

....  
(j) The holder of a mobile vending cart permit shall indemnify and hold harmless the city, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use, and shall maintain insurance during the period of the permit ~~comprehensive general public liability and property damage insurance, as prescribed required by s~~Section 4-1-8, "Insurance Required," B.R.C. 1981, ~~naming the city, its officers, employees and agents as insureds; providing that the insurance is primary insurance and that no other insurance maintained by the city will be called upon to contribute to a loss covered by the policy; and providing for thirty days' notice of cancellation or material change to the city.~~

....  
Section 5. Section 4-11-17, B.R.C. 1981 is amended to read:

**4-11-17. - Special Entertainment Permit.**

....  
(b) The holder of a special entertainment permit shall indemnify and hold harmless the City, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use, and shall maintain insurance during the period of the permit ~~comprehensive general public liability and property damage insurance, as prescribed required by s~~Section 4-1-8, "Insurance Required," B.R.C. 1981, ~~naming the City, its officers, employees and agents as insureds; providing that the insurance is primary insurance and that no other insurance maintained by the City will be called upon to contribute to a loss covered by the policy; and providing for thirty days' notice of cancellation or material change to the city.~~ The city manager may waive all or any part of this insurance requirement if the special entertainment permit requirement is based solely on the height of the equipment used, if the applicant demonstrates to the manager's satisfaction a history of safety with respect to the use of such equipment, and if the manager concludes that the nature of the equipment and its use is such that harm to other mall users or to property other than that of the applicant is unlikely to occur.

....  
Section 6. Section 4-18-3, B.R.C. 1981 is amended to read:

**4-18-3. - Sidewalk Banner or Awning Permit Required.**

....  
(c) An applicant for a permit under this section shall maintain insurance during the period of the permit file evidence of insurance as required by ~~S~~Section 4-1-8, "Insurance Required," B.R.C. 1981, ~~and shall name the City as an insured party under the required policies of public liability insurance.~~

Section 7. Section 6-1-17, B.R.C. 1981 is amended to read:

**6-1-17. - Animals on Mall Prohibited.**

....  
(c) Notwithstanding the provisions of Subsection (a) of this section, an animal may be present on the mall in accordance with the terms of a permit issued under this subsection.

(1) Upon application in accordance with the procedure prescribed in Section 4-11-19, "Application Procedures," B.R.C. 1981, the city manager may issue such a permit, not exceeding three days in length, if the manager finds that:

....

(G) The applicant maintains insurance during the period of the permit provides a certificate of public liability and public property damage insurance meeting the as requirements by of Section 4-1-8, "Insurance Required," B.R.C. 1981;

....

Section 8. Section 8-6-6, B.R.C. 1981 is amended to read:

**8-6-6. - Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases.**

....

(b) Permit Required and Application Requirements: No person shall place, maintain or continue to use or maintain any encroachment in the public right of way or in a public easement unless such person has a revocable permit, short term lease or long term lease granted under this section; a revocable permit granted pursuant to city charter section 115; a current franchise agreement with the City; or a right to be in the public right of way pursuant to state law. An applicant for permission to encroach on public right of way or easement shall:

....

(2) File evidence of and maintain the liability insurance required meeting the requirements of by sSection 4-1-8, "Insurance Required," B.R.C. 1981; ~~except that, for permits concerning land where the City's property interest is a utility easement only and that easement does not permit use by the general public for access or any other purpose, the maximum amount of insurance required shall be \$100,000.00; and~~

....

Section 9. Section 11-4-4, B.R.C. 1981 is amended to read:

**11-4-4. - Special Airport Activity Permits.**

....

(b) A nonprofit organization may apply to the city manager for a one day permit to conduct a special activity or exhibition relating to airport or aircraft activity at the Boulder Municipal Airport, by filing an application at least one week before the activity, paying a deposit of

1 \$25.00, and maintaining insurance during the period of the permit as required by  
2 Section providing evidence of insurance coverage as prescribed by subsection 4-1-8(b),  
3 B.R.C. 1981.

4 ....

5 Section 10. Section 11-4-6, B.R.C. 1981 is amended to read:

6 **11-4-6. - Requirements for Air Carriers.**

7 (a) No person shall operate an air carrier or regularly scheduled air taxi service from the  
8 Boulder Municipal Airport or use any facilities of the airport while operating such a carrier  
9 or service unless the carrier or service

10 ~~(2) Each air carrier or air taxi service has insurance coverage meeting the current minimum  
11 requirements of the Civil Aeronautics Board Federal Aviation Authority, but in no event  
12 maintain insurance less than that required by Section 4-1-8, B.R.C. 1981 ~~less than public  
13 liability insurance with minimum limits of \$150,000.00 for any one person and \$600,000.00  
14 for any one accident and public property damage insurance with a minimum limit of  
15 \$100,000.00 for any one accident.~~~~

16 (b) Each air carrier or air taxi service using the Boulder Municipal Airport shall also comply  
17 with Section 4-1-8 (c) and (d), B.R.C. 1981 ~~file with the city manager a certificate signed by  
18 a qualified agent of an insurance company evidencing the existence of valid and effective  
19 policies of public liability and damage insurance required by paragraph (a)(2) of this section,  
20 the limits of each policy, the policy number, the name of the insurer, the effective date and  
21 expiration date of each policy, and a copy of the endorsement placed on each policy  
22 requiring ten days' notice by mail to the manager before the insurer may cancel the policy  
23 for any reason.~~

24 ....

25 Section 11. 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 12. 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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 4<sup>th</sup> day of August, 2015.

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Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE**

Introduction, first reading and consideration of a motion to adopt Emergency Ordinance No. 8062 adopting Supplement No. 124, which codifies previously adopted Ordinance Nos. 8028, 8034, 8038, 8040, 8045, 8049, and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981.

**PRESENTER:**

Office of the City Attorney  
Thomas A. Carr, City Attorney

**EXECUTIVE SUMMARY:**

The Boulder Revised Code (“B.R.C. 1981”) is the official book of laws of the City of Boulder. Four times a year (quarterly), the City Council is asked to adopt supplements to the B.R.C. 1981. An ordinance format is used to bring ordinances that the City Council adopted in the prior quarter into the B.R.C. 1981, and to ensure that there is no question regarding what constitutes the official laws of the City of Boulder. These supplement ordinances are approved as a matter of routine by the City Council.

In order to generate the printed supplements to the B.R.C. as soon as possible, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

The text of Supplement No. 124 has been previously adopted by the following ordinances:

Ord #8028	AN ORDINANCE AMENDING TITLE 9, “LAND USE CODE” B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY; AND SETTING FORTH RELATED DETAILS.
Ord #8034	AN ORDINANCE AMENDING THE CAPITAL FACILITIES IMPACT FEE IN CHAPTER 4-20-62, AND CHAPTER 8-9, B.R.C. 1981 BY THE ADDITION OF A NEW AFFORDABLE HOUSING LINKAGE FEE ON NON-RESIDENTIAL DEVELOPMENT, AND SETTING FORTH RELATED DETAILS.
Ord #8038	AN ORDINANCE AMENDING SECTION 9-6-3, “SPECIFIC USE STANDARDS – RESIDENTIAL USES,” B.R.C. 1981, EXEMPTING COTTAGE FOODS AND FRESH PRODUCE FROM CERTAIN USE LIMITATIONS; ADDING A NEW CHAPTER 6-17 “COTTAGE FOODS AND FRESH PRODUCE SALES” SETTING FORTH REQUIREMENTS FOR SALES OF COTTAGE FOODS AND FRESH PRODUCE; AMENDING SECTION 9-9-21, “SIGNS,” B.R.C. 1981 TO ALLOW FOR COTTAGE FOODS AND FRESH PRODUCE SIGNS AND SETTING FORTH RELATED DETAILS.

Ord #8040	AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO ALLOW MEDICAL OR DENTAL CLINICS OR OFFICES AND ADDICTION RECOVERY FACILITIES AS A CONDITIONAL USE IN THE INDUSTRIAL GENERAL ZONING DISTRICT IN CLOSE PROXIMITY TO THE BOULDER COMMUNITY HEALTH FOOTHILLS CAMPUS, AND SETTING FORTH RELATED DETAILS.
Ord #8045	AN ORDINANCE AMENDING SECTIONS 6-3-2, "DEFINITIONS," 6-3-3, "ACCUMULATION OF TRASH, RECYCLABLES, AND COMPOSTABLES PROHIBITED," 6-3-9, "SPECIAL TRASH SERVICE REQUIREMENTS ON CERTAIN RESIDENTIAL RENTAL PROPERTIES AT CERTAIN TIMES," AND 6-12-6, "DISPOSITION OF RECYCLABLE OR COMPOSTABLE MATERIALS," B.R.C. 1981, AND ADDING NEW SECTIONS 6-3-13, PROPERTY OWNER REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTION," 6-3-14, "BUSINESS OWNER REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTION," 6-3-15, SPECIAL EVENTS REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTIONS," 6-3-16, "APPLICABILITY," 6-3-17, "EXEMPTIONS," 6-3-18, "VIOLATIONS," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.
Ord #8049	AN ORDINANCE REGARDING MOBILE FOOD VEHICLE SALES, AMENDING SECTION 9-6-5, "TEMPORARY LODGING, DINING, ENTERTAINMENT, AND CULTURAL USES," B.R.C. 1981, BY PROVIDING THE CITY MANAGER AUTHORITY TO ISSUE A PERMIT ALLOWING A FOOD TRUCK WITHIN 150 FEET OF A RESTAURANT WITH THE RESTAURANT'S PERMISSION, ONLY IN THE BC-1 ZONE DISTRICT, WAIVING THE REQUIREMENTS OF SECTION 9-1-5(a) "AMENDMENTS AND EFFECT OF PENDING AMENDMENTS" AND SETTING FORTH RELATED DETAILS.

**FISCAL IMPACTS:**

Budgetary: None

Staff Time: None beyond the time always allocated to code maintenance in the City Attorney's overall work plan.

Economic: None

**COUNCIL FILTER IMPACTS:**

Ongoing code maintenance is an essential and largely administrative obligation of the city.

**STAFF RECOMMENDATION:**

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

Motion to adopt Emergency Ordinance No. 8062 regarding Supplement No. 124.

**FORMAT NOTES:**

Code amendments (if any) may be reflected in strike out and double underline format along with a "Reason for Change" as part of this agenda item. Such amendments are intended to correct non-substantive errors discovered through review of these ordinances and/or which may have occurred in previously adopted ordinances already in the B.R.C. 1981. Major and/or substantive corrections or revisions are brought forward as a separate ordinance to City Council during the normal course of future City Council business.

## **DISCUSSION:**

This supplement includes ordinances that were adopted by the City Council in the last supplement quarter. They are added to the official version of the B.R.C. 1981 by way of the attached supplement ordinance. The City Council adopts a quarterly supplement ordinance to ensure that a clearly identifiable version of the Boulder Revised Code is legislatively adopted.

The printed supplements to the B.R.C. may not be distributed until the proposed adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible, therefore, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

## **AMENDMENTS:**

### **1. Section 6-12-6 “Disposition of Recyclable or Compostable Materials,” B.R.C. 1981.**

....

- (c) ~~In the absence of an express written designation to the contrary initiated by the customer, i~~It shall be presumed that each property owner, property manager, residential customer, commercial customer or multifamily customer has designated both single stream and source-separated, clean fiber recyclable materials as defined by city manager rules to be hauled to the recyclables processing center owned by Boulder County or its successor in interest (“Boulder County Recycling Center”). The City Manager may designate conditions under which the presumption in this subsection (c) shall not apply with respect to source-separated, clean fiber recyclable materials.

....

**Reason for change:** Council was not advised to remove sufficient language to accomplish the intent of an amendment made in Ord 8045.

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### **2. Section 4-20-11 “Mall License and Permit Fees,” B.R.C. 1981 is amended as follows:**

#### **4-20-11. - Mall License and Permit Fees.**

The following fees shall be paid before issuance of a revocable permit or lease, kiosk, mobile vending cart, ambulatory vendor, entertainment vending, personal services vending, or animal permit, and rental of advertising space on informational kiosks:

- (a) For revocable permit or leases issued in accordance with Section 8-6-6, "Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases," B.R.C. 1981, an annual fee of \$15.90 per square foot of occupied space;
- (b) For kiosk permits, an annual fee to be negotiated by contract with the city manager;
- (c) For mobile vending carts, ~~\$2,125.00~~~~2,075~~ per year, payable in two equal payments by April 1 and August 1, or, for substitution or other permits which begin later in the year and are prorated, within thirty days of permit approval;
- (d) For ambulatory vendor permits, ~~\$106.00~~~~103.50~~ per month from May through September, and ~~\$53.00~~~~54~~ per month from October through April;
- (e) For any permits requiring use of utilities to be provided by the city, up to a maximum of ~~\$18.50~~~~18~~ per day;

- (f) For rental of advertising space on informational kiosks, \$975 per quarter section per year;
- (g) For animal permits, \$0 per permit;
- (h) For entertainment vending permits, ~~\$14.75~~14.50 per month;
- (i) For personal services vending permits, ~~\$106.00~~103.50 per month from May through September, and ~~\$53.00~~51.00 from October through April; and
- (j) For a newspaper vending machine permit, \$66.50 per year.

**Reason for change:** The above changes to Section 4-20-11 were adopted by Council in Ord. 8004 on Oct. 21, 2014 (effective Jan. 1, 2015). Ord. 8016, adopted on Dec. 16, 2014, also addressed Section 4-20-11 but inadvertently excluded the fee changes made in Ord. 8004.

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**3. Section 11-4-6, “Request for Air Carriers,” B.R.C. 1981 is amended as follows:**

- (a) No person shall operate an air carrier or regularly scheduled air taxi service from the Boulder Municipal Airport or use any facilities of the airport while operating such a carrier or service unless the carrier or service complies with the following conditions:
  - (1) ~~An air carrier pays for each landing at the airport the fee prescribed in section 4-20-22, "Air Carrier Landing Fee," B.R.C. 1981. Fee payment shall be on such schedule as the city manager by regulation may prescribe.~~

....

**Reason for change:** Section 4-20-22, “Air Carrier Landing Fee,” B.R.C. 1981 was repealed in its entirety by Ord. 7697 in 2009. This reference should have been removed at that time.

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ATTACHMENT:

A - Proposed Emergency Ordinance No. 8062

ORDINANCE NO. 8062

AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 124, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 8028, 8034, 8038, 8040, 8045, 8049, AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Legislative Findings.

A. Supplement No. 124 amending the Boulder Revised Code 1981 (“B.R.C.”) has been printed.

B. The City Council intends that this supplement be codified and published as a part of the B.R.C.

C. Supplement No. 124 to the B.R.C. is a part of this ordinance and contains all of the amendments to the B.R.C. enacted by the City Council in Ordinance Nos. 8028, 8034, 8038, 8040, 8045, 8049, and other miscellaneous corrections and amendments. The City Council intends to adopt this supplement as an amendment to the B.R.C.

D. The ordinances contained in Supplement No. 124 are available in printed copy to each member of the City Council of the City of Boulder, Colorado, and the published text of the supplement, along with the text of those ordinances, is available for public inspection and acquisition in the office of the city clerk of the City of Boulder, in the Municipal Building, 1777 Broadway, Boulder, Colorado.

Section 2. The City Council adopts Supplement No. 124 by this reference.

Section 3. The City Council orders that a copy of Supplement No. 124, as proposed for adoption by reference herein, be on file in the office of the city clerk of the City of Boulder, Colorado, Municipal Building, 1777 Broadway, City of Boulder, Boulder County, Colorado, and may be inspected by any person at any time during regular business hours pending of the adoption of this ordinance.

Section 4. The annotations, source notes, codifier’s notes, and other editorial matter included in the printed B.R.C., are not part of the legislative text. These editorial provisions are provided to give the

1 public additional information for added convenience. No implication or presumption of a legislative  
2 construction is to be drawn from these materials.

3       Section 5. The B.R.C., or any chapter or section of it, may be proved by a copy certified by the  
4 city clerk of the City of Boulder, under seal of the city; or, when printed in book or pamphlet form and  
5 purporting to be printed by authority of the city. It shall be received in evidence in all courts without  
6 further proof of the existence and regularity of the enactment of any particular ordinance of the B.R.C.  
7

8       Section 6. These provisions of the B.R.C. shall be given effect and interpreted as though a  
9 continuation of prior laws and not as new enactments.

10       Section 7. Unless expressly provided otherwise, any violation of the provisions of the B.R.C., as  
11 supplemented herein, shall be punishable by a fine of not more than one thousand dollars or  
12 incarceration for not more than ninety days in jail, or by both such fine and incarceration, as provided in  
13 section 5-2-4, "General Penalties," B.R.C. 1981.  
14

15       Section 8. Section 6-12-6 "Disposition of Recyclable or Compostable Materials," B.R.C. 1981 is  
16 amended as follows:  
17

18       ....

19 (c) ~~In the absence of an express written designation to the contrary initiated by the customer,~~ It shall  
20 be presumed that each property owner, property manager, residential customer, commercial  
21 customer or multifamily customer has designated both single stream and source-separated, clean  
22 fiber recyclable materials as defined by city manager rules to be hauled to the recyclables  
23 processing center owned by Boulder County or its successor in interest ("Boulder County  
24 Recycling Center"). The City Manager may designate conditions under which the presumption  
25 in this subsection (c) shall not apply with respect to source-separated, clean fiber recyclable  
26 materials.  
27       ....

28       Section 9. Section 4-20-11 "Mall License and Permit Fees," B.R.C. 1981 is amended as follows:

**4-20-11. - Mall License and Permit Fees.**

The following fees shall be paid before issuance of a revocable permit or lease, kiosk, mobile vending cart, ambulatory vendor, entertainment vending, personal services vending, or animal permit, and rental of advertising space on informational kiosks:

- 1 (a) For revocable permit or leases issued in accordance with Section 8-6-6, "Requirements for
- 2 Revocable Permits, Short-Term Leases and Long-Term Leases," B.R.C. 1981, an annual fee of
- 3 \$15.90 per square foot of occupied space;
- 4 (b) For kiosk permits, an annual fee to be negotiated by contract with the city manager;
- 5 (c) For mobile vending carts, ~~\$2,125.00~~<sup>2,075</sup> per year, payable in two equal payments by April 1
- 6 and August 1, or, for substitution or other permits which begin later in the year and are
- 7 prorated, within thirty days of permit approval;
- 8 (d) For ambulatory vendor permits, ~~\$106.00~~<sup>103.50</sup> per month from May through September, and
- 9 ~~\$53.00~~<sup>51</sup> per month from October through April;
- 10 (e) For any permits requiring use of utilities to be provided by the city, up to a maximum of
- 11 ~~\$18.50~~<sup>18</sup> per day;
- 12 (f) For rental of advertising space on informational kiosks, \$975 per quarter section per year;
- 13 (g) For animal permits, \$0 per permit;
- 14 (h) For entertainment vending permits, ~~\$14.75~~<sup>14.50</sup> per month;
- 15 (i) For personal services vending permits, ~~\$106.00~~<sup>103.50</sup> per month from May through
- 16 September, and ~~\$53.00~~<sup>51.00</sup> from October through April; and
- 17 (j) For a newspaper vending machine permit, \$66.50 per year.

18 Section 10. Section 11-4-6, "Request for Air Carriers," B.R.C. 1981 is amended as follows:

- 19 (a) No person shall operate an air carrier or regularly scheduled air taxi service from the Boulder
- 20 Municipal Airport or use any facilities of the airport while operating such a carrier or service unless
- 21 the carrier or service complies ~~with the following conditions:~~

22 ~~(1) An air carrier pays for each landing at the airport the fee prescribed in section 4-20-22, "Air Carrier~~  
~~Landing Fee," B.R.C. 1981. Fee payment shall be on such schedule as the city manager by~~  
~~regulation may prescribe.~~

23 Section 11. This ordinance is necessary to protect the public health, safety, and welfare of the

24 residents of the city, and covers matters of local concern.

25 Section 12. The printed supplements cannot be distributed until the adopting ordinance is

26 effective. The laws of the city should be current and available to the residents of the City of Boulder as

27 soon as possible. On that basis, this ordinance is declared to be an emergency measure and shall be in

28 full force and effect upon its final passage.

1 READ ON FIRST READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY  
2 TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY  
3 this 18th day of August 2015.  
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Mayor

7 Attest:

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9 City Clerk

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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8064 placing before the voters at the November 3, 2015 general election a ballot measure amending the Boulder Home Rule Charter by adding a provision requiring subcommunity planning and setting forth related details.

**PRESENTER/S**

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

David Driskell, Executive Director, Community Planning and Sustainability

Susan Richstone, Deputy Director, Community Planning and Sustainability

David Gehr, Deputy City Attorney

**EXECUTIVE SUMMARY**

The purpose of this council agenda item is to introduce a proposed ballot measure requiring subcommunity plans. The measure originally proposed by Council Member Sam Weaver would require the creation of subcommunity and area plans to guide development decisions in the subcommunity or area. This agenda memorandum describes the proposal and responds to several questions posed by council members at the ballot measure study session on July 14, 2015. As a council member initiated ballot measure, staff is providing an analysis, but not making any recommendation on whether council should proceed with this measure.

## **STAFF RECOMMENDATION**

### Suggested Motion Language:

If council decides to proceed with this ballot measure, staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce on first reading and order published by title only Ordinance No. 8064 placing before the voters at the November 3, 2015 general election a ballot measure amending the Boulder Home Rule Charter by adding a provision requiring subcommunity planning and setting forth related details.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: Subcommunity and area plans provide clarify on the desired development outcomes in a particular area, reducing uncertainty for property owners and businesses.
- Environmental: Subcommunity planning could incorporate more significant environmental protections in the planning process.
- Social: Allowing for more involvement in the planning process could increase community satisfaction with outcomes.

## **OTHER IMPACTS**

Fiscal – Implementation of subcommunity planning on a large scale would be an unfunded mandate that would require budget adjustments in future budgets.

Staff Time–Subcommunity planning will require additional staff.

## **BOARD AND COMMISSION FEEDBACK**

None

## **BACKGROUND**

On June 9, 2015, Council Member Weaver posted a hotline message proposing a ballot measure on subcommunity planning. The proposed measure is incorporated into the proposed ordinance which is Attachment A. The city council requested the Community Planning and Sustainability Department to provide some analysis of the potential ballot item to change the charter to add language on subcommunity planning, specifically:

1. What are the pros and cons of a charter amendment, ordinance or other approach?
2. What is the Planning Department's view on the proposed charter change?

3. Thoughts on subcommunity vs. area plans and how these differ, and what components would be in each?
4. What does it take to do a plan of this type?
5. What are the areas of town that would benefit?

### **1. What are the pros and cons of a charter amendment, ordinance or other approach?**

The Boulder Home Rule Charter is an organic document intended to provide a system of government based on identified principles. It for the most part structures through prohibiting actions that are not consistent with those principles and leaves implementation details to the City Council through its power to regulate. The charter is a high level document; details of particular policies and programs are more appropriately left to more specific work efforts and plans, ordinances, and the budgeting process.

The major benefits of a charter amendment would be providing assurance to the community that subcommunity and area planning will occur and would prioritize subcommunity and area planning. The major drawbacks are that a subcommunity and area planning program would need to be adequately funded, could result in other important planning priorities not being addressed, and would reduce the flexibility of future councils to set annual work program priorities if this is mandated. Additionally, in the proposed ballot issue's current form, the level of detail goes well beyond the level of detail provided in other sections of the charter and mandates very specific techniques to be used in preparing the plans.

### **The Charter**

Section 78 of the charter sets forth the functions of what is referred to as the Planning Department (Attachment B). This currently includes: preparing and recommending a "general plan" as well as a list of what the general plan includes; a list of recommended capital improvements; a zoning plan; minimum housing ordinances and building codes; subdivision; and a few other responsibilities.

If the council chooses to place a charter amendment on the ballot for subcommunity and area planning, council could consider language more consistent with the level of detail and existing content in the current charter. Suggested language could be as follow:

Prepare and recommend to the City Council subcommunity and area plans that provide a bridge between the broad policies of the comprehensive plan and site specific development proposals. Subcommunity and area plans determine the location, character, scale and mix of uses, density and intensity of development for a defined area. They shall be prepared in collaboration with affected neighborhoods and businesses, and will be subject to the annual planning work plan prioritization and resources.

The benefits of this would be to have language more consistent with the type of language currently found in the charter, would recognize the importance of subcommunity and area planning, and would provide flexibility to balance the preparation of subcommunity and area plans with other work plan priorities as opposed to mandating. The drawback is that it would not provide assurance to the community that subcommunity and area plans would be prepared in a timely manner.

### **The Boulder Valley Comprehensive Plan**

The Boulder Valley Comprehensive Plan includes a section (Attachment C) on subcommunity and area plans that describes their purpose, scope and process. A short description of each of the existing plans is provided.

In 1989, the city hired the consulting firm of Freilich-Ogburn to review the city's development review system and make recommendations for needed changes. The consultant's report suggested that there was a gap in the city's mid-level planning; that Boulder has been successful in planning at the broad, comprehensive planning scale, and at the site-specific planning scale, but not at the "in-between," or mid-level planning -scale. As a result: nine subcommunities were identified and mapped, a section on Subcommunity and Area Planning was added to the Boulder Valley Comprehensive Plan, and the North Boulder Subcommunity Planning effort was initiated.

An alternative to amending the City Charter may be to review and consider potential changes to the Subcommunity and Area Planning section of the Boulder Valley Comprehensive Plan as part of the five year update that is currently underway. As part of that effort, areas could be identified and prioritized for future area planning efforts, establishing a work plan for implementing this section of the comprehensive plan over the next several years.

The benefits of this approach are that it would be consistent with using the Comprehensive Plan to define the implementing framework for the city's planning efforts and it would build on what is already in place. The drawback is that it does not mandate subcommunity and area planning, if this is council's goal.

### **Ordinance**

Council also could implement more aggressive subcommunity planning through ordinance and budget. If council wishes to bind future councils to a particular program, council could propose the ordinance as a people's ordinance, which could be changed only by a vote of the people. Council also could adopt an ordinance through the normal legislative process. At the end of the day, the ability to prepare subcommunity and area plans comes down to citywide priorities and resources for planning efforts. For progress to be made on preparing subcommunity or area plans, it may be necessary to designate resources in the budget specifically to subcommunity and area planning.

It is also important to note that subcommunity and area plans need to be informed by larger citywide policies. So, as an example, if the city has a policy that affordable housing and diversity of housing types should be distributed throughout city and not disproportionately concentrated in only some areas of the city, it would not be appropriate for a subcommunity plan to say "no affordable housing."

## **2. What is the Planning Department's view on the proposed charter change?**

Planning staff views subcommunity and area planning as essential to providing the guidance needed for site specific development proposals, to guide investments in capital improvements, and to establish other community desires and needs. Victor Dover emphasized this point last year when he spoke to council and the community about the need for area specific plans to develop a form based code. They create common understanding among all parties of expected changes in an area, provide neighborhoods and other affected stakeholders to help shape the future of their areas of the community, and determine the desired character, uses, and intensity of development in an area.

The challenge has been that area plans are significant work efforts and are resource intensive, and therefore need to be prioritized relative to other work plan efforts. Even if a provision is placed in the Charter, there would need to be adequate resources devoted to an area planning program in the department.

## **3. Thoughts on subcommunity vs. area plans and how these differ, and what components would be in each?**

A subcommunity plan is a plan for a designated subcommunity, while an area plan addresses an area within an identified subcommunity. Boulder has identified nine planning subcommunities (*alphabetically*):

1. Central Boulder
2. Crossroads
3. East Boulder
4. Gunbarrel
5. North Boulder
6. Palo Park
7. South Boulder
8. Southeast Boulder
9. University of Colorado

The BVCP identifies both the potential scope of subcommunity and area plans as well as criteria for prioritizing the selection of an area for a plan. The scope varies depending on the issues to be addressed. Subcommunity plans, due to the very large area encompassed, are by definition more extensive and complex efforts to undertake than area plans, which address a smaller area with a narrower set of issues and stakeholders. As an example, a key consideration in the development of the Transit Village Area Plan was the boundary for the planning

area. The area started out much larger, and due to the concern for the time and effort that would be involved, among other considerations, the area was narrowed to the area of more imminent change.

Thus far, the city has completed one subcommunity plan and six area plans. Subcommunity and area plans are an extremely valuable tool for providing the guidance needed to ensure individual development proposals further the city's desired vision for an area. They have been a priority of the city's planning efforts, beginning with preparation of the North Boulder Subcommunity Plan in the early 1990's. Following the North Boulder Subcommunity Plan, zoning districts were developed and properties rezoned to implement the plan in addition to investments in public improvements. The plan has guided the development that has occurred in the area and is widely recognized by the community as having been crucial to the positive development outcomes in the area. Similar things can be said for each of the other area planning efforts.

Each of the seven plans has varied in scope, complexity and effort. The main challenge to completing additional plans has been related to the overall priority of area planning efforts relative to other planning issues and the time and resources plans usually take. A key criterion for selecting an area for a subcommunity or area planning effort is the amount of change anticipated. This was the driver for the North Boulder Subcommunity Plan and the Transit Village Area Plan. As part of the 2015 Major Update to the BVCP fact sheets and analysis have been prepared for each subcommunity (Attachment C). In addition to the North Boulder Subcommunity Plan, the city has completed the following area plans:

- Boulder Plaza Subarea Plan
- Boulder Transit Village Area Plan (Boulder Junction)
- Crossroads East Sunrise Center Area Plan
- Gunbarrel Community Center Plan
- Junior Academy Area Plan
- University Hill Area Plan

In addition to the area plans and the subcommunity plan, the city has adopted design guidelines for downtown and the regional center.

#### **4. What does it take to do a plan of this type?**

As is noted above, the subcommunity and area planning processes are labor and resource intensive, and all areas of the city may not need this level of planning effort. The proposed ballot measure includes language that would require specific methodologies for preparing subcommunity plans. Generally, the constraint is not the desire to use such practices, but the lack of time or resources to do so, as well as the need to prioritize and balance with other work efforts. For example, conducting a scientific survey of residents generally requires several months. The cost of such surveys varies depends upon the number of responses desired and the number of questions asked. In any case, this type of work tends to be expensive

and take significant time. The North Boulder Subcommunity Plan was developed in five phases over a period of almost three years and then amended twice.

#### **5. What are the areas of town that would benefit?**

It is difficult to say which areas would benefit specifically without adequate time to evaluate the issues, development potential and other factors. The relative benefit/ priority of different areas is something that could be looked at as part of the BVCP Major Update, including whether the subcommunity level as opposed to targeting specific smaller areas would be a more desirable approach.

#### **Conclusion**

Subcommunity and area plans are a valuable part of a cohesive and comprehensive planning process. A subcommunity and area planning program requires significant resources and needs to be prioritized with other planning work plan efforts and priorities. It is for council and ultimately the citizens to decide whether the Charter should include a mandate that would elevate subcommunity and area planning over other city priorities.

#### **ATTACHMENTS:**

Attachment A - Proposed Ordinance No. 8064

Attachment B - City Charter Sec. 78

Attachment C - Boulder Valley Comprehensive Plan section on Subcommunity and Area Plans

ORDINANCE NO. 8064

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE REGULAR MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING THE CITY CHARTER TO REQUIRE SUBCOMMUNITY PLANS; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER RELATED DETAILS.

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

Section 1. A regular municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendments to the Charter requiring subcommunity plans by adding a new Section 80a as follows:

**Sec. 80a. – Subcommunity Plans**

For purposes of this Section, “subcommunity” shall mean a contiguous area within the city limits of Boulder as reasonably demarcated by the City Council.

The City Council shall direct and oversee an ongoing subcommunity planning process managed by the City Manager and Planning Department staff. The goal of this program shall be to create and maintain subcommunity plans that shall be used to direct land development activities within the subcommunity. These subcommunity plans will not replace the zoning function, but will be used in conjunction with other City plans to help direct the location, form, uses, density, and intensity of development within the subcommunities. The factors that shall be considered when creating or updating a subcommunity area plan shall include but are not limited to:

- (a) The existing character of residential neighborhoods and business districts in the subcommunity;
- (b) The desired future character of residential neighborhoods and business districts in the subcommunity;
- (c) Business services that exist within the subcommunity;
- (d) Business services that do not exist but are desired within the subcommunity;

- 1 (e) Occupancy levels that exist within residential areas within the subcommunity;
- 2 (f) Occupancy levels that are desired within residential areas within the subcommunity;
- 3 (g) Development density that exists within residential and business areas within the subcommunity;
- 4 (h) Development density that is desired within residential and business areas within the subcommunity;
- 5 (i) Development intensity that exists within residential and business areas within the subcommunity;
- 6 (j) Development intensity that is desired within residential and business areas within the subcommunity;
- 7 (k) Building height that exists within residential and business areas within the subcommunity;
- 8 (l) Building height that is desired within residential and business areas within the subcommunity.

9 Techniques that shall be used to determine the direction that residents and businesses within the subcommunity desire to pursue shall include, but not be limited to:

- 10 (a) Visualization of multiple alternatives for future development that communicate visually building location, massing, intensity, and density to residents and businesses within the subcommunity;
- 11 (b) Outreach meetings to discuss the results of the visualization exercises, as well as to exchange ideas regarding the subcommunity characteristics listed above;
- 12 (c) Scientific opinion polling of residents and businesses within the subcommunity to gauge the directions that the subcommunity members wish to pursue in the future; and
- 13 (d) Consideration by the Planning Board and City Council of the creation of form-based building codes that comport with the completed subcommunity plans in areas of the subcommunities that are reserved for the most intense development.

14 The purpose of including this Section in the City Charter is to engage and empower residents and businesses and to provide City Council, the Planning Board, and Planning staff with a clear mandate to proceed with initial and ongoing subcommunity planning in a series of timely, thorough, and public processes, and to direct the City Manager to deploy such resources and personnel as are required to accomplish these goals.

15 Section 3. The official ballot shall contain the following ballot title, which shall also  
16 be the designation and submission clause for the measure:  
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**Ballot Question No. \_\_\_\_**

**Adding a Charter Provision to Require Subcommunity Plans**

Shall the Charter be amended to make changes to require the city council and city manager to adopt and maintain subcommunity plans as specified in Ordinance No. 8064?

For the Measure \_\_\_\_

Against the Measure \_\_\_\_

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the charter shall be amended as provided in this ordinance.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby superseded.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. 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 9. 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.

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INTRODUCED, READ ON FIRST READING, AMENDED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

## Sec. 78. - Functions.

The planning department shall:

- (a) Prepare and recommend to the city council a general plan, with necessary maps, plats, charts, and descriptive and explanatory materials, for the physical improvement and development of the city, including therein,
  - (1) The general location, character, and extent of streets, bridges, parks, waterways, and other public ways, grounds, and spaces;
  - (2) The general location of public buildings and other public property, within and without the city limits, including watersheds, water systems, reservoirs, sewer and drainage systems, facilities for the sanitary disposal of garbage and other wastes, airports, vehicle parking facilities, and all other public properties and facilities necessary for the proper development of the city;
  - (3) The general location and extent of public utilities, including public transportation facilities, whether publicly or privately owned;
  - (4) The removal, relocation, widening, extension, narrowing, vacation, abandonment, or change of use of existing or future public ways, grounds, spaces, buildings, property, or utilities;
  - (5) An adequate and equitable system of financing public improvements;
- (b) Review the general plan periodically and recommend to the city council desirable amendments and additions to the plan;
- (c) Submit annually to the city manager, not less than sixty days prior to the date for submission of the city manager's proposed budget to the city council, a list of recommended capital improvements to be undertaken during the forthcoming six-year period;

The list shall be arranged in order of preference, with recommendations as to which projects shall be completed each year. Each list of capital improvements shall be accompanied by a six-year capital budget indicating estimated costs and methods of financing all improvements;

- (d) Prepare and recommend to the city council a zoning plan dividing the city into building districts or zones and regulating the uses of land and the height, area, bulk, and uses of public and private buildings and structures;
- (e) Prepare and recommend to the city council minimum housing ordinances, building codes, and other measures necessary to promote the health, safety, and general welfare of the people of the city;
- (f) Prepare and recommend to the city council regulations governing the process of land subdivision;
- (g) Exercise control over all public improvements in accordance with the provisions of Section 80;
- (h) Exercise control over platting, opening, and annexing subdivisions in accordance with the provisions of Sections 81 and 82;
- (i) Cooperate with other governmental planning agencies on all planning matters affecting the city;
- (j) Encourage proper planning by all departments of the city, request necessary assistance from other departments, and integrate, to the extent possible, the planning activities of other departments into the general plan of the city; and
- (k) Within its budget appropriations, contract when necessary with city planners and other consultants for technical services.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

## IV. Implementation

The Boulder Valley Comprehensive Plan policies provide overarching direction for planning, development and programs in the Boulder Valley. Implementation tools that translate the plan into action include:

- Subcommunity and Area Planning
- Master Plans
- Trails Map

### ***Subcommunity and Area Planning***

Subcommunity and area planning bridges the gap between the broad policies of the Boulder Valley Comprehensive Plan and site specific project review (development applications or city capital projects).

Subcommunity and area plans:

- Establish the official future vision of an area;
- Create a common understanding among residents, business and land owners, and city departments of expected changes in the area;
- Determine the appropriate density, character, scale and mix of uses in an area, and identify the regulatory changes needed to ensure or encourage appropriate development compatible with its surrounding area;
- Define desired characteristics of an area or neighborhood that should be preserved or enhanced;
- Define the acceptable amount of infill and redevelopment and determine standards and performance measures for design quality to avoid or adequately mitigate the negative impacts of infill and redevelopment and enhance the benefits;
- Identify the need and locations for new or enhanced pedestrian, bicycle and vehicular connections;
- Identify the need and locations for new public or private facilities, such as shopping, child care, schools, parks and recreation, library and transit facilities, so that daily needs are close to where people live and work and to contribute to the livability, enjoyment, and sense of physical and social identity of a subcommunity or area;
- Develop implementation methods for achieving the goals of the plan, which may include: neighborhood improvement, trail, park or street projects; changes to the land use regulations or zoning districts; or changes to the Comprehensive Plan Land Use Map.

Area plans typically address planning issues at a more detailed level than subcommunity plans. The planning horizon for subcommunity and area plans is the same as that for the Comprehensive Plan—15 years. The subcommunity and area planning process includes:

- Identifying opportunities to address Comprehensive Plan goals;
- Developing criteria for decision-making that balance local area interests with those of the broader community;
- Involving interested groups and individuals to identify issues and opportunities to be addressed by the plan and establish a common vision for the future;

IV. Implementation (Subcommunity and Area Planning)

Attachment C - BVCP section on Subcommunity and Area Plans

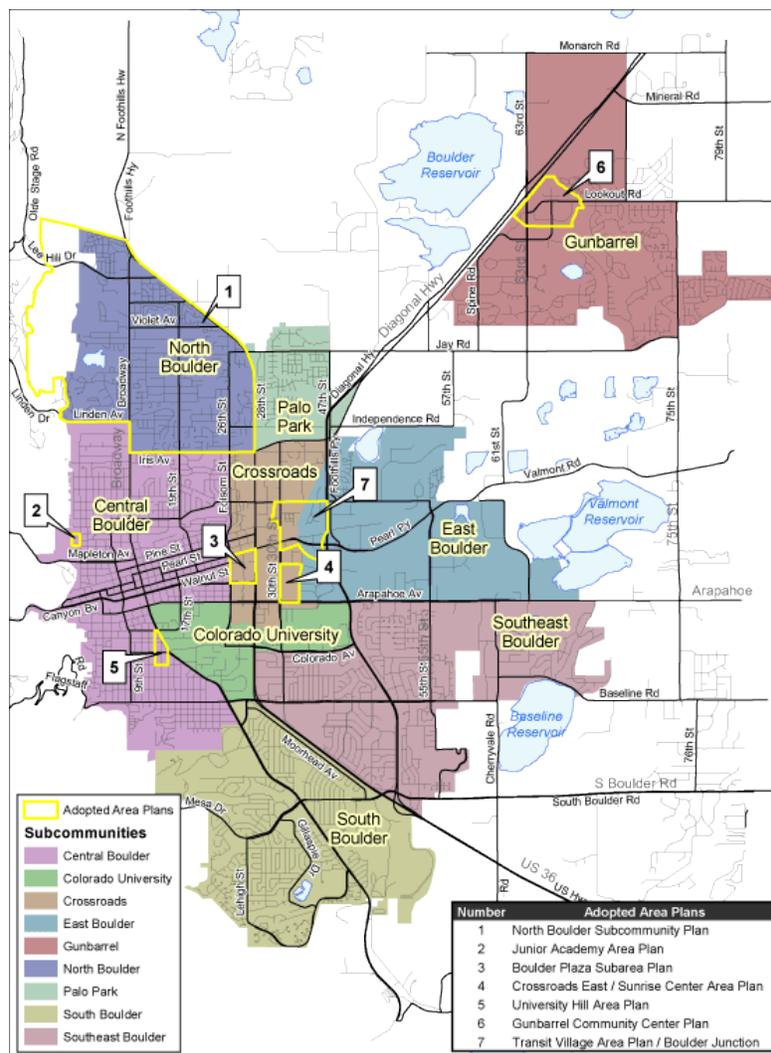
- Identifying a range of appropriate techniques for determining the priority of, and means of financing, plan elements; and
- Establishing a planning framework in which to review public projects, land use changes, and development proposals to implement or ensure compliance with the plan.

Boulder County is involved in the development of plans that affect land in Area II or III.

Subcommunity and area plans are adopted by Planning Board and City Council and amended as needed with the same legislative process as originally adopted.

**Subcommunity Planning**

There are nine subcommunity planning areas within the Service Area: Central Boulder, Crossroads, the University of Colorado, East Boulder, Southeast Boulder, South Boulder, North Boulder, Palo Park, and Gunbarrel.



When the subcommunity and area planning program was instituted in 1990, the idea was to develop plans for all of the subcommunities. The North Boulder Subcommunity Plan was the first because the area had the largest amount of vacant land in the city at the time and a significant amount of change was anticipated. As the city becomes more fully developed, the need for extensive planning at the

## Attachment C - BVCP section on Subcommunity and Area Plans

subcommunity planning level has lessened, and it is now thought that not all subcommunities will necessarily have subcommunity plans. If they do, they will address fewer issues than were tackled in the North Boulder Subcommunity Plan. It is anticipated that each subcommunity plan will be evaluated as needed and monitored annually through the Capital Improvements Program (CIP) and the Boulder Valley Comprehensive Plan Action Plan.

### Area Planning

Area plans are developed for areas with special problems or opportunities that are not adequately addressed by comprehensive planning, subcommunity planning or existing land use regulations. Area planning is initiated as issues or opportunities arise.

### Criteria for Selection

The criteria for selecting the priority for the development of subcommunity and area plans are:

- Extent to which the plan implements Boulder Valley Comprehensive Plan goals;
- Imminence of change anticipated in the area;
- Magnitude of an identified problem;
- Likelihood of addressing a recurring problem;
- Cost and time effectiveness of doing the plan; and
- Extent to which plan improves land use regulations, the development review process and the quality of public and private improvements.

### Adopted Subcommunity and Area Plans

The city has adopted the following subcommunity or area plans:

- Boulder Plaza Subarea Plan, 1992
- North Boulder Subcommunity Plan, 1995
- University Hill Area Plan, 1996
- Crossroads East/ Sunrise Center Area Plan, 1997
- Gunbarrel Community Center Plan, 2004
- Transit Village Area Plan, 2007
- Junior Academy Area Plan, 2009

### North Boulder Subcommunity Plan

The North Boulder Subcommunity Plan was adopted in 1995 to develop a vision for an area that had considerable development potential. The plan aims to preserve the present character and livability of the existing residential neighborhoods and ensure that future changes are beneficial to both the subcommunity and the city as a whole. A new mixed use village center along Broadway is envisioned to become the heart of subcommunity activity. New neighborhoods in the northern portion of the subcommunity are meant to create a strong edge to the city and an attractive entrance into Boulder.

#### *Implementation of the Plan*

The North Boulder Subcommunity Plan was the basis for re-zoning of a portion of the area in 1997. Five new zoning districts were created to implement the design guidelines in the plan, including: a business main street zone, patterned after historic 'Main Street' business districts; three mixed use zones that provide a transition between the higher intensity business 'Main Street' and surrounding residential or industrial areas; and a mixed density residential zone district. The plan also established a street and pedestrian/bicycle network plan, to which developing or re-developing properties must adhere.

### **Gunbarrel Community Center Plan**

The Gunbarrel Community Center Plan, adopted in 2004 and amended in 2006, provides a blueprint for transitioning the Gunbarrel commercial area from mostly light industrial uses to a viable and vibrant, pedestrian-oriented commercial center serving Gunbarrel subcommunity residents and workers. This will involve: expanding the amount of retail and allowing more density in the retail area; adding new residential and some offices uses in proximity to the retail core; and providing more vehicular, pedestrian and bicycle connections to and from and within the center. The new connections will improve access, break down the existing “superblocks,” provide better visibility to shops, and promote more pedestrian-scale architecture and outdoor spaces. Spine Road between Lookout and Gunpark roads will become the ‘Main Street’ for the retail area.

#### *Implementation of the Plan*

Implementation of the Gunbarrel Community Center Plan will occur over a long period of time through a combination of actions from both the public and private sectors. Business associations, such as the Gunbarrel Business Alliance, and neighborhood groups will play an important role in promoting collaboration to successfully implement the plan. Land use changes were made in the 2005 Boulder Valley Comprehensive Plan update to reflect the plan vision.

### **Transit Village Area Plan/ Boulder Junction**

The Transit Village Area Plan guides development of an area that is within walking distance of a future transit hub near 30<sup>th</sup> and Pearl streets, which will provide regional and local bus and rail service. The plan recommends land use changes to transform this mostly industrial, low density, automobile-oriented area into a more urban, higher density, pedestrian-oriented environment, with a mixture of uses, including new retail and office, and new residential neighborhoods for a diversity of incomes and lifestyles. Many of the existing service commercial and industrial uses on the north and east side of the area, respectively, will continue. The plan also focuses on: developing new, high-quality public spaces and streets; creating a new home for the historic Union-Pacific train depot; and protecting and enhancing Goose Creek.

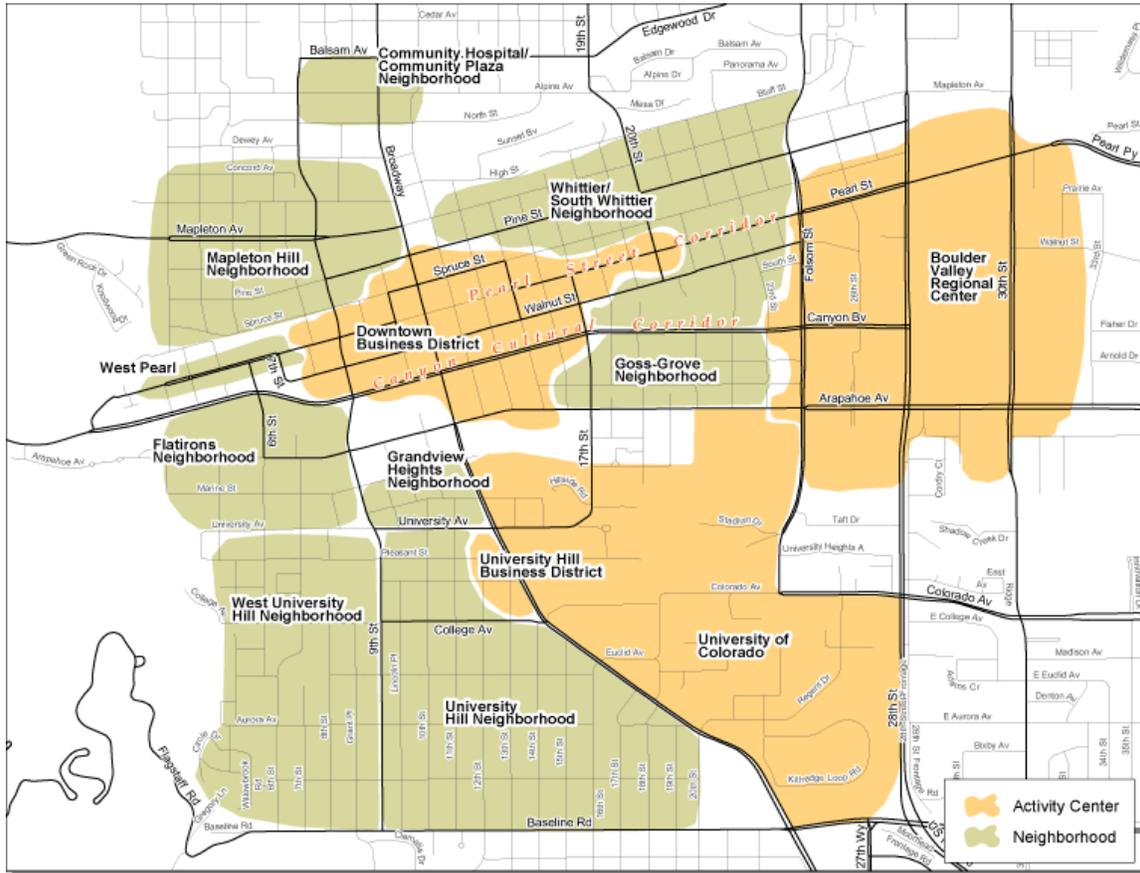
#### *Implementation of the Plan*

After adoption of the plan, the area was renamed Boulder Junction. Implementation will entail significant public investment in the transit facilities, the adjacent pocket park and civic plaza, the new north-south collector road, rehabilitation of the Depot, Goose Creek enhancements and the city-owned site at the northeast corner of the 30<sup>th</sup> and Pearl intersection. Property owners will contribute to construction of new streets, sidewalks and bicycle facilities when they develop their properties. In 2010 and 2011, land use and zoning changes were made on the west side of the area, and a general improvement district was formed to manage parking and provide Transportation Demand Management services. Land use changes and public improvements on the east side of the area will occur later, after substantial redevelopment of the west side.

### **Central Area**

The Downtown, the University and the Boulder Valley Regional Center areas constitute the three primary activity centers within the Boulder Valley’s central area.

Attachment C - BVCP section on Subcommunity and Area Plans



**Downtown**

The Downtown is the heart of Boulder—a hub of civic, social, cultural, entertainment, spiritual, professional and commercial activity. The Pearl Street Mall provides a unique pedestrian experience, with surrounding historic residential neighborhoods, newer commercial and mixed use buildings, the city’s civic center and Boulder Creek in close proximity. Several documents and districts work to maintain and enhance the Downtown environment:

- The **Downtown Urban Design Guidelines**, adopted in 1986 and revised in 2002 and 2011, guide the design quality of new construction and preservation and renovation projects located downtown.
- The **Central Area General Improvement District (CAGID)**, formed in 1970, provides parking and related improvements and maintenance in a 35-block area encompassing the Downtown.
- The **Downtown Boulder Business Improvement District (BID)**, formed in 1999, provides enhancements and services (economic vitality, marketing and enhanced maintenance) in the roughly the same area as CAGID to supplement services provided by the city.
- The **2005 Downtown Strategic Plan** recommends near-term strategies to keep Downtown Boulder vibrant and successful, for example, supporting small businesses and simplifying parking.

**Boulder Valley Regional Center**

The Boulder Valley Regional Center (BVRC) is a primarily commercial area, providing retail at a range of scales, restaurants, offices, and hotels in the geographic center of Boulder. There is also some high-

## Attachment C - BVCP section on Subcommunity and Area Plans

density housing, two parks and the Dairy Center for the Arts. The BVRC was established as an urban renewal district in 1979 to revitalize the area, with public improvements financed by bonds that were paid off in 2002. The following plans and guidelines continue to guide redevelopment and evolution of the area into a more attractive, pedestrian-, bicycle- and transit-friendly place:

- The **Boulder Plaza Subarea Plan**, 1992, and the **Crossroads/Sunrise Center Area Plan**, 1997, provide guidance on specific improvements to circulation, the public realm and building design in each area when redevelopment occurs.
- The **BVRC Transportation Connections Plan**, adopted in 1997 and updated in 1998 and 2002, shows where pedestrian, bicycle and vehicular transportation facilities should be constructed or improved through redevelopment or the Capital Improvements Program.
- The **BVRC Design Guidelines**, adopted in 1998, establishes design goals and guidelines for development proposals in the BVRC, including site layout, circulation, buildings, landscaping and open space, streetscape, and signs.

### University of Colorado and University Hill

The University of Colorado-Boulder (CU-Boulder) is an important part of the Boulder Valley's intellectual, cultural, social and economic life. The University's plans for expansion are set forth primarily in these documents:

- The **Flagship 2030** strategic plan seeks to position CU-Boulder for global leadership in education, research, and creative works by the year 2030. It envisions an increase in the number of undergraduate, graduate and professional school students and a corresponding increase in faculty.
- The draft **2011 Campus Master Plan** will provide guiding principles for developing facilities over the next ten years in support of the Flagship 2030 vision. The plan proposes development of the East Campus (generally bounded by 30<sup>th</sup> Street, Colorado Avenue, Arapahoe Avenue, and Foothills Parkway) as a full campus, with higher density building and a broad mix of programs. The Williams Village property will also continue to be developed. Growth on Main Campus will be limited, and the South Campus will continue to be reserved as a land bank for future generations. The final plan is expected to be completed in 2011.

The University Hill business district, to the west of Main Campus across Broadway, serves both the university population and the surrounding neighborhood, with restaurants, shopping and entertainment. Efforts to revitalize and diversify uses on The Hill to include more housing, some office, a broader range of retail offerings and increased cultural activities are guided by the following:

- The **University Hill General Improvement District (UHGD)**, created in 1970 and expanded in 1985, provides parking, maintenance and aesthetic improvements to the business district and also has played a leadership role in facilitating revitalization and redevelopment on The Hill.
- The 1996 **University Hill Area Plan** initiated streetscape improvements and land use regulation amendments to enhance the appeal and safety of public spaces, encourage mixed use development, and support and strengthen The Hill's pedestrian-oriented, urban village character
- Direction from City Council in 2010 to explore strategies for Hill revitalization, including creation of a **general improvement district for the surrounding high-density residential neighborhood** and an **"innovation district"** in the commercial area.

### Surrounding Neighborhoods

Goals for specific Central Area neighborhoods near the Downtown and the University are as follows:

- The **Pearl Street Corridor** between 18th Street and Folsom links the Downtown with the BVRC. The corridor is half a block wide along both sides of Pearl Street and is separated from established residential neighborhoods by alleys. The vision for the corridor is an interesting and varied mix of uses, combining urban-density housing with small-scale retail uses and office space. The scale of new buildings will be sensitive in use and design to adjacent residential uses. The challenge is to strengthen the pedestrian environment along the street from Downtown to the BVRC and beyond to Boulder Junction.
- The **Community Hospital/Community Plaza neighborhood**, just north of the downtown along Broadway, includes the hospital, medical offices and two shopping centers. The design of commercial expansions and physical improvements in the area must incorporate special considerations to minimize impacts to adjacent residential neighborhoods.



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only Ordinance Nos. 8068 and 8069 setting the ballot titles for two initiated amendments to the Boulder Charter, and setting forth related details.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Alisa D. Lewis, City Clerk/Director of Support Services  
Kathy Haddock, Senior Assistant City Attorney

**EXECUTIVE SUMMARY**

On August 6, 2015 City Clerk Alisa Lewis certified to council the sufficiency of two Charter Amendment petitions submitted to the City on July 16, 2015. Both petitions required 4,466 valid signatures (5% ) of City of Boulder registered electors. Results of the two petitions are as follows:

- 1) Neighborhoods' Right to Vote on Land Use Changes - contained 181 sections said to contain 5,605 signatures. Of those signatures, 4,799 were verified as registered electors thus making the petition sufficient; and
- 2) Development Shall Pay Its Own Way – contained 180 sections said to contain 5,616 signatures. Of those signatures, 4,789 were verified as registered electors thus making the petition sufficient.

The City Council is responsible for setting the ballot title by section 31-2-210(3) C.R.S. Staff has prepared the two attached ordinances for council's consideration to set the ballot titles.

**STAFF RECOMMENDATION:**

**Suggested Motion Language:**

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

Motion to introduce and order published by title only an ordinance setting the ballot title for an initiated amendment to the Boulder Home Rule Charter titled Neighborhoods’ Right to Vote on Land Use Changes; and

Motion to introduce and order published by title only an ordinance setting the ballot title for an initiated amendment to the Boulder Home Rule Charter titled Development Shall Pay Its Own Way.

**ANALYSIS:**

Upon receipt of initiated petitions for amendments to the Boulder charter, the role of the City Council is to set the ballot titles and follow the procedures to ensure that the initiated measures are properly submitted to the voters at the next election. The committees for the ballot petitions did not submit suggested a ballot title for either measure.

Staff has drafted a ballot title meeting the legal requirements for each initiated measure and included the draft titles in the attached ordinances. The proposed ballot titles have been shared with the petitioner committees supporting each initiated measure so that the committees could provide input. These drafts include some of the committee’s input.

Ballot titles are not to include the entire measure or include every possible effect of the measure. The ballot title is the question printed on the ballot to “briefly” and “correctly and fairly express the true intent and meaning of the proposed measure” so that a voter can “determine intelligently whether to support or oppose the proposal.” Ballot titles are invalid only if they are misleading, inaccurate or fail to reflect the central features of the proposed initiative.

**ATTACHMENTS :**

- A. Ordinance No. 8068– Neighborhoods’ Right to Vote on Land Use Changes
- B. Ordinance No. 8069– Development Shall Pay Its Own Way
- C. Certification of Petitions
- D. Form of Petition Circulated for Neighbors Right to Vote
- E. Form of Petition Circulated for Development Shall Pay Its Own Way

## ORDINANCE NO. 8068

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION SUBMITTED AS AN INITIATED AMENDMENT TO THE CHARTER BY ADDING A NEW SECTION 43A TO REQUIRE VOTER APPROVAL BY RESIDENTIAL NEIGHBORHOOD OF CERTAIN PROPOSED CHANGES TO LAND USE REGULATIONS THAT AFFECT EACH NEIGHBORHOOD; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES AND SETTING FORTH RELATED DETAILS.

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

Section 1. On July 16, 2015, a petition committee presented a petition with sufficient signatures of registered electors to initiate a vote on a proposed addition to the City Charter pursuant to section 31-2-210 C.R.S. The City Council is required to set the ballot title for the proposed amendment.

Section 2. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 3, 2015.

Section 3. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the amendment to the City Charter proposed by the petition committee with the following ballot title, which shall also be the designation and submission clause for the measure:

**Ballot Question No. \_\_\_\_\_**

**Neighborhood Right to Vote on Land Use Regulation Changes**

Shall the Boulder Home Rule Charter be amended to ensure that residents of neighborhoods have a voice in changes to land use regulations for residential developments that may have an impact on their neighborhood, including without limitation those that increase the maximum allowable building height, size, density, floor areas, or occupancy limits, changes to allowable uses, or reduce on-site parking requirements, required setbacks, solar access protection, or change zoning district designations or regulations within residential neighborhoods; and shall such neighborhoods be contiguous areas reasonably demarcated by the city that contain at least a portion of the MH, RE, RL-1&2, RM-1,2&3, RMX-1&2, RH-1-7 or RR-1&2 zoning districts, including without limitation at least 65 separate neighborhoods listed in the petition; and shall any changes to these regulations adopted by city council not be effective for 60 days, and if within such 60 days, one or more residential neighborhood submits a petition signed by 10 percent of the registered electors of the neighborhood meeting the referendum requirements of the charter, such changes shall not be effective for that neighborhood unless approved by the voters of such neighborhood; and shall there be a separate election for each residential neighborhood that has submitted a proper petition; and shall the city pay the costs of such elections; and related details as set forth in the initiative petition for this measure?

For the Measure \_\_\_\_\_ Against the Measure \_\_\_\_\_

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

1           Section 5. The officers of the City are authorized to take all action necessary or  
2 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to  
3 conduct the election for the City.

4           Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any  
5 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
6 provisions of this ordinance.

7           Section 7. 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 8. 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 18<sup>th</sup> day of August, 2015.

15  
16 \_\_\_\_\_  
Mayor

17 Attest:

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

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20           READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY  
21 TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 2015.

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Mayor

24 Attest:

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City Clerk

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ORDINANCE NO. 8069

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION SUBMITTED AS AN INITIATED AMENDMENT TO THE CHARTER BY ADDING A NEW SECTION 12A TO REQUIRE NEW DEVELOPMENT TO FULLY PAY FOR ADDITIONAL FACILITIES AND SERVICES REQUIRED BY THAT NEW DEVELOPMENT; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES AND SETTING FORTH RELATED DETAILS.

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

Section 1. On July 16, 2015, a petition committee presented a petition with sufficient signatures of registered electors to initiate a vote on a proposed addition to the City Charter pursuant to section 31-2-210 C.R.S. The City Council is required to set the ballot title for the proposed amendment.

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**Ballot Question No. \_\_\_\_\_**

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**New Development Shall Pay Its Own Way:**

Shall the Boulder Home Rule Charter be amended to prevent the city from approving new development that does not fully pay for or otherwise provide additional facilities and services to fully offset the burdens imposed by the new development; such facilities and services to include without limitation police, fire-rescue, parks and recreation, public libraries, housing, human services, senior services, parking services, transportation, and open space and mountain parks, and exempting utilities that have set services standards including water, wastewater, flood control, and electric; and to require the city council to apply practices that consider indirect revenues and contributions from new development and adopt standards for transportation facilities and services including emergency response times, daily vehicle miles traveled and travel times on designated streets during morning and evening peak hours; and shall the city council by a vote of six members be able to exempt permanently affordable housing or publicly-owned new developments from this section; and shall this section apply to new development that has not submitted an application for a building permit or change of use permit; and shall the city manager be required to report annually all standards used and a summary of the measurements and actions taken and analyses performed to satisfy this section; and setting forth related details set forth in the initiated petition for this measure?

For the Measure \_\_\_\_\_ Against the Measure \_\_\_\_\_

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.



STATE OF COLORADO     )  
COUNTY OF BOULDER    )  
CITY OF BOULDER        )                    SS.                                    Certificate

I, Alisa D. Lewis, City Clerk of the City of Boulder, Colorado, pursuant to Colorado State Statutes 31-2-210, do hereby certify as follows:

1. On April 21, 2015, there was filed in my office a letter of intent (signed by the committee of petitioners) to circulate a petition calling for a City of Boulder Charter Amendment Question to be placed on the November 3, 2015 ballot.
2. A petition to submit a charter amendment at the next regular election must be signed by at least five percent of the registered electors of the municipality registered on the date of filing the statement of intent. As of the date, April 21, 2015, there were ninety thousand, two hundred and eighteen (90,218) registered voters residing in the City of Boulder, Colorado. Therefore the number of valid signatures required is four thousand, five hundred eleven (4,511).
3. On May 1, 2015 a revised petition was submitted and upon review found to be in compliance and authorized to be circulated for signatures. The petition language states:

Shall the Charter of the City of Boulder be amended by the addition of the following Section:

Section 43A. Neighborhoods' Right to Vote on Land Use Regulation Changes

The purpose of this Section is to ensure that residents of neighborhoods have a voice in changes to land use regulations that may have impacts on their quality of life, neighborhood character, or property values. Such changes may include but are not limited to those that increase the maximum allowable building heights, floor areas, or occupancy limits, and changes in allowable uses within residential neighborhoods.

For purposes of this Section, "residential neighborhood" shall mean a contiguous area reasonably demarcated by the City, including the neighborhoods commonly known by the names listed in Appendix A, as well as other neighborhoods the City may reasonably identify, and that contains at least a portion of the MH, RE, RL-1&2, RM-1,2&3, RMX-1&2, RH-1-7, or RR-1&2 zoning districts as set forth in the Boulder Revised Code as of the passage of this Section.

No proposed changes to city regulations for one or more residential neighborhoods that would do one or more of the following for part or all of any residential neighborhood:

- increase the maximum allowable size, height, or density of any residential development;
- increase the maximum allowable occupancy limits of any residential development;
- change allowable uses for any residential zoning district identified in this Section as a zoning

district that is subject to this Section;

- reduce on-site parking requirements of any residential development;
- reduce required setbacks of any residential development;
- reduce solar access protection of any residential development;
- change the zoning district designations or the regulations applicable to existing residential zoning districts such that any of the aforementioned changes are enabled to occur;

shall become effective until sixty days following the approval of such change. However, if within such sixty day period, a petition meeting the requirements of Section 45 and signed by ten percent of the registered electors of a residential neighborhood affected by such change is filed with the city clerk requesting that such change be submitted to a vote of the electors of that neighborhood, then such change shall not be effective for that neighborhood until the procedures set forth in Sections 46 and 47 have been completed. For purposes of filing such a petition, fulfilling the requirements of Sections 46 and 47, and voting in the subsequent neighborhood election, the “electors” shall be only those registered electors that use an address in that neighborhood as their residence for voter registration purposes.

Where changes to land use regulations that are subject to this Section affect multiple residential neighborhoods, there shall be a separate election for each residential neighborhood that has submitted the required petition; and the results of that election shall apply only to that neighborhood.

The City Council may combine contiguous residential neighborhoods to function as a single residential neighborhood for purposes of this Section. However, the inclusion of residential neighborhoods in such a combination shall be subject to the above referendum process carried out by any of the individual neighborhoods.

The City shall pay for the costs of any election required by this Section?

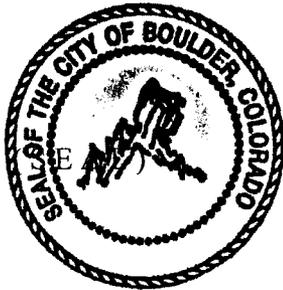
#### APPENDIX A

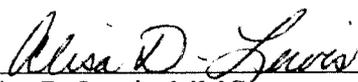
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END OF SECTION

4. On Friday, June 26, 2015 the Boulder County Clerk and Recorder determined that preregistered electors had not been subtracted from the number of eligible voters previously provided to the city. Thus the number of voters was changed to eighty-nine thousand three hundred and twenty one (89,321) making the required number of signatures necessary for the petitions to be sufficient four thousand four hundred and sixty six (4,466).
5. The petition to amend the Charter submitted on July 16, 2015, contained 181 sections, said to contain 5,605 signatures according to the committee of petitioners.
6. That no later than fifteen working days from the date of petition submission, the city clerk shall determine its sufficiency. That deadline is August 6, 2015.
7. After comparison of the names on the petition with the names in the voter registration rolls of Boulder County, the petitions have on their face sufficient signatures, with 4,799 signatures specifically verified.
8. In addition, without expressing anything regarding the legality or validity of the contents of the petition, pursuant to C.R.S. 31-2-210(3), I certify to the City Council the validity of the process of submitting the petition form and signed petitions to me.

IN WITNESS WHEREOF, I have hereto affixed my signature and the official Seal of the City of Boulder this 31<sup>st</sup> day of July, 2015.



  
Alisa D. Lewis, MMC  
City Clerk, City of Boulder

CERTIFICATE OF DELIVERY

I, Alisa D. Lewis, City Clerk of the City of Boulder do hereby certify that the attached certificate was emailed and received by Jeff Flynn (as the representative of the Committee of Petitioners) on July 31, 2015.

Committee of Petitioners:

1. Stephen Fredrick Haydel  
1935 Grove Street  
Boulder, CO 80302
2. Cynthia Anne Carlisle  
411 Spruce Street  
Boulder, CO 80302
3. Sandra Friedrich Snyder  
3040 18<sup>th</sup> Street  
Boulder, CO 80304
4. Sally S. Schneider  
5547 Stonewall Place  
Boulder, CO 80303
5. Kristen R. Momme  
375 S. 40<sup>th</sup> Street  
Boulder, CO 80305

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\_\_\_\_\_  
Alisa D. Lewis, City Clerk

Received by:

  
\_\_\_\_\_  
Jeff Flynn

  
\_\_\_\_\_  
Date

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COUNTY OF BOULDER    )            SS.                            Certificate  
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Shall the Charter of the City of Boulder be amended by the addition of the following Section:

Section 12A. Development Shall Pay Its Own Way

The purpose of this Section is to ensure that City levels of service are not diminished by new development. Examples of City facilities and services affected by this Section include police, fire-rescue, parks and recreation, public libraries, housing, human services, senior services, parking services, transportation, and open space and mountain parks. To the extent allowed by Federal and state law, the City shall not approve new development that does not fully pay for or otherwise provide all the additional facilities and services required to fully offset the burdens that otherwise would have been imposed by such new development on City facilities and services.

For purposes of this Section, “new development” shall be defined as:

(a) Any residential or non-residential construction that results in additional floor area in a building or on a site, except for modifications to residential buildings that do not add additional dwelling units and that have a *de minimis* effect on the facilities and services referred to in this Section, or

(b) Any change in use of an existing building or site, except for changes of use that have a *de minimis* effect on the facilities and services referred to in this Section.

For purposes of this Section, “City facilities and services” shall be defined as all of those that are material and provided by all City departments or divisions, except the departments or divisions supplying City water, wastewater, flood control, and electric utility services, as these already have service standards, and the departments of finance and human resources (personnel), the offices of the city manager and city attorney, and the municipal court.

The City Council shall adopt and apply standards and practices that are reasonably designed to achieve the requirements of this Section and that are consistent with generally accepted professional standards and practices where such exist. These standards and practices shall include without limitation consideration of indirect revenues and contributions from new development, such as sales and use tax paid by occupants, and consideration of multiple developments evaluated in aggregate.

Standards for transportation facilities and services shall include without limitation emergency response times, daily vehicle miles traveled within the City, and travel times on the streets for which the City measured travel times as of the passage of this Section, and any additional streets that may be warranted. These travel time measurements shall be expanded to include the hour before and the hour after the morning and evening peak hours.

The City Council, by an affirmative vote of six members, may exempt the development of permanently affordable housing units, or the affordable housing portions of new developments, or publicly-owned new developments from the requirements of this Section.

New development with a complete and properly submitted application for a building permit, or a change of use permit, as of the date of passage of this Section, shall be exempt from the requirements of this Section, but only for the construction or change of use covered by the permit or change of use application as submitted.

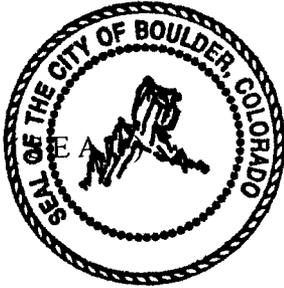
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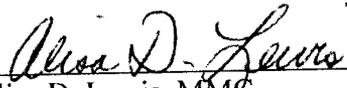
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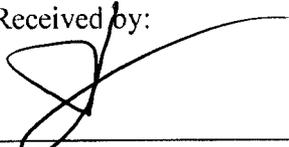
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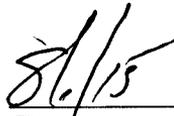
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Received by:

  
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Jeff Flynn

  
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Date

Petition Number

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5. Registered to vote pursuant to part 2 of article 2 of title 1, Colorado Revised Statutes, or as otherwise prescribed in part 2 of article 10 of title 31, Colorado Revised Statutes.

Do not sign this petition unless you have read or have had read to you the text of the proposal in its entirety and understand its meaning.

**PETITION TO INITIATE**

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**as well as other neighborhoods the City may reasonably identify, and that contains at least a portion of the MH, RE, RL-1&2, RM-1,2&3, RMX-1&2, RH-1-7, or RR-1&2 zoning districts as set forth in the Boulder Revised Code as of the passage of this Section.**

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**APPENDIX A**

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**END OF SECTION**

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**END OF SECTION**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:**

Second reading and consideration of a motion to adopt Ordinance No. 8058, designating the building and property at 2245 Pine St., to be known as the Ravenscraft House, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Kegan and Suzanna Paisley

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Susan Richstone, Deputy Director of Community Planning & Sustainability  
Debra Kalish, Senior Assistant City Attorney  
Lesli Ellis, Comprehensive Planning Manager  
James Hewat, Senior Historic Preservation Planner  
Marcy Cameron, Historic Preservation Planner

**EXECUTIVE SUMMARY:**

The purpose of this item is for City Council to determine whether the proposed individual landmark designation of the building at 2245 Pine St. meets the purposes and standards of the Historic Preservation Ordinance (*Sections 9-11-1 and 9-11-2, B.R.C. 1981*). The property owner is in support of the designation.

If approved, this ordinance (see **Attachment A**) would result in the designation of the building and property as an individual landmark. The findings are included in the ordinance. This landmark designation application was submitted by the property owner on August 19, 2013, and was heard by the Landmarks Board on June 3, 2015. The board voted 4-0 to recommend the designation to City Council. The City Council approved the first reading ordinance at its July 28, 2015 meeting. No comments from the public have been received on the proposed designation. The second reading for this designation is a quasi-judicial public hearing.

**STAFF RECOMMENDATION:**

**Suggested Motion Language:**

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

Motion to adopt Ordinance No. 8058 designating the building and property at 2245 Pine St., to be known as the Ravenscraft House, as an individual landmark under the City of Boulder’s Historic Preservation Ordinance.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

**Economic:** Owners of locally designated landmarked properties are eligible for state and local tax credits for approved rehabilitations and repairs, and studies have found that historic preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Community Planning and Sustainability Department at no charge. The additional review process for landmarked buildings may, however, add time and design expense to a project.

**Environmental:** The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. City staff can assist architects, contractors and homeowners with design and material selections and sources that are environmentally friendly. Also, the Historic Preservation website provides information on improving the energy efficiency of older buildings.

**Social:** The Historic Preservation Ordinance was adopted to “...enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city’s living heritage.” Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community’s character and history.

**OTHER IMPACTS:**

**Fiscal:** The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation Program.

**Staff Time:** This designation application is within the staff work plan.

**LANDMARKS BOARD ACTION:**

On June 3, 2015 the Landmarks Board voted 4-0 to recommend to City Council that the building at 2245 Pine St. be designated as a local historic landmark, finding that it meets the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981, and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

**PROPERTY DESCRIPTION:**

The house at 2245 Pine Street, constructed c. 1896, is located at the northwest corner of Pine and 23<sup>rd</sup> Streets on a 3,923 sq. ft. lot in the identified potential Whittier Historic District.



*Figure 1. Location Map, 2245 Pine St.*



*Figure 2. South Elevation (façade), 2245 Pine St, 2015.*

The gabled L-shaped house is one and one-half stories tall with a covered porch, a wood paneled front door, and a large, double-hung window on the facade that was a later alteration.

On the gable end portion of the facade, two double-hung windows are located on the first floor and one central double-hung window is on the second floor. All three windows have arched brick lintels. Each window has non-historic blue shutters, and the original porch base and trim have been removed.



*Figure 3. East Elevation with 2013 addition, 2245 Pine St, 2015.*

In 2013, the owners submitted a demolition permit application to remove a portion of a street-facing wall. The application was referred to the full Landmarks Board for the review, and the owners subsequently withdrew the demolition permit application and submitted a landmark designation application. Later that year, the owners received a Landmark Alteration Certificate (LAC) for the construction of a rear addition. The work required a minor modification to Planned Unit Development (PUD) that had occurred on the property a number of years ago, an approval that was supported by the historic preservation program. In 2015, the owners received an LAC for the reconstruction of a front and side yard fence in its historic location.



*Figure 4. Charles Mann and his family in front of 2245 Pine St., 1897.*

## **ANALYSIS:**

### **Criteria for Review**

Section 9-11-6(b), B.R.C. 1981, specifies that during the review for an application for local landmark designation, the council must consider “whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, “*City Council May Designate or Amend Landmarks and Historic Districts*,” B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan” and provides that the City Council “shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation.”

### **Historic, Architectural, and Environmental Significance**

Staff finds that the proposed application to landmark 2245 Pine St. will protect, enhance, and perpetuate a property important in local history and preserve an important example of Boulder’s historic architecture. Staff considers the application to meet the historic criteria for individual landmark designation as outlined below:

### **HISTORIC SIGNIFICANCE:**

**Summary:** The house at 2245 Pine St. meets historic significance criteria 1 and 3.

**1. Date of Construction:** c. 1896

**Elaboration:** The address first appears in city directories in 1896.

**2. Association with Persons or Events:** Chester and Genevieve Ravenscraft

**Elaboration:** Chester was born in Indiana in 1912 and moved to Boulder with his family in 1918. He married Genevieve O’Neil in 1935 and served in World War II as a combat infantryman in Europe. He was honorably discharged in 1945 and awarded the Bronze Star for bravery in battle. Chester worked following the war and went on to a long career in the County Assessor’s Office. Genevieve, born in Nebraska in 1918, moved to Boulder around 1930. She worked for Colorado Iron and Steel during World War II, then worked as a bookkeeper at the J.C. Penney department store and later in accounting and finance at the University of Colorado. The Ravenscrafts owned the property from 1949-1975.

**3. Development of the Community:** The property is representative of masonry vernacular houses constructed for the middle class in east Boulder during the late nineteenth century.

**4. Recognition by Authorities:** Historic Building Inventory Form, 1987

**Elaboration:** The 1987 Historic Building Inventory Form notes that the property is significant as a representative of a type period or method of construction, noting “this house is representative of the pre-1900 one-and-a-half story brick homes constructed for the middle class in Boulder. Typical elements include the cross-gabled design, inset porch, overhanging eaves and tall, narrow double-hung windows.”

### **ARCHITECTURAL SIGNIFICANCE:**

**Summary:** The house at 2245 Pine St. meets historic significance criteria 1.

**1. Recognized Period or Style:** Vernacular masonry, gabled L-shaped plan

**Elaboration:** While relatively simple, the house is well-preserved representative example of vernacular masonry built during the late 1800s for working class families in east Boulder. Typical elements include the “L” shape plan, inset porch, and tall, narrow, double-hung windows.

2. **Architect or Builder of Prominence:** None observed.
3. **Artistic Merit:** None observed.
4. **Example of the Uncommon:** None observed.
5. **Indigenous Qualities:** None observed.

#### **ENVIRONMENTAL SIGNIFICANCE:**

**Summary:** The house at 2245 Pine St. has environmental significance under criteria 1, 2 and 5.

1. **Site Characteristics:** Residential historic character  
**Elaboration:** The house is located on the corner of 23<sup>rd</sup> Street and Pine Street, within the boundaries of the identified potential Whittier Historic District, and is a familiar visual feature in that area. The house retains its historic residential character.
2. **Compatibility with Site:** Residential historic character  
**Elaboration:** The house is representative of those constructed in Whittier neighborhood in the late nineteenth century and contributes to the residential character of the neighborhood. The property’s residential character was altered somewhat when the lot was subdivided in the 1980s.
3. **Geographic Importance:** Corner Lot  
**Elaboration:** The house is prominently located on the corner of 23<sup>rd</sup> Street and Pine Street in Boulder and is a familiar visual feature in the Whittier Neighborhood.
4. **Environmental Appropriateness:** None observed.
5. **Area Integrity:** Potential Whittier Historic District  
**Elaboration:** The house is located within the identified potential local historic and National Register eligible Whittier historic district. The area was first identified as a potential historic district in 1988 based on survey work, with the 1988 report by Front Range Research Associates citing that the neighborhood “represents a broad spectrum of early Boulder History, and includes both mansions and working-class vernacular homes.”

In 1987, a survey of approximately 350 pre-1937 buildings within the Whittier neighborhood was completed. That survey concluded that the area bounded by Bluff Street on the north, Spruce Street on the south, 28<sup>th</sup> Street on the east, and Broadway

on the west was eligible for designation as a local historic district.<sup>1</sup> The origins of the Whittier neighborhood date to the founding of the Boulder in 1859 when 4,044 lots were laid out in the city including those in the east Boulder addition (now known as Whittier) that ran east to 25<sup>th</sup> Street. Whittier is a large neighborhood and its properties represented a wide range of income levels and lifestyles. The western section of Pine Street, for instance, contains houses originally built for some of Boulder's wealthiest residents, while the eastern end of Pine Street was historically a working class area. 2245 Pine St. is located in the more modest part of the area which is characterized by small and medium vernacular buildings.

**OPTIONS:**

City Council may approve, modify or not approve the proposed ordinance.

Approved By:

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Jane S. Brautigam,  
City Manager

**ATTACHMENTS:**

- A: Ordinance No. 8058
- B: Sections 9-11-1 and 9-11-2, "*Purposes and Intent*," B.R.C., 1981
- C: Significance Criteria for individual landmarks

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<sup>1</sup> Front Range Research Associates. *Whittier Survey Report*, 1988.

ORDINANCE NO. 8058

AN ORDINANCE DESIGNATING THE BUILDING AND THE PROPERTY AT 2245 PINE ST., CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE RAVENSCRAFT HOUSE, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION" B.R.C. 1981, AND SETTING FORTH DETAILS IN RELATION THERETO.

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

Section 1. The City Council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The City Council finds that: 1) on or about August 19, 2013, property owner Suzanna and Kegan Paisley applied to the City of Boulder to designate the building and a portion of the property at said property as a landmark; 2) the Landmarks Board held a public hearing on the proposed designation on June 3, 2015; and 3) on June 3, 2015, the Board recommended that the City Council approve the proposed designation.

Section 3. The City Council also finds that upon public notice required by law, the council held a public hearing on the proposed designation on July 28, 2015 and upon the basis of the presentations at that hearing finds that the building and the property at 2245 Pine St. possesses a special character and special historic, architectural, or aesthetic interest or value warranting its designation as a landmark.

Section 4. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance is relevant to its construction in the 1890s, as a well-preserved example of masonry vernacular architecture constructed for the middle class in Boulder during the late nineteenth century; and 2) its architectural significance indicative of a vernacular gabled

1 L-shaped plan house, and; 3) its environmental significance for its location within the potential  
2 Whittier Historic District, which retains its residential historic character.

3 Section 5. The City Council further finds that the foregoing landmark designation is  
4 necessary to promote the public health, safety, and welfare of the residents of the city.

5 Section 6. There is hereby created as a landmark the building and property located at  
6 2245 Pine St., also known as the Ravenscraft House, whose legal landmark boundary  
7 encompasses a portion of the legal lots upon which it sits:

8 S 77.90 FT OF E 48 FT LOT 12 BLK 139 BOULDER EAST O T AKA PCL A  
9 ACCENT MINOR SUB

10 as depicted in the proposed landmark boundary map, attached hereto as Exhibit A.

11 Section 7. The City Council directs that the department of Community Planning and  
12 Sustainability give prompt notice of this designation to the property owner and cause a copy of  
13 this ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

14 Section 8. The City Council deems it appropriate that this ordinance be published by title  
15 only and orders that copies of this ordinance be made available in the office of the City Clerk for  
16 public inspection and acquisition.

17 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE  
18 ONLY THIS 28TH DAY OF JULY, 2015.

19  
20 \_\_\_\_\_  
21 Mayor

22 Attest:  
23 \_\_\_\_\_  
24 City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY  
2 TITLE ONLY THIS 18TH DAY OF AUGUST, 2015.

3  
4 \_\_\_\_\_  
Mayor

5 Attest:

6  
7 \_\_\_\_\_  
City Clerk



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10  
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18 **Exhibit A – Landmark Boundary Map for 2245 Pine St.**

19 S 77.90 FT OF E 48 FT LOT 12 BLK 139 BOULDER EAST O T AKA PCL A ACCENT  
20 MINOR SUB

**9-11-1 & 9-11-2 Purposes and Intent  
Boulder Revised Code, 1981**

**9-11-1:** *Purpose and Legislative Intent* states:

- (a) The purpose of this chapter is to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.
- (b) The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.
- (c) The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled and creative approaches to renovation.

**9-11-2:** *City Council may Designate or Amend Landmarks and Historic Districts* states:

- (a) Pursuant to the procedures in this chapter the City Council may by ordinance:
  - (1) Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;
  - (2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;
  - (3) Designate as a discontinuous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and
  - (4) Amend designations to add features or property to or from the site or district.
- (b) Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

## **SIGNIFICANCE CRITERIA**

### **Individual Landmark**

**September 1975**

On September 6, 1975, the City Council adopted Ordinance #4000 providing procedures for the designation of Landmarks and Historic Districts in the City of Boulder. The purpose of the ordinance is the preservation of the City's permitted cultural, historic, and architectural heritage. The Landmarks Board is permitted by the ordinance to adopt rules and regulations as it deems necessary for its own organization and procedures. The following Significance Criteria have been adopted by the board to help evaluate each potential designation in a consistent and equitable manner.

### **Historic Significance**

The place (building, site, area) should show character, interest or value as part of the development, heritage, or cultural characteristics of the community, state or nation; be the site of a historic, or prehistoric event that had an effect upon society; or exemplify the cultural, political, economic, or social heritage of the community.

Date of Construction: This area of consideration places particular importance on the age of the structure.

Association with Historical Persons or Events: This association could be national, state, or local.

Distinction in the Development of the Community of Boulder: This is most applicable to an institution (religious, educational, civic, etc) or business structure, though in some cases residences might qualify. It stresses the importance of preserving those places which demonstrate the growth during different time spans in the history of Boulder, in order to maintain an awareness of our cultural, economic, social or political heritage.

Recognition by Authorities: If it is recognized by Historic Boulder, Inc. the Boulder Historical Society, local historians (Barker, Crossen, Frink, Gladden, Paddock, Schooland, etc), State Historical Society, The Improvement of Boulder, Colorado by F.L. Olmsted, or others in published form as having historic interest and value.

Other, if applicable.

### **Architectural Significance**

The place should embody those distinguishing characteristics of an architectural type specimen, a good example of the common; be the work of an architect or master builder, known nationally, state-wide, or locally, and perhaps whose work has influenced later development; contain elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or be a fine example of the uncommon.

Recognized Period/Style: It should exemplify specific elements of an architectural period/style, i.e.: Victorian, Revival styles, such as described by *Historic American Building Survey Criteria*, *Gingerbread Age* (Maass), *76 Boulder Homes* (Barkar), *The History of Architectural Style* (Marcus/Wiffin), *Architecture in San Francisco* (Gebhard et al), *History of Architecture* (Fletcher), *Architecture/Colorado*, and any other published source of universal or local analysis of a style.

Architect or Builder of Prominence: A good example of the work of an architect or builder who is recognized for expertise in his field nationally, state-wide, or locally.

Artistic Merit: A skillful integration of design, material, and color which is of excellent visual quality and/or demonstrates superior craftsmanship.

Example of the Uncommon: Elements of architectural design, details, or craftsmanship that are representative of a significant innovation.

Indigenous Qualities: A style or material that is particularly associated with the Boulder area.

Other, if applicable.

### **Environmental Significance**

The place should enhance the variety, interest, and sense of identity of the community by the protection of the unique natural and man-made environment.

Site Characteristics: It should be of high quality in terms of planned or natural vegetation.

Compatibility with Site: Consideration will be given to scale, massing placement, or other qualities of design with respect to its site.

Geographic Importance: Due to its unique location or singular physical characteristics, it represents an established and familiar visual feature of the community.

Environmental Appropriateness: The surroundings are complementary and/or it is situated in a manner particularly suited to its function.

Area Integrity: Places which provide historical, architectural, or environmental importance and continuity of an existing condition, although taken singularly or out of context might not qualify under other criteria.



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8057 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2015, the question of authorizing the City Council to continue the Climate Action Plan tax that was approved by the voters in November 2006 and implemented by the City Council in chapter 3-12, B.R.C. 1981, currently set to expire March 31, 2018, through March 31, 2023 for the purposes of implementing programs to increase energy efficiency, increase renewable energy use, reduce emission from motor vehicles, and take other steps toward the goal of reducing greenhouse gas emissions; setting forth the ballot title; and setting forth related details.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
David Gehr, Deputy City Attorney  
Bob Eichem, Chief Financial Officer  
David Driskell, Executive Director of Community Planning and Sustainability  
Jonathan Koehn, Regional Sustainability Coordinator  
Kendra Tupper, Energy Services Manager  
Brett KenCairn, Senior Environmental Planner  
Elizabeth Vasatka, Business Sustainability Coordinator  
Yael Gichon, Energy Sustainability Coordinator  
Elyse Hottel, Sustainability Data Analyst  
Jamie Harkins, Business Sustainability Specialist

**EXECUTIVE SUMMARY**

In 2002, City Council adopted Resolution 906, which established a goal for the Boulder community to reduce its greenhouse gas (GHG) emissions 7 percent below 1990 levels by 2012, consistent with the Kyoto Protocol. Central to the resolution were concerns about preserving environmental and air quality, addressing the risk climate change poses to local communities, and ensuring a high quality of life and economic vitality. In 2006, the city adopted a Climate Action Plan (CAP) to achieve the Kyoto goal. This initiative was supported in 2007 by the nation's first voter-approved Climate Action Plan tax (the CAP tax) as a revenue source for implementing the actions outlined in the Climate Action Plan and to date has saved an estimated 50,000 metric tons of CO<sub>2</sub> emissions in Boulder. A

number of other city initiatives, such as zero waste and transportation, support climate action efforts but are not funded directly by the CAP tax.

City residents and businesses are taxed based on the amount of electricity they consume. The CAP tax is levied by a charge per kilowatt hour (kWh) of electricity consumed with differing rates by sector: residential, commercial, and industrial. City Council has the authority to set the rate for each user type within an approved range. Since July 2009, the rates have been set at the maximum allowable level (an average of \$21/year for residents and \$94/year for businesses). The CAP tax generates approximately \$1.8 million annually, and is used to fund programs and services to reduce GHG emissions. Boulder voters approved a five-year extension of the CAP tax on Nov. 6, 2012, with 82 percent of city voters electing to extend the tax.

The current tax expires in March 2018. Council has expressed interest in placing an item on the November 2015 ballot to request voter approval for continuation of the tax to fund energy efficiency and conservation programs and services. Recognizing council's stated goal for continuing emissions reductions, city staff recommends extending the CAP tax at existing rates. Xcel Energy collects the tax for the city through its monthly customer utility billing. Customers who subscribe to wind-generated power through Xcel Energy's Windsource Program are not taxed for that portion of their electricity use. If during the tax period the city begins operation of a municipal electric utility, the new utility could either continue collection of the tax under the current system or sunset the tax and fund efficiency and conservation programs through its rate structure or other means.

This memo provides ordinance language for second reading, providing a ballot question for the November 2015 election regarding extending the CAP tax in its existing form for the purposes described above. The draft ordinance (**Attachment A**) extends the CAP tax for five years, through March 21, 2023.

### **STAFF RECOMMENDATION**

City staff recommends that council move to order published by title only an ordinance submitting to the registered electors of the City of Boulder authorizing the City Council to continue the Climate Action Plan excise taxes as set forth in Section 3-12-2, B.R.C. 1981, and setting forth details in relation thereto.

#### **Suggested Motion Language:**

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

Motion to adopt an ordinance submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2015, the question of authorizing the City Council to continue the Climate Action Plan tax that was originally approved by the voters in November 2006 and implemented by the City Council in chapter 3-12, B.R.C. 1981, currently set to expire March 31, 2018, through March 31, 2023 for the purposes of implementing programs to increase energy efficiency, increase renewable energy use, reduce emission from motor vehicles, and take other steps toward the goal of reducing greenhouse gas emissions; setting forth the ballot title; and setting forth related details.

## **BACKGROUND**

The 2007 CAP tax marked the first time in the United States that a community voted to tax itself to reduce GHG emissions. From the beginning, Boulder's Climate Action Plan pursued an aggressive set of strategies funded by the CAP tax. To ensure the tax dollars were invested as effectively as possible, the initial set of strategies was evaluated and readjusted in 2009 based on lessons learned in the first two years of action. In 2010, revised programs and new policies to support the overall strategies were developed in collaboration with community partners. These programs and policies included new EnergySmart services for homes, multifamily buildings and businesses; Ten for Change to encourage voluntary energy efficiency efforts in the business community; SmartRegs energy efficiency requirements for licensed rental properties; and pilot programs to improve energy efficiency in commercial properties<sup>1</sup>. Cumulatively, these efforts have significantly increased the number of property owners and tenants investing in, and benefitting from, energy efficiency programs in Boulder.

To gauge the effectiveness of the CAP tax, the City of Boulder hired Rocky Mountain Institute (RMI) to conduct an [independent analysis of CAP programs in 2012](#). In short, RMI found that the city has used CAP tax dollars to invest in programs that are reducing emissions at a reasonable cost. RMI urged continued support and funding for these programs and encouraged the community to make even more substantial efficiency improvements to address the climate change challenge.

Additionally, the city hired the Brendle Group, an energy consulting firm, to determine [the best strategies for how future funding should be used](#). The goal was to evaluate gaps in existing CAP programs and to collect ideas from community stakeholders for enhancing existing and creating new programs and ways to achieve the best possible results. The Brendle Group recommended a package of CAP tax-funded programs that would help Boulder reach its GHG reduction goals. Some components of this strategy built on programs that already exist and are yielding successful participation and results, like commercial and residential EnergySmart. Other components were new, such as setting aside funds to provide grants to support clean energy start up products and services ([Boulder Energy Challenge](#)) and developing new requirements for energy efficiency in commercial buildings, similar to the SmartRegs program. This latter initiative will come before council next month and is being called the Boulder Building Performance ordinance.

The city incorporated the recommendations from RMI and the Brendle Group into its program development resulting in a number of highly effective new efforts. The details related to the current CAP tax-funded programs, along with the full analysis of RMI and the Brendle Group, can be found at: <https://bouldercolorado.gov/climate/climate>. In addition, a breakdown of allocated funds by program is included in the analysis section of this memo.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** - Current economic conditions are a factor that should be considered in decisions about continuing taxes or fees. Economic factors may limit the ability for building owners to invest in energy improvements and while the annual cost for individual residents and businesses is a small percentage of annual energy costs, extending the tax will continue to impact them. CAP

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<sup>1</sup> A full discussion of specific program results can be found at [www.bouldercolorado.gov/LEAD/ClimateAction](http://www.bouldercolorado.gov/LEAD/ClimateAction) in the Community Guide to Boulder's Climate Action Plan and its related progress reports.

programs build Boulder's economic and infrastructure resilience, in part by supporting community and individual utility customers in reducing energy use and costs over time. Additionally, expanding programs with new revenues may generate more business for local companies that offer building improvement services, clean technology innovation and energy products. The percent of electricity costs paid as CAP tax by each sector are as follows:

Residential: 1.8 to 3.9 percent

Commercial: 0.4 to 1.0 percent

Industrial: 0.3 to 0.5 percent

The current tax structure allows flexibility in how the revenues from the tax are allocated across sectors through the city budget process as well as the goals, targets and specific strategies that can be funded through the tax, as long as the overall purpose of the tax (reducing GHG emissions) remains the same.

- **Environmental** - Reducing GHG emissions is a critical local and global priority, supporting the conservation of natural resources and preservation of local ecosystems. The CAP tax is a critical funding mechanism for the strategies and targets associated with Boulder's Climate Commitment. Since inception, programs funded by the CAP Tax have saved an estimated 50,000 metric tons of CO<sub>2</sub> emissions. While greenhouse gas inventory processes have limitations, both in terms of methodology and data, results from the recently completed 2012 emissions inventory show that community efforts supported by the CAP tax have been able to stem what would have been an upward trajectory in energy use.
- **Social** - Climate action is necessarily a communitywide effort, and so activities involve a broad spectrum of residents, employees and businesses. Many services are free for low-to moderate-income households. Partnerships with Housing and Human Services, Boulder Housing Partners and other housing providers assist in the delivery of services to low- and moderate-income residents. Additionally, the city's SmartRegs program helps reduce energy costs for rental tenants.

#### **OTHER IMPACTS/CONSIDERATIONS:**

- **Fiscal:** There are other revenue ballot issues that City Council has or will be considering this year.
- **Staff time:** No additional staff is being requested at this time to supplement the current staff funded by the CAP tax. These costs are incorporated into the program costs.
- **Boulder County Sustainability Tax:** Boulder County has indicated a strong intention to place a sustainability tax on the November 2016 ballot. In the past, council has expressed concern over potential conflicts with the CAP tax, and directed staff to coordinate closely with county staff to avoid overlap/conflict. Going to the ballot in 2015 is intended to avoid any potential overlap with a potential county initiative.

**ANALYSIS:**

Staff has identified four options for City Council consideration: 1) Do not place the CAP tax on the ballot in 2015; 2) Extend the current CAP tax; 3) Modify the current CAP tax rates; and 4) Change the current CAP tax.

Extending the current tax would mean continuing the rates charged per sector and retaining the current collection mechanism. The amount collected is directly affected by usage by the residential, commercial and industrial sectors. When it was originally levied in 2007, approximately \$875,000 was collected each year. In 2009, council increased the tax rates per sector to the maximum allowed by the 2006 ordinance. The increased rate generates a total of approximately \$1.8 million/year.

**Table 1** below shows the current tax rates and the average annual tax by sector:

**Table 1: Current CAP Tax Rates**

<b>Electricity User Type</b>	<b>Tax Rate</b>	<b>Average Annual Tax</b>
Residential	\$0.0049 /kWh	\$21
Commercial	\$0.0009 /kWh	\$94
Industrial	\$0.0003 /kWh	\$9,600

As discussed with council previously, there are certain legal limitations to extending the tax. If any of these factors changed, the tax would be considered a new tax, rather than an extension. These limitations include:

- 1) the maximum tax rate charged per sector must remain the same; hence the maximum amount collected would remain the same<sup>2</sup>; and
- 2) the purpose of collecting the tax must remain the same.

The draft ordinance in **Attachment A** extends the CAP tax for five years. It does not include any other form of sunset provision. If and when a new municipal electric utility is in operation, council may decide to have the new utility continue collecting the CAP tax to fund energy efficiency programs offered by the utility, or may opt to end collection of the tax and to fund demand side programs through the rate base of the utility. This allows for maximum flexibility for sunseting the tax within the five-year horizon. If, however, council would prefer to add sunset language within the ballot measure, an additional sunset provision could be added and the ordinance would need to be scheduled for an additional reading.

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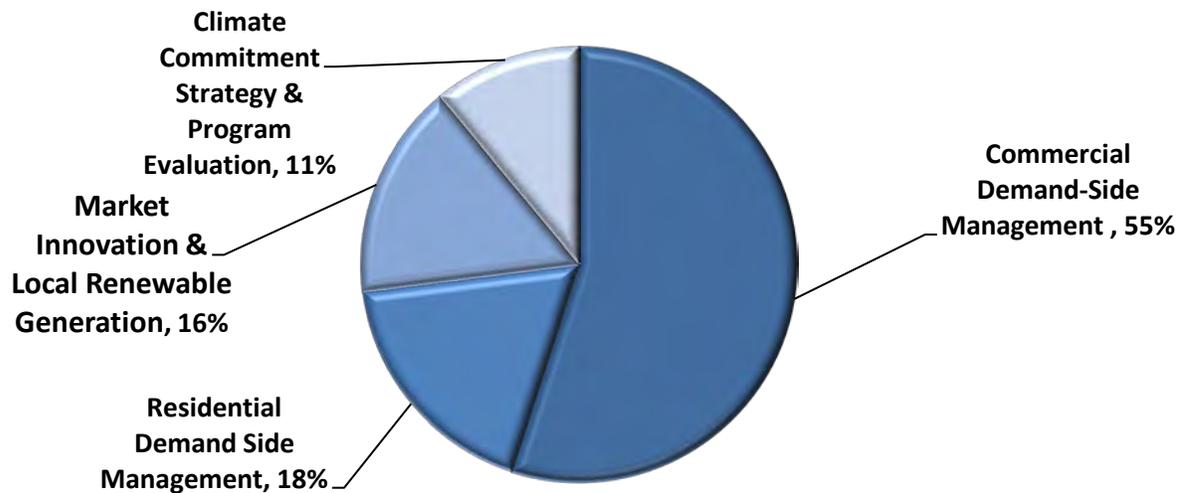
<sup>2</sup> In 2014, of the \$1.84M collected through the CAP tax, 61% was collected through the residential sector, 30% was collected through the commercial sector, and 9% was collected through the industrial sector.

<sup>3</sup> TABOR is intended to reduce growth in government by requiring the refunding of excess revenues from new taxes, based on the tax amount in the ballot measures, or for taxes that pre-dated TABOR's adoption in 1992, based on a prescribed formula. See Colo. Constitution, Art X, Sec. 20(3) & (7).

## CAP TAX-FUNDED INITIATIVES

In the July 2013 City Council Study Session on Boulder’s Climate Commitment, council gave staff provisional guidance to evaluate the viability of a goal to reduce greenhouse gases by 80 percent by 2050. Since that time, the city has continued to implement a wide range of programs and initiatives designed to achieve significant GHG reductions. Staff also conducted a series of assessments to verify the reduction capacity of existing programs and assess the potential of several additional measures, similar to the 2012 program evaluation.

The programs and services funded by the CAP tax are aimed at involving the maximum number of Boulder residents and businesses in reducing energy consumption, thereby reducing GHG emissions, saving money on energy costs over time, and minimizing reliance on external energy sources. The current 2015 CAP tax revenue funds a variety of effective efforts and is currently allocated to the following efforts:



If the CAP tax is extended, staff recommends continuing the existing set of programs, because many of these have performed well above expectations and are leveraged by partner resources. Additionally, the CAP staff is committed to constantly evaluate and adjust the programs to meet the needs of the community. On July 30, 2015 staff presented work related to the Climate Commitment to council and reiterated a commitment to working collaboratively with community members to achieve Boulder’s climate goals. The existing CAP programs play a significant role in achieving this. The section on pages 8 to 9 of the July 30, 2015 [Climate Commitment memo](#), titled “Climate Action Matures,” provides a summary of existing CAP-funded programs through the history of the CAP tax. Below are highlights from the current initiatives.

### Residential Demand Side Management

- [Residential EnergySmart](#): provides home owners energy advising services and rebates. This effort was launched from original CAP work on “Two Techs and a Truck” and is now a successful countywide program. This program has resulted in a substantial increase of energy efficiency investments. The most recent progress to date is summarized in this [report](#).

- ✓ More than 7,500 city of Boulder housing units have participated in EnergySmart since the program's inception in 2010.
- ✓ More than \$1.4 million in rebates have been paid and over \$10.5 million in private investments have been made.
- [SmartRegs](#): licensed rental housing energy efficiency requirement and energy advising services and rebates through EnergySmart. Much of the participation in EnergySmart is driven by SmartRegs. The most recent progress to date is summarized in this [report](#).
  - ✓ SmartRegs program recently surpassed a “stretch goal” by reaching 3,000 compliant rental units in a one-year contract period between Feb. 2014 and March 2015.
  - ✓ More than 7,600 rental units are now compliant with SmartRegs.

### Commercial Demand Side Management

- [Commercial EnergySmart](#): provides business and commercial building owners energy advising services and rebates. This effort allows building owners to know more about the energy used in their buildings and how to best implement efficiency measures that will reduce energy demand and cost. Progress to date is summarized in this [report](#).
  - ✓ More than 2,300 businesses within city limits have participated in EnergySmart since the program's inception in 2010.
  - ✓ More than \$2 million in rebates have been paid and over \$7.5 million in private investments have been made.
- [Building Performance Ordinance](#) (BPO): Proposed ordinance that would require owners of large commercial and industrial buildings to annually rate and report their buildings' energy use, and perform one time lighting upgrades and periodic energy assessments and retrocommissioning. The city is committed, whenever possible, to providing incentives to facilitate compliance with any ordinances that come on-line. In 2016, an early adopter incentive will be added to help offset the upfront costs of the required energy assessments. Commercial EnergySmart will be paired with this proposed ordinance to ensure that support, rebates, and technical resources are available to Boulder businesses. Also, new rebates will be added under Commercial EnergySmart to support custom efficiency measures that are identified in the energy assessments.

### Market Innovation and Local Renewable Generation

- [Boulder Energy Challenge](#) – grant program funding \$300,000 for innovative solutions from the community to reduce emissions. Six winning teams received seed money. Evaluation of the initiatives is now underway and next steps are being planned.
- Boulder is recognized as a platinum-level [Solar Friendly Community](#) and is in the process of developing a Rooftop Solar Tool in collaboration with [Mapdwell](#), LLC that will assist residents, businesses and property owners in understanding their unique solar potential.

## Climate Commitment Strategy and Program Evaluation

- Climate Commitment: With the release of the city's new [Climate Commitment strategy document](#), the next stage of action will focus on community outreach and engagement. This process is intended to identify opportunities to further refine and focus the activities the city will be undertaking in ways that maximize their benefits and impacts. The other primary objective of this process will be to identify additional action opportunities that the larger community, as individuals, families or households, can engage in that will create direct benefits through implementation of enhanced efficiency and clean energy transition strategies.
- Data Development and GHG Inventory: Creation of a Boulder greenhouse gas (GHG) database tool that adheres to the ICLEI Local Governments for Sustainability's U.S. Community Protocol for community-wide GHG inventories was completed in 2013. Municipal and community-wide emissions for the calendar year 2012 have been calculated using the new tool and results of the latter are available on the web at [www.boulderclimate.com](http://www.boulderclimate.com). A 2014 municipal inventory is currently underway. A calendar year 2015 community-wide inventory will be initiated when outstanding energy data acquisition issues have been resolved.
- Data Management & Reporting System: Work continues on the development of a comprehensive sustainability data tracking, management and reporting system. Municipal Xcel Energy data has now been automated and a rough framework for an outward facing reporting system has been scoped, including metrics discussions for existing sustainability programs and concepts around representing pilot programs. Work by sustainability staff on the citywide performance dashboard will provide the foundation for the planned sustainability dashboard. The recently completed city of Boulder GHG database includes extensive reporting capabilities.

### NEXT STEPS

Based on council feedback from the Aug. 18 second reading, this item will either be ready to move to the ballot or staff will prepare any necessary changes to the proposed ordinance for a third reading.

Based on the results of the Nov. 3 election, staff will continue to implement the CAP-funded programs.

### **ATTACHMENTS:**

- A. Proposed Ordinance No. 8057 to extend CAP tax

## ORDINANCE NO. 8057

## (Extension of Climate Action Plan Tax)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AUTHORIZING THE CITY COUNCIL TO EXTEND THE CLIMATE ACTION PLAN EXCISE TAX THAT WAS APPROVED BY THE VOTERS IN NOVEMBER 2006 FOR THE PURPOSE OF CONTINUING TO PROVIDE INCENTIVES, SERVICES, AND OTHER ASSISTANCE TO BOULDER RESIDENTS AND BUSINESSES TO IMPROVE ENERGY EFFICIENCY, EXPAND THE USE OF RENEWABLE ENERGY, AND TAKE OTHER NECESSARY STEPS TO REDUCE GREENHOUSE GAS EMISSIONS, CURRENTLY SET TO EXPIRE MARCH 31, 2018, AND EXTEND IT THROUGH MARCH 31, 2023; SETTING FORTH THE BALLOT TITLE; AND SETTING FORTH RELATED DETAILS

WHEREAS the city council finds that:

1. The Climate Action Plan Tax was approved by the voters in 2006 for the purpose of increasing energy efficiency, increasing renewable energy use and reducing greenhouse gas emissions pursuant to a measure that was placed on the ballot by Ordinance No. 7483.
2. The tax has been implemented by the Boulder city council through the adoption of Chapter 3-12, B.R.C. 1981.
3. In 2012, the voters approved to continue collecting the tax from its expiration date of March 31, 2013 until March 31, 2018 pursuant to a measure that was placed on the ballot by Ordinance No. 7848.
4. The electorate should consider authorizing the city council to continue collecting the tax from its present expiration date of March 31, 2018 until March 31, 2023 to continue to fund efforts to increase energy efficiency, increase the use of renewable energy and reduce greenhouse gas emissions.
5. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from the Climate Action Plan Tax.
6. The purposes that will be served by the continued collection of the tax are critical for the continued provision of city programs to increase energy efficiency, increase the use of renewable energy and reduce greenhouse gas emissions.

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

3 Section 1. A general municipal coordinated election will be held in the city of Boulder,  
4 county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

5 Section 2. The official ballot shall contain the following ballot title, which shall also be  
6 the designation and submission clause for the issue:

7  
8 **Ballot Issue No. \_\_\_\_**  
**Climate Action Plan Tax Extension**

9 Without raising additional taxes, shall the existing climate action plan  
10 excise tax be extended for five years for the purpose of continuing to  
11 provide incentives, services, and other assistance to boulder residents  
12 and businesses to improve energy efficiency, expand the use of  
13 renewable energy, and take other necessary steps to reduce  
14 greenhouse gas emissions, at the current rate of \$0.0049 per kilowatt  
hour (kwh) for residential customers, \$0.0009 per kwh for commercial  
customers, and \$0.0003 per kwh for industrial customers on electricity  
consumed, from its current expiration of March 31, 2018, through March  
31, 2023 as a voter-approved revenue change?

15 FOR THE MEASURE \_\_\_\_ AGAINST THE MEASURE \_\_\_\_

16 Section 3. If a majority of all the votes cast at the election on the measure submitted are  
17 for the measure, the measure shall be deemed to have passed, and the city council authorized to  
18 make amendments to the Boulder Revised Code, 1981, to implement this measure.

19 Section 4. The election shall be conducted under the provisions of the Colorado  
20 Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this  
21 ordinance.  
22  
23  
24







**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8056 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 3, 2015 the question of authorizing the city council to extend the utility occupation tax on public utility companies that deliver energy to customers in the form of electricity and gas that was passed by the voters pursuant to Ordinance no. 7751 (as amended by Ordinance no. 7808) at the rate \$4.1 million dollars, beginning January 1, 2011 be extended from December 31, 2017 December 31, 2022; setting forth the ballot title; making conforming changes to the Boulder Revised Code; and setting forth related details.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Tom A. Carr, City Attorney  
David Gehr, Deputy City Attorney  
Bob Eichem, CFO  
Cheryl Pattelli, Director of Finance

**EXECUTIVE SUMMARY**

City Council members have discussed potential 2015 ballot items in two previous meetings during 2015. The first was on April 14 and the second was on July 14. At the April 14 meeting, council directed staff to move forward with the next steps to place a five-year extension of the General Fund's portion of the utility occupation tax on the ballot for the Nov. 3, 2015 election. The General Fund's portion of the utility occupation tax replaced Xcel's franchise fee and generates approximately \$4.3 million/year. This money supports core city services, such as public safety, parks and libraries. The company passes this tax through to its customers, in the same exact manner as the franchise fee it would pay if Xcel had a renewed agreement with the City of Boulder. This means the economic impact to electric customers is the same whether the city has a franchise with Xcel or the utility occupation tax is in effect. The General Fund portion of the utility occupation tax is set to expire on Dec. 31, 2017. This ballot item proposes

extending it through December 31, 2022, or when the city creates a local electric utility and this fee becomes a part of its rates, whichever occurs sooner.

This ordinance was passed on first reading by the City Council on July 28, 2015.

### **STAFF RECOMMENDATION**

#### **Suggested Motion Language:**

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

Motion to adopt Ordinance No. 8056 submitting to the electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 3, 2015, the question of whether to extend the utility occupation tax on public utility companies that deliver energy to customers in the form of electricity and gas that was passed by the voters pursuant to Ordinance no. 7751 (as amended by Ordinance no. 7808) at the rate \$4.1 million dollars, beginning January 1, 2011 be extended from December 31, 2017 December 31, 2022; setting forth the ballot title; making conforming changes to the Boulder Revised Code; and setting forth related details.

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

- Economic – The General Fund’s portion of the utility occupation tax helps fund several important general fund programs, such as police and fire, roads and parks, that are necessary core government services. These core services are essential to the economic vitality of the city.
- Environmental – The General Fund’s portion of the utility occupation tax helps fund General Fund projects that are developed through the Facilities and Asset Management Department that are aimed at reducing greenhouse gas emissions.
- Social - The General Fund’s portion of the utility occupation tax helps fund several General Fund departments and programs that have impact on the social sustainability of the community, including human services.

### **OTHER IMPACTS**

- Fiscal – The General Fund’s portion of the utility occupation tax totals approximately \$4.3 million/year. The revenue generated from this portion of the tax is used to pay for general fund programs including police, fire, library, parks maintenance, planning and human services. The revenue generated from the utility occupation tax will allow the city to keep its budget whole, preventing significant program, staffing and service cuts.
- Staff time – The staff time needed to complete the background work for ballot items is included within departmental work plans.

## **BOARD AND COMMISSION FEEDBACK**

This is the formative stage of the ballot process so no board or commission feedback has been solicited at this time. If council decides to move a ballot issue forward on this first reading, any needed board or commission input would be sought following that decision.

## **PUBLIC FEEDBACK**

The public hearings that will be held on August 18 will provide an opportunity for public input and feedback.

## **BACKGROUND AND ANALYSIS**

In 2010 council voted to let the city's 20-year franchise agreement with Xcel Energy expire on Dec. 31, 2010, choosing not to place a new agreement on the 2010 ballot. The reason for this was that a 20-year franchise commitment was considered too long given the rapid changes in the industry. In addition, the city was in the process of developing a clean energy plan that examines a variety of options for increasing clean energy sources, from wind, solar and other renewable sources, while also protecting Boulder ratepayers against rising costs associated with fossil fuels.

The absence of the franchise agreement meant that Xcel Energy no longer would collect a three percent franchise fee from its Boulder ratepayers and no longer remit that revenue to the city's General Fund. The fee, which was expected to generate \$4.1 million in 2010, had been used by the city to fund core General Fund programs, including police, fire, library, park maintenance, planning and human services.

In order to replace the \$4.1 million of lost revenue, council asked voters to approve an increase in taxes up to \$4.1 million (in the first full fiscal year) annually by imposing a utility occupation tax on public utility companies that deliver energy to customers in the form of electricity and gas. Voters passed this new tax on Nov. 2, 2010. The tax began on Jan. 1, 2011 and was set to expire on Dec. 31, 2015. As anticipated, Xcel passed the cost of the tax onto Boulder ratepayers just as it did with the previous franchise fee.

In 2011, council asked voters to approve an extension of the existing General Fund occupation tax, along with an additional \$1.9 million in new occupation taxes, through Dec. 31, 2017. The additional \$1.9 million in occupation taxes would be used to fund preliminary costs associated exploring the creation of a municipal electric utility and acquisition of the electric distribution system. This portion of the occupation tax used for exploring clean energy options is a separate tax from the General Fund portion of the utility occupation tax used to fund general programs of the city.

As part of the annual budget and ballot processes, and to ensure prudent long-term fiscal planning, staff analyzes the budgetary impacts of any tax or revenue streams that are expiring in the near term and beyond. For planning purposes, staff considers near term to be the current year plus five additional years.

At the April 14 study session, staff recommended council consider placing a five-year renewal of the utility occupation tax on the ballot for the General Fund portion only. Staff suggested the portion of the occupation tax used for exploring clean energy not be considered as a ballot item in 2015. Within another year more will be known about the possibilities regarding a city electric utility and this component of the occupation tax can be considered at that time.

The General Fund portion of the utility occupation tax is expected to generate \$4.3 million in revenue in 2015. If renewal of the tax was not approved by the voters, \$4.3 million of services would need to be reduced or eliminated from the General Fund. Since such an outcome would be extremely disruptive for those who receive services funded by this revenue, staff believes it would be better to phase in any reductions during the annual budgets that would be considered in 2016 and 2017.

At the April 14 meeting, council directed staff to move forward with the next steps to place a five-year extension of the General Fund's portion of the utility occupation tax on the ballot for the Nov. 3, 2015 election.

#### **NEXT STEPS**

If council wishes to pursue placing a five-year extension of the General Fund's portion of the utility occupation tax on the November ballot, and passes the attached ordinance on the first reading, a second reading will occur on Aug 18. If needed, a third reading would occur on Sept. 1. All ballot items must be passed on final reading by council by the first meeting in September to meet county deadlines for ballot measures.

#### **ATTACHMENTS**

A: Proposed Ordinance

## ORDINANCE NO. 8056

1  
2 AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE  
3 CITY OF BOULDER AT THE REGULAR MUNICIPAL  
4 COORDINATED ELECTION TO BE HELD ON TUESDAY,  
5 NOVEMBER 3, 2015, THE QUESTION OF WHETHER TO  
6 EXTEND THE UTILITY OCCUPATION TAX ON PUBLIC  
7 UTILITY COMPANIES THAT DELIVER ENERGY TO  
8 CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS  
9 THAT WAS PASSED BY THE VOTERS PURSUANT TO  
10 ORDINANCE NO. 7751 (AS AMENDED BY ORDINANCE NO.  
11 7808) AT THE RATE \$4.1 MILLION DOLLARS, BEGINNING  
12 JANUARY 1, 2011 BE EXTENDED FROM DECEMBER 31,  
13 2017 TO DECEMBER 31, 2022; SETTING FORTH THE  
14 BALLOT TITLE; MAKING CONFORMING CHANGES TO  
15 THE BOULDER REVISED CODE; AND SETTING FORTH  
16 RELATED DETAILS.

11 WHEREAS the City Council finds that:

12 A. The franchise agreement between the City of Boulder and Public Service  
13 Company of Colorado (“PSCo”), adopted pursuant to Ordinance No. 5569 and adopted by the  
14 electorate in November 1993 expired on August 4, 2010 (the “Franchise”).

15 B. The City and PSCo extended the terms of the Franchise pursuant to a revocable  
16 permit granted pursuant to the authority granted under Ordinance No. 7729 and under City  
17 Charter Section 115.

18 C. The City does not have a franchise agreement with PSCo. The utility occupation  
19 tax is intended to replace revenue previously collected through the Franchise, including franchise  
20 fee payments to the City.

21 D. The voters approved a ballot measure (Ordinance No. 7751 (2010)) that  
22 authorized the utility occupation tax to be collected until December 31, 2015.

23 E. The voters approved a ballot measure (Ordinance No. 7808 (2011)) that extended  
24 that portion of the tax until December 31, 2017.  
25

1 F. It is appropriate for voters to approve the extension, the tax proposed by the ballot  
2 issue described below.

3 G. The proposed measure title is a clear and concise statement, without argument or  
4 prejudice that is descriptive of the substance of the amendment and complies with the  
5 requirements of the City of Boulder Charter and the Boulder Revised Code, 1981.

6 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
7 OF BOULDER, COLORADO:

8 Section 1. A regular municipal coordinated election will be held in the City of Boulder,  
9 county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

10 Section 2. The official ballot shall contain the following ballot title, which shall also be  
11 the designation and submission clause for the issue:

12 **BALLOT QUESTION NO. \_\_\_\_\_**

13 **UTILITY OCCUPATION TAX EXTENSION**

14 Without raising additional taxes, shall that portion of the  
15 city's utility occupation tax on public utility companies that  
16 deliver electricity and natural gas to customers in the city  
17 that replaced the franchise fee paid by public service  
18 company and supports general revenue needs of the city be  
19 extended from its current expiration date of December 31,  
20 2017 and expire on December 31, 2022 with the revenues of  
21 the existing tax as extended being used to continue to  
22 support local government services, and shall the revenue  
23 from such tax extension and all earnings thereon (regardless  
24 of amount) constitute a voter approved revenue change, and  
25 an exception to the revenue and spending limits of Article X,  
Section 20 of the Colorado Constitution?

FOR THE MEASURE \_\_\_\_ AGAINST THE MEASURE \_\_\_\_

1           Section 3. If this ballot issue is approved by the voters, the City Council adopts the  
 2 following amendments to Chapter 3-13 of the Boulder Revised Code to implement this utility  
 3 occupation tax. Such amendments to the following sections of the occupation tax, to read:

4 **3-13-1. - Legislative Purpose, Findings, and Intent.**

5 (a) Purpose. It is the purpose of this chapter to implement the city's utility occupation tax.

6 (1) Passed by the voters on November 2, 2010, as a replacement for a fee paid under  
 7 franchise agreement with a utility provider;

8 (2) Amended by the voters on November 1, 2011, to increase the amount of the tax and  
 extend the tax to December 31, 2017.

9 (3) Further amended by the voters on November 3, 2015, to extend that portion of the tax  
that was initially approved by the voters in 2010 until December 31, 2022.

10  
 11 **3-13-2. - Imposition of Occupation Tax.**

12 (a) Payment of Tax Required. No utility delivering electricity and gas to residential,  
 13 commercial, or industrial customers shall fail to pay to the city manager the utility  
 14 occupation tax, prescribed by Subsection (c) of this section, unless such person is obligated  
 to pay a comparable fee under a franchise agreement or other license or permit agreement  
 with the city.

15 (b) Original Tax Effective Date and Expiration Date. The utility occupation tax of \$4,100,000  
 16 was effective January 1, 2011. For that portion of the tax approved by the voters in 2010 for  
general fund purposes described Section 3-13-9(a), B.R.C. 1981, the tax shall expire on  
December 31, 2022. B.R.C. 1981.

17 (c) Extension and Increase Dates. The increase in the amount of the utility occupation tax  
 18 approved by the voters in 2011 for funding the costs of further exploration of and planning  
 19 for both the creation of a municipal electric utility and acquiring an existing electric  
 20 distribution system described in Section 3-13-9(b), shall be effective January 1, 2012, and  
 expire on the earlier of: (1) December 31, 2017; (2) when the city decides not to create a  
 municipal utility; or (3) when the city commences delivery of municipal electric utility  
 services.

21 (d) Tax Rate. The utility occupation tax effective January 1, 2014, shall be \$6,180,000, and  
 22 adjusted annually as provided in Section 3-13-3, "Adjustments," B.R.C. 1981.

23           Section 4. If a majority of all the votes cast at the election on the issue submitted shall be  
 24 for the issue, the issue shall be deemed to have passed and shall be effective upon passage, and it

1 shall be lawful for the City Council to provide for the amendment of its tax code in accordance  
2 with the issue approved.

3       Section 5. The election shall be conducted under the provisions of the Colorado  
4 Constitution, the charter and ordinances of the City, the Boulder Revised Code, 1981, and this  
5 ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby  
6 superseded.

7       Section 6. The officers of the City are authorized to take all action necessary or  
8 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to  
9 conduct the election for the City.

10       Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any  
11 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
12 provisions of this ordinance.

13       Section 8. This ordinance is necessary to protect the public health, safety and welfare of  
14 the residents of the City, and covers matters of local concern.

15       Section 9. The council deems it appropriate that this ordinance be published by title only  
16 and orders that copies of this ordinance be made available in the office of the city clerk for public  
17 inspection and acquisition.  
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 28<sup>th</sup> day of July 2015.

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\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 18th day of August 2015.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8055 setting the ballot title for an initiated amendment to the Boulder Charter, and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Kathleen E. Haddock, Senior Assistant City Attorney  
David Farnan, Library and Arts Director

**EXECUTIVE SUMMARY:**

The Library Commission established a priority to propose changes to the City Charter to more closely align with other boards and commissions in regard to its role. The Library Commission recommended charter language changes that were reviewed by the Council Charter Committee. After discussions at a study session, first reading of the proposed changes was on July 28, 2015. On August 8, 2015, the Library Commission met to review the proposed ordinance adopted on first reading. The Commission voted unanimously to recommend changes to the ordinance adopted on first reading. These changes are reflected in the revised version of the proposed ordinance, which is attachment B. The first reading ordinance omitted section 133(h), which added the following duty to the library commission:

- (h) Take steps as the library commission may deem feasible to encourage grants or gifts in support of the library.

In addition, the commission sought to clarify that the Library Fund must include both the 1/3 mill property tax mill levy and gifts, donations and bequests. Finally, the commission wanted to clarify that its authority with respect to expenditures should be limited to gifts, bequests and donations or the proceeds of the sale of library property purchased with gifts, bequests, donations or the property tax.

Staff supports the library commission’s recommended changes with two small additions. Staff recommends that the reference to the library fund in the new paragraph that begins with the word “Revenues,” be followed by the phrase “referenced above.” To make clear that this is the same library fund. In addition in subparagraph (b), staff recommends language to clarify that the “property tax” to which the subparagraph refers is the property tax referenced in the first paragraph on the new section 134 and in the former section 135.

Attachment B shows the Library Commission’s changes redlined from the version adopted on first reading. Staff’s proposed changes, along with the changes proposed by the Library Commission are in attachment C. Council could adopt the changes in either Attachment B or Attachment C and set for third reading. If council does not accept these changes, Attachment A could be finally adopted without the redlined changes on second reading on September 1.

**STAFF RECOMMENDATION:**

**Suggested Motion Language:**

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

Motion to adopt on second reading Ordinance No. 8055, amended as reflected in attachment C, setting the ballot title for an initiated amendment to the Boulder Home Rule Charter.

**BACKGROUND AND ANALYSIS:**

See agenda memo from first reading at:

<https://documents.bouldercolorado.gov/weblink8/0/doc/129581/Electronic.aspx>

**ATTACHMENTS:**

- A. Proposed ordinance 8055
- B. Version of proposed ordinance 8055 as revised by the Library Commission
- C. Version of proposed ordinance 8055 as revised by the Library Commission and staff.

ORDINANCE NO. 8055

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE REGULAR MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING THE CITY CHARTER REGARDING THE LIBRARY COMMISSION; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER RELATED DETAILS.

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

Section 1. A regular municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendments to the city Charter pertaining to the library commission (in Sec. 65, the material to be added to the Charter is shown by underlining and material to be deleted is shown stricken through with solid lines; for Secs. 69 and 132 through 136 the existing sections are deleted in their entirety and replaced as provided below):

**Sec. 65. - Administrative departments.**

The following administrative departments are hereby created:

- (a) Department of public works;
- (b) Department of finance and licensing;
- (c) Department of parks and recreation;
- (d) Department of public safety; ~~and~~
- (e) Department of planning; and

1 (f) Department of library and arts.

2 Upon the recommendation of the city manager, the city council may by ordinance create  
3 additional administrative departments.

4 **Department of Library and Arts**

5 **Sec. 69. - General powers and duties**

6 There is hereby created a department of library and arts, the director of which will be  
7 subject to the supervision and control of the city manager in all matters, shall be the technical  
8 advisor of the library commission and shall have the administrative direction of the  
9 department of library and arts, and perform such duties pertaining to the department of  
library and arts as are in this charter, or may be required by ordinance or assigned by the city  
manager. The director may be designated as the secretary of the library commission and  
authorized to perform other necessary functions.

10 **Library Commission**

11 **Sec. 132. - Library Commission established.**

12 There shall be and is hereby established a library commission which shall have the  
13 primary responsibility as an advisory commission with regard to the provision of library  
14 services to the Boulder community. The members of the commission shall be qualified to  
15 serve on an advisory commission pursuant to Section 130, shall not hold any other office in  
the city, and shall serve without pay.

16 **Sec. 133. - Powers and duties of library commission.**

17 The library commission shall not perform any administrative functions unless expressly  
18 provided in this charter. The commission shall provide recommendations to the city council  
in matters concerning the library, and the commission shall have the following duties:

- 19 (a) Adopt bylaws, rules, and regulations for its guidance and governance;
- 20 (b) Provide advice to assist in preparation and revision of a master plan for the development  
21 and maintenance of a modern library system within the city;
- 22 (c) Review annually the library budget prepared by the library director prior to its submittal  
23 to the city manager and make recommendations regarding approval or modification of the  
same;
- 24 (d) Review periodically the director's operational service plans and make comments and  
recommendations;
- 25 (e) Make recommendations to the director and the city council on library facilities, including  
26

capital improvements, maintenance of existing facilities, and need for new facilities;

(f) Review the library director's annual report and make comments and recommendations;  
~~and~~

(g) Represent the library to the community and the community to the library with the goal of building awareness, understanding, and support; and

(h) Take steps as the library commission may deem feasible to encourage grants or gifts in support of the library.

**Sec. 134. - Library fund.**

The city council shall make an annual appropriation, which shall amount to not less than the return of one-third of a mill tax levied upon each dollar of assessed valuation of all taxable property in the City of Boulder. All revenue from such tax, together with the moneys described below shall be paid into the city treasury and be designated as the "Library Fund";

(a) Gifts, bequests, and donations to the fund.

(b) Proceeds of the sale of any library property, or the pro rata portion of such property, purchased with funds from the property tax or gifts, bequests, and donations.

Expenditures from this fund shall be made only upon the favorable recommendation of the library commission. Said fund shall be used only for the benefit of the library.

Any portion of the fund remaining unexpended at the end of any fiscal year shall not in any event be converted into the general fund nor be subject to appropriation for general purposes. Money appropriated from the fund which is not expended in whole or in part shall be returned to the fund and shall not be subject to appropriation for general purposes.

Section 3. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

**Ballot Question No. \_\_\_\_**

**Amending Charter Provisions regarding Library Commission**

Shall the Charter be amended to make changes so that the powers and governance of the Library Commission and the uses of the Library Fund are updated to be consistent with other advisory commissions as specified in Ordinance No. 8055?

For the Measure \_\_\_\_

Against the Measure \_\_\_\_

1           Section 4.     If a majority of all the votes cast at the election on the measure submitted  
2 are for the measure, the measure shall be deemed to have passed and the charter shall be  
3 amended as provided in this ordinance.

4           Section 5.     The election shall be conducted under the provisions of the Colorado  
5 Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this  
6 ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby  
7 superseded.

8           Section 6.     The officers of the city are authorized to take all action necessary or  
9 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to  
10 conduct the election for the city.

11           Section 7.     If any section, paragraph, clause, or provision of this ordinance shall for  
12 any reason be held to be invalid or unenforceable, such decision shall not affect any of the  
13 remaining provisions of this ordinance.

14           Section 8.     This ordinance is necessary to protect the public health, safety, and  
15 welfare of the residents of the city, and covers matters of local concern.

16           Section 9.     The City Council deems it appropriate that this ordinance be published by  
17 title only and orders that copies of this ordinance be made available in the office of the city clerk  
18 for public inspection and acquisition.  
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1 INTRODUCTION, READ ON FIRST READING, AMENDED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this 28<sup>th</sup> day of July, 2015.

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4 Attest: Mayor

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6 City Clerk

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10 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
11 PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

12  
13 Attest: Mayor

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15  
16 City Clerk

ORDINANCE NO. 8055

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE REGULAR MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING THE CITY CHARTER REGARDING THE LIBRARY COMMISSION; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER RELATED DETAILS.

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

Section 1. A regular municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendments to the city Charter pertaining to the library commission (in Sec. 65, the material to be added to the Charter is shown by underlining and material to be deleted is shown stricken through with solid lines; for Secs. 69 and 132 through 136 the existing sections are deleted in their entirety and replaced as provided below):

**Sec. 65. - Administrative departments.**

The following administrative departments are hereby created:

- (a) Department of public works;
- (b) Department of finance and licensing;
- (c) Department of parks and recreation;
- (d) Department of public safety; ~~and~~
- (e) Department of planning; and

1 (f) Department of library and arts.

2 Upon the recommendation of the city manager, the city council may by ordinance create  
3 additional administrative departments.

4 **Department of Library and Arts**

5 **Sec. 69. - General powers and duties**

6 There is hereby created a department of library and arts, the director of which will be  
7 subject to the supervision and control of the city manager in all matters, shall be the technical  
8 advisor of the library commission and shall have the administrative direction of the  
9 department of library and arts, and perform such duties pertaining to the department of  
library and arts as are in this charter, or may be required by ordinance or assigned by the city  
manager. The director may be designated as the secretary of the library commission and  
authorized to perform other necessary functions.

10 **Library Commission**

11 **Sec. 132. - Library Commission established.**

12 There shall be and is hereby established a library commission which shall have the  
13 primary responsibility as an advisory commission with regard to the provision of library  
14 services to the Boulder community. The members of the commission shall be qualified to  
15 serve on an advisory commission pursuant to Section 130, shall not hold any other office in  
the city, and shall serve without pay.

16 **Sec. 133. - Powers and duties of library commission.**

17 The library commission shall not perform any administrative functions unless expressly  
18 provided in this charter. The commission shall provide recommendations to the city council  
in matters concerning the library, and the commission shall have the following duties:

- 19 (a) Adopt bylaws, rules, and regulations for its guidance and governance;
- 20 (b) Provide advice to assist in preparation and revision of a master plan for the development  
21 and maintenance of a modern library system within the city;
- 22 (c) Review annually the library budget prepared by the library director prior to its submittal  
23 to the city manager and make recommendations regarding approval or modification of the  
same;
- 24 (d) Review periodically the director's operational service plans and make comments and  
recommendations;
- 25 (e) Make recommendations to the director and the city council on library facilities, including  
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1 capital improvements, maintenance of existing facilities, and need for new facilities;

2 (f) Review the library director's annual report and make comments and recommendations;  
3 ~~and~~

4 (g) Represent the library to the community and the community to the library with the goal of  
5 building awareness, understanding, and support; and

6 (h) Take steps as the library commission may deem feasible to encourage grants or gifts in  
7 support of the library.

8 **Sec. 134. - Library fund.**

9 The city council shall make an annual appropriation, which shall amount to not less than  
10 the return of one-third of a mill tax levied upon each dollar of assessed valuation of all  
11 taxable property in the City of Boulder. All revenue from such tax, shall be paid into the city  
12 treasury and be designated the "Library Fund." Said fund shall be used only for the benefit  
13 of the library together with the moneys described below shall be paid into the city treasury  
14 and be designated as the "Library Fund";

15 Revenues from the following sources shall be deposited in the Library Fund. Expenditures  
16 of revenues from the following sources shall be made only upon the favorable  
17 recommendation of the library commission.

18 (a) Gifts, bequests, and donations to the fund.

19 (b) Proceeds of the sale of any library property, or the pro rata portion of such property,  
20 purchased with funds from the property tax or gifts, bequests, and donations.

21 ~~Expenditures from this fund shall be made only upon the favorable recommendation of  
22 the library commission. Said fund shall be used only for the benefit of the library.~~

23 Any portion of the fund remaining unexpended at the end of any fiscal year shall not in  
24 any event be converted into the general fund nor be subject to appropriation for general  
25 purposes. Money appropriated from the fund which is not expended in whole or in part shall  
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27 Section 3. The official ballot shall contain the following ballot title, which shall also  
28 be the designation and submission clause for the measure:

**Ballot Question No. \_\_\_\_**

**Amending Charter Provisions regarding Library Commission**

Shall the Charter be amended to make changes so that the powers and governance of the Library Commission and the uses of the Library Fund are updated to be consistent with other advisory commissions as specified in Ordinance No. 8055?

For the Measure \_\_\_\_

Against the Measure \_\_\_\_

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the charter shall be amended as provided in this ordinance.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby superseded.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. 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 9. 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.

1 INTRODUCTION, READ ON FIRST READING, AMENDED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this 28<sup>th</sup> day of July, 2015.

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4 \_\_\_\_\_  
Attest: Mayor

5  
6 \_\_\_\_\_  
7 City Clerk

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10 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
11 PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

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14 \_\_\_\_\_  
Attest: Mayor

15  
16 \_\_\_\_\_  
17 City Clerk

ORDINANCE NO. 8055

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE REGULAR MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING THE CITY CHARTER REGARDING THE LIBRARY COMMISSION; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER RELATED DETAILS.

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

Section 1. A regular municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendments to the city Charter pertaining to the library commission (in Sec. 65, the material to be added to the Charter is shown by underlining and material to be deleted is shown stricken through with solid lines; for Secs. 69 and 132 through 136 the existing sections are deleted in their entirety and replaced as provided below):

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10 **Library Commission**

11 **Sec. 132. - Library Commission established.**

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- 20 (b) Provide advice to assist in preparation and revision of a master plan for the development  
21 and maintenance of a modern library system within the city;
- 22 (c) Review annually the library budget prepared by the library director prior to its submittal  
23 to the city manager and make recommendations regarding approval or modification of the  
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- 24 (d) Review periodically the director's operational service plans and make comments and  
recommendations;
- 25 (e) Make recommendations to the director and the city council on library facilities, including  
26

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2 (f) Review the library director's annual report and make comments and recommendations;  
3 ~~and~~

4 (g) Represent the library to the community and the community to the library with the goal of  
5 building awareness, understanding, and support; and

6 (h) Take steps as the library commission may deem feasible to encourage grants or gifts in  
7 support of the library.

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9 The city council shall make an annual appropriation, which shall amount to not less than  
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12 treasury and be designated the "Library Fund." Said fund shall be used only for the benefit  
13 ~~of the library together with the moneys described below shall be paid into the city treasury  
14 and be designated as the "Library Fund";~~

15 Revenues from the following sources shall be deposited in the Library Fund referenced  
16 above. Expenditures of revenues from the following sources shall be made only upon the  
17 favorable recommendation of the library commission.

18 (a) Gifts, bequests, and donations to the fund.

19 (b) Proceeds of the sale of any library property, or the pro rata portion of such property,  
20 purchased with funds from the property tax appropriated pursuant to this section 134 or  
21 the predecessor section 135 or gifts, bequests, and donations.

22 ~~Expenditures from this fund shall be made only upon the favorable recommendation of  
23 the library commission. Said fund shall be used only for the benefit of the library.~~

24 Any portion of the fund remaining unexpended at the end of any fiscal year shall not in  
25 any event be converted into the general fund nor be subject to appropriation for general  
26 purposes. Money appropriated from the fund which is not expended in whole or in part shall  
be returned to the fund and shall not be subject to appropriation for general purposes.

27 Section 3. The official ballot shall contain the following ballot title, which shall also  
28 be the designation and submission clause for the measure:

**Ballot Question No. \_\_\_\_**

**Amending Charter Provisions regarding Library Commission**

Shall the Charter be amended to make changes so that the powers and governance of the Library Commission and the uses of the Library Fund are updated to be consistent with other advisory commissions as specified in Ordinance No. 8055?

For the Measure \_\_\_\_

Against the Measure \_\_\_\_

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the charter shall be amended as provided in this ordinance.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby superseded.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. 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 9. 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.

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INTRODUCED, READ ON FIRST READING, AMENDED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 28<sup>th</sup> day of July, 2015.

Attest: \_\_\_\_\_  
Mayor

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
PUBLISHED BY TITLE ONLY this 18<sup>th</sup> day of August, 2015.

Attest: \_\_\_\_\_  
Mayor

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8052 submitting to the registered electors of the City of Boulder, at the general municipal coordinated election to be held on November 3, 2015, an amendment to the Boulder Charter regarding City Council compensation, setting the ballot title and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Bob Eichem, Chief Financial Officer  
Alisa Lewis, City Clerk  
Joyce Lira, Human Resource Director  
Casey Earp, Assistant City Manger I

**EXECUTIVE SUMMARY**

The Council Charter Committee convenes annually to research and provide recommendations on potential Charter Changes to be considered for placement on the November ballot. On March 17 the Charter Committee met to discuss items it would propose to bring forward to the full City Council to place on the November 2015 ballot. One of the items identified was City Council Compensation.

At the April 14, 2015 Study Session the topic was discussed and Council requested that staff bring back potential ballot options for 1<sup>st</sup> reading consideration. The three options discussed were:

- 1) Add a base amount of \$10,000, in addition to the current rate of pay per meeting. **(Attachment A)**
- 2) Double the current per meeting compensation amount. **(Attachment B)**

3) Base the total amount of compensation per year on a percent of the Average Median Income (AMI) for the Boulder Valley area. (**Attachment C**)

Council members are currently compensated on a per meeting basis at the rate of \$206.97, with a maximum of 52 meetings annually. Council's maximum compensation under the current format is \$10,762.44 annually. (**Attachment D**).

Information from other municipalities is located in **Attachment G**. This information is from the 2015 Compensation Salary System (CSS) maintained by the Colorado Municipal League.

At first reading on June 16 Council requested that health insurance be included in each of three options equivalent to rate that city staff pays. Options for doing so are included in each of the three compensation options that are before Council for second reading.

**STAFF RECOMMENDATION:**

**Suggested Motion Language:**

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

Motion to adopt Ordinance No. 8052 submitting to the registered electors of the City of Boulder, at the general municipal coordinated election to be held on November 3, 2015, an amendment to the Boulder Home Rule Charter regarding City Council compensation.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic –The impact of this potential ballot question would be the incremental amount of the compensation that would be proposed.
- Environmental – Council compensation should not have an impact on the environmental sustainability.
- Social – There is the potential that increasing the amount of the council compensation may attract a broader range of council candidates in future elections.

**OTHER IMPACTS**

- Fiscal – The incremental fiscal impact of each option can be found in **Attachment E**.
- Staff time – the work on this potential ballot item can be absorbed in the normal work processes conducted by staff.

**BOARD AND COMMISSION FEEDBACK**

The Council Charter Committee convenes annually to research and provide recommendations on potential Charter Changes to be considered for placement on the November ballot. This is one of the items that have been proposed for consideration by the committee.

## **PUBLIC FEEDBACK**

Various members of the public have spoken during prior Citizen Participation segments of Council meetings supporting a change in Council Compensation.

## **BACKGROUND AND ANALYSIS**

During the past year, various members of the community have spoken to council during the citizen's participation segment of council meetings suggesting that the current council compensation is inadequate. Reasons cited included the amount of work council members are expected to perform, the number of meetings they are expected to attend and for which they are not compensated. This may contribute to why people cannot run for City Council due to the time it requires to miss or be away from work and family. The topic was brought forward by the Council Charter Committee and was discussed at a study session on April 14, 2015.

The current CSS (**Attachment G**) has compensation information from ten municipalities for 2015. The comparable data has information from Arvada, Aurora, Colorado Springs, Denver, Fort Collins, Greeley, Lakewood, Longmont, Loveland, Thornton, and Westminster on Council compensation rates.

## **MATRIX OF OPTIONS**

There is a summary of options in table format that can be found in **Attachment E**.

Ballot Option 1: (**Attachment A**): Add a base amount to the current per meeting compensation rate. This was one of the options discussed during the study session as an additional alternative to the current per meeting compensation. The premise would be that the base amount would cover all other duties not covered by the current per meeting amount.

Ballot Option 2: (**Attachment B**) Double the per meeting compensation rate. This option would maintain the current compensation framework based on pay per meeting that was originally passed by the voters. It would recognize that the compensation increase is to recognize that there are many additional duties than the ones currently recognized in the charter.

Option 3: (**Attachment C**) Link Council's annual compensation to the published area median income (AMI) using a percentage of the amount for a family of three. Council discussed this concept at the study session and asked staff to provide additional information on this potential option. AMI means that one half of the salaries are greater and one half of the salaries are less than the median amount of income. The current AMI for the Boulder area for a family of three is \$89,500 and various annual amounts based on a percentage of income are as follows:

25% of AMI = \$ 22,375

50% of AMI = \$ 44,750

75% of AMI = \$ 67,125

At the June 16 council meeting it was requested that health insurance options be included with each option and to provide it for the same cost that city staff pay for the various levels of coverage. Such options are included in each of the ballot options. If council is interested in adding health insurance as suggested at the June 16, 2015 meeting, staff

recommends that it consider adding the following additional language to the Charter Section 7 amendment.

Council members may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, and dental insurance plans.

Since council insurance is addressed in the charter with this amendment, there will no longer be the need for the provisions of Section 2-1-3, B.R.C. 1981, which are the present provisions related to insurance. This part of the code should be repealed if the council chooses to go forward with this charter amendment. Council could consider amending the ordinance to be adopted by adding a section repealing the relevant language in section 2-1-3. Attachment H includes a proposed motion to provide for this amendment.

**NEXT STEPS:**

Third reading is scheduled for September 1, 2015.

**ATTACHMENTS:**

Attachment A – Proposed Ordinance No. 8952 Option 1 - Base salary plus current per meeting compensation

Attachment B – Proposed Ordinance No. 8052 Option 2 - Double current compensation

Attachment C – Proposed Ordinance No. 8052 Option 3 - Compensation tied to a percent of AMI

Attachment D – Extract from the City of Boulder Charter re: City Council Compensation

Attachment E – Matrix of options for consideration

Attachment F – 2015 Compensation Salary System information prepared by the Colorado Municipal League

Attachment G – 2015 Area Median Income for Boulder County

Attachment H – Proposed motion amending section 2-1-3, B.R.C. 1981

ORDINANCE NO. 8052

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING SECTION 7 OF THE BOULDER HOME RULE CHARTER, RELATING TO COUNCIL COMPENSATION, BY ADDING AN ANNUAL SALARY IN THE AMOUNT OF \$10,000, SUBJECT TO ANNUAL ESCALATION IN A PERCENTAGE EQUAL TO THE INCREASE IN THE CONSUMER PRICE INCREASE AND SETTING FORTH RELATED DETAILS.

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

Section 1. A special municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendment to Section 7 of the city Charter pertaining to compensation for council members. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

**Sec. 7. - Compensation.**

Council members shall receive as compensation ~~\$100.00~~210.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual salary of \$10,000 per year, paid periodically on the same schedule used for salaried city employees with both the per meeting payment and annual salary subject to an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, ~~2016~~1990. For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter.





## ORDINANCE NO. 8053

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING SECTION 7 OF THE BOULDER HOME RULE CHARTER, RELATING TO COUNCIL COMPENSATION, BY INCREASING THE AMOUNT THAT COUNCIL MEMBERS RECEIVE AS COMPENSATION FROM \$100 PER MEETING, WHICH ADJUSTED FOR INFLATION IS NOW \$206.97 PER MEETING, TO \$425 PER MEETING, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A special municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendment to Section 7 of the city Charter pertaining to compensation for council members. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

**Sec. 7. - Compensation.**

Council members shall receive as compensation ~~\$100.00~~ \$425.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, ~~1990~~ 2016. For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter.

Section 3. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

**Ballot Question No. \_\_\_\_\_**

**Amending Charter Provisions regarding  
Compensation for Council Members**

Shall Section 7 of the Charter be amended pursuant to Ordinance No. 8053 to increase council member compensation from \$100 per meeting, which adjusted for inflation is now \$206.97 per meeting, to \$425 per meeting?

FOR THE MEASURE \_\_\_\_\_ AGAINST THE MEASURE \_\_\_\_\_

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the charter shall be amended as provided in this ordinance.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby superseded.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.



## ORDINANCE NO. 8054

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, THE QUESTION OF AMENDING SECTION 7 OF THE CHARTER, RELATING TO COUNCIL COMPENSATION BY DELETING THE CURRENT PER MEETING PAYMENT AND REPLACING IT WITH A PROVISION ESTABLISHING COUNCIL COMPENSATION AT 75% OF THE AREA MEDIUM INCOME, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A special municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2015.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendment to Section 7 of the city Charter pertaining to compensation for council members. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

**Sec. 7. - Compensation.**

Council members shall receive ~~as compensation~~ an annual salary paid periodically on the same schedule used for salaried city employees in an amount equal to 75 percent of the area median income for Boulder County for a family of three as reported by the United States Department of Housing and Urban Development or such other equivalent index that the city manager may identify if such information is not available. The city manager shall calculate the annual salary as of November 1 of the preceding year. \$100.00 per meeting at which a quorum of city council is present, not to exceed fifty two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this ~~this~~ amendment shall become effective January 1, 1990 2016. For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter.





**Boulder City Charter Section 7- Council Compensation**

The current compensation for City Council members is found in the Boulder City Charter in Section 7 - Compensation. Council members shall receive as compensation \$100.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990 (currently this compensation rate is \$206.97). For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter.

**Attachment E**

Current compensation	Base salary plus meeting pay	Increasing per meeting amount	Linking pay to area median income
<ul style="list-style-type: none"> <li>- \$100 per meeting</li> <li>- Up to 52 meetings annually</li> <li>- Annual increase based on CPI</li> <li>- Current compensation per meeting \$206.97</li> <li>- Current maximum payment to individual is \$10,762.44</li> </ul>	<ul style="list-style-type: none"> <li>- Setting a base salary at \$10,000</li> <li>- Continue to receive current compensation rate plus annual increase.</li> <li>- Maximum payment to individual would be \$20,762.44</li> </ul>	<ul style="list-style-type: none"> <li>- Double the base amount for the per meeting to \$413.97</li> <li>- Continue the same annual adjustment based on CPI</li> <li>- Continue the 52 meeting maximum</li> <li>- Maximum payment to individual would be \$21,524.88</li> </ul>	<ul style="list-style-type: none"> <li>- Create a base salary linked to a percentage of area the median income (AMI) for a family of three. Boulder County AMI for a family of three is \$89,500</li> <li>- 25% AMI = \$22,375</li> <li>- 50% AMI = \$44,750</li> <li>- 75% AMI = \$67,125</li> </ul>
	2016 incremental impact \$10,000	2016 incremental impact \$10,762	2016 incremental impact depends on percentage of AMI

**Compensation Survey System  
Elected Official Comparison Report  
05/07/2015**

<b>Job #2740 - AUDITOR</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
DENVER	1	Annual	\$125,924.00		✓	✓	✓	✓	✓		✓	02/24/2011	
<b>Job #2705 - CITY COUNCIL / TRUSTEE / ALDERMAN</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
FORT COLLINS	6	Annual	\$9,108.00									03/09/2015	
DENVER	12	Annual	\$78,173.00		✓	✓	✓	✓	✓		✓	02/24/2011	
AURORA	9	Annual	\$13,451.00			✓	✓	✓	✓	✓	✓	02/11/2015	
WESTMINSTER	5	Annual	\$12,000.00				✓	✓			✓	02/17/2015	Health/Dental may be elected, they pay 100% of our blended rate.
THORNTON	0	Annual	\$10,800.00				✓	✓	✓		✓	02/16/2010	
LOVELAND	7	Monthly	\$600.00								✓	03/03/2015	
COLORADO SPRINGS	9	Annual	\$6,250.40			✓	✓	✓	✓	✓	✓	02/27/2012	City Council benefit rate sheets will be provided to the CML office. City Council members can participate in PERA, ICMA457 or 401a. The majority of our Council members participate in the 457 program.
LONGMONT	6	Monthly	\$1,000.00				✓	✓				02/01/2013	If Medical or Dental are elected, they must pay the full cost.
GREELEY	6	Annual	\$9,800.00				✓	✓				02/05/2014	City Council members also receive \$50 internet and \$40 phone allowances per month.
LAKEWOOD	10	Annual	\$12,873.00				✓	✓			✓	12/09/2013	
ARVADA	5	Monthly	\$1,150.00				✓	✓			✓	02/27/2014	
<b>Job #2735 - CLERK</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
DENVER	0	Annual	\$0.00									02/24/2011	
<b>Job #2704 - COUNCIL PRESIDENT / VICE MAYOR</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
DENVER	1	Annual	\$87,539.00		✓	✓	✓	✓	✓		✓	02/24/2011	
<b>Job #2715 - COUNTY COMMISSIONER</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
LAKEWOOD	0	Annual	\$0.00										
<b>Job #2710 - JUSTICE / MUNICIPAL JUDGE</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
LAKEWOOD	1	Annual	\$142,376.00		✓	✓	✓	✓	✓	✓	✓	08/20/2014	Presiding Municipal Judge. Pension same as mgmt employees.
<b>Job #2700 - MAYOR</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
FORT COLLINS	1	Annual	\$13,692.00									03/09/2015	
WESTMINSTER	1	Annual	\$16,800.00				✓	✓			✓	02/17/2015	Health/Dental may be elected, they pay 100% of our blended rate.
DENVER	1	Annual	\$145,601.00		✓	✓	✓	✓	✓		✓	02/24/2011	
AURORA	1	Annual	\$58,014.00			✓	✓	✓	✓	✓	✓	02/11/2015	
THORNTON	0	Annual	\$15,000.00				✓	✓	✓		✓	02/16/2010	
LOVELAND	1	Monthly	\$1,000.00								✓	03/03/2015	
COLORADO SPRINGS	1	Annual	\$98,000.00		✓	✓	✓	✓	✓	✓	✓	02/27/2012	
LONGMONT	1	Monthly	\$1,500.00				✓	✓				02/01/2013	If Medical or Dental are elected, they must pay the full cost.
GREELEY	1	Annual	\$14,400.00				✓	✓				02/05/2014	The Mayor also receives a \$50 internet and \$40 phone allowance per month.
ARVADA	1	Monthly	\$1,500.00				✓	✓			✓	02/27/2014	
LAKEWOOD	1	Annual	\$38,800.00				✓	✓			✓	12/09/2013	
<b>Job #2701 - MAYOR PRO TEM</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
WESTMINSTER	1	Annual	\$14,400.00				✓	✓			✓	02/17/2015	Health/Dental may be elected, they pay 100% of our blended rate.
AURORA	1	Annual	\$15,382.00			✓	✓	✓	✓	✓	✓	02/11/2015	
THORNTON	0	Annual	\$12,000.00				✓	✓	✓		✓	02/16/2010	
LOVELAND	1	Monthly	\$800.00								✓	03/03/2015	
ARVADA	1	Monthly	\$1,250.00				✓	✓			✓	02/27/2014	
<b>Job #2745 - RECORDER/REGISTER OF DEEDS</b>													
Entity	# Inc	Pay Basis	Salary	Comb	F/T	Ret	Health	Dental	Life	401	457	Updated	Comments
DENVER	0	Annual	\$0.00									02/24/2011	

## FY 2015 Area Median Income for Boulder County

Definitions	AMI	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Median	100%	69,600	79,600	89,500	99,400	107,400	115,400	123,300	131,300
	80%	55,680	63,680	71,600	79,520	85,920	92,320	98,640	105,040
<b>HUD Low</b>	66.2%	46,100	52,650	59,250	65,800	71,100	76,350	80,600	86,900
	65%	45,240	51,740	58,175	64,610	69,810	75,010	80,145	85,345
	60%	41,760	47,760	53,700	59,640	64,440	69,240	73,980	78,780
	55%	38,280	43,780	49,225	54,670	59,070	63,470	67,815	72,215
HUD Very Low	50%	34,800	39,800	44,750	49,700	53,700	57,700	61,650	65,650
	45%	31,320	35,820	40,275	44,730	48,330	51,930	55,485	59,085
	40%	27,840	31,840	35,800	39,760	42,960	46,160	49,320	52,520
HUD Extremely Low	30%	20,880	23,880	26,850	29,820	32,220	34,620	36,990	39,390

**IMPORTANT NOTE:** All CDBG funded projects subject to HUD Low income limits for Boulder County. HUD requires that 51% of the total persons or households served in Boulder have a combined household income at or below 66.2% AMI based on household size.

Amend the adopted ordinance by adding the following section:

Section \*. If the ballot measure passes, effective January 1, 2016, Section 2-1-3, B.R.C. 1981 is amended to read:

(Note – the language which has been double underlined would be added and the language that has been lined out would be omitted from the section if this ordinance is approved by the electors.):

~~**2-1-3. Council Member Benefits.**~~

~~(a) The city council finds:~~

- ~~(1) Section 7 of the charter of the City of Boulder, as amended in 2012, sets the level of "compensation" for council members as "\$100.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation" specified in the charter; and~~
- ~~(2) Ambiguities inherent in the term, "compensation," require that the council interpret Section 7 in a way that will best fulfill the charter's intent and purposes.~~

~~(b) Under charter 7:~~

- ~~(1) "Compensation" includes only salaries, as that was the focus of Charter Section 7 before 1990 and the focus of analysis preceding the 1990 amendment; and~~
- ~~(2) Council members must receive at least the salary specified in Section 7 per meeting, but may receive other benefits.~~

~~(c) In addition to the salary specified in Charter Section 7, the council shall receive the following other benefits:~~

- ~~(1) Coverage under City of Boulder health and dental group benefit plans, with premiums paid entirely by council members electing such coverage; and~~
- ~~(2) Other benefits and amenities, except salary, available to the City of Boulder officers and employees, as the council may specify by motion, after considering a city manager's report and recommendation on such other benefits and amenities.~~



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 18, 2015**

**AGENDA TITLE - Consideration of a motion regarding 2015 performance evaluations, and performance and equity based salary adjustments for the City Manager, City Attorney, and Municipal Judge.**

**PRESENTER/S**

Lisa Morzel and Tim Plass, City Council Employee Evaluation Committee

**EXECUTIVE SUMMARY**

Based on performance ratings and salary preferences expressed by the City Council, the evaluation committee is bringing to the Council a motion regarding 2015 performance evaluations and performance and equity based salary adjustments for the City Manager, City Attorney, and Municipal Judge for the evaluation period of July 1, 2014 to July 1, 2015. In addition to performance evaluations, other factors considered in determining these recommendations include the employee's compensation compared to the labor market for similar positions and the city's financial health and future outlook. The recommendations for pay increases in the motion represent an average (mean) of the responses to the pay ballots submitted by City Council members.

The City Council has given the City Manager a very high performance rating and the Evaluation Committee recommends a 4% performance increase and a 5% equity increase that would increase the manager's annual salary by \$ 19,528 from \$ 216,980.40 to \$ 236,508.

The City Council has given the City Attorney a very high performance rating and the Evaluation Committee recommends a 4% performance increase and a 1% equity increase that would increase the attorney's annual salary by \$ 9,706 from \$194,132.64 to \$203,839.

The City Council has given the Municipal Judge a very high performance rating and the Evaluation Committee recommends a 3% performance increase and a 1% equity increase that would increase the judge's annual salary by \$5,616 from \$140,406.03 to \$146, 022.

## EVALUATION COMMITTEE RECOMMENDATION

### **Suggested Motion Language:**

Based on the performance evaluation process, City Council awards a pay increase of \$19,528 (9% of base salary) to the City Manager's base salary, a pay increase of \$9,706 (5% of base salary) to the City Attorney's base salary, and a pay increase of \$5,616 (4% of base salary) to the Municipal Judge's base salary, these increases are retroactive to June 22, 2015.

## OTHER IMPACTS

Fiscal: should Council choose to provide performance based salary adjustments, the cost for each 1% of salary granted as a performance or equity increase would be \$2,170 for the City Manager, \$1,941 for the City Attorney, and \$1,404 for the Municipal Judge. The increases would be retroactive to June 22, 2015 which is the beginning of the pay period in which the City Council Employees' common review date of July 1, 2015.

Staff time: approximately 40 hours to support the Council Employee Evaluation Process. In addition, Mountain States Employer's Council, the consultant that assisted with the Council Employee Evaluation, charged \$5,000.00

## ANALYSIS

Each year the City Council considers granting a performance pay increase to its employees based upon a performance evaluation process. This year, the committee has also provided the council with the opportunity to specify an equity adjustment.

The council employee evaluation process is supervised and directed by the Council Employee Evaluation Committee. The procedure for the employee evaluation is guided in part by the City Charter. Section 9 provides that the council may appoint a committee of not more than two council members to consider making a recommendation on the performance of its employees. The committee's business may be conducted in private. The committee seeks input from a variety of sources regarding its three employees, synthesizes the information, and makes a recommendation to the entire council with regard to a proposed performance rating and compensa-

tion. The council adopts a performance rating as part of the evaluation process. The council as a whole is required to determine compensation at a public meeting. Personnel files are generally not disclosed under the state public records law. See section 24-72-204(3)(a)(II)(A), C.R.S. Performance ratings or compensation are not considered to be a part of the personnel file. See section 24-72-202(4.5), C.R.S.

Each council member rates the performance of each employee on five to ten performance and job specific factors. Based on the ratings, each council member then indicates his/her preference for a performance pay increase for each employee. If a majority of council members support granting a performance pay increase, then that is the motion that the evaluation committee brings to council. This year, the same methodology of gathering input of council members was followed for the consideration of the performance based salary adjustment for the council employees. For the first time this year, the council was also specifically asked to consider whether an equity adjustment was warranted.

Council's decision on whether to grant performance based increases to salary includes consideration of superior performance in the previous year and the city's financial health. In weighing performance and market-based adjustments to base pay, Council assesses their employee's compensation compared to the labor market within Colorado and what have been identified as Peer Cities to the City of Boulder for similar positions (see Attachment A). The recommendations for pay increases in the motion represent an average (mean) of the responses to the pay ballots submitted by City Council members.

The City Manager received very high ratings in all categories. The salary comparisons indicate that her total compensation currently falls 1.1% below local jurisdictions and .4% above identified Peer Cities, when considering the total compensation of other managers. The committee recommends a 4% increase based on merit and a 5% increase based on equity with identified markets.

The analysis performed for the City Attorney is much the same as for the City Manager. He received very high ratings in all categories. The salary comparisons indicate that his total compensation falls 7.6% above local jurisdictions and 5.7% above identified Peer Cities, when considering the total compensation of other City attorneys. The committee recommends a 4% based on merit and a 1% increase based on equity with identified markets.

The Municipal Judge received very high ratings from the council. The salary comparisons indicate that her total compensation currently falls 1.5% below local jurisdictions when considering total compensation. The Peer Cities survey demonstrated little in the way of results as those jurisdictions either did not participate or did not have Municipal judges, but rather County government positions. The committee recommends a 3% increase based on merit and a 1% increase based on equity with identified markets.

Approved By:  
Lisa Morzel  
Tim Plass  
Council Employee Evaluation Committee

## **ATTACHMENT**

A. 2015 Market Survey Council Employees (includes Colorado jurisdictions as well as cities identified as being Peer Cities to the City of Boulder)

# Attachment A

### City Manager Salaries - June, 2015

Organization	Population	Annual Actual Salary	Date of Last Pay Increase	City Paid Deferred Comp.	Annual Car Allowance	Annual Bonus Amount	Total Comp.*	# of Employees Managed	Years in Current Position	Vacation Days per Year
Arvada	107,700	\$206,769	7/1/14	\$0	\$6,600	\$0	\$213,369	675	3.8	18
Aurora	332,354	\$196,764	1/1/15	\$21,000	\$9,132	\$0	\$204,849*	2,610	4	13
Colorado Springs	436,000	No Match**								
Denver	634,265	No Match**								
Fort Collins	143,986	\$244,839	01/05/15	\$0	\$9,000	\$0	\$253,839	1,293	10	30
Greeley	101,000	\$190,272	3/1/15	\$0	\$6,000	\$0	\$196,272	859	10	25
Lakewood	145,596	\$212,638	3/30/15	\$24,000	\$3,000	\$0	\$239,638	1,888	5	20
Longmont	90,219	\$186,156	4/14/14	\$10,000	\$5,000	\$6,375	\$207,531	812	3	15
Loveland	68,000	\$181,126	12/13/14	\$0	\$6,000	\$0	\$187,126	746	4.8	20
Thornton	122,820	\$220,279	12/28/14	\$0	\$6,600	\$6,189	\$233,068	829	29	30
Westminster	107,967	\$215,000	1/1/14	\$0	\$9,000	\$0	\$224,000	1,932	2 mo.	14.2***
	<b>Average:</b>	<b>\$205,983</b>					<b>\$219,355</b>			<b>21</b>
<b>Boulder</b>	103,650	<b>\$216,980</b> <b>(+5.3%)</b>	6/23/2014	\$0	\$0	\$0	<b>\$216,980</b> <b>(-1.1%)</b>	1,306	6.7	<b>23</b>

\*Total Compensation - includes salary, deferred compensation, car allowance and bonus. (Aurora - excludes value of car)

\*\*Colorado Springs, Denver - No City Manager; have a strong-mayor form of government.

\*\*\*Westminster - 10 hour days, 142 total hours

Note: "City Paid Deferred Comp." refers to compensation deferred into the future for certain employees beyond that provided to all employees. For example, the City pays 13.7% of employees' salaries toward a pension and the employee pays 8%. If the City chooses to pay the employee portion for selected employees (8%) that would be considered additional, deferred compensation for the employee. Since the City contributes 13.7% towards all employees, that amount is not considered deferred compensation.

### City Attorney Salaries - June, 2015

Organization	Population	Annual Actual Salary	Date of Last Pay Increase	City Paid Deferred Comp.	Annual Car Allowance	Annual Bonus Amount	Total Comp.*	# of Employees Managed	Years in Current Position	Vacation Days per Year
Arvada	107,700	\$176,890	7/1/14	\$0	\$4,200	\$0	\$181,090	2	20	20
Aurora	332,354	\$179,950	7/1/14	\$8,000	\$7,560	\$0			>1	23
Colorado Springs	436,000	\$192,276	4/19/14	\$0	\$9,239	\$0	\$201,515	0	1	20
Denver	663,862	\$190,000	1/2/14	\$0	N/A	\$0	\$190,000	205	1.5	15
Fort Collins	143,986	\$177,000	01/06/14	\$0	\$0	\$0	\$177,000	17	3 mo.	30
Greeley	101,000		<u>vacant</u>							
Lakewood	145,596		<u>contract position</u>							
Longmont	90,219	\$167,496	12/22/14	\$9,123	\$3,587	\$0	\$180,206	7	6	18
Loveland	68,000	\$158,018	1/4/14	\$0	\$0	\$0	\$158,018	6	5 mo.	15
Thornton	122,820	\$173,224	12/28/14	\$0	\$4,404	\$4,857	\$182,485	8	20	30
Westminster	107,967	\$168,000	1/1/15	\$0	\$4,800	\$0	\$172,800	13	4 mo.	14.2**
<b>Average:</b>		<b>\$175,873</b>					<b>\$180,389</b>			<b>21</b>
<b>Boulder</b>	103,650	<b>\$194,133</b> <b>(+10.4%)</b>	6/23/2014	0	0	0	<b>\$194,133</b> <b>(+7.6%)</b>	25	5	<b>23</b>

\*Total Compensation - includes salary, deferred compensation, car allowance and bonus.

\*\*Westminster - 10 hour days, 142 total hours

### Presiding Municipal Judge Salaries - June, 2015

Organization	Population	Annual Actual Salary	Date of Last Pay Increase	City Paid Deferred Comp.	Annual Car Allowance	Annual Bonus Amount	Total Comp.*	# of Employees Managed	Total # FTEs Judge(s)	Years in Current Position	Responsible for Court Admin?	Vacation Days per Year
Arvada	107,700	\$139,100	01/01/15	\$0	\$0	\$0	\$139,100	9	1	1	Yes	15
Aurora	332,354	\$142,565	01/01/15	\$20,000	\$0	\$0	\$162,565	1	5	9	No	23
Colorado Springs	436,000	\$120,498	07/01/14	n/a	\$0	\$0		1	4.5**	1	No	n/a
Denver	663,862	\$173,046	07/01/15	\$0	\$0	\$0	\$173,046	0	***	varies	No	varies
Fort Collins	145,596	\$136,706	01/05/15	\$0	\$0	\$0	****	7	0.8	26	No	30
Greeley	95,000	\$120,226	n/a	\$0	\$0	\$0	\$120,226	0	1	3	No	20
Lakewood	144,406	\$142,376	03/30/15	\$4,271	\$3,000	\$0	\$149,647	17	1	6	Yes	18
Longmont	90,219	\$123,948	01/01/14	\$0	\$0	\$0	\$123,948	7	1	28	Yes	21
Loveland	72,846	\$100,006	04/21/15	\$0	\$0	\$0	\$100,006	0	1	2 mo.	yes	15
Thornton	122,820	\$138,272	12/28/14	\$0	\$0	\$3,877	\$142,149	0	1	26	No	21
Westminster	107,967	\$141,622	01/01/15	\$24,000	\$6,000	\$0	\$171,622	1	1.8	36	No	19*****
<b>Average: \$134,397</b>							<b>\$142,479</b>					<b>20</b>

<b>Boulder</b>	103,650	<b>\$140,406</b> (+4.5%)	06/23/14	\$0	\$0	\$0	<b>\$140,406</b> (-1.5%)	1	1.5	14	No	<b>23</b>
----------------	---------	-----------------------------	----------	-----	-----	-----	-----------------------------	---	-----	----	----	-----------

\*Total Compensation - includes salary, deferred compensation, car allowance and bonus.

\*\*Colorado Springs - 11 part time judges at .4167 FTE

\*\*\*Denver - 17 incumbents; also 4 full-time and 10 part time County Court Magistrates

\*\*\*\*Ft. Collins - Judge is 0.8 FTE, salary of \$109,365

\*\*\*\*\*Westminster - 10 hour days, 190 total hours

Note: "City Paid Deferred Comp." refers to compensation deferred into the future for certain employees beyond that provided to all employees. For example, the City pays 13.7% of employees' salaries toward a pension and the employee pays 8%. If the City chooses to pay the employee portion for selected employees (8%) that would be considered additional, deferred compensation for the employee. Since the City contributes 13.7% towards all employees, that amount is not considered deferred compensation.

**2015 Council Employees Survey  
(Boulder's Peer Cities)\***

Attachment A- Market Survey

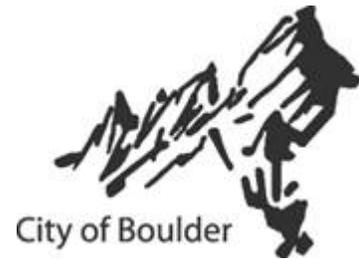
City Manager	Actual Salary	Deferred Comp.	Car Allowance	Bonus Amount	Total Comp.
Ann Arbor	\$159,500	\$0	\$0	\$0	\$159,500
Asheville	\$182,146	0	7200	\$0	\$189,346
Berkeley	\$225,000	n.a.	n.a.	n.a.	\$225,000
Eugene	\$188,947	\$15,000	\$6,000	\$0	\$209,947
Madison	(strong Mayor form of government)				
Palo Alto	\$262,241	\$0	\$7,200	\$0	\$269,441
Santa Barbara	\$240,624	\$0	\$7,260	\$0	\$247,884
Santa Cruz	\$214,044	\$0	\$1,440	\$5,098	\$220,582
Seattle	(strong Mayor form of government)				
Tempe	\$185,747	\$14,875	\$6,000	n.a.	\$206,622
Average:	<b>\$207,281</b>				<b>\$216,040</b>
<b>Boulder</b>	<b>\$216,980</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$216,980</b>
	<b>(+4.7%)</b>				<b>(+0.4%)</b>

City Attorney	Actual Salary	Deferred Comp.	Car Allowance	Bonus Amount	Total Comp.
Ann Arbor	\$153,631	\$0	\$0	\$0	\$153,631
Asheville	\$169,950	\$0	\$2,400	\$0	\$172,350
Berkeley	\$201,936	n.a.	n.a.	n.a.	\$201,936
Eugene	\$159,266	\$600	\$3,120	\$0	\$162,986
Madison	\$151,404	\$9,087	\$0	\$0	\$160,491
Palo Alto	\$234,936	\$0	\$7,200	\$0	\$242,136
Santa Barbara	\$228,168	\$0	\$7,260	\$0	\$235,428
Santa Cruz	\$184,152	(not a City position)			\$184,152
Seattle	\$155,723	(an elected position)			\$155,523
Tempe	\$147,420	\$20,744	\$0	n.a.	\$168,164
Average:	<b>\$178,659</b>				<b>\$183,680</b>
<b>Boulder</b>	<b>\$194,133</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$194,133</b>
	<b>(+8.7%)</b>				<b>(+5.7%)</b>

Municipal Judge	Actual Salary	Deferred Comp.	Car Allowance	Bonus Amount	Total Comp.
Ann Arbor	(no match; use District Judges)				
Asheville	(no match)				
Berkeley	(County government position)				
Eugene	(\$121 per hour; work hours vary)				
Madison**	\$97,257	\$5,835	\$0	\$0	\$103,092
Palo Alto	(County government position)				
Santa Barbara	(County government position)				
Santa Cruz	(County government position)				
Seattle	(8 elected Judges)				
Tempe	\$159,695	\$21,970	\$0	n.a.	\$181,665
Average:	<b>\$128,476</b>				<b>\$142,379</b>
<b>Boulder</b>	<b>\$140,406</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$140,406</b>

\*\*Madison - Municipal Judge is an elected position

\* Boise Idaho, Portland Oregon and Raleigh North Carolina chose not to participate.



**The Board & Commission Broadcast Pilot Project**  
**Jan. 1-June 30, 21015**  
**Summary of Survey Results**

At the end of 2014, the City of Boulder Communications Department was tasked by City Council to develop and execute a pilot project to broadcast Planning Board and Open Space Board of Trustee Meetings for the first six months of 2015, in addition to all City Council Meetings. These meetings were both broadcast on Boulder Channel 8 and live-streamed on the city's website. As part of that project, the Communications Department committed to gathering feedback on the effectiveness of the pilot project to inform City Council's assessment of the pilot project and whether it should continue.

On May 18, two separate, non-scientific surveys were launched using the online application SurveyMonkey. Participation of the first survey was open to the public and promoted through a News Release (Appendix A) which led to a story in the Boulder Daily Camera. Additional outreach efforts included the city's website, social media, Boulder Channel 8, the Open Space and Mountain Parks newsletter, City Library newsletter and Energy Future newsletter. (For newsletter text copy, see Appendix B.) The second survey was limited to participation only from Council Members, Board & Commission members and city staff directly involved with Board & Commission meetings. Each of these group members were invited by email to take the survey online. On Friday, June 5, both surveys closed.

For the public survey, a total of 96 surveys were submitted that provided direct feedback to some or all of ten survey questions. Please reference Appendix C: Survey Results for Public Board & Commission Televised Meeting Pilot Project for graphic representation of all answers to the survey questions. From this survey, several non-scientific findings can be presented:

1. Over two-thirds of survey participants (71.6%) were aware that Planning Board and Open Space Board of Trustee Meetings were being broadcast (Q1) and two-thirds of survey participants (66.7%) confirmed they had watched a meeting on Boulder Channel 8 or online (Q2).
2. Just under two-thirds of survey participants (65%) claimed to have viewed 3 or more meetings (Q3), with Open Space Board of Trustee Meetings being slightly more popular (44.6%) in viewership vs. Planning Board (35.4%). Twenty-percent (20%) reported they watched both meetings with equal frequency (Q4). The survey also showed (Q5) that more participants chose to watch the meetings online (59.7%) vs. Boulder Channel 8 (28.4%), while the remaining (11.9%) indicated they watched both.
3. For comparison sake, three survey questions (Q8, Q9 & Q10) solicited feedback regarding broadcasts of City Council meetings. City Council meetings still have the

highest viewership, with 78.3% survey participants reporting that they had watched a council broadcast. 55% watched online vs. 28.8% watched on Boulder Channel 8, with the remaining 16.3% watching on both platforms. Over 50% of survey participants claim to have watched a minimum of six City Council meeting in the past year.

4. The main objective of the survey was to determine if public participants feel the broadcasts should continue or be expanded to include more Board & Commission meetings. An overwhelming 95.7% believe Board & Commission meeting should continue to be broadcast (Q6). Likewise, 83.7% feel additional board meetings should be offered options for viewership on Boulder Channel 8 and online (Q7).

The second survey targeted only Council Members, Board Members & select city staff (Q1). From this small group, 14 surveys were submitted that provided direct feedback to some or all of five survey questions. Please reference Appendix D: Survey Results of Participants of Board & Commission Meetings on Televised Meeting Pilot Project. From this survey, several non-scientific findings can be presented:

1. Eleven meeting participants out of the 14 surveyed reported they have received feedback on broadcasts, of which 9 reported positive feedback (Q2 & Q3).
2. Ten survey participants report that community members expressed to them there is value in televised meetings (Q4).
3. Eleven out of the 14 meeting participants report that the televised meetings did benefit their decision making and community engagement (Q5).

The Open Space Board of Trustees also discussed the pilot project and expressed a desire to continue televising meetings.

To complete the analysis of the viewership of the meetings available online, staff queried the streaming vendor for the City of Boulder. (Comcast does not provide viewership for specific Channel 8 programs) From the online streaming data, several rough findings can be presented:

1. As few as 14 viewers streamed into the smallest viewership meeting, while as many as 259 viewers streamed into the highest single viewership meeting Planning Board and Open Space Board of Trustee.
2. A cumulative total of 1,464 views occurred for all Planning Board and Open Space Board of Trustee meetings from January 1-May 15, 2015.
3. Council Study Sessions ranged from 60 online viewers to more than 250 viewers and City Council meetings had an online viewership of 100 to more than 500.

Finally, the online surveys did not allow for public comment or open-ended questions because this was an exercise that called for quantitative results. However, through Council Correspondence at [InquireBoulde@BoulderColorado.gov](mailto:InquireBoulde@BoulderColorado.gov), one constituent did share additional feedback. On Friday, May 22, 2015, constituent Tony Gannaway wrote:

“...I have watched the meetings a few times...I can review what will be discussed from the websites and determine if I need to watch the program without having to drive to the meeting. There are frequently items of interest discussed without triggering an urge to attend n person. Some items result in an email discussion with friends concerning the implications. So, while I represent a

single response, I consider this to be a highly valuable project which provides a great benefit to the interested communities in Boulder.”

Patrick von Keyserling, Communication Director  
Communication Department, City of Boulder  
303-44-4959

## Appendix A: News Release for Survey Launch



NEWS

**Thursday, May 21, 2015**

**Media Contacts:**

Sarah Huntley, Media Relations, 303-441-3155

Patrick von Keyserling, Communication Director, 303-441-4959

<https://bouldercolorado.gov>

### **City seeks feedback on televised Planning Board and Open Space Board meetings**

The City of Boulder is seeking community input to determine if it should continue televising Planning Board and Open Space Board meetings. It released an online survey today to gather feedback on the pilot project, which began in January.

City Council approved a six-month pilot project to televise Planning Board and Open Space Board meetings live on Comcast channel 8 and online at BoulderChannel8.com.

The project, scheduled to run through June 30, is an effort to improve community access to local government. While all city board and commission meetings are open to the public, the broadcasts allow those who cannot attend some of these meetings in person to follow live meetings from other locations and to watch meetings at their convenience online.

The short online survey takes approximately two minutes to fill out and can be accessed at: <https://www.surveymonkey.com/s/VMTPNXT>

The survey will remain open through June 5.

“Last fall, we heard from several residents who wanted to know more about community issues under consideration at the board level, but couldn’t attend meetings in person due to other conflicts,” said city Communication Director Patrick von Keyserling. “In response, City Council approved a pilot project to televise all council study sessions, Planning Board and Open Space Board of Trustees meetings for six months with a report back to council to inform them if there is community value in continuing the project.”

The next televised Planning Board meeting is Thursday, May 21 at 6 p.m. The next televised Open Space Board of Trustees meeting is Monday, June 15 at 6 p.m. Previous meetings are archived at BoulderChannel8.com.

--CITY--

## **Appendix B: Outreach To City & Community Distribution Emails**

The City of Boulder wants to hear from YOU!

The City of Boulder is seeking community input to determine if it should continue televising Planning Board and Open Space Board meetings. It released an online survey on May 21 to gather feedback on the pilot project that began in January.

Currently, the Planning Board and Open Space Board of Trustee meetings are broadcast live on Comcast channel 8 and online at BoulderChannel8.com.

The short online survey takes approximately two minutes to fill out and can be accessed at:

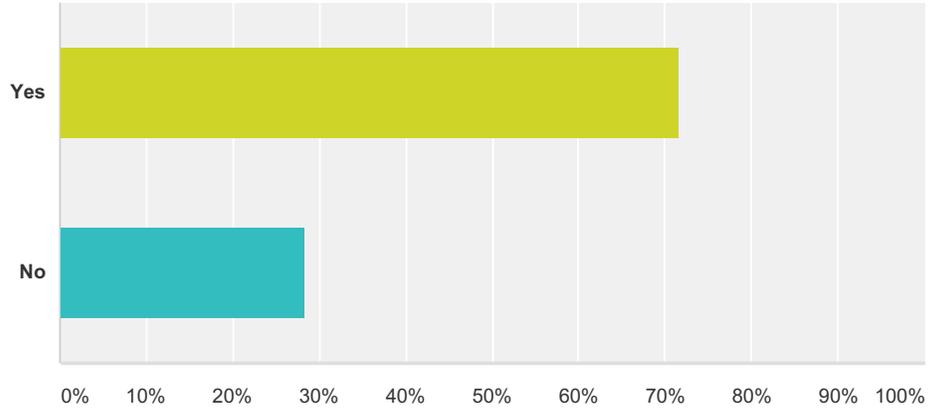
<https://www.surveymonkey.com/s/VMTPNXT>

The survey will remain open through June 5.

Your answers will help determine future broadcast schedules for city meetings! Thanks for your help!

### Q1 Did you know the City of Boulder televisions Planning Board and Open Space Board of Trustee Meetings?

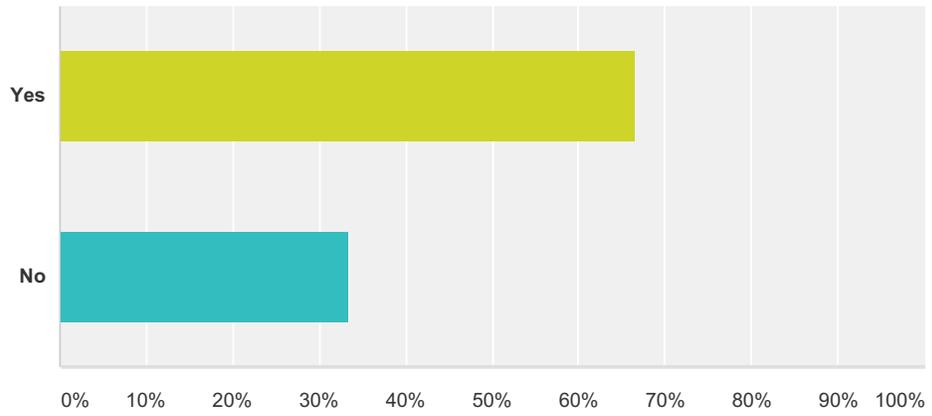
Answered: 95 Skipped: 1



Answer Choices	Responses	
Yes	71.58%	68
No	28.42%	27
<b>Total</b>		<b>95</b>

**Q2 Have you watched a board meeting on Channel 8 or online?**

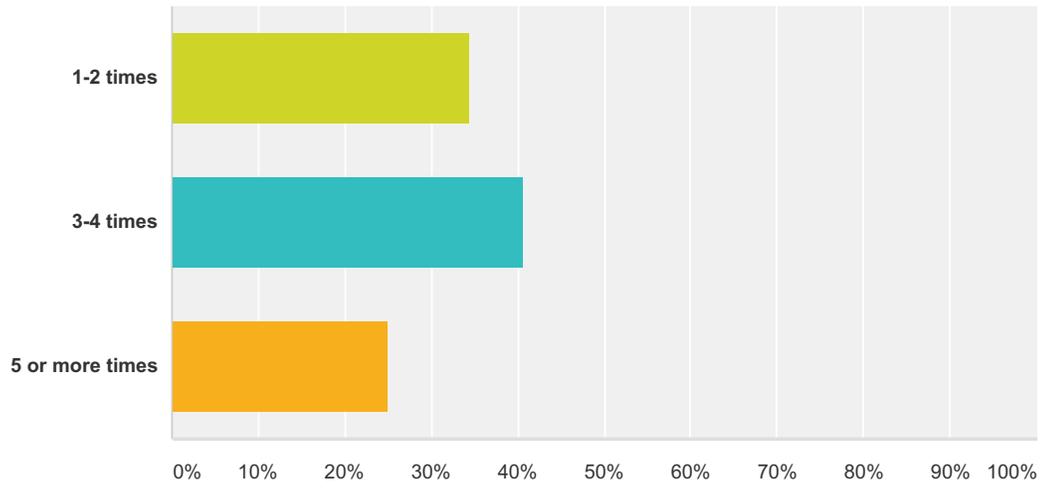
Answered: 96 Skipped: 0



Answer Choices	Responses
Yes	66.67% 64
No	33.33% 32
<b>Total</b>	<b>96</b>

### Q3 If yes, how often have you watched city board meetings?

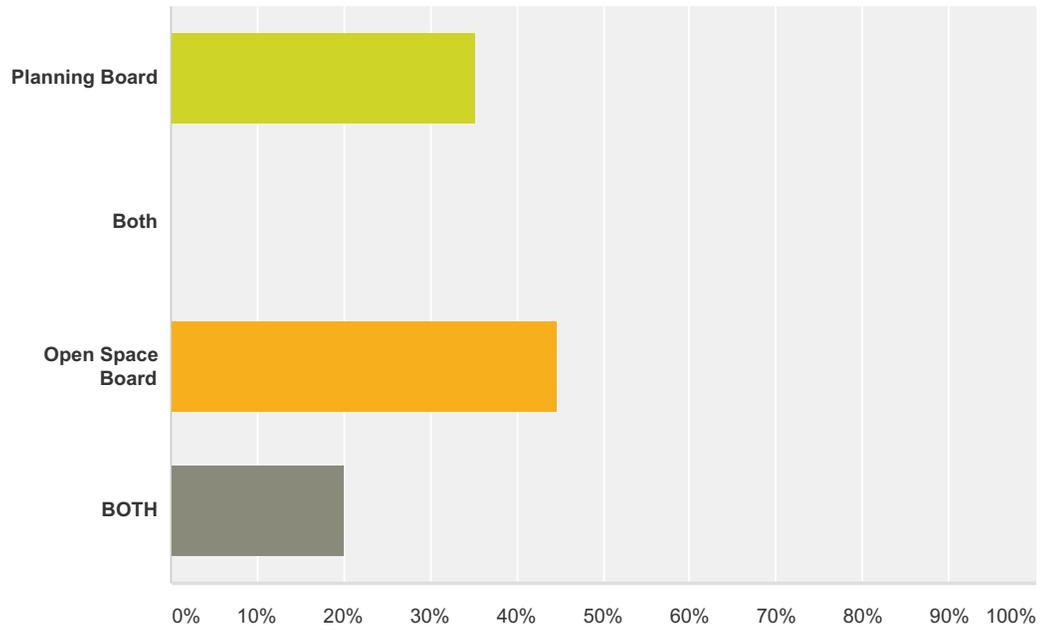
Answered: 64 Skipped: 32



Answer Choices	Responses
1-2 times	34.38% 22
3-4 times	40.63% 26
5 or more times	25.00% 16
<b>Total</b>	<b>64</b>

### Q4 Which city board meetings do you watch most often?

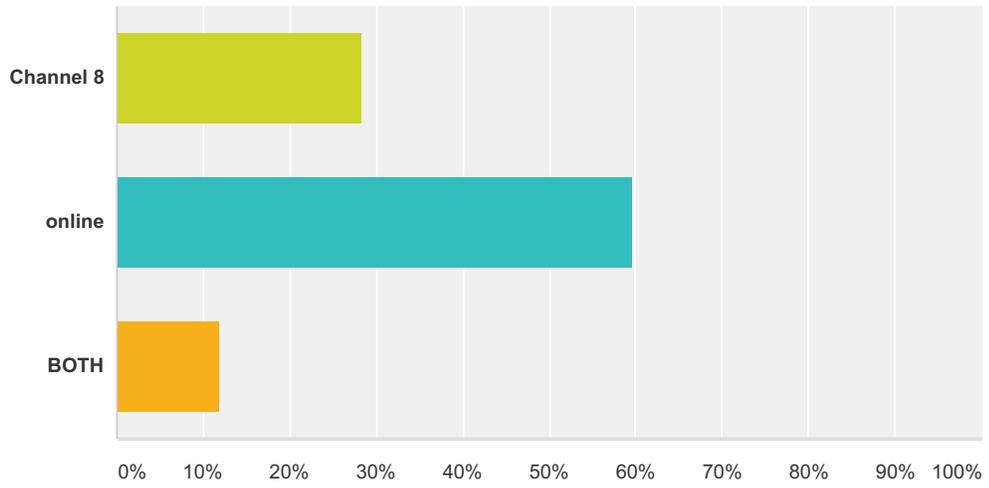
Answered: 65 Skipped: 31



Answer Choices	Responses	
Planning Board	35.38%	23
Both	0.00%	0
Open Space Board	44.62%	29
BOTH	20.00%	13
<b>Total</b>		<b>65</b>

**Q5 If you watch city board meetings, do you watch on Channel 8 or online?**

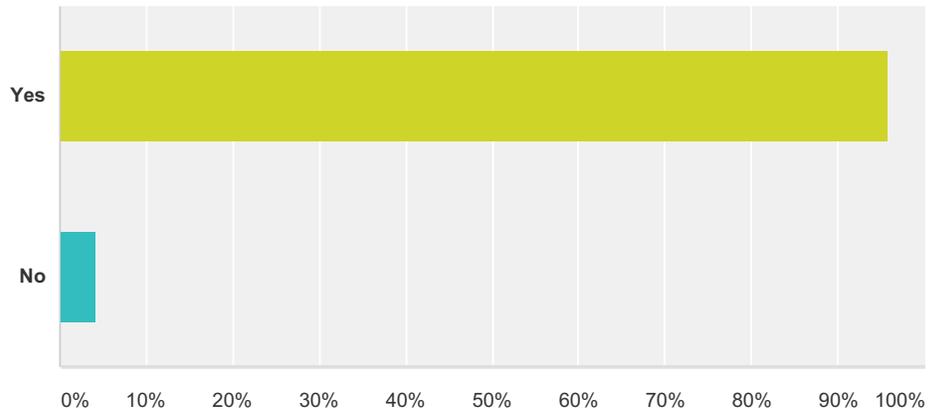
Answered: 67 Skipped: 29



Answer Choices	Responses
Channel 8	28.36% 19
online	59.70% 40
BOTH	11.94% 8
<b>Total</b>	<b>67</b>

### Q6 Should the city continue televising city board meetings?

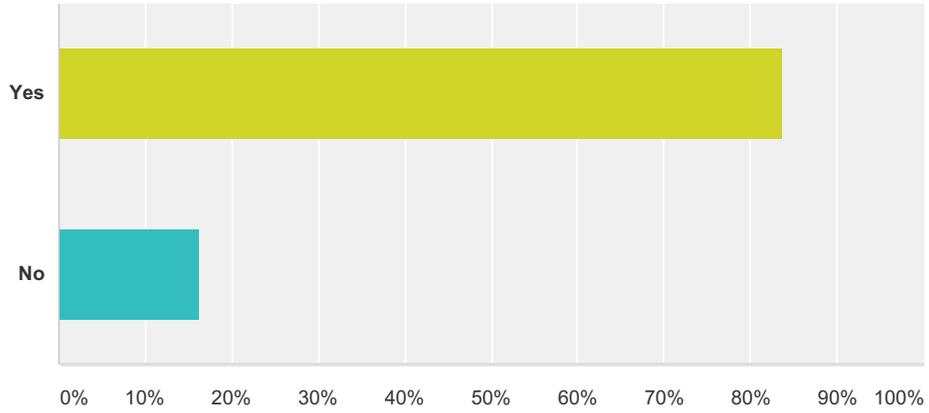
Answered: 94 Skipped: 2



Answer Choices	Responses	
Yes	95.74%	90
No	4.26%	4
<b>Total</b>		<b>94</b>

**Q7 Should the city televise other board meetings, such as the Parks & Recreation Advisory Board or the Transportation Advisory Board?**

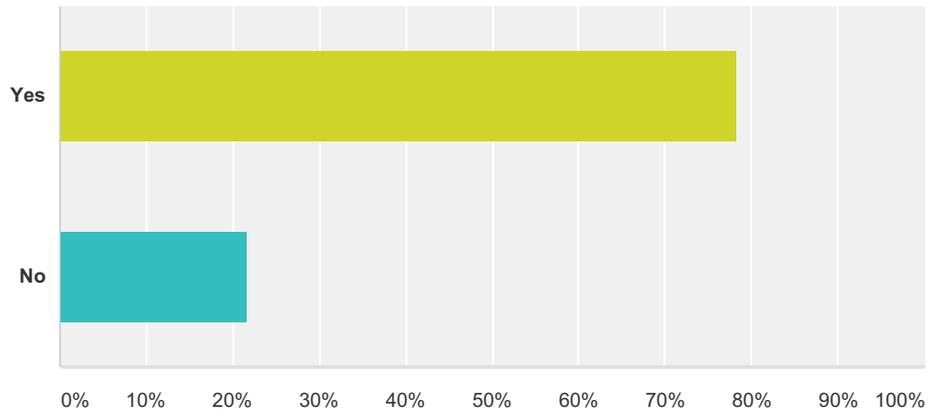
Answered: 86 Skipped: 10



Answer Choices	Responses
Yes	83.72% 72
No	16.28% 14
<b>Total</b>	<b>86</b>

**Q8 Do you watch city council meetings or study sessions on Channel 8 or online?**

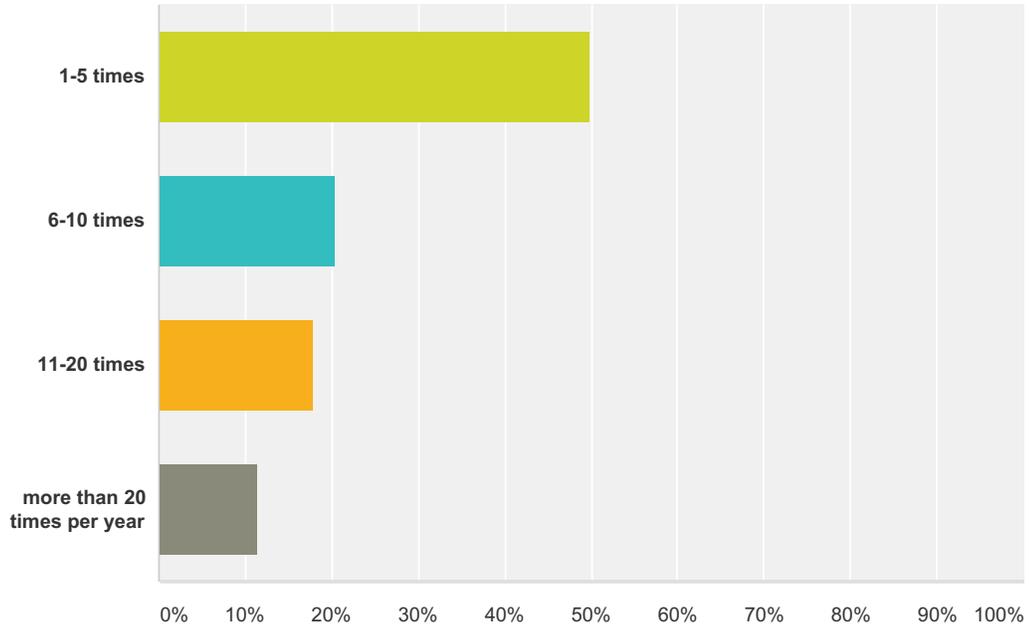
Answered: 92 Skipped: 4



Answer Choices	Responses
Yes	78.26% 72
No	21.74% 20
<b>Total</b>	<b>92</b>

### Q9 How often do you watch city council meetings or study sessions during the year?

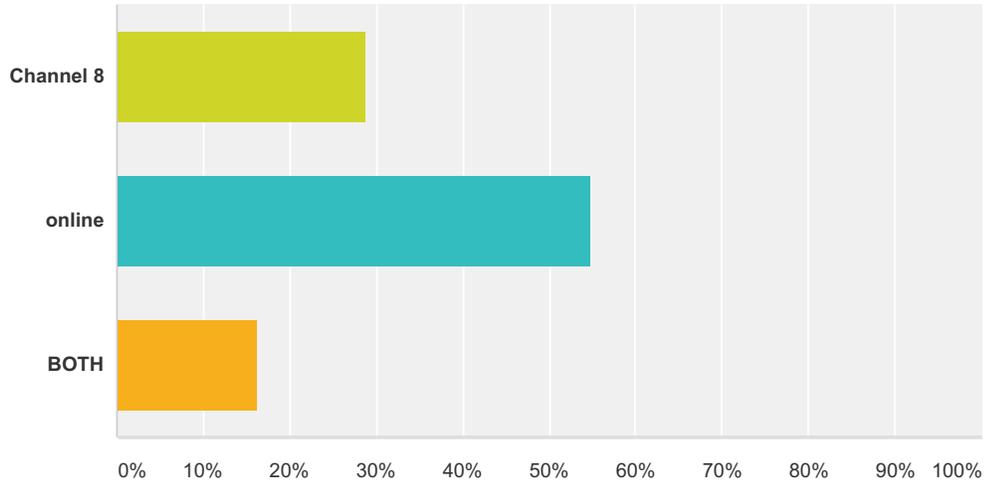
Answered: 78 Skipped: 18



Answer Choices	Responses
1-5 times	50.00% 39
6-10 times	20.51% 16
11-20 times	17.95% 14
more than 20 times per year	11.54% 9
<b>Total</b>	<b>78</b>

**Q10 If you watch council meetings or study sessions, do watch them on Channel 8 or online?**

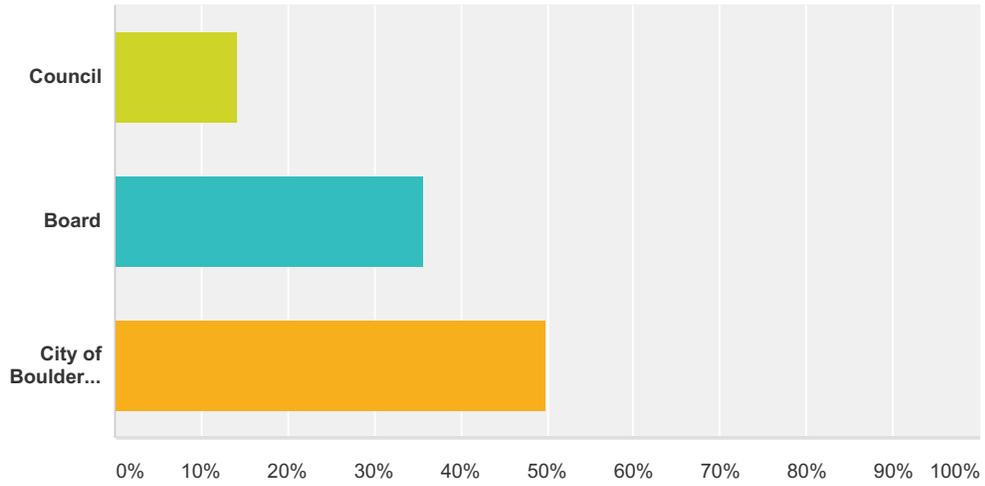
Answered: 80 Skipped: 16



Answer Choices	Responses	Count
Channel 8	28.75%	23
online	55.00%	44
BOTH	16.25%	13
<b>Total</b>		<b>80</b>

### Q1 I am a member of:

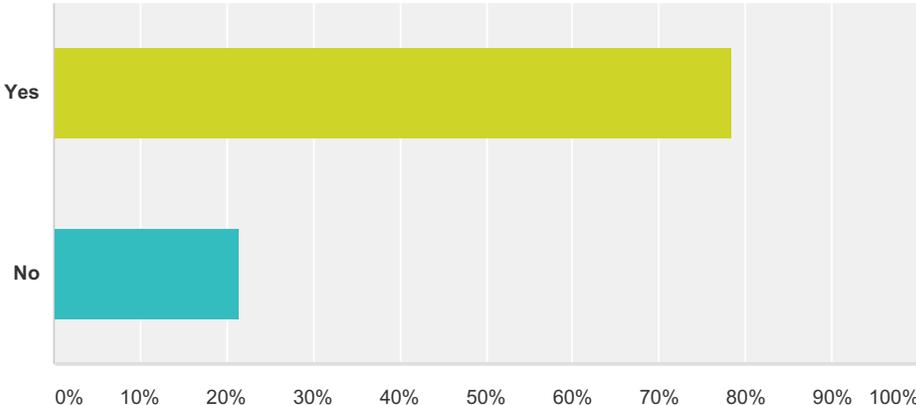
Answered: 14 Skipped: 0



Answer Choices	Responses	
Council	14.29%	2
Board	35.71%	5
City of Boulder employee/staff	50.00%	7
<b>Total</b>		<b>14</b>

### Q2 Have you received feedback on the Board & Commissions?

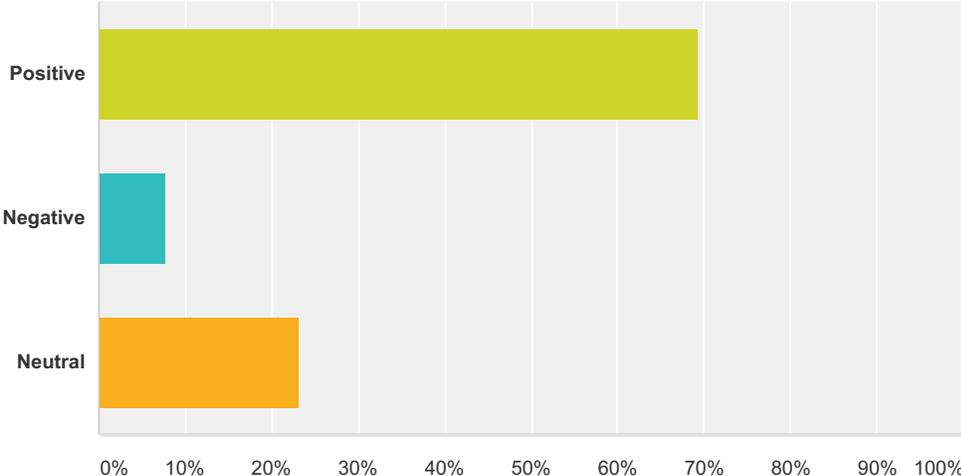
Answered: 14 Skipped: 0



Answer Choices	Responses
Yes	78.57% 11
No	21.43% 3
<b>Total</b>	<b>14</b>

**Q3 The feedback has been:**

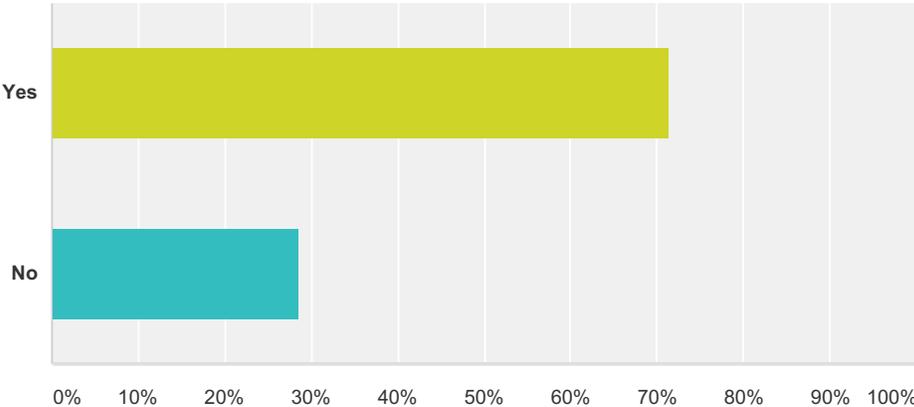
Answered: 13 Skipped: 1



Answer Choices	Responses
Positive	69.23% 9
Negative	7.69% 1
Neutral	23.08% 3
<b>Total</b>	<b>13</b>

**Q4 Have community members expressed value in televised meetings?**

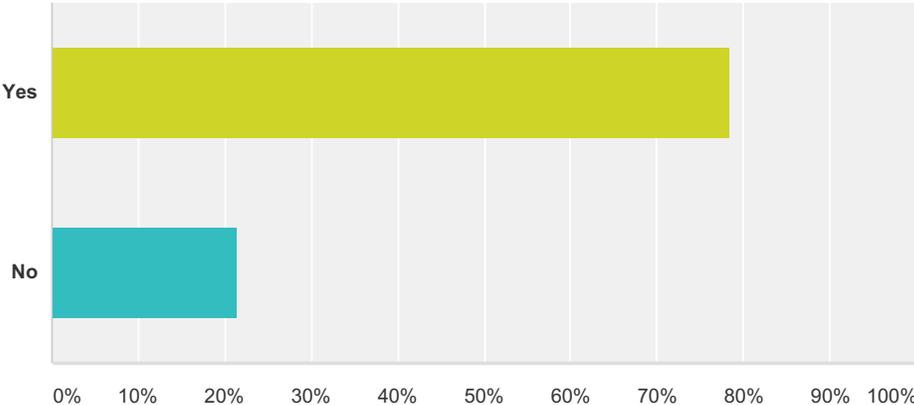
Answered: 14 Skipped: 0



Answer Choices	Responses
Yes	71.43% 10
No	28.57% 4
<b>Total</b>	<b>14</b>

**Q5 Do the televised meetings benefit your decision making and community engagement?**

Answered: 14 Skipped: 0



Answer Choices	Responses	
Yes	78.57%	11
No	21.43%	3
<b>Total</b>		<b>14</b>

## **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.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

### **Council Communication:**

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement 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, through 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 responsive 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.

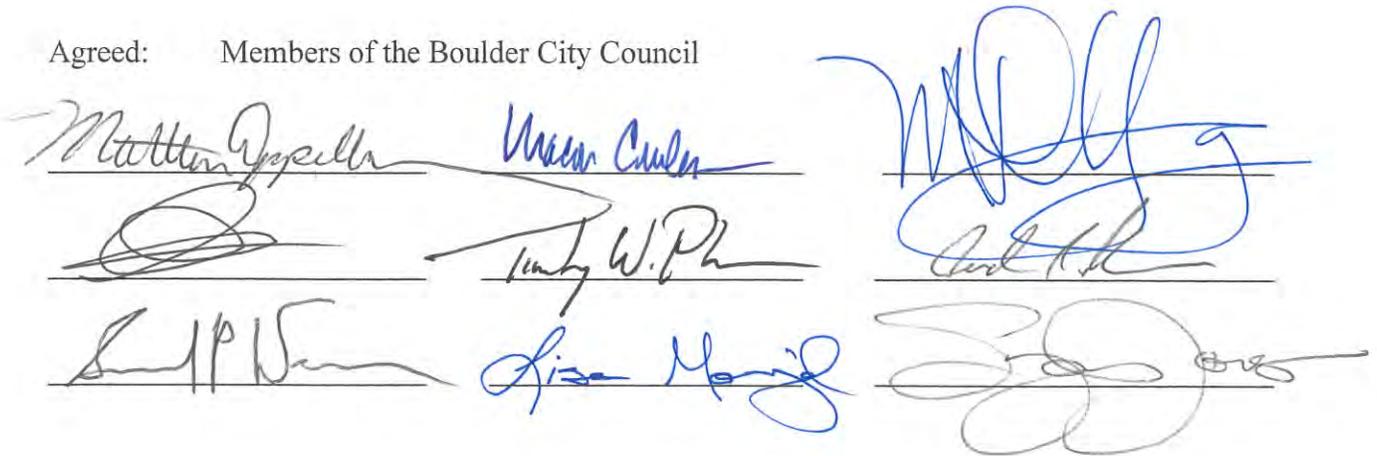
**Council Committees:**

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each 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.

**Selection of Mayor and Mayor Pro Tem:**

- Council members will make a good faith effort to select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
  - make their interest in the positions known to their fellow members as soon as possible;
  - focus their communication with other council members on the positive attributes the member brings to the positions; and
  - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
  - the skills and attributes the member would bring to the mayoral position;
  - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
  - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
  - how the member would serve on and appoint other council members to regional and national boards and commissions; and
  - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council



The image shows nine handwritten signatures in blue ink, arranged in three rows and three columns. Each signature is written over a horizontal line. The signatures are: Row 1: Matthew Appella, Warren Cullen, [unclear]; Row 2: [unclear], [unclear], [unclear]; Row 3: [unclear], Lisa Mangel, [unclear].

Approved by Council: January 21, 2014

# City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<b>Climate and Energy</b>	Energy Future and Associated Projects	Council	CC: Open Access Transmission Tariff			
			SS: Power Supply	SS (2): Rates, Energy Services, Power Supply	Project update	Project update
		Staff Activities	Budget update	Budget update	Budget update	Budget update
	Climate Commitment	Council	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan
			Staff Activities	Launch action plan	SS: Review interim goals, targets and strategies Energy system transformation; blue print convening	Implementation based on action plan
		Council	Briefing	SS (2)		
<b>Housing/Land Use Planning</b>	Comprehensive Housing Strategy (Housing Boulder)	Staff Activities	Housing Matters launch event, engagement activities	Draft strategy development	Implementation based on adopted strategy	Implementation based on adopted strategy
		Council	SS: Direction of preferred scenario	SS : Draft plan and action plan		
	Sustainable Streets and Centers/ East Arapahoe	Staff Activities	Develop East Arapahoe action plan	Next Corridor - 30th St or Colorado		
		Council	SS	Direction or IP	Direction or IP	Direction or IP
	Resilience	Staff Activities	Develop scoping plan	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Boulder Valley Comprehensive Plan	Council	Issues identification	SS	Direction or IP	Direction or IP
		Staff Activities	Update and coordinate with BVCP	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	<b>Transportation</b>	Transportation Master Plan Implementation	Council	Update and coordinate with BVCP		Update and coordinate with BVCP
Staff Activities						
Regional Travel		Council		Briefing		Briefing
		Staff Activities	Staff and elected official activities ongoing			
Access Management and Parking Strategy (AMPS)		Council		SS : Review options & Update; including recommendations for TDM tool kit for new development	Council action on TDM Tool Kit for new development	Recommendations including planning code changes
						SS: Review options and update
		Staff Activities	Ongoing work plan in 7 focus areas	Ongoing work plan	Ongoing work plan	Ongoing work plan
		Alternatives analysis and specific option development		Specific option development/refinements		
		Joint Board workshop & public engagement		Joint Board workshop & public engagement		

# City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	
<b>Civic Area</b>	Civic Area Implementation	<b>Council</b>	SS: Parkland Concepts Plan	CC: Approval of Concept Plan			
		<b>Staff Activities</b>	Outreach to community & partners; create delivery plan for spring, summer, fall events	Deliver spring events	Deliver summer activities and events	Review 2015 activation; compare lessons from 2014 and revise for 2016	
			Draft of parkland concept plan options for public workshop, Boards, Council review	Board/Commission input on Concept Plan	Begin detailed design work on park improvements	Complete detailed design work for bidding	
			Develop overall site master plan concepts, begin to formulate major capital projects	Initial feasibility planning on major capital projects	Continue to develop capital projects, identify potential partners, explore financing options	Continue to develop capital projects, identify potential partners, explore financing options	
<b>Local Food</b>	Sustainable Agriculture and Local Foods	<b>Council</b>	IP and local meals for Council Pilot		Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	
		<b>Staff Activities</b>					
<b>Livability</b>	University Hill Moratorium	<b>Council</b>	SS: Review options		IP		
			CC: Public Hearing and Decision				
		<b>Staff Activities</b>	Recommendation & development of ordinances, changes and recommend other strategies to address Moratorium goals	Follow up on other strategies & coordination with Hill Reinvestment Strategy; incorporate strategies into other work plan			
			Board review & public engagement		Board review & public engagement		
	University Hill Reinvestment Strategy	<b>Council</b>			Direction on 14 <sup>th</sup> Street redevelopment proposal		SS
					SS: Update on strategy		
		<b>Staff Activities</b>	Residential service district (RSD) pilot program	RSD pilot program	RSD pilot program	RSD pilot program	
			Work plan implementation	Work plan implementation	Work plan implementation	On-going work plan implementation	
			Establish benchmarks and evaluation criteria	Commercial district: Eco Pass Study & Commercial bear dumpsters	Implement volunteer program for clean up	Evaluate existing programs	
			14 <sup>th</sup> Street Lot public/private partnership redevelopment options re: work force affordable housing	14 <sup>th</sup> Street Lot public/private partnership redevelopment options re: work force affordable housing	Research options for sustainable governance & funding	Develop options for sustainable governance & funding	
		Stakeholder engagement	Stakeholder engagement	Stakeholder engagement	Stakeholder engagement		
	Homeless Action Plan	<b>Council</b>	IP: 2014 Accomplishments	SS: As part of Human Services strategy update		IP - Services and Regional coordination update	
	<b>Staff Activities</b>						
Community Cultural Plan	<b>Council</b>	Council update and input on testing phase	Briefing	SS: Adoption of Community Cultural Plan			
	<b>Staff Activities</b>	Research phase complete. Drafting phase complete. Testing phase begins	Testing phase complete. Certification phase begins	Implementation begins. New public art policy drafting	Public Art Policy drafting		

# City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Projects		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<b>Other</b>	<b>Boulder Junction</b>	<b>Council</b>				
		<b>Staff Activities</b>	Ongoing redevelopment coordination	North Side of Pearl and Goose Creek bridge landscaping install. Bridge opens		Depot Square opens
	<b>Capital Projects Activity</b>	<b>Council</b>	Ongoing and Wastewater Collection System Rehabilitation program begins	Ongoing	SS: 2016-2021 CIP	Ongoing
		<b>Staff Activities</b>				
	<b>CityWide Special Events</b>	<b>Council</b>	Report on 2015 City Events			Summary of 2015 City Events
		<b>Staff Activities</b>	Implement new events application and internal review process	Refine systems as needed	Refine systems as needed	Improve events application for new online Landlinks System in 2016
	<b>Community Broadband</b>	<b>Council</b>	SS			SS
		<b>Staff Activities</b>	Broadband Action Group formation and consultant assessment	Consultant assessment continued	Consultant assessment continued	Present findings and recommendations
	<b>Design Excellence</b>	<b>Council</b>	SS: Staff Recommendations design tools/process changes	IP	CC: Draft recommendations/Adopt strategy	
		<b>Staff Activities</b>	Issues identification/ preliminary work on design tools/ process changes	Technical analysis /develop options	Draft recommendations	
			Public engagement	Boards/public engagement	Boards/public engagement	
	<b>Flood-related Annexations</b>	<b>Council</b>				
		<b>Staff Activities</b>	Flood Annexations - Individual	Flood Annexations - Old Tale Rd	Ongoing	Ongoing
	<b>Human Services Strategy</b>	<b>Council</b>		SS		Public Hearing
		<b>Staff Activities</b>				
	<b>Flood Management</b>	<b>Council</b>			IP: Stormwater Master Plan and Wastewater Collection System Master Plan consideration	
		<b>Staff</b>	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue		
	<b>Smoking Ban - Implementation</b>	<b>Council</b>	CC: Second reading			
		<b>Staff Activities</b>	Education campaign	Enforcement begins	Monitor Outcomes	Monitor Outcomes
	<b>Vacation Rental by Owner (VRBO)</b>	<b>Council</b>	SS			
<b>Staff Activities</b>		Research regulations and possible fees or taxes				

## **COUNCIL MEMBERS**

Matthew Appelbaum	Mayor
Suzanne Jones	Mayor Pro Tem
Macon Cowles	Council Member
George Karakehian	Council Member
Lisa Morzel	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**

Mary Ann Weideman	Assistant City Manager
Bob Eichen	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director of Community Planning and Sustainability and Acting Director of Housing
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Executive Director of Energy Strategy and Electric Utility Development
Michael Calderazzo	Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
David Farnan	Library and Arts Director
James Cho	Acting Municipal Court Administrator
Tracy Winfree	Acting Open Space and Mountain Parks Director
Yvette Bowden	Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Mike Sweeney	Acting Transportation Director
Jeff Arthur	Utilities Director

## 2015 City Council Committee Assignments

### INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Morzel (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Cowles (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones, Plass
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum, Cowles
Resource Conservation Advisory Board	Morzel (at large seat), Plass
Rocky Flats Stewardship	Morzel, Plass (1 <sup>st</sup> alternate), Castillo (2 <sup>nd</sup> alternate)
University of Colorado (CU)/City Oversight	Cowles, Shoemaker, Weaver
US36 Mayors and Commission Coalition	Appelbaum
US36 Commuting Solutions	Karakehian, Morzel (alternate)
Urban Drainage and Flood Control District	Jones

### LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Young
Boulder Convention and Visitors Bureau	Plass, Cowles (alternate)
Dairy Center for the Arts	Jones
Downtown Business Improvement District Board	Weaver, Young

### INTERNAL CITY COMMITTEES

Audit Committee	Cowles, Morzel, Shoemaker
Boards and Commissions Committee	Plass, Shoemaker
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Karakehian
Charter Committee	Karakehian, Morzel, Weaver
Civic Use Pad/ 9 <sup>th</sup> and Canyon	Karakehian, Morzel, Young
Council Employees Salary Review	Cowles, Shoemaker
Council Retreat Committee	Jones, Morzel
Evaluation Committee	Morzel, Plass
Housing Strategy Process Sub-Committee	Morzel, Shoemaker, Young
Legislative Committee	Jones, Karakehian, Weaver
School Issues Committee	Morzel, Plass, Shoemaker

### SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llaza, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian, Cowles (alternate)
Sister City Sub-Committee	Morzel, , Karakehian

2015 Study Session Calendar

	A	B	C	D	E	F	G	H	I
1	Date	Status	Topic		Location	Contacts	Materials Due	Draft Summary Due	Final Summary Due
54									
55	08/11/15	Approved	2016 CIP Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	07/30/15	08/20/15	08/26/15
56		Approved	Form-Based Code Pilot	7:30-9 PM	Chambers	Sam Assefa/Melinda Melton	07/30/15	08/20/15	08/26/15
57									
58	08/25/15	Approved	Demographic Trends Presentation: Elizabeth Garner	5:30-6:30 PM	Chambers	Elizabeth Garner	08/13/15	09/03/15	09/09/15
59		Approved	BVCP Update	6:30-7:30 PM	Chambers	Lesli Ellis/Melinda Melton	08/13/15	09/03/15	09/09/15
60		Approved	TMP Implementation Follow Up (pending first check-in on 2/24)	7:30-9 PM	Chambers	Randall Rutsch/Rene Lopez	08/13/15	09/03/15	09/09/15
61									
62	09/08/15	Approved	Mid-Year Recruitment Interviews for Boards and Commissions	5:15-6 PM	1777 West	Heidi Leatherwood/Dianne Marshall	09/02/15	N/A	N/A
63		Approved	2016 Budget Study Session	6-8PM	Chambers	Elena Lazarevska/Bob Eichem	08/27/15	09/17/15	09/23/15
64		Approved	Emerald Ash Borer	8-9 PM	Chambers	Kathleen Alexander/Sally Dieterich	08/27/15	09/17/15	09/23/15
65									
66			2016 Budget Study session #2 (if needed)	6 - 6:30 PM					
67	9/17/2015		Resilience Strategy Study Session	6:30 - 7:30 PM	Chambers	Greg Guibert/Melinda Melton	09/10/15	10/01/15	10/07/15
68		Approved	Mobile Home Parks- focused on Policy	7:30-9 PM	Chambers		09/10/15	10/01/15	10/07/15
69									
70	10/13/15	Approved	Briefing: Development Fee Study	6-8PM	Chambers	Susan Richstone/Melinda Melton	10/01/15	10/22/15	N/A
71		Approved	Boulder Junction Update	8-9 PM	Chambers	David Driskell/Melinda Melton	10/01/15	10/22/15	10/28/15
72									
73	10/27/15	Approved	Briefing: Boulder Energy Future	5:30-6 PM	Chambers	Heather Bailey/Heidi Joyce	N/A	N/A	N/A
74		approved	Human Services Strategy Update	6-7:30 PM	chambers	Karen Rahn	10/15/15	11/05/15	11/11/15
75		approved	Homelessness	7:30-9 PM	Chambers	Karen Rahn	10/15/15	11/05/15	11/11/15
76									
77	11/12/2015 changed from 11/10	approved	AMPS Update	6-7:30 PM	Chambers	Molly Winter/Ruth Weiss	10/29/15	11/19/15	11/25/15
78		approved	Broadband Working Group Status Update	7:30-9 PM	Chambers	Don Ingle			
79									
80	11/24/15		Thanksgiving Holiday Week						
81									
82									
83	12/08/15	Approved	Briefing: East Arapahoe Transportation Corridor Plan and Medical Office Use	5:30-6		Randall rutsch/Rene Lopez	11/25/15	12/17/15	12/23/15
84		Approved	Utility Rate Study: Preliminary Findings	6-7:30 PM	Chambers	Eric Ameigh/Jeff Arthur/Rene Lopez	11/25/15	12/17/15	12/23/15
85		approved	Hill Reinvestment Strategy Update	7:30-9 PM	Chambers	Molly Winters/Ruth Weiss	11/25/15	12/17/15	12/23/15
86									
87	12/22/15		Christmas Holiday Week						
88	12/29/15		New Years Holiday Week						

August 11 , 2015- Special Meeting- CANCELLED Start Time: 5:30 PM Location: Council Chambers, 1777 Broadway						
August 18, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact/Due Date Prelim due 8/14; Final 8/21
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS	Shimla Declaration	10	Minutes	Carl Castillo		
OPEN COMMENT		45	Minutes			
CONSENT	Water and Sewer Bonds Notice of Sale	15	Minutes			
	2nd rdg Stormwater fund 2015 bonds- appropriation ordinance			na	na	Joe Taddeucci/Laurel Olsen-Horen
	1st Rdg. Area Planning ballot measure			yes		Bob Eichem, Pat Brown, DAP?
	Motion to approve 20 yr water lease to CU's Mountain research station			yes	no	Sloane Walbert/Melinda Melton
	1st readingBRC Supplement 124- emergency			no		Bob E/Elena Lazarevska
	2nd rdg ordinance vacating sidewalk easement at 2460 Iris avenue			no		Bob E/Elena Lazarevska
	IGA for City/county office of emergency management			no	no	M. Calderazzo, Heidi Leatherwood
	2nd rdg Ord Minimum Insurance Requirements for licensees			yes	no	Carr/Hayward
	Res for Reimbursement relatn to BCH COP issuance			yes		Alisa Lewis, Heidi Leatherwood
	2nd rdg BCH Supplemental Appropriation			yes		Bob E/Elena Lazarevska
	1st Rdg. Ordinances for Charter Amendment Initiative petition measures					
PUBLIC HEARINGS	2nd Rdg ballot Measures place holder - CAP tax	15	Minutes	yes		Bob E/Elena Lazarevska
	2nd Rdg Ballot measure- Utility Occ Tax	15	Minutes			
	2nd rdg Ballot measure- Charter Revisions- library	20	Minutes			
	2nd rdg Ballot measure- Council compensation	30	Minutes			
	2nd rdg Landmark designation ord 2245 Pine	10	minutes			James Hewat/Melinda Melton
MATTERS FROM CITY MANAGER	Emergency Disaster Declaration for May 2015	10	Minutes			
MATTERS FROM CITY ATTORNEY						
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
	Request from B&C subcommittee to schedule council update and direction on the B& C Televised coverage pilot project	10	Minutes			
	"Nod of Five "Request from Council Member Cowles for resolution opposing Charter initiatives	20	Minutes			
	Council Evaluation Committee presents salary increase recommendations (if any)	30	Minutes	no	no	Aimee Kane
CALL-UPS			Minutes			
<b>Total Estimated Meeting Time (Hours:Minutes)</b>		<b>3:50</b>				
August 27 , 2015- Special Meeting 6:30 PM Business Meeting Council Chambers, 1777 Broadway						Contact and Due Dates: Preliminary 8-27 Final 8-21
Agenda Section	Item Name	Time	Minutes	CAO to Prepare Ord.?	Power Point	
PUBLIC HEARINGS	2nd rdg ord for short term rental regulations ord for Short term Rentals Tax ballot measure	2nd rdg 240	Minutes	no	yes	Tom Carr/Heather Hayward
<b>Total Estimated Meeting Time (Hours:Minutes)</b>		<b>4:00</b>				

September 1, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 8/20 :: Final 8/26
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS	Declaration as Boulder Pollinator Appreciation Month	5	Minutes			Rella Abernathy/Melinda Melton
	Declaration recognizing Colorado Cities & Towns		Minutes			CMO - Dianne Marshall
OPEN COMMENT		45	Minutes			
CONSENT	Bond Ordinance for Sale of the Bonds - Water and Sewer Bonds	15	Minutes		no	Bob Eiche/ Elena Lazarevska
	Study Session Summary for 7/30 Climate Commitment					
	Res. Authorizing COB 2015 Private Activity Bond Allocation					Kristin Hyser/Edy Urken
	supplemental appropriations to the 2015 budget -1st reading					Bob Eiche/ Maria Diaz
	1st rdg Building Performance Ordinance			yes	no	Kendra Tupper/Melinda Melton
	1st rdg annexation ordinance for 6 properties			yes		Beverly Johnson/Melinda Melton
	1st rdg Ordinance to improve enforcemtn of Occupancy requirements			yes		Tom Carr/Heather Hayward
	Study Session Summary for 8/11: Form-Based Code Pilot					Sam Assefa/Melinda Melton
	1st Rdg Ordinance re: Property acquisition on 28th from Pearl to Glenwood for Transportation Improvement Project					Noreen Walsh/Renee Lopez
	3 Rdg of ballot measures (place holder)			yes		
PUBLIC HEARINGS	747 12th Street	90	minutes			J Hewat/M Melton
	2nd Reading of Charter Amendment initiatives	90	Minutes	Yes		CAO/Alisa Lewis
MATTERS FROM CITY MANAGER	Council feedback on Potential marijuana code changes	30	Minutes			Carr/Hayward
	Housing Boulder- Next steps 2015-16 Action Plan	30	Minutes		yes	Jay Sugnet/Edy Urken
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
Total Estimated Meeting Time (Hours:Minutes)		5:00				

**September 15, 2015 -**  
**Start Time: 6:00 PM Business Meeting**  
**Location: Council Chambers, 1777 Broadway**

Agenda Section	Item Name	Time	Minutes			
<b>SPECIAL PRESENTATIONS</b>	US Tennis Assoc award grant for flood restoration	5	Minutes	no	yes	Tina Briggs/Sarah DeSouza
	Recognition of the COB Status as a Playful City	5	Minutes			Sarah DeSouza
<b>OPEN COMMENT</b>		45	Minutes			
<b>CONSENT</b>		15	Minutes			
	1st Rdg Annexation Ordinance for 236 and 250 Pearl			yes		Elaine McLaughlin/Melinda Melton
	Recommendation to Name the park at the Former Washington School Site and install sign			no	no	Sarah DeSouza
	1st Rdg ord. Marijuana Code changes			yes	no	Carr/Hayward
<b>PUBLIC HEARINGS</b>			Minutes			
	2nd rdg Ordinance to improve enforcement of Occupancy Requirements	60	Minutes	yes		Tom Carr/Heather Hayward
	2nd rdg of the Building Performance Ordinance	90	Minutes	yes	yes	Kendra Tupper/Melinda Melton
<b>MATTERS FROM CITY MANAGER</b>	Update on Parking Mgmt in the Downtown & civic Area	15	Minutes	no	yes	Molly Winter/Ruth Weiss
<b>MATTERS FROM CITY ATTORNEY</b>			Minutes			
<b>MATTERS FROM MEMBERS OF COUNCIL</b>	B&C appt for Mid Year Recruitment	15	Minutes			
<b>CALL-UPS</b>			Minutes			
	<b>Total Estimated Meeting Time (Hours:Minutes)</b>	<b>4:05</b>				

**September 29, 2015**  
**6:00 PM Special Meeting**  
**Council Chambers, 1777 Broadway**

Agenda Section	Item Name	Time				
<b>OPEN COMMENT:</b>			Minutes			
<b>CONSENT:</b>			Minutes			
<b>PUBLIC HEARINGS:</b>	2nd Rdg. Ord. Marijuana Code Changes	90	Minutes			Carr/Hayward
<b>MATTERS FROM CITY MANAGER:</b>			Minutes			
<b>MATTERS FROM CITY ATTORNEY:</b>			Minutes			
<b>MATTERS FROM COUNCIL</b>			Minutes			
	<b>Total Estimated Meeting Time (Hours)</b>	<b>1.50</b>				

October 6, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 9/24 :: Final 9/30
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	1st reading Ordinance and draft Form Based Code	15	Minutes	No		Karl Guiler/Melinda Melton
	8/25 Study Session summary TMP Implementation Progress Update					Randall Rutsch/Rene Lopez
PUBLIC HEARINGS	2016 Budget Hearing 1	60	Minutes	No	Yes	Elena Lazarevska/Bob Eichem
	Chautauqua Lease	60	Minutes			Carr/Hayward
	2nd Rdg Annexation Ordinance for 6 properties	45	Minutes	yes	yes	Beverly Johnson/Melinda Melton
MATTERS FROM CITY MANAGER	Update on Recreational Marijuana Education Program	60	Minutes	no	yes	Wendy Schwartz/Linda Gelhaar
	Update on City/CU conversation regarding conference center	??				??
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
		Total Estimated Meeting Time (Hours:Minutes)		4:45		
October 20, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 10/8 :: Final 10/14
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Study Session Summary from 8/25: Envision East Araphahoe Trans Analysis and Medical office use-( Rutsch, Sanson, Hirt)	15	Minutes			Russel Rutsch/ Rene Lopez
						Noreen Walsh/Erin Raney
PUBLIC HEARINGS	2016 Budget Hearing 2	60	Minutes	No		Elena Lazarevska/Bob Eichem
	Boulder Civic Area Phase I Park Development Community Env. Assessment	60	Minutes		yes	Jeff Haley/Lauren Reader
	2nd Rdg Ordinance re: Property acquisition on 28th from Pearl to Glenwood for Transportation Improvement Project	10	Minutes			Noreen Walsh/Rene Lopez
	Mobile Homes regarding Ponderosa issue	120				
	West Four Mile Canyon Creek Area Study (Ponderosa MHP) update	75	minutes	no	yes	Chris Meschuk/Lauren Reader
MATTERS FROM CITY MANAGER			Minutes			
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
		Total Estimated Meeting Time (Hours:Minutes)		6:25		



TO: Members of City Council  
FROM: Dianne Marshall, City Clerk's Office  
DATE: August 18, 2015  
SUBJECT: Information Packet

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**1. CALL UPS**

- A. Landmark Alteration Certificate to build a 451 sq. ft. detached, one-car garage with second-story studio at 820 Spruce St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2015-00151). This Landmark Alteration Certificate is subject to City Council call-up no later than **August 18, 2015**.

**2. INFORMATION ITEMS**

- A. Disposable Bag Fee Update
- B. Utility Rates Update Study
- C. Youth Opportunity Program Grant Allocations for 2015-2016

**3. BOARDS & COMMISSIONS**

- A. Environmental Advisory Board – July 1, 2015
- B. Landmarks Board – June 3, 2015
- C. Transportation Advisory Board – June 8, 2015

**4. DECLARATIONS**

- A. Bee Pollinator Appreciation Month – September 2015



## INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager  
David Driskell, Executive Director of Community Planning and Sustainability  
Susan Richstone, Deputy Director of Community Planning and Sustainability  
Deb Kalish, Senior Assistant City Attorney  
Lesli Ellis, Comprehensive Planning Manager  
James Hewat, Senior Historic Preservation Planner  
Marcy Cameron, Historic Preservation Planner

Date: August 18, 2015

**Call-up Item:** Landmark Alteration Certificate to build a 451 sq. ft. detached, one-car garage with second-story studio at 820 Spruce St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2015-00151). This Landmark Alteration Certificate is subject to City Council call-up no later than **August 18, 2015**.

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### **Executive Summary**

The proposal to build a 451 sq. ft. detached, one-car garage with second-story studio at 820 Spruce St. in the Mapleton Hill Historic District, in compliance with approved plans dated 05/27/15, was approved with conditions by the Landmarks Board (4-0). The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 14-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **August 18, 2015**.

### **ATTACHMENTS:**

- A. Notice of Disposition dated August 18, 2015
- B. Photographs and Drawings of 820 Spruce St.

**Notice of Disposition**

You are hereby advised that on August 5, 2015 the following action was taken:

- ACTION:** Approved by a vote of 4-0
- APPLICATION:** Public hearing and consideration of a Landmark Alteration Certificate to build a 451 sq. ft. detached, one-car garage with second-story studio at 820 Spruce St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2015-00151).
- LOCATION:** 820 Spruce St.
- ZONING:** RL-1 (Residential Low-1)
- APPLICANT/OWNER:** David Waugh / Judith Amabile

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

**Public Hearing:**

**Judy Amabile**, owner, 820 Spruce St., spoke in support of landmark alteration certificate.  
**Jim Best**, 828 Spruce St., spoke in interest of learning about the potential visual barrier the structure may create.

**Motion:**

On a motion by **K. Remley**, seconded by **M. Schreiner**, the Landmarks Board approved (4-0) the proposed removal construction shown on plans dated 05/27/2015, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Section 9-11-18, B.R.C. 1981, subject to the conditions below, and adopts the staff memorandum dated August 5, 2015 as findings of the board with the following conditions:

**CONDITIONS OF APPROVAL:**

1. The applicant shall be responsible for constructing the garage in compliance with the approved plans dated 05/27/2015, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit a revised design that simplifies the mass and design of the proposed garage including the roof form to ensure that it is more subordinate to and compatible with the historic house and character of the alleyscape.
3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee (Ldrc): window and door details, wall material details, siding material details, paint colors, roofing material details and details regarding any hardscaping on the property to ensure that the approval is consistent with the *General Design Guidelines* and the *Mapleton Hill Historic District Guidelines* and the intent of this approval.



Figure 1. Tax Assessor photo of 820 Spruce Street, c. 1949.



Figure 2. 820 Spruce Street, 2015



Figure 4. View of a one-horse surrey with 820 Spruce Street in the background, c. 1884-1899.

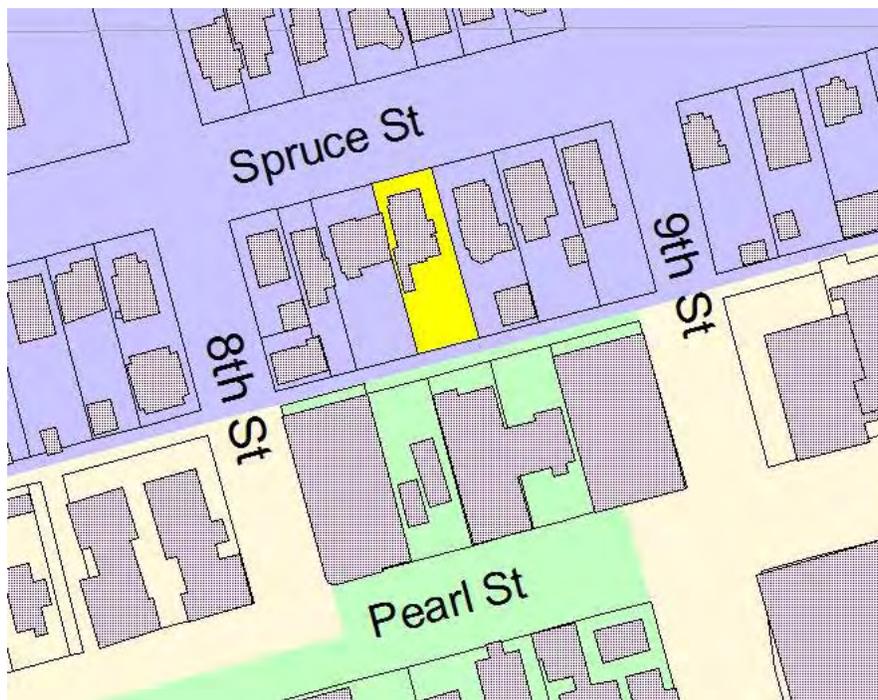


Figure 5. Location Map, 820 Spruce St.



Figure 6. Looking into property from alley, historic garage at left center

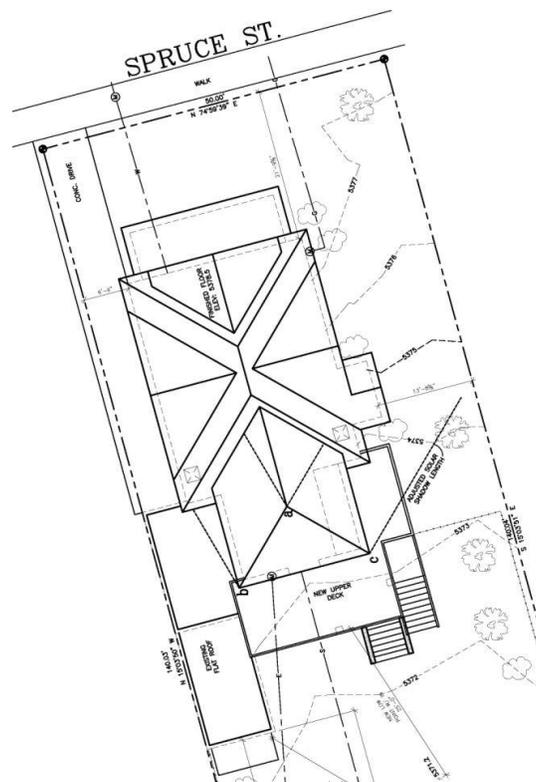


Figure 7. Existing site plan of 820 Spruce Street

### PROPOSED CONSTRUCTION

The proposal calls for construction of a new two-story, one car garage with an upper level studio to be located on the alley at the south side of the property. The proposed building is shown to be 451 sq. ft. A distance of approximately 40 ft. is shown between the north wall of the proposed garage and the south (rear) wall of the existing house. Plans show the upper level of the proposed garage to be accessed by an exterior stair on the west side of the new building.

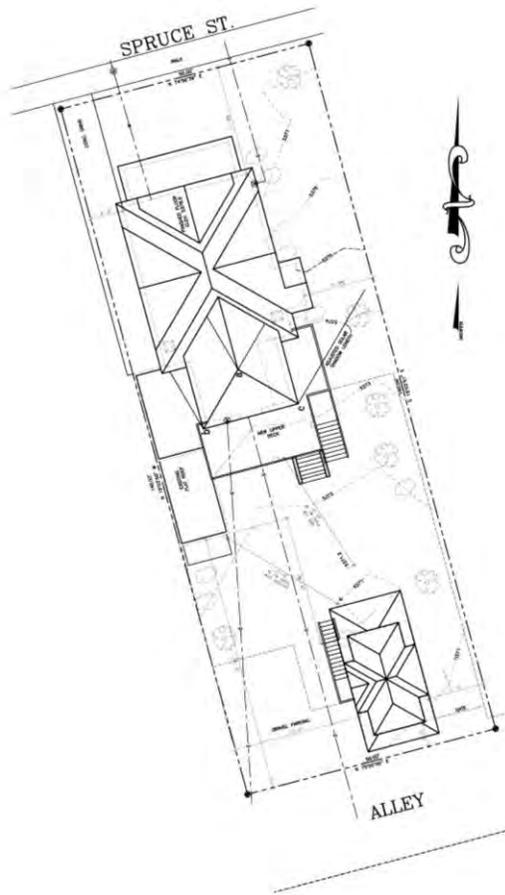


Figure 8. Proposed garage on site plan.



*Figure 9. Proposed West and South Elevations.*

In elevation, the proposed garage is shown to feature a two-story mass with a hipped roof.

Since the proposed garage sits behind the existing house, the addition will be only slightly visible when viewed straight on from the street, but will be visible from the Pearl Street alley, which is mostly used to service all the commercial businesses on the north side of Pearl Street.

The west elevation is shown to have a door on the first level and a staircase with a small landing that leads to a door on the second story. The south elevation is shown to have an overhead garage door on the first floor and paired double-hung windows on the second story.



*Figure 10. Proposed North and East Elevations.*

Plans show that the north elevation will feature a centrally located door on the first floor and one double-hung window on the second story. The east elevation will be fenestrated by one pair of double-hung windows.

The proposed garage is shown to have siding similar to the existing house. Details on windows, doors, roofing and treatment of exterior materials on the existing house were not specified in the application.

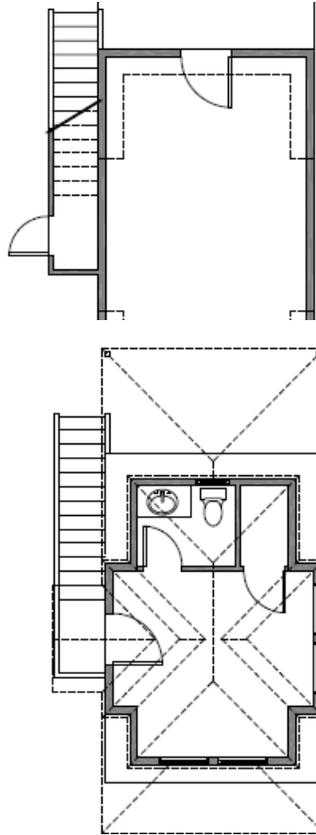


Figure 11. Floor plan of first floor (left) and second story studio (right).

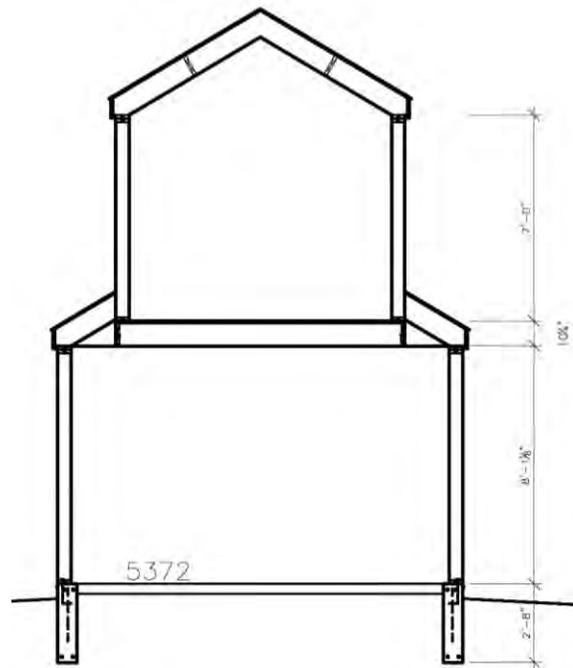


Figure 12. Drawing showing heights of proposed garage, March 10<sup>th</sup>, 2015.



## INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager  
David Driskell, Executive Director of Community Planning and Sustainability  
Susan Richstone, Deputy Director of Community Planning and Sustainability  
Jamie Harkins, Sustainability Coordinator

Date: Aug. 18, 2015

**Subject: Information Item: Disposable Bag Fee Update**

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### EXECUTIVE SUMMARY

Boulder's ten cent Disposable Bag Fee, which went into effect on July 1, 2013, has reduced bag use at applicable stores by 68% in the first year and a half of the program, keeping approximately 14.8 million disposable bags out of the landfill. The city has received \$417,683 in bag fee receipts in that time period, with program expenses to date (2012-2014) of \$317,990. The remaining and future funds received will be spend in 2015 and 2016 on renewed outreach efforts, more reusable bags for the community, and infrastructure improvements at recycling facilities. At the time the fee was adopted, City Council requested that staff report back on the results.

### FISCAL IMPACT

Disposable bag fee receipts may only be spent on uses outlined in the ordinance in order to reduce the impact of disposable bags in the community. The program only spends bag fee receipts and therefore there is no budgetary impacts to the city organization and no additional funding is required.

### BACKGROUND

The Disposable Bag Fee was adopted by City Council in November 2012, after more than a year of community involvement and meetings with food retailers and waste reduction partners. The momentum to reduce the estimated 33 million disposable bags used in Boulder annually originated in the community, and the final ordinance created a ten cent fee on all paper and plastic disposable check-out bags at food stores in Boulder. The stores keep four cents of each bag fee to cover the costs of implementing the fee, and the remaining six cents is paid to the City of Boulder. A fee nexus study was conducted in 2012 by the consultants TischlerBise to determine the appropriate fee level based on the impacts of disposable bags in the community, as

well as the allowed uses of the fee receipts by both the stores and the city. The fee went into effect on July 1, 2013.

### **ANALYSIS**

For the year and a half period of July 1, 2013 through December 31, 2014, the Disposable Bag Fee reduced bag use at applicable stores in Boulder by 68%. A Total of 6,961,383 bags were purchased at the ten cent fee level for total fee receipts by the city of \$417,683. The fee receipts have been used to pay back the \$317,990 spent from developing and implementing the fee from 2012 through 2014, and will be spent in 2015/2016 on renewed outreach efforts, more reusable bags for the community, and infrastructure improvements at recycling facilities.

Compared to the projected results in the 2012 Fee Nexus Study conducted, there was a larger than expected reduction in bag use in the first year of the fee and that reduction has stayed very consistent in future quarters. More detail on the expenses associated with the fee and the 2015/2016 spending plan can be found in the attached Report on Boulder's Disposable Bag Fee (**Attachment A**).

### **NEXT STEPS**

Since no significant community education about disposable bag use has occurred since 2013, the results of 2015 outreach efforts will be tracked and staff will report back to City Council on the impact. Dependent on future trends staff will present options to City Council to further reduce disposable bag use in Boulder.

### **ATTACHMENT**

Attachment A – Report on Boulder's Disposable Bag Fee

# **Report on Boulder's Disposable Bag Fee**

**For the Period**

**July 1, 2013 through December 31, 2014**

Prepared by:  
Jamie Harkins  
Sustainability Coordinator  
City of Boulder  
(303) 441-1846  
[HarkinsJ@BoulderColorado.gov](mailto:HarkinsJ@BoulderColorado.gov)

**Background**

The Disposable Bag Fee was adopted by City Council in November 2012, after more than a year of community involvement and meetings with food retailers and waste reduction partners. The momentum to reduce the estimated 33 million disposable bags used in Boulder annually originated in the community, and the final ordinance created a ten cent fee on all paper and plastic disposable check-out bags at food stores in Boulder. The stores keep four cents of each bag fee to cover the costs of implementing the fee, and the remaining six cents is paid to the City of Boulder. A fee nexus study was conducted in 2012 by the consultants TischlerBise to determine the appropriate fee level based on the impacts of disposable bags in the community, as well as the allowed uses of the fee receipts by both the stores and the city. The fee went into effect on July 1, 2013.

**Impact of Fee and Trends**

The Disposable Bag Fee went into effect on July 1, 2013, and after a year and a half of fee returns it has **reduced bag use at the applicable stores by 68%**, keeping almost 15 million bags out of the landfill. A total of 6,961,383 bags were purchased for total fee receipts by the City of Boulder of \$417,683.

In the 2012 fee study, the consultants projected that in the first year of the fee the community would reduce bag use at the affected stores by 50%, by 75% in the second year, and then plateau at an 85% reduction in the third and fourth year. In reality, there was a larger than expected reduction in bag use in the first year of the fee that reduction has stayed very consistent in future quarters, with the most recent quarterly fee receipts being very similar to the first quarter of the fee in 2013.

**Expenses to Date**

Since the Disposable Bag Fee is a fee, not a tax, the allowed uses of the fee returns are limited and cannot be used for general government expenses. They include:

- Administrative costs associated with developing and implementing the fee;
- Providing reusable bags to the community;
- Educating residents, businesses and visitors about the impacts of disposable bags;
- Funding programs and infrastructure that allow the community to reduce waste associated with disposable bags;
- Purchasing and installing equipment to minimize bag pollution, such as recycling containers;
- Funding community cleanup events; and
- Mitigating the effects of disposable bags on the city’s drainage system and environment.

A significant portion of the fee returns received to date have been used to reimburse the funds expended in 2012 and 2013 to develop the ordinance and educate the community about the fee, including the purchase of 40,000 reusable bags that were distributed through food banks, public service agencies, and public giveaways at grocery stores. Those expenses, outlined below, were reimbursed as fee returns were received by the city.

<b>Disposable Bag Fee Expenses To Date (2012 -2014)</b>	
2012 Ordinance Development - Staff Costs and Fee Study	\$51,194
2013 Ordinance & Outreach Campaign Implementation – Staff Costs & Internal Systems	\$26,594
2013 Outreach/Marketing Campaign and Store Signage Design, Printing, Advertising	\$84,471
Reusable Bags for Community (45,000)	\$155,731
<b>Total Expenses</b>	<b>\$317,990</b>

### **2015 Spending Plan**

After paying back the expenses already incurred, \$99,693 is available for the 2015 budget. The city is currently receiving \$65,000-\$70,000 per quarter; therefore the total available through the end of 2015 will be approximately \$360,000.

In order to further decrease bag use in the community, shopper surveys will be conducted to gain a better understanding of why disposable bags are being purchased so that staff can tailor future outreach efforts. A renewed outreach and marketing campaign will be executed in the summer and fall of 2015, including a focus on CU students and tourists through partnerships with Visit Boulder and local hotels. Funds will also be used on enforcement visits to ensure stores are complying with aspects of the ordinance, including visible signage, and additional reusable bags for the food banks and public sector agencies. Finally, improvements will be made to the community's recycling infrastructure, including a dedicated bailer for plastic bags at the Center for Hard-to-Recycle Materials (CHaRM) and upgrades to the Boulder County Recycling Center, including a Pre-sort Station and Bag Vacuum System to reduce plastic bag contamination in the recycling stream.

#### **Expected 2015 Bag Fee Spending Plan:**

- Reusable bags (20,000)
  - For EFFA, City of Boulder and Boulder County agencies, additional food banks, hotels and visitor's bureau, and CU's e-center, with a focus on incoming freshmen
- Surveys of shoppers purchasing disposable bags
- Updated design of "Brought It" graphics, print collateral, online and print ads
- Educational advertising, including print, online and bus ads
- Production of bag fee informational video
- Staffing costs for enforcement store visits and execution of outreach campaign
- Plastic film bailer for CHaRM
- Pre-sort station and bag vacuum system for Boulder County Recycling Center
  - The cost of this upgrade will also require bag fee funds from 2016

### **Future Options**

The community should be very proud of the large reduction in disposable bag use that has been achieved. The 68% reduction in a year and half exceeds the results that were expected. However, the reductions achieved have remained surprisingly constant since the fee was implemented, implying that there is a segment of the community that is willing to pay the ten cent fee to use disposable bags.

In order to try and further decrease bag use in the community, the outreach plan discussed above will be executed in 2015, since no significant community education about disposable bag use has occurred since 2013. The results of this outreach will be tracked and staff will report back to City Council on the impact. Dependent on future trends staff will present options to City Council to further reduce disposable bag use in Boulder.



## INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager  
Maureen Rait, Executive Director of Public Works  
Jeff Arthur, Director of Public Works for Utilities  
Joe Taddeucci, Water Resources Manager  
Bret Linenfelser, Water Quality Environmental Services Manager  
Joanna Crean, Public Works Senior Project Manager  
Ken Baird, Utilities Financial Manager  
Russ Sands, Watershed Sustainability and Outreach Supervisor  
Eric M. Ameigh, Public Works Projects Coordinator

Date: August 18, 2015

**Subject: Information Item: Update on Utility Rates Study**

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### EXECUTIVE SUMMARY

This memorandum provides an update on the 2015-2016 Utility Rates Study for the water, wastewater, and stormwater/flood management utilities. As part of the 2015 work plan, Utilities Division staff is analyzing the rate structures for these three public utilities. In early 2015, staff conducted a preliminary public engagement process to seek customer input on the existing utility rate structures. Following that process, staff proposed options for guiding principles and areas of study to the Water Resources Advisory Board (WRAB), which WRAB discussed and largely endorsed. The 2015-2016 Utility Rates Study analyses will focus on the effectiveness of water budgets, possible opportunities for incentivizing best practices for stormwater management, equity between customer classes, and the utilities' financial needs. Staff will begin work on the various analyses in early fall 2015. WRAB and City Council will receive updates on preliminary findings in November and December 2015, respectively. Any recommendations for changes to the utility rate structures will be considered as part of the 2017 budget development process.

### FISCAL IMPACT

The Utility Rates Study is part of the 2015 work plan. Staff expects that the project can be completed within the Utilities Division's existing budget.

### COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- *Economic:* In addition to meeting the financial needs of the three utilities, the rate structures must take into account the financial needs of households and the business community.

- *Environmental:* The rate structures are critical in helping the Utilities Division meet the community's environmental goals, especially related to water conservation. The Utility Rates Study will seek to ensure that rate structures are aligned with city goals related to water conservation and water quality.
- *Social:* The provision of utilities services is a foundational building block of community life. In addition, equity and the impact of the rate structures across customer classes will be an important consideration.

## **BACKGROUND**

In late 2014, Utilities Division staff met with customers to better understand the impacts of the utility rate increases approved by council in fall 2014. Many customers indicated they did not understand utility rate structures and/or had questions and concerns about the calculation of the charges on their utility bills.

The Utilities Division periodically reviews its rate setting methodology to assure that utility rates are meeting community goals and are aligned with fee-based principles. These findings led staff to propose an evaluation of the rate structure and associated calculations for water, wastewater, and stormwater/flood management utilities as part of the 2015 work plan. As a first step, a public engagement process was implemented to solicit broader feedback across all customer classes.

### *Public Engagement and Feedback*

The initial public engagement process took place in April and May 2015 and consisted of three open houses and an online survey. More than 26,000 postcards were mailed to utilities customers to notify them about the engagement opportunities. Although participation in the public process was limited, it revealed some key themes and questions.

- The customers who responded are concerned about the 2015 rate increases.
- There seems to be a general lack of understanding about how current utility charges work.
- Feedback indicated that some customers would like more predictability and stability in their bills on a monthly and yearly basis.
- There was some support for the stormwater rate structure to encourage improvements that decrease stormwater impacts. Examples might include incentives for removal of impervious surface or installation of stormwater detention facilities.
- There was some support for a stormwater structure that varies by location within the city in order to better reflect the benefits of public improvements and the location-specific flood risks of individual properties.

### *Guiding Principles*

In 2003 and 2004, WRAB, staff, and City Council engaged in a process to analyze the water rate structure, to develop alternative structures that could meet the community's goals, and to ultimately choose a new approach. More than 20 alternatives were developed and analyzed for their ability to meet the following water utility rate structure principles:

- Discourage wasteful use, while promoting all justified types and amounts of use;
- Be effective in yielding total revenue requirements;
- Provide revenue stability and predictability;
- Fairly allocate the total cost of service among the customer classes to attain equity; and
- Proactively and dynamically respond to changing supply and demand conditions and/or environmental concerns.

The guiding principles are high-level goals and speak to what the rate structures should be designed to accomplish. They are not necessarily intended to address each and every thing that the utilities do. For instance, there are certain "givens," such as meeting regulatory and legal requirements, which are not reflected in the guiding principles.

Going forward, the Utility Rates Study project provides a potential opportunity to both reaffirm the existing water principles and to formally establish principles for wastewater and stormwater/flood management. The guiding principles for the project are described in more detail in the section below.

### **ANALYSIS**

In June 2015, staff presented WRAB with the results of the public engagement process, as well as options for the Utility Rate Study's guiding principles and its areas of study. The public engagement process did not indicate a strong need or desire to change the five existing guiding principles for the water rate structure. WRAB agreed with the staff suggestion that the guiding principles should apply not only to water but also to the other two utilities. WRAB also agreed with the staff suggestion that the stormwater/flood management utility should have a guiding principle specifically encouraging development that minimizes stormwater impacts. Following its discussion, WRAB recommended guiding principles and their application across the three utilities, as shown in the following table.

<b>Principle</b>	<b>Water Utility</b>	<b>Wastewater Utility</b>	<b>Stormwater/Flood Management Utility</b>
<b>Discourage wasteful use, while promoting all justified types and amounts of use.</b>	<b>X</b>		
<b>Be effective in yielding total revenue requirements.</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Provide revenue stability and predictability for the utilities.</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Fairly allocate the total cost of service across customer classes to attain equity.</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Be dynamic and proactive to address changing supply and demand conditions, as well as the city's sustainability and resilience goals.</b>	<b>X</b>		
<b>Encourage low-impact development to decrease stormwater impacts.</b>			<b>X</b>

At the June 2015 WRAB meeting, WRAB and staff contemplated whether current rate structures are achieving the goals set forth in the guiding principles. To achieve the desired goals and adhere to the best practices of revisiting utility rate structures every five to 10 years, the following areas will be studied as part of the Utility Rates Study.

#### *Effectiveness of Water Budgets*

When water budgets were first established, the rate structure was designed to adhere to the aforementioned principles. With the data collected from seven years of water budgets, now is a good time to determine how well the water rate structure and water budgets are accomplishing those stated goals. Some analysis has already been completed along these lines. For example, the Commercial Industrial/Institutional (CII) Water Budgets study has provided insights into equity within the CII customer class. A new analysis could focus on the equity between all customer classes. In addition, the Water Conservation Futures Study is currently being updated and will provide information about water conservation progress, as well as possible goals for the future.

#### *Cost of Service*

Cost of service analyses are important to conduct on a routine basis. The updated analysis will determine the true costs of providing all three utility services to each customer class.

#### *Fixed vs. Variable Charges*

For the water and wastewater utilities, customers pay both a fixed service charge based on meter size and a variable quantity charge based on each customer's use. Along with cost of service, this is another issue that should be revisited on a regular basis to make sure the relationship between fixed and variable charges accurately reflects the city's costs to provide public utility services and conforms to industry standards.

### *Outside City vs. Inside City Charges*

In the water and wastewater utilities, customers pay different amounts based on whether their property is located inside or outside the city limits. Along with cost of service and fixed and variable charges, the difference in these charges should be revisited on a regular basis to make sure the relationship accurately reflects the city's costs to provide public utility services and conforms to industry standards.

### *Stormwater/Flood Management*

There are two particular issues that the Utility Rates Study will explore within the stormwater/flood management rate structure.

First, the current stormwater monthly fee calculation uses the same basic methodology across all customer classes. Customers other than single-family residential are assessed stormwater charges based on the ratios of their lot size and impervious area compared to a typical single-family residential lot. Some large customers have questioned whether a more complex methodology might better account for the unique characteristics of their individual properties. For example, the fee for a large agricultural property is largely driven by lot size, even though the stormwater runoff impacts may not be proportionally larger than those of a single-family residential lot. Staff will seek to understand whether and how a more complex methodology might address this issue.

Second, in accordance with existing policy goals and the newly added guiding principle related to low-impact development, the Utility Rates Study will examine possible incentives within the rate structure for the addition of green infrastructure or other best practices in onsite stormwater management.

The Utility Rates Study and associated stormwater/flood management topics are described in more detail on page 30 of the [June 22, 2015 WRAB memo](#).

### **NEXT STEPS**

Staff is currently organizing the areas of study into a broader scope of work with individual analyses that may be completed either by staff or consultants. Once these tasks are fully scoped, consultant services will be procured, as necessary. The next steps are outlined below.

- **Late August 2015** - Post requests for proposal.
- **September 2015** - Select consultants, sign contracts, and begin work. Participants in the initial public engagement process who requested to remain involved will be notified of project updates. Staff will work with the selected consultant(s) to determine whether stakeholder or focus groups are appropriate for the analytical work moving forward.
- **November 2015** - Update to WRAB on preliminary findings and project progress.
- **December 2015** - Update to council on preliminary findings and project progress. A study session to discuss the project is scheduled for Dec. 8, 2015.

- **2016** - Recommendations for changes to utility rates or rate structures will be considered as part of the 2017 budget development process. During the process, public input opportunities will occur at both council and WRAB meetings. However, depending on the nature of any possible changes, staff may pursue additional public engagement to seek customer feedback to inform budget development or implementation of rate structure changes.



## INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager  
Karen Rahn, Human Services Director  
Allison Bayley, Youth Opportunities Program Coordinator

Date: August 18, 2015

**Subject: Information Item: 2015 - 2016 Youth Opportunities Program Annual Grant Allocations**

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### EXECUTIVE SUMMARY

This memorandum presents the allocation of the 2015-2016 Youth Opportunities Program (YOP) Annual Grants Fund. A total of \$80,600 has been allocated to eight community agencies. Funding recommendations were developed by the Youth Opportunities Advisory Board (YOAB), comprised of 16 Boulder-resident high school students. Youth benefiting from the programs supported by the Annual Grants Fund typically perform local volunteer work in exchange for the grant funding to the organization.

### FISCAL IMPACT

The Youth Opportunities Fund (YOF) allocated \$80,600 for annual grants, which was appropriated in the 2015 budget. There are no additional fiscal impacts.

### COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

**Social:** All funds provide cultural, recreational or educational activities for middle and high school-age city youth. Some grantees provide after-school and summer opportunities for youth whose life circumstances present barriers to success, including immigrant and low-income youth. Research has shown that the greater the number of out-of-school activities a young person is involved in, the less likely s/he is to engage in risk behaviors. The YOP fosters strong relationships between youth and the community, which research has shown to serve as a protective factor for youth. This increased resiliency supports increased high school graduation rates, improved earnings potential, less involvement with law enforcement and increased self-sufficiency.

## BACKGROUND

The Youth Opportunities Fund was established in 1992. The YOP's mission is to strengthen the community through empowering youth, providing enrichment opportunities for youth, encouraging youth civic participation and community service and advising city government. Funds are allocated each year to provide social, cultural and educational opportunities and services for city resident middle and high school-age youth.

Using guidelines and priorities identified in the Human Services Master Plan, bi-annual Youth Risk Behavior Surveys (YRBS) and the Social Sustainability Strategic Plan, the YOP has identified the following focus areas to address community needs. Annual grant applicants addressed at least one of these goal areas:

- Address key issues identified in the YRBS results. For example: mental health, substance use, harassment and health disparities based on sexual orientation or ethnicity;
- Promote youth voice by engaging youth in structured aspects of civic life and/or in community dialogue on social issues;
- Provide after-school, evening, and/or summer opportunities that likely would not otherwise be available to youth;
- Provide targeted services, particularly to middle school or Latino youth;
- Provide transportation to help youth access cultural, educational or recreational opportunities or employment;
- Provide employment-related education opportunities for youth; and
- Support city-sponsored after-school activities.

The priority for all YOP funding is to support programs serving low-income, at-risk or differently-abled youth. Programs must use a Positive Youth Development (PYD) approach and specifically utilize youth engagement, youth-adult partnerships, cultural responsiveness and/or a strengths-based approach in their programming.

## ANALYSIS

Seventeen annual grant proposals totaling \$191,922 were received. Eight proposals were fully or partially funded, totaling \$80,600 (**Attachment A**). Combined with the \$22,509 approved for two years in the 2014 process, a total of \$103,109 will be distributed in the 2015-2016 academic year.

Nine proposals totaling \$97,603 were not funded (**Attachment B**). Proposals were reviewed by YOAB members and scored using the following criteria:

- evidence of community need;
- organizational capacity;
- youth input into proposal and program development;
- integration of PYD principles; and
- quality of program components, evaluation and budget.

Youth and adult representatives from each organization attended in-person interviews to present their proposals and answer questions from YOAB members. Final allocation decisions were

made to ensure a wide variety of youth would be served by quality PYD programs that value and incorporate youth input.

The recommendations for allocations were presented to the city manager by representatives of the YOAB on July 8, 2015. The city manager approved the recommendations.

#### **NEXT STEPS**

- Contracts with successful applicants will be executed in August 2015.
- Funded programs will receive half of their funding in September 2015.
- Agency mid-year reports are due in January 2016. On approval of the mid-year report, agencies receive the second half of their funding in February 2016. Final reports are due in September 2016.

#### **ATTACHMENTS**

A: YOP Grant Allocations

B: YOP Grant Requests Not Funded

<b>Chart 1: 2015-2016 Youth Opportunities Program Annual Grant Allocations</b>			
<b>Agency</b>	<b>Project</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>
Attention Homes GED Instruction	<b>GED Instruction</b> Provide instructor and materials for residents of Attention Homes in need of GED instruction.	\$15,000	\$7,200
Arapahoe Ridge High School	<b>Respect, Excellence, Achievement, Leadership (REAL) Program</b> Support student leadership and positive youth-adult relationships by funding staff support and supplies to implement a Positive Behavioral Intervention Support program.	\$13,325	\$10,306
Boulder Judo Training Center	<b>The Aim Higher Project</b> Provide instructors, uniforms and other supplies for participants in sports-focused alternative community placement program for at-risk youth.	\$14,871	\$14,871
Boulder Valley Women's Health	<b>Sexual Health &amp; AIDS Awareness Peer Education (SHAPE)</b> Provide educators, supplies and retreat costs to train youth to educate their peers to reduce their risk of sexually transmitted diseases or unwanted pregnancies.	\$11,948	\$11,948
Growing Gardens	<b>Cultiva Youth Project</b> Provide stipends to involve diverse teenagers in organic gardening as a means to teach sustainable agriculture, leadership, entrepreneurial and life skills.	\$10,150	\$7,250
Natural Highs	<b>Natural Highs</b> Provide education and safe space for youth to seek healthy alternatives to drugs and alcohol. Support staffing and supplies for community-wide youth events, drop-in workshops and classes at New Vista High School.	\$14,742	\$14,742
Out Boulder	<b>Boulder Out Leadership Development</b> Offer leadership development and community building through funding staff and supplies for art and activism for lesbian, gay, bisexual, transgender, queer and allied youth.	\$7,326	\$7,326
Wildlands Restoration Volunteers	<b>Youth Stewardship Program</b> Support High School Crew Leader training and provide opportunities for middle school students to participate in restoration projects by providing funds for materials, transportation and staff.	\$6,957	\$6,957
<b>Total Requests Funded</b>			<b>\$80,600</b>

<b>Chart 2: 2015-2016 Youth Opportunities Program Annual Grant Requests Not Funded</b>		
<b>Agency</b>	<b>Project</b>	<b>Amount Requested</b>
Bridge Beanery	<b>Bridge Beanery Youth Events &amp; Internships</b> Provide funding internships for two high school students and supplies to support free events for teens.	\$5,996
Calwood	<b>Teen Adventure Club</b> Support transportation, staff and supply costs for Latino middle and high school students to attend Calwood on BVSD days off to learn about outdoors, STEM fields and do community service.	\$7,500
Casey Middle School	<b>Baile Folklorico Dance Group</b> Provide funding for staff and supplies to support an opportunity for middle school students to learn and perform traditional dances.	\$10,114
Colorado Film Society	<b>Boulder International Film Festival (BIFF) Youth Pavilion</b> Support staff and supplies for the BIFF Youth Advisory Council who plan and implement activities for the youth pavilion.	\$8,200
Earth Explorers	<b>Earth Explorers</b> Project to modify existing semester-long STEM programming for middle school students and collaborate with YMCA to provide programming during Wednesday late start.	\$15,000
EcoArts Connection	<b>VideoLab</b> Provide staffing to support a once-a-week after-school VideoLab project at Manhattan Middle School and Fairview High School.	\$14,180
I Have a Dream Foundation	<b>Healthy Bodies &amp; Healthy Minds</b> Provide staff, transportation and supplies for middle school Dreamers' participation in after-school and summer sports programming.	\$15,000
Parlando	<b>Access to Music Education</b> Train high school students to teach music to students on tuition assistance, provide tuition assistance to band students, and advanced instruction at Boulder High School and Casey Middle School by subsidizing the cost of professional instructors.	\$11,505
Platt PACK Program	<b>Pride, Accountable, Challenge, Kind (PACK) Program</b> Provide staffing support and supplies for a school store where middle school students can redeem reward cards for being "caught" displaying PACK values and partner with the Intensive Learning Center (ILC) to include students with disabilities in running the store.	\$10,108
<b>Total Requests Not Funded</b>		<b>\$97,603</b>

**CITY OF BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING SUMMARY**

**NAME OF BOARD/COMMISSION:** Environmental Advisory Board

**DATE OF MEETING:** June 3, 2015

**NAME/TELEPHONE OF PERSON PREPARING SUMMARY:** Sandy Briggs, 303-441-1931.

**NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:**

**Environmental Advisory Board Members Present:** Tim Hillman (Acting Chair), Brad Queen, Karen Crofton and Morgan Lommele.

**Environmental Advisory Board Members Absent:** Steve Morgan

**Staff Members Present:** Brett KenCairn, Greg Guibert, Sarah Huntley, Colette Crouse and Sandy Briggs.

**MEETING SUMMARY:**

- ❖ Resilient Boulder - Phase I summary and Phase II preliminary focus areas
  - The board discussed the early stages of the resilience program in terms of available resources, learning from history, building strategy, identifying focus areas and engaging the community.
  - **B. Queen** suggested that staff conduct an up-front cost-benefit analysis of spending on resilient infrastructure in the effort to reduce impacts of natural disasters and to allow the city to rebound more quickly. A quantitative approach to investing in the program would be useful for justifying the front-end expense. The example of the Creek Path underpasses was illustrative of his point that the money spent to build them likely reduced the amount needed to rebuild after the flooding in 2013.
  - The board discussed the benefits of “piggybacking” or otherwise leveraging work that staff is doing and has already done.
  - The board requested guidance as to how they could help and what would be the most effective and useful way to share information. Updates will be provided as necessary per the progress of the program to shed light on how the board can assist moving forward.
- ❖ Climate Commitment
  - **T. Hillman** commented that since each household can expect to spend \$60,000-80,000 to transition its energy assets, the capital expenditure would be greater than net property value increases.
  - **B. Queen** stressed the importance of delineating between capital costs and energy costs.
- ❖ Engagement Strategies regarding Municipalization and Climate
  - Some members articulated concerns that the level of detail offered in the informational municipalization flyer could lose the attention of the average Boulderite. Other members felt that the level of detail was appropriate.
  - There was general consensus that the flyer succeeded in its intent to inform, if not sway, the average person.
  - **K. Crofton** suggested a more targeted approach that would allow people to get the information they want in whatever quantity they want it. This could be accomplished as tailored messages from touch screen kiosks. She also suggested bus ads as a great way to get community attention.
  - **M. Lommele** expressed concerns that the objectives, goals and tactics of the communications plan make assumptions about what people already know and suggested more public education on

a personal level and FAQs. The board discussed costs and how people would engage on individual and personal levels.

- **T. Hillman** asked about the rebranding of Climate Commitment, which is planned for after the framework is rolled out. It might become part of the “Boulder Up” branding, but this is open for ideas and suggestions.

## 1. CALL TO ORDER

Environmental Advisory Board Acting Chair **T. Hillman** declared a quorum and the meeting was called to order at 6:08 p.m.

## 2. APPROVAL OF MINUTES

On a motion by **T. Hillman**, seconded by **K. Crofton**, the Environmental Advisory Board voted 3-0 (**M. Lommele** abstained and **S. Morgan** absent) to revise the May 6, 2015 meeting minutes as amended.

## 4. PUBLIC PARTICIPATION

None.

## 5. PUBLIC HEARING ITEMS

None.

## 6. DISCUSSION ITEMS

### A. Resilient Boulder - Phase I summary and Phase II preliminary focus areas (Guibert)

**G. Guibert** provided an update and requested feedback regarding Phase I and Phase II of the 100 Resilient Cities program. He stressed the preliminary nature of the assessment thus far and spoke in terms of common themes, community perceptions, focus areas and actionable items within the next 6 months. He identified three areas that are seen as most manageable early in the process: creating a Safe Haven network, ensuring businesses have economic resilience and managing ecological concerns. He also reminded the board that the purpose of the Chief Resilience Officer is to champion the cause, act as a catalyst and marshal resources, and that existing frameworks would be utilized wherever & whenever logical to accomplish this. Further, time and the realignment of staff resources to include more focus on 100 Resilient Cities and Climate Commitment goals will become necessary going forward.

### B. Climate Commitment (KenCairn)

**B. KenCairn** updated the board on an emerging approach for communicating climate commitment goals to City Council, to city staff internally and the community at large. He proposed a plan to write separate documents that are individually relevant to their respective audiences. He also stressed the need to engage the community to such a degree that people will transform their household energy systems voluntarily. He also pointed out that transitioning to a clean energy economy is now more of a financial than technological issue and that every home and business needs an energy assets transition plan. He further recognized that the city cannot lead or direct the movement by itself and engagement strategies and assistance from neighborhood liaisons will be crucial.

### C. Engagement Strategies regarding Municipalization and Climate (Huntley)

**S. Huntley** detailed three main focus areas for both climate commitment and engagement strategy: assuring our clean energy future by changing our energy sources, using resources wisely and creating restorative ecosystems. Accomplishing broader engagement will include a two phase approach of vetting the engagement framework itself with the community then translating it into a “call for action” that will allow people to take ownership of the larger plan. She also stressed the importance of increasing community understanding about how the various climate commitment, zero waste, municipalization and other plans fit together towards one, larger goal.

Our community understands that climate change is a reality and we intend to leverage this motivation towards the vision of a fossil fuel-free future. The initial effort planned to accomplish this includes creating a video in which kids aged 6-16 tell the story of why climate matters to them and publishing a simplified version of **B. KenCairn's** climate commitment document. Regarding municipalization, the board was informed that many people don't know where we are in the process and many even think the effort is over. To inform and remind people of what the city is doing and why, an extensive and targeted digital marketing campaign and a bilingual mailer will be sent to all City of Boulder residents explaining municipalization at a high level.

**7. OLD BUSINESS/UPDATES**

None.

**8. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY**

**K. Crofton** requested guidance regarding board procedures pertaining to emailed communications requiring full board input.

**B. Queen** suggested she review her new board member packet and possibly attend training to clarify these procedures.

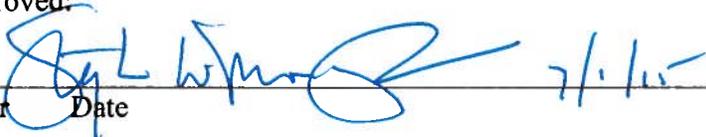
**B. KenCairn** suggested a more structured approach to discussion and comments during board meetings to better adhere to time constraints.

**9. DEBRIEF MEETING/CALENDAR CHECK**

**10. ADJOURNMENT**

Environmental Advisory Board adjourned at 8:19 p.m.

Approved:

  
Chair \_\_\_\_\_ Date 7/1/15

**CITY OF BOULDER  
LANDMARKS BOARD  
June 3, 2015  
1777 Broadway, Council Chambers Room  
6 p.m.**

The following are the action minutes of the June 3, 2015 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: [www.boulderplandevlop.net](http://www.boulderplandevlop.net).

**BOARD MEMBERS:**

Kate Remley, Acting Chair

Mike Schreiner

Fran Sheets

Deborah Yin

\*John Gerstle                    *\*Planning Board representative without a vote*

**STAFF MEMBERS:**

Debra Kalish, Senior Assistant City Attorney

James Hewat, Senior Historic Preservation Planner

Marcy Cameron, Historic Preservation Planner

**1. CALL TO ORDER**

The roll having been called, Acting Chair **K. Remley** declared a quorum at 6:03 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

On a motion by **K. Remley**, seconded by **M. Schreiner**, the Landmarks Board approved (4-0) the minutes of the May 6, 2015 board meeting.

**3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA**

**M. Gerwing**, 2401 N. Broadway, Former Landmarks Board chair, spoke in support of the preservation of the Glen Huntington Bandshell and recommended that the Landmarks Board members contact City Council members to ensure the appropriate preservation of the Bandshell as a landmark.

**4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION  
APPLICATIONS ISSUED AND PENDING**

- **1035 Kalmia Ave.** – Stay-of-Demolition expires Aug. 29, 2015
- **2245 Arapahoe Ave.** – Stay-of-Demolition expires Sept. 14, 2015
- **Statistical Report**

**5. ACTION ITEMS**

- A. Public hearing and consideration of an application to designate the building and property at 2245 Pine St. as a local historic landmark per Section 9-11-5 of the Boulder Revised Code, 1981 (HIS2013-00206). Applicant/Owner: Kegan and Suzanna Paisley.**

**M. Schreiner, F. Sheets, and D. Yin** reviewed the project at a Design Review Committee meeting. **K. Remley** had no ex-parte contacts. **J. Gerstle** has biked by the house on a number of occasions.

**Staff Presentation**

**M. Cameron** presented to the board, recommending that the Landmarks Board forward the application to City Council with a recommendation to designate the property as an individual landmark.

**Applicant's Presentation**

**Suzanna Paisley**, 2245 Pine Street, owner, spoke in support of landmark designation but voiced frustration with the design review and landmark designation processes.

**Public Hearing**

**Abby Daniels**, 1123 Spruce St., Executive Director of Historic Boulder, Inc., spoke in support of landmark designation of the property.

**Kathryn Barth**, 2940 20<sup>th</sup> Street, spoke in support of landmark designation of the property.

**Motion**

On a motion by **M. Schreiner**, seconded by **F. Sheets**, the Landmarks Board voted (4-0) with a recommendation to designate the property at 2245 Pine St. as a local historic landmark, to be known as the Ravenscraft House, finding that it meets the standards for individual landmark designation in Sections 9-11-1 and 9-11-2, B.R.C. 1981, and adopts the staff memorandum dated August 6, 2014 as the findings of the board.

- B. Public hearing and consideration of issuance of a demolition permit for the house located at 1420 Bluebell Ave., a non-landmarked building over 50 years old, pursuant to Section 9-11-23 of the Boulder Revised Code (HIS2015-00050). Applicant/Owner: John and Denise Frontczak.**

All board members made site visits. In addition, **M. Schreiner** received two emails supporting demolition of the house.

**Staff Presentation**

**M. Cameron** presented to the Landmarks Board recommending a stay of demolition be placed on the application.

**Applicant's Presentation**

**Denise Frontczak**, 1420 Bluebell Ave., applicant and owner, spoke in support of the demolition permit.

**Liz Bowes-Spiegel**, 1060 West Willow, architect for the applicant, spoke in support of the demolition permit and does not see any historic significance of the building.

**Amara Frontczak**, Warren, MI, daughter of owners, spoke support of the demolition permit.

**Public Hearing**

**Abby Daniels**, 1123 Spruce St., Executive Director of Historic Boulder, Inc., spoke in support of placing a stay of demolition on the property and to explore alternatives to demolition.

**Kathryn Barth**, 2940 20<sup>th</sup> Street, spoke in support of placing a stay of demolition on the property.

**Motion**

On a motion by **F. Sheets**, seconded by **D. Yin** to impose a stay-of-demolition, the vote failed (2-2, **K. Remley** and **M. Schreiner** opposed) and, as a result, the permit to demolish the house issued.

**6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY**

A. Draft Administrative Rule Clarifying the Demolition Review Process

- The Board agreed to move forward with the publication process at the next Landmarks Board meeting scheduled for July 1, 2015.

B. Update Memo

C. Subcommittee Update

- 1) Demolition Ordinance
- 2) Outreach
- 3) Potential Historic Districts and Landmarks
- 4) Design Guidelines

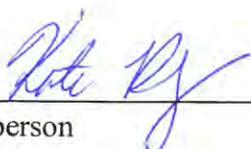
**7. DEBRIEF MEETING/CALENDAR CHECK**

**8. ADJOURNMENT**

The meeting adjourned at 9:28 p.m.

Approved on Aug. 5, 2015

Respectfully submitted,

  
\_\_\_\_\_  
Chairperson

**CITY OF BOULDER  
BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING  
MINUTES**

<b>Name of Board/ Commission:</b> Transportation Advisory Board	
<b>Date of Meeting:</b> 8 June 2015	
<b>Contact Information Preparing Summary:</b> Kaaren Davis 303.441.3233	
<b>Board Members Present:</b> Zane Selvans, Andria Bilich, Dom Nozzi, Bill Rigler	
<b>Board Members Absent:</b> Daniel Stellar	
<b>Staff Present:</b> Michael Gardner-Sweeney, Acting Director of Public Works for Transportation Kathleen Bracke, GO Boulder Manager Marni Ratzel, Sr. Transportation Planner David "DK" Kemp, Sr. Transportation Planner Bill Cowern, Transportation Operations Engineer Randall Rutsch, Senior Transportation Planner Gerrit Slatter, Principal Transportation Projects Engineer Melanie Sloan, Transportation Planner Kaaren Davis, Board Secretary	
<b>Consultants Present:</b> Bill Fox of Fox, Tuttle, Hernandez	
<b>Type of Meeting:</b> Advisory/ Regular	
<b>Agenda Item 1: Call to Order</b>	<b>[6:01 p.m.]</b>
The meeting was called to order at 6:01 p.m.	
<b>Agenda Item 2: Approval of minutes from 11 May 2015</b>	<b>[6:02 p.m.]</b>
<b>Motion to approve the meeting minutes from 11 May 2015 TAB meeting as presented:</b>	
Motion by: Nozzi, Seconded by: Rigler	
<b>Vote: 4:0</b>	
<b>Agenda Item 3: Public Participation</b>	<b>[6:03 p.m.]</b>
<ul style="list-style-type: none"> <li>• <b>Loren Pahlke:</b> Concerns about multi use path on 28<sup>th</sup> Street where it intersects Lumen Apartments. City groups with different goals were involved in the planning and approval. The resulting raised island and zig zag are dangerous. Island has been removed but zig zag is here to stay. Please fix it even though it will be at the City's expense. It remains dangerous.</li> </ul>	
<b>Agenda Item 4: Public Hearing and TAB consideration of a recommendation regarding the 2015 Complete Streets Phase II Living Labs Projects</b>	<b>[6:11 p.m.]</b>
Marni Ratzel and DK Kemp presented the item to the board.	
<b>Executive Summary from Packet Materials:</b>	
This memo shares the <u>draft</u> memorandum for the June 16, 2015 City Council agenda item regarding a motion to approve the Complete Streets Living Lab Phase II "rightsizing" transportation pilot projects, as part of the implementation of the Transportation Master Plan. The Living Lab Phase II candidate corridors under consideration for rightsizing include segments of Iris Avenue, Folsom Street, 55 <sup>th</sup> Street, and 63 <sup>rd</sup> Street.	
<b>STAFF RECOMMENDATION</b>	
The staff recommendation is to install Complete Streets Living Lab pilot projects to test rightsizing design treatments for 12 to 18 months on each of the four candidate corridors.	
The combination of an in-depth technical analysis and the community input process has guided the staff recommendation to install the rightsizing projects in Summer 2015. If approved by City Council, staff will utilize technical analysis as well as walk/bike audits, social media, and public meetings to gather community input and evaluate the new street configurations for 12 to 18 months following the project installation.	
<b>TAB ACTION</b>	
Staff requests TAB consideration of a recommendation to City Council regarding the installation of Living Lab Phase II pilot projects, as part of the implementation of the Transportation Master Plan.	
<b>Public Comment:</b>	

- **Linda Loose** – Lives on 25<sup>th</sup> Street which is one block long. Already tries not to travel out during peak hours because of traffic in her area. People cut away from the light and go through their street. She and her neighbors would like to know what mitigation can be done to reduce through traffic issues. Speed bumps? Traffic lights?
- **Judy Richtel** – Has lived in the city of Boulder since 1971 and is the target demographic. Thinks the plan is unrealistic. Would like to see an alternative way of getting her out of her car in a way that works for her. She does not commute to a single location each day but has many trips to a number of locations. Adding a bike lane will not get her out of the car. Despite being an active, involved senior, she cannot always bike. Looking for a third alternative to car and bike.
- **Mark McIntyre** – Great potential for a win-win situation. Expects the result of the experiment to be more bikes, fewer cars, less carbon and reduced congestion resulting in better travel for those using cars. Eco Pass is a fine thing to help with transit. Thinks bike lanes will be a similarly good thing. There is little to fear with this experiment. Move forward with all corridors.
- **Steve Krog** – Potentially affected by changes to Iris and Folsom. Bikes a lot but is against the proposals. Most of the talk is about how this will be better for cyclists. It will, but it will be worse for those who must drive their cars. Taking away lanes in this corridor will make things worse. He does not understand the plan for the 55<sup>th</sup> corridor at all as the area is all industrial. Who will benefit from this?
- **Steve Gaede** – Cyclist and a motorist. Concerned by the sugar coated term Right-sizing. Term feels pejorative. We have explosive growth and this plan will not help. RTD changes will result in more in-commuting. Explosion of office space adds as well. When the young bike community gets older and has children they will need to bike less to accommodate speedier travel between activities. RTD needs to be a practical alternative and today it is not. What happens when the snow falls? Recommends that we hold on this project until affordable and good mass transportation is available.
- **Tim Rohler** – Actively uses three modes of transportation 2/3 are bike and pedestrian travel. Addressing the Folsom and Iris corridors. Staff got it exactly right on Folsom, but Iris proposal will adversely affect a large number of disabled persons and those who care for them. The Smart Home Residential group home was entirely overlooked in planning. Staff had to ask him where it was when he contacted them to ask about it. The plan for the Iris corridor will add a large burden to the disabled residents of the group home and those who care for them.
- **Mozelle Sutton** – Lives on Kalmia and is familiar with its traffic. Has had her house hit more than once and her yard driven through frequently. Safety is her primary focus. Looking for the criteria used by staff to evaluate traffic load in her area. She could not find any. How will we know whether traffic has increased or decreased after a year? She does not want cut through traffic from Iris to add to their problems. Urges the TAB not support the Iris corridor plan.
- **Brian Graham** – Board of Directors for Community Cycles, speaking on his own behalf. Speaking in support of the plan for the 55<sup>th</sup> Street corridor. He traveled that corridor today and got buzzed frequently by fast moving vehicles. The 8 second delay predicted in the plan is not very long at all. Especially where safety is concerned. Right sizing reduces speed and increases safety.
- **Fred Rubin** – Has not actually seen much in the way of numbers thus far. Asked for data points at one of the public open houses. Was told that the data would be on the website the next day. It still has not appeared. There appears to be no concrete data to support the assumptions of success in these plans. How is biking a women's equality issue? Are there really going to be more bicyclists? The delays are easy to quantify today. Citizens have a right to know what the expectations are in quantitative data.
- **Judy Bolles** – Addressing the corridors on 63<sup>rd</sup> and 55<sup>th</sup>. 63<sup>rd</sup> already has a beautiful bike path that she seldom sees cyclists on. A major missing link in the bike system is Jay Road to Valmont. On 55<sup>th</sup> Street the train tracks are a serious problem. Traffic already backs up badly there with two lanes. Moving to one lane will make this worse. The plan will affect not only 55<sup>th</sup> but Arapahoe. How will emergency vehicles be dealt with?
- **Brad Sutton** – Born in Boulder, has lived here 60 years and has a transportation degree. Manages several buildings along 55<sup>th</sup> corridor. Data staff presents regarding minimal impacts to traffic on 55<sup>th</sup> with lane reduction is wrong. Twice in the last two weeks, said road has been closed to a single lane each way. Backups amounted to 2/3 – 3/5ths of a mile. Arapahoe was heavily affected as well. This will not work, as has been shown over the last two weeks.
- **Aaron Johnson** – In support of these projects (All corridors). Would like to see Folsom extended. Given that this is experimental and it takes only one missing lane to severely damage a project, staff needs to optimize use of space in the corridor. Need to stress the benefits to all over the delays. Delays are small and the safety benefits are large as are the benefits to cyclists.
- **Linda B Overlie** – Lives on Kalmia. After going to local open house, went door to door to talk to neighbors. Most were not aware of the plan or were not clear on details. Once informed the vast majority were against the proposal. Kalmia is a bike corridor and there are many pedestrians and children. When traffic slows on Iris, it

cuts down Kalmia to get around the delays. This problem will make the problem worse and this has not been addressed. This will discourage existing cyclists. Petition from neighbors asking TAB to reject the Iris corridor project was presented.

- **Henry DiBernardo** – Lives on Kalmia. He has noticed in the five years he has been here that many people cut down Kalmia and run the stop sign at 16<sup>th</sup>. This is with two lanes on both sides. If you bring it down to one lane both ways, there will be increased traffic and perhaps crime. Speedbumps would be a good mitigation.
- **Ann Haebig** – Used to work on 55<sup>th</sup> and quit riding that street because it felt unsafe. Lanes are not wide enough for safety right now. If the Double left keeps the delays to a minimum this is fine, so long as they are properly signalized for safety.
- **Carolyn Hales** – Excited to have the Iris corridor experiment in her back yard. Whether one percent or ten percent of people bike this corridor is irrelevant. This project signals that we, as a community want not to have multiple lanes rushing by and prefer a slower, safer alternative.
- **Gary Sprung** – Supports the Iris corridor. Change to the crossing at 15<sup>th</sup> street will be a very positive change for him. This will encourage him to ride Iris more. He currently does not because it feels unsafe. The only way to know what the future will be is to try it. He would like to see traffic counts for the corridors to aid the prediction of results.
- **Pieter Van Der Mersch** – Came here on the bus because of concerns about time to get to this location. North/South route is not good. He has used Folsom and Goose Creek Bikeway quite a bit. Questions whether making the bike lane wider on Folsom will make things better. As a cycle commuter, there is much time he cannot ride because of snow and Ice. How will that be removed when there is an added structure or facility that needs to be worked around?
- **Adelaide Perr** – Gave up her car last February. In October a car came through a light and hit her. She is all for the protected bike lanes to prevent similar occurrences. Drivers often cross into the bike lane. Drivers take way too many risks around cyclists. Biking is inherently more dangerous than being in a car, but having a larger cycle lane will make cyclists feel safer and encourage more riding.
- **Howard Bitman** – Expressing full support for any experimental program that encourages people to get out of their cars. Industrialized nations have decided that getting off fossil fuels is key to averting major climate change problems. Making options available and encouraging people to do what is in their best interests is key to success in getting people to change. Recommends support of plan and to go still further. More bikes. Discourage cars. There are many who don't have to drive, but choose to do so. This must change.
- **David Harper** – There is a problem at Iris & Broadway with the flashing left turn arrow. Only about two or three cars can get through during peak hours. He already diverts through Norwood or Kalmia during peak hours. He is the example of what the people in this neighborhood are concerned about and it will only get worse if this plan is put into effect. With the predicted delays, it's not a time issue, but a frustration issue for motorists. If he can't tell how long he will be backed up in traffic he will divert.
- **Charles A. Brock** – Supports all four corridors. His interests in the project are different. He is an air quality and climate researcher. The world is looking at 4-5 degrees of global temperature change over the next several years. Need to do everything possible to reduce greenhouse gas emissions. Transportation is 28 % of this figure. Getting people out of vehicles is what is needed to bring this number down. How can we all do our part to move to better forms of transportation?
- **Carl Forest** – The problem with climate is numbers of people not numbers of drivers. He is opposed to this plan because there is no concrete data. No numbers about Boulder's current situation. No numbers about other cities. He is not about to get on a bike as a main mode of transportation at 75 years of age. Traffic has increased hugely. This proposal for Folsom make traffic worse and will kill McGuckins and other businesses along the corridor. You can't carry things away from McGuckins on a bike. Go ahead and experiment, but watch carefully what happens in case things get worse.
- **Karen Weber** – Opposed to the Iris Corridor plan. Iris is the only four lane road East to West on the North end of town. It does not matter how big the bike lanes are, she will not ever be riding on the streets. Why can't we have bikes separated from traffic entirely? Make the bike trails fully interconnected.
- **Fred Ecks** – In favor of the proposal (all corridors). His only questions about the criteria is why south 30<sup>th</sup> Street did not make it onto the list. Currently he does not ride on Folsom because it's a scary corridor. The bike lane narrows a lot and speeds are high. Cars are close. Urges extending the Folsom corridor to Arapahoe as facilities are not good there. Getting safe bike/ped facilities is key because we cannot support our motor vehicle traffic.
- **Sara Harper** – If you slow traffic down, you increase texting, talking on phones, etc. Safety will decrease with speed.
- **Lynn Guissinger** – Former TAB member. Speaking in favor of the proposal (all corridors). This is a pilot project. Facts are what we need to support these developments.

- **Nicholas Flores** – Comments on the analysis. A three minute increase in the average commute time equates to 900 collective commuter hours per day. The analysis needs to take this on directly. Delay implies increased idle time which means increased pollution. This should be quantified. (1:44:39 Track three). When analyzing success, need to distinguish between new and existing bike commuters to prove values. Value to bikes is seasonal. Impact to cars is year round. Ditch near ball fields could be covered and turned into a multi-use lane. Without meaningful goals and good data, the project is not responsible.
- **Jeanne Walsh** – CU freshmen should not be allowed to have cars. Regarding the Iris corridor, her daughter was almost hit at Iris and Broadway. She would like to see an underpass there which links to the bike path. Cars line up to pick up their kids, so the school district needs to get involved. CU needs to get involved. Open enrollment creates traffic problems.
- **Patrick Rea** – His house backs up on Kalmia. He and his daughters are enthusiastic bikers, He is surprised and concerned that success/failure metrics have not been set. He supports the Iris project IF pre and post metrics are set and evaluated. Study cannot be limited just to the roadways where changes will be made. This will affect traffic on Kalmia. Crosswalk at 15<sup>th</sup> & Broadway needs to be moved. It is unsafe.
- **Waylon Lewis** – Has been witness to the Living lab on University. It is safer now. It's been great, would love to see it improved. Having a lot of metrics to measure success would be great, but the project should still move forward. Has been hit three times in 10 years of cycling. He does bike all winter and does shop at McGuckins.
- **Mary Eberle** – Lives on Norwood. Cut through traffic is already a concern. The Iris corridor project will make this worse. This set up is bikes against cars. Every time a car has to be delayed by a bike or pedestrian, pollution is increased. Why is there no experiment in the South part of town? If success is 2-5% increase in bikes, 100% of car users will be unhappy.
- **Evan Kalina** – Supports the Complete Streets Project. Routinely bikes down Folsom. He is not alone in cycling to work. Boulder commutes by bike at 21 times the national average. Roads should reflect the citizen's commitment to healthy transportation. Close calls with traffic is not a way to encourage biking. He has been hit. Having a set of protected bike lanes will improve safety for cyclists. Delays are minimal.
- **Rochelle Worsnop** – CU Grad student, Bikes Folsom every day for work. Every week she is almost hit when cars merge into her lane. The inconveniences to cars discussed are a plus for her. Driving should be more inconvenient and harder to do for everyone. Cars should like this because it gives better visibility of the cyclists.
- **Eric Budd** – Supports the plan for all four corridors. Land is Boulder's scarcest resource. Need a transportation system that is just and provides equity. Biking and walking use less space than car traffic. Reconfiguring the streets increases the equity of safety. Must provide more varied and cost effective modes of transport to address equity of income.
- **Sue Prant**- Since Wednesday Community Cycles has been circulating a petition in support of the Right-sizing project, 500 have signed in support. Right sizing has been done not only in warm weather climates. Boulder is just following a national trend. If LA can do it, we can do it. The City has done excellent outreach. Part of the outreach is the project itself. This is a pilot project. We have downsized roads before and the world did not end. Let's try it.
- **Ben Binder** – Concerned that two of the members of the TAB are avowed anti-automobile advocates. How many bicycles use each one of these corridors on a daily basis? Does the city have a comprehensive computer model of the entire city traffic system? Do the models take into consideration the increase in automobile traffic due to the new projects being built right now?
- **Merrill Elustrom** – In support of the project (all corridors). Having lived 17 years in Atlanta, can bring its example as a cautionary tale. They greatly increased numbers of lanes and this resulted only in a commensurate increase in traffic, accidents, road rage, etc. The external costs of cars (pollution and climate change, etc) are never considered. Metrics are needed. Listen to people with specific points but go ahead.
- **Sarah Hoskin Clymer** – Lives on Iris. Two lanes with the left turn lane is an exciting prospect. Real possibility of improvement. Beautification is also important. Traffic is bad now. How will seven seconds make it worse?
- **Jordan Man** – The leading cause of death for those under 35 is auto accident 15 % of this are bike and pedestrian accidents. Statistics from other right-sized communities show reduced speeds and numbers of accidents. Safer for everyone. Win for both bikes and cars.
- **Debbie Ralya** – Commercial property manager. Needs her car for work. While he is in support of bike commuting, she cannot do it herself. Business point of view – She did query of tenants a few years back. There were about 400 people, most of them do not live in Boulder. They will not be riding their bikes to work or around town. If something is not broken, why fix? What is wrong on 55<sup>th</sup> that needs fixing?

- **Bogie D.** – Sold car to bike commute. 2 years ago was hit. Then used a tricycle. Lanes are too small for that. Now commutes by car. If bike lanes had been protected, he would not have been hit. Disappointed by people whining about small delays. Safer bike lanes, people driving slower.
- **Sandra Cirian** – Representing the middle aged women this is targeted at. Excited by whole project. Does commute fairly regularly by bicycle. Commutes by paths and bike lanes. Her family only has one car and still manage to get their child where she needs to be by public transportation and bike. It just takes a little more planning.
- **Angelique Espinoza** - Representing business concerns from the East area. Most of the larger employers are out there around the 55<sup>th</sup> and 63<sup>rd</sup> corridors. A good percentage of their employees are coming from outside the city of Boulder. Those distances are not always bikeable. This limited project will not change their mode. She does not agree that the outreach has been good. The City is working on too many projects so outreach is often not effective because there is too much of it for people to choose from or focus on. Postcards and even an extra meeting is not adequate to educate people. The Chamber is not opposing the project, but are urging better outreach even if it affects the timing of the project.
- **Sharon Samson** - Representing the business community from the industrial zone on 55<sup>th</sup>. We chose to live there because it was accessible and not congested and has a wonderful bike path. Her employees come from as far as Fort Collins (by shuttle) and the nearest lives in Louisville. Adding the commute time is a significant issue. These people are not going to commute by bike. Clients will also not bike to office. Most are out of town, some are international. Don't disregard the fact that there are alternative ways people are reducing traffic in that area.
- **Johan Feddema** – Commutes to work by bike every day from Kalmia. Concerned about traffic bleeding into his neighborhood. Does not see that putting a few cyclists on Iris as a good tradeoff for increased car traffic on Kalmia where there are already many bikes. Please explore ways to keep cut through traffic out of the neighborhood.
- **Julie McCabe** – Sees TAB as a transportation board biased towards bicycles. There are many people who will not be forced out of their cars by social engineering. It is inappropriate for this board to engage in that. The real crux is mass transit. Every year Boulder and Broomfield County pay millions for Denver light rail that does not aid us. The next project should address Boulder's commuter traffic. She does not buy that this is an experiment. Everything said tonight by the public is not important because the political powers have already decided to move forward on these projects. 9<sup>th</sup> to Arapahoe is a bad project. Dangerous.
- **Megan Tolbert** – Gets around many ways. Walks a dog, runs, bikes, motorcycles, walks the paths, uses transit and drives a car. She is very excited by the project. It will improve safety for her in any and all of her forms of transportation. She is the Executive Director of Boulder Transportation Connections. That organization promotes Eco Passes. Businesses are concerned about employee transportation issues. The more options they have, the more they will use them.
- **Milos Novotny** – Out commutes from Boulder. When he does get on his bike and ride across town, he uses only back streets. He cannot imagine wanting to ride on a major street. He is not convinced by staff's statistics or modeling. How do the stats for success in other cities translate to Boulder? Laws regarding bike injuries are outdated. He urges support for this pilot project. He would like to see metrics and "off-ramps" in case things need to be changed mid-stream.
- **Will Toor** – Is in favor of the pilot. He is the Co-chair of Better Boulder which voted unanimously to support the project in all four corridors, as they feel it will aid getting more people riding on the streets. Historical perspective –Boulder has many times made infrastructure changes that have made things safer for bikes. Each time there have been predictions from some in the community of dire consequences and impacts. Every time it has been successful. Biking numbers are up.

**Board discussion and comments included:**

[8:34 p.m.]

- The board heard community concerns and the desire for "off-ramps" and agrees these should be considered.
- General agreement that pilot projects are part of the outreach process. They give the community something to discuss.
- Discussion of the difference between an anti-car stance and encouraging other modes of transportation.
- General expression of support for all four corridors.
- Thanks to those who turned out to speak and to staff.
- Suggestions for a stronger communication effort especially with the Chamber of Commerce and Businesses.
- Discussion regarding equity issues surrounding non-car modes of transportation in planning efforts and the importance of even incremental shifts over time.
- General agreement that metrics (both "before" and "after") are needed in order to measure success.
- Clarifications about whether diversion traffic into surrounding neighborhoods has been considered and what

sorts of traffic calming are available.

**Motion:** TAB recommends to Council the adoption of the staff recommendation on the Iris Avenue Corridor

**Motion by:** Nozzi **Seconded:** Bilich

**Vote:** 4-0 **Motion Passes**

**Motion:** TAB recommends to Council the adoption of the staff recommendation on the Folsom Street Corridor

**Motion by:** Nozzi **Seconded:** Rigler

**Vote:** 4-0 **Motion Passes**

**Motion:** TAB recommends to Council the adoption of the staff recommendations on the 55<sup>th</sup> and 63<sup>rd</sup> Street corridors.

**Motion by:** Bilich **Seconded:** Nozzi

**Vote:** 3-1 (Rigler Opposed) **Motion Passes**

**Rigler declines to add an opposing position statement.**

**Agenda Item 5: Public hearing and TAB consideration of a recommendation regarding the 2016-2021 Transportation Capital Improvements Program (CIP) – Part III of III**

[9:19 p.m.]

Mike Gardner-Sweeney Gave the presentation.

**Executive Summary from Packet Materials:**

Every year the city goes through a budget process that creates a six-year planning budget, this year for the time period of 2016 through 2021. Within this process, funds are appropriated for the first year, 2016. The Transportation Advisory Board's (TAB) role in this process is defined in the Boulder Revised Code (BRC) TITLE 2 GOVERNMENT ORGANIZATION, Chapter 3 Boards and Commissions, Section 14 – Transportation Advisory Board; “. . . to review all city transportation environmental assessments and capital improvements.” It is within this context that the board is asked to hold a public hearing and provide a recommendation on the Capital Improvements Program (CIP) to Planning Board and City Council.

**Board discussion and comments included:**

[9:24 p.m.]

- Minor clarifications on issues discussed at prior meetings

**Motion:** TAB recommends adoption of the staff recommended Capital Improvements Program (CIP) for 2016-2021 to the City Council.

**Motion by:** Selvans **Seconded:** Nozzi

**Vote:** 4-0

**Agenda Item 6: Staff briefing and TAB input regarding TMP measurable objectives update, including results from the Boulder Valley Employee Survey.**

[9:30 p.m.]

Chris Hagelin presented item to the board.

**Executive Summary from Packet Materials:**

Since the adoption of the first Transportation Master Plan (TMP) in 1989, the city has collected transportation data for all modes to understand travel in the community and to monitor the results of the TMP policy direction. This data is collected through a variety of count programs and surveys and evaluated comprehensively as part of the Transportation Metrics program. As part of this program, a number of technical annual reports were produced between the 1996 TMP and the 2003 TMP. More recently, the 2012 *Transportation Report on Progress* has presented this information in a more user friendly way. The *Transportation Report on Progress* is being produced every other year with the next report scheduled for release in 4<sup>th</sup> quarter 2015.

This memo provides a summary of recent data collected through a number of the Transportation Metrics program efforts. These results show that the roadway system continues to perform well and progress in mode shift away from the single occupant vehicle by Boulder residents. At the same time, the single occupant vehicle mode share for non-resident employees shows little change and remains a challenge. Summary highlights are provided for the following

- Intersection level of service
- Travel time survey
- Bicycle count program
- Downtown bicycle parking counts
- Boulder Valley Employee Survey

- Downtown Employee Survey

Staff also continues to develop and refine the Measurable Objectives of the 2014 TMP, including the three new objectives:

- Safety – goal of “Vision Zero”
- Vehicle Miles Traveled per capita for residents and non-resident employees
- Neighborhood accessibility – 15 minute walkable neighborhoods

**Board discussion and comments included:** [9:50 p.m.]

- Questions regarding integration of information and the timing and development of the Boulder Valley Comp Plan.

Concerns that traffic calming may be so tentative that we will have trouble achieving “Vision Zero”.

**Agenda Item 7: Matters** [10:00 p.m.]

**A.) Matters from the Board Included:**

Board member Selvans brought up the below matter(s)

- Form Based Code pleasant to work on. Lots of support for narrower streets. Much focus on street environments over buildings. Emphasis on how buildings interact with the street.

Board member Bilich brought up the below matter(s)

- Bus then Bike Shelter at Boulder Junction status? Project is being led by Boulder County. Working with stakeholders to narrow down to two sites. One adjacent to bus depot entrance. Other across from that area at Junction Place (where Goose Creek Path comes together with the street).

**B.) Matters from staff/Non Agenda:** [10:11 p.m.]

- Safe Routes to School on Hanover. Making good progress working with the neighborhood. Intent is to take a portion of Hanover and reconstruct it as a multi-use path. Working through issues of parking configuration and overall street width. Planning will be finished this year. Construction will happen in 2016.
- RTD Service Plans: RTD Board has moved the public hearing from June to July providing more time to work with the corridor stakeholders. Some things are moving in the right direction. Still need support coming from the community to RTD.

**Agenda Item 7: Future Schedule Discussion:** [10:14 p.m.]

None.

**Agenda Item 8: Adjournment** [10:16 p.m.]

There being no further business to come before the board at this time, by motion regularly adopted, the meeting was adjourned at 10:16 p.m.

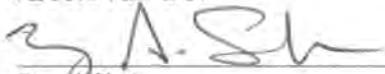
**Motion:** moved to adjourn; Bilich, seconded by: Selvans

**Motion passes 4:0**

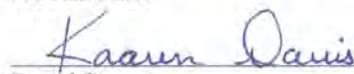
**Date, Time, and Location of Next Meeting:**

The next meeting will be a regular meeting on Monday, 13 July, 2015 in the Council Chambers, 2<sup>nd</sup> floor of the Municipal Building, at 6 p.m.; unless otherwise decided by staff and the Board.

APPROVED BY:

  
Board Chair

ATTESTED:

  
Board Secretary

7/13/2015  
Date

7/13/2015  
Date

An audio recording of the full meeting for which these minutes are a summary is available on the Transportation Advisory Board web page.



## **Boulder Pollinator Appreciation Month September 2015**

**WHEREAS**, honey bees, bumblebees, other native bees, butterflies, hummingbirds and many other species are essential partners as pollinators in the production of our food supply; and

**WHEREAS**, pollinators provide essential services and environmental benefits that maintain the health and beauty of our grasslands, forests, meadows and other natural areas and are necessary for the diverse and thriving ecosystems that support life; and

**WHEREAS**, pollinators are declining, which is placing our food security and natural environment in peril; and

**WHEREAS**, it is crucial that all people take action to protect pollinators by planting a variety of native flowers to provide safe forage that is pesticide-free; and

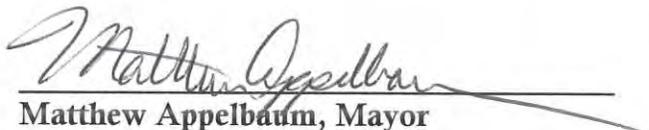
**WHEREAS**, the City of Boulder has, with Resolution Number 1159, committed to improving pollinator health, and

**WHEREAS**, our community enjoys the bounty of food and benefits provided by pollinators;

**NOW, THEREFORE, BE IT DECLARED** by the City Council of the City of Boulder, Colorado, that September 2015 is

### **Pollinator Appreciation Month**

and call upon the people of the City of Boulder to join their fellow citizens in recognizing, protecting and celebrating pollinators.

  
**Matthew Appelbaum, Mayor**