



University of Colorado  
Boulder

October 1, 2018

Dear Mayor Jones and City Council Members:

As promised we are sending you a full accounting of the benefits that CU Boulder is committed to providing to the Boulder community related to flood mitigation on our south Boulder property as well as other benefits related to other community priorities. Also included are the requirements of the university to enable a successful annexation of the property into the city.

In recognition of the urgency of your deliberations in the selection of a flood mitigation project, we have worked very quickly within our required workflows to obtain approvals to ensure a timely delivery of this document to you. We have reviewed these provisions with all of the related administrative units, our executives, including the Chancellor, the President's office and finally with our Board of Regents. This was done to allow you comfort in relying upon all elements of this document while ensuring that our Regents felt that these provisions would allow them to meet their fiduciary obligation to manage the assets of the university for the benefit of all citizens of Colorado by fulfilling our mission.

The university administration recognizes that the city council is responsible for making a choice for flood mitigation to protect lives and property in the community. Given that, we want to make sure that all members of city council have a common understanding of the benefits to the community CU Boulder is bringing to the table.

The city's need to develop a flood mitigation plan has accelerated the timeline for when the university would have otherwise submitted an annexation petition and well ahead of the completion of our 2021 Campus Master Plan. A portion of the Campus Master Plan for facilities and infrastructure will contemplate future development of our south Boulder property.

The campus master planning process is a multi-year process due to the complexity of the campus and future planning for the many related departments, colleges, institutes and operational units. During that process we will also engage the city and community for input. Once complete, the Campus Master Plan will require the approval of the university's Design Review Board, Colorado Commission on Higher Education, the Office of the State Architect and our Board of Regents. Only then can we begin to bring forward the designs and plans for actual buildings, which will also require approval of the Design Review Board and Regents and then by the Governor's office and the State Legislature. Consequently, while we are not able to provide a site plan as we enter into annexation discussions we felt it is important that we provide to you now as much clarity as we can on the university's requirements for annexation so that your process in selecting a flood mitigation project can move forward.

We see ourselves as a partner with the city in achieving the final construction of your selected flood mitigation plan. We have an ardent interest in advancing the safety of the community. We strongly believe there is common ground here, as do you, through which we can achieve our separate and mutual goals. To that end, below is the outline of benefits and requirements for your consideration.

### **Community Benefits Offered by CU Boulder to the City of Boulder Through Annexation:**

To date CU Boulder has offered the following to the city in recognition of its partnership with the community and of the criticality of the flood mitigation project through the 2015 Boulder Valley Comprehensive Plan (BVCP) and Guiding Principles therein as enumerated below. Together with the city, county and community we worked hard to develop the Guiding Principles. We remain committed to the spirit of those principles and are pleased to collaborate in their further refinement. This list reflects CU Boulder's commitments under those guidelines.

- At no cost to the city, dedication and use of up to 80 acres of CU Boulder's property to provide land in the most optimal location for the city's critical flood mitigation project for south and east Boulder
- CU Boulder remains open to the removal of the berm/levee by the city per our letter of July 19, 2018 to city council
- CU Boulder has provided access to the property and permission to the city to drill ground water monitoring wells
- CU Boulder has agreed to "maintain general consistency with the city's height limits" which we are clarifying further to mean that CU will abide by a height limit of 55 feet for the construction of buildings on CU Boulder South.
- Buildings on the site will be designed and sited to protect and complement the views of the mountain backdrop, particularly the viewsheds from the US 36 bike path, the South Boulder Creek Trail, US 36 and SH 93.
- Development on the site will be compact and clustered in a village style.
- No habitable structures or academic buildings will be built on the site within the FEMA 500-year flood plain
- CU Boulder has agreed that development of habitable and academic structures will occupy less than 50% of the university's entire property
- CU Boulder has agreed to prioritize building housing for faculty, staff, graduate students and non-first year students on the site to facilitate our common goal of providing more housing on university property
- CU Boulder has agreed to provide quality construction that is contextually appropriate to the neighboring properties
- CU Boulder's development will model future resiliency and sustainability for design, construction and maintenance strategies
- CU Boulder has agreed to not build large scale sports venues like a football stadium or large research complexes such as those on its east campus
- CU Boulder will create connections to open space trails and provide continued free use by the community of new and improved walking trails
- CU Boulder has agreed that recreational fields it builds on the site would be available to the community for use
- CU Boulder will partner with the city to do additional transportation analysis to further develop performance-based standards. CU Boulder will work with the city to include innovative and long-range technologies including electric vehicle, autonomous vehicles, etc., as well as possible joint options with city-funded transit.
- CU Boulder will work to create a multi-modal hub for transportation
- CU Boulder has committed to not create a "bypass" roadway between SH 93 and US 36

### **Additional Community Benefits Offered to the City of Boulder by CU Boulder Through Annexation:**

- At no cost to the city, CU Boulder will further commit to convey ownership of the portion of land within the 80 acres for flood control that is situated directly under the dam and any floodwall. Any related development and transaction costs will be paid by the city.
- CU Boulder will provide requested emergency and maintenance access and use agreements for the retention areas and the property that is necessary to manage the dam-related facilities.
- While, as a state entity, CU Boulder is not subject to the city's standard development review process, CU Boulder will provide the city an opportunity to give input, as reflected in the 2015 BVCP Guiding Principles on what is eventually built at CU Boulder South. This will be done through a process tightly aligned to our most recent MOU, already agreed to by both parties, for the hotel conference center. See Attachment A.

### **CU Boulder Annexation Baseline Requirements:**

We realize that for the city to move forward efficaciously and expeditiously, CU Boulder needs to provide as much specificity in its requirements as possible in order to complete an annexation agreement and remove uncertainty for both entities in what is a significant and impactful decision. In the spirit of cooperation and with an acknowledgement that time is of the essence with respect to flood mitigation development, we are providing the information city council needs to move forward prudently with the final selection of a flood mitigation project design.

- At the time of annexation and the final construction and completion of the flood mitigation project, CU Boulder must retain for its use and development equivalent acreage, as is currently designated as "Public" within the 2015 BVCP which we require to be a minimum of 129 acres.
- Any land use designation changes required to meet the acreage above must be done simultaneously with the annexation agreement. If those changes cannot be made and the university is left with fewer than the developable acres in the "Public" area in the 2015 BVCP, the city agrees to provide alternative acreage acceptable to the university either on the property by changing land use designation or by purchasing equivalent acreage at another location acceptable to the university.
- Upon completion of the construction of the flood mitigation dam and related retention areas, CU Boulder must have no less than 30 appropriately graded acres available for construction of recreational/athletics fields within the Park- Urban/Other land use areas as designated within the 2015 BVCP. Project design will provide for ingress and egress to those fields.
- The university would like the opportunity to work with the design team for the flood mitigation project to help with field placement/design as well as placement of potential bleachers on the slopes of the retention walls. Both the recreation/athletic fields and the bleachers would be built at the university's sole cost.
- The city will ensure that the flood detention area used for recreational/athletics field development will be engineered to sufficiently drain within a reasonable period of time to ensure that the fields can remain functional after a flood.
- The city will ensure that recreational/athletics fields do not have ongoing water ponding issues not related to a flood event
- As stated, CU Boulder remains open to removal of the CU Boulder berm/levee. If removed, the following requirements must be met:

- The city will ensure, at its sole expense, that construction and/or operation of the flood mitigation dam and related structures and removal of the berm/levee shall not increase the FEMA 100-year or 500-year floodplain on any of the CU Boulder South property, now or in the future.
  - CU Boulder will be provided the first option to use or sell the berm/levee material if the berm/levee is removed
  - The City will be responsible for securing all federal, state, and other governmental approvals to remove the berm/levee
- All direct, indirect, and consequential costs of developing and constructing flood mitigation on CU Boulder South (exclusive of the value of the land conveyed to the city) shall be borne by the city, including, but not limited to:
    - Modification, realignment and/or reconstruction of existing access road(s) on the property, if CU Boulder determines that the design of the city's flood mitigation project necessitates such changes.
    - Any claims or damages resulting from the failure of the performance and safety of the dam and related structures in the future.
    - Any claims or damages resulting from the removal of the CU Boulder berm/levee in the future.
    - Moving the tennis courts out of the affected area and to provide equivalent acreage to be developed elsewhere on the CU Boulder South site, should the city's flood mitigation project final design create a dam or detention area that encompasses the CU tennis courts/facilities, or materially adversely affects CU Boulder's tennis court operation as a NCAA Division 1 playing facility, as reasonably determined by the university.
    - Any work required to ensure a high level of aesthetic value as agreed to by both the city and CU Boulder for large structures resulting from the flood mitigation project. For instance, an aesthetically pleasing finish on a large flood containment wall facing the area to be developed into housing.
- If any jurisdictional wetlands are damaged or displaced as a result of the flood mitigation needs of the city, it is the responsibility of the city to secure any applicable wetland permits and mitigate the loss of the wetlands with wetland bank credits or land the city otherwise owns
  - Any additional land requested by the city or city-related entity for open space or other uses will be purchased by the city only with the university's agreement at a market value cost as determined by third-party appraisal, mediated as needed.
  - Restoration of any Open Space-Other land as designated under the BVCP owned by CU Boulder for ecological benefits desired by the city or related entity will be done in partnership with the university with costs borne by the city or related entity.
  - If the university agrees, the city may, at its sole cost, realign Dry Creek Ditch #2.
  - If the university agrees, the city may acquire or lease the university's water rights in Dry Creek Ditch #2.
  - The city will not require site plan submission for annexation.
  - CU Boulder South shall be deemed to be part of the Main Campus of the university and be subject to the Water and Wastewater Service Agreement of January 1997 between the parties.

**Benefits to CU Boulder through CU Boulder South Annexation:**

It is our understanding that the city is willing to offer these benefits in exchange for annexation of the CU Boulder's south property as well as the many benefits list above.

- The benefit (at CU Boulder's expense) of connection to the city water, wastewater, and power systems.
- General agreement that CU Boulder can build residential and non-residential facilities under the guidelines specified under the 2015 BVCP.
- Agreement that the university can build recreational/athletic fields in the flood retention areas.

We have given very careful consideration to these points and have worked hard to ensure that the university is providing substantial benefits to the community while making reasonable requests to ensure that we can meet our duty to the citizens of the state, including our neighbors in Boulder. Thank you for your partnership and time reviewing this. We look forward to discussing all of these points on October 9<sup>th</sup> and determining a speedy path forward for the city in ultimately designing and constructing a flood mitigation project.

Kind Regards,



Frances Draper  
Vice Chancellor for Strategic Relations  
University of Colorado Boulder

**Exhibit "A"**

**Annexation**

**Certain Provisions Related to Future Construction.**

Section 1: Design Review:

(Modified for CU South) South Campus Master Plan Input and Comment. *The university shall provide opportunity for the city to review and provide comments related to development of a CU Boulder South Master Plan as part of the overall CU Boulder Campus Master Plan.*

Submittal of Facility Plans. *Prior to construction of any facilities on the CU Boulder South property, the university will submit to the city's Planning Director or designee for review and comment sets of each of the following: (1) estimated construction time lines, (2) building plans and specifications, (3) site plans, (4) grading plans, (5) water, wastewater, stormwater management, and flood control plans, (6) landscape plans, (7) shadow analyses, (8) energy and lighting analyses, (9) emergency vehicle access plans, and (10) site circulation, transportation, and street plans..*

City Comments. *Any city comments shall be provided through the city Planning Director to the Boulder Campus Architect or designee. As long as the comments of the city are provided within 45 days of delivery of a document to the city Planning Director, the university shall take the city's recommendations into consideration before adopting said plans.*

Public Information and Comment. *The city will facilitate a process to share information about the project with city Council, Planning Board and the public, and collect review comments to share with the university in a manner and schedule consistent with the other provisions of this annexation IGA. The university will consider the input in its refinement of building and site plans but is not required to abide by or formally respond to input received.*

Section 2: Development and Construction:

(a) Compliance with State Codes. All development of improvements on CU Boulder South whether by the university or non-university developers, shall comply with the building codes and/or regulations, or comparable codes and/or regulations, as then adopted by the State of Colorado and revised periodically.

(b) Compliance with Other Laws of the City. This Exhibit contains all of the obligations of the university and of all non-university developers toward the city in connection with university development on CU Boulder South. Except as expressly otherwise set forth in this Exhibit, the city's ordinances, codes, or regulations applicable to the development of land, or the construction, ownership, or management of improvements thereon, whether by the university or by a non-university developer, shall not apply to development on CU Boulder South, as consistent with other campus development on university lands.

However, all water, sewer and storm water utility facilities to be dedicated to the city shall be built to comply with the city's design and construction standards.

(c) City Permits, Fees and Taxes for On-site Improvements. The city agrees that neither the university nor non-university developers of the CU Boulder South property shall be required to obtain city building permits, or any other city permits, prior to commencement of construction, or during construction, or at the completion thereof, for all on-site improvements. Except as expressly set forth in sections 1(d), 1(e) and 2(b) below, neither a non-university developer nor the university shall be obligated to pay the city, and the city agrees not to charge a non-university developer or the university, any application fees, review fees, building permit fees, or other fees or charges for related to development and construction on CU Boulder South, including payments in lieu of providing affordable housing units, in lieu of payments or dedications for open space or park land, the capital facility impact fee, transportation, or housing excise taxes or similar charges. The university is exempt from the city's sales and use taxes. If a party other than the university constructs a building or buildings within the site, amounts which are equivalent to the city's applicable sales and use taxes, as set forth in the city's municipal code, shall be payable by that party.

(d) Permits, Fees and Taxes for Off-site Improvements. Except as hereinafter specified, the university or its designated non-university developer agrees to pay all applicable utility fees including, without limitation, plant investment fees for water, sewer and storm utilities, to the city as a condition of connections to the city's utility lines. For purposes of applicable utility fees, CU Boulder South shall be deemed to be part of the Main Campus of the university. Any existing and applicable agreements, understandings, or letters that extend credits to the university for water and sewer services to the main campus shall be honored with respect to corresponding charges at CU Boulder South. All non-university developers constructing buildings within the Project under a ground lease or through some other form of property conveyance with the university shall pay all such fees to the city directly. Work in the public right of way is separately permitted by the city and is not governed by this Exhibit; but the city shall use normal and customary standards it applies to other parties in granting or denying such permits. The CU Boulder South project shall comply with all of the provisions of the city's water, sewer and stormwater plans, regulations and ordinances.

(e) Off-site Water, Sewer, and Stormwater Facilities. The city and the university will cooperate in considering CU Boulder South to be an extension of the Main Campus for purposes of extending the university's private utilities. The city shall assist and cooperate with the university in planning and conducting technical feasibility of any water, sewer, and storm water utility facilities required for future university development on the site. All off-site facilities relating directly to CU Boulder South shall be evaluated and reviewed as a cooperative effort between the university and the city. Costs associated with utility upsizing, necessary off-site infrastructure, or other investment required to serve university's development will be undertaken in a manner consistent with existing city practices for similar development projects.

(f) Inspections of Construction. All inspections of construction on CU Boulder South shall be conducted by a qualified inspector (who may be a university employee) authorized by the university to

conduct such inspections. The university, at its discretion, may request inspections by the city. The city may charge for its services providing such inspections. Inspections for off-site improvements will be undertaken in a manner consistent with existing city practices.

(g) “As Built” Plans. Upon completion of any improvements on CU Boulder South, the university agrees to furnish to the city “as built” plans. The university also agrees to furnish the city the specifications for all buildings and parking facilities constructed on the site.

Section 3: Points of Access and Utility Services.

(a) Access to Public Streets. The university shall be given access to city streets and roadways at such points as are reasonably necessary to develop CU Boulder South and consistent with applicable provisions of the state highway access code and Boulder’s site access standards.

(b) Utility Services. Upon request by the university and upon payment of all customary city fees and charges therefore, the city agrees to furnish to the CU Boulder South property water, sanitary sewer, storm water and such other utility services as the city now or hereafter customarily provides within city limits on the same or similar terms and conditions.