

**LOVELAND CITY COUNCIL MEETING**  
**LOVELAND URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS**  
**GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS**  
**TUESDAY, APRIL 16, 2013**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

The City of Loveland is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, age, color, national origin, religion, sexual orientation or gender. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act. For more information, please contact the City's ADA Coordinator at [bettie.greenberg@cityofloveland.org](mailto:bettie.greenberg@cityofloveland.org) or 970-962-3319.

**5:30 P.M.                    DINNER - City Manager's Conference Room**  
**6:30 P.M.                    REGULAR MEETING - City Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATION DECLARING APRIL 19, 2013, AS "ARBOR DAY"** (Rob MacDonald)

**PROCLAMATION DECLARING APRIL 20, 2013, AS "THE DAY OF THE ANNUAL SPRING WATERWAY CLEAN-UP EVENT"** (Joe Chaplin)

**PROCLAMATION DECLARING APRIL 29, 2013 – May 5, 2013, AS "MARINE CORPS LEAGUE WEEK"** (Tom Buchanan)

**PRESENTATION OF FINANCE AWARD: CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (CAFR)** (Brent Worthington)

*Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it.*

*Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items.*

*Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.*

**CONSENT AGENDA**

1. **CITY CLERK** (presenter: Terry Andrews)  
**APPROVAL OF COUNCIL MINUTES**  
**Motion to approve City Council minutes from the April 2, 2013 regular meeting**  
 This is an administrative action to approve the City Council minutes.
  
2. **CITY MANAGER**  
**BOARD & COMMISSION APPOINTMENTS**  
**A consideration of a motion to Appoint Stan Griep to the Construction Advisory Board**  
 This is an administrative action recommending the appointment of Stan Griep to the Construction Advisory Board for a full term effective until June 30, 2015.
  
3. **PUBLIC WORKS/ PARKS & RECREATION** (presenter: Dave Klockeman)  
**IGA WITH CDOT-MADISON AVENUE PEDESTRIAN IMPROVEMENTS**  
**A motion to approve and order published on second reading an ordinance for the Supplemental Budget and Appropriation to The 2013 City of Loveland Budget for a State Grant to Construct Sidewalk, Street and Gutter Improvements, and Street Lights Along the East Side of Madison Avenue, from 29th Street North, to Seven Lakes Drive.**  
 This is an administrative action. This grant will partially fund the replacement of the bridge on Madison Avenue at the Chubbuck Ditch. The ordinance appropriates the grant funds. The estimated cost of this project is \$97,000.00. Award of a federal Safe Routes to School grant in 2012 will provide \$90,000.00. The local match is estimated at \$7,000. The local funds will come from the Public Works Department 2013 budget for street capital improvement projects City Council approved this ordinance unanimously on April 2, 2013.
  
4. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)  
**REPEALING & REENACTING CHAPTER 18.05 AND CHAPTER 16.18**  
**A motion to approve and order published on second reading an ordinance Repealing and Reenacting Chapter 18.05, Repealing Section 16.16.070, and Enacting a New Chapter 16.18 Regarding Public Notice Requirements for Land Use and Zoning Matters**  
 A legislative action to consider the second reading of an ordinance to approve a staff-initiated text amendment to the Subdivision and Zoning Codes to modify requirements related to provisions for public notices. The notice requirements for oil and gas development will be established in a separate amendment, which is scheduled for Planning Commission on April 22<sup>nd</sup> and Council on May 21<sup>st</sup>. City Council approved this ordinance unanimously on April 2, 2013.
  
5. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)  
**PUBLIC HEARING**  
**KOLDEWAY INDUSTRIAL 2<sup>ND</sup> SUBDIVISION REZONING**  
**Motion to approve and order published on first reading;**
  1. An ordinance Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for Certain Property Located in Lots 2 and 3, Block 1, Koldeway Industrial Second Subdivision, City of Loveland, Larimer County, Colorado; and
  2. An ordinance Vacating a Public Right-Of-Way (Alley) Adjacent to Lots 1, 2, and 3, Block 1, Koldeway Industrial Second Subdivision, City of Loveland, Larimer County, Colorado

A quasi-judicial action to adopt an ordinance on first reading rezoning Lots 2 and 3, Block 1, of the Koldeway Second Industrial Subdivision from I-Developing Industrial to B-Developing Business and amending a Development Agreement and a legislative action to adopt an ordinance on first reading vacating a public right-of-way. The 3.12 acre property is located on the east side of Denver Avenue, one lot south of 11th Street. The owner of the property is Loveland Midtown Development, Inc.

6. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)  
**PUBLIC HEARING**  
**RANGE VIEW 3<sup>RD</sup> (LAKE VISTA) UTILITY EASEMENT**  
**A motion to approve and order published on first reading an ordinance Vacating a Portion of a Private Access, Emergency Access, and City of Loveland Water and Sewer Easement on Lot 4, Block 1, Range View Third Subdivision, City of Loveland**  
 This is a legislative action for adoption of an ordinance on first reading to vacate an 89 square foot/up to 2.7 feet in width portion of an easement in the Range View Third Subdivision, located at 2331 Rocky Mountain Avenue.
7. **ECONOMIC DEVELOPMENT** (presenter: Cindy Mackin)  
**IGA FOR NORTHERN COLORADO USA PRO CHALLENGE ORGANIZING COMMITTEE**  
**A motion to approve a resolution #R-26-2013 approving an Intergovernmental Agreement for the Creation of the Northern Colorado Pro Challenge Local Organizing Committee**  
 This is an administrative action to approve a resolution establishing the Northern Colorado USA Pro Challenge Local Organizing Committee (LOC) which will be the new governmental entity responsible for planning, funding, promoting and conducting the Loveland-Fort Collins stage of the August, 2013 USA Pro Challenge professional bicycle race.
8. **PUBLIC WORKS** (presenter: Dave Klockeman)  
**AWARD CONSTRUCTION CONTRACT**  
**A motion to Award the Construction Contract for the 2013 Street Resurfacing Program, Chip Seal Schedule CS (Project ENSR010-CS) to A-1 Chip Seal Company**  
 This is an administrative action to award of the 2013 Street Resurfacing Program, Chip Seal Schedule CS (Project ENSR010-CS) to A-1 Chip Seal Company of Denver, Colorado, in the amount of \$585,000.00, and authorize the City Manager to execute the contract.
9. **FINANCE** (presenter: John Hartman)  
**PUBLIC HEARING**  
**SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012 CITY BUDGET**  
**A motion to approve and order published on first reading an ordinance Enacting a Supplemental Budget and Appropriation to The 2013 City of Loveland Budget to Reappropriate Remaining Funds for Projects Approved but Not Completed in 2012**  
 This is an administrative action. The Ordinance reappropriates funding for capital projects and other one-time projects approved but not completed in the prior year.

**ADJOURN AS CITY COUNCIL AND CONVENE AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA)**

**10. FINANCE**

**PUBLIC HEARING**

**SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012 LURA BUDGET**

**A motion to approve and order published on first reading an ordinance Enacting a Supplemental Budget and Appropriation to The Loveland Urban Renewal Authority Budget Reappropriating The Façade Grant Program and Funding for Parking Lot Improvements Approved in 2012 but not Completed**

This is an administrative action. Reserves are reappropriated for the Façade Grant Program and parking lot improvements.

**ADJOURN AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY AND CONVENE AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID)**

**11. FINANCE**

**(presenter: John Hartman)**

**PUBLIC HEARING**

**SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012 GID BUDGET**

**A motion to approve and order published on first reading an ordinance Adopting a Supplemental Budget and Appropriation for The 2013 Loveland General Improvement District #1 to Reappropriate Funds for Signal Light Upgrades and Parking Lot Improvements Approved in 2012 but Not Completed.**

This is an administrative action. Funds approved in 2012 for signal pole upgrades and parking lot improvements are appropriated to complete the projects.

**ADJOURN AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID) AND RECONVENE AS CITY COUNCIL**

**12. FINANCE**

**(presenter: John Hartman)**

**PUBLIC HEARING**

**SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012 AIRPORT BUDGET**

**A motion to approve and order published on first reading an ordinance Enacting a Supplemental Budget and Appropriation to The 2013 Ft. Collins-Loveland Municipal Airport Budget to Appropriate Funds for Projects Approved but Not Completed in 2012.**

This is an administrative action. The ordinance appropriates the remaining balance for capital projects and equipment purchases previously approved in 2012.

**13. FINANCE**

**(presenter: John Hartman)**

**PUBLIC HEARING**

**SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012 NEW PROJECTS BUDGET**

**A motion to approve and order published on first reading an ordinance Enacting A Supplemental Budget And Appropriation to The 2013 City Of Loveland Budget for Projects or Programs Not Anticipated at the Time of Adoption for The 2013 Budget**

This is an administrative action. Since the adoption of the 2013 Budget, several issues have emerged that require increased appropriations. This ordinance addresses those issues. The total amount of net appropriation (total expenses excluding transfer between funds) is \$5.29 million. The appropriation is funded by \$5.28 million of fund balance and \$13,390 of Federal Grant Revenue.

**14. FINANCE (presenter: John Hartman)  
SUPPLEMENTAL APPROPRIATION – APPROPRIATE UNUSED FUNDS FROM 2012  
LOVELAND FIRE RESCUE AUTHORITY BUDGET**

**A motion to approve a resolution #R-27-2013 Approving a Supplemental Budget and Appropriation to The Loveland Fire Rescue Authority 2013 Budget**

This is an administrative action. The resolution provides for Council approval of supplemental changes to the Loveland Fire Rescue Authority 2013 Budget to reappropriate operational expenses and add a Lieutenant position in the Community Safety Division. The Council approval of the budget is required for the Authority's budget to be in effect.

**END OF CONSENT AGENDA**

**CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA**

**CITY COUNCIL**

- a. **Citizens' Report** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*
- b. **Business from Council** *This is an opportunity for Council Members to report on recent activities or introduce new business for discussion at this time or on a future City Council agenda.*
- c. **City Manager Report**
- d. **City Attorney Report**

**PROCEDURAL INFORMATION**

*Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council quorum present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.*

**REGULAR AGENDA**

**CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA**

**15. CITY CLERK (presenter: Terry Andrews)**

**APPROVAL OF COUNCIL MINUTES**

**A motion to approve minutes from the March 26, 2013 study session.**

This is an administrative action to approve the Council minutes. This item is on the regular agenda as Councilors Fogle and Taylor were not present at the meeting.

16. **ECONOMIC DEVELOPMENT** (presenter: Betsey Hale)  
**ROUGHING IT IN STYLE**  
**A discussion and consideration of a Sales Tax Rebate Incentive for “Roughing It In Style”**  
 This is an information only item. “Roughing It In Style” is a family-owned custom furniture manufacturer and retailer. The ownership group is considering a Loveland location on Byrd Drive immediately north of the Thunder Mountain Harley Davidson dealership. The company is asking the City Council to consider a request for a sales tax rebate of up to, but not to exceed, \$150,000 over a period of 36 months.
17. **FIRE & RESCUE** (presenter: Randy Mirowski)  
**PUBLIC HEARING**  
**BURN BAN & RESTRICTIONS**  
**A motion to approve and order published on first reading an ordinance Amending City Code Chapter 15.28 Granting the City Council and the City Manager Authority to Impose Outdoor Fire Bans and Restrictions Under Certain Emergency Circumstances Within the City of Loveland**  
 This is a legislative action to consider an ordinance amending the City Code to grant authority to both the City Manager and the City Council, under certain emergency situations, to quickly impose outdoor fire bans and restrictions within the City of Loveland. This ordinance does not include the authority to impose a ban or restrictions on the use of permissible fireworks within the City of Loveland.

## ADJOURN



## CITY COUNCIL

Civic Center • 500 East Third Street, Suite 330 • Loveland, CO 80537  
 (970) 962-2303 • Fax (970) 962-2900 • TDD (970) 962-2620  
[www.cityofloveland.org](http://www.cityofloveland.org)

### PROCLAMATION

**WHEREAS,** in 1872 J. Sterling Morton proposed that a special day be set aside for the planting of trees; and

**WHEREAS,** Arbor Day is now observed throughout the nation and the world; and

**WHEREAS,** the City of Loveland has been designated as a Tree City USA by the National Arbor Day Foundation; and

**WHEREAS,** trees provide numerous environmental benefits, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

**WHEREAS,** trees, wherever they are planted, are a source of joy and spiritual renewal, enhancing the economic vitality of our business areas and beautifying our community;

**NOW, THEREFORE,** we, the City Council of the City of Loveland, proclaim April 19, 2013, as

### **ARBOR DAY**

and encourage the citizens of Loveland to support efforts to protect our trees and urban forests, to learn more about trees, and to support our City's urban forestry program.

Signed this 16th day of April, 2012

Cecil A. Gutierrez  
 Mayor



## CITY COUNCIL

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**PROCLAMATION**

- WHEREAS,** the Annual Spring Waterway Clean-up event is one of the programs listed in the City of Loveland's General Municipal Separate Storm Sewer (MS4) Permit; and
- WHEREAS,** each of the Adopt-A-Waterway Groups consisting of Bill Reed Middle School, the Loveland High River Watch Club, the Kiwanis Club of Loveland, the Namaqua Unitarian Universalist Congregation, the Loveland Open Lands Advisory Commission, Sylvan Dale Guest Ranch, Reflections for Youth, and Cub Scout Pack 184 will be cleaning their adopted sections of the Big Thompson River, the Morey Wildlife Reserve, and the Reflections for Youth ("RFJY") and Meadow Brook Natural Areas; and
- WHEREAS,** the Greeley-Loveland Irrigation Company and Seven Lakes Reservoir Companies, the High Plains Environmental Center, the Big Thompson Watershed Forum, American Rivers, the City of Greeley, the City of Loveland, Larimer County, along with local businesses such as World Beverage, Starbucks, Walgreens, Wash Me Car Wash Facility, Big Thompson 4-Wheelers, Bloedorn Lumber-Loveland, Orchards Ace Hardware, Wells Fargo, King CMG, Sportsman's Warehouse, Harley Davidson, HACH Instruments, FoCo Lawn and others will be involved to collaborate and provide materials for a successful event; and
- WHEREAS,** the event is planned to coincide with Earth Day and should attract over 300 Loveland volunteers; and
- WHEREAS,** the event will help improve the aesthetics of the community; and
- WHEREAS,** the purpose of the event is to provide the citizens of Loveland an opportunity to remove trash and other assorted debris from within and along the City's waterways; and
- WHEREAS,** these efforts will reduce the pollutants within our community and help improve upon the water quality of the City's waterways, the riparian corridors and our environment.

**NOW, THEREFORE,** we, the City Council of Loveland, do hereby proclaim Saturday, April 20, 2013 as

**THE DAY OF THE ANNUAL SPRING WATERWAY CLEAN-UP EVENT**

at various locations in the City of Loveland.

Signed this 16th day of April, 2013

Cecil A. Gutierrez, Mayor





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### PROCLAMATION

- WHEREAS,** the Marine Corps League has been in existence since 1923, authorized by Congressional Charter in 1937 and has been a member of the Loveland community since the Loveland Marine Corps League Detachment #1250 was founded in 2006; and
- WHEREAS,** the United States Marine Corps has proudly and honorably served this nation with courage and valor for 238 years; and
- WHEREAS,** the Marine Corps League operates as a fraternal organization for Marines and Fleet Marine Force Corpsmen to band together in mutual support of each other, the Marine family and communities throughout the United States; and
- WHEREAS,** the Marine Corps League Department of Colorado State has chosen the Loveland Marine Corps League Detachment to host its 2013 State Convention, May 2 through May 5, 2013; and
- WHEREAS** Loveland serves as home to many Marine Corps League members, active duty, reserve and retired Marines and Fleet Marine Force Corpsmen.

**NOW, THEREFORE,** we, the City Council of Loveland, do hereby proclaim April 29 – May 5, 2013 as

### MARINE CORPS LEAGUE WEEK

in Loveland, Colorado.

Signed this 16th day of April, 2013

Cecil A. Gutierrez  
 Mayor



**CALL TO ORDER**

Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

**PLEDGE OF ALLEGIANCE****ROLL CALL**

Roll was called and the following responded: Gutierrez, Farley, Klassen, Trenary, McKean, Shaffer, Fogle, Taylor and Clark.

**PROCEDURAL INFORMATION**

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

**CONSENT AGENDA**

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to remove any of the items or public hearings listed on the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda. The motion was seconded by Councilor Trenary and a roll call vote was taken with all councilors present voting in favor thereof.

**1. CITY MANAGER****Approval of Council Minutes  
Motion**

Administrative Action: The minutes from the March 19, 2013 regular meeting were approved.

**2. DEVELOPMENT SERVICES****Amendment to Ordinance for Historic Designation Loveland Elks Lodge****Ordinance #5754**

Legislative Action: An "Ordinance amending Ordinance #5743 and designating as a Historic Landmark the Loveland Elks Lodge/Loveland Hotel located at 103 East 4<sup>th</sup> Street in Loveland, Colorado" was approved and ordered published on second reading.

**3. DEVELOPMENT SERVICES****PUBLIC HEARING****Public Notice Requirements****P.H. & 1<sup>st</sup> Rdg. Ord.**

Legislative Action: A Public Hearing was held and "AN ORDINANCE REPEALING AND REENACTING CHAPTER 18.05, REPEALING SECTION 16.16.070, AND ENACTING A NEW CHAPTER 16.18 REGARDING PUBLIC NOTICE REQUIREMENTS FOR LAND USE AND ZONING MATTERS" was approved and ordered published on first reading.

#### **4. ECONOMIC DEVELOPMENT**

##### **Exception To The Adequate Community Facilities Ordinance For Brinkman North Catalyst Project**

**Resolution #R-24-2013**

Legislative Action: Resolution #R-24-2013 regarding ACF for Brinkman North Catalyst Project was approved.

RESOLUTION #R-24-2013

A RESOLUTION APPROVING AN EXCEPTION TO THE ADEQUATE COMMUNITY FACILITIES ORDINANCE PURSUANT TO SECTION 16.16.050(C) OF THE LOVELAND MUNICIPAL CODE FOR A PROPOSED BUILDING TO BE CONSTRUCTED AT 541 N. LINCOLN AVE., LOVELAND, COLORADO

WHEREAS, 541 N. Lincoln, L.L.C., a Utah limited liability company (the "Applicant"), has filed an application for approval of a site development plan ("SDP") in connection with construction of a 70-unit mixed-use building containing four live-work units and 66 residential apartments (the "Project") as a use by right in the BE district at 541 N. Lincoln Avenue, Loveland, Colorado, which is legally described as Lots 1-8, inclusive, Block 12, Original Plat of the City of Loveland, County of Larimer, State of Colorado (the "Property") and

WHEREAS, Planning Commission held a public hearing on March 11, 2013 and adopted Planning Commission Resolution #13-02 approving the proposed Project, which contains more than 25,000 square feet of gross floor area in the core area of the BE District, as required by Loveland Municipal Code Section 18.24.050(B); and

WHEREAS, in order to obtain approval of the SDP, the Applicant must comply with, or obtain an exception from, the requirements of the Adequate Community Facilities Ordinance set forth in Chapter 16.41 of the Code ("ACF Ordinance"); and

WHEREAS, the Project is forecast to generate traffic on the adjacent alleyways in excess of the alley level of service standard adopted under the Section 16.41.110 of the ACF Ordinance and the Applicant is requesting that City Council grant an exception to the ACF Ordinance for this excess traffic generation; and

WHEREAS, City engineering staff have determined that granting the ACF exception requested by Applicant would not create an unsafe condition on City streets (including alleyways); and

WHEREAS, City Council is authorized by the provisions of Code Section 16.16.050(C) to grant exemptions to the regulations set forth in Title 16 of the Code upon a showing:

1. That there are special circumstances or conditions affecting said property which creates practical difficulties upon the applicant, or the development for which exceptions are sought is of such extraordinary commercial, social or cultural merit that the potential benefits to the community outweigh the tangible and intangible costs to the community created by the exception; and
2. That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the area in which the Project is situated or in conflict with the purposes and objectives of the Comprehensive Master Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council hereby finds and determines that an exception to the requirements set forth Code Section 16.41.110 with respect to the forecast traffic levels on the alleyways adjacent to the Property is warranted for the following reasons:

- A. there are special circumstances and conditions affecting the Property which creates practical difficulties upon the Applicant in that the Project involves the redevelopment of a small site in the historic Downtown area with limited

City Council  
April 2, 2013  
Page 3 of 6

opportunities for direct ingress and egress to parking areas on the Project site consistent with the City's preferred design constraints in the Downtown district;

B. the Project is of significant commercial, social, and cultural merit in that it is forecast to attract residents to the Downtown area, thereby enhancing the potential for additional redevelopment and economic development in the area;

C. the tangible and intangible costs to the community created by this exception are minimal and outweighed by the anticipated social, commercial and cultural merit; and

D. the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the area in which the Project is situated and does not conflict with the purposes and objectives of the City's Comprehensive Master Plan.

Section 2. That pursuant to Code Section 16.16.050(C), the City Council hereby grants to the Applicant the following exception to the provisions of Section 16.41.110 of the Loveland Municipal Code: for the purposes of the SDP, the transportation level of service requirements applicable to the east-west and north-south alleyways adjacent to the Property shall not apply to the Project and the Project shall be entitled to generate alleyway trips to the levels anticipated in the Traffic Impact Study for the Project dated January 28, 2013, prepared by Eugene G. Coppola P.E., and submitted by the Applicant.

Section 3. That the ACF exception set forth herein shall expire if the Project is not developed in accordance with the SDP and a certificate of occupancy issued on or before December 31, 2014.

Section 4. That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 2<sup>nd</sup> day of April, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G Andrews, City Clerk

**5. PUBLIC WORKS**

**PUBLIC HEARING**

**IGA with CDOT Madison Avenue Pedestrian Improvements**

Legislative Action: A public hearing was held.  
1) Resolution #R-25-2013 Resolution #R-25-2013 regarding IGA with CDOT for Madison Avenue Pedestrian Improvements was approved.  
RESOLUTION #R-25-2013

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR DESIGN AND CONSTRUCTION OF PEDESTRIAN IMPROVEMENTS ALONG MADISON AVENUE BETWEEN 29<sup>TH</sup> STREET AND SEVEN LAKES DRIVE**

WHEREAS, the City of Loveland maintains that portion of Madison Avenue between 29<sup>th</sup> Street and Seven Lakes Drive, which is located outside of the City of Loveland but within the City's Grown Management Area, by agreement with Larimer County; and

WHEREAS, the City desires to design and construct a new sidewalk, curb, and gutter and install new street lights along the east side of Madison Avenue between 29<sup>th</sup> Street and Seven Lakes Drive (the "Project"); and

WHEREAS, Larimer County has expressed its support for the Project in a letter dated November 22, 2011, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

City Council  
April 2, 2013  
Page 4 of 6

WHEREAS, federal funds administered and made available through the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"), are available for the Project in the amount of Ninety Thousand Dollars (\$90,000); and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the "State of Colorado Department of Transportation Intergovernmental Agreement with City of Loveland, Colorado," attached hereto as Exhibit B and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 2<sup>nd</sup> day of April, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G Andrews, City Clerk

2)Ord. 1<sup>st</sup> Rdg

An "ORDINANCE ON FIRST READING ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR A STATE GRANT TO CONSTRUCT SIDEWALK, STREET AND GUTTER IMPROVEMENTS AND STREET LIGHTS ALONG THE EAST SIDE OF MADISON AVENUE FROM 29TH STREET NORTH TO SEVEN LAKES DRIVE" was approved and ordered published.

**6. PUBLIC WORKS**

**Recyclebank Agreement for Solid Waste Program**

Administrative Action. A motion to approve Reecyclebank Agreement for Solid Waste Program was approved.

**END OF CONSENT AGENDA**

**CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.**

**CITY COUNCIL**

a) Citizens' Reports None

b) Business from Council

City Council  
 April 2, 2013  
 Page 5 of 6

Trenary	Announced that April is the month of the Military Child.
Taylor	Cautioned the public, now that the weather is warmer to watch out for children at play.
Shaffer	Attended the Housing Authority Meeting; Attended the Highway 287 Coalition Meeting regarding the use of "FASTER" funds for bussing routes on I-25, operating vs. capital improvement.
Gutierrez	Attended the "Heroes Among Us" award ceremony; interviewed Ponderosa Elementary First Graders; Emceed "Stars of Tomorrow" competition, the regional event will be held at Loveland High School on April 28 <sup>th</sup> ; Announced the Senior Advisory Board will be hosting a seminar on "Silver Tsunami" May 2 <sup>nd</sup> ; Requested Fire Chief Mirowski say a few words in remembrance of prominent citizen, Wayne Tennant, who passed away this week.
c) <u>City Manager Report</u>	
Cahill	Announced the Water & Power Dept received national recognition as a "Platinum" public utility system, from American Public Power Association (APPA).
d) <u>City Attorney Report</u>	
	None

#### PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

#### REGULAR AGENDA

#### CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

#### 7. CITY CLERK

##### APPROVAL OF COUNCIL MINUTES

Administrative Action: Correction: Councilor Shaffer and Klassen were not present at the study session. Councilor Shaffer moved to approve the March 12, 2013 Study Session minutes as amended. Councilor Trenary seconded the motion which carried with all councilors voting in favor and Councilors Shaffer and Klassen abstained.

#### 8. WATER AND POWER

##### PLATTE RIVER POWER AUTHORITY PRESENTATION

Information Only Item: Water and Power Director, Steve Adams introduced Platte River Power Authority (PRPA) General Manager, Jackie Sargent to Council. Ms. Sargent gave a presentation about PRPA.

#### 9. DEVELOPMENT SERVICES

##### LOVELAND/JOHNSTOWN INTERGOVERNMENTAL AGREEMENT

Information Only Item: Karl Barton introduced this item to Council. The IGA would establish a process for the two municipalities to cooperate on matters regarding annexation in the area along the I-25 corridor and to agree on a common Growth Management Area (GMA) boundary. The agreement would establish a process for determining which municipality would annex land within an area that would remain within

the GMA boundaries of both municipalities, referred to as the "overlap area". The IGA also contains terms committing the two municipalities to cooperate in the future in infrastructure planning and preserving development opportunities in the Overlap Area. There was discussion regarding the Low Point Sanitation District. Staff will continue to have discussion with Johnstown and bring information back to Council.

#### 10. FINANCE

##### **ADMINISTRATIVE FEE FOR NO PROOF OF INSURANCE**

Information Only Item: City Manager, Bill Cahill introduced this item to Council. Following Citizen Comment at the Council meeting February 5, 2013, Council requested a review of the fee for failure to provide proof of insurance or No Proof of Insurance (NPOI). This item describes the fee imposed on motorists cited with NPOI, and provides background on the development of the fee and a comparison of processes used by other Colorado municipalities. Discussion ensued. Municipal Judge, Bill Starks, was available to answer questions. Consensus of Council was not to change or remove the fee at this time.

#### 11. FINANCE

##### **FEBRUARY 2013 FINANCIAL REPORT**

Informational Only Item: Finance Director, Brent Worthington introduced this item to Council. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending February 28, 2013.

#### 12. CITY MANAGER

##### **INVESTMENT REPORT FOR FEBRUARY 2013**

Informational Only Item: Executive Fiscal Advisor, Alan Krcmarik introduced this item to Council. The budget estimate for investment earnings for 2013 is \$2,760,560. Through February, the amount posted to the investment account is \$363,425 including realized gains. Actual year-to-date earnings are lower than the budget projection by \$77,620. Based on the monthly statement, the estimated annualized 1.01% yield on the securities held by US Bank was down from last month and under the annual target rate of 1.20% for 2013. Reinvestment rates have been near record low levels, much lower than the budget projection.

#### **ADJOURNMENT**

Having no further business to come before Council, the April 2, 2013 Regular Meeting was adjourned at 10:53 p.m.

Respectfully Submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor



**CITY OF LOVELAND**  
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 2  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill

**TITLE:**

Appointment of a member to the Construction Advisory Board

**RECOMMENDED CITY COUNCIL ACTION:**

A motion to appoint Stan Griep to the Construction Advisory Board for a full term effective until June 30, 2015

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action

**DESCRIPTION:**

This is an administrative action recommending appointment of a member to the Construction Advisory Board.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**SUMMARY:**

Construction Advisory Board has long had two vacancies. One term expires June 30, 2013 and the other term expires June 30, 2015. One application was received and the individual interviewed. The interview committee recommends the appointment of Stan Greip to the Construction Advisory Board for a full term effective until June 30, 2015. The June 2013 term will be included in the upcoming Spring recruiting cycle for board and commission vacancies.

**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

**LIST OF ATTACHMENTS:**

None





**CITY OF LOVELAND**  
PUBLIC WORKS DEPARTMENT

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537  
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

**AGENDA ITEM:** 3  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Keith Reester, Public Works Director  
 Gary Havener, Parks & Recreation Director  
**PRESENTER:** Dave Klockeman, City Engineer

**TITLE:**

Consideration of an Ordinance Enacting a Supplemental Budget and Appropriation to The 2013 City of Loveland Budget for a State Grant to Construct Sidewalk, Street and Gutter Improvements, and Street Lights along the East Side of Madison Avenue, from 29th Street North, to Seven Lakes Drive.

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the ordinance on second reading

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Refer back to staff for further development and consideration
4. Adopt a motion continuing the item to a future council meeting

**DESCRIPTION:**

This is an administrative action. This grant will partially fund the replacement of the bridge on Madison Avenue at the Chubbuck Ditch. The ordinance appropriates the grant funds. City Council approved this ordinance unanimously on April 2, 2013.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The estimated cost of this project is \$97,000.00. Award of a federal Safe Routes to School grant in 2012 will provide \$90,000.00. The local match is estimated at \$7,000. The local funds will come from the Public Works Department 2013 budget for street capital improvement projects.

**SUMMARY:**

The need for this capital project was identified in 2011 when Mary Blair Elementary and Conrad Ball Middle School families were informed that busing would no longer be provided to the Seven Lakes neighborhoods. Many years ago, the City constructed an asphalt path and 6 inch curb barrier along the east side of Madison Avenue for students traveling to and from these schools. As the path fell into disrepair, parents protested the safety of students along this walkway, and the Thompson School District reimplemented bus service to the Seven Lakes neighborhoods. This project will remove the asphalt walk and provide a new concrete sidewalk. Project completion is targeted for August, 2013.

The first reading of the ordinance took place at the Council meeting on April 2, at which time Council members voted unanimously to approve the ordinance as part of the consent agenda.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

Ordinance

**FIRST READING** April 2, 2013

**SECOND READING** April 16, 2013

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR A STATE GRANT TO CONSTRUCT SIDEWALK, STREET AND GUTTER IMPROVMENTS AND STREET LIGHTS ALONG THE EAST SIDE OF MADISON AVENUE FROM 29<sup>TH</sup> STREET NORTH TO SEVEN LAKES DRIVE**

**WHEREAS**, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That revenues in the amount of \$90,000 from a State Safe Routes to School Grant in the Transportation Fund 211 are available for appropriation. Revenues in the total amount of \$90,000 are hereby appropriated for sidewalk and street improvements and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Transportation Fund 211**

<b>Revenues</b>		
211-23-232-1701-32100-TS1202	State Grant	90,000
<b>Total Revenue</b>		<b>90,000</b>
 <b>Appropriations</b>		
211-23-232-1701-49360-TS1202	Construction	90,000
<b>Total Appropriations</b>		<b>90,000</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

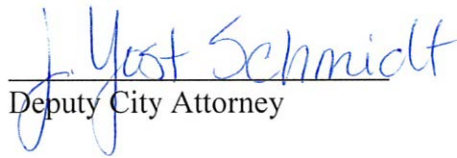
ADOPTED this 16<sup>th</sup> day of April, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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



**CITY OF LOVELAND**  
 DEVELOPMENT SERVICES DEPARTMENT  
 Civic Center • 500 East 3<sup>rd</sup> Street • Loveland, Colorado 80537  
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

**AGENDA ITEM:** 4  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Greg George, Development Services Director  
**PRESENTER:** Noreen Smyth, Current Planning

**TITLE:**

An Ordinance Repealing and reenacting Chapter 18.05, repealing Section 16.16.070, and Enacting a New Chapter 16.18 Regarding Public Notice Requirements for Land Use and Zoning Matters

**RECOMMENDED CITY COUNCIL ACTION:**

Move to adopt the ordinance as recommended.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adoption a motion continuing the item to a future Council meeting

**DESCRIPTION:**

A legislative action to consider the second reading of an ordinance to approve a staff-initiated text amendment to the Subdivision and Zoning Codes to modify requirements related to provisions for public notices. The notice requirements for oil and gas development will be established in a separate amendment, which is scheduled for Planning Commission on April 22<sup>nd</sup> and Council on May 21<sup>st</sup>. City Council approved this ordinance unanimously on April 2, 2013.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible


**SUMMARY:**

This item proposes a text amendment to the public notice sections of Title 16, the Subdivision Code, and Title 18, the Zoning Code. This amendment was pursued in response to the challenge that development applicants have experienced meeting the Code's lake front mailed

notice requirements. The amendment scales back the lake front notice requirements, simplifies the method for measuring mailed notice distances, clarifies the notification requirement through a reorganization of text, and provides for expanded notice of properties fronting golf courses and parks. The amendment also provides allowance for the Director of Development Services to provide notice to property owners who may be affected by such a decision, in addition to those owners otherwise required to receive notice.

The first reading of the ordinance took place at the Council meeting on April 2, at which time Council members voted unanimously to approve the ordinance as part of the consent agenda.

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**REVIEWED BY CITY MANAGER:** 

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**LIST OF EXHIBITS:**

- Ordinance
- Staff memorandum

**FIRST READING** April 2, 2013

**SECOND READING** April 16, 2013

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 18.05, REPEALING SECTION 16.16.070, AND ENACTING A NEW CHAPTER 16.18 REGARDING PUBLIC NOTICE REQUIREMENTS FOR LAND USE AND ZONING MATTERS**

**WHEREAS**, Chapter 18.05 of the Loveland Municipal Code sets forth standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within Title 18; and

**WHEREAS**, Section 16.16.070 sets forth provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within Title 16; and

**WHEREAS**, the standards set forth in Chapter 18.05 include specific provisions applicable to notice for lakefront properties and that have created challenges for development applicants that warrant amendment to clarify such situations apply similar standards for properties fronting parks or golf courses in addition to lakes; and

**WHEREAS**, the amendments to Chapter 18.05 are also intended to simplify the method of measuring mailed notice distance, clarify requirements through a reorganization of the text, and require notice for director decisions and applications that have not previously been included in the public notice sections; and

**WHEREAS**, the creation of a new Chapter 16.18 is intended to enact consistent public notice standards applicable to subdivision decisions that track the provisions contained in the reenacted Chapter 18.05; and

**WHEREAS**, the new proposed Chapters 18.05 and 16.18 have been reviewed by the Title 18 Committee, by the Planning Commission at a public hearing, and recommended to Council for adoption.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That Chapter 18.05 of the Loveland Municipal Code is hereby repealed and reenacted to read as follows:

**Chapter 18.05**

**PUBLIC NOTICE REQUIREMENTS**

**Sections:**

- 18.05.010 Purpose.**
- 18.05.020 Neighborhood Meetings.**
- 18.05.030 Mailed Notice for Neighborhood Meetings.**
- 18.05.040 Posted Notice for Neighborhood Meetings.**
- 18.05.050 Public Hearings.**
- 18.05.060 Mailed Notice for Public Hearings.**
- 18.05.070 Posted Notice for Public Hearings.**
- 18.05.080 Published Notice for Public Hearings.**
- 18.05.090 Staff Decisions.**
- 18.05.100 Computation of Time.**
- 18.05.110 Notice Cost.**
- 18.05.120 Applicant’s Certification.**
- 18.05.130 Failure to Provide Notice, Defective Notice.**
- 18.05.140 Continuation of Hearings.**
- 18.05.150 Notice for Appeals.**

**18.05.010 Purpose.**

This Chapter provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within Title 18.

**18.05.020 Neighborhood Meetings.**

Mailed and posted public notice is required for neighborhood meetings. It is the applicant’s responsibility to mail and post public notice for neighborhood meetings.

**18.05.030 Mailed Notice for Neighborhood Meetings.**

A. **Deadline for Mailing.** At least fifteen (15) days prior to a neighborhood meeting, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 18.05.030.C(1), at the address listed for each owner. An affidavit of the applicant’s compliance with the mailed notice requirements shall be provided to the City prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 18.05.120

B. **Content.** The written (mailed) notice for neighborhood meetings shall include the following:

1. Time, date, and location of the meeting.
2. The application(s) to be considered.
3. Project name.
4. Applicant’s name.
5. Vicinity map identifying the site within the neighborhood context.
6. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties,



include a statement that the full legal description is available at the Current Planning Division office.

7. Description of the proposal for the subject property, including existing and proposed zoning, if applicable.
8. Primary contact (applicant or applicant’s consultant) information, including name of individual, name of company, phone number and e-mail address.
9. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number and email address of the reviewing planner.

C. Requirements for Mailing.

1. Ownership List. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall within the distances provided in Table 18.05-1 and Sections 18.05.030.C (3) through (6), shall be submitted to the City’s Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.
2. Area of Notification. For all applications requiring written (mailed) public notice, the distances specified in Table 18.05-1 Mailed Notice Distance Requirements, shall be used to determine the area to which such notice shall be given, except as provided in Sections 18.05.030.C (3) through (6). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

<b>Table 18.05-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS</b>			
<b>Application Type</b>	<b>Application Size</b>		
	<b>Under 5 acres</b>	<b>5 – 50 acres</b>	<b>Greater than 50 acres</b>
<b>Annexation, Zoning</b>	1,200 ft.	1,200 ft.	1,200 ft.
<b>Comprehensive Plan Amendment</b>	See Section 6.0 of the Loveland Comprehensive Master Plan		
<b>Major Home Occupation</b>	All members of the neighborhood <i>as defined in Section 18.48.020</i>		
<b>PUD General Development Plan</b>	1,200 ft.	1,200 ft.	1,200 ft.
<b>PUD Preliminary Development Plan</b>	600 ft.	900 ft.	1,200 ft.
<b>Rezoning</b>	600 ft.	900 ft.	1,200 ft.
<b>Special Review</b>	600 ft.	900 ft.	1,200 ft.
<b>Variance</b>	200 ft.	200 ft.	200 ft.

3. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
4. Lake, golf course and park front notification.

- a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 18.05-1. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50 feet by undevelopable property such as open space tracts and outlots.
  - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
5. Reduction in Notification Area. All notification distances in Table 18.05-1 shall be reduced by fifty (50) percent, but shall not be less than three hundred (300) feet, for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty (80) percent of its boundary, to properties within the existing city limits of the City of Loveland.
  6. Expansion of Notification Area. The area of required notification may be expanded up to twice the distance specified in Table 18.05-1 if the Current Planning Manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.

**18.05.040 Posted Notice for Neighborhood Meetings.**

- A. Deadline for Posting. At least fifteen (15) days prior to a neighborhood meeting, the applicant shall post a notice on the subject property.
- B. Content. The posted notice for neighborhood meetings shall include the following:
  1. Time, date, and location of the meeting.
  2. The application(s) to be considered.
  3. Project name.
  4. City of Loveland Current Planning Division contact information, including the division phone number.
- C. Requirements for Posting.
  1. It shall be the applicant's responsibility to have the sign(s) created by a sign company.
  2. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full 15-day period leading up to the neighborhood meeting. The Current Planning Division shall provide the applicant with specifications for the posting location of the required signs.

3. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the City prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 18.05.120.

**18.05.050 Public Hearings.**

Mailed, posted and published public notice is required for public hearings. It is the applicant's responsibility to mail and post public notice for public hearings; the City is responsible to publish notice for public hearings.

**18.05.060 Mailed Notice for Public Hearings.**

A. **Deadline for Mailing.** At least fifteen (15) days prior to a public hearing, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 18.05.060.C(1), at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the City prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 18.05.120.

B. **Content.** The mailed notice for public hearings shall include the following:

1. Time, date, and location of the hearing.
2. The application(s) to be considered.
3. Project name.
4. Applicant's name.
5. Vicinity map identifying the site within the neighborhood context.
6. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Current Planning Division office.
7. Description of the proposal for the subject property.
8. Primary contact (applicant or applicant's consultant) information, including name of individual; name of company; phone number; e-mail address.
9. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number and email address of the reviewing planner.
10. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the City's Current Planning Division.

C. **Requirements for Mailing.**

1. **Ownership List.** A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall within the distances provided in Table 18.05-2 and Sections 18.05.060.C (3) through (7), shall be submitted to the City's Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.
2. **Area of Notification.** For all applications requiring written (mailed) public notice, the distances specified in Table 18.05-2 Mailed Notice Distance Requirements, shall be used to determine the area to which such notice shall be given, except as provided in

Sections 18.05.060.C (3) through (7). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

<b>Table 18.05-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS</b>			
<b>Application Type</b>	<b>Application Size</b>		
	<b>Under 5 acres</b>	<b>5 – 50 acres</b>	<b>Greater than 50 acres</b>
<b>Annexation, Zoning</b>	1,200 ft.	1,200 ft.	1,200 ft.
<b>Be District Developments*</b>	300 ft.	300 ft.	300 ft.
<b>Comprehensive Plan Amendment</b>	See Section 6.0 of the Loveland Comprehensive Master Plan		
<b>Height Exception</b>	300 ft.	300 ft.	300 ft.
<b>PUD General Development Plan</b>	1,200 ft.	1,200 ft.	1,200 ft.
<b>PUD Preliminary Development Plan</b>	600 ft.	900 ft.	1,200 ft.
<b>Rezoning</b>	600 ft.	900 ft.	1,200 ft.
<b>Special Review – for type 3 permit</b>	600 ft.	900 ft.	1,200 ft.
<b>Variance</b>	200 ft.	200 ft.	200 ft.

\* For Be District developments requiring approval of Planning Commission as indicated in 18.24.050

3. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
4. Lake, golf course and park front notification.
  - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 18.05-2. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50 feet by undevelopable property such as open space tracts and outlots.
  - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
5. Reduction in Notification Area. All notification distances in Table 18.05-2 shall be reduced by fifty (50) percent, but shall not be less than three hundred (300) feet, for

infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty (80) percent of its boundary, to properties within the existing city limits of the City of Loveland.

6. Expansion of Notification Area. The area of required notification may be expanded up to twice the distance specified in Table 18.05-2 if the Current Planning Manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the public hearing.
7. Mineral Estate Owners. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least thirty (30) days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act (C.R.S. § 24-65.5-101 et seq.)(the “act”). An affidavit of the applicant’s compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and shall meet the provisions of the act.

**18.05.070 Posted Notice for Public Hearings.**

A. Deadline for Posting. At least fifteen (15) days prior to a public hearing, the applicant shall post a notice on the subject property.

B. Content. The posted notice for public hearings shall include the following:

1. Time, date, and location of the hearing.
2. The application(s) to be considered.
3. Project name.
4. City of Loveland Current Planning Division contact information, including the division phone number.

C. Requirements for Posting.

1. It shall be the applicant’s responsibility to have the sign(s) created by a sign company.
2. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant’s responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full 15-day period leading up to the public hearing. The Current Planning Division shall provide the applicant specifications for the location of signs required for the site.
3. An affidavit of the applicant’s compliance with the posted notice requirements shall be provided to the City prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 18.05.120.

**18.05.080 Published Notice for Public Hearings.**

A. Deadline for Publishing. Notice shall be published by the current planning division at least fifteen (15) days prior to a public hearing.

- B. Content. The published notice for public hearings shall include the following:
1. Time, date, and location of the hearing.
  2. The application(s) to be considered.
  3. Project name.
  4. Applicant's name.
  5. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Current Planning Division office.
  6. Description of the proposal for the subject property.
  7. City of Loveland Current Planning Division contact information, including the division phone number.
  8. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the City's Current Planning Division.

C. Requirements for Publishing. Notice of the public hearing shall be published one (1) time in a newspaper of general circulation.

#### **18.05.090 Staff Decisions.**

A. Required Notice. Mailed or posted public notice is required for certain staff decisions relating to special review and major home occupation applications. Refer to Code Section 18.40 for requirements applicable to special review application and Section 18.48.020 for requirements applicable to major home occupation application.

B. Optional Notice. Notice of staff decisions authorized under this Title but not otherwise subject to specific notice requirements may be required by the Current Planning Manager when the following circumstances exist:

1. A discretionary decision has been made by staff concerning the application of one or more regulations contained in this Title; and
2. The decision may impact the use or enjoyment of property within the vicinity of the subject site; and
3. There is reason to believe that there may be parties of interest residing or owning property within the vicinity of the affected property.

C. Type and Distance of Optional Notice. Notice type(s) and distance for optional notice shall be at the discretion of the Current Planning Manager. In no instance shall mailed notice exceed 300 feet from the boundary of the subject property.

#### **18.05.100 Computation of Time.**

In computing any period of time prescribed for the purpose of giving notice under the provisions of this Chapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.

**18.05.110 Notice Cost.**

All costs for providing public notice as required by this Chapter shall be the responsibility of the applicant except for Published Notice.

**18.05.120 Applicant’s Certification.**

Prior to the neighborhood meeting or public hearing, the applicant shall provide the Current Planning Division with an affidavit certifying that the requirements as to the applicant’s responsibility for the applicable forms of notice under this Chapter have been met. The Current Planning Division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant in Sections 18.05.020 and 18.05.050.

**18.05.130 Failure to Provide Notice, Defective Notice.**

Failure to provide the required affidavit, or evidence of a defective mailing list prior to a neighborhood meeting or public hearing, shall result in termination of the review process until proper notice is provided, meeting all applicable provisions herein.

**18.05.140 Continuation of Hearings and Neighborhood Meetings.**

A hearing or neighborhood meeting for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this Chapter, provided that the date, time, and location of the continued hearing or meeting is announced to the public at the time of continuance.

**18.05.150 Notice for Appeals.**

Any final decision under this Title that is appealed is subject to the same notice standards as the original notice.

**Section 2.** That Section 16.16.070 of the Loveland Municipal Code is hereby repealed and a new Chapter 16.18 of the Loveland Municipal Code is hereby enacted lieu thereof to read as follows:

**16.18**

**PUBLIC NOTICE REQUIREMENTS**

**Sections:**

- 16.18.010 Purpose.**
- 16.18.020 Neighborhood meetings.**
- 16.18.030 Public hearings.**
- 16.18.040 Staff decisions (minor subdivisions).**
- 16.18.050 Additional notice requirements.**
- 16.18.060 Notice for appeals.**

**16.18.010 Purpose.**

A. Purpose. This section provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within Title 16.

- B. Applicability. Public notice shall not be required for Final Plats for Major Subdivisions, Boundary Line Adjustments, Lot Mergers, or Simple Plats.

**16.18.020 Neighborhood meetings.**

- A. Applicability. Mailed and posted public notice is required for neighborhood meetings. It is the applicant's responsibility to mail and post public notice for neighborhood meetings.
- B. Mailed Notice for Neighborhood Meetings.
1. Deadline for Mailing. At least fifteen (15) days prior to a neighborhood meeting, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.020(B)(3)(a) at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the City prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 16.18.050(C).
  2. Content. The written (mailed) notice for neighborhood meetings shall include the following:
    - a. Time, date, and location of the meeting.
    - b. The application(s) to be considered.
    - c. Project name.
    - d. Applicant's name.
    - e. Vicinity map identifying the site within the neighborhood context.
    - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Civic Center.
    - g. Description of the proposal for the subject property.
    - h. Primary contact (applicant or applicant's consultant) information, including name of individual; name of company; phone number; e-mail address.
    - i. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number and email address of the reviewing planner.
  3. Requirements for Mailing.
    - a. Ownership List. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-1 and subsections (c) through (f) of this subsection 16.18.020.B.(3) shall be submitted to the City's Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.
    - b. Area of Notification. The distances specified in Table 16.18-1 Mailed Notice Distance Requirements for Neighborhood Meetings, shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through f of this subsection 16.18.020(B)(3). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.



<b>Table 16.18-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS</b>			
<b>Application Type</b>	<b>Application Size</b>		
	<b>Under 5 acres</b>	<b>5 – 50 acres</b>	<b>Greater than 50 acres</b>
<b>Preliminary Plat</b>	600 ft.	900 ft.	1,200 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
  - d. Lake, golf course and park front notification.
    - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-1. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50 feet by undevelopable property such as open space tracts and outlots.
    - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
  - e. Reduction in Notification Area. All notification distances in Table 16.18-1 shall be reduced by fifty (50) percent, but shall not be less than four hundred (400) feet, for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty (80) percent of its boundary, to properties within the existing city limits of the City of Loveland.
  - f. Expansion of Notification Area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-1 if the Current Planning Manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
- C. Posted Notice for Neighborhood Meetings.
- 1. Deadline for Posting. At least fifteen (15) days prior to a neighborhood meeting, the applicant shall post a notice on the subject property.
  - 2. Content. The posted notice for neighborhood meetings shall include the following:
    - a. Time, date, and location of the meeting.
    - b. The application(s) to be considered.
    - c. Project name.

- d. City of Loveland Current Planning Division contact information, including the division phone number.
- 3. Requirements for Posting.
  - a. It shall be the applicant's responsibility to have the sign(s) created at a sign company.
  - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full 15-day period leading up to the neighborhood meeting. The Current Planning Division shall provide the applicant specifications for the location of signs required for the site.
  - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the City prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 16.18.050(C).

**16.18.030 Public hearings.**

- A. Applicability. Mailed, posted and published public notice is required for public hearings. It is the applicant's responsibility to mail and post public notice for public hearings and staff's responsibility to publish notice for public hearings.
- B. Mailed Notice for Public Hearings.
  - 1. Deadline for Mailing. At least fifteen (15) days prior to a public hearing, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.030(B)(3)(a) at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the City prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 16.18.050(C).
  - 2. Content. The written (mailed) notice for public hearings shall include the following:
    - a. Time, date, and location of the hearing.
    - b. The application(s) to be considered.
    - c. Project name.
    - d. Applicant's name.
    - e. Vicinity map identifying the site within the neighborhood context.
    - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at City Hall.
    - g. Description of the proposal for the subject property.
    - h. Primary contact (applicant or applicant's consultant) information, including name of individual; name of company; phone number; e-mail address.
    - i. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number and email address of the reviewing planner.
    - j. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the City's Current Planning Division.
  - 3. Requirements for Mailing.

- a. **Ownership List.** A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-2 and subsections (c) through (g) of this subsection 16.18.030..B(3) shall be submitted to the City’s Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.
- b. **Area of Notification.** The distances specified in Table 16.18-2 Mailed Notice Distance Requirements for Public Hearings, shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through g of this subsection 16.18.030(B)(3). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

<b>Table 16.18-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS</b>			
<b>Application Type</b>	<b>Application Size</b>		
	<b>Under 5 acres</b>	<b>5 – 50 acres</b>	<b>Greater than 50 acres</b>
<b>Preliminary Plat</b>	600 ft.	900 ft.	1,200 ft.
<b>Obsolete Subdivisions</b>	See Chapter 16.36		
<b>Vacation (of easements or rights-of-way)</b>	See Chapter 16.36		

- c. **Public rights-of-way and streets.** Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. **Lake, golf course and park front notification.**
  - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-2. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50 feet by undevelopable property such as open space tracts and outlots.
  - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
- e. **Reduction in Notification Area.** All notification distances in Table 16.18-2 shall be reduced by fifty (50) percent, but shall not be less than four hundred (400) feet, for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at

least eighty (80) percent of its boundary, to properties within the existing city limits of the City of Loveland.

- f. Expansion of Notification Area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-2 if the Current Planning Manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the public hearing.
  - g. Mineral Estate Owners. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least thirty (30) days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act (C.R.S. § 24-65.5-101 et seq.) (the “act”). An affidavit of the applicant’s compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and shall meet the provisions of the act.
- C. Posted Notice for Public Hearings.
1. Deadline for Posting. At least fifteen (15) days prior to a public hearing, the applicant shall post a notice on the subject property.
  2. Content. The posted notice for public hearings shall include the following:
    - a. Time, date, and location of the hearing.
    - b. The application(s) to be considered.
    - c. Project name.
    - d. City of Loveland Current Planning Division contact information, including the division phone number.
  3. Requirements for Posting.
    - a. It shall be the applicant’s responsibility to have the sign(s) created at a sign company.
    - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant’s responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full 15-day period leading up to the public hearing. The Current Planning Division shall provide the applicant specifications for the location of signs required for the site.
    - c. An affidavit of the applicant’s compliance with the posted notice requirements shall be provided to the City prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 16.18.050(C).
- D. Published Notice for Public Hearings.
1. Deadline for Publishing. Notice shall be published by the Current Planning Division at least fifteen (15) days prior to a public hearing.
  2. Content. The published notice for public hearings shall include the following:
    - a. Time, date, and location of the hearing.
    - b. The application(s) to be considered.
    - c. Project name.
    - d. Applicant’s name.
    - e. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral

estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Civic Center.

- f. Description of the proposal for the subject property.
  - g. City of Loveland Current Planning Division contact information, including the division phone number.
  - h. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the City's Current Planning Division.
3. Requirements for Publishing. Notice of the public hearing shall be published one (1) time in a newspaper of general circulation.

**16.18.040 Staff decisions (minor subdivisions).**

- A. Applicability. Mailed and posted public notice is required for staff decisions. It is the applicant's responsibility to mail and post public notice for staff decisions.
- B. Mailed Notice for Staff Decisions.
  - 1. Deadline for Mailing. Within fifteen (15) days after the preliminary approval of a minor plat of subdivision, the planning division shall formulate a preliminary written statement of findings and the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.040(B)(3)(a) at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the City prior to final approval of the minor subdivision and shall satisfy the requirements of Section 16.18.050(C).
  - 2. Content. The written (mailed) notice for staff decisions shall include the following:
    - a. Date of the decision.
    - b. The application(s) to be considered.
    - c. Project name.
    - d. Applicant's name.
    - e. Vicinity map identifying the site within the neighborhood context.
    - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Civic Center.
    - g. Description of the proposal for the subject property.
    - h. Primary contact (applicant or applicant's consultant) information, including name of individual; name of company; phone number; e-mail address.
    - i. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number and email address of the reviewing planner.
    - j. A statement that interested parties may submit an appeal in accordance with the requirements of Chapter 18.80 of this Code and the date of the ten (10) day deadline for filing an appeal.
  - 3. Requirements for Mailing.
    - a. Ownership List. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within

the distances provided in Table 16.18-3 and subsections c through f of this subsection 16.18.040(B)(3) shall be submitted to the City’s Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.

- b. Area of Notification. The distances specified in Table 16.18-3 Mailed Notice Distance Requirements for Staff Decisions, shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through f of this subsection 16.18.040(B)(3). All properties that fall wholly or partially within the distance, as measured from the perimeter of the subject property, shall be included.

<b>Table 16.18-3 MAILED NOTICE DISTANCE REQUIREMENTS FOR STAFF DECISIONS</b>			
<b>Application Type</b>	<b>Application Size</b>		
	<b>Under 5 acres</b>	<b>5 – 50 acres</b>	<b>Greater than 50 acres</b>
<b>Minor Subdivision</b>	300 ft.	300 ft.	300 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course and park front notification.
  - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-3. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50 feet by undevelopable property such as open space tracts and outlots.
  - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the neighborhood meeting.
- e. Reduction in Notification Area. All notification distances in Table 16.18-3 shall be reduced by fifty (50) percent, but shall not be less than four hundred (400) feet for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty (80) percent of its boundary, to properties within the existing city limits of the City of Loveland.
- f. Expansion of Notification Area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-3 if the Current Planning Manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The

applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty one (21) days prior to the staff decision.

C. Posted Notice for Staff Decisions.

1. **Deadline for Posting.** The applicant shall post notice on the subject property of the staff decision within fifteen (15) days after the preliminary staff decision and keep it posted for the duration of the ten (10) day appeal period.
2. **Content.** The posted notice for staff decisions shall include the following:
  - a. Date of the decision.
  - b. The application(s) to be considered.
  - c. Project name.
  - d. City of Loveland Current Planning Division contact information, including the division phone number.
3. **Requirements for Posting.**
  - a. It shall be the applicant's responsibility to have the sign(s) created at a sign company.
  - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full 10-day appeal period. The Current Planning Division shall provide the applicant specifications for the location of signs required for the site.
  - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the City prior to the final approval for which the notice was given and shall meet the requirements of Section 16.18.050(C).

D. Optional Notice.

1. Notice of staff decisions authorized under this Title but not otherwise subject to specific notice requirements may be required by the Current Planning Manager when the following circumstances exist:
  - a. A discretionary decision has been made by staff concerning the application of one or more regulations contained in this Title; and
  - b. The decision may impact the use or enjoyment of property within the vicinity of the subject site; and
  - c. There is reason to believe that there may be parties of interest residing or owning property within the vicinity of the affected property.
2. **Type and Distance of Optional Notice.** Notice type(s) and distance for optional notice shall be at the discretion of the Current Planning Manager. In no instance shall mailed notice exceed 300 feet from the boundary of the subject property.

**16.18.050 Additional notice requirements.**

- A. **Computation of Time.** In computing any period of time prescribed for the purpose of giving notice under this Chapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.
- B. **Notice Cost.** All costs for providing public notice as required by this Chapter shall be the responsibility of the applicant except for the published notice.

- C. Applicant’s Certification. Prior to the neighborhood meeting, public hearing, or final staff decision, the applicant shall provide the Current Planning Division with an affidavit certifying that the requirements as to the applicant’s responsibility for the applicable forms of notice under this Chapter have been met. The Current Planning Division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant.
- D. Failure to Provide Notice, Defective Notice. Failure to provide the required affidavit or evidence of a defective mailing list prior to a neighborhood meeting or public hearing shall result in termination of the review process until proper notice is provided meeting all applicable provisions under this section.
- E. Continuation of Hearings and Neighborhood Meetings. A hearing or neighborhood meeting for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this Chapter, provided that the date, time, and location of the continued hearing or meeting is announced to the public at the time of continuance.

**16.18.060 Notice for appeals.**

Any final decision under this Title that is appealed is subject to the same notice standards as the original notice.

**Section 3.** That City Council hereby further amends Titles 18 and 16 to correct cross-references to sections of Chapters 18.05 and 16.18 included in other Sections of Titles 18 and 16 so they refer to the corresponding provisions as renumbered in the foregoing modification and authorizes the City Clerk to make conforming changes to Titles 16 and 18.

**Section 4.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 5.** This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 16<sup>th</sup> day of April, 2013.

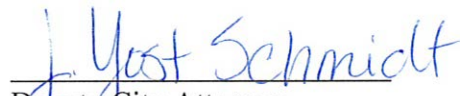
\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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



APPROVED AS TO FORM:

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Deputy City Attorney



**Development Services  
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537  
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620  
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**M E M O R A N D U M**

**TO:** City Council

**FROM:** Noreen Smyth, Current Planning Division

**DATE:** April 16, 2013

**SUBJECT:** Municipal Code Text Amendment Concerning Public Notice-2<sup>nd</sup> Reading

**I. EXHIBITS**

None.

**II. KEY ISSUES**

Staff believes that all key issues regarding the text amendment have been resolved through the Title 18 Committee, Planning Commission and staff review processes. The Planning Commission unanimously recommends approval of the text amendment as proposed. The City Council voted unanimously to approve the first reading of the ordinance as part of the consent agenda at their meeting on April 2.

**III. BACKGROUND**

The amendment to Title 16, the Subdivision Code, and Title 18, the Zoning Code, concerns the city's public notice requirements as related to neighborhood meetings, public hearings and other city functions that require an official notice to be provided to property owners or the public at large. The notice types required by code, depending on the matter under review, are mailed letters, signs posted on a property, and/or a newspaper posting.

This amendment was initiated by staff in response to challenges applicants have experienced in meeting the code's lake front mailed notice requirement. This requirement, which had been enacted through a code amendment approximately three years ago, required all owners of lake front properties on the four largest lakes in the city to be notified by mail of a public hearing, neighborhood meeting or director's decision whenever the lake fell within the standard notice distance requirement. Since this provision was adopted, applicants impacted by it have felt that

the number of property owners to whom they had to mail notification was too large. Also, some recipients of such notices complained that they had received notice for a project that had no relationship to their property. The provision resulted in a large number of mailed notices being sent out for even minor, inconsequential development proposals near the lakes.

Through this amendment process, staff pursued modification of that provision to allow for a rational nexus between the nature of a development application under review near a lake and mailed notice for the lake front property owners who may be impacted. At the same time, a variety of other improvements to public notice sections of the code were pursued. These other changes center on simplifying the method of measuring mailed notice distance, reorganizing and clarifying the chapter, and allowing for public notice in certain situations for which the code is now silent or vague.

#### **IV. AMENDMENT CONTENT:**

The proposed changes to the public notice provisions in Chapters 18.05 and 16.18 (which replaces Section 16.16.070) include a significant amount of reorganization, in addition to substantive changes that are summarized below. Therefore, the attached ordinance, if approved, will represent complete replacements of the respective sections in Titles 16 and 18. The most substantive include the following:

1. Application of an expanded mailed notice distance to all lakes in the city
2. Application of the lake front expanded mailed notice distance to properties on golf courses and public parks
3. Application of the expanded mailed notice distance only when the subject property fronts a lake/park/golf course
4. The proposed expanded mailed notice distance for lake/park/golf course fronting properties is twice the standard notice distance, allowing the Current Planning Manager discretion to extend it to full lake/park/golf course notification under stated conditions
5. Greater specification on how to measure the notice distance (from boundary of subject property instead of a "radius"), making it easier to measure
6. Inclusion of public streets/rights-of-way when determining notice distance, making it easier to measure
7. Expanded standard mailed notice distances to account for the inclusion of public streets/rights-of-way in the notice distance
8. Inclusion of public notice standards for certain staff decisions, BE Zoning District developments, and height exceptions, to clarify application of notice requirements to these development applications
9. Re-organization of the public notice provisions by type of meeting or action (neighborhood meetings, public hearings, staff decisions) instead of type of notice, to make it easier for applicants to identify the notice provisions applicable to their applications

**V. TITLE 18 COMMITTEE, PLANNING COMMISSION & CITY COUNCIL REVIEW**

The draft amendment underwent review by the Title 18 Committee at a series of meetings in the latter half of 2012 and by the Planning Commission through a study session and a public hearing. Numerous improvements to the draft amendment have followed as a result of Title 18 Committee and Planning Commission input. Both the Committee and the Commission unanimously recommended approval of the amendment.

The first reading of the ordinance took place at the Council meeting on April 2, at which time Council members voted unanimously to approve the ordinance as part of the consent agenda.

**VI. FURTHER AMENDMENTS**

Other chapters within both Titles 16 and 18 will require updates to section number references where the public notice chapter is referenced. These corrections to section numbers are authorized by the attached draft ordinance. The notice requirements for oil and gas development will be established in a separate amendment, which is scheduled for Planning Commission on April 22nd and Council on May 21st.

**RECOMMENDATION**

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council adopt the ordinance on second reading.



**CITY OF LOVELAND**  
 DEVELOPMENT SERVICES DEPARTMENT  
 Civic Center • 500 East 3<sup>rd</sup> Street • Loveland, Colorado 80537  
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

**AGENDA ITEM:** 5  
**MEETING DATE:** 4/16/2012  
**TO:** City Council  
**FROM:** Greg George, Development Services Director  
**PRESENTER:** Noreen Smyth, Current Planning

**TITLE:**

- A. An Ordinance Amending Section 18.04.040 Of The Loveland Municipal Code, The Same Relating To Zoning Regulations For Certain Property Located In Lots 2 And 3, Block 1, Koldeway Industrial Second Subdivision, City Of Loveland, Larimer County, Colorado; And
- B. An Ordinance Vacating A Public Right-Of-Way (Alley) Adjacent To Lots 1, 2, And 3, Block 1, Koldeway Industrial Second Subdivision, City Of Loveland, Larimer County, Colorado

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and motion to adopt the ordinance as recommended

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adoption a motion continuing the item to a future Council meeting

**DESCRIPTION:**

A quasi-judicial action to adopt an ordinance on first reading rezoning Lots 2 and 3, Block 1, of the Koldeway Second Industrial Subdivision from I-Developing Industrial to B-Developing Business and amending a Development Agreement and a legislative action to adopt an ordinance on first reading vacating a public right-of-way. The 3.12 acre property is located on the east side of Denver Avenue, one lot south of 11<sup>th</sup> Street. The owner of the property is Loveland Midtown Development, Inc.

**BUDGET IMPACT:**

- Positive
- Negative
- Neutral or negligible

**SUMMARY:**

This item proposes a rezoning of two lots in the Koldeway Second Industrial Subdivision. The subject property is zoned I-Developing Industrial and is currently vacant. The owner is in discussions with a developer of assisted living facilities who is interested in purchasing the property for development of such a facility. The current owner is pursuing the zoning change to B-Developing Business, in conjunction with amending the Development Agreement applicable to the subdivision, to allow the proposed use. A request to vacate an adjacent right-of-way to change the existing drive from a public alley to a private drive accompanies the request. The applicant will not need to comply with the ACF trip generation standard for an alley with the vacation of the right-of-way.

If the rezoning is approved, the applicant has stated that the property will be sold to the assisted living developer, who would then submit a site development plan and other necessary applications in pursuit of approval. However, any use allowed in the B zone by the Development Agreement could potentially be established on the property if the rezoning is approved.

The Planning Commission voted unanimously in favor of the proposal at their public hearing on March 11. Staff is supportive of the requested B zoning and amendment to the Development Agreement because it would be consistent with the B-zoned lot to the north of the subject property and the uses allowed under the B zoning are more compatible with the adjacent residential neighborhood to the west. Staff is also supportive of the vacation because the right-of-way serves no public benefit.

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**REVIEWED BY CITY MANAGER:**

*William H. Cabell*

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**LIST OF EXHIBITS:**

- Rezoning Exhibit
- Vacation Exhibit
- Amended Development Agreement
- Existing Development Agreement
- Staff memorandum

FIRST READING: April 16, 2013

SECOND READING: \_\_\_\_\_

**ORDINANCE NO.**

**AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN LOTS 2 AND 3, BLOCK 1, KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That Section 18.04.040 of the Loveland Municipal Code and the map referred to therein, said map being part of said Municipal Code and showing the boundaries of the district specified, shall be and the same is hereby amended in the following particulars, to wit:

That the territory located within the Koldeway Industrial Second Subdivision, City of Loveland, Larimer County, Colorado, and more particularly described as:

**Lots 2 and 3, Block 1, Koldeway Industrial Second Subdivision, to the City of Loveland, County of Larimer, State of Colorado**

Which territory is now included within the boundaries designated I – Developing Industrial, shall be included within the boundaries of the district designated as follows:

**"B – DEVELOPING BUSINESS"**

Said described parcel of land contains 135,711 sq. ft., or 3.12 acres, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

**Section 2.** That the Third Amended and Restated Development Agreement attached hereto as **Exhibit A** and incorporated herein is hereby approved (the "Development Agreement"). The City Manager is authorized, following consultation with the City Attorney, to approve changes to the form of the Development Agreement provided that such changes do not impair the intended purpose of the Agreement. The City Manager and the City Clerk are authorized and directed to execute the Agreement on behalf of the City of Loveland.

**Section 3.** That development of the property as **B - DEVELOPING BUSINESS** shall be subject to all applicable zoning regulations for the City of Loveland, except where they conflict with the Development Agreement.

**Section 4.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

**Section 5.** That the City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this \_\_\_\_ day of May, 2013.

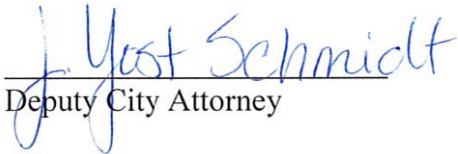
ATTEST:

CITY OF LOVELAND, COLORADO:

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

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

  
Deputy City Attorney



**EXHIBIT A**

**THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS**

**THIS THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (the “Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2013, by and between the **CITY OF LOVELAND, COLORADO**, a home rule municipality, (the “City”), and **LOVELAND MIDTOWN DEVELOPMENT, INC.**, a Colorado corporation (the “Developer”).

**RECITALS**

**WHEREAS**, the City, Art Koldeway and Agnes Koldeway (“Koldeways”), and North Boise, LLC, a Colorado limited liability company (“North Boise”) entered into a Development Agreement dated July 15, 2004 and recorded December 6, 2004 at Reception No. 2004-0116915 of the Larimer County, Colorado records (“the Development Agreement”); and

**WHEREAS**, the Development Agreement governs the development of the real property (“the Property”) which has been platted as Koldeway Industrial Second Subdivision (“the Second Subdivision”), Koldeway Industrial Third Subdivision (“the Third Subdivision”), and Koldeway Industrial Fourth Subdivision (“the Fourth Subdivision”); and

**WHEREAS**, at the time the Development Agreement was made, Koldeways were the owners of the Property and North Boise was the developer of the Property; and

**WHEREAS**, the Koldeways are no longer the owners of any of the Property, and

**WHEREAS**, North Boise has assigned its right to develop the Property to Loveland Midtown Development, Inc., (the “Developer”); and

**WHEREAS**, the Developer and the City entered into an Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated December 8, 2005, and recorded at Reception No. 2005-0109107 of the Larimer County Colorado records (“the First Amended Development Agreement”); and

**WHEREAS**, the Developer and the City entered into a Second Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated October 23, 2006, and recorded at Reception No. 2006-0084194 of the Larimer County Colorado records (“the Second Amended Development Agreement”); and

**WHEREAS**, certain lots and blocks of the Property have subsequently been conveyed to other owners, and are no longer under the control of the Developer; and

**WHEREAS** notwithstanding the conveyance of certain lots and blocks, the Developer continues to be solely responsible for installation of all required public improvements required for development of the Property, as shown on the approved PICP and in compliance with other provisions of the Development Agreement, the First Amended Development Agreement, and the Second Amended Development Agreement; and

**WHEREAS**, the parties hereto desire to amend the First Amended Development Agreement and Second Amended Development Agreement as it pertains to property currently owned by the Developer and described as Lots 2 and 3, Block 1, Koldeway Industrial Second Subdivision (“the Developer’s Property”), to allow the construction of a long-term care facility; and

**WHEREAS**, the City and Developer agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the City in connection with the development of the Developer’s Property, and that such matters are necessary to protect, promote and enhance the public welfare.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

**AGREEMENT**

1. Section II.B.1 of the First and Second Amended Development Agreements is hereby further amended so that subsection (r), added by the Second Amended Development Agreement, reads as follows:

II. Special Conditions for the Second and Fourth Subdivisions.

....

B. Allowable uses in the B-Zone:

1. Notwithstanding any provision of Chapter 18.28 of the Municipal Code for the B-Zone to the contrary, the uses permitted by right on lots described in Exhibit E shall be limited to:

...

r. Long-term care facility (Note: this use shall only be allowed on Lots 1, 2, and 3, Block 1, Koldeway Industrial Second Subdivision).

2. All other terms of the First Amended Development Agreement and Second Amended Development Agreement shall remain the same.

**IN WITNESS WHEREOF**, the parties have caused this THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS to be executed as of the date first written above.

**THE CITY OF LOVELAND, COLORADO**

By: \_\_\_\_\_  
William D. Cahill, City Manager

Date: \_\_\_\_\_, 2013





**FIRST READING:** April 16, 2013

**SECOND READING:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE VACATING A PUBLIC RIGHT-OF-WAY (ALLEY) ADJACENT TO LOTS 1, 2, AND 3, BLOCK 1, KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO**

**WHEREAS**, the City Council, at a regularly scheduled meeting, considered the vacation the public right-of-way (alley) described below, located adjacent to west and north sides of Lots 1, 2 and 3, Block 1 of the Koldeway Industrial Second Subdivision, City of Loveland, Larimer County, Colorado; and

**WHEREAS**, the City Council finds and determines that no land adjoining the right-of-way to be vacated will be left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and

**WHEREAS**, the City Council finds and determines that portion of the public right-of-way to be vacated is no longer necessary for the public use and convenience; and

**WHEREAS**, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the public right of way to be vacated.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the City Council hereby adopts and makes the findings set forth above.

**Section 2.** That, based on the City Council’s findings described above, the following described portion of public right-of-way be and the same is hereby vacated:

**A parcel of land located in Section 18, Township 5 North, Range 68 West of the Sixth Principal Meridian, City of Loveland, Larimer County, Colorado, being the 20.00 foot wide alley adjacent to the West and North sides of Lots 1, 2, and 3 Block 1 in the Koldeway Industrial Second Subdivision according to the Final Plat recorded at Reception Number 20050008253 of Larimer County Records, more particularly described as Follows:**

**the West line of said Lots 1, 2, and 3 was assumed to bear South 00°04'17" East, according to the Final Plat of said Koldeway Second Subdivision, with all bearings contained herein relative thereto.**

**Beginning at a Point of a Curve on the North line of said Lot 1 at the Northwesternly corner of said Lot 1;**

**thence along the arc curve to the left, the radius point of which bears South 00°04'17" East, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears South 44°55'43" West a distance of 28.28 feet;**

**thence South 00°04'17" East, along the West lines of said Lots 1, 2, and 3, a distance of 511.65 feet to a point of curve;**

**thence along the arc of said to the right, having a central angle of 90°00'00" and a radius of 40.00 feet, an arc distance of 62.83 feet, the chord of said curve bears South 44°55'43" West a distance of 56.57 feet;**

**thence South 89°55'43" West, a distance of 172.56 feet to a point on a non-tangent curve on the Easterly right-of-way of Virgo Circle;**

**thence along the arc of said non tangent curve to the left, the radius point of which bears North 37°35'57" West, having a central angle of 20°28'25" and a radius of 76.00 feet, an arc distance of 27.16 feet, the chord of said curve bears North 42°09'52" East a distance of 27.01 feet;**

**thence North 89°55'43" East, a distance of 154.41 feet to a point of curve;**

**thence along the arc of said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 44°55'43" East a distance of 28.28 feet;**

**thence North 00°04'17" West, a distance of 511.65 feet to a point of curve**

**thence along said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 45°04'17" West a distance of 28.28 feet, to a point on the Southerly right-of-way of East 11th Street;**

**thence North 89°55'43" East, along said Southerly right-of-way line, a distance of 60.00 feet to the POINT OF BEGINNING.**

**Containing 14,993.38 square feet or 0.3442 acres, more or less.**

**Prepared October 30, 2012, by Michael J. DeDecker PLS,  
for and on behalf of CDS Engineering Corp. 165 2nd Street SW,  
Loveland Co. 80537**

**Section 3.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 4.** This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this \_\_\_\_ day of May, 2013.

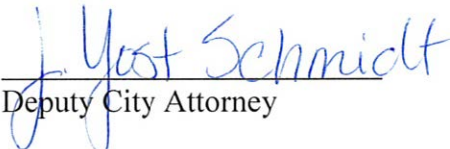
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Cecil A. Gutierrez, Mayor

**ATTEST:**

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

APPROVED AS TO FORM:

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

KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
ZONED B - DEVELOPING BUSINESS

EAST 11TH STREET

**(2) LOTS TO BE REZONED**  
135,711 SF / 3.12 AC.  
EXISTING ZONING  
(I - DEVELOPING INDUSTRIAL)  
PROPOSED ZONING  
(B - DEVELOPING BUSINESS)

LOT 1, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
ZONED B - DEVELOPING BUSINESS

LOT 2, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
(53,933 SF / 1.24 AC.)

LOT 3, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
(81,778 SF / 1.88 AC.)

KOLDEWAY INDUSTRIAL  
THIRD SUBDIVISION  
ZONED PUD (RESIDENTIAL)

LOVELAND BUSINESS  
PLAZA  
ZONED I - DEVELOPING INDUSTRIAL

20' ALLEY

NORTH DENVER AVENUE

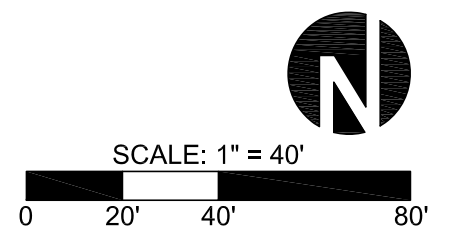
VIRGO CIRCLE

VIRGO CIRCLE

KOLDEWAY INDUSTRIAL  
THIRD SUBDIVISION  
ZONED PUD (RESIDENTIAL)

LOT 2, BLOCK 2,  
KOLDEWAY INDUSTRIAL  
FIRST SUBDIVISION  
ZONED I - DEVELOPING INDUSTRIAL

LOT 1, BLOCK 1,  
JEFFERSON FIRST  
SUBDIVISION  
ZONED I - DEVELOPING INDUSTRIAL



**REZONING MAP**

**KOLDEWAY INDUSTRIAL SECOND SUBDIVISION**  
907 & 985 N DENVER AVE  
LOVELAND, COLORADO

BHA DESIGN, INC. • 1603 OAKRIDGE DRIVE  FT. COLLINS, CO 80525 • TEL: (970) 223 - 7577

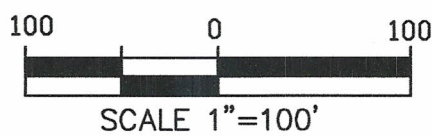
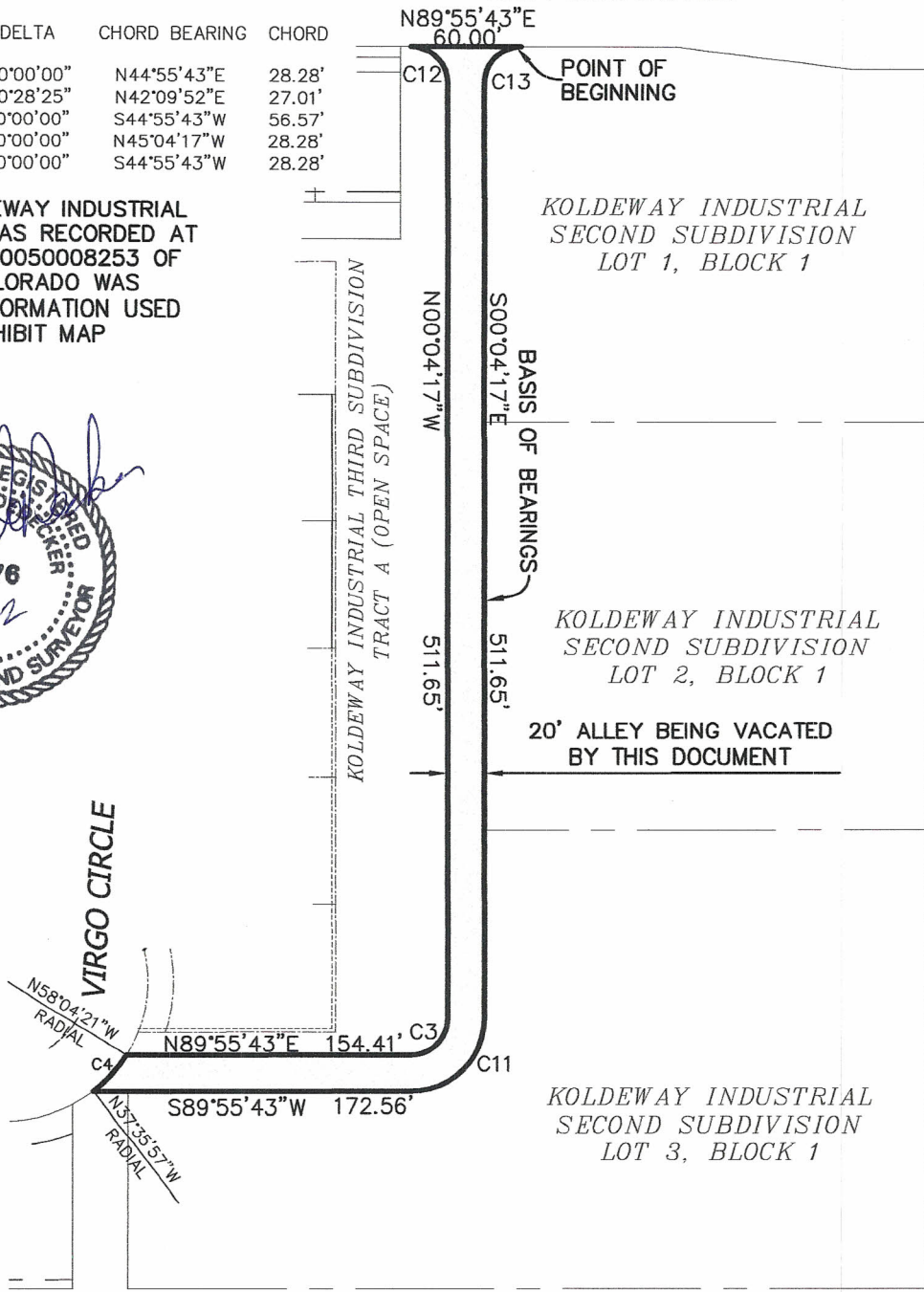
SHEET 1 OF 1  
OCTOBER 2, 2012



**EAST 11th STREET**

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C3	31.42'	20.00'	90°00'00"	N44°55'43"E	28.28'
C4	27.16'	76.00'	20°28'25"	N42°09'52"E	27.01'
C11	62.83'	40.00'	90°00'00"	S44°55'43"W	56.57'
C12	31.42'	20.00'	90°00'00"	N45°04'17"W	28.28'
C13	31.42'	20.00'	90°00'00"	S44°55'43"W	28.28'

FINAL PLAT OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION AS RECORDED AT RECEPTION NUMBER 20050008253 OF LARIMER COUNTY, COLORADO WAS RELIED UPON FOR INFORMATION USED TO PREPARE THIS EXHIBIT MAP



**EXHIBIT "B"**  
**EXHIBIT MAP FOR ALLEY VACATION**  
**KOLDEWAY INDUSTRIAL**  
**SECOND SUBDIVISION**  
**LOVELAND, COLORADO**

SCALE: 1" = 100'	<p><b>CDS Engineering Corporation</b>          165 2nd ST SW          LOVELAND, COLORADO 80538          (970) 667-8010</p>	PROJECT NO. P08-4836.140
DATE: 10-26-2012		DRAWING NO. 4836/SITE
FIELD BOOK: N/A		REVISION NO. 0
DRAWN: DEW    CHECKED:		SHEET 1 OF 1

**THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR  
PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF  
KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS**

THIS THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality, (the “City”), and LOVELAND MIDTOWN DEVELOPMENT, INC., a Colorado corporation (the “Developer”).

**RECITALS**

WHEREAS, the City, Art Koldeway and Agnes Koldeway (“Koldeways”), and North Boise, LLC, a Colorado limited liability company (“North Boise”) entered into a Development Agreement dated July 15, 2004 and recorded December 6, 2004 at Reception No. 2004-0116915 of the Larimer County, Colorado records (“the Development Agreement”); and

WHEREAS, the Development Agreement governs the development of the real property (“the Property”) which has been platted as Koldeway Industrial Second Subdivision (“the Second Subdivision”), Koldeway Industrial Third Subdivision (“the Third Subdivision”), and Koldeway Industrial Fourth Subdivision (“the Fourth Subdivision”); and

WHEREAS, at the time the Development Agreement was made, Koldeways were the owners of the Property and North Boise was the developer of the Property; and

WHEREAS, the Koldeways are no longer the owners of any of the Property, and

WHEREAS, North Boise has assigned its right to develop the Property to Loveland Midtown Development, Inc., (the “Developer”); and

WHEREAS, the Developer and the City entered into an Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated December 8, 2005, and recorded at Reception No. 2005-0109107 of the Larimer County Colorado records (“the First Amended Development Agreement”); and

WHEREAS, the Developer and the City entered into a Second Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated October 23, 2006, and recorded at Reception No. 2006-0084194 of the Larimer County Colorado records (“the Second Amended Development Agreement”); and

WHEREAS, certain lots and blocks of the Property have subsequently been conveyed to other owners, and are no longer under the control of the Developer; and

WHEREAS notwithstanding the conveyance of certain lots and blocks, the Developer continues to be solely responsible for installation of all required public improvements required for development of the Property, as shown on the approved PICP and in compliance with other provisions of the Development Agreement, the First Amended Development Agreement, and the Second Amended Development Agreement; and

WHEREAS, the parties hereto desire to amend the First Amended Development Agreement and Second Amended Development Agreement as it pertains to property currently owned by the Developer and described as Lots 2 and 3, Block 1, Koldeway Industrial Second Subdivision (“the Developer’s Property”), to allow the construction of a long-term care facility; and

WHEREAS, the City and Developer agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the City in connection with the development of the Developer’s Property, and that such matters are necessary to protect, promote and enhance the public welfare.

THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

**AGREEMENT**

1. Section II.B.1 of the First and Second Amended Development Agreements is hereby further amended so that subsection (r), added by the Second Amended Development Agreement, reads as follows:

II. Special Conditions for the Second and Fourth Subdivisions.

....

B. Allowable uses in the B-Zone:

1. Notwithstanding any provision of Chapter 18.28 of the Municipal code for the B-Zone to the contrary, the uses permitted by right on lots described in Exhibit E shall be limited to:

...

r. Long-term care facility (Note: this use shall only be allowed on Lots 1, 2, and 3, Block 1, Koldeway Industrial Second Subdivision).

2. All other terms of the First Amended Development Agreement and Second Amended Development Agreement shall remain the same.

IN WITNESS WHEREOF, the parties have caused this THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS to be executed as of the date first written above.

THE CITY OF LOVELAND, COLORADO



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

Blaine Rappe, President

Date: \_\_\_\_\_, 2013

STATE OF COLORADO    )  
                                          ) ss.  
COUNTY OF LARIMER    )

The foregoing THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS was executed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Blaine Rappe, as President, of LOVELAND MIDTOWN DEVELOPMENT, INC.

WITNESS my hand and official seal.

My commission expires \_\_\_\_\_

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



## Development Services Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537  
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620  
www.cityofloveland.org

### MEMORANDUM

**TO:** City Council

**FROM:** Noreen Smyth, Senior Planner, Current Planning Division

**DATE:** April 16, 2013

**SUBJECT:** Koldeway Rezoning, Development Agreement Amendment and Vacation

#### **I. EXHIBITS**

- A. Planning Commission packet
- B. Planning Commission minutes
- C. Slide presentation

#### **II. KEY ISSUES**

Staff believes that all key issues regarding the rezoning, amendment to the Development Agreement and access easement vacation have been resolved through the staff review process. The Planning Commission unanimously recommends approval of the rezoning and vacation as proposed. Staff considers the proposed B Developing Business zoning to be more suitable for the subject property and its vicinity than the existing I Developing Industrial zoning and is supportive of the associated Development Agreement amendment and access easement vacation.

#### **III. BACKGROUND**

The attached ordinance concerns a request to change the zoning on two lots within the Koldeway Industrial Second Subdivision (2004) and amend the associated Development Agreement to allow for the development of a senior assisted living facility on the property. The attached resolution concerns an associated request to vacate an access easement within the subdivision to turn an existing public drive into a private drive.

The subject property, located west of Denver Avenue and one lot south of 11th Street, consists of two lots zoned I-Developing Industrial. The lot immediately north of the subject property,

which is a part of the same subdivision, is zoned B-Developing Business. This property to the north contains an assisted living facility (Aspen House).

The owner of the two-lot subject property has been in negotiation with the developer of Aspen House concerning the establishment of a similar assisted living facility on the property. The developer does not wish to purchase the land or design the proposed facility until zoning is in place to allow for its development. Therefore, a site plan, architectural drawings or other details about the facility are not available at this time. It should be noted that while the requested rezoning and amendment to the Development Agreement will allow for the development of the assisted living facility, their approval does not obligate the owner to develop such a facility on the property. Any of the B uses allowed by right or by special review, as listed in the attached Development Agreement, may be established on the subject property if the rezoning is approved.

If the property is rezoned and the assisted living developer proceeds with their proposal, a number of additional applications will need to be submitted for administrative (staff) review, including a lot merger (to combine the two parcels into one), a site development plan (SDP), a site work permit, and a building permit. In addition, any applicable permitting for such care facilities will need to be obtained from the appropriate state agency.

#### **IV. REZONING AND AMENDMENT**

A Development Agreement was approved and recorded in conjunction with the Koldeway plat of subdivision that specifies the uses permitted by right and by special review on the I-zoned properties and on the B-zoned properties in the subdivision. The Development Agreement limits the range of allowable uses in both zone districts, and the proposed facility is not allowed on I-zoned properties. While an assisted living facility is a use by right under the standards of the B district in the zoning code, it is listed in the Koldeway Development Agreement as a use by right in the B zone only for *Lot 1, Block 1* of the subdivision, which is the Aspen House lot. Therefore, to also allow an assisted living facility use on the subject property, it is necessary to not only rezone the lots to B, but also to amend the Development Agreement to reference Lots 2 and 3, the subject lots, as lots in the B zone allowing an assisted living facility. Thus, the amended Development Agreement would read “Lots 1, **2 and 3** of Block 1” after “Long-term care facility” to extend the use to the subject property in conjunction with its rezoning to B.

#### **V. VACATION**

A paved drive with a 20 foot public access easement is situated to the immediate west of the subject property. The easement was established at the time of subdivision and is labeled “alley” on the plat. The land on which the easement sits is owned by the current applicant (who developed the subdivision). The drive provides access from 11th Street and Virgo Circle to the subject property and to the parking lot of the assisted living facility to the north. It is not utilized by any other lot.

It has been determined that development of the subject property would result in non-compliance with the city’s ACF ordinance for alley traffic volumes. As such, the applicant is requesting to vacate the public access easement so that the alley will instead be designated a private drive. Staff is supportive of the request as there are no other properties utilizing the drive and no public benefit to the presence of the public access easement. A private access easement to

allow use of the drive by adjacent property owners and an emergency access easement would be established on the drive following the vacation of the public access easement.

## **VI. PLANNING COMMISSION REVIEW**

The rezoning and access easement vacation were reviewed by the Planning Commission at a public hearing on March 11, 2013. At the meeting, Commissioners inquired about the ultimate plans for the assisted living facility proposed for the site. Some expressed a desire to have more detailed information about the proposed development, but supported the downzoning from I Developing Industrial to B Development Business given the close proximity of other B properties and the close proximity of a single family residential subdivision. The Planning Commission unanimously recommended approval of the rezoning and vacation at the hearing. The amendment to the Development Agreement did not require review by the Planning Commission. However, the amendment was explained at the meeting, and Commissioners expressed general support for the concept.

## **RECOMMENDATION**

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council adopt the ordinance and resolution on first reading.





## Development Services Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537  
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620  
www.cityofloveland.org

### Planning Commission Staff Report

March 11, 2013

**Agenda #:** Regular Agenda - 1  
**Title:** Koldeway  
**Applicant:** Loveland Midtown Development  
**Request:** Rezoning and Easement Vacation  
**Location:** 907 & 985 N. Denver Avenue  
**Existing Zoning:** I-Developing Industrial District  
**Proposed Zoning:** B - Developing Business District  
**Staff Planner:** Noreen Smyth

#### **Staff Recommendation:**

Subject to additional evidence presented at the public hearing, City staff recommends the following motions:

#### **Recommended Motions:**

*"Move to make the findings listed in Section IX of this report dated March 11, 2013; and, based on those findings, recommend approval of the rezoning of the Koldeway property from I-Developing Industrial to B - Developing Business, as amended on the record."*

*"Move to make the findings listed in Section X of this report dated March 11, 2013; and, based on those findings, recommend approval of the associated access easement vacation, as described and depicted in Attachments #1 and #2 of this staff report, subject to the Condition specified in Section XXII of this report."*

#### **Summary of Analysis**

This is a public hearing to consider a rezoning of two lots totaling 3.12 acres in the Koldeway Second Industrial Subdivision. The subject property is zoned I-Developing Industrial and is currently vacant. The owner is in discussions with a developer of assisted living facilities who is interested in purchasing the property for development of such a facility. The current owner is pursuing the zoning change to B-Developing Business, in conjunction with amending the Development Agreement applicable to the subdivision, to allow the proposed use. A request to vacate an access easement to change the adjacent drive from a public alley to a private drive accompanies the request.

If the rezoning is approved, the applicant has stated that the property will be sold to the assisted living developer, who would then submit a site development plan and other necessary applications in pursuit of approval. However, any use allowed in the B zone by the Development Agreement could potentially be established on the property.

Staff is supportive of the requested B zoning because it would be consistent with the B-zoned lot to the north and the uses allowed under the B zoning are more compatible with the adjacent residential neighborhood to the west. Staff is also supportive of the public access easement vacation because it serves no public benefit.

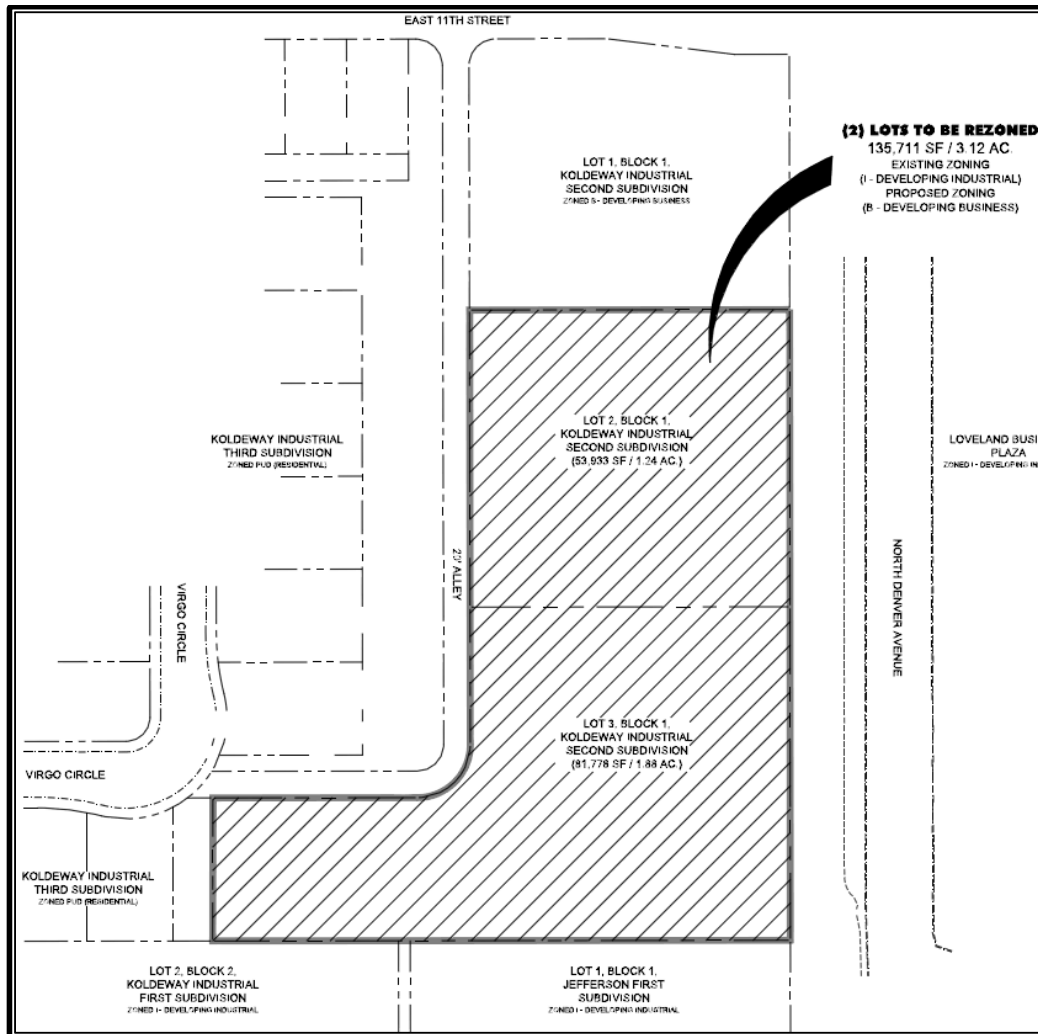
**I. ATTACHMENTS:**

1. Rezoning map exhibit
2. Vacation easement exhibit
3. Amended Development Agreement-draft
4. Koldewey 2<sup>nd</sup> Subdivision Plat
5. Rezoning assessment/explanation
6. Vacation explanation
7. Private access easement
8. Emergency access easement

**II. VICINITY MAP:**



**III. REZONING EXHIBIT:**



The total area to be rezoned consists of approximately 3.12 acres. A larger version of the rezoning map is attached to this report. (See **Attachment # 1**).

**IV. PUBLIC HEARING:**

This is a public hearing item to consider a rezoning of two lots within the Koldeway Industrial Second Subdivision, as described and depicted in **Attachment #1**, from the I-Developing Industrial District to B-Developing Business District, and to consider an associated request to vacate the public access easement on a drive next to the property. Per Chapter 16.36 of the Municipal Code, while most types of vacations require only City Council review, the vacation of access easements or rights-of-way require a Planning Commission public hearing.

The Planning Commission's consideration of the zoning request is quasi-judicial, meaning that their consideration and recommendation is to be made on the basis of adopted policies, codes and standards as they apply to this property. Consideration of the easement vacation is a legislative matter. The Planning Commission's recommendations will be forwarded to the City Council, to be considered as part of their subsequent public hearing, currently scheduled for April 16, 2013.

The associated amendment to the Development Agreement will be addressed by the City Council with their review of the rezoning. The Planning Commission is not required to make a recommendation on the amendment to the Agreement. Essentially, a favorable recommendation on the rezoning request would suggest support for the amending the Development Agreement as specified by staff.

**V. KEY ISSUES:**

City staff have reviewed the applications on the basis of all applicable City policies, codes and standards, including the findings necessary for approval of a rezoning and a vacation. Staff believes that all key issues have been resolved through the review process. No issues or concerns were raised at the neighborhood meeting.

**VI. SITE DATA:**

ACREAGE OF SITE (GROSS ACRES).....	3.12 ACRES
EXISTING ZONING .....	I- DEVELOPING INDUSTRIAL
PROPOSED ZONING.....	B- DEVELOPING BUSINESS
MASTER PLAN DESIGNATION .....	EMPLOYMENT
EXISTING USE .....	VACANT
PROPOSED USE.....	LONG-TERM CARE FACILITY/ASSISTED LIVING
NUMBER OF DWELLING UNITS PROPOSED .....	NA (REZONING ONLY AT THIS TIME)
GROSS DENSITY (DU/A) .....	NA
NET DENSITY (DU/A) .....	NA
EXISTING ADJACENT ZONING AND USE - NORTH .....	B- DEVELOPING BUSINESS; ASSISTED LIVING FACILITY
EXISTING ADJACENT ZONING AND USE - EAST .....	I- DEVELOPING INDUSTRIAL; SELF- SERVICE STORAGE FACILITY
EXISTING ADJACENT ZONING AND USE - SOUTH .....	I- DEVELOPING INDUSTRIAL; UTILITY
EXISTING ADJACENT ZONING AND USE - WEST .....	PUD; SINGLE-FAMILY RESIDENTIAL
UTILITY SERVICE PROVIDER - SEWER .....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - WATER.....	CITY OF LOVELAND

## VII. PROJECT DESCRIPTION:

### Background

The subject property, located west of Denver Avenue and one lot south of 11<sup>th</sup> Street, consists of two lots zoned I-Developing Industrial that are a part of the Koldeway Industrial Second Subdivision (2004). The lot immediately north of the subject property, which is a part of the same subdivision, is zoned B-Developing Business. This property to the north is developed with an assisted living facility (Aspen House).

A Development Agreement was approved and recorded in conjunction with the plat of subdivision that specified the uses permitted by right and by special review on the I-zoned properties and on the B-zoned properties in in the subdivision. The Development Agreement limits the range of allowable uses in both zone districts.

While “Long-term care facility” (an assisted living or nursing facility aimed primarily at seniors) is a use by right under the standards of the B district in the zoning code, it is not listed as an allowed use for B properties in the Development Agreement for the Koldeway property. In 2006, the Development Agreement was amended to add such facilities to the permitted uses list for the B district. However, a note was added stating that this use “shall only be allowed on Lot 1, Block 1” of the subdivision, which is the lot immediately north of the subject property. An assisted living facility, Aspen House, was subsequently developed on the 1.1-acre lot. Therefore, it is necessary to amend the Development Agreement in association with the zone change in order to allow the proposed use.

### Rezoning

The owner of the two-lot subject property has been in negotiation with a developer of assisted living facilities concerning the establishment of such a facility on the property. The new facility would be immediately south of the existing Aspen House assisted living facility. The subject property is zoned I with no special provision in the Development Agreement to allow such facilities on the property. The owner is therefore seeking to rezone the property to B and amend the Development Agreement to include the two lots of subject property as lots on which such facilities are permitted by right. Thus, the amended Development Agreement would read “Lots 1, 2 and 3 of Block 1” after “Long-term care facility” to extend the use to the subject property in conjunction with its rezoning to B.

The assisted living developer does not wish to purchase the land or design the proposed facility until zoning is in place to allow for its development. Therefore, a site plan, architectural drawings or other details about the facility such as number of residents are not available at this time. It should be noted that while the requested rezoning and amendment to the Development Agreement will allow for the development of the long-term care facility, approval of the rezoning and the amendment to the Development Agreement does not obligate the owner to have the property developed as a care facility. Any of the B uses allowed by right or by special review, as listed under Finding II below, may be developed on the subject property if the rezoning is approved.

If the property is rezoned and the assisted living developer proceeds with their proposal, a number of additional applications will need to be submitted for staff review, including a lot merger (to combine the two parcels into one), a site development plan (SDP), a site work permit, and a building permit. In addition, any applicable permitting for such care facilities will need to be obtained from the appropriate state agency.

#### Vacation of Access Easement

A paved drive with a 20 foot public access easement is situated to the immediate west of the subject property. The easement was established at the time of subdivision and is labeled “alley” on the plat (see **Attachment #4**). The land on which the easement sits is owned by the current applicant (who developed the subdivision). The drive provides access from 11<sup>th</sup> Street and Virgo Circle to the subject property and to the parking lot of the assisted living facility to the north. It is not utilized by any other lot.

It has been determined that development of the subject property would result in an exceedance of the city’s ACF ordinance for alley traffic volumes. As such, the applicant is requesting to vacate the public access easement so that the alley will instead be designated a private drive (in a future action). Staff is supportive of the request as there are no other properties utilizing the drive and no public benefit to the presence of the public access easement. A private access easement to allow use of the drive by adjacent property owners and an emergency access easement would be established on the drive following the vacation of the public access easement.

### **VIII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION:**

- A. Notification:** An affidavit was received from the applicant’s representative certifying that notice of the hearing for the rezoning and vacation was mailed to all owners of property within 500 feet of the site and to all surface owners and owners of the easement to be vacated and that notices were posted in prominent locations on the perimeter of the project site at least 15 days prior to the date of the Planning Commission hearing. In addition, a notice was published in the Reporter Herald on February 23, 2013.
- B. Neighborhood Response:** A noticed neighborhood meeting was held at 6:00 pm on January 30 in the Loveland Public Library. The neighborhood meeting is required for the rezoning and not the vacation, although information on the vacation was presented at the meeting. Two persons attended the meeting, along with City staff and the applicants’ representatives. No concerns or objections were raised at the neighborhood meeting; those in attendance inquired about the proposed long-term care facility. Responses and information were offered by the applicant’s representative and planning staff. No changes were made or required to the application as a result of the meeting.

## **IX. FINDINGS AND ANALYSIS – REZONING**

***Finding 1.** The purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any use permitted by right in the zone district being requested was developed on the subject property.*

**Current Planning:** Staff believes this finding can be met. The purposes set forth in Section 18.04.010 of the Loveland Municipal Code include lessening of congestion on public streets, secure safety from fire and panic, promote general health and welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, and facilitate adequate provision of public facilities and infra-structure. These matters will be further reviewed in greater detail at the time additional development applications (lot merger, site development plan, site work permit and building permit) are submitted to the city. Established provisions of the code and associated development standards are satisfactory to ensure that future development will not result in congestion, safety, health and related negative consequences.

***Finding 2.** Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.*

**Nearby Properties and Uses:** The following existing land uses are adjacent, or in close proximity, to the land proposed for rezoning:

**North:** The Aspen House assisted living facility (senior housing) is immediately to the north. Farther north, on the opposite side of 11<sup>th</sup> Street, is a vacant parcel of land that is also a B-zoned parcel within the Koldeway Industrial Second Subdivision. Past that parcel is Wal-Mart. Other smaller commercial and office uses are on the north side of 11<sup>th</sup> Street in the vicinity of the subject property.

**East:** A utility easement extends down the east side of the subject property and contains overhead power lines. Immediately to the east is Denver Avenue. A self-storage facility is on the opposite side of Denver.

**South:** A transformer substation is immediately to the south and an undeveloped property is to the southwest. Beyond that is a railroad line followed by a multi-tenant commercial/industrial building.

**West:** To the immediate west beyond the driveway is a single-family residential subdivision.

**Permitted Uses:** The proposed zoning of B-Developing Business District as modified by the amended Koldeway Development Agreement permits the following uses:

## By right:

1. Retail stores
2. Banks, savings and loan, and finance companies
3. Personal service shops
4. Offices and clinics
5. Churches
6. Membership clubs
7. Public and private schools
8. Recreational uses, indoor
9. Parks
10. Accessory buildings and uses
11. Government or semipublic uses
12. Combined use developments of permitted use
13. Restaurants and other eating and drinking places, indoor
14. Retail laundries
15. Licensed child care centers
16. Printing shops
17. Long-term care facilities (on designated lots)

## By special review:

1. Fast food or drive-in restaurants
2. Restaurants and other eating and drinking places, outdoor
3. Self-storage units
4. Warehouses and enclosed storage
5. Motor vehicle sales and services
6. Convenience stores and/or gas stations
7. Car wash facilities
8. Plumbing, electrical and carpenter shops
9. Pet stores and small animal hospitals

**Current Planning:** Staff believes this finding can be met. The assisted living facility that the potential purchaser is interested in developing on the property is a good fit with the surrounding uses. It matches the use to the north and provides a type of buffer between the single family residential uses to the west and the utilities on the east and south. It is not anticipated to be a disturbance to the residential subdivision, as it is a low generator of noise and traffic. Other uses allowed by right or by special review with the proposed rezoning could be detrimental to the nearby residential neighborhood if they generate significant noise, traffic or odors or result in the development of a particularly large building. However, the risk of detrimental uses locating on the subject property is not higher with the proposed B zoning than with the existing I zoning. Additionally, the adjacency of the subject property to utility uses is a greater deterrent to the establishment of other B uses than to I uses. Staff believes that the uses allowed by the rezoning to B would not be likely to negatively impact the nonresidential uses to the north, east and south.



***Finding 3.*** *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and services master plans.*

**Current Planning:** Staff believes this finding can be met. A site specific development plan has not yet been prepared for the long-term care facility proposing to locate on the subject property. Once a site plan for that or any other use that may locate on the property is prepared, a site development plan will be required for review by the city based on all applicable codes and standards. This will assure that the use would result in impacts on city infrastructure and services that are consistent with current infrastructure and service master plans.

**PW-Transportation:** The proposed rezoning will not create a negative impact upon the City's public streets. The proposed rezoning has demonstrated compliance with the City's ACF Ordinance for traffic.

**Fire:** Staff believes that this finding can be met, due to the following:

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 6).
- The proposed rezoning will not negatively impact fire protection for the subject development or surrounding properties.

**PW-Stormwater:** Staff believes that this finding can be met, due to the following:

- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

**Power:** A 200-amp three-phase underground power line located along the east side of the alley between North Boise Avenue and Virgo Circle will be the source of power for the subject property. An underground electric vault is located on the east side of the alley at the north property line of Lot 2 Block 1. Two 4 inch conduits run south from this vault parallel with the alley into Lot 3 Block 1. The existing uses as well as any future development requirements are current with the Power Division's existing infrastructure and system master plan. The proposed development meets the criteria for level of service as outlined in the ACF ordinance.

**Water/Wastewater:** This development is situated within the City's current service area for both water and wastewater. The Department finds that the Development will be compliant to ACF for the following reasons:

- The proposed development will not negatively impact City water and wastewater facilities

***Finding 4.*** *Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is consistent with relevant policies contained in Section 4.0 of the 2005 Loveland Comprehensive Plan, as amended.*

Loveland Comprehensive Master Plan, Section 4.2: Land Use Goals and Objectives: Goals outlined in this section that are relevant to the requested rezoning are as follows:

- **LUI:** Emphasize flexibility within the Land Use Plan while building on the existing land use pattern.
- **LU5:** Encourage the development of multi-use, high-quality employment districts where campus-type settings are appropriate, particularly along the transportation corridors of I-25, US 34, and south side of SH 402.
- **RES3:** The development of a full range of housing types to meet the needs of all age and socio-economic groups is encouraged.
- **RES5:** Quality design and compatible land use relationships with all proposed and existing developments is encouraged.
- **CLU2 (2A):** Commercial developments including intensity of activities should be in scale with the neighborhood context.

Loveland Comprehensive Master Plan: Land Use Categories & Future Land Use Map: The subject property is designated as *Employment* on the Land Use Map.

**Current Planning:** Staff believes this finding can be met. Compatibility with future land use goals is considered at the time of a proposed rezoning. The 2005 Comprehensive Plan, as amended, recommends *Employment* uses for the land on the west side of Denver Avenue between the commercial area on US 34 (Eisenhower) south to First Street. The proposed rezoning to B-Developing Business is suitable for this category.

The specific use the applicant intends to locate on the site is a long-term care facility. While such a facility does require the employment of staff, uses of this type are not specifically recommended for *Employment* areas by the Comprehensive Plan. However, a mixture of uses is encouraged in areas designated *Employment*; also, staff believes that the change in zoning creates a more compatible arrangement within the established neighborhood context.

***Finding 5.*** *Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that would not be detrimental to the health, safety, or welfare of the neighborhood or general public.*

**Current Planning:** Staff believes this finding can be met. As discussed above under Finding 2, compatibility of uses allowed by the proposed district with existing uses in the area, some of the uses allowed by the B district per the Development Agreement could have a negative impact on nearby residential properties, but the impacts should not be of a nature detrimental to health, safety, or welfare. No such negative impact to the general public is anticipated.

***Finding 6. Colorado Revised Statute 34-1-305 and Municipal Code Section 18.52.040.*** *The proposed location and the use of the land, and the conditions under which it would be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-302 (1), as*

*amended. Owners of all severed mineral estates have been notified of the public hearing at least 30 days prior to the hearing date.*

**Current Planning:** Staff believes this finding can be met. Requirements of state statute for consideration of mineral estates are relevant to the time of subdivision and development plan. The rezoning action of the city does not constitute a development plan under these provisions. Therefore no written notice to any holders of severed mineral interests was required or provided.

## **X. FINDINGS AND ANALYSIS – EASEMENT VACATION**

The following two findings must be met in order to vacate the access easement. These findings are included in section 16.36.010.B of the Loveland Municipal Code.

***Finding 1.** That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

**Current Planning:** Staff believes this finding can be met. No land will be left without an established connection to another right-of-way or easement as a result of the public access easement vacation because a private access easement will be established in its place.

***Finding 2.** That the easement to be vacated is no longer necessary for the public use and convenience.*

**PW-Transportation:** The Transportation Development Review Division has no objections to the proposed alley vacation as long as the proposed development dedicates a private access easement along the same alignment.

**Fire:** Staff believes that this finding can be met, due to the following:

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 6).
- The proposed rezoning will not negatively impact fire protection for the subject development or surrounding properties.

**Water/Wastewater:** The subject area to be vacated is the City's current service area for both water and wastewater. There is an existing water main within the area. Therefore the Department requires that with the vacation there be a following a reservation of a utility easement for the full area. The Department finds that:

- The existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development.
- The existing easement to be vacated is no longer necessary for public use and convenience.

**Power:** Three-phase 200-amp underground cable, conduit and vault are located in the utility easement to the east of the area proposed to be vacated. Open access must be provided to the existing electrical equipment so that they can be maintained. The area to be vacated is not being used for any power utilities.

**PW-Stormwater:** Staff believes that this finding can be met, due to the following:

- The existing alley to be vacated is not used to convey public Stormwater and thus is not necessary for the public use and conveyance of Stormwater.

## **XI. RECOMMENDED CONDITIONS - REZONING**

Since this is a proposed rezoning to a standard zone district and not a PUD there are no recommended conditions. However, the Development Agreement includes a number of requirements related to development of the site. Any development and use of the property will be governed by all applicable City policies, codes and standards.

## **XII. RECOMMENDED CONDITIONS - VACATION**

1. Prior to the recording of the alley vacation, a private access easement for the connection to 11th Street must be dedicated. (PW-Transportation)

KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
ZONED B - DEVELOPING BUSINESS

EAST 11TH STREET

**(2) LOTS TO BE REZONED**

135,711 SF / 3.12 AC.  
EXISTING ZONING  
(I - DEVELOPING INDUSTRIAL)  
PROPOSED ZONING  
(B - DEVELOPING BUSINESS)

LOT 1, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
ZONED B - DEVELOPING BUSINESS

LOT 2, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
(53,933 SF / 1.24 AC.)

LOT 3, BLOCK 1,  
KOLDEWAY INDUSTRIAL  
SECOND SUBDIVISION  
(81,778 SF / 1.88 AC.)

KOLDEWAY INDUSTRIAL  
THIRD SUBDIVISION  
ZONED PUD (RESIDENTIAL)

LOVELAND BUSINESS  
PLAZA  
ZONED I - DEVELOPING INDUSTRIAL

20' ALLEY

NORTH DENVER AVENUE

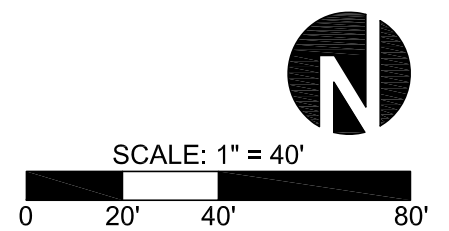
VIRGO CIRCLE

VIRGO CIRCLE

KOLDEWAY INDUSTRIAL  
THIRD SUBDIVISION  
ZONED PUD (RESIDENTIAL)

LOT 2, BLOCK 2,  
KOLDEWAY INDUSTRIAL  
FIRST SUBDIVISION  
ZONED I - DEVELOPING INDUSTRIAL

LOT 1, BLOCK 1,  
JEFFERSON FIRST  
SUBDIVISION  
ZONED I - DEVELOPING INDUSTRIAL



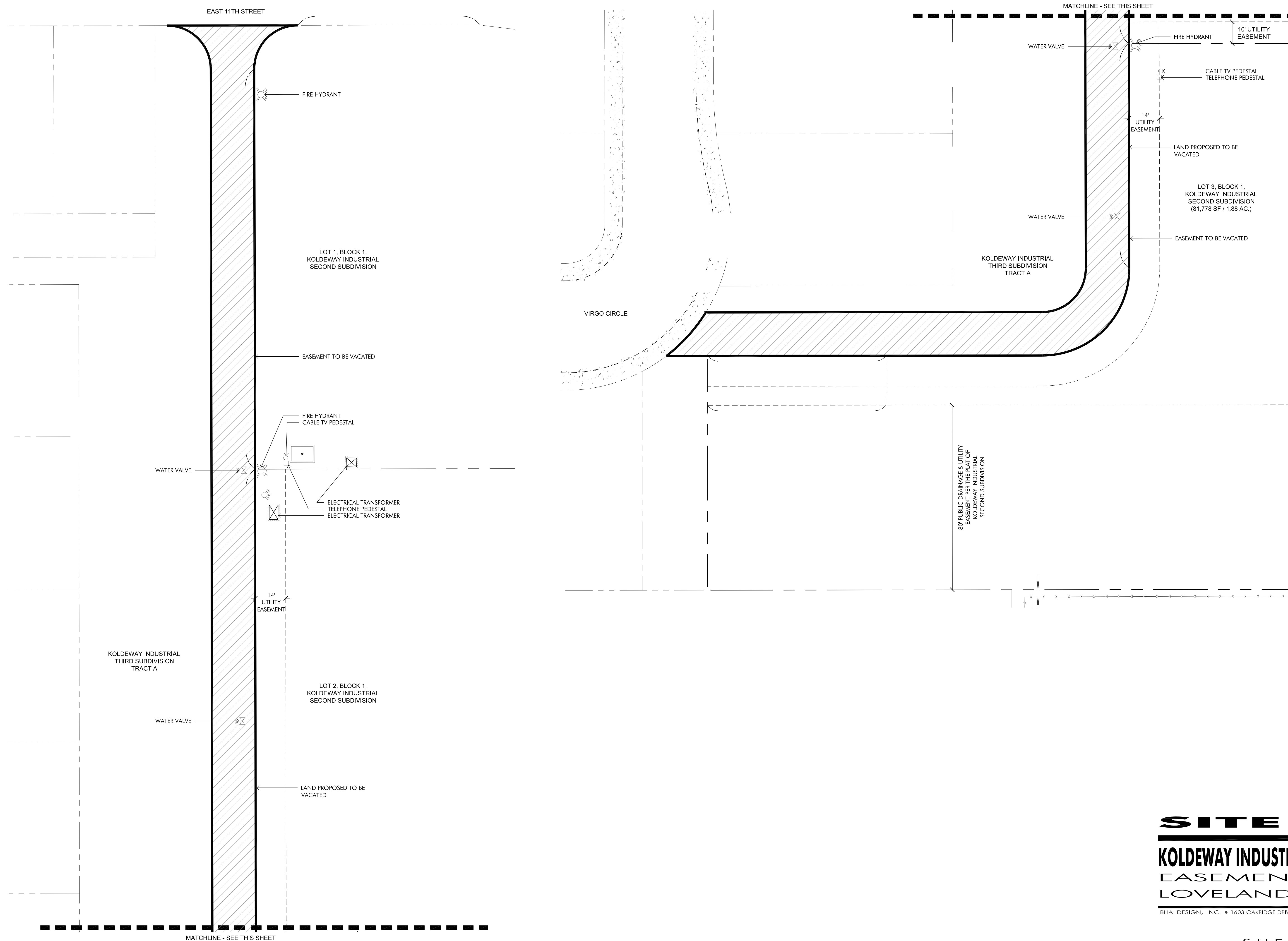
**REZONING MAP**

**KOLDEWAY INDUSTRIAL SECOND SUBDIVISION**

907 & 985 N DENVER AVE  
LOVELAND, COLORADO

BHA DESIGN, INC. • 1603 OAKRIDGE DRIVE  FT. COLLINS, CO 80525 • TEL: (970) 223 - 7577

SHEET 1 OF 1  
OCTOBER 2, 2012



  
 SCALE: 1" = 20'  


## SITE PLAN

### KOLDEWAY INDUSTRIAL SECOND SUBDIVISION

#### EASEMENT VACATION

#### LOVELAND, COLORADO

BHA DESIGN, INC. • 1603 OAKRIDGE DRIVE  FT. COLLINS, CO 80525 • TEL: (970) 223-7577

SHEET 1 OF 1  
NOVEMBER 16, 2012

## EXHIBIT "A"

### LEGAL DESCRIPTION for ALLEY TO BE VACATED

A parcel of land located in Section 18, Township 5 North, Range 68 West of the Sixth Principal Meridian, City of Loveland, Larimer County, Colorado, being the 20.00 foot wide alley adjacent to the West and North sides of Lots 1, 2, and 3 Block 1 in the Koldeway Industrial Second Subdivision according to the Final Plat recorded at Reception Number 20050008253 of Larimer County Records, more particularly described as Follows:

the West line of said Lots 1, 2, and 3 was assumed to bear South 00°04'17" East, according to the Final Plat of said Koldeway Second Subdivision, with all bearings contained herein relative thereto.

Beginning at a Point of a Curve on the North line of said Lot 1 at the Northwesterly corner of said Lot 1;

thence along the arc curve to the left, the radius point of which bears South 00°04'17" East, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears South 44°55'43" West a distance of 28.28 feet; thence South 00°04'17" East, along the West lines of said Lots 1, 2, and 3, a distance of 511.65 feet to a point of curve;

thence along the arc of said to the right, having a central angle of 90°00'00" and a radius of 40.00 feet, an arc distance of 62.83 feet, the chord of said curve bears South 44°55'43" West a distance of 56.57 feet;

thence South 89°55'43" West, a distance of 172.56 feet to a point on a non-tangent curve on the Easterly right-of-way of Virgo Circle;

thence along the arc of said non tangent curve to the left, the radius point of which bears North 37°35'57" West, having a central angle of 20°28'25" and a radius of 76.00 feet, an arc distance of 27.16 feet, the chord of said curve bears North 42°09'52" East a distance of 27.01 feet;

thence North 89°55'43" East, a distance of 154.41 feet to a point of curve;

thence along the arc of said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 44°55'43" East a distance of 28.28 feet;

thence North 00°04'17" West, a distance of 511.65 feet to a point of curve

thence along said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 45°04'17" West a distance of 28.28 feet, to a point on the Southerly right-of-way of East 11<sup>th</sup>

Street;

thence North 89°55'43" East, along said Southerly right-of-way line, a distance of 60.00 feet to the POINT OF BEGINNING.

Containing 14,993.38 square feet or 0.3442 acres, more or less.

Prepared October 30, 2012, by Michael J. DeDecker PLS,  
for and on behalf of CDS Engineering Corp. 165 2<sup>nd</sup> Street SW,  
Loveland Co. 80537

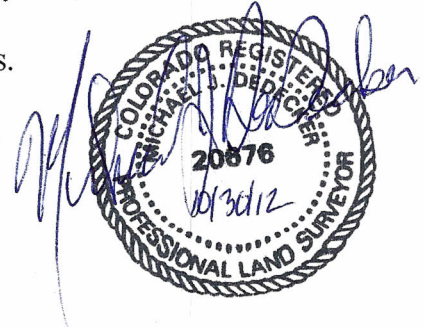
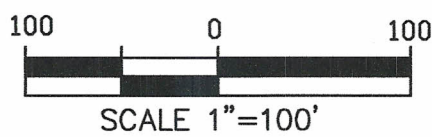
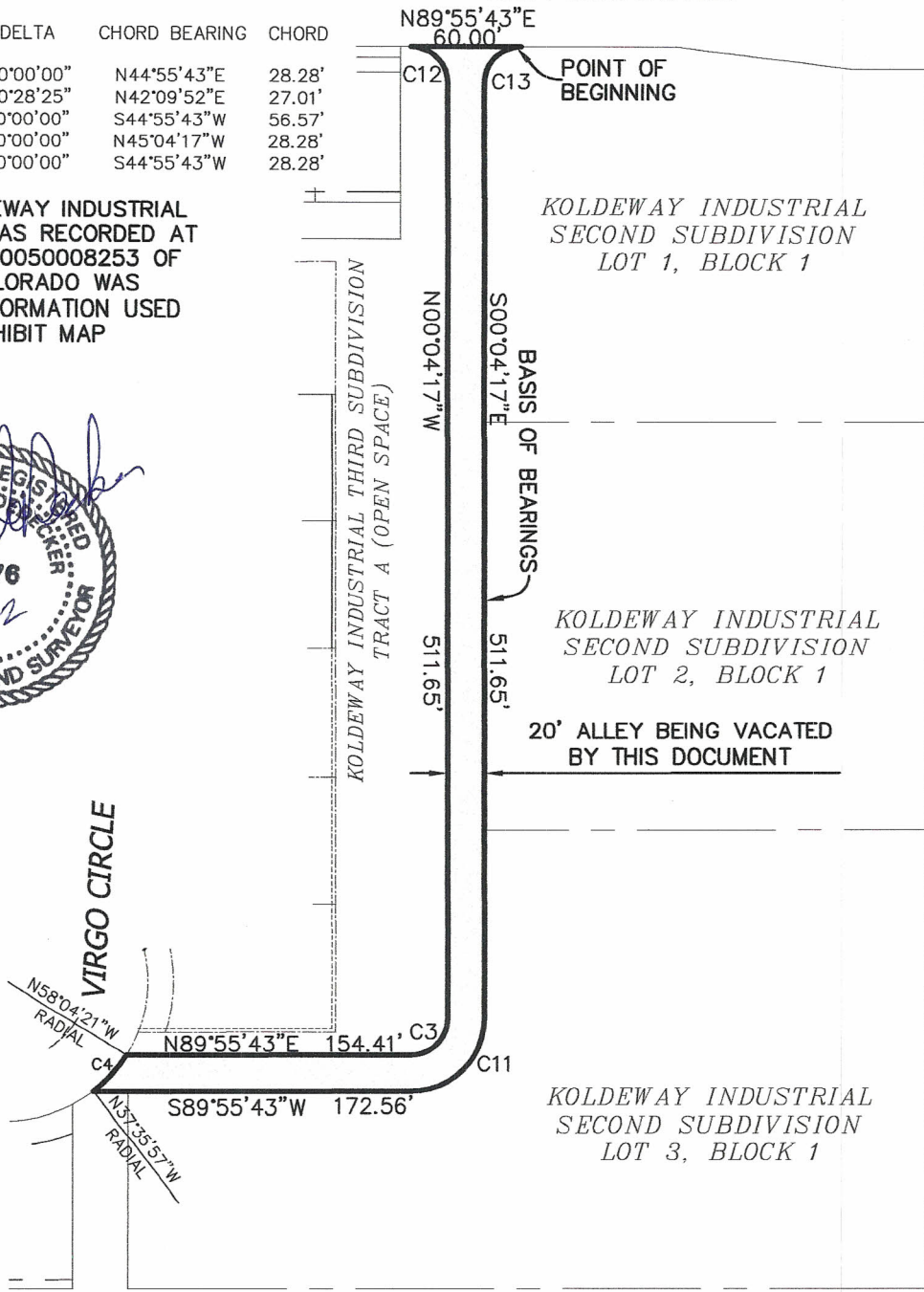


Exhibit A

**EAST 11th STREET**

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C3	31.42'	20.00'	90°00'00"	N44°55'43"E	28.28'
C4	27.16'	76.00'	20°28'25"	N42°09'52"E	27.01'
C11	62.83'	40.00'	90°00'00"	S44°55'43"W	56.57'
C12	31.42'	20.00'	90°00'00"	N45°04'17"W	28.28'
C13	31.42'	20.00'	90°00'00"	S44°55'43"W	28.28'

FINAL PLAT OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION AS RECORDED AT RECEPTION NUMBER 20050008253 OF LARIMER COUNTY, COLORADO WAS RELIED UPON FOR INFORMATION USED TO PREPARE THIS EXHIBIT MAP



**EXHIBIT "B"**  
**EXHIBIT MAP FOR ALLEY VACATION**  
**KOLDEWAY INDUSTRIAL**  
**SECOND SUBDIVISION**  
**LOVELAND, COLORADO**

SCALE: 1" = 100'	<p><b>CDS Engineering Corporation</b>                  165 2nd ST SW                  LOVELAND, COLORADO 80538                  (970) 667-8010</p>	PROJECT NO. P08-4836.140
DATE: 10-26-2012		DRAWING NO. 4836/SITE
FIELD BOOK: N/A		REVISION NO. 0
DRAWN: DEW    CHECKED:		SHEET 1 OF 1



**THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR  
PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF  
KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS**

THIS THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality, (the “City”), and LOVELAND MIDTOWN DEVELOPMENT, INC., a Colorado corporation (the “Developer”).

**RECITALS**

WHEREAS, the City, Art Koldeway and Agnes Koldeway (“Koldeways”), and North Boise, LLC, a Colorado limited liability company (“North Boise”) entered into a Development Agreement dated July 15, 2004 and recorded December 6, 2004 at Reception No. 2004-0116915 of the Larimer County, Colorado records (“the Development Agreement”); and

WHEREAS, the Development Agreement governs the development of the real property (“the Property”) which has been platted as Koldeway Industrial Second Subdivision (“the Second Subdivision”), Koldeway Industrial Third Subdivision (“the Third Subdivision”), and Koldeway Industrial Fourth Subdivision (“the Fourth Subdivision”); and

WHEREAS, at the time the Development Agreement was made, Koldeways were the owners of the Property and North Boise was the developer of the Property; and

WHEREAS, the Koldeways are no longer the owners of any of the Property, and

WHEREAS, North Boise has assigned its right to develop the Property to Loveland Midtown Development, Inc., (the “Developer”); and

WHEREAS, the Developer and the City entered into an Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated December 8, 2005, and recorded at Reception No. 2005-0109107 of the Larimer County Colorado records (“the First Amended Development Agreement”); and

WHEREAS, the Developer and the City entered into a Second Amended and Restated Development Agreement for Portions of Koldeway Industrial Second Subdivision, and all of the Koldeway Industrial Third and Fourth Subdivisions, dated October 23, 2006, and recorded at Reception No. 2006-0084194 of the Larimer County Colorado records (“the Second Amended Development Agreement”); and

WHEREAS, certain lots and blocks of the Property have subsequently been conveyed to other owners, and are no longer under the control of the Developer; and

WHEREAS notwithstanding the conveyance of certain lots and blocks, the Developer continues to be solely responsible for installation of all required public improvements required for development of the Property, as shown on the approved PICP and in compliance with other provisions of the Development Agreement, the First Amended Development Agreement, and the Second Amended Development Agreement; and

WHEREAS, the parties hereto desire to amend the First Amended Development Agreement and Second Amended Development Agreement as it pertains to property currently owned by the Developer and described as Lots 2 and 3, Block 1, Koldeway Industrial Second Subdivision (“the Developer’s Property”), to allow the construction of a long-term care facility; and

WHEREAS, the City and Developer agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the City in connection with the development of the Developer’s Property, and that such matters are necessary to protect, promote and enhance the public welfare.

THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

**AGREEMENT**

1. Section II.B.1 of the First and Second Amended Development Agreements is hereby further amended so that subsection (r), added by the Second Amended Development Agreement, reads as follows:

II. Special Conditions for the Second and Fourth Subdivisions.

....

B. Allowable uses in the B-Zone:

1. Notwithstanding any provision of Chapter 18.28 of the Municipal code for the B-Zone to the contrary, the uses permitted by right on lots described in Exhibit E shall be limited to:

...

r. Long-term care facility (Note: this use shall only be allowed on Lots 1, 2, and 3, Block 1, Koldeway Industrial Second Subdivision).

2. All other terms of the First Amended Development Agreement and Second Amended Development Agreement shall remain the same.

IN WITNESS WHEREOF, the parties have caused this THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS to be executed as of the date first written above.

THE CITY OF LOVELAND, COLORADO

By: \_\_\_\_\_  
William D. Cahill, City Manager

Date: \_\_\_\_\_, 2013

ATTEST:

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

APPROVED AS TO FORM:

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

STATE OF COLORADO )  
                                                          ) ss.  
COUNTY OF LARMIER )

The foregoing THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS was executed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by William D.Cahill, as City Manager, and by Theresa Andrews, as City Clerk, of the CITY OF LOVELAND, COLORADO, a municipal corporation.

WITNESS my hand and official seal.

My commission expires \_\_\_\_\_

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

LOVELAND MIDTOWN DEVELOPMENT, INC.

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

Blaine Rappe, President

Date: \_\_\_\_\_, 2013

STATE OF COLORADO    )  
                                                          ) ss.  
COUNTY OF LARIMER    )

The foregoing THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PORTIONS OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, AND ALL OF KOLDEWAY INDUSTRIAL THIRD AND FOURTH SUBDIVISIONS was executed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Blaine Rappe, as President, of LOVELAND MIDTOWN DEVELOPMENT, INC.

WITNESS my hand and official seal.

My commission expires \_\_\_\_\_

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

KNOW ALL PERSONS BY THESE PRESENTS that the undersigned, being all the owners and lienholders of the following described property, except any existing public streets, roads or highways, which property is located in Section 18, Township 5 North, Range 68 West of the 6th P.M., being more particularly described as follows:

Lot 1, Block 2 and Lots 6 and 7, Block 1, KOLDEWAY INDUSTRIAL FIRST SUBDIVISION, City of Loveland, County of Larimer, State of Colorado.

containing 45.44 acres more or less, and is subject to all easements and rights-of-way on record or existing, do hereby subdivide the same into lots, blocks, tracts, outlots, rights-of-way, and easements, as shown on this plat; and do hereby designate and dedicate: (i) all such rights-of-way and easements, other than utility easements and private easements, to and for public use; and (ii) all such utility easements to and for public use for the installation and maintenance of utility, irrigation and drainage facilities; and do hereby designate the same as KOLDEWAY INDUSTRIAL SECOND SUBDIVISION to the City of Loveland, Colorado.

All expenses involving necessary improvements for water system, sanitary sewer system, storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control signs, alley grading and surfacing, gas service, electric system, grading and landscaping shall be paid by Loveland Millwork Development, Inc.

Arthur T. Koldeway Agnes R. Koldeway
Owner's Signature

Liholder's Signature

STATE OF COLORADO } ss.
COUNTY OF LARIMER }

The foregoing instrument was acknowledged before me this 22nd day of December, 2004, by Arthur T. Koldeway and Agnes R. Koldeway.

Witness my hand and official seal. My Commission expires 11-10-06 Lori K. Hanson Notary Public

I, M. Bryan Short, being a Registered Professional Land Surveyor in the State of Colorado, do hereby certify that the survey of KOLDEWAY INDUSTRIAL SECOND SUBDIVISION was made by me or under my supervision and that the survey is accurately represented on this map and that the statements and conditions shown hereon were read by me and the same are true to the best of my knowledge.

Dated this 22nd day of December, 2004

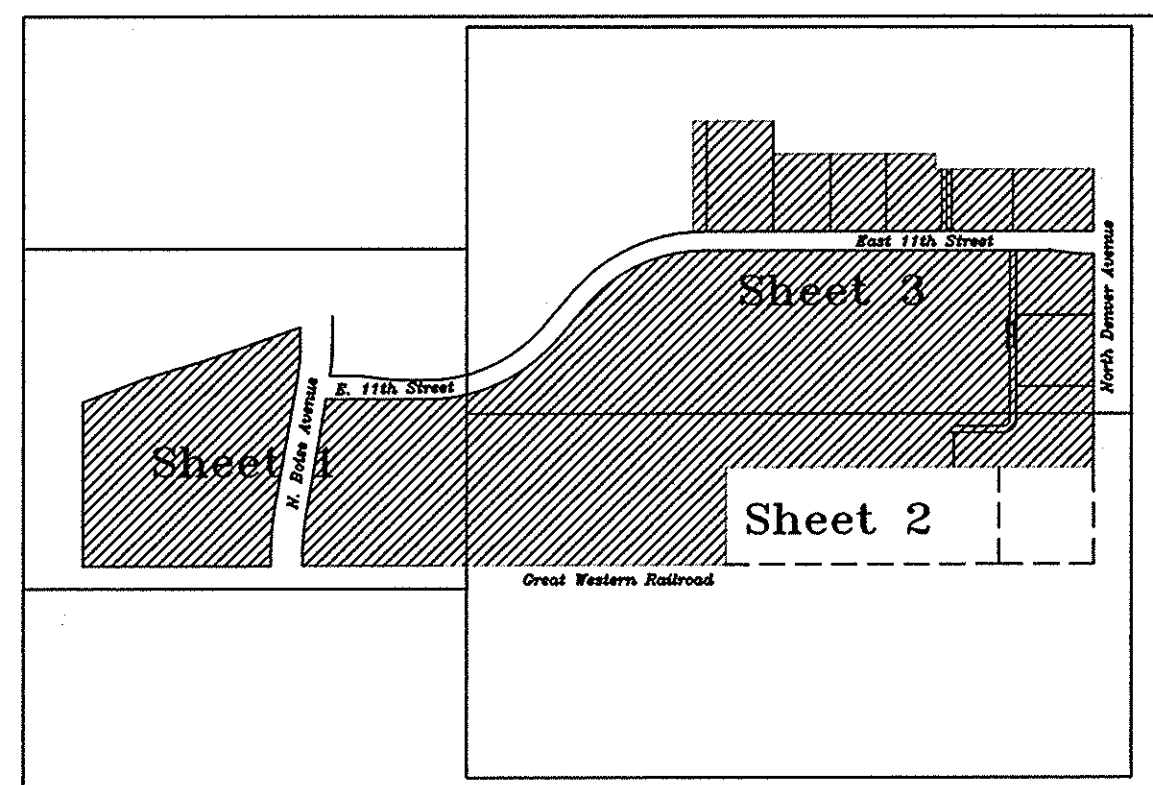
This plat is approved by the Director of Community Services of the City of Loveland, Larimer County, Colorado, this 10th day of December, 2004, for filing with the Clerk and Recorder of Larimer County and for conveyance to the City of the public dedications shown hereon, which are accepted; subject to the provision that approval in no way obligates the City of Loveland, for the financing or constructing of improvements on land, streets or easements dedicated to the public except as specifically agreed to by the Director of Community Services.

Witness my hand and seal of the City of Loveland. ATTEST: Kristi K. Bashor Deputy City Clerk

I, Timothy W. Hasler, an attorney licensed to practice law in the State of Colorado, certify that I have examined title to the above described land dedicated to the City of Loveland, Colorado, and that the parties executing the dedication are the owners thereof in fee simple, and the dedicated land is free and clear of all liens and encumbrances, except as set forth herein.

So sworn this 22nd day of December, 2004. Timothy W. Hasler Attorney at Law 1958

Approval of this plan creates a vested property right pursuant to Section 24-68-103, CRS, as amended.



Key Map n.t.s.

KOLDEWAY INDUSTRIAL SECOND SUBDIVISION

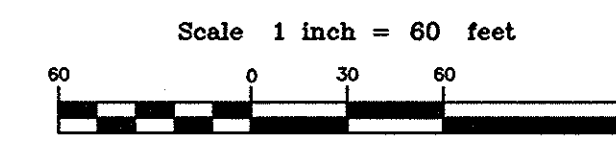
Being a Subdivision of Lot 1, Block 2 and Lots 6 and 7, Block 1, KOLDEWAY INDUSTRIAL FIRST SUBDIVISION, located in Section 18, Township 5 North, Range 68 West of the 6th P.M., City of Loveland, Larimer County, State of Colorado

NOTES:

- 1) All easement shown hereon are based on a title commitments provided by Land Title Guarantee Company; Order No. FC25019884 dated October 21, 2002. Order No. FC25019812-2 dated November 26, 2002.
2) Bearing are based on the South line of Lot 1, Block 2, KOLDEWAY INDUSTRIAL FIRST SUBDIVISION as bears S89°54'02"W.
3) This project is subject to a development agreement which has been recorded in the real property records of Larimer County.
4) Unless otherwise approved by the City, all unsatisfied conditions of approval for the original subdivision shall continue to apply to this property.

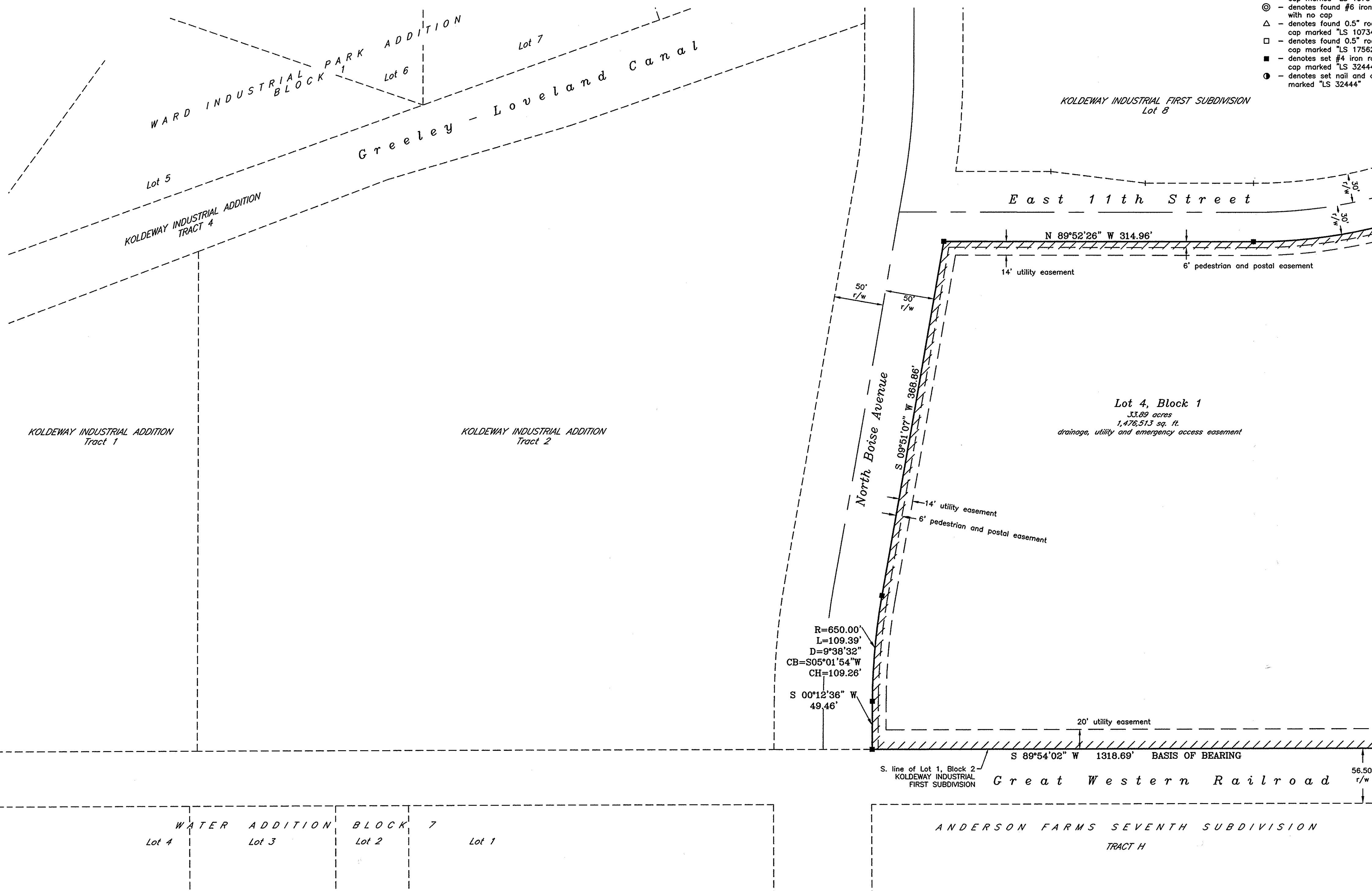
Table with columns: CURVE NO., LENGTH, RADIUS, DELTA, CHORD BEARING, CHORD. Contains data for curves C1 through C13.

Table with columns: LINE NO., BEARING, LENGTH. Contains data for lines L1 through L16.



Legend

- denotes found 0.5" rod & cap marked "LS 11989"
- denotes found 1.0" aluminum cap marked "LS 24966"
- denotes found shiner marked "LS 24966"
- denotes found 1.5" aluminum cap marked "LS 10734"
- denotes found #6 iron rod with no cap
- denotes found 0.5" rod & cap marked "LS 10734"
- denotes found 0.5" rod & cap marked "LS 17562"
- denotes set #4 iron rod & cap marked "LS 32444"
- denotes set nail and disc marked "LS 32444"



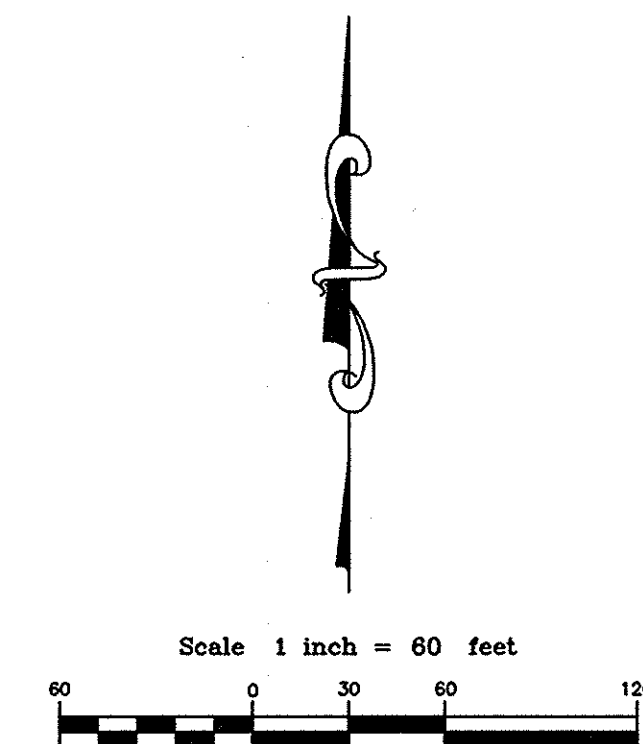
Great Western Railroad

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

Project information block including Revisions, Field Survey (April 8, 2003), Client (North Boise, LLC), Surveyor (Frederick Land Surveying, Inc.), Title (KOLDEWAY INDUSTRIAL SECOND SUBDIVISION), Project No. (03019.003a), Sheet No. (1), and No. of Sheets (3).

# KOLDEWAY INDUSTRIAL SECOND SUBDIVISION

Being a Subdivision of Lot 1, Block 2 and Lots 6 and 7, Block 1, KOLDEWAY INDUSTRIAL FIRST SUBDIVISION, located in Section 18, Township 5 North, Range 68 West of the 6th P.M., City of Loveland, Larimer County, State of Colorado

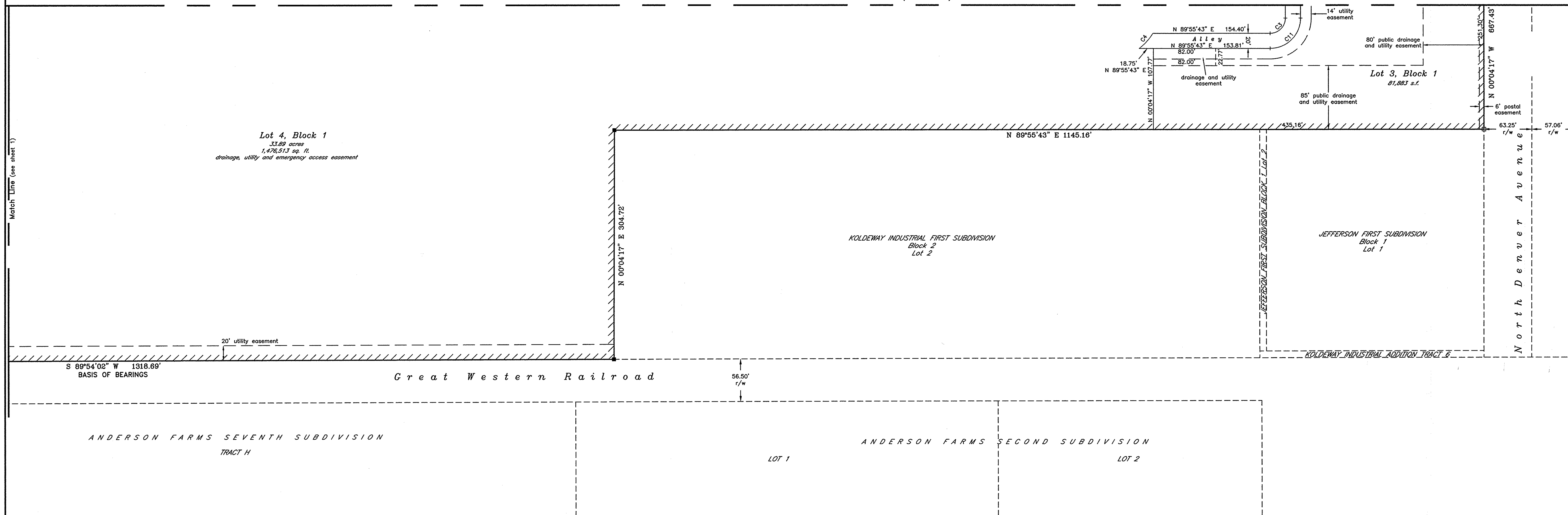


**Legend**

- - denotes found 0.5" rod & cap marked "LS 11989"
- - denotes found 1.0" aluminum cap marked "LS 24966"
- - denotes found shiner marked "LS 24966"
- ▲ - denotes found 1.5" aluminum cap marked "LS 10734"
- ⊙ - denotes found #6 iron rod with no cap
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- - denotes found 0.5" rod & cap marked "LS 17562"
- - denotes set #4 iron rod & cap marked "LS 32444"
- - denotes set nail and disc marked "LS 32444"

See sheet 1 of 3 for line and curve tables.

Match Line (see sheet 3)



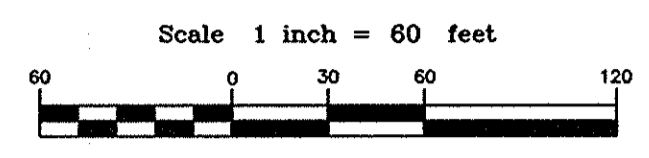
December 22, 2004 - 8:20am

**NOTICE:** According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

<b>REVISIONS</b> Date _____ By _____ Description _____ Date _____ By _____ Description _____ Date _____ By _____ Description _____		Field Survey <u>April 8, 2003</u> Drawn <u>CRW</u> Party Chief <u>DCB</u> Checked <u>MBS</u> Scale <u>1"=60'</u> Approved <u>MBS</u>	<b>CLIENT</b> North Boise, LLC	<b>Frederick Land Surveying, Inc.</b> 1528 North Lincoln Avenue Suite 2 Loveland, Colorado 80538 Phone: (970) 669-2100 FAX: (970) 669-3725	<b>TITLE</b> KOLDEWAY INDUSTRIAL SECOND SUBDIVISION Section 18, Twp 5 N, Rng 68 W, 6PM, Loveland, Colorado	<b>PROJECT NO.</b> 03019.003a	<b>SHEET NO.</b> 2	<b>NO. OF SHEETS</b> 3
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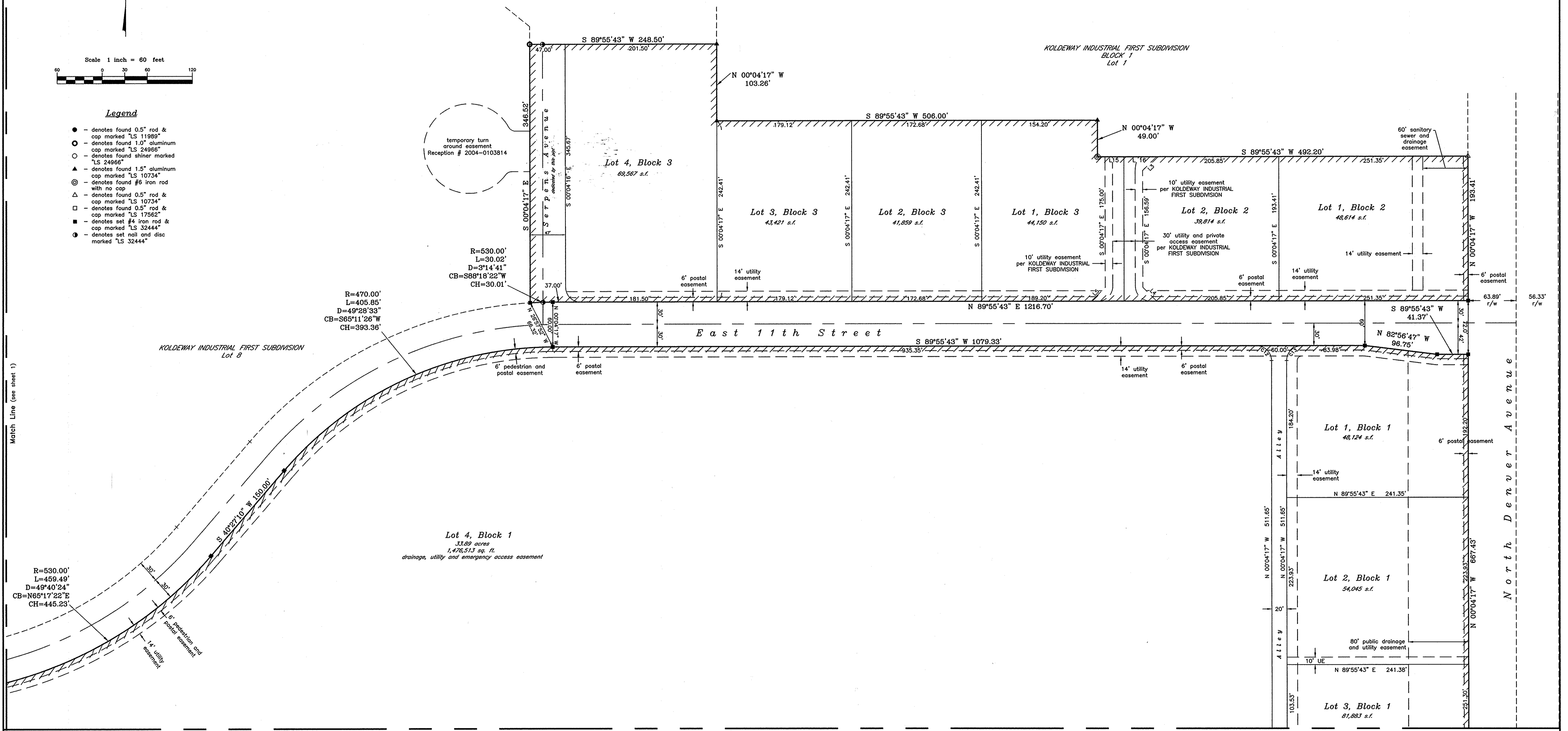
# KOLDEWAY INDUSTRIAL SECOND SUBDIVISION

Being a Subdivision of Lot 1, Block 2 and Lots 6 and 7, Block 1, KOLDEWAY INDUSTRIAL FIRST SUBDIVISION, located in Section 18, Township 5 North, Range 68 West of the 6th P.M., City of Loveland, Larimer County, State of Colorado



### Legend

- - denotes found 0.5" rod & cap marked "LS 11989"
- - denotes found 1.0" aluminum cap marked "LS 24966"
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- - denotes set #4 iron rod & cap marked "LS 32444"
- - denotes set nail and disc marked "LS 32444"



Match Line (see sheet 1)

Match Line (see sheet 2)

See sheet 1 of 3 for line and curve tables.

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

REVISIONS	
Date _____	By _____ Description _____
Date _____	By _____ Description _____
Date _____	By _____ Description _____

Field Survey	April 8, 2003	Drawn	CRW
Party Chief	DCB	Checked	MBS
Scale	1"=60'	Approved	MBS

CLIENT	North Boise, LLC
--------	------------------

**Frederick Land Surveying, Inc.**  
 1528 North Lincoln Avenue Suite 2 Loveland, Colorado 80538  
 Phone: (970) 669-2100 FAX: (970) 669-3725

TITLE	KOLDEWAY INDUSTRIAL SECOND SUBDIVISION
PROJECT NO.	03019.003a
Section 18, Twp 5 N, Rng 68 W, 6PM, Loveland, Colorado	

PROJECT NO.	03019.003a	SHEET NO.	3	NO. OF SHEETS	3
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BHA Design Incorporated  
1603 Oakridge Drive  
Fort Collins, CO 80525

November 7, 2012



City of Loveland  
500 E 3<sup>rd</sup> Street, Suite 310  
Loveland, CO 80537

**RE: Koldeway Industrial Second Subdivision Rezoning**

Dear Mr. Paulson,

There are two lots in the Koldeway Industrial Second Subdivision that are currently zoned I – Developing Industrial that are being requested to change zoning to B – Developing Business. The reason for this is an existing landowner directly north of the properties is requesting the zoning change before purchase so he may develop Assisted Living facilities similar to what is on the existing lot to the north.

The two lots in question are surrounded by varying uses. Currently there is single family residential lots zoned PUD to the west, an existing Assisted Living facility to the north zoned B – Developing Business, and the south and east sides are zoned I with existing industrial uses.

There are significant buffers between the existing industrial uses and the lots in question, as there is the Great Western Railway and power substation bordering the south side and Denver Avenue bordering the east side. These buffers represent solid identifiable boundaries that provide a good transition from the industrial uses to a business use that mixes well with the residential to the west and assisted living to the north.

The subject properties are within the Employment Land Use Category of the Loveland Comprehensive Master Plan. The Employment Land Use Category allows for residential development with an emphasis on vertical mixed-use developments. The nature of this residential development, however, is much less dense. The emphasis on “Campus-type” development and the importance of buffers to adjacent areas highlight the need for a buffer between the single family residential to the west and light industrial to the east. The Developing Business zoning district, could provide that critical buffer between the residential and industrial. More specifically, multiple-family dwellings for the elderly, would be a great bookend to the single family residential as it transitions to the industrial.

The use by right that would result in the greatest impact to the neighborhood, which is allowed by the development agreement, would be an indoor restaurant. The incompatibility with the neighborhood would be the greatest impact for that use. Since these lots being rezoned are internal to the neighborhood, it would create unwanted traffic patterns through the neighborhood at times not conducive to the residential area.



BHA Design Incorporated  
 1603 Oakridge Drive  
 Fort Collins, CO 80525



The size and constraints of the lot, however, discourage this allowed use due to the restaurants need for parking. The fact that the lots are internal to the neighborhood provides an even greater deterrent to the development of a restaurant as their value is diminished without visible, easy access from a collector road. It is because of these reasons that the future development of the lots has a greater chance of taking on a low impact, long term care facility that is currently developed adjacent to them.

Since the property shall be developed into the use by right, and we cannot force the property to be developed into the assumed use, alternate facilities would mix well with the surroundings as well. The adjacent Walmart provides parking and shopping within a walkable distance to the Koldeway lots that would minimize traffic in the area. Assisted living facilities in general benefit greatly from shopping within close proximity, and in this case it would create a vibrant mixed use neighborhood that promotes walkability.

Comments from city infrastructure and service departments indicate that the requested zoning district would be consistent with current infrastructure and services master plans and will not negatively impact City facilities.

One possible issue for the proposed development would be the proximity of the property to the Great Western Railway to the south and the noise generated from passing trains. Easing concerns for this issue is the amount of residential development already established along this railway corridor. Whereas our lots are almost 350' from the railroad, there are single family residences on the same corridor that sit as close as 20' from the railway, alleviating our concerns that the railroad will have a significant negative impact on the property.

Thank you for your consideration

Sincerely,

Mike McBride  
 for BHA Design, Inc.

BHA Design Incorporated  
1603 Oakridge Drive  
Fort Collins, CO 80525

November 7, 2012



City of Loveland  
500 E 3<sup>rd</sup> Street, Suite 310  
Loveland, CO 80537

**RE: Koldeway Industrial Second Subdivision Rezoning – Easement Vacation Request**

Dear Mr. Paulson,

We are currently in the process of rezoning two lots in the Koldeway Industrial Second Subdivision from I – Industrial to B – Developing Business for the future development of two assisted living facilities on the properties. It has become apparent during the process that the current alley will need to be vacated and become a private driveway in order for the proposed uses to comply with the City's ACF ordinance for traffic.

Thanks for your consideration

Sincerely,

Mike McBride  
for BHA Design, Inc.

## PRIVATE ACCESS EASEMENT

**THIS INDUTURE**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by **LOVELAND MIDTOWN DEVELOPMENT, INC.**, whose address is 1043 Eagle Drive, Loveland, Colorado 80537 (owner) hereby grants and dedicates the easement hereinafter described for access, ingress and egress, over, upon, through and across the real estate hereinafter described, for the benefit and use of the owners, patrons, invitees, and guests of A PARCEL OF LAND LOCATED IN SECTION 18, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LOVELAND, LARIMER COUNTY, COLORADO, BEING THE 20.00 FOOT WIDE EASEMENT ADJACENT TO THE WEST AND NORTH SIDES OF LOTS 1,2, AND 3 BLOCK 1 IN THE KOLDEWAY INDUSTRIAL SECOND SUBDIVISION ACCORDING TO THE FINAL PLAT RECORDED AT RECEPTION NUMBER 20050008253 OF LARIMER COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

*See Exhibit "A" and "B"*

### WITNESSETH

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt and sufficiency of which is hereby acknowledged, the owner has this day hereby grant and dedicate this non-exclusive Private Access Easement in, over and across the real estate hereinafter described, including the perpetual right to enter upon said property at any time it may see fit, and to construct, repair, replace, relocated, inspect, operate and maintain access systems across, through, upon and over the lands hereinafter described. The term "access systems" as used herein shall include gravel, pavement, concrete, curb & gutter, pipes, channels and other equipment, appurtenances and structures associated with such systems.

IN WITNESS WHEREOF, the first party has executed this Grant of Easement the day and year first above written.

OWNER(S):  
LOVELAND MIDTOWN DEVELOPMENT, INC.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

STATE OF COLORADO    )  
                                  ) ss  
County of Larimer        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2012, by \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

(SEAL)

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

## EXHIBIT "A"

### LEGAL DESCRIPTION for 20' EASEMENT TO BE GRANTED (*Private Access Easement*)

A parcel of land located in Section 18, Township 5 North, Range 68 West of the Sixth Principal Meridian, City of Loveland, Larimer County, Colorado, being the 20.00 foot wide easement adjacent to the West and North sides of Lots 1, 2, and 3 Block 1 in the Koldeway Industrial Second Subdivision according to the Final Plat recorded at Reception Number 20050008253 of Larimer County Records, more particularly described as Follows:

the West line of said Lots 1, 2, and 3 was assumed to bear South 00°04'17" East, according to the Final Plat of said Koldeway Second Subdivision, with all bearings contained herein relative thereto.

Beginning at a Point of a Curve on the North line of said Lot 1 at the Northwesternly corner of said Lot 1;

thence along the arc curve to the left, the radius point of which bears South 00°04'17" East, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears South 44°55'43" West a distance of 28.28 feet; thence South 00°04'17" East, along the West lines of said Lots 1, 2, and 3, a distance of 511.65 feet to a point of curve;

thence along the arc of said to the right, having a central angle of 90°00'00" and a radius of 40.00 feet, an arc distance of 62.83 feet, the chord of said curve bears South 44°55'43" West a distance of 56.57 feet;

thence South 89°55'43" West, a distance of 172.56 feet to a point on a non-tangent curve on the Easterly right-of-way of Virgo Circle;

thence along the arc of said non tangent curve to the left, the radius point of which bears North 37°35'57" West, having a central angle of 20°28'25" and a radius of 76.00 feet, an arc distance of 27.16 feet, the chord of said curve bears North 42°09'52" East a distance of 27.01 feet;

thence North 89°55'43" East, a distance of 154.41 feet to a point of curve;

thence along the arc of said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 44°55'43" East a distance of 28.28 feet;

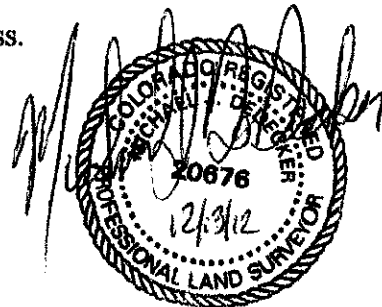
thence North 00°04'17" West, a distance of 511.65 feet to a point of curve

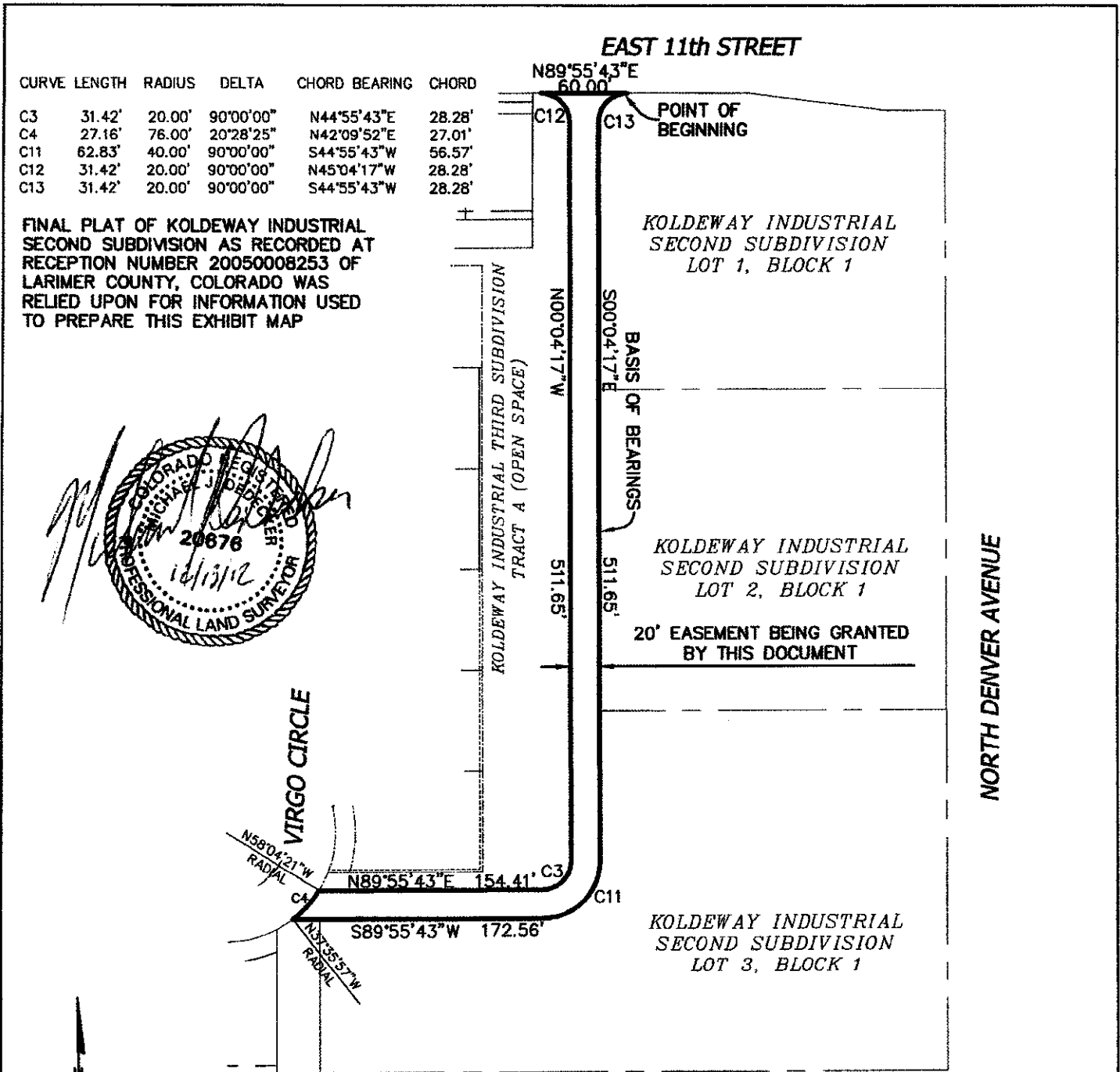
thence along said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 45°04'17" West a distance of 28.28 feet, to a point on the Southerly right-of-way of East 11<sup>th</sup> Street;

thence North 89°55'43" East, along said Southerly right-of-way line, a distance of 60.00 feet to the POINT OF BEGINNING.

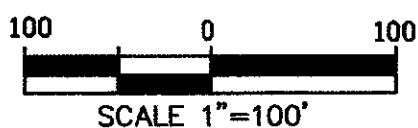
Containing 14,993.38 square feet or 0.3442 acres, more or less.

Prepared December 13, 2012, by Michael J. DeDecker PLS,  
for and on behalf of CDS Engineering Corp. 165 2<sup>nd</sup> Street SW,  
Loveland Co. 80537





**EXHIBIT "B"**  
**EXHIBIT MAP FOR GRANT OF EASEMENT**  
**KOLDEWAY INDUSTRIAL**  
**SECOND SUBDIVISION**  
**LOVELAND, COLORADO**



SCALE: 1" = 100'	<b>CDS</b> Engineering Corporation 165 2nd ST SW LOVELAND, COLORADO 80538 (970) 667-8010	PROJECT NO. P08-4836.140
DATE: 12-13-2012		DRAWING NO. 4836/SITE
FIELD BOOK: N/A		REVISION NO. 0
DRAWN: MJD	CHECKED:	SHEET 1 OF 1

## GRANT OF EMERGENCY ACCESS EASEMENT

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Loveland Midtown Development, Inc., (“Grantor”) whose address is 1043 Eagle Drive, Loveland, Colorado 80537, and the CITY OF LOVELAND, COLORADO, a municipal corporation, (“City”), whose address is 500 East Third Street, Loveland, Colorado 80537.

### WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer and deliver unto the City, its successors and assigns, a permanent nonexclusive easement in, over and across the real estate hereinafter described, for purposes of access by local, state or federal emergency response agencies and any entity responding at the direction of such an agency.

The easement hereby granted, situated in Larimer County, Colorado is described as follows:

***A parcel of land located in Section 18, Township 5 North, Range 68 West of the Sixth Principal Meridian, City of Loveland, Larimer County, Colorado, being the 20.00 foot wide easement adjacent to the West and North sides of Lots 1,2, and 3 Block 1 in the Koldeway Industrial Second Subdivision according to the Final Plat recorded at Reception Number 20050008253 of Larimer County Records, more particularly described as Follows:  
See Exhibit “A”***

TO HAVE AND TO HOLD said easement unto the City, its successors and assigns forever. The Grantor does hereby covenant with the City that it is lawfully seized and possessed of the real property above described, that it has a good and lawful right to convey the easement herein granted, that the said easement is free and clear of all encumbrances, and that it will forever warrant and defend the title thereto against lawful claims of all persons whomsoever.

The Grantor further covenants and agrees to construct and maintain in good repair and unobstructed at all times, a permanent all-weather emergency access road capable of supporting fire apparatus over and across the easement. Prior to construction, Grantor shall prepare and submit plans and specifications for the emergency access road to the City and such plans and specifications shall be subject to approval by Loveland Fire Rescue Authority. Grantor, for itself and its successors and assigns, covenants and agrees that it shall not modify the width, location, or configuration of the emergency access road without the prior written approval from the City.

IN WITNESS WHEREOF, the Grantor has executed this Grant of Easement the day and year first above written.

GRANTOR:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

STATE OF COLORADO    )  
                                          ) ss  
County of Larimer        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2012, by \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

(SEAL)

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

**ACCEPTED BY CITY OF LOVELAND**

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

ATTEST:

APPROVED AS TO FORM

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

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



## EXHIBIT "A"

### LEGAL DESCRIPTION for 20' EASEMENT TO BE GRANTED

A parcel of land located in Section 18, Township 5 North, Range 68 West of the Sixth Principal Meridian, City of Loveland, Larimer County, Colorado, being the 20.00 foot wide easement adjacent to the West and North sides of Lots 1, 2, and 3 Block 1 in the Koldeway Industrial Second Subdivision according to the Final Plat recorded at Reception Number 20050008253 of Larimer County Records, more particularly described as Follows:

the West line of said Lots 1, 2, and 3 was assumed to bear South 00°04'17" East, according to the Final Plat of said Koldeway Second Subdivision, with all bearings contained herein relative thereto.

Beginning at a Point of a Curve on the North line of said Lot 1 at the Northwesterly corner of said Lot 1;

thence along the arc curve to the left, the radius point of which bears South 00°04'17" East, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears South 44°55'43" West a distance of 28.28 feet; thence South 00°04'17" East, along the West lines of said Lots 1, 2, and 3, a distance of 511.65 feet to a point of curve;

thence along the arc of said to the right, having a central angle of 90°00'00" and a radius of 40.00 feet, an arc distance of 62.83 feet, the chord of said curve bears South 44°55'43" West a distance of 56.57 feet;

thence South 89°55'43" West, a distance of 172.56 feet to a point on a non-tangent curve on the Easterly right-of-way of Virgo Circle;

thence along the arc of said non tangent curve to the left, the radius point of which bears North 37°35'57" West, having a central angle of 20°28'25" and a radius of 76.00 feet, an arc distance of 27.16 feet, the chord of said curve bears North 42°09'52" East a distance of 27.01 feet;

thence North 89°55'43" East, a distance of 154.41 feet to a point of curve;

thence along the arc of said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 44°55'43" East a distance of 28.28 feet;

thence North 00°04'17" West, a distance of 511.65 feet to a point of curve

thence along said curve to the left, having a central angle of 90°00'00" and a radius of 20.00 feet, an arc distance of 31.42 feet, the chord of said curve bears North 45°04'17" West a distance of 28.28 feet, to a point on the Southerly right-of-way of East 11<sup>th</sup> Street;

thence North 89°55'43" East, along said Southerly right-of-way line, a distance of 60.00 feet to the POINT OF BEGINNING.

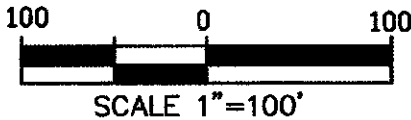
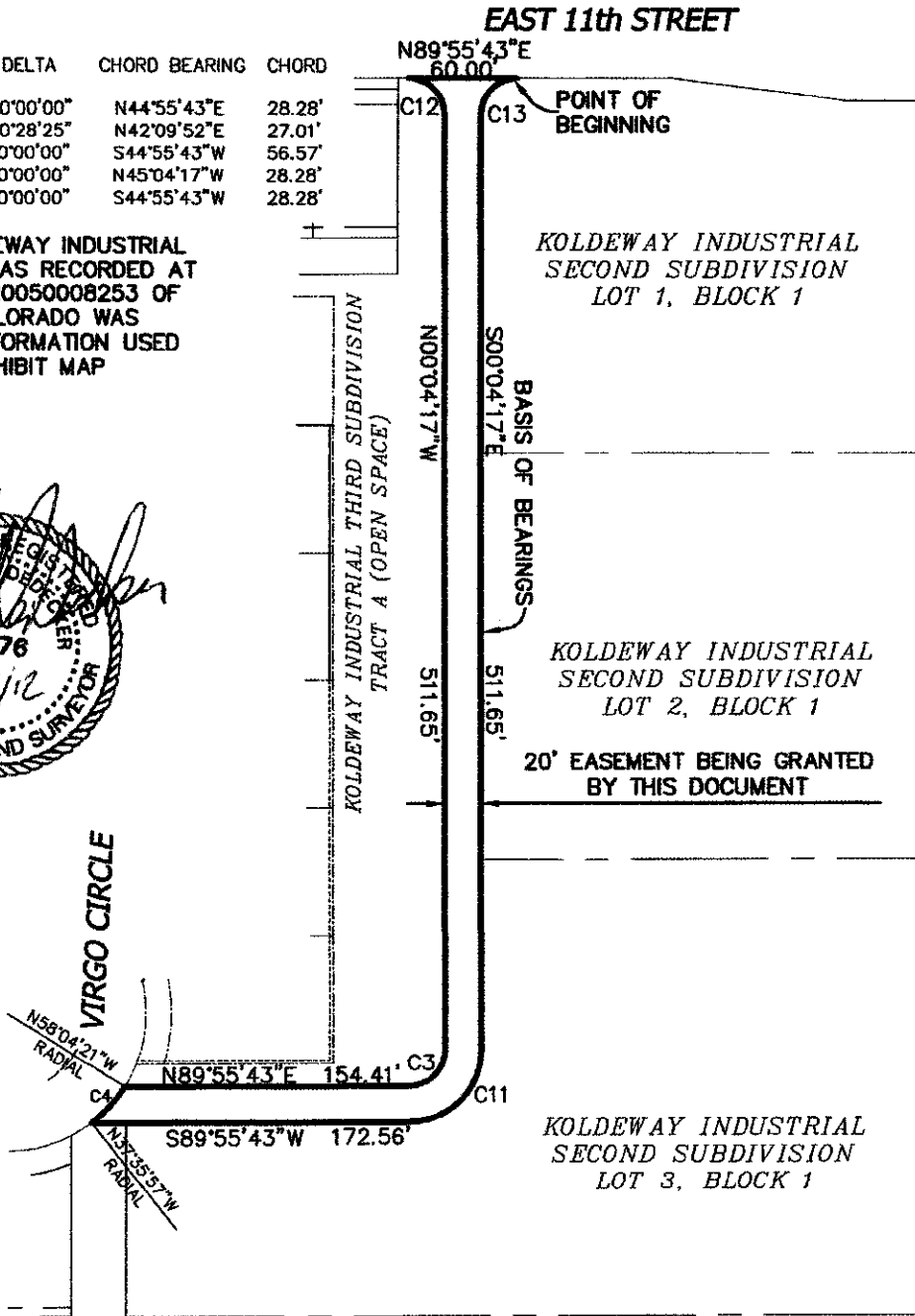
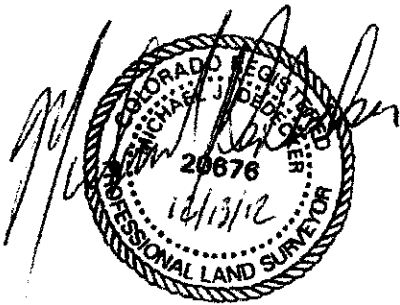
Containing 14,993.38 square feet or 0.3442 acres, more or less.

Prepared December 13, 2012, by Michael J. DeDecker PLS,  
for and on behalf of CDS Engineering Corp. 165 2<sup>nd</sup> Street SW,  
Loveland Co. 80537



CURVE LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C3	31.42'	20.00'	90°00'00"	28.28'
C4	27.16'	76.00'	20°28'25"	27.01'
C11	62.83'	40.00'	90°00'00"	56.57'
C12	31.42'	20.00'	90°00'00"	28.28'
C13	31.42'	20.00'	90°00'00"	28.28'

FINAL PLAT OF KOLDEWAY INDUSTRIAL SECOND SUBDIVISION AS RECORDED AT RECEPTION NUMBER 20050008253 OF LARIMER COUNTY, COLORADO WAS RELIED UPON FOR INFORMATION USED TO PREPARE THIS EXHIBIT MAP



**EXHIBIT "B"**  
**EXHIBIT MAP FOR GRANT OF EASEMENT**  
**KOLDEWAY INDUSTRIAL**  
**SECOND SUBDIVISION**  
**LOVELAND, COLORADO**

SCALE: 1" = 100'	<b>CDS</b> Engineering Corporation 165 2nd ST SW LOVELAND, COLORADO 80538 (970) 667-8010	PROJECT NO. P08-4836.140
DATE: 12-13-2012		DRAWING NO. 4836/SITE
FIELD BOOK: N/A		REVISION NO. 0
DRAWN: MJD	CHECKED:	SHEET 1 OF 1



1 *Vice Chair Middleton made a motion to adopt the February 25, 2013 meeting minutes as*  
 2 *amended. Upon a second by Commissioner Crescibene the minutes were unanimously adopted*  
 3 *(Commissioner Dowding abstained).*

4  
 5 **CONSENT AGENDA**

6  
 7 **1. Rangeview 3<sup>rd</sup>: Easement Vacation Application.**

8  
 9 This is a public hearing to consider a request for vacation of a portion of an access easement  
 10 associated with the Lake Vista Apartments. Staff believes that the requested vacation will not  
 11 negatively impact circulation within the project site. This matter requires that the Planning  
 12 Commission make a recommendation to the City Council for final action.

13  
 14 *Commissioner Dowding made a motion to adopt the Consent Agenda. Upon a second by Vice*  
 15 *Chairman Middleton the motion was unanimously adopted.*

16  
 17 **REGULAR AGENDA**

18  
 19 **1. 541 Lincoln Avenue: Application to approve Downtown Mixed-Use Project.**

20  
 21 This is a public hearing to consider whether a proposed 5-story, 70-unit residential /  
 22 mixed-use building located within the Downtown BE Zoning District is in compliance  
 23 with applicable zoning standards. The project is a public/private collaboration between  
 24 the City and Brinkman Partners; as such, it is a component of the downtown revitalization  
 25 effort. This is a quasi-judicial matter; the Planning Commission has final authority on this  
 26 matter barring appeal.

27  
 28 **Noreen Smyth, Current Planning**, gave a staff presentation on this item. She stated that  
 29 structures with uses by right in the core area of the BE district require approval by the Planning  
 30 Commission if the structure exceeds 25,000 square feet. She stated the Planning Commission will not  
 31 be reviewing the proposed use or site plan, only the proposed structure. She stated that the following  
 32 findings should be the focus of the Commission's review of the project:

- 33  
 34 1. The proposed development complies with the standards of this chapter and any other  
 35 applicable provisions of the Loveland Municipal Code.  
 36  
 37 2. The proposed development is consistent with the goals of the document, *Destination*  
 38 *Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation*  
 39 *Strategy*.  
 40  
 41 3. The proposed development is compatible with surrounding properties while  
 42 considering its location in an urban environment characterized by a diversity of uses and  
 43 building types.

1  
2 **Ms. Smyth** summarized the staff report and indicated that the staff was recommending approval.  
3 She clarified that, as a mixed use project located within the boundaries of GID #1, there was no  
4 requirement for off-street parking. She reported the applicant is providing 65 parking spaces.  
5

6 **Kevin Brinkman, Brinkman Construction**, introduced himself to the Planning Commission  
7 and stated that his team was happy to be working with the City of Loveland on this project.  
8

9 **Eduardo Illanes, Oz Architecture**, spoke of the architecture and the materials that will be used  
10 and showed a series project renderings. He reported there would be covered and open-air  
11 parking. He also stated that the elevation of the building would be raised on Lincoln Avenue to  
12 prevent flooding. He commented the project would be an exciting enhancement to downtown.  
13

14 **Commissioner Molloy** stated there was a variation in the landscape plan. He asked if the  
15 existing street trees would be removed.  
16

17 Mr. Illanes stated the trees would not survive the construction process and be removed and  
18 replaced.  
19

20 There was discussion regarding:

- 21 • parking lot screening
- 22 • landscaping
- 23 • lighting
- 24 • building footprint
- 25 • handicap parking, marking handicap entrances/exits and parking ratios
- 26 • creating a canyon on Lincoln
- 27 • fire suppression
- 28 • provision of adequate parking  
29

30 **Mike Scholl, Economic Development**, spoke of the existing parking issues in downtown. He  
31 acknowledged the need for adequate parking and its importance in the revitalization process. He  
32 also commented that the applicant had done a good job of providing a minimum of spaces to  
33 support the development. He explained that property owners in downtown pay into the General  
34 Improvement District #1 ("GID 1") to support the development and maintenance of shared  
35 parking facilities in downtown.  
36

37 **Chairman Meyers** expressed concerns regarding lighting on the north side of the building.  
38

39 **Commissioner Ray** expressed concern for the canyon effect on Lincoln with tall buildings on  
40 either side of the street. He also questions whether the project was compliant with height  
41 limitations in the BE District.  
42

1 **Ms. Smyth** reported there was extra open space along the Lincoln Avenue facade of the building  
 2 and there is additional open space along the Lincoln Place building creating additional open  
 3 space between the two buildings.  
 4

5 **Mr. Paulsen** stated the issue of the canyon effect was not considered when reviewing the project  
 6 because the building was within the height limitations.  
 7

8 **Ms. Smyth** clarified the city is not giving up any parking spaces on Lincoln.  
 9

10 **Mr. Paulsen** re-emphasized because the project is within the GID #1 there are no parking  
 11 requirements for the project. He stated that staff has not finalized the site development review  
 12 process and believed that lighting and handicap spaces will be discussed further in the process.  
 13 He confirmed that staff is continuing to work on the need for additional parking in downtown.  
 14

#### 15 Public Comment

16  
 17 **Sheila Carrasco, 1303 Harlow Lane**, was opposed to the project and believed the space was to  
 18 be used for a new museum.  
 19

20 **Richard Ball, Attorney**, spoke in support of the project and believed this type of residential use  
 21 is desired in the downtown area. He suggested City Council step up and provide parking at the  
 22 city-owned Pullium Building. He suggested the City purchase the House of Neighborly Services  
 23 building which is currently for sale.  
 24

25 **Susan Fives, Co-Owner of the adjacent Brandt Building**, stated she likes the building and  
 26 believed it would enhance the downtown area but expressed ongoing parking concerns.  
 27

28 **Russ Morgan, a Loveland resident**, expressed concerns regarding:

- 29 • notice received on February 22
- 30 • opportunity for the museum expansion lost
- 31 • parking on 5<sup>th</sup> and Lincoln will be gone
- 32 • urged the Commission to preserve the site for a future museum  
 33

34 **Sandy Fives, Co-Owner of the Brandt Building**, stated there are many issues related to parking  
 35 and flooding in the alleys. She questioned if it were wise to choose residential construction  
 36 rather than a new museum.  
 37

38 **Mr. Scholl** gave a brief explanation of the GID #1, why it was created and how funds are  
 39 collected and used in the provision of downtown parking. He stated he would talk to the Public  
 40 Works Department about the flooding issue he commented he is currently working with the  
 41 County on parking issues.  
 42

1 **Mr. Illanes** stated they would address the need for additional handicap parking and stated that  
 2 the design for stormwater would direct water to the center of the parking lot site and then it  
 3 would be piped underground to the northeast corner of the site connected to the city's storm  
 4 sewer. He stated that four trees would be replaced on each side of the building.

5  
 6 **Commission Comments**  
 7

8 **Vice Chairman Middleton** thanked Mr. Scholl for explaining the GID and spoke in support of  
 9 the project.

10  
 11 **Commissioner Prior** encouraged the developer to consider a change to the architectural design  
 12 of the southeast corner of the building to make it more visually appealing. He encouraged the  
 13 developer to work with the city to improve the drainage issues and lighting in the alleys.

14  
 15 **Commissioner Molloy** he stated this is exactly what is needed in downtown and was in support  
 16 of the project.

17  
 18 **Commissioner Massaro** expressed the need to address the flooding issues and supported the  
 19 project. He commented that increased density would help businesses thrive.

20  
 21 **Commissioner Crescibene** concurred with previous comments.

22  
 23 **Commissioner Dowding** spoke in support of the project she stated that she liked the  
 24 architecture, texture and color palate. She stated that she hoped the drainage issues would be  
 25 resolved for entire downtown area.

26  
 27 **Commissioner Ray** supported the project and asked the applicant to consider lighting, drainage  
 28 and south façade improvements prior to completing the project design. He thanked the applicant  
 29 for offering the parking that they have.

30  
 31 **Chairman Meyers** supported the project stating he believed it was a good fit for the location.  
 32 He expressed the following concerns:

- 33 • appearance of the south facade
- 34 • drainage issues - he believed the site would help the drainage issue and urged public
- 35 works to correct the drainage problem in downtown
- 36 • lighting on the north side

37  
 38 He commented it takes more than local residents to make a downtown thrive.

39  
 40 *The Vice Chairman made a motion to make the findings listed in Section VI of the Planning*  
 41 *Commission staff report dated March 11, 2013 and, based on those findings, approve Resolution*

1 *13-02, as amended on the record. Upon a second by Commissioner Ray the motion was*  
 2 *unanimously adopted.*

3  
 4  
 5 **2. Koldeway Industrial 2<sup>nd</sup> Subdivision: Rezoning and Easement Vacation**  
 6 **Application.**

7  
 8 This is a public hearing to consider a request to rezone 3 acres located adjacent to North  
 9 Denver Avenue (north of 1<sup>st</sup> Street and south of 11<sup>th</sup> Street) from I-Developing Industrial  
 10 to B-Developing Business. The rezoning is being pursued to allow development of an  
 11 assisted living facility. The request for the associated easement vacation is to allow a  
 12 public alley to be re-designated as a private drive, thereby affording sufficient access to  
 13 the subject property. This request is quasi-judicial (rezoning) and legislative (easement  
 14 vacation) in nature. The requested applications require the Planning Commission to  
 15 make recommendations to the City Council for final action.

16  
 17 **Commissioner Dowding** disclosed to the Commission that the owner of the existing assisted  
 18 living facility is her neighbor. She stated she would be fair and unbiased in her deliberations.

19 **Noreen Smyth, Current Planning**, gave a staff presentation on this item to consider rezoning of  
 20 two lots within the Koldeway Industrial Second Subdivision from the I-Developing Industrial  
 21 District to B-Developing Business District which is a less intensive zoning than the existing I  
 22 zoning.

23 She stated that staff is also asking the Commission to consider vacation of a public access  
 24 easement relating to a drive next to the property. The drive or alley would become a private  
 25 access easement.

26  
 27 **Blaine Rappe, Loveland Commercial**, responded to a question regarding bollards which block  
 28 access to the adjacent neighborhood street, stating that the posts on the site are retractable fire  
 29 department bollards. The Fire Department has a key to lower them if needed.

30  
 31 **Vice Chairman Middleton** expressed concerns that after the property is rezoned the applicant  
 32 would not be required to construct the assisted living facility and asked if they were committed to the  
 33 construction of an assisted living facility.

34  
 35 **Mr. Rappe** stated the property is under contract with the condition that it be rezoned and assured the  
 36 Commission that it is the intent to build the facility.

37  
 38 **Mr. Paulsen** stated the current I-Industrial zoning would not allow for the construction of an assisted  
 39 living facility and the B-Development Business zoning would. He emphasized the owner of the  
 40 property is under no obligation to build an assisted living facility after it is rezoned. He emphasized  
 41 that the B zoning district is more compatible with the adjacent residential neighborhood.  
 42



1 **Chairman Meyers** noted that surrounding properties were zoned for industrial uses and asked if  
2 there were issues with setbacks from the adjacent property being rezoned.

3  
4 **Ms. Smyth** stated that wouldn't change the setbacks.

5  
6 **Mr. Paulsen** stated that the uses they are limiting themselves to in the Development Agreement are  
7 more compatible with what the current zoning would allow.

8  
9 **Nathan Klein, Loveland Commercial**, gave a brief history of the zoning in the area and stated that  
10 the B zoning is more compatible with the area as it has developed.

11  
12 **Commissioner Dowding** supported the rezoning.

13  
14 *Vice Chairman Middleton made a motion to make the findings listed in Section IX of this report*  
15 *dated March 11, 2013; and, based on those findings, recommend approval of the rezoning of the*  
16 *Koldeway property from I-Developing Industrial to B - Developing Business, as amended on the*  
17 *record. Upon a second by Commissioner Ray, the motion was unanimously adopted.*

18  
19 *Vice Chairman Middleton made a motion to make the findings listed in Section X of this report*  
20 *dated March 11, 2013; and, based on those findings, recommend approval of the associated access*  
21 *easement vacation, as described and depicted in Attachments #1 and #2 of this staff report, subject*  
22 *to the Condition specified in Section XXII of this report. Upon a second by Commissioner Ray*  
23 *the motion was unanimously adopted.*

24  
25 **Mr. Rappe** accepted the conditions.

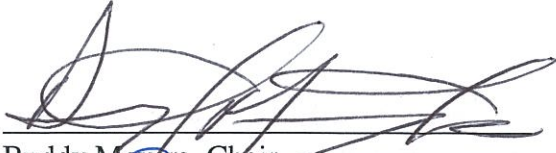
26  
27 **3. 2012 Accomplishments / 2013 Goals.**

28  
29 At the beginning of each year, the Planning Commission reviews its accomplishments from the  
30 previous year and establishes goals for the New Year. This effort is designed to ensure that  
31 Commission agendas and related Commission activities reflect established priorities. This  
32 matter is administrative. The Commission tabled this matter at its meeting on February 11<sup>th</sup> to  
33 allow for further review and consideration.


34  
35 *Vice Chairman Middleton made a motion to move discussion of the 2012 Accomplishments and*  
36 *2013 Goals to the next regularly scheduled meeting. Upon a second by Commissioner Ray the*  
37 *motion was unanimously adopted.*

38  
39 **ADJOURNMENT**

40  
41 *Commissioner Ray made a motion to adjourn. Upon a second by Vice Chairman Middleton the*  
42 *motion was unanimously adopted.*



Buddy Meyers, Chair



Vicki Mesa, Secretary

1  
2  
3  
4  
5  
6  
7



## *Koldeway Rezoning & Vacation*

---


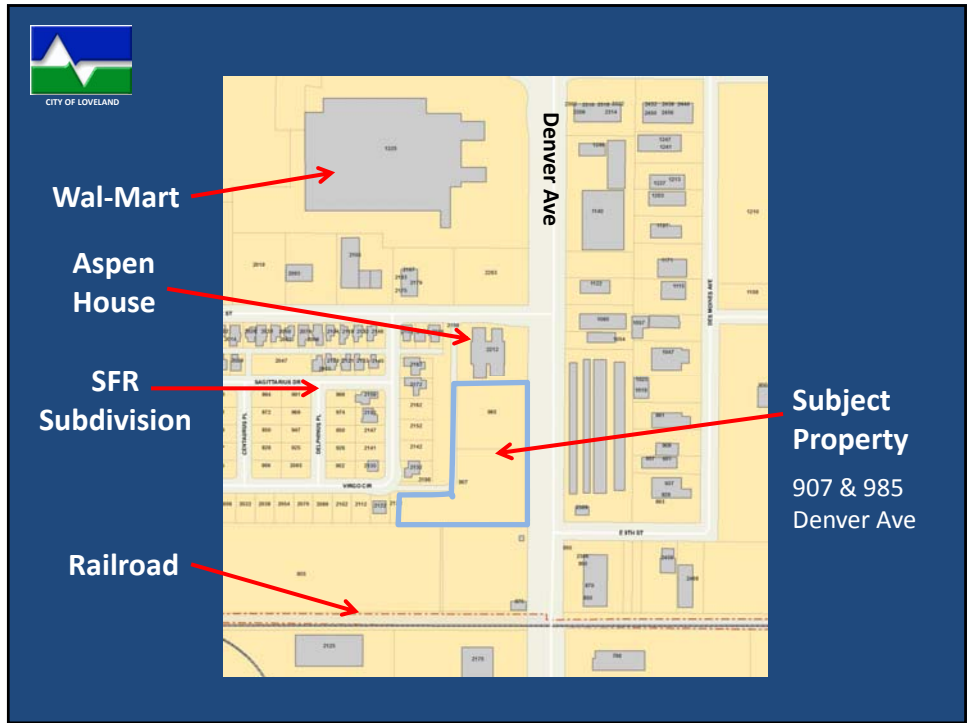
City Council Public Hearing  
April 16, 2013



### Koldeway

**Request:**

- Rezone subject property from B-Developing Business to I-Developing Industrial, amend Development Agreement and vacate access easement in advance of selling property to a developer of assisted living facilities
- Site development plan & building permit applications to be submitted later
- Downzoning to a district more compatible with nearby residential uses
- Assisted living facility in same subdivision immediately to the north, also zoned B-Developing Business



### Koldeway

**Vacation:**

- Change the access easement on an existing drive from public to private (use by adjacent properties only) and emergency access easement
- Development of the property anticipated to result in non-compliance with allowable traffic volumes for public alleys
- Recommended by Transportation Division; no public benefit to public access easement



## Requested Actions

- **Rezoning**-Unanimous recommendation of approval from Planning Commission at March 11 hearing
- **Amendment** to the Development Agreement
- **Vacation** of access easement-Unanimous recommendation of approval from Planning Commission at March 11 hearing



**CITY OF LOVELAND**  
 DEVELOPMENT SERVICES DEPARTMENT  
 Civic Center • 500 East 3<sup>rd</sup> Street • Loveland, Colorado 80537  
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

**AGENDA ITEM:** 6  
**MEETING DATE:** 4/16/2012  
**TO:** City Council  
**FROM:** Greg George, Development Services Director  
**PRESENTER:** Noreen Smyth, Current Planning

**TITLE:**

An Ordinance Vacating a Portion of a Private Access, Emergency Access, and City of Loveland Water and Sewer Easement on Lot 4, Block 1, Range View Third Subdivision, City of Loveland

**RECOMMENDED CITY COUNCIL ACTION:**

Public hearing and a motion to adopt the ordinance as recommended

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adoption a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is a legislative action for adoption of an ordinance on first reading to vacate an 89 square foot/up to 2.7 feet in width portion of an easement in the Range View Third Subdivision, located at 2331 Rocky Mountain Avenue.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**SUMMARY:**

This item proposes to vacate a small portion of a private access, emergency access, and utility easement on which there is an encroaching (overlapping) building. The easement is located within the Lake Vista Apartment development.

The easement is not necessary for vehicular circulation or access by apartment residents or emergency vehicles, and there are no utility lines in the area proposed to be vacated. Therefore,

the small portion of the easement to be vacated serves no greater public benefit and it will correct a minor encroachment issue.

---

**REVIEWED BY CITY MANAGER:**



---

**LIST OF EXHIBITS:**

- Vacation exhibit
- Staff memorandum

**FIRST READING:** April 16, 2013

**SECOND READING:** \_\_\_\_\_

**ORDINANCE NO.**

**AN ORDINANCE VACATING A PORTION OF A PRIVATE ACCESS, EMERGENCY ACCESS, AND CITY OF LOVELAND WATER AND SEWER EASEMENT ON LOT 4, BLOCK 1, RANGE VIEW THIRD SUBDIVISION, CITY OF LOVELAND**

**WHEREAS**, the City Council, at a regularly scheduled meeting, considered the vacation of that portion of a private access, emergency access and City of Loveland water and sewer easement described on **Exhibit 1** attached hereto and incorporated herein by this reference, located in Lot 4, Block 1, Range View Third Subdivision, City of Loveland, County of Larimer, State of Colorado;

**WHEREAS**, the City Council finds and determines that no land adjoining the portion of the easement to be vacated is left without an established public or private easement connecting said land with another established public or private easement; and

**WHEREAS**, the City Council finds and determines that the portion of the easement to be vacated is no longer necessary for the public use and convenience; and

**WHEREAS**, the City Council further finds and determines that the application filed with the Current Planning Division was signed by the owners of more than 50% of property abutting the easement to be vacated.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the City Council hereby adopts and makes the findings set forth above.

**Section 2.** That based on the City Council's findings described above, that portion of the private access, emergency access, and City of Loveland water and sewer easement located in Lot 4, Block 1, Range View Third Subdivision, City of Loveland, County of Larimer State of Colorado described on **Exhibit 1** attached hereto and incorporated herein and containing 88.69 square feet, more or less, be and the same is hereby vacated.

**Section 3.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 4.** This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).



**Section 5.** That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this \_\_\_\_ day of May, 2013.

ATTEST:

CITY OF LOVELAND, COLORADO:

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

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

APPROVED AS TO FORM:

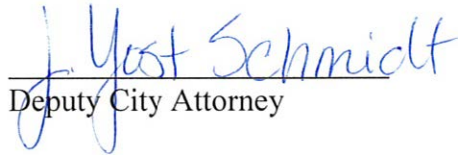
  
\_\_\_\_\_  
Deputy City Attorney



EXHIBIT 1  
PRIVATE ACCESS, EMERGENCY ACCESS, AND CITY OF LOVELAND WATER  
AND SEWER EASEMENT  
VACATION

A PARCEL OF LAND BEING A PORTION OF LOT 4, BLOCK 1, RANGE VIEW THIRD SUBDIVISION, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, LOCATED IN THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 9, WHICH IS ASSUMED TO BEAR NORTH 01°22'40" EAST.

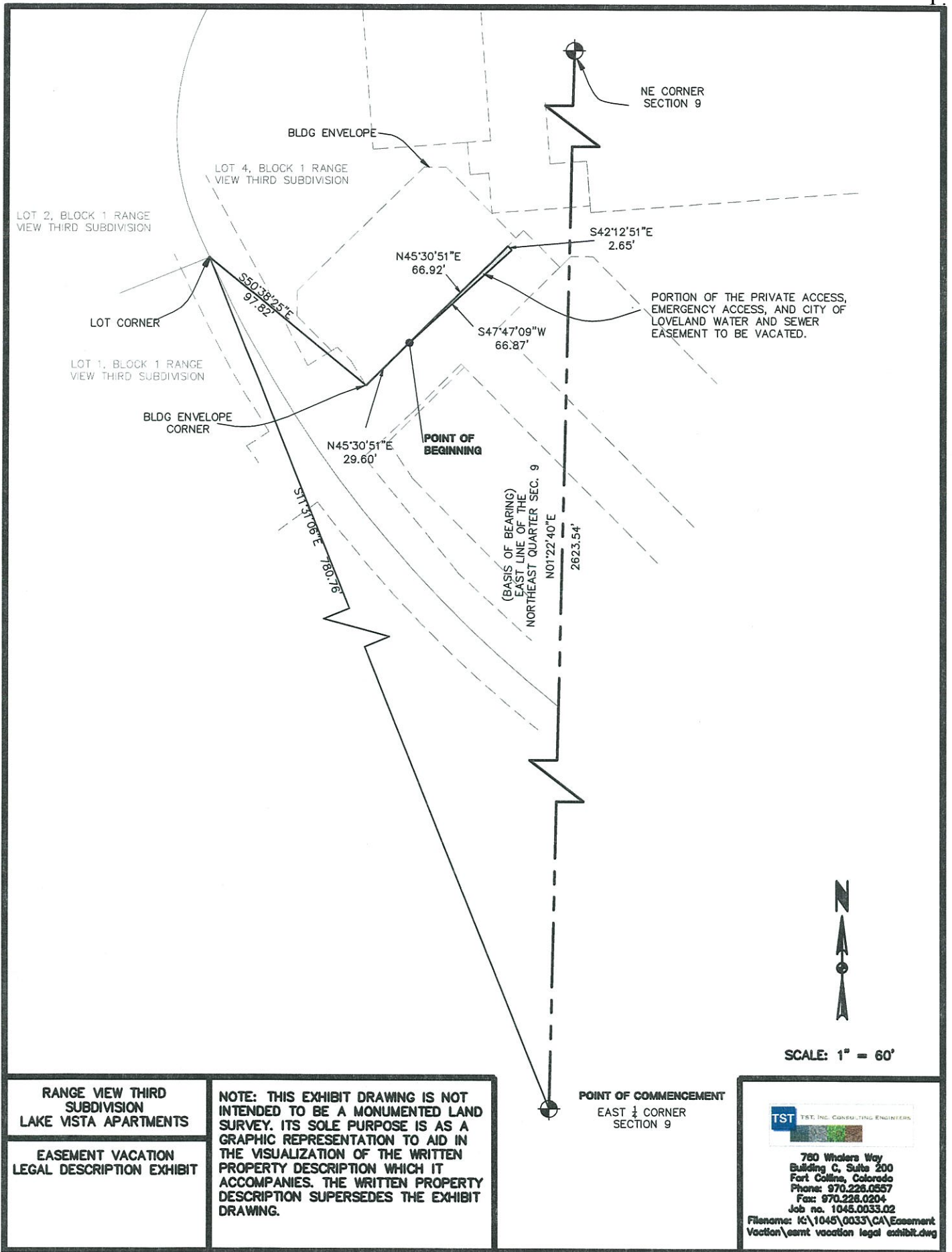
**COMMENCING** AT THE EAST ¼ CORNER OF SAID SECTION;  
THENCE NORTH 11°31'06" WEST, A DISTANCE OF 780.76 FEET, TO A POINT ON THE WEST LINE OF SAID LOT 4;  
THENCE SOUTH 50°38'25" EAST, A DISTANCE OF 97.82 FEET;  
THENCE NORTH 45°30'51" EAST, A DISTANCE OF 29.60 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 45°30'51" EAST, 66.92 FEET;  
THENCE SOUTH 42°12'51" EAST, 2.65 FEET;  
THENCE SOUTH 47°47'09" WEST, 66.87 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 88.69 SQUARE FEET, 0.002 ACRES, MORE OR LESS.

FOR AND ON BEHALF OF TST, INC. CONSULTING ENGINEERS

CHAD WASHBURN  
COLORADO PROFESSIONAL LAND SURVEYOR #37963



**RANGE VIEW THIRD SUBDIVISION LAKE VISTA APARTMENTS**

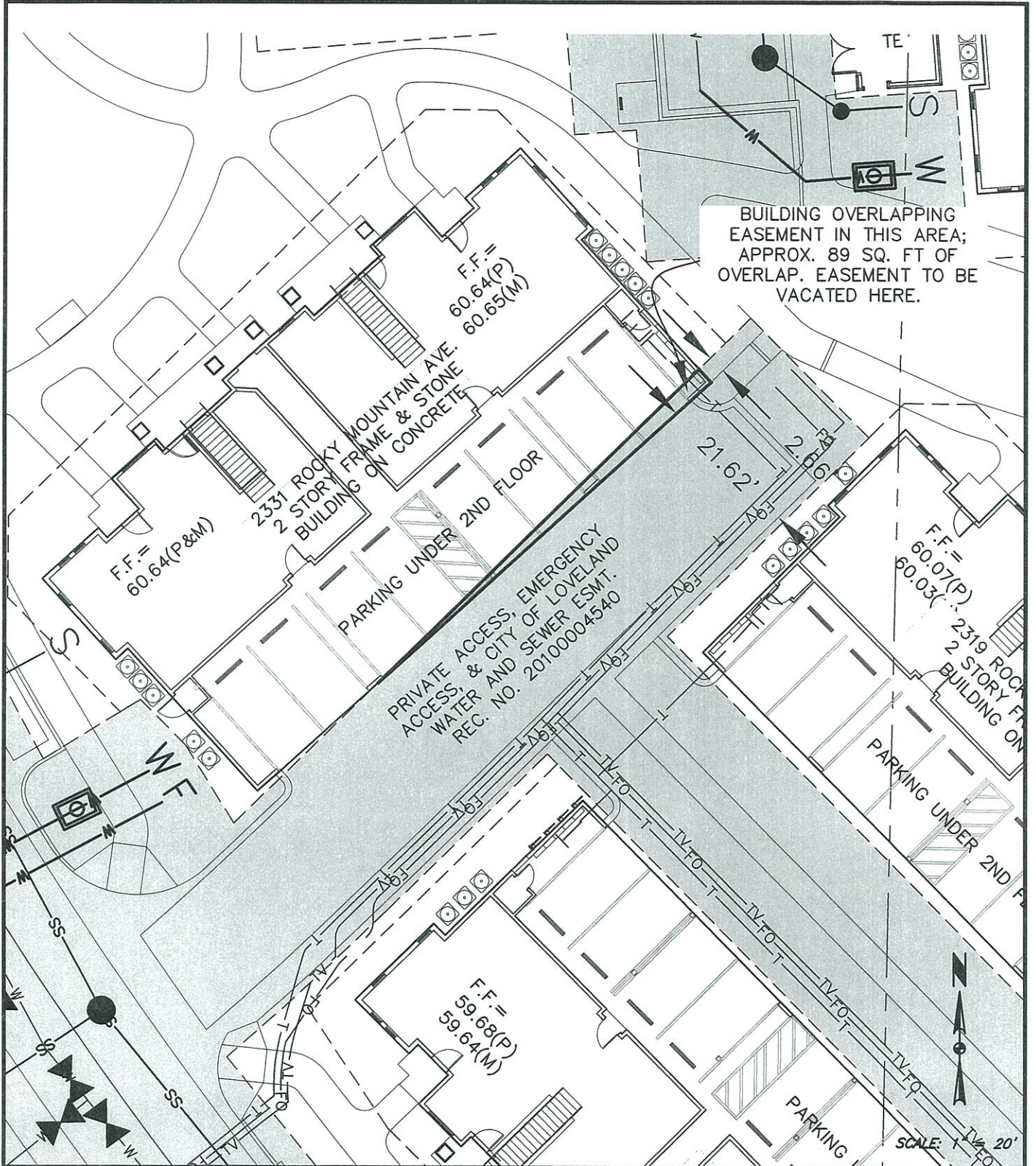
**EASEMENT VACATION LEGAL DESCRIPTION EXHIBIT**

**NOTE: THIS EXHIBIT DRAWING IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERSEDES THE EXHIBIT DRAWING.**

**POINT OF COMMENCEMENT EAST 1/4 CORNER SECTION 9**

**TST** TST, INC. CONSULTING ENGINEERS

760 Whalers Way  
 Building C, Suite 200  
 Fort Collins, Colorado  
 Phone: 970.226.0557  
 Fax: 970.226.0204  
 Job no. 1045.0033.02  
 Filename: K:\1045\0033\CA\Easement Vacation\esmt vocation legal exhibit.dwg

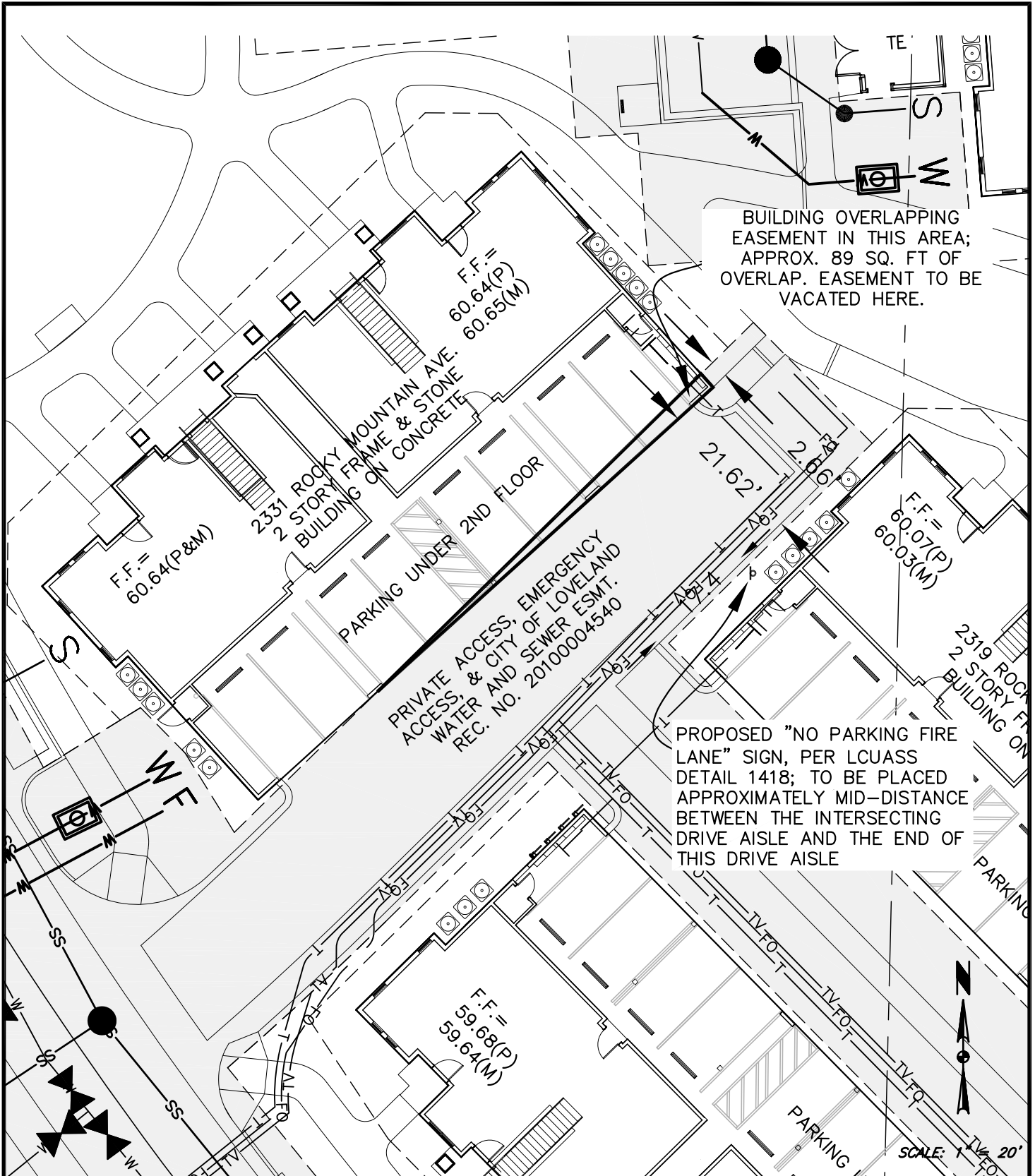


BUILDING OVERLAPPING  
EASEMENT IN THIS AREA;  
APPROX. 89 SQ. FT OF  
OVERLAP. EASEMENT TO BE  
VACATED HERE.

**LAKE VISTA APARTMENTS  
RANGE VIEW THIRD SUBDIVISION  
LOVELAND, CO  
EASEMENT VACATION EXHIBIT**



760 Whalers Way  
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Job no. 1045.0003.00  
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**LAKE VISTA APARTMENTS  
 RANGE VIEW THIRD SUBDIVISION  
 LOVELAND, CO  
 EASEMENT VACATION EXHIBIT**

**TST** TST, INC. CONSULTING ENGINEERS  
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 Vacation\0033\_Easement Vacation  
 exh.dwg



## Development Services Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537  
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620  
www.cityofloveland.org

### MEMORANDUM

**TO:** City Council

**FROM:** Noreen Smyth, Senior Planner, Current Planning Division

**DATE:** April 16, 2013

**SUBJECT:** Range View 3<sup>rd</sup> Easement Vacation

#### I. EXHIBITS

- A. Planning Commission packet
- B. Planning Commission minutes
- C. Slide presentation

#### II. KEY ISSUES

Staff believes that all key issues regarding the vacation have been resolved through the staff review process. The Planning Commission unanimously recommends approval of the vacation as proposed. The item has been placed on the Council's consent agenda.

#### III. BACKGROUND

The attached ordinance concerns a request to vacate a small portion along the edge of an existing 25 foot wide platted easement on which there is an encroaching (overlapping) building. The subject easement is within the Lake Vista Apartment development in the Range View Third subdivision. The Lake Vista Apartments are located along the west side of Rocky Mountain Avenue, approximately half a mile north of US 34 (Eisenhower Boulevard). The complex contains a dozen multifamily buildings addressed between 2301-2433 Rocky Mountain Avenue. The building that encroaches into the easement is 2331 Rocky Mountain Avenue.

The subject easement was originally dedicated in 2010 by the Range View Third Subdivision plat to serve three purposes: 1) private access, 2) emergency access, and 3) water and sewer utility. The portion of the easement to be vacated consists of a triangular sliver located at the side edge of a dead-end driving aisle that is in the interior of the development. At construction,

the adjacent building was mistakenly situated in a manner that encroached up to a maximum of 2.7 feet into the easement. The vacation, which totals 89 square feet, is proposed where the easement overlaps with the building. The drive, which provides access to the garage in the encroaching building, is utilized by the adjacent residential buildings only. Vehicle access does not appear to be compromised, as there remains a minimum 21.6 foot wide paved driving aisle within the easement adjacent to the area where the building and easement conflict. No water, wastewater or power utility lines are within the portion of the easement to be vacated and therefore it is not necessary for public use.

#### **IV. STAFF REVIEW**

City staff is supportive of vacating the small section of the easement on which the multifamily building stands. Neither resident nor emergency access will be compromised and there are no water, sewer, or power lines in the area to be vacated.

The Fire Department has noted that parking is not allowed on either side of the drive aisle whether or not the vacation is granted. At the Department's request, a "NO PARKING FIRE LANE" sign meeting LCUASS standards has been added to the vacation exhibit. The sign will be required to be posted at the location indicated on the exhibit if the vacation is approved.

#### **V. PLANNING COMMISSION REVIEW**

Per Section 16.36 of the municipal code, requests to vacate easements (or portions of easements) require adoption of an ordinance by City Council, while requests to vacate access easements also require review by the Planning Commission. Because the easement to be vacated includes an access easement, it was reviewed by the Planning Commission at a public hearing on March 11, 2013. The Planning Commission unanimously approved the request as part of the consent agenda at that hearing.

#### **RECOMMENDATION**

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council adopt the ordinance on first reading.



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### Planning Commission Staff Report March 11, 2013

**Agenda #:** Regular Agenda - 1  
**Title:** Range View 3<sup>rd</sup>  
**Applicant:** Centerra 209, LLC  
**Request:** Easement Vacation  
**Location:** 2331 Rocky Mountain Avenue  
**Zoning:** P-59, Millennium Addition PUD  
**Staff Planner:** Noreen Smyth

#### **Staff Recommendation:**

Subject to additional evidence presented at the public hearing, City staff recommends the following motion:

#### **Recommended Motion:**

*"Move to make the findings listed in Section VIII of this report dated March 11, 2013; and, based on those findings, recommend approval of the access easement vacation, as depicted in Attachments #1 of this staff report."*

#### **Summary of Analysis**

This is a public hearing to consider a request to vacate a small portion (89 square feet/up to 2.7 feet in width) of an access easement on which there is an encroaching (overlapping) building. The easement is located within the Lake Vista Apartment development.

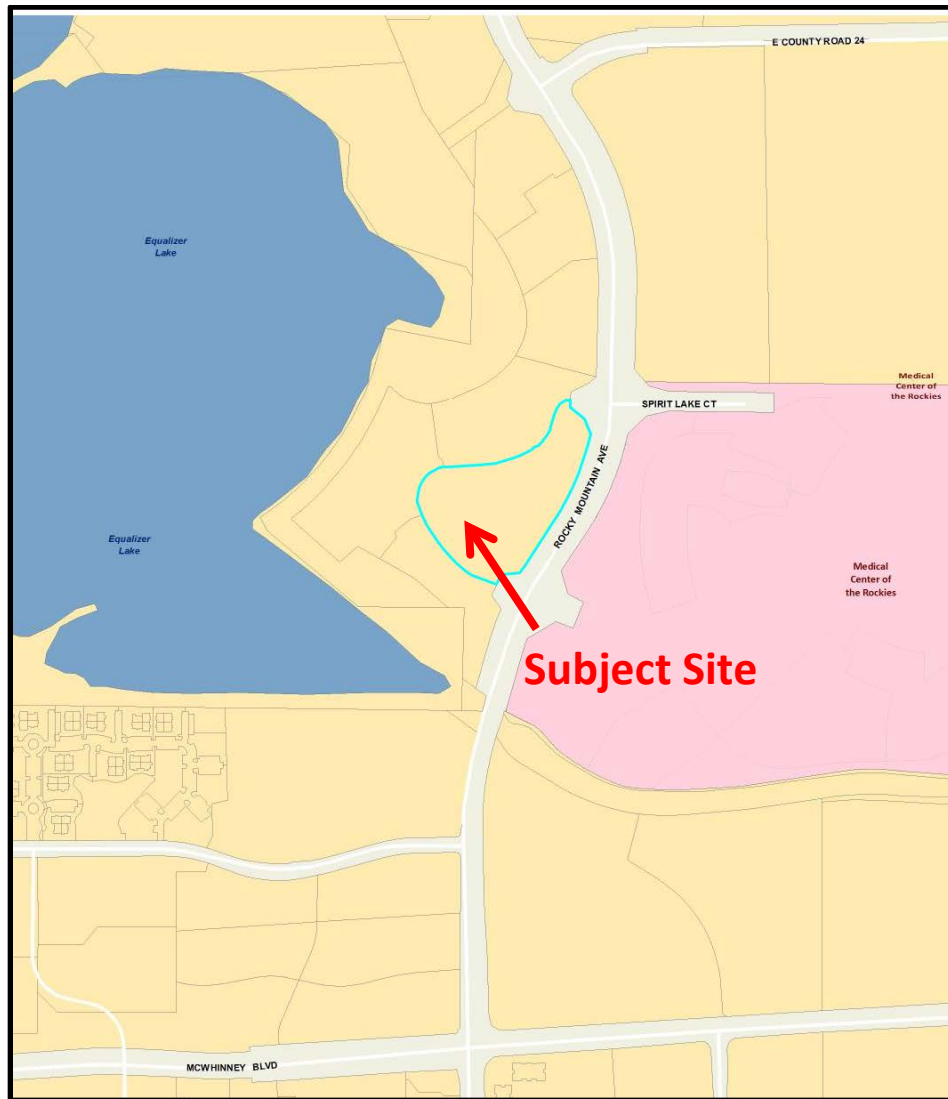
Staff is supportive of the easement vacation because it is not necessary for vehicular circulation and access by apartment residents or emergency vehicles. Therefore, the small portion of the easement to be vacated serves no greater public benefit and it will correct a minor encroachment issue.



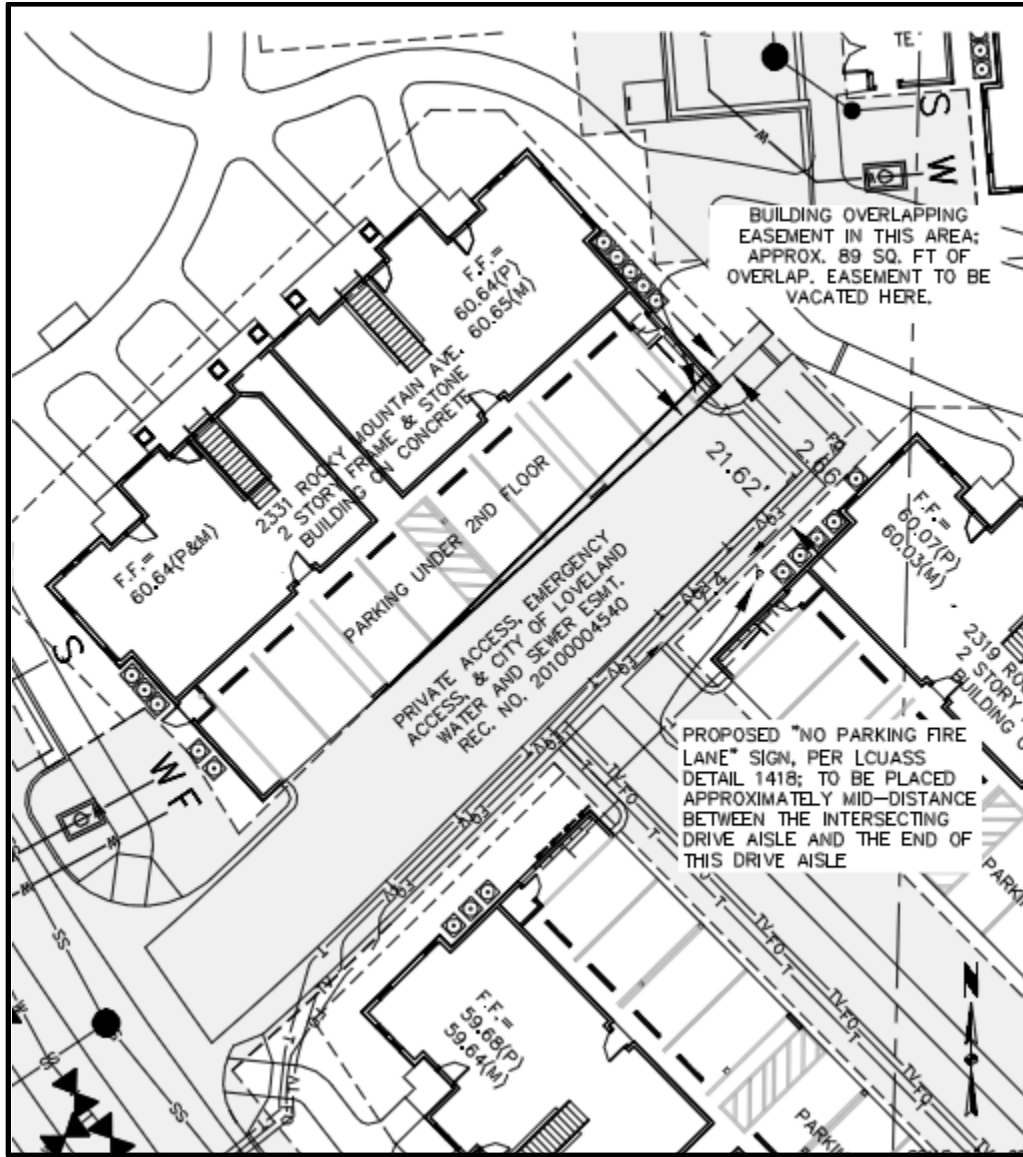
**I. ATTACHMENTS:**

1. Vacation exhibit
2. Explanatory letter from applicant
3. Photos and proposed sign

**II. VICINITY MAP:**



**III. VACATION EXHIBIT:**



The total area to be vacated consists of approximately 89 sq ft (a maximum of 2.7 ft in width). A larger version of the rezoning map is attached to this report. (See **Attachment #1**).

**IV. PUBLIC HEARING:**

This application proposes to vacate a small portion (up to 2.7 feet in width, totaling 89 sq ft) of an existing 25 foot wide platted easement. The easement serves three purposes: 1) private access, 2) emergency access, and 3) water and sewer utility. Per Section 16.36 of the municipal code, requests to vacate non-access easements are reviewed only by City Council, while requests to vacate access easements (or portions of such easements) require review by the Planning Commission at a public hearing. Thus, the request is before the Planning Commission because

of the access component of the easement. The Planning Commission's recommendation will be forwarded to the City Council, to be considered as part of their subsequent public hearing, currently scheduled for April 16, 2013.

## **V. PUBLIC NOTICE:**

An affidavit was received from the applicant's representative certifying that notice of the hearing for the vacation was mailed to all surface owners and owners of the easement to be vacated and that notices were posted in prominent locations on the perimeter of the project site at least 15 days prior to the date of the Planning Commission hearing. In addition, a notice was published in the Reporter Herald on February 23, 2013. Staff has not received any comments or inquiries on the application.

## **VI. KEY ISSUES:**

City staff have reviewed the application on the basis of all applicable City policies, codes and standards, including the findings necessary for approval of a vacation. Staff believes that all key issues have been resolved through the review process.

## **VII. SUMMARY:**

### Site Location

The site, which is within the Lake Vista multifamily residential development, is located along the west side of Rocky Mountain Avenue. It is across the street from the Medical Center of the Rockies and approximately half a mile north of US 34 (Eisenhower Blvd). The lot on which the subject easement is located contains a dozen multifamily buildings addressed between 2301-2433 Rocky Mountain Avenue. The building that encroaches into the easement is 2331 Rocky Mountain Avenue.



### Vacation Description

The subject easement was originally dedicated as a "Private Access, Emergency Access, and City of Loveland Water and Sewer Easement" by the Range View Third Subdivision plat, which was approved in 2010. As depicted on the vacation exhibit, the portion of the easement to be vacated consists of a triangular sliver located at the side edge of the end portion of a dead-end driving aisle. At construction, the building was mistakenly situated in a manner that encroached up to a maximum of 2.7 feet into the easement. The vacation, which totals 89 sq ft, is proposed where the easement overlaps with the building. The drive, which provides access to the garage in the encroaching building, is utilized by the adjacent residential buildings only. The access does

not appear to be compromised, as there remains a minimum 21.6 foot wide drivable paved area within the remaining private access easement adjacent to the area where the building and easement conflict.

The Fire Department has noted that parking is not allowed on either side of the drive aisle whether or not the vacation is granted. At the Department's request, a "NO PARKING FIRE LANE" sign meeting LCUASS standards has been added to the vacation exhibit. The sign will be required to be posted at the location indicated on the exhibit if the vacation is approved.

City staff is supportive of vacating the small section of the easement on which the multifamily building stands. Neither resident nor emergency access will be compromised and there are no water or sewer mains in the area to be vacated.

### **VIII. FINDINGS AND ANALYSIS**

The following two findings must be met in order to vacate the portion of the access easement. These findings are included in section 16.36.010.B of the Loveland Municipal Code.

***Finding 1.** That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

**Transportation:** No land adjoining the proposed vacation is being left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement. Multiple buildings exist on the lot and platted private access easements exist for the lot that provide vehicular access to the Rocky Mountain Avenue public street right-of-way. The proposed portion of private access easement to be vacated is located away from public street rights-of-way.

***Finding 2.** That the easement to be vacated is no longer necessary for the public use and convenience.*

**Transportation:** The small portion of private access easement to be vacated where the existing building is located is no longer necessary for public use and convenience. The Transportation Division has no objection to the proposed vacation.

**Fire:** Staff believes that this finding can be met, due to the following:

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 6).
- The proposed vacation will not negatively impact fire protection for the subject development or surrounding properties.
- The minimum emergency access easement unobstructed width of 20 feet is met.

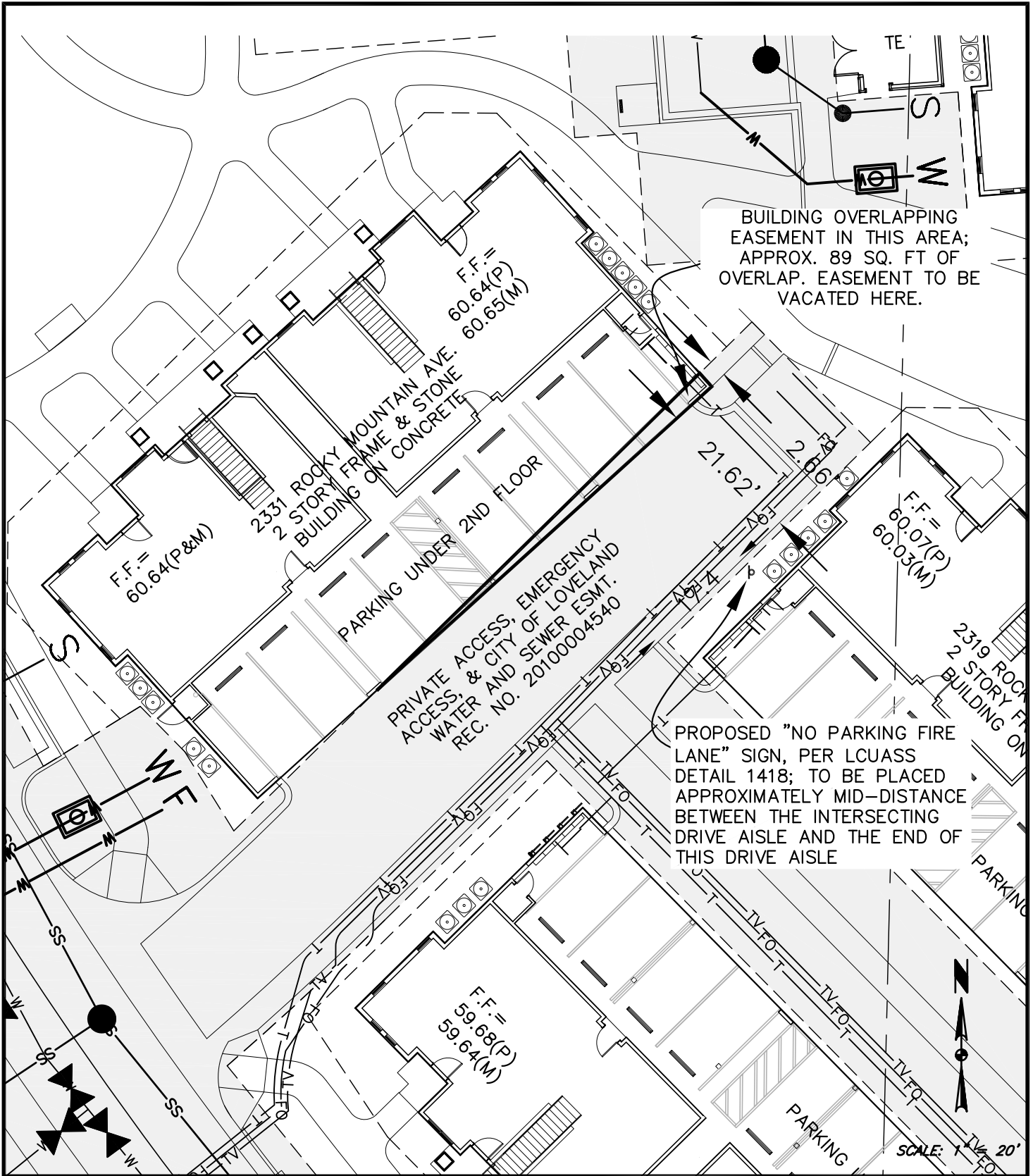
**Water/Wastewater:** The subject area to be vacated is the City's current service area for both water and wastewater. The Department finds that:

- The existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development.
- The existing easement to be vacated is no longer necessary for public use and convenience.

**Power:** Power is located 21 feet away from the proposed utility easement vacation. Vacation of this triangle of the utility easement will not affect the power utilities in the area.

### **IX. RECOMMENDED CONDITIONS**

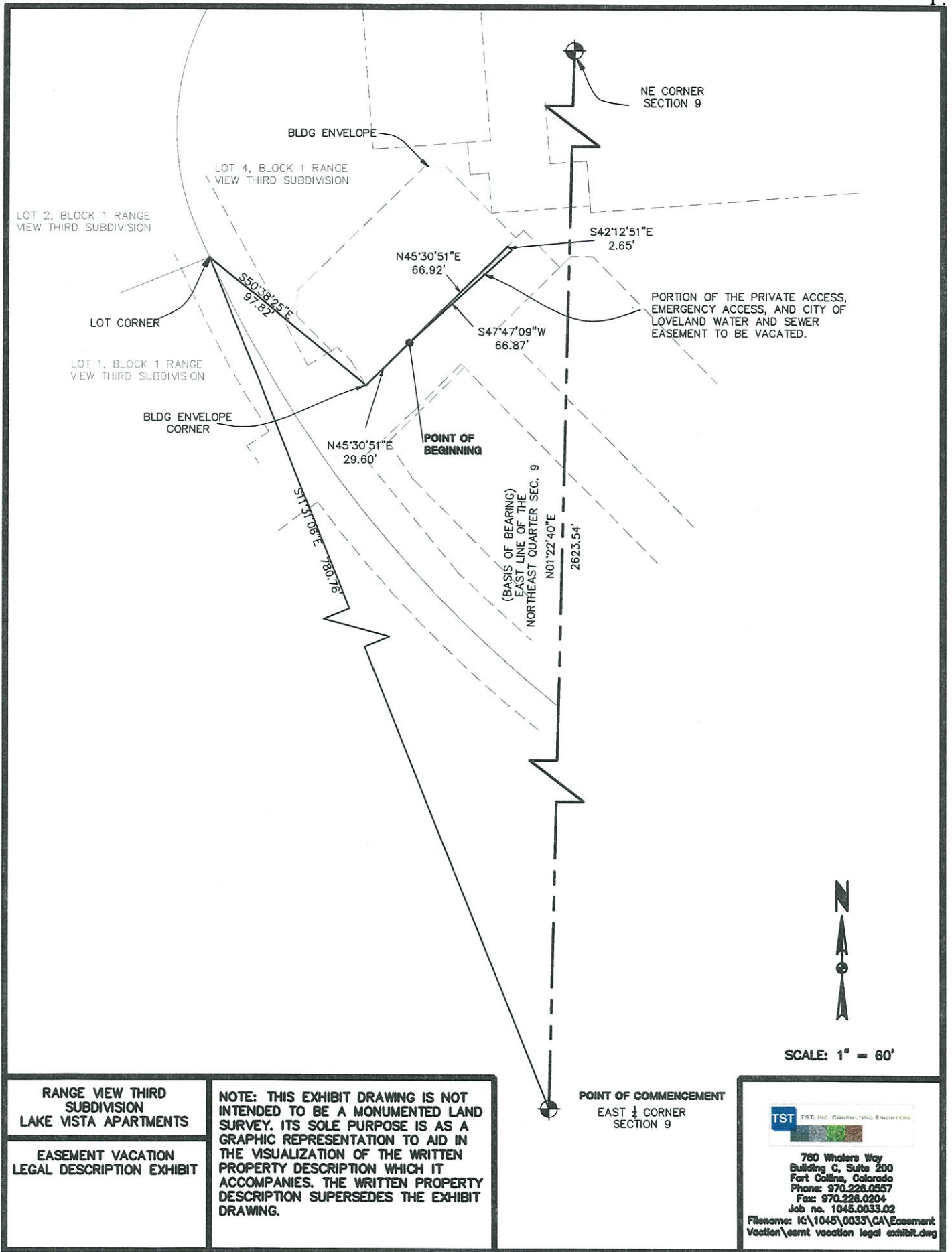
No City departments or other review agencies have submitted any recommended conditions for this application.



**LAKE VISTA APARTMENTS  
 RANGE VIEW THIRD SUBDIVISION  
 LOVELAND, CO  
 EASEMENT VACATION EXHIBIT**

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 760 Whalers Way  
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 Job no. 1045.0003.00  
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 Vacation\0033\_Easement Vacation  
 exh.dwg

Exhibit A



RANGE VIEW THIRD SUBDIVISION  
LAKE VISTA APARTMENTS

EASEMENT VACATION  
LEGAL DESCRIPTION EXHIBIT

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Job no. 1045.0033.02  
Filename: K:\1045\0033\CA\Easement Vacation\esmt vocation legal exhibit.dwg

Exhibit A



EXHIBIT 1  
PRIVATE ACCESS, EMERGENCY ACCESS, AND CITY OF LOVELAND WATER  
AND SEWER EASEMENT  
VACATION

A PARCEL OF LAND BEING A PORTION OF LOT 4, BLOCK 1, RANGE VIEW THIRD SUBDIVISION, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, LOCATED IN THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 9, WHICH IS ASSUMED TO BEAR NORTH 01°22'40" EAST.

**COMMENCING** AT THE EAST ¼ CORNER OF SAID SECTION;  
THENCE NORTH 11°31'06" WEST, A DISTANCE OF 780.76 FEET, TO A POINT ON THE WEST LINE OF SAID LOT 4;  
THENCE SOUTH 50°38'25" EAST, A DISTANCE OF 97.82 FEET;  
THENCE NORTH 45°30'51" EAST, A DISTANCE OF 29.60 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 45°30'51" EAST, 66.92 FEET;  
THENCE SOUTH 42°12'51" EAST, 2.65 FEET;  
THENCE SOUTH 47°47'09" WEST, 66.87 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 88.69 SQUARE FEET, 0.002 ACRES, MORE OR LESS.

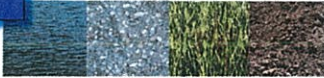
FOR AND ON BEHALF OF TST, INC. CONSULTING ENGINEERS

CHAD WASHBURN  
COLORADO PROFESSIONAL LAND SURVEYOR #37963





## TST, INC. CONSULTING ENGINEERS



July 12, 2012

Mr. Greg George  
City of Loveland  
Current Planning  
500 East Third Street  
Loveland, CO 80537

Re: *Range View Third Subdivision/Lake Vista Apartments  
Easement Vacation Request  
1045.0033.03*

Dear Mr. George,

We are requesting vacation for a portion of an easement that had been dedicated and recorded via the Range View Third Subdivision plat. There is a location within this developed property where one of the multi-family residential buildings overlaps the easement by a maximum of 2.7'. The easement is described on the plat as a "Private Access, Emergency Access, and City of Loveland Water and Sewer Easement".

The location where the building and easement are in conflict does not impact sewer or water utilities as there are no sewer or water mains located in this specific area of said easement.

In addition, access for residential vehicles or emergency vehicles does not appear to be compromised as there remains 21.6' of drivable, paved area adjacent to the building/easement conflict, and this is a dead-end portion of the drive-aisle so emergency vehicles would not be using this portion of the easement for turning or complicated maneuvers.

We are requesting that the easement be vacated for this triangular shaped overlap only and that easement remains as originally configured in the Range View Third Subdivision plat for the remainder of the easement. Thank you for your consideration and support in this matter.

Sincerely,

TST, INC. CONSULTING ENGINEERS

A handwritten signature in blue ink that reads "Heather E. McDowell".

Heather E. McDowell, P.E.

HEM/jm

760 Whalers Way  
Bldg C, Suite 200  
Fort Collins, CO 80525  
970.226.0557 main  
303.595.9103 metro  
970.226.0204 fax

ideas@tstinc.com  
www.tstinc.com





Looking northeast along drive aisle; esmt overlap area is on left side; currently there are no "No Parking Fire Lane" signs on the right (easterly) side





**STANDARD  
FIRE LANE SIGN DETAIL  
(FORT COLLINS ONLY)**

**UNIVERSAL  
FIRE LANE SIGN DETAIL**

COLOR SCHEDULE	
LEGEND, CIRCLE DIAGONAL, BORDER, "ARROW", "FIRE LANE"	RED
BACKGROUND	WHITE
"P"	BLACK

NOTES:

1. THE SIGN PLATE SHALL BE A MINIMUM OF 12"X18" WITH A THICKNESS OF .080 ALUMINUM CONSTRUCTION.
2. THE SIGN FACE SHALL HAVE A WHITE REFLECTIVE BACKGROUND WITH A RED LEGEND. USE THE STANDARD 3M SCOTCHLITE SIGN FACE NUMBER R7-32 OR EQUIVALENT, WITH RED LETTERING AS SHOWN ABOVE.
3. ARROWS MAY BE NEEDED (LEFT, RIGHT OR DOUBLE), TO DESIGNATE BEGIN AND END OF NO PARKING AREA.

**FIRE ACCESS ROAD SIGNS**

<b>LARIMER COUNTY URBAN AREA STREET STANDARDS</b>	<b>CONSTRUCTION DRAWINGS</b>	<b>REVISION NO: 2</b>	<b>DRAWING 1418</b>
		<b>DATE: 04/01/07</b>	

**CITY OF LOVELAND  
PLANNING COMMISSION MINUTES  
March 11, 2013**

---

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on March 11, 2013 at 6:30 p.m. Members present: Chairman Meyers; Vice Chairman Middleton; and Commissioners Dowding, Crescibene, Massaro, Molloy, Prior and Ray. Commissioner Krenning was absent City Staff present: Noreen Smyth, Current Planning; Mike Scholl, Economic Development; Robert Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

*These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.*

**CITIZEN REPORTS**

**Sheila Carrasco, 1303 Harlow Lane**, thanked the Commission for efforts regarding the Oil and Gas regulations. She talked about the need for an addition to the Museum and spoke of her work with the Loveland Arts Community and thanked the Commission for supporting the local artists.

**STAFF MATTERS**

**Robert Paulsen, Current Planning Manager**, reported on items scheduled for the March 25 agenda, and requested that Commissioners contact the Planning office if they were to be absent.

**COMMISSIONER COMMENTS**

**Commissioner Dowding** reported she attended the recent City Council hearing at which the proposed oil and gas ordinance was presented; she indicated that she expressed her position on the new oil and gas regulations.

**Commissioner Crescibene** commended the Planning Commission and City Council on the oil and gas deliberations and the citizen who came forward and urged them to not give up on their cause.

**APPROVAL OF THE MINUTES**

Chairman Meyers made the following amendment to the February 25, 2013 meeting minutes:

Page 2 – Line 1. ~~Commissioner Massaro~~ Chair Meyers concurred.

1 *Vice Chair Middleton made a motion to adopt the February 25, 2013 meeting minutes as*  
2 *amended. Upon a second by Commissioner Crescibene the minutes were unanimously adopted*  
3 *(Commissioner Dowding abstained).*

4  
5 **CONSENT AGENDA**

6  
7 **1. Rangeview 3<sup>rd</sup> : Easement Vacation Application.**

8  
9 This is a public hearing to consider a request for vacation of a portion of an access easement  
10 associated with the Lake Vista Apartments. Staff believes that the requested vacation will not  
11 negatively impact circulation within the project site. This matter requires that the Planning  
12 Commission make a recommendation to the City Council for final action.

13  
14 *Commissioner Dowding made a motion to adopt the Consent Agenda. Upon a second by Vice*  
15 *Chairman Middleton the motion was unanimously adopted.*

16  
17 **REGULAR AGENDA**

18  
19 **1. 541 Lincoln Avenue: Application to approve Downtown Mixed-Use Project.**

20  
21 This is a public hearing to consider whether a proposed 5-story, 70-unit residential /  
22 mixed-use building located within the Downtown BE Zoning District is in compliance  
23 with applicable zoning standards. The project is a public/private collaboration between  
24 the City and Brinkman Partners; as such, it is a component of the downtown revitalization  
25 effort. This is a quasi-judicial matter; the Planning Commission has final authority on this  
26 matter barring appeal.

27  
28 **Noreen Smyth, Current Planning**, gave a staff presentation on this item. She stated that  
29 structures with uses by right in the core area of the BE district require approval by the Planning  
30 Commission if the structure exceeds 25,000 square feet. She stated the Planning Commission will not  
31 be reviewing the proposed use or site plan, only the proposed structure. She stated that the following  
32 findings should be the focus of the Commission’s review of the project:

- 33  
34 1. The proposed development complies with the standards of this chapter and any other  
35 applicable provisions of the Loveland Municipal Code.  
36  
37 2. The proposed development is consistent with the goals of the document, *Destination*  
38 *Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation*  
39 *Strategy*.  
40  
41 3. The proposed development is compatible with surrounding properties while  
42 considering its location in an urban environment characterized by a diversity of uses and  
43 building types.

1  
2 **Ms. Smyth** summarized the staff report and indicated that the staff was recommending approval.  
3 She clarified that, as a mixed use project located within the boundaries of GID #1, there was no  
4 requirement for off-street parking. She reported the applicant is providing 65 parking spaces.  
5

6 **Kevin Brinkman, Brinkman Construction**, introduced himself to the Planning Commission  
7 and stated that his team was happy to be working with the City of Loveland on this project.  
8

9 **Eduardo Illanes, Oz Architecture**, spoke of the architecture and the materials that will be used  
10 and showed a series project renderings. He reported there would be covered and open-air  
11 parking. He also stated that the elevation of the building would be raised on Lincoln Avenue to  
12 prevent flooding. He commented the project would be an exciting enhancement to downtown.  
13

14 **Commissioner Molloy** stated there was a variation in the landscape plan. He asked if the  
15 existing street trees would be removed.  
16

17 Mr. Illanes stated the trees would not survive the construction process and be removed and  
18 replaced.  
19

20 There was discussion regarding:

- 21 • parking lot screening
- 22 • landscaping
- 23 • lighting
- 24 • building footprint
- 25 • handicap parking, marking handicap entrances/exits and parking ratios
- 26 • creating a canyon on Lincoln
- 27 • fire suppression
- 28 • provision of adequate parking  
29

30 **Mike Scholl, Economic Development**, spoke of the existing parking issues in downtown. He  
31 acknowledged the need for adequate parking and its importance in the revitalization process. He  
32 also commented that the applicant had done a good job of providing a minimum of spaces to  
33 support the development. He explained that property owners in downtown pay into the General  
34 Improvement District #1 ("GID 1") to support the development and maintenance of shared  
35 parking facilities in downtown.  
36

37 **Chairman Meyers** expressed concerns regarding lighting on the north side of the building.  
38

39 **Commissioner Ray** expressed concern for the canyon effect on Lincoln with tall buildings on  
40 either side of the street. He also questions whether the project was compliant with height  
41 limitations in the BE District.  
42

1 **Ms. Smyth** reported there was extra open space along the Lincoln Avenue facade of the building  
 2 and there is additional open space along the Lincoln Place building creating additional open  
 3 space between the two buildings.

4  
 5 **Mr. Paulsen** stated the issue of the canyon effect was not considered when reviewing the project  
 6 because the building was within the height limitations.

7  
 8 **Ms. Smyth** clarified the city is not giving up any parking spaces on Lincoln.

9  
 10 **Mr. Paulsen** re-emphasized because the project is within the GID #1 there are no parking  
 11 requirements for the project. He stated that staff has not finalized the site development review  
 12 process and believed that lighting and handicap spaces will be discussed further in the process.  
 13 He confirmed that staff is continuing to work on the need for additional parking in downtown.

14  
 15 **Public Comment**

16  
 17 **Sheila Carrasco, 1303 Harlow Lane**, was opposed to the project and believed the space was to  
 18 be used for a new museum.

19  
 20 **Richard Ball, Attorney**, spoke in support of the project and believed this type of residential use  
 21 is desired in the downtown area. He suggested City Council step up and provide parking at the  
 22 city-owned Pullium Building. He suggested the City purchase the House of Neighborly Services  
 23 building which is currently for sale.

24  
 25 **Susan Fives, Co-Owner of the adjacent Brandt Building**, stated she likes the building and  
 26 believed it would enhance the downtown area but expressed ongoing parking concerns.

27  
 28 **Russ Morgan, a Loveland resident**, expressed concerns regarding:

- 29
- notice received on February 22
  - opportunity for the museum expansion lost
  - parking on 5<sup>th</sup> and Lincoln will be gone
  - urged the Commission to preserve the site for a future museum

30  
 31  
 32  
 33  
 34 **Sandy Fives, Co-Owner of the Brandt Building**, stated there are many issues related to parking  
 35 and flooding in the alleys. She questioned if it were wise to choose residential construction  
 36 rather than a new museum.

37  
 38 **Mr. Scholl** gave a brief explanation of the GID #1, why it was created and how funds are  
 39 collected and used in the provision of downtown parking. He stated he would talk to the Public  
 40 Works Department about the flooding issue he commented he is currently working with the  
 41 County on parking issues.

1 **Mr. Illanes** stated they would address the need for additional handicap parking and stated that  
 2 the design for stormwater would direct water to the center of the parking lot site and then it  
 3 would be piped underground to the northeast corner of the site connected to the city's storm  
 4 sewer. He stated that four trees would be replaced on each side of the building.

5  
 6 **Commission Comments**

7  
 8 **Vice Chairman Middleton** thanked Mr. Scholl for explaining the GID and spoke in support of  
 9 the project.

10  
 11 **Commissioner Prior** encouraged the developer to consider a change to the architectural design  
 12 of the southeast corner of the building to make it more visually appealing. He encouraged the  
 13 developer to work with the city to improve the drainage issues and lighting in the alleys.

14  
 15 **Commissioner Molloy** he stated this is exactly what is needed in downtown and was in support  
 16 of the project.

17  
 18 **Commissioner Massaro** expressed the need to address the flooding issues and supported the  
 19 project. He commented that increased density would help businesses thrive.

20  
 21 **Commissioner Crescibene** concurred with previous comments.

22  
 23 **Commissioner Dowding** spoke in support of the project she stated that she liked the  
 24 architecture, texture and color palate. She stated that she hoped the drainage issues would be  
 25 resolved for entire downtown area.

26  
 27 **Commissioner Ray** supported the project and asked the applicant to consider lighting, drainage  
 28 and south façade improvements prior to completing the project design. He thanked the applicant  
 29 for offering the parking that they have.

30  
 31 **Chairman Meyers** supported the project stating he believed it was a good fit for the location.  
 32 He expressed the following concerns:

- 33 • appearance of the south facade
- 34 • drainage issues - he believed the site would help the drainage issue and urged public
- 35 works to correct the drainage problem in downtown
- 36 • lighting on the north side

37  
 38 He commented it takes more than local residents to make a downtown thrive.

39  
 40 *The Vice Chairman made a motion to make the findings listed in Section VI of the Planning*  
 41 *Commission staff report dated March 11, 2013 and, based on those findings, approve Resolution*



1 *13-02, as amended on the record. Upon a second by Commissioner Ray the motion was*  
 2 *unanimously adopted.*

3  
 4  
 5 **2. Koldeway Industrial 2<sup>nd</sup> Subdivision: Rezoning and Easement Vacation**  
 6 **Application.**

7  
 8 This is a public hearing to consider a request to rezone 3 acres located adjacent to North  
 9 Denver Avenue (north of 1<sup>st</sup> Street and south of 11<sup>th</sup> Street) from I-Developing Industrial  
 10 to B-Developing Business. The rezoning is being pursued to allow development of an  
 11 assisted living facility. The request for the associated easement vacation is to allow a  
 12 public alley to be re-designated as a private drive, thereby affording sufficient access to  
 13 the subject property. This request is quasi-judicial (rezoning) and legislative (easement  
 14 vacation) in nature. The requested applications require the Planning Commission to  
 15 make recommendations to the City Council for final action.

16  
 17 **Commissioner Dowding** disclosed to the Commission that the owner of the existing assisted  
 18 living facility is her neighbor. She stated she would be fair and unbiased in her deliberations.

19 **Noreen Smyth, Current Planning**, gave a staff presentation on this item to consider rezoning of  
 20 two lots within the Koldeway Industrial Second Subdivision from the I-Developing Industrial  
 21 District to B-Developing Business District which is a less intensive zoning than the existing I  
 22 zoning.

23 She stated that staff is also asking the Commission to consider vacation of a public access  
 24 easement relating to a drive next to the property. The drive or alley would become a private  
 25 access easement.

26  
 27 **Blaine Rappe, Loveland Commercial**, responded to a question regarding bollards which block  
 28 access to the adjacent neighborhood street, stating that the posts on the site are retractable fire  
 29 department bollards. The Fire Department has a key to lower them if needed.

30  
 31 **Vice Chairman Middleton** expressed concerns that after the property is rezoned the applicant  
 32 would not be required to construct the assisted living facility and asked if they were committed to the  
 33 construction of an assisted living facility.

34  
 35 **Mr. Rappe** stated the property is under contract with the condition that it be rezoned and assured the  
 36 Commission that it is the intent to build the facility.

37  
 38 **Mr. Paulsen** stated the current I-Industrial zoning would not allow for the construction of an assisted  
 39 living facility and the B-Development Business zoning would. He emphasized the owner of the  
 40 property is under no obligation to build an assisted living facility after it is rezoned. He emphasized  
 41 that the B zoning district is more compatible with the adjacent residential neighborhood.  
 42

1 **Chairman Meyers** noted that surrounding properties were zoned for industrial uses and asked if  
2 there were issues with setbacks from the adjacent property being rezoned.

3  
4 **Ms. Smyth** stated that wouldn't change the setbacks.

5  
6 **Mr. Paulsen** stated that the uses they are limiting themselves to in the Development Agreement are  
7 more compatible with what the current zoning would allow.

8  
9 **Nathan Klein, Loveland Commercial**, gave a brief history of the zoning in the area and stated that  
10 the B zoning is more compatible with the area as it has developed.

11  
12 **Commissioner Dowding** supported the rezoning.

13  
14 *Vice Chairman Middleton made a motion to make the findings listed in Section IX of this report*  
15 *dated March 11, 2013; and, based on those findings, recommend approval of the rezoning of the*  
16 *Koldeway property from I-Developing Industrial to B - Developing Business, as amended on the*  
17 *record. Upon a second by Commissioner Ray, the motion was unanimously adopted.*

18  
19 *Vice Chairman Middleton made a motion to make the findings listed in Section X of this report*  
20 *dated March 11, 2013; and, based on those findings, recommend approval of the associated access*  
21 *easement vacation, as described and depicted in Attachments #1 and #2 of this staff report, subject*  
22 *to the Condition specified in Section XXII of this report. Upon a second by Commissioner Ray*  
23 *the motion was unanimously adopted.*

24  
25 **Mr. Rappe** accepted the conditions.

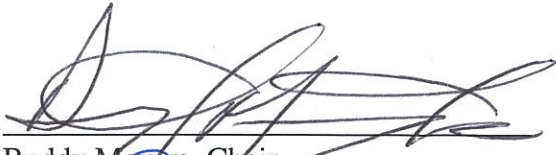
26  
27 **3. 2012 Accomplishments / 2013 Goals.**

28  
29 At the beginning of each year, the Planning Commission reviews its accomplishments from the  
30 previous year and establishes goals for the New Year. This effort is designed to ensure that  
31 Commission agendas and related Commission activities reflect established priorities. This  
32 matter is administrative. The Commission tabled this matter at its meeting on February 11<sup>th</sup> to  
33 allow for further review and consideration.

34  
35 *Vice Chairman Middleton made a motion to move discussion of the 2012 Accomplishments and*  
36 *2013 Goals to the next regularly scheduled meeting. Upon a second by Commissioner Ray the*  
37 *motion was unanimously adopted.*

38  
39 **ADJOURNMENT**

40  
41 *Commissioner Ray made a motion to adjourn. Upon a second by Vice Chairman Middleton the*  
42 *motion was unanimously adopted.*



Buddy Meyers, Chair

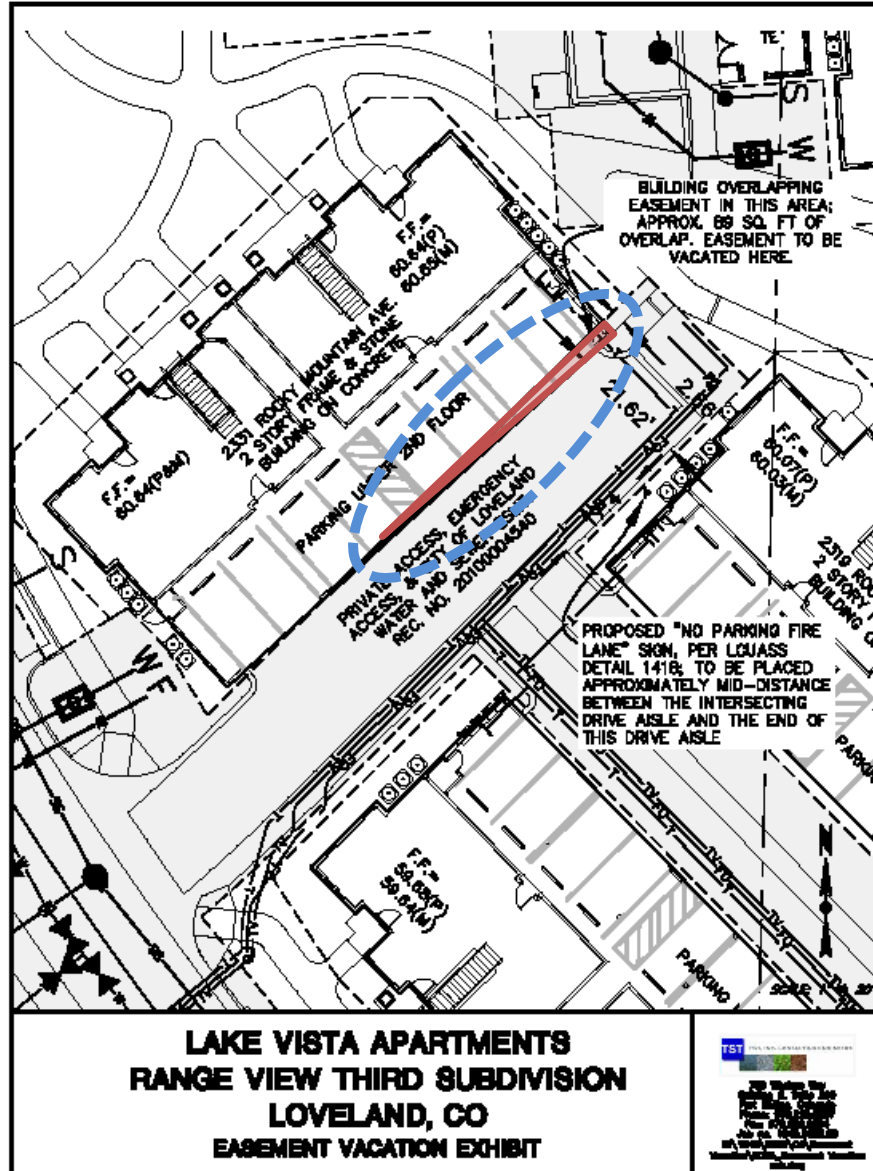


Vicki Mesa, Secretary

1  
2  
3  
4  
5  
6  
7



CITY OF LOVELAND



**LAKE VISTA APARTMENTS  
RANGE VIEW THIRD SUBDIVISION  
LOVELAND, CO  
EASEMENT VACATION EXHIBIT**



Exhibit C



**CITY OF LOVELAND**  
 ECONOMIC DEVELOPMENT OFFICE  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 7  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Economic Development Department  
**PRESENTER:** Cindy Mackin

**TITLE:**

A Resolution approving an Intergovernmental Agreement for the Creation of the Northern Colorado Pro Challenge Local Organizing Committee

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the resolution as submitted.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action to approve a resolution establishing the Northern Colorado USA Pro Challenge Local Organizing Committee (LOC) which the new governmental entity responsible for planning, funding, promoting and conducting the Loveland-Fort Collins stage of the August, 2013 USA Pro Challenge professional bicycle race.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

A supplemental appropriation, from the Lodging Tax Fund for costs associated with hosting a stage of the USA Pro Challenge, was approved by City Council on February 5, 2013.

**SUMMARY:**

Loveland, Fort Collins, Estes Park, Windsor and Larimer County came together in 2012 to submit a bid to host a beginning and ending stage of the 2013 USA Pro Challenge. Northern

Colorado was awarded the 6th stage of the USA Pro Challenge tour which occurs on Saturday, August 24, 2013.

Historically the Saturday stage has yielded the highest attendance. The communities partnered with a number of local businesses including McWhinney Corporation, the Group Real Estate, and the Ranch among others to bring this event to our part of the State.

This event will create a positive economic impact and a local spending benefit, but more importantly, this event provides media exposure on a statewide, national and international scale. The USA Pro Challenge will bring an estimated \$2 - \$4 million in publicity. The exact route is yet to be determined; however, it will start and pass through Loveland and end in Fort Collins.

The event is consistent with the Destination Loveland Strategic Plan, which calls for promoting Loveland as a destination and partnering with regional and state tourism organizations on marketing and promotion efforts.

Approval of the Resolution will designate Cindy Mackin, Visitor Services Coordinator, as the City appointed member to serve on the LOC's Executive Committee.

---

**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

Resolution

**RESOLUTION #R-26-2013****A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF THE NORTHERN COLORADO PRO CHALLENGE LOCAL ORGANIZING COMMITTEE**

**WHEREAS**, Northern Colorado has recently been selected as the location for the sixth stage of the professional cycling race known as the 2013 USA Pro Challenge (the “Event”); and

**WHEREAS**, the Event is owned by Classic Bicycle Racing, LLC (“CBR”); and

**WHEREAS**, the Event will include a route through the City of Loveland to begin at the Ranch and through the towns of Windsor and Estes Park, unincorporated Larimer County and through and ending in the City of Fort Collins; and

**WHEREAS**, in order for the Event to be held in Northern Colorado, CBR requires that the host communities enter into a “Host Organizer Participation Agreement” (the “Host Agreement”) with CBR; and

**WHEREAS**, the cities of Loveland and Fort Collins, the towns of Estes Park and Windsor, and Larimer County have determined that the most efficient and economical way for this to be accomplished is to enter into an intergovernmental agreement, as authorized in C.R.S. §29-1-203, to create a “local organizing committee” as a separate governmental entity for the sole purpose of being the host organizer for the Loveland-Fort Collins stage of the Event, with this entity to be known as the Northern Colorado Pro Challenge Local Organizing Committee (“LOC”); and

**WHEREAS**, to accomplish this, staff from Loveland, Fort Collins, Windsor, Estes Park and Larimer County have negotiated the “Agreement for the Establishment of the Northern Colorado Pro Challenge Local Organizing Committee” attached as **Exhibit A** (the “IGA”); and

**WHEREAS**, under the IGA the LOC is authorized to enter into the Host Agreement with CBR for the purposes of promoting, managing and conducting the Loveland-Fort Collins stage of the Event; and

**WHEREAS**, the Event will serve the public purposes of bringing to Loveland the economic benefits of tourism and increased sales and lodging taxes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the IGA is hereby approved and the City Manager and the City Clerk are authorized to execute the IGA on behalf of the City.

**Section 2.** That the City Manager is authorized, following consultation with the City Attorney, to agree to modifications to the form or substance of the IGA as he deems necessary to effectuate the purposes of this Resolution or to protect the City's interests.

**Section 3.** That Cindy Mackin, the City's Visitor Services Coordinator, is hereby designated as the City's appointed member to serve on the LOC's Executive Committee as provided in Section III. of the IGA.

**Section 4.** That this Resolution shall be effective as of the date of its adoption.


ADOPTED this \_\_\_\_ day of April, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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



**EXHIBIT A**

**AGREEMENT FOR THE ESTABLISHMENT OF THE NORTHERN COLORADO  
PRO CHALLENGE LOCAL ORGANIZING COMMITTEE**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this \_\_\_\_\_  
\_\_\_\_\_ among the following public entities which shall collectively be referred to as the “Parties”, or individually as a “Contracting Party”: County of Larimer, Town of Estes Park, the City of Fort Collins, the City of Loveland, the Town of Windsor.

WITNESSETH:

WHEREAS, the Colorado Constitution, Article XIV, Section §18 and §29-1-201, C.R.S., *et seq.* provide for and encourage political subdivisions of the State of Colorado to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with each other; and

WHEREAS, §29-1-203, C.R.S., as amended, authorizes any political subdivisions or agency of the State of Colorado to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting entities, including the sharing of costs, imposition of taxes, or incurring of debt; and

WHEREAS, §29-1-203(4) permits the establishment of a separate governmental entity by agreement; and,

WHEREAS, the Parties agree that it is in the best interests of the Parties and their citizens to promote and conduct the August 24, 2013, Loveland-Fort Collins Stage of the USA Pro Challenge (The Event) to be conducted by Classic Bicycle Racing, LLC (CBR); and,

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement for the purposes of establishing a separate Public Entity (Public Entity) to promote and conduct The Event and to define the purpose of such Entity and to state the manner in which each of the Parties hereto will participate; and,

WHEREAS, the Parties intend that the Public Entity shall fall within the definition of a “public entity” under the Colorado Governmental Immunity Act, §24-10-101, C.R.S; and,

WHEREAS, the Parties intend that those individuals providing services to the Public Entity, either as employees or volunteers are Public Employees within the scope of §24-10-103 C.R.S.; and,

WHEREAS, the Parties intend that the Public Entity created by this agreement is an Enterprise within the meaning of Article X, §20 of the Constitution of the State of Colorado; and,

WHEREAS, the Parties intend that the Public Entity is not subject to the revenue and spending limitations imposed by Article X, §20(2)(d) of the Colorado Constitution; and,

WHEREAS, the Parties intend that the Public Entity and its activities all be in furtherance of a public purpose;

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Parties agree as follows:

### I. PREAMBLE

The Parties agree that the recitals set forth above are true and correct and those recitals are hereby incorporated in the body of this Agreement as operative provisions.

### II. ESTABLISHMENT OF THE NORTHERN COLORADO PRO CHALLENGE LOCAL ORGANIZING COMMITTEE

1. The Parties hereby establish the Public Entity to be known as the Northern Colorado Pro Challenge Local Organizing Committee (“LOC”) which shall be responsible for planning funding, promoting, and conducting The Event.
2. The LOC is hereby created as a Colorado public entity established pursuant to §29-1-203, C.R.S. *et seq.* and pursuant to the Colorado Governmental Immunity Act, §24-10-101, C.R.S., *et seq.*
3. The LOC is an independent legal entity, separate and distinct from the Parties, but subject to their ownership and control.

### III. ESTABLISHMENT OF THE LOC BOARD

1. **Governing Board.** The LOC shall be governed by an Executive Committee (EC) which shall have the power to perform all acts necessary, whether express or implied, to fulfill the purpose, and to provide the functions, services and facilities, for which the LOC was created.
2. **Composition of the Executive Committee.** The EC shall consist of nine (9) members. The members of the EC shall be appointed as follows:
  - a. One member shall be appointed by each of the parties for a total of five (5) members.
  - b. The five members so appointed shall appoint four (4) additional members using whatever process and criteria the five members deem advisable keeping in mind the fundraising, public relations, and technical expertise needed to put on the Event.
  - c. Members shall serve until this agreement terminates.
  - d. Vacancies to the EC shall be filled either by the parties or members making the original appointment.
  - e. Members shall serve without compensation.

3. **Voting and Quorum.** Each member of the EC shall have one (1) vote. A quorum of the EC shall consist of five members. No official action may be taken by the EC on any matter unless a quorum is present. The affirmative vote of a majority of the EC members present at the time of the vote shall be required for the EC to take action. The EC may meet, vote and act through electronic means. The EC is subject to the Colorado Open Meetings Law.

4. **Bylaws.** The EC may either adopt bylaws or it may adopt an organizing resolution or rules establishing officers and detailing all matters in connection therewith, including the election, duties and terms of officers and the filling of any officer vacancies, the establishment and responsibilities of committees, scheduling of meetings, and standing operating and fiscal procedures, as it deems necessary, provided the bylaws or rules are in compliance with Articles I and II of Title 29, C.R.S., as amended, and this Agreement.

#### IV. POWERS OF THE LOC

1. **Plenary Powers.** Except as otherwise limited by this Agreement, the LOC, in its own name and as provided herein, shall have and may exercise all powers lawfully authorized to any of the Parties and may exercise such powers pursuant to §29-1-203, this Agreement, as amended, including all incidental, implied, expressed or such other powers as necessary to execute the purposes of this Agreement. These powers include the authority to receive and expend funds from any source, to apportion costs and obligations to the Parties as stated herein or as may from time to time be agreed to, and to enter into contracts. The LOC shall act through the EC, officers and agents as authorized by this Agreement, the bylaws or other resolution of the EC. The LOC shall not have the power to levy taxes on its own behalf or on behalf of any Contracting Party or to bind any Party to a debt or obligation without the specific consent of the Party, nor shall the LOC have the power of eminent domain.

2. **Enumerated Powers.** The LOC is authorized to undertake all actions reasonably necessary to planning, funding, promoting, and conducting the Event, and to carry out the intent and purpose of this Agreement, including but not limited to:

a. Negotiate, enter into and perform contracts, agreements and other obligations with the USA Pro Challenge for the purpose of promoting and conducting The Event.

b. Collect, hold, and spend funds from any source including donations, sponsorships, advertising, product sales, fees, ancillary events, and other spectator charges.

c. Acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any legal or equitable interest in personal property in connection with The Event.

d. Enter into, make and perform contracts and agreements with other governmental, non-profit, and private entities which are reasonably necessary to stage The Event.

e. Employ individuals, engage in employee borrowing arrangements, and contract with others as the EC deems necessary for the promotion and staging The Event or to otherwise perform the obligations of agreements related to The Event.

f. Conduct the business and affairs of the LOC.

g. Incur debts, liabilities or obligations to the extent and in the manner permitted by law. However, the LOC shall not incur debt in excess of Twenty-Five Thousand Dollars (\$25,000.00) without agreement of the Parties.

h. Sue and to be sued in its own name.

i. Receive contributions, gifts, bequests, grants, cash, equipment or services from the Parties or any other public or private individual or entity for the furtherance of the intent and purpose of this Agreement, and the LOC’s performance of its obligations under this Agreement.

j. Undertake any other actions or services that the LOC believes are reasonably necessary for the exercise of its powers and the performance of its obligations under this Agreement.

V. RULES AND REGULATIONS

The EC may promulgate and adopt rules, regulations, policies and procedures which the EC deems necessary to carry out the intent and purposes of this Agreement, and to exercise the LOC’s powers and perform the LOC’s obligations. After their initial adoption, the rules, regulations, policies and procedures may be modified or amended, provided any such modification or amendment: (a) is approved by a majority vote of the EC; (b) is consistent with the purpose and intent of this Agreement; (c) is not in conflict with any of the provisions of this Agreement; and (d) is in compliance with any and all applicable state and federal laws.

VI. FINANCIAL COMMITMENT OF THE PARTIES

1. **Funding.** The Parties agree to provide initial funding, which funds may be in cash transfers or in-kind services to the LOC as follows:

- The City of Fort Collins: Fifty-thousand dollars (\$50,000.00) plus \$50,000 in-kind.
- The City of Loveland: Fifty-thousand dollars (\$50,000.00) plus \$50,000 in-kind.
- The Town of Windsor: Eight-thousand dollars (\$8,000.00).
- The Town of Estes Park: Fifteen-thousand dollars (\$15,000).
- Larimer County: In-kind only.

2. **Future Funding.** It is understood that the LOC’s budget is continuing to evolve. It is the goal of the EC to manage the event on a zero-based budget, where no profit is gained and expenses do not exceed revenue. To provide accountability, the EC shall meet on May 15, June 15, and July 15 to review the budget. If on these dates the LOC’s budget is not accomplishing this goal, then the LOC will take the following actions:

- a. Refine the budget by reducing expenses or seek additional private funding so the goal may be attained; and
- b. Offset expenses by increasing the in-kind services being provided by the Parties.

In the event that these actions are not sufficient to provide adequate funding for the LOC's necessary expenses, each of the Parties agrees to return to their respected governing bodies to request supplemental funding.

#### VII. USE OF FUNDS – CONTRIBUTIONS

The LOC shall use the funds generated in connection with contributions, sponsorships, advertising revenue, ticket sales and any revenue from any source solely for the purpose of promoting and conducting The Event and LOC operations including any expense obligated to CBR.

#### VIII. BOOKS AND RECORDS

The LOC shall provide for the keeping of accurate and correct books of account showing in detail the revenue and expenses in connection with The Event. The LOC's books of account shall correctly show any and all revenues, costs, or charges paid to or to be paid by each of the Parties, and all funds received by, and all funds expended by the LOC. The LOC's books and records shall be open to inspection during normal business hours upon reasonable notice by the Parties. The books and records of the LOC shall also be made available to the public in accordance with the provisions of §24-72-201, C.R.S., *et seq.* (the "Open Records Act").

The LOC shall cause an audit to be conducted by an independent Certified Public Accountant licensed to practice in the State of Colorado. The LOC shall comply with the provisions of §29-1-601, C.R.S. *et seq.*, The Local Government Audit Law, as may be amended from time to time. The LOC shall comply with all federal and state financial reporting requirements.

#### IX. REPORTS TO PARTIES

On a monthly basis, the LOC shall submit a comprehensive financial report to the Parties summarizing the, revenue, expenses, obligations and other activities of the LOC starting the end of the month following approval of this Agreement.

#### X. ASSETS OF THE LOC

1. **Assets.** Any assets purchased or received by the LOC subsequent to the formation of the LOC shall be owned by the LOC for the mutual benefit of the Parties. Assets purchased with funds of the LOC and one or more Parties shall be owned jointly in proportion to the amounts contributed.

2. **Asset Inventory Schedules.** The LOC shall maintain an asset inventory list for any and all real and personal property acquired by the LOC.

#### XI. OTHER REPRESENTATIONS AND OBLIGATIONS OF THE PARTIES

1. The Parties have read and understand the agreements, obligations, and undertakings of the LOC with respect to CBR. The Parties agree to use their best efforts and to participate in good faith for the LOC to comply with such agreements, obligations and undertakings.

2. The Parties understand and agree that individual agreements, obligations and undertakings of each of them for its portion of the Event will be required. The parties shall use their best efforts and to participate in good faith for themselves individually and for the LOC to comply with those agreements, obligations and undertakings.

3. The Parties understand and agree that the CBR will issue an Event Handbook that contains additional obligations and conditions for promoting and staging the Event. The parties agree to use their best efforts and to participate in good faith for the LOC and the Parties to comply with the terms and conditions of the Handbook.

4. The Parties waive all claims for indemnification and damages against each other for any claims arising out of the performance of this agreement or the performance of any agreement or undertaking with CBR.

#### XII. DEFAULT OF PERFORMANCE

1. In the event any Contracting Party fails to perform any of its covenants and undertakings under this Agreement, the LOC may terminate this Agreement as to such Contracting Party. The LOC shall cause written notice of the LOC's intention to terminate said Agreement as to such Contracting Party to be given to that party's governing body identifying the matter in default. Upon failure to cure any such default within thirty (30) days after such notice is given, the membership in the LOC of the defaulting party shall thereupon terminate and said Contracting Party shall thereafter have no voting rights as a member of the LOC, nor be entitled to representation on the EC, and said Contracting Party may thereafter be denied service by the LOC. Furthermore, any Contracting Party whose participation is terminated under the provisions of this article of the Agreement shall forfeit all right, title and interest in and to any property of or within the LOC to which it may otherwise be entitled upon the dissolution of the LOC. Subject to Section XI (4), this article is not intended to limit the right of the LOC or any Contracting Party under this Agreement to pursue any and all other remedies it may have for breach of this Agreement.

2. In the event of litigation between any of the Parties hereto concerning this Agreement (or between the LOC and any Contracting Party), the prevailing party may recover its costs and reasonable attorney fees incurred therein.

### XIII. DURATION OF AGREEMENT

This Agreement shall be in effect from the time it is fully executed and shall continue December 31, 2013. At that time the Agreement shall terminate, the entity created by this agreement shall dissolve and financial affairs of the LOC shall be wound up.

### XIV. WITHDRAWAL AND DISSOLUTION

1. **Individual Party's Withdrawal.** No Contracting Party may withdraw from this LOC.
2. **Dissolution of LOC.** Upon the termination of this Agreement pursuant to Section XIII above, the LOC Board and the Parties shall take such actions necessary to finalize and conclude the LOC's operations and effect the orderly dissolution of the LOC.
3. **Distribution of Assets.** All contributions of real and personal property, all net cash proceeds received by the LOC and existing on December 31, 2013, and all assets of the LOC shall be distributed on a proportional basis in accordance with the original contributions of the parties under Section VI, taking into consideration supplemental and additional contributions if any have been made. No consideration shall be given for in-kind services provided to the LOC for purposes of this distribution. The EC shall be responsible for inventorying the revenues, property and assets of the LOC, making distributions to the Parties and concluding the affairs of the LOC. A Contracting Party which has made a contribution toward a jointly owned asset (as defined in Section X) would be entitled to retain ownership of the asset upon termination; however, the Contracting Party must account to the LOC for the amount of the LOC's contribution toward purchase of the asset upon distribution of the other assets of the LOC.

### XV. LIABILITY OF THE BOARD OF DIRECTORS, OFFICERS AND EMPLOYEES OF THE LOC

As a public entity, the LOC and its directors, officers and employees shall be immune from civil liability in accordance with, and the extent provided by §24-10-101, C.R.S., *et seq.* (the Governmental Immunity Act) and any other applicable law. In addition, and pursuant to the Governmental Immunity Act, the LOC will defend, indemnify, and hold harmless all officers, directors, and employees for claims arising from activities within the scope of their duties of such individuals. The LOC may purchase insurance for this purpose.

### XVI. AMENDMENTS

This Agreement may be amended upon the affirmative vote of three Parties.

### XVII. SEVERABILITY

In the event any provision of this Agreement is determined to be illegal or invalid for any reason, all other provisions of this Agreement shall remain in full force and effect unless and until otherwise determined. The illegality of any provision of this Agreement shall in no way affect the legality and enforceability of any other provision of this Agreement.

**XVIII. SUCCESSORS AND THIRD PARTIES**

This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties. This Agreement is not intended to, and does not, inure to the benefit any individual or entity who is not a Party.

**XIX. ASSIGNMENT AND DELEGATION**

No Contracting Party shall assign any of the rights nor delegate any of the duties created by this Agreement without the written approval of three quarters (3/4) of the other Parties to this Agreement, and any assignment without said approval is void.

**XX. INTERPRETATION**

a. This document represents the entire agreement of the parties and is deemed prepared by all of the parties.

b. Performance of this agreement is subject to the Constitution and laws of the State of Colorado and the charters of the municipal parties. Venue for any judicial action under this Agreement shall be in Larimer County District Court.

IN WITNESS WHEREOF, the Parties hereto have caused their representatives to affix their respective signatures hereto, as of the day and year hereinafter set forth.

**COUNTY OF LARIMER,  
STATE OF COLORADO**

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_

**CITY OF LOVELAND, COLORADO**

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_

**CITY OF FORT COLLINS,  
COLORADO**

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_



**TOWN OF WINDSOR, COLORADO**

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF ESTES PARK, COLORADO**

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Date: \_\_\_\_\_



**CITY OF LOVELAND**  
PUBLIC WORKS DEPARTMENT

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537  
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

**AGENDA ITEM:** 8  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Public Works (Engineering Division) and Finance  
**PRESENTER:** David Klockeman, City Engineer

**TITLE:**

Motion to Award the Construction Contract for the 2013 Street Resurfacing Program, Chip Seal Schedule CS (Project ENSR010-CS) to A-1 Chip Seal Company

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt a motion to award of the 2013 Street Resurfacing Program, Chip Seal Schedule CS (Project ENSR010-CS) to A-1 Chip Seal Company of Denver, Colorado, in the amount of \$585,000.00, and authorize the City Manager to execute the contract.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action to award of the 2013 Street Resurfacing Program, Chip Seal Schedule CS (Project ENSR010-CS) to A-1 Chip Seal Company of Denver.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Funding is available in the adopted 2013 Budget within the annual Street Rehabilitation Program.

**SUMMARY:**

Sealed bids for the City of Loveland 2013 Street Rehabilitation Program, Chip Seal Schedule CS (Project No. ENSR010-CS) were opened on Thursday, March 21, 2013. Two bids were

received:


<u>Contractor</u>	<u>Item</u>	<u>Bid Amount</u>
A-1 Chip Seal Company	CS	\$626,503.99
Foothills Paving and Maintenance, Inc.	CS	\$878,702.89

The available budget for Schedule CS is \$585,000.00. Staff recommends award of the Schedule CS construction contract to A-1 Chip Seal Company of Denver, Colorado, in the budgeted amount of \$585,000.00, in accordance with the unit price basis of the bid documents. This is the initial year of this contract.

**Schedule CS:** Schedule CS consists of chip sealing a number of City of Loveland streets to prevent water intrusion, preserve asphalt integrity, and lengthen the life of the road. Chip Sealing consists of applying a tacky, asphaltic sealer to the road surface and embedding small rocks (chips) into the sealant to improve the friction of the surface and provide a new wearing course.

Highlights of the 2013 Schedule CS include work on an estimated 237,146 square yards of existing City streets.

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**REVIEWED BY CITY MANAGER:** 

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**LIST OF ATTACHMENTS:**  
None


**CITY OF LOVELAND**

BUDGET OFFICE

 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2329 • FAX (970) 962-2901 • TDD (970) 962-2620

**AGENDA ITEM:** 9  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Public Hearing and Consideration of an Ordinance Enacting a Supplemental Budget and Appropriation to The 2013 City of Loveland Budget to Reappropriate Remaining Funds for Projects Approved but Not Completed in 2012.

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. The Ordinance reappropriates funding for capital projects and other one-time projects approved but not completed in the prior year.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The projects or programs in the ordinance were funded in 2012. Funding for these is available since the appropriations that did not occur became fund balance at the end of 2012. The appropriation of these projects, do not have an impact on the 2013 budget since the assumption in developing the 2013 budget was that these funds would be spent by the end of 2012.

**SUMMARY:**

This action is the reappropriation of funds for projects approved in the 2012 budget that have not been completed or closed out at the end of 2012. By City Charter and state law, all

appropriations for any one fiscal year expire on December 31. Reappropriation is necessary to allow the expenditures of ongoing projects to continue into 2013.

Council approved all of the projects included in the ordinance as a part of the 2012 Budget. The ordinance is organized by fund, with revenues and line item appropriations within each fund shown.

A detailed explanation of each project or program is included in the attached Staff Report. The descriptions are organized by project with the funding source(s) for each project or program identified. The projects or programs are listed in order of dollar amount. Many capital projects are funded by resources in multiple funds. These resources are transferred to the Capital Projects fund where the total expense for each project is budgeted. This allows the project to be budgeted in one place so the total impact is shown, rather than having to add several components across various funds to the total impact of the project.

Please refer to the Staff Report for details on these recommended appropriations.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

Staff Report  
Ordinance

FIRST READING April 16, 2013

SECOND READING \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET TO REAPPROPRIATE REMAINING FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2012**

**WHEREAS**, the 2012 budget for the City of Loveland included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring re-appropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That reserved funds and grant revenues not yet received at the time of adoption of the budget for 2013 have resulted from expenditures that were budgeted in the 2012 budget but not made. The following reserved funds and grant revenues are hereby appropriated for the purposes previously approved by Council and identified below, but not completed or closed out in 2012.. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
General Fund 100**

**Revenues**

Fund Balance		2,849,590
100-19-193-0000-32107-SP1104	Historical Grant - Pulliam Building Structural Assessment	14,720
100-19-193-0000-35324-SP1101	CanDo Contribution for HOA Outreach Projects	1,840
<b>Total Revenue</b>		<b>2,866,150</b>

**Appropriations:****Cultural Services**

100-52-730-0000-48240-RIALTOGUILD	Rialto Theater Guild Donation	28,320
100-52-720-8003-42329	Collection Conservation	1,400
100-52-720-0000-43899	Performances	1,500

**Development Services**

100-19-195-0000-43840	Human Services Grants	203,980
100-19-193-0000-43450-SP1104	Pulliam Building Structure Assessment	14,720
100-19-193-0000-41012-SP1101	HOA Outreach Project	1,710
100-19-193-0000-41544-SP1101	HOA Outreach Project	130
100-19-193-0000-43450	Community Design Element Update	20,000

**Economic Development**

100-18-180-1500-43450-CMARTS	ArtSpace	119,000
100-18-180-1500-43176	Incentives/Sales Tax Rebates	117,140
100-18-180-1500-43155	Economic Incentives	693,430

**Fire & Rescue**

100-22-222-0000-42024	Fitness Equipment	1,910
100-22-222-0000-42033	Tools & Equipment	5,600
100-22-225-1607-43569	Maintenance Contract for AEDs	5,310

**Human Resources**

100-17-173-0000-43895	Monetary Awards & Recognition - Tax Gross-up for Outstanding Awards	1,060
100-17-173-0000-43766-VPMCRT	Volunteer Recognition - Municipal Court	150

**Information Technology**

100-16-161-0000-42015	Courtview Jworks Software - Computer Supplies	21,020
100-16-161-0000-43569	Courtview Jworks Software - Maintenance	10,460
100-16-163-0000-43450	Courtview Jworks Software - Services	52,310
100-16-161-0000-42015-ITEDR	Electronic Drawing Review Project - Computer Supplies	14,370
100-16-163-0000-42015-ITEDR	Electronic Drawing Review Project - Computer Supplies	15,570
100-16-163-0000-42899-ITEDR	Electronic Drawing Review Project - Other Supplies	5,240
100-16-163-0000-43899-ITEDR	Electronic Drawing Review Project - Other Services	15,000

**Parks & Recreation**

100-51-502-5350-49399	Cemetery Irrigation Project & Radio Replacement	14,550
100-51-563-0000-43668	Civic Center/Sunnyside Irrigation	8,160
100-51-562-0000-42033	Radio Replacement - Noncapital	14,400
100-51-560-5120-49399	Radio Replacement - Capital	8,990
100-51-502-5120-49399	Radio Replacement - Capital	7,130

**Police**

100-21-202-2102-43450	Shooting Range Lead Mitigation	5,000
100-21-202-2102-48240	PCS Camera Project	3,160
100-21-203-2115-42078	Computer Hardware (Ecitations)	24,000
100-21-202-2102-42078	Telestaff	5,000
100-21-201-2101-43450	Promotional Processes	12,000

**General Fund 100**

**Appropriations (cont'd):**

**Public Works**

100-23-231-1707-43899-PBWEEK

Public Works Day Events 240

**Non-Departmental**

100-91-902-0000-43450	Professional Services - Outside Legal Services	20,000
100-91-999-0000-47105	Transfers to Transit Fund	6,730
100-91-999-0000-47211-EN0105	Transfer to Transportation Fund - Taft Av (Gard-West Shore)	1,110
100-91-999-0000-47211-EN0112	Transfer to Transportation Fund - Bike Route Sign/Stripe	25,940
100-91-999-0000-47211-EN0212	Transfer to Transportation Fund - Bike Lane/Ped Walk Construction	41,110
100-91-999-0000-47211-EN0330	Transfer to Transportation Fund - Boise & 37th Intersection Improvements	16,010
100-91-999-0000-47211-EN0332	Transfer to Transportation Fund - Miscellaneous CEF Projects	161,760
100-91-999-0000-47211-EN0501	Transfer to Transportation Fund - Garfield Survey 1st/BNSF	4,640
100-91-999-0000-47211-EN0503	Transfer to Transportation Fund - 14th St SW Slope Stability	197,220
100-91-999-0000-47211-EN0606	Transfer to Transportation Fund - Boyd Route Study	15,280
100-91-999-0000-47211-EN0609	Transfer to Transportation Fund - Taft/14th SW Intersection	9,450
100-91-999-0000-47211-EN0903	Transfer to Transportation Fund - BoydLake Ave -Kauffman Prpty	1,270
100-91-999-0000-47211-EN1004	Transfer to Transportation Fund - Garfield Ave and US34, Northbound Right Turn Lane	160,440
100-91-999-0000-47211-EN8212	Transfer to Transportation Fund - Tran Master Plan Thru 2050	5,720
100-91-999-0000-47211-EN9922	Transfer to Transportation Fund - Loveland ITS Update-Traffic	24,550
100-91-999-0000-47211-TR1101	Transfer to Transportation Fund - Regional Transit Center	54,000
100-91-999-0000-47211-TS0101	Transfer to Transportation Fund - Signal System Interconnect	2,430
100-91-999-0000-47211-TS0501	Transfer to Transportation Fund - School Flasher Units	3,820
100-91-999-0000-47211-TS0706	Transfer to Transportation Fund - Upgrades to TOC	660
100-91-999-0000-47211-TS0714	Transfer to Transportation Fund - Garfield @ US34 SB right lane	11,550
100-91-999-0000-47211-TS1002	Transfer to Transportation Fund - Centerra Area ITS	23,310
100-91-999-0000-47211-TS1103	Transfer to Transportation Fund - I-25 Area VMS	80,000
100-91-999-0000-47211-TS1201	Transfer to Transportation Fund - Fiber Network to Signals And Other Facilities	187,130
100-91-999-0000-47211-ENR040	Transfer to Transportation Fund - Dakota Glen Sidewalk Installation	500
100-91-999-0000-47211-ENSR015	Transfer to Transportation Fund - Street Rehabilitation - BNSF Railroad Work	163,130
100-91-999-0000-47120-EDLESLIE	Transfer to Capital Projects Fund - Leslie the Cleaner Remediation	18,640
100-91-999-0000-47120	Transfer to Capital Projects Fund - Fire Capital Projects	28,250
100-91-902-0000-43714	Payment to Outside Agencies - Fire Authority	149,540
<b>Total Expense</b>		<b>2,866,150</b>

**Supplemental Budget**

**2012 On-Going Projects and Capital Rollover**

**Transit Fund 105**

**Revenues**

105-23-234-0000-37100	Transfers from the General Fund	6,730
105-23-234-0000-32004	5309 Transit Grant	26,900
<b>Total Revenue</b>		<b>33,630</b>

**Appropriations**

**Public Works**

105-23-234-0000-48240	Video Surveillance and Schedule Software	33,630
<b>Total Appropriations</b>		<b>33,630</b>



**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Capital Projects Fund 120**

<b>Revenues</b>		
120-00-000-0000-37260-PK0802	Transfers From Parks CEF - Mehaffey Park	5,277,530
120-00-000-0000-37261-PK0802	Transfers From Recreation CEF - Mehaffey Park	250,000
120-00-000-0000-37268-ITCWI	Transfer from General Gov't CEF Fund - Cityworks Implementation Project	107,350
120-00-000-0000-37265-PDDISP	Transfer from Law Enforcement CEF Fund - Dispatch Consoles	88,960
120-00-000-0000-37100-EDLESLIE	Transfer from General Fund - Leslie the Cleaner Remediation	18,640
<b>Total Revenue</b>		<b>5,742,480</b>
 <b>Appropriations</b>		
<b>Economic Development</b>		
120-18-180-0000-49360-EDLESLIE	Construction - Leslie the Cleaner Remediation	18,640
<b>Information Technology</b>		
120-16-163-0000-42899-ITCWI	Cityworks Implementation Project - Equipment	14,130
120-16-163-0000-43450-ITCWI	Cityworks Implementation Project - Consulting	82,650
120-16-163-0000-43270-ITCWI	Cityworks Implementation Project - Training	10,570
<b>Parks &amp; Recreation</b>		
120-51-562-0000-49399-PK0802	Mehaffey Park Development	5,527,530
<b>Police</b>		
120-21-203-2107-48248-PDDISP	Police Dispatch Consoles	88,960
<b>Public Works</b>		
<b>Total Appropriations</b>		<b>5,742,480</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Park Improvement Fund 200**

<b>Revenues</b>		
Fund Balance		40,000
<b>Total Revenue</b>		<b>40,000</b>
 <b>Appropriations</b>		
<b>Parks &amp; Recreation</b>		
201-51-562-0000-49399	North Lake Park Shelter Renovation & Improvement	40,000
<b>Total Appropriations</b>		<b>40,000</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Conservation Trust Fund 201**

<b>Revenues</b>		
Fund Balance		2,017,000
<b>Total Revenue</b>		<b>2,017,000</b>
 <b>Appropriations</b>		
<b>Parks &amp; Recreation</b>		
201-51-567-0000-49352-PK1002 Madison Avenue Underpass Design		17,000
201-51-562-0000-49399-PK0802 Mehaffey Park Development		2,000,000
<b>Total Appropriations</b>		<b>2,017,000</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Open Space Fund 202**

<b>Revenues</b>		
Fund Balance		1,718,840
<b>Total Revenue</b>		<b>1,718,840</b>
 <b>Appropriations</b>		
<b>Parks &amp; Recreation</b>		
202-51-590-0000-49355-AGLOPN River's Edge Natural Area Design		61,770
202-51-590-0000-49399-AGLOPN River's Edge Natural Area Development		1,657,070
<b>Total Appropriations</b>		<b>1,718,840</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Community Development Block Grant Fund 204**

<b>Revenues</b>		
204-00-000-0000-32000	Federal Grant	243,690
<b>Total Revenue</b>		<b>243,690</b>
 <b>Appropriations</b>		
204-19-195-0000-43840	Community Development Block Grant (CDBG)	243,690
<b>Total Appropriations</b>		<b>243,690</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Art in Public Places Fund 205**

<b>Revenues</b>		
205-00-000-0000-32643		200,180
205-00-000-0000-32000-VAC034	Federal Grant	163,000
<b>Total Revenue</b>		<b>363,180</b>

<b>Appropriations</b>		
205-52-740-0000-48196-VAC034	I-25/Highway 34 Interchange	250,000
205-52-740-0000-48196	Mehaffey Park	78,600
205-52-740-0000-48196	The Grove Reinstallation	6,000
205-52-740-0000-48173	Foundations Sculpture Exhibit	8,580
205-52-740-0000-48196	Madison Avenue Trail	20,000
<b>Total Appropriations</b>		<b>363,180</b>

**2012 On-Going Projects and Capital Rollover  
Lodging Tax Fund Fund 206**

<b>Revenues</b>		
Fund Balance		194,530
<b>Total Revenue</b>		<b>194,530</b>

<b>Appropriations</b>		
<b>Lodging Tax</b>		
206-18-182-1508-43450-EDWAYFIND	Wayfinding Signs	186,500
206-18-182-1506-43450	Services for VisitLovelandCO.com website	5,530
206-18-182-1504-43450	Billboard Advertising agreement	2,500
<b>Total Appropriations</b>		<b>194,530</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Transportation Fund 211**

**Revenues**

211-23-232-1701-32000-EN1103	Federal Grant - Safe Routes Truscott Sidewalk	10,460
211-23-232-1701-32000-TS0714	Federal Grant - Garfield @ US34 SB right lane	83,420
211-23-232-1701-32000-TS1002	Federal Grant - Centerra Area ITS	130,000
211-23-232-1701-32000-TS1101	Federal Grant - Us 287 Garfield Ave Signal	304,000
211-23-232-1701-32000-TS1103	Federal Grant - I-25 Area VMS	370,000
211-23-232-1701-32000-TS1201	Federal Grant - Fiber Network to Signals And Other Facilities	884,000
211-23-232-1701-37100-EN0105	Transfers from the General Fund - Taft Av (Gard-West Shore)	1,110
211-23-232-1701-37100-EN0112	Transfers from the General Fund - Bike Route Sign/Stripe	25,940
211-23-232-1701-37100-EN0212	Transfers from the General Fund - Bike Lane/Ped Walk Construction	41,110
211-23-232-1701-37100-EN0330	Transfers from the General Fund - Boise & 37th Intersection Improvements	16,010
211-23-232-1701-37100-EN0332	Transfers from the General Fund - Miscellaneous CEF Projects	161,760
211-23-232-1701-37100-EN0501	Transfers from the General Fund - Garfield Survey 1st/BNSF	4,640
211-23-232-1701-37100-EN0503	Transfers from the General Fund - 14th St SW Slope Stability	197,220
211-23-232-1701-37100-EN0606	Transfers from the General Fund - Boyd Route Study	15,280
211-23-232-1701-37100-EN0609	Transfers from the General Fund - Taft/14th SW Intersection	9,450
211-23-232-1701-37100-EN0903	Transfers from the General Fund - BoydLake Ave -Kauffman Prpty	1,270
211-23-232-1701-37100-EN1004	Transfers from the General Fund - Garfield Ave and US34, Northbound Right Turn Lane	160,440
211-23-232-1701-37100-EN8212	Transfers from the General Fund - Tran Master Plan Thru 2050	5,720
211-23-232-1701-37100-EN9922	Transfers from the General Fund - Loveland ITS Update-Traffic	24,550
211-23-232-1701-37100-TR1101	Transfers from the General Fund - Regional Transit Center	54,000
211-23-232-1701-37100-TS0101	Transfers from the General Fund - Signal System Interconct	2,430
211-23-232-1701-37100-TS0501	Transfers from the General Fund - School Flasher Units	3,820
211-23-232-1701-37100-TS0706	Transfers from the General Fund - Upgrades to TOC	660
211-23-232-1701-37100-TS0714	Transfers from the General Fund - Garfield @ US34 SB right lane	11,550
211-23-232-1701-37100-TS1002	Transfers from the General Fund - Centerra Area ITS	23,310
211-23-232-1701-37100-TS1103	Transfers from the General Fund - I-25 Area VMS	80,000
211-23-232-1701-37100-TS1201	Transfers from the General Fund - Fiber Network to Signals And Other Facilities	187,130
211-23-232-1701-37100-ENR040	Transfers from the General Fund - Dakota Glen Sidewalk Installation	500
211-23-232-1700-37100-ENSR015	Transfers from the General Fund - Street Rehabilitation - BNSF Railroad Work	163,130
211-23-232-1701-37269-EN0105	Transfers from Streets CEF - Taft Av (Gard-West Shore)	4,420
211-23-232-1701-37269-EN0112	Transfers from Streets CEF - Bike Route Sign/Stripe	25,940
211-23-232-1701-37269-EN0212	Transfers from Streets CEF - Bike Lane/Ped Walk Construction	41,110
211-23-232-1701-37269-EN0215	Transfers from Streets CEF - Right of Way Aquisition - Citywide	130,000
211-23-232-1701-37269-EN0223	Transfers from Streets CEF - Small Capital Projects	196,680
211-23-232-1701-37269-EN0330	Transfers from Streets CEF - Boise & 37th Intersection Improvements	64,050
211-23-232-1701-37269-EN0501	Transfers from Streets CEF - Garfield Survey 1st/BNSF	13,930
211-23-232-1701-37269-EN0606	Transfers from Streets CEF - Boyd Route Study	45,840
211-23-232-1701-37269-EN0609	Transfers from Streets CEF - Taft/14th SW Intersection	85,010
211-23-232-1701-37269-EN0903	Transfers from Streets CEF - BoydLake Ave -Kauffman Prpty	3,830
211-23-232-1701-37269-EN1004	Transfers from Streets CEF - Garfield Ave and US34, Northbound Right Turn Lane	160,430
211-23-232-1701-37269-EN8212	Transfers from Streets CEF - Tran Master Plan Thru 2050	22,900
211-23-232-1701-37269-EN9922	Transfers from Streets CEF - Loveland ITS Update-Traffic	98,190
211-23-232-1701-37269-TR1101	Transfers from Streets CEF - Regional Transit Center	215,980
211-23-232-1701-37269-TS0101	Transfers from Streets CEF - Signal System Interconct	9,720
211-23-232-1701-37269-TS0501	Transfers from Streets CEF - School Flasher Units	15,280
211-23-232-1701-37269-TS0706	Transfers from Streets CEF - Upgrades to TOC	2,650
211-23-232-1701-37269-TS0714	Transfers from Streets CEF - Garfield @ US34 SB right lane	33,370
211-23-232-1701-37269-TS1002	Transfers from Streets CEF - Centerra Area ITS	67,320
211-23-232-1701-37269-ENR040	Transfers from Streets CEF - Dakota Glen Sidewalk Installation	2,000
<b>Total Revenue</b>		<b>4,211,560</b>

**Transportation Fund 211**

**Appropriations**

211-23-232-1700-49360-ENSR015	Construction - Street Rehabilitation - BNSF Railroad Work	163,130
211-23-232-1701-49360-EN0105	Construction - Taft Av (Gard-West Shore)	5,530
211-23-232-1701-49360-EN0112	Construction - Bike Route Sign/Stripe	51,880
211-23-232-1701-49360-EN0212	Construction - Bike Lane/Ped Walk Construction	82,220
211-23-232-1701-49011-EN0215	Right of Way - R-O-W Aquisition - Citywide	100,000
211-23-232-1701-49360-EN0215	Construction - R-O-W Aquisition - Citywide	30,000
211-23-232-1701-49360-EN0223	Construction - Small Capital Projects	196,680
211-23-232-1701-49360-EN0330	Construction - Boise & 37th Intersection Improvements	80,060
211-23-232-1701-49360-EN0332	Construction - Miscellaneous CEF Projects	161,760
211-23-232-1701-49360-EN0501	Construction - Garfield Survey 1st/BNSF	18,570
211-23-232-1701-49360-EN0503	Construction - 14th St SW Slope Stability	197,220
211-23-232-1701-49360-EN0606	Construction - Boyd Route Study	61,120
211-23-232-1701-49360-EN0609	Construction - Taft/14th SW Intersection	94,460
211-23-232-1701-49360-EN0903	Construction - BoydLake Ave -Kauffman Prpty	5,100
211-23-232-1701-49360-EN1004	Construction - Garfield Ave and US34, Northbound Right Turn Lane	320,870
211-23-232-1701-49360-EN1103	Construction - Safe Routes Truscott Sidewalk	10,460
211-23-232-1701-49360-EN8212	Construction - Tran Master Plan Thru 2050	28,620
211-23-232-1701-49360-EN9922	Construction - Loveland ITS Update-Traffic	122,740
211-23-232-1701-49360-TR1101	Construction - Regional Transit Center	269,980
211-23-232-1701-49360-TS0101	Construction - Signal System Interconnect	12,150
211-23-232-1701-49360-TS0501	Construction - School Flasher Units	19,100
211-23-232-1701-49360-TS0706	Construction - Upgrades to TOC	3,310
211-23-232-1701-49360-TS0714	Construction - Garfield @ US34 SB right lane	128,340
211-23-232-1701-49360-TS1002	Construction - Centerra Area ITS	220,630
211-23-232-1701-49360-TS1101	Construction - Us 287 Garfield Ave Signal	304,000
211-23-232-1701-49360-TS1103	Construction - I-25 Area VMS	450,000
211-23-232-1701-49355-TS1201	Design - Fiber Network to Signals And Other Facilities	3,130
211-23-232-1701-49360-TS1201	Construction - Fiber Network to Signals And Other Facilities	1,068,000
211-23-232-1701-49360-ENR040	Construction - Dakota Glen Sidewalk Installation	2,500
<b>Total Appropriations</b>		<b>4,211,560</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Park Capital Expansion Fee Fund 260**

**Revenues**

Fund Balance	5,860,560
<b>Total Revenue</b>	<b>5,860,560</b>

**Appropriations**

**Parks & Recreation**

260-51-560-0000-49355-PK0802 Mehaffey Park Design	583,030
260-51-562-0000-47120-PK0802 Transfers To Capital Projects - Mehaffey Park	5,277,530
<b>Total Appropriations</b>	<b>5,860,560</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Recreation Capital Expansion Fee Fund 261**

<b>Revenues</b>	
Fund Balance	250,000
<b>Total Revenue</b>	<b>250,000</b>
<b>Appropriations</b>	
<b>Parks &amp; Recreation</b>	
261-51-536-0000-47120-PK0802 Transfers To Capital Projects - Mehaffey Park	250,000
<b>Total Appropriations</b>	<b>250,000</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Fire Capital Expansion Fee Fund 264**

<b>Revenues</b>	
Fund Balance	61,820
<b>Total Revenue</b>	<b>61,820</b>
<b>Appropriations</b>	
<b>Fire &amp; Rescue</b>	
264-22-222-0000-48244-GF1204 Cab and Chassis Upgrades to New Station 2 Heavy Rescue	32,000
264-22-222-0000-49360-GF1106 Construction - Station 6 Addition "Punch List"	29,820
<b>Total Appropriations</b>	<b>61,820</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Police Capital Expansion Fee Fund 265**

<b>Revenues</b>	
Fund Balance	88,960
<b>Total Revenue</b>	<b>88,960</b>
<b>Appropriations</b>	
<b>Police</b>	
265-21-202-2102-47120-PDDISP Transfer to Capital Projects - Dispatch Consoles	88,960
<b>Total Appropriations</b>	<b>88,960</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
General Government Capital Expansion Fee Fund 268**

<b>Revenues</b>		
Fund Balance		107,350
<b>Total Revenue</b>		<b>107,350</b>

<b>Appropriations</b>		
268-91-902-0000-47120-ITCWI	Transfer to Capital Projects Fund Cityworks Implementation Project	107,350
<b>Total Appropriations</b>		<b>107,350</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Streets Capital Expansion Fee Fund 269**

<b>Revenues</b>		
Fund Balance		1,238,650
<b>Total Revenue</b>		<b>1,238,650</b>

**Appropriations**

**Public Works**

269-23-232-1701-47211-EN0105	Transfers from Streets CEF - Taft Av (Gard-West Shore)	4,420
269-23-232-1701-47211-EN0112	Transfers from Streets CEF - Bike Route Sign/Stripe	25,940
269-23-232-1701-47211-EN0212	Transfers from Streets CEF - Bike Lane/Ped Walk Construction	41,110
269-23-232-1701-47211-EN0215	Transfers from Streets CEF - Right of Way Aquisition - Citywide	130,000
269-23-232-1701-47211-EN0223	Transfers from Streets CEF - Small Capital Projects	196,680
269-23-232-1701-47211-EN0330	Transfers from Streets CEF - Boise & 37th Intersection Improvements	64,050
269-23-232-1701-47211-EN0501	Transfers from Streets CEF - Garfield Survey 1st/BNSF	13,930
269-23-232-1701-47211-EN0606	Transfers from Streets CEF - Boyd Route Study	45,840
269-23-232-1701-47211-EN0609	Transfers from Streets CEF - Taft/14th SW Intersection	85,010
269-23-232-1701-47211-EN0903	Transfers from Streets CEF - BoydLake Ave -Kauffman Prpty	3,830
269-23-232-1701-47211-EN1004	Transfers from Streets CEF - Garfield Ave and US34, Northbound Right Turn Lane	160,430
269-23-232-1701-47211-EN8212	Transfers from Streets CEF - Tran Master Plan Thru 2050	22,900
269-23-232-1701-47211-EN9922	Transfers from Streets CEF - Loveland ITS Update-Traffic	98,190
269-23-232-1701-47211-TR1101	Transfers from Streets CEF - Regional Transit Center	215,980
269-23-232-1701-47211-TS0101	Transfers from Streets CEF - Signal System Interconnect	9,720
269-23-232-1701-47211-TS0501	Transfers from Streets CEF - School Flasher Units	15,280
269-23-232-1701-47211-TS0706	Transfers from Streets CEF - Upgrades to TOC	2,650
269-23-232-1701-47211-TS0714	Transfers from Streets CEF - Garfield @ US34 SB right lane	33,370
269-23-232-1701-47211-TS1002	Transfers from Streets CEF - Centerra Area ITS	67,320
269-23-232-1701-47211-ENR040	Transfers from Streets CEF - Dakota Glen Sidewalk Installation	2,000
<b>Total Appropriations</b>		<b>1,238,650</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Water Enterprise Fund 300**

<b>Revenues</b>		
Fund Balance		736,200
<b>Total Revenue</b>		<b>736,200</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
300-46-310-2903-49352-W1007D	Morning Dr Alt Waterline 30"	19,870
300-46-310-2903-49360-W1007D	Morning Dr Alt Waterline 30"	204,540
300-46-318-2902-49360-W1011C	Filter Plant 2 Pipe Gallery Improvements	34,870
300-46-318-2902-49360-W1205C	Wtr-BW Surge Basin 3rd Submersible Pump & Piping	78,240
300-46-318-2902-49352-W1245D	WTP Cold Water Pump Station	15,910
300-46-318-2902-49360-W1257C	WTP Filter Plant #3 Backwash Drain Improvements	27,000
300-46-318-2902-49352-W1258C	WTP Planning Assistance on 38 MGD Expansion/Imprvm	9,950
300-46-310-2903-49360-W9999	Emergency WL Replacements	231,820
300-46-318-2902-49360-W9999	Emergency WL Replacements	8,140
300-46-318-2908-48240-WA930	Vehicle Replacement at the WTP	15,860
300-46-316-2901-43450-W1248B	City Domestic Water Rights - Source of Supply	40,000
300-46-316-2901-43450-W1249B	Private Water Rights - Source of Supply	50,000
<b>Total Appropriations</b>		<b>736,200</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Water System Impact Fee Fund 301**

<b>Revenues</b>		
Fund Balance		736,660
<b>Total Revenue</b>		<b>736,660</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
301-46-310-2903-49352-W1007D	Morning Dr Alt Waterline 30"	95,040
301-46-310-2903-49360-W1007D	Morning Dr Alt Waterline 30"	634,650
301-46-318-2902-49352-W1245D	WTP Cold Water Pump Station	6,970
<b>Total Appropriations</b>		<b>736,660</b>



**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Raw Water Enterprise Fund 302**

<b>Revenues</b>		
Fund Balance		920,090
<b>Total Revenue</b>		<b>920,090</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
302-46-316-0000-49352-W038AA	Windy Gap Firming	600,000
302-46-316-0000-49352-W1014A	Purchase of CBT Water	320,090
<b>Total Appropriations</b>		<b>920,090</b>

**Wastewater Enterprise Fund 315**

<b>Revenues</b>		
Fund Balance		1,015,520
<b>Total Revenue</b>		<b>1,015,520</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
315-46-318-2902-49352-W1010H	Waste Activated Sludge Thickening	22,980
315-46-318-2902-49360-W1010H	Waste Activated Sludge Thickening	26,610
315-46-310-2904-49352-W1110H	South Horseshoe Lift Station Submrsbl	545,290
315-46-318-2902-49352-W1244H	Primary Clarifier Scum/Grease Pump	11,930
315-46-318-2902-49360-W1244H	Primary Clarifier Scum/Grease Pump	116,950
315-46-318-2902-49399-W1251G	WWTP Digester System Improvements	82,540
315-46-310-2904-49360-W1255G	Southside Lift Station Pump #1 Replacement	44,000
315-46-310-2904-43569-WW1301	Wastewater CIPP Rehab	165,220
<b>Total Appropriations</b>		<b>1,015,520</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Wastewater System Impact Fee Fund 316**

<b>Revenues</b>		
Fund Balance		910,130
<b>Total Revenue</b>		<b>910,130</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
316-46-318-2902-49352-W1010H	Waste Activated Sludge Thickening	3,720
316-46-318-2902-49360-W1010H	Waste Activated Sludge Thickening	4,090
316-46-310-2904-49352-W1110H	South Horseshoe Lift Station Submrsbl	816,400
316-46-318-2902-49352-W1244H	Primary Clarifier Scum/Grease Pump	7,950
316-46-318-2902-49360-W1244H	Primary Clarifier Scum/Grease Pump	77,970
<b>Total Appropriations</b>		<b>910,130</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Power Enterprise Fund 330**

<b>Revenues</b>		
Fund Balance		1,634,500
<b>Total Revenue</b>		<b>1,634,500</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
330-46-319-2905-49399-PW910	Hydro FERC Relicensing	52,000
330-47-332-2903-49399-PW913A	East Sub to Crossroads Sub on Railroad	855,000
330-47-332-2903-49399-PW914	O/H to U/G Conversion - S. Wilson Between W. 1st & Hwy 402 Near Fire Station	142,500
330-47-332-2903-49399-PW914	O/H to U/G Conversion - Along Rr Track N. Of 10th Between Railroad Ave & Madis	155,000
330-47-332-2908-48244-PW930	Digger Derrick to Replace #5317	230,000
330-47-332-2908-48244-PW930	Double Bucket Truck to Replace #5316	200,000
<b>Total Appropriations</b>		<b>1,634,500</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Power System Impact Fee Fund 331**

<b>Revenues</b>		
Fund Balance		540,000
<b>Total Revenue</b>		<b>540,000</b>
 <b>Appropriations</b>		
<b>Water &amp; Power</b>		
331-47-333-2903-49399-PW920	Valley Substation - Purchase & Installation of Switchgear	540,000
<b>Total Appropriations</b>		<b>540,000</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Storm Water Enterprise Fund 345**

<b>Revenues</b>		
Fund Balance		1,957,470
<b>Total Revenue</b>		<b>1,957,470</b>
<b>Appropriations</b>		
<b>Public Works</b>		
345-23-283-0000-49360-SW0702	Construction - 2007 Floodplain Tech Asst	10,130
345-23-283-0000-49360-SW0710	Construction - Wash Ave Outfall Phase IV	441,060
345-23-283-0000-49360-SW0804	Construction - Lake Loveland Zone A Floodplain	17,090
345-23-283-0000-49360-SW1201	Construction - 2012 Maintenance Projects	514,750
345-23-283-0000-49360-SW1203	Construction - 2012 Stormwater Quality Projects	50,000
345-23-283-0000-49360-SW1202	Construction - 7th Street & Madison Ave Outfall	309,950
345-23-283-0000-49360-SW1204	Construction - Benson Park Pond & 29th Street Culvert	9,040
345-23-283-0000-49362-SW0711	Construction - Boyd Lake Outlet Ditch Grading	290
345-23-283-0000-49362-SW0902	Construction - South Loveland Outfall Phase 3	340
345-23-283-0000-49362-SW1004	Construction - Mehaffey Park Regional Detention Pond	555,820
345-23-283-0000-49362-SW1005	Construction - Giuliano Regional Detention Pond	49,000
<b>Total Appropriations</b>		<b>1,957,470</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Vehicle Maintenance Internal Service Fund 501**

<b>Revenues</b>		
Fund Balance		25,000
<b>Total Revenue</b>		<b>25,000</b>
<b>Appropriations</b>		
<b>Public Works</b>		
501-23-261-0000-48240	Diesel Emmission Fluid Dispensing System - Capital	25,000
<b>Total Appropriations</b>		<b>25,000</b>

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Risk & Insurance Fund 502**

<b>Revenues</b>		
Fund Balance		54,650
<b>Total Revenue</b>		<b>54,650</b>
<b>Appropriations</b>		
502-17-175-0000-43407	Environmental Services - Citywide Asbestos Database	54,650
<b>Total Appropriations</b>		<b>54,650</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

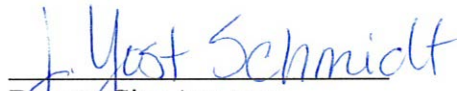
ADOPTED this \_\_\_\_ day of May, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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



**CITY OF LOVELAND**  
**BUDGET DIVISION**

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

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**TO:** City Council

**THROUGH:** Bill Cahill, City Manager  
Brent Worthington, Finance Director

**FROM:** John Hartman, Budget Officer

**DATE:** April 2, 2013

**RE:** Staff Report on Projects in the Reappropriation Ordinance

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This is an annual appropriation ordinance staff brings to Council. The total projected cost of a project is appropriated in the first year a project is funded. This allows Council and the public to see what the total project will cost and that resources are available to fund the entire project.

State law and the City Charter state that all appropriations cease on December 31, the final day of the fiscal year. Capital projects, by their nature, take more than one fiscal year to complete for a variety of reasons. This requires the reappropriation of the funding that was not spent on the projects in the prior year in order to make funding available to complete the projects.

Gross appropriations, the sum of the total appropriations for each fund, total \$33.57 million. With the exclusion of the transfers between the various funds; the net appropriation in the ordinance is \$25.36 million. This appropriation is funded by \$2.03 million of grant revenue, contributions of \$0.20 million and \$23.13 million in fund balance.

70.9% of the total net appropriation is in five projects or programs:

- Mehaffey Park Development;
- The Transportation Program;
- Power Enterprise Projects;
- Wastewater Enterprise Projects; and
- River's Edge Natural Area Development;

The following is an explanation for all of the projects included on a project basis with the funding sources identified. The projects are listed in descending order by the amount of the project.

**Projects Reappropriated****Parks and Recreation Department - Mehaffey Park - \$8,110,560**

Reappropriation of funds approved in 2012 for the design and construction of Mehaffey Park.

The funding sources for the project are Parks CEF revenues of \$5,860,560, Conservation Trust Fund revenues of \$2,000,000, and Recreation CEF revenues of \$250,000.

**Public Works Department - Transportation Program - \$4,048,430**

Reappropriation of funds approved in 2012 for the transportation program. Projects include:

- Fiber optic network to signals and City facilities – \$1,071,130;
- I-25 Area Variable Message Signs - \$450,000;
- Garfield Ave and US34, Northbound Right Turn Lane - \$320,870;
- US 287/Garfield Ave Signal Improvements - \$304,000;
- Regional Transit Center construction - \$269,980;
- Centerra Area Intelligent Traffic System - \$220,630;
- 14 St SW – Slope Stability - \$197,220;
- Citywide Right of Way Acquisition - \$130,000;
- Southbound Garfield Ave at US 34 Right Turn Lane - \$128,340;
- Loveland Intelligent Traffic System Update - \$122,740;
- Taft Ave and 14<sup>th</sup> St SW Intersection - \$94,460;
- Bike Lane and Pedestrian Walkway Construction - \$82,220;
- Boise Ave and 37<sup>th</sup> St Intersection Improvements - \$80,060;
- Boyd Ave Route Study - \$61,120;
- Bike Route Signage and Striping - \$51,880; and
- Other miscellaneous projects - \$463,780.

The funding sources for the projects are Street Impact Fee revenues of \$1,238,650, TABOR revenues from the General Fund of \$1,027,900, and Federal and State grants of \$1,781,880.

**Power Enterprise – Power Enterprise Projects and Equipment - \$2,174,500**

Reappropriation of funds approved in 2012 for the following items:

- Feeder Extension from the East Substation and Crossroads Substation - \$855,000;
- Valley Substation Switchgear - \$540,000;
- Digger Derrick - \$230,000;
- Double Bucket Truck - \$200,000;
- Undergrounding Lines along tracks between 10<sup>th</sup> and Madison Ave - \$155,000;
- Undergrounding Lines Wilson Ave between 1<sup>st</sup> and Hwy 402 - \$142,500; and
- FERC Relicensing of Hydroelectric Station - \$52,000.

The funding source is Power Enterprise Fund balance and Power Plant Impact Fees.

**Wastewater Enterprise – Wastewater Enterprise Projects - \$1,925,650**

Reappropriation of funds approved in 2012 for the following projects:

- South Horseshoe Lift Station - \$1,361,690;
- Replace Primary Clarifier Scum/Grease Pump - \$214,800;
- Wastewater Cured-In-Place-Pipe Rehabilitation - \$165,220; and
- Three other small projects - \$183,940.

The funding source is Wastewater Enterprise Fund balance and Wastewater System Impact Fees.

**Parks and Recreation Department – River’s Edge Natural Area - \$1,718,840**

Reappropriation of funds approved in 2012 for design and construction of the River’s Edge Natural Area at the former HP/Agilent site.

The funding source is Open Lands Fund balance.

**Water Enterprise – Water Enterprise Projects - \$1,472,860**

Reappropriation of funds approved in 2012 for the following projects:

- Morning Drive Alternate Construction - \$954,100;
- Emergency Water Line Replacement - \$239,960;
- Water Treatment Plant Projects - \$188,800; and
- Water Rights (private and City domestic) - \$90,000.

The funding source is Water Enterprise Fund balance and Water System Impact Fees.

**Stormwater Enterprise – Stormwater Infrastructure Improvements - \$1,442,720**

Reappropriation of funds approved in 2012 for the construction of the improvements. Projects include:

- Mehaffey Park Regional Detention Pond - \$555,820;
- Washington Avenue Outfall Phase IV - \$441,060;
- 7<sup>th</sup> Street and Madison Avenue Outfall - \$309,950; and
- Seven other projects - \$135,890.

The funding source is Stormwater Enterprise Fund balance.

**Water Enterprise – Raw Water Projects - \$920,090**

Reappropriation of funds approved in 2012 to secure raw water. Projects include:

- Windy Gap Firming Project - \$600,000; and
- Purchase of Colorado-Big Thompson (CBT) Project Water - \$320,090.

The funding source is Raw Water Fund balance.

**Economic Development Department – Council Business Incentive Program - \$693,430**

Reappropriation of funds approved in 2012 for potential Council economic development opportunities.

The funding source is General Fund balance.

**Public Works Department –Stormwater Maintenance Projects - \$514,750**

Reappropriation of funds approved in 2012 for maintenance of existing Stormwater infrastructure.

The funding source is Stormwater Enterprise Fund balance.

**Cultural Services Department – Art in Public Places - \$363,180**

Reappropriation of funds approved in 2012 for projects planned under the Art in Public Places program. The projects include:

- I-25/Highway 34 Interchange- \$250,000 (\$163,000 from grant funding);
- Mehaffey Park - \$78,600;
- Madison Avenue Trail - \$20,000;
- Foundations Sculpture Exhibit - \$8,580; and
- The Grove Reinstallation - \$6,000.

The funding source is revenue from capital project contributions, a Federal grant, and Art in Public Places Fund balance.

**Development Services Department - Community Development Block Grants (CDBG) -\$243,690**

Reappropriation of the CDBG block grant funds approved in 2012 but not yet spent.

The funding source is Federal CDBG grant funds.

**Development Services Department - Human Services Grants -\$203,980**

Reappropriation of funding for Human Resource Commission grants approved in 2012. The terms of the contracts for Human Services grant funds ends June 30, 2013.

The funding source is General Fund balance.

**Economic Development Department – Lodging Tax Projects- \$194,530**

Reappropriation of funds approved in 2012 for projects recommended by the Community Marketing Commission and planned in the Lodging Tax Fund. The projects include:

- Wayfinding Signs- \$186,500;
- VisitLovelandCO.com website services - \$5,530; and
- Billboard Advertising - \$2,500.

The funding source is Lodging Tax Fund balance.

**Public Works Department – Street Rehabilitation - \$163,130**

Reappropriation of funds approved in 2012 for railroad crossing road work. The Burlington Northern and Santa Fe Railroad agreed to undertake this work in 2013 with the help of state and federal grant funds received in 2012.

The funding source is a transfer from General Fund balance.



**Non-Departmental – Fire Authority Contribution - \$149,540**

Reappropriation of funds not expended in 2012 for the City’s portion of supplemental funding approved by the Fire Authority Board for 2013.

The funding source is General Fund balance.

**Economic Development Department – ArtSpace Project - \$119,000**

Reappropriation of pre-development funding approved in 2012 for the ArtSpace development project. This funding is the remainder of \$500,000 in funding approved in 2010 for the project at the former Feed & Grain.

The funding source is General Fund balance from the Council Capital Reserve.

**Economic Development Department – Incentives/Sales Tax Rebates - \$117,140**

Reappropriation of funding approved in 2012 for existing sales tax rebate agreements.

The funding source is General Fund balance.

**Information Technology Department – Cityworks – \$107,350**

Reappropriation of funding approved in 2012 for training and consulting for the continuing implementation of Cityworks Server product in Public Works.

The funding source is General Government CEF balance.

**Police Department – Police Communications Console Replacement - \$88,960**

Reappropriation of funds approved in 2012 for replacing communications consoles.

The funding source is Law Enforcement CEF funds.

**Information Technology Department – Courtview/JWorks Software– \$83,790**

Reappropriation of funding approved in 2012 for the purchase of hardware, software, and services for Municipal Court.

The funding source is General Fund balance.

**Fire Authority – Capital Projects - \$61,820**

Reappropriation of funds approved in 2012 for capital projects:

- Engine and Cab Upgrades for new Station 2 Heavy Rescue Apparatus - \$32,000; and
- Station 6 Addition, “punch list” - \$29,820.

The funding source is Fire Capital Expansion Fee Fund balance.

**Human Resources Department – Citywide Asbestos Database- \$54,650**

Reappropriation of funds approved in 2012 in the Risk Management Division for creation of a citywide asbestos tracking database.

The funding source is Risk Management Fund balance.

**Information Technology Department – Electronic Drawing Review – \$50,180**

Reappropriation of funding approved in 2012 for the purchase of hardware, software, and services for the implementation of an electronic development review process. This allows development review documents to be received, reviewed, and returned in an electronic format.

The funding source is General Fund balance.

**Parks and Recreation Department – North Lake Park Shelters - \$40,000**

Reappropriation of funds approved in 2012 for improvements and renovations to North Lake Park shelters.

The funding source is Park Improvement Fund balance.

**Public Works Department –COLT Surveillance Equipment - \$33,630**

Reappropriation of funding approved in 2012 for the purchase of surveillance equipment for COLT buses.

The funding source is a combination of Federal grant revenue and General Fund balance.

**Parks and Recreation Department –Radio Replacement - \$33,240**

Reappropriation of funds approved in 2012 for replacement of Parks & Recreation radios.

The funding source is General Fund balance.

**Cultural Services Department –Rialto Theater Guild Donation - \$28,320**

Reappropriation of funds approved in 2012 for furniture and equipment in the Rialto Theater Center.

The funding source is a donation from the Rialto Theater Guild.

**Public Works Department – Diesel Emission Fluid Dispenser- \$25,000**

Reappropriation of funds approved in 2012 in the Fleet Management Division for a diesel emission fluid dispensing system.

The funding source is Fleet Management Fund balance.

**Police Department – Building Security Cameras - \$24,000**

Reappropriation of funds approved in 2012 for computer hardware for the eCitation system.

The funding source is General Fund balance.

**Development Services Department – Community Design Element Update - \$20,000**

Reappropriation of funding approved in 2012 for updating the community design elements section of the City’s Comprehensive Master Plan.

The funding source is General Fund balance.

**Non-Departmental – Outside Legal Services - \$20,000**

Reappropriation of funds approved in 2012 for outside legal assistance with the Comcast cable franchise contract renewal.

The funding source is General Fund balance.

**Parks and Recreation Department – Irrigation Projects - \$19,990**

Reappropriation of funds approved in 2012 for irrigation work at the Cemetery and Civic Center.

The funding source is General Fund balance.

**Economic Development Department – Leslie the Cleaner Remediation - \$18,640**

Reappropriation of funds approved in 2012 for environmental remediation and demolition of the former Leslie the Cleaner property.

The funding source is a transfer from General Fund balance.

**Parks and Recreation Department – Madison Ave Trail Underpass - \$17,000**

Reappropriation of funds approved in 2012 for design of the Madison Avenue recreation trail underpass.

The funding source is Conservation Trust Fund balance.

**Development Services Department – Pulliam Building Structural Assessment - \$14,720**

Reappropriation of funding approved in 2012 for a structural assessment of the Pulliam Building.

The funding source is a State Historical Preservation grant.

**Fire Authority – Equipment and Maintenance - \$12,820**

Reappropriation of funds approved in 2012 to be directly charged to the General Fund for maintenance or replacement of equipment owned by the City. This includes:

- Rebuilding Station 1 Air Compressor - \$5,600;
- Maintenance Contract for the Grant-Funded Purchase of 15 Automatic External Defibrillators (AEDs) - \$5,310; and
- Fitness Equipment - \$1,910.

The funding source is General Fund balance.

**Police Department – Promotional Process - \$12,000**

Reappropriation of funds approved in 2012 for costs of the Police promotional process.

The funding source is General Fund balance.

**Police Department – Lead Mitigation - \$5,000**

Reappropriation of funds approved in 2012 for berm lead mitigation at the Police shooting range.

The funding source is General Fund balance.

**Police Department – Telestaff - \$5,000**

Reappropriation of funds approved in 2012 for Telestaff scheduling software.

The funding source is General Fund balance.

**Police Department – Building Security Cameras - \$3,600**

Reappropriation of funds approved in 2012 for security cameras at the Police and Courts Building.

The funding source is General Fund balance.

**Development Services Department – HOA Outreach - \$1,840**

Reappropriation of funding approved in 2012 for a grant supporting outreach and programming for City Homeowners Associations.

The funding source is a contribution from CanDo/Livewell.

**Cultural Services Department –Poet Laureate Performance - \$1,500**

Reappropriation of funds approved in 2012 for the Museum division for a Poet Laureate Performance.

The funding source is a donation from the Kroh Charitable Trust received in 2012.

**Cultural Services Department –Collection Conservation - \$1,400**

Reappropriation of funds approved in 2012 for conservation of items in the museum collection.

The funding source is a donation received in 2012 intended for conservation.

**Human Resources Department –Employee and Volunteer Recognition - \$1,210**

Reappropriation of funding approved in 2012 for employee recognition and volunteer recognition at the Municipal Court.

The funding source is General Fund balance.

**Public Works Department – Public Works Day - \$240**

Reappropriation of funding approved in 2012 for Public Works Day events.

The funding source is donations from event sponsors received in 2012.



**CITY OF LOVELAND**  
FINANCE DEPARTMENT

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**AGENDA ITEM:** 10  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Public Hearing and Consideration of an Ordinance Enacting a Supplemental Budget and Appropriation to The Loveland Urban Renewal Authority Budget Reappropriating The Façade Grant Program and Funding for Parking Lot Improvements Approved in 2012 but not Completed

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. Reserves are reappropriated for the Façade Grant Program and parking lot improvements.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Reserves are available for the appropriation resulting from unspent appropriation in 2012.

**SUMMARY:**

Council approved funding for the Facade Grant program using TIF funds in the Downtown Project Area in 2012. Not all of the funds have been dispersed. Also in 2012 TIF funding was approved to partially fund improvements to parking lot near the railroad. Funding for both the grant program and parking lot project are reappropriated.

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REVIEWED BY CITY MANAGER:

*William D. Cabill*

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**LIST OF ATTACHMENTS:**

1. Ordinance

**FIRST READING** April 16, 2013

**SECOND READING** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE LOVELAND URBAN RENEWAL AUTHORITY BUDGET TO REAPPROPRIATE FUNDS FOR THE FAÇADE GRANT PROGRAM AND FUNDING FOR PARKING LOT IMPROVEMENTS APPROVED IN 2012 BUT NOT COMPLETED**

WHEREAS, the 2012 budget for the Loveland Urban Renewal Authority included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring re-appropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the Authority also has reserved funds not anticipated or appropriated at the time of the adoption of the Authority’s budget for 2013; and

**WHEREAS**, the City Council, acting as the Commissioners of the Board of the Authority, desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the Authority budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO acting as the Commissioners of the Board of the Loveland Urban Renewal Authority::**

**Section 1.** That reserves in the amount of \$69,010 from fund balance in the Loveland Urban Renewal Authority Fund 037 are available for appropriation. Revenues in the total amount of \$69,010 are hereby re-appropriated for the Façade Grant Program and parking lot improvements as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Loveland Urban Renewal Authority Fund 603**

<b>Revenues</b>			
Fund Balance			69,010
<b>Total Revenue</b>			<b>69,010</b>
 <b>Appropriations</b>			
603-80-870-0000-43840	LURA Façade Grants		36,310
603-80-873-0000-43840	LURA Façade Grants		12,700
603-23-232-0000-49360-DT1201	Railroad Parking Lot Improvements		20,000
<b>Total Appropriations</b>			<b>69,010</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_ day of May, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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



APPROVED AS TO FORM:

J. Yost Schmidt  
Deputy City Attorney


**CITY OF LOVELAND**

BUDGET OFFICE

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**AGENDA ITEM:** 11  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Public Hearing and Consideration of an Ordinance on First Reading Adopting a Supplemental Budget and Appropriation for The 2013 Loveland General Improvement District #1 to Reappropriate Funds for Signal Light Upgrades and Parking Lot Improvements Approved in 2012 but Not Completed.

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. Funds approved in 2012 for signal pole upgrades and parking lot improvements are appropriated to complete the projects.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The funding was appropriated in 2012. Since the expense did not occur the amount appropriated became fund balance at the end of 2012. This balance is available for appropriation without impacting the 2013 budget projections.

**SUMMARY:**

Council approved using the funds for signal pole upgrades on Lincoln and Cleveland Avenues at the intersection of U.S. 287 in November 2011. The project is near completion but not all

invoices have been paid. In 2012, the GID obtained a lease on parking property next to the railroad on 4<sup>th</sup> Street. Funding was appropriated in 2012 to improve this parking lot. This ordinance reappropriates the funds in order to complete the project.

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**REVIEWED BY CITY MANAGER:** *William D. Cabell*

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**LIST OF ATTACHMENTS:**

Ordinance

**FIRST READING** April 16, 2013

**SECOND READING** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ADOPTING A SUPPLEMENTAL BUDGET AND APPROPRIATION FOR THE 2013 LOVELAND GENERAL IMPROVEMENT DISTRICT #1 BUDGET TO REAPPROPRIATE FUNDS FOR SIGNAL LIGHT UPGRADES AND PARKING LOT IMPROVMENTS APPROVED BUT NOT COMPLETED IN 2012**

**WHEREAS**, the 2012 budget for the General Improvement District #1 included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring re-appropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the District also has received or reserved funds not appropriated at the time of the adoption of the 2013 budget; and

**WHEREAS**, the City Council, acting as the ex-officio Board of Directors desires to authorize the expenditure of these funds by enacting a supplementary budget and appropriation to the District budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, acting as the ex officio Board of Directors of the Loveland General Improvement District #1:**

**Section 1.** That \$61,000 from fund balance is available in the General Improvement District #1 Fund 602. These revenues are hereby appropriated for the signal light upgrades and parking lot improvements approved but not completed in 2012. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
GID #1 Fund 602**

<b>Revenues</b>		
Fund Balance		61,000
<b>Total Revenue</b>		
<b>Appropriations</b>		
602-90-901-0000-49360-DT1201	Railroad Parking Lot Improvements	50,000
602-90-901-0000-49360	4th Street Traffic Signal Upgrades	11,000
<b>Total Appropriations</b>		<b>61,000</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_\_ day of May, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

J. Yost Schmidt  
Deputy City Attorney


**CITY OF LOVELAND**

BUDGET OFFICE

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**AGENDA ITEM:** 12  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Public Hearing and an Ordinance on First Reading Enacting a Supplemental Budget and Appropriation to The 2013 Ft. Collins-Loveland Municipal Airport Budget to Appropriate Funds for Projects Approved but Not Completed in 2012.

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. The ordinance appropriates the remaining balance for capital projects and equipment purchases previously approved in 2012.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Most of the appropriation is funded by State or Federal Grants that have been approved by Council in prior years, but not completed. Fund balance that is available in the fund is used to match the grants. The grant funding allows for projects the Airport would otherwise not be able to fund.

**SUMMARY:**

The funding will be used for the completion of the runway and taxiway improvements, security systems, and the JetCenter remodel and Small Community Air Service projects. These projects

were approved and included in the 2012 Airport budget. Reappropriation is necessary to make funds available to complete the projects.

These projects are FAA related and funds that were not spent in a calendar year are rolled into the next fiscal year for use at the airport, as required by federal regulation.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

Ordinance



FIRST READING April 16, 2013

SECOND READING \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2012**

**WHEREAS**, the 2012 budget for the Fort Collins-Loveland Municipal Airport included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring re-appropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the City also has received funds not appropriated at the time of the adoption of the City budget for 2013; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the Airport budget for 2012, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That revenues and/or reserves in the amount of \$812,230 from fund balance and Federal and State Grants in the Airport Fund 018 are available for appropriation. Revenues in the total amount of \$812,230 are hereby appropriated for projects and equipment approved in 2012 but not completed or closed out. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
2012 On-Going Projects and Capital Rollover  
Airport Fund 600**

**Revenues**

Fund Balance		133,960
600-00-000-0000-38616-AP1110	FAA Contribution	222,610
600-00-000-0000-38616-AP1205	FAA Contribution	107,250
600-00-000-0000-38617-AP1205	State of Colorado Contribution	2,820
600-00-000-0000-38616-AP1202	FAA Contribution	84,690
600-00-000-0000-38617-AP1202	State of Colorado Contribution	2,230
600-00-000-0000-38616-AP1207	FAA Contribution	18,560
600-00-000-0000-38617-AP1207	State of Colorado Contribution	490
600-00-000-0000-38616-AP1205	FAA Contribution	1,460
600-00-000-0000-38617-AP1205	State of Colorado Contribution	40
600-00-000-0000-38616-AP1203	FAA Contribution	232,010
600-00-000-0000-38617-AP1203	State of Colorado Contribution	6,110
<b>Total Revenue</b>		<b>812,230</b>

**Appropriations**

600-23-290-0000-43450-AP1110	Remainder of Small Community Air Service Development Grant	222,610
600-23-290-0000-43569	Runway Deicer	13,970
600-23-290-0000-43569	Crack Fill	6,670
600-23-290-0000-43714	Credit Card Services	1,030
600-23-290-0000-49360-AP1205	RWIS Installation	112,890
600-23-290-0000-49352-AP1202	Design Apron	89,150
600-23-290-0000-49352-AP1207	Design Taxiway	19,540
600-23-290-0000-49352-AP1205	Design RWIS	1,540
600-23-290-0000-48240-AP1203	New Snow Plow Truck	244,230
600-23-290-0000-43714-AP1104	Security Systems	600
600-23-290-0000-43664-AP1206	Utility Master Plan	100,000
<b>Total Appropriations</b>		<b>812,230</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

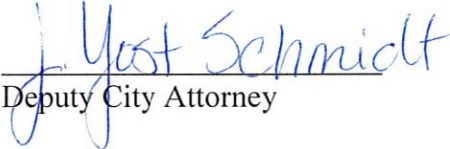
ADOPTED this \_\_\_\_ day of May, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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


**CITY OF LOVELAND**

BUDGET OFFICE

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**AGENDA ITEM:** 13  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Public Hearing and Consideration of an Ordinance Enacting a Supplemental Budget and Appropriation to The 2013 City of Loveland Budget for Projects or Programs not Anticipated at The Time of Adoption for The 2013 Budget

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. Since the adoption of the 2013 Budget, several issues have emerged that require increased appropriations. This ordinance addresses those issues. The total amount of net appropriation (total expenses excluding transfer between funds) is \$5.29 million. The appropriation is funded by \$5.28 million of fund balance and \$13,390 of Federal Grant Revenue.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Nearly all of the funding for the projects or programs included in the ordinance are funded from reserves, which reduces the flexibility to fund future projects.

**SUMMARY:**

Since the adoption of the 2013 Budget, several issues have emerged that require increased appropriations. This ordinance addresses those issues. The total amount of net appropriation (total expenses excluding transfer between funds) is \$5.29 million. The appropriation is funded by \$5.28 million of fund balance and \$13,390 of federal grant revenue.

One project, the Service Center Phase 3 Expansion including the new vehicle wash facilities, is over 92% of the total at \$4.88 million, with \$3.88 million of additional funding for the expansion and \$1 million in additional funding for vehicle wash facilities. The adopted 2013 Budget included \$5.9 million for the new building and grounds, and \$600,000 for the wash facilities. After the initial concept was completed, the cost estimate was significantly increased. In November, staff presented the concept of the project to Council and received direction to proceed. With this ordinance the total budget for the Service Center Expansion is \$9.8 million and the total for the new wash facilities is \$1.6 million, for total expenses on the site of \$11.4 million. The expanded facility will house most of the Public Works Department staff.

The other significant projects in the ordinance are funding for the Information Technology Department to develop a Technology Strategic Plan, and funding for the development of the new CEF concept and capital planning.

Within the General Fund, total appropriations are \$379,000, primarily funded by unassigned fund balance. The IT Strategic Plan is nearly 50% of this total appropriation.

Attached is a staff report that provides detailed information for each of the projects or programs.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

Staff Report  
Ordinance

FIRST READING April 16, 2013

SECOND READING \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR PROJECTS OR PROGRAMS NOT ANTICIPATED AT THE TIME OF ADOPTION FOR THE 2013 BUDGET**

**WHEREAS**, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That revenues and/or reserves are available for appropriation in several funds. These are hereby appropriated for new projects programs and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
2012 New Capital Projects and Operations  
General Fund 100**

<b>Revenues</b>		
Fund Balance		559,360
100-21-202-2102-32000	Federal Justice Assistance Grant (JAG)	13,390
<b>Total Revenue</b>		<b>572,750</b>
 <b>Appropriations:</b>		
<b>Executive &amp; Legal</b>		
100-13-116-0000-48248	Computer Supplies - Electronic Agenda Management	25,000
<b>Cultural Services</b>		
100-52-720-8007-41012	Non-benefitted Salaries - Collection Storage Relocation	4,500
100-52-720-8007-42899	Other Supplies - Collection Storage Relocation	9,500
100-52-720-8007-43450	Professional Services - Collection Storage Relocation	6,000
<b>Development Services</b>		
100-19-192-0000-43270	Training	7,000
100-19-192-0000-42014	Books & Periodicals - 5 Sets of Code Manuals	4,000
<b>Information Technology</b>		
100-16-160-0000-43450	Professional Services - IT Strategic Plan Development	105,000
<b>Library</b>		
100-53-750-0000-42014	Books & Periodicals	3,000
100-53-750-0000-42899	Other Supplies	1,250
100-53-752-0000-42014	Books & Periodicals	9,130
100-53-753-0000-42014	Books & Periodicals	6,330
100-53-753-0000-43899	Other Services	1,000
100-53-754-0000-42014	Books & Periodicals	10,040
100-53-756-0000-42014	Books & Periodicals	4,260
<b>Police</b>		
100-21-201-2101-43450	Larimer Humane Society annual payment	35,300
100-21-202-2102-43534	Upgrade vehicle for bomb unit	11,200
100-21-202-2102-43450	Larimer County Sheriff warrant position share	28,000
100-21-201-2101-43450	Architect for shooting/driving facility	5,000
100-21-202-2102-43450	Front Range Gun Club	36,000
100-21-202-2102-41021	Overtime	13,390
<b>Non-Departmental</b>		
100-91-902-0000-43450-CFPCEF13	Professional Services	70,000
100-91-902-0000-47120-EDLESIE	Transfer to Capital Projects Fund - Leslie the Cleaner	50,000
100-91-902-0000-47120	Transfer to Capital Projects Fund - Fire Capital Projects	28,250
100-91-902-0000-43714	Payment to Outside Agencies - Fire Authority -Lieutenant Position	99,600
<b>Total Expense</b>		<b>572,750</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Capital Projects Fund 120**

**Revenues**

120-00-000-0000-37360-GF1107	Transfers from Refuse	600,000
120-00-000-0000-37345-GF1107	Transfers form Stormwater	1,100,000
120-00-000-0000-37268-GF1107	Transfers from General Government CEF	2,100,000
120-00-000-0000-37500-GF1206	Transfers from Fleet Replacement	1,000,000
120-00-000-0000-37100-EDLESLIE	Transfer from General Fund - Leslie the Cleaner	50,000
120-00-000-0000-37100	Transfer from General Fund - Fire Capital Projects	28,250
<b>Total Revenue</b>		<b>4,878,250</b>

**Appropriations**

**Economic Development**

120-18-180-0000-49360-EDLESLIE	Construction - Leslie the Cleaner Remediation	25,000
120-18-180-0000-49399-EDLESLIE	Other Capital - Leslie the Cleaner Remediation	25,000

**Fire**

120-22-222-0000-49399	Other Capital - 800 MHz Channel Installation	21,800
120-22-222-0000-43899	Other Services - Fire Logo Replacement	6,450

**Public Works**

120-23-250-1799-49360-GF1206	Vehicle Wash	1,000,000
120-23-250-1799-49360-GF1107	Service Center Phase III	3,800,000
<b>Total Appropriations</b>		<b>4,878,250</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Fire Capital Expansion Fee Fund 264**

**Revenues**

Fund Balance	22,000
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<b>Total Revenue</b>	<b>22,000</b>
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**Appropriations**

**Fire & Rescue**

264-91-902-0000-43450-CFPCEF13	Professional Services	22,000
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<b>Total Appropriations</b>	<b>22,000</b>
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**Supplemental Budget  
2012 New Capital Projects and Operations  
Police Capital Expansion Fee Fund 265**

<b>Revenues</b>		
Fund Balance		22,000
<b>Total Revenue</b>		<b>22,000</b>
<b>Appropriations</b>		
<b>Police</b>		
265-91-902-0000-43450-CFPCEF13	Professional Services	22,000
<b>Total Appropriations</b>		<b>22,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Library Capital Expansion Fee Fund 266**

<b>Revenues</b>		
Fund Balance		32,000
<b>Total Revenue</b>		<b>32,000</b>
<b>Appropriations</b>		
266-91-902-0000-43450-CFPCEF13	Professional Services	32,000
<b>Total Appropriations</b>		<b>32,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Cultural Services Capital Expansion Fee Fund 267**

<b>Revenues</b>		
Fund Balance		42,000
<b>Total Revenue</b>		<b>42,000</b>
<b>Appropriations</b>		
267-92-902-0000-43450-CFPCEF	Professional Services	42,000
<b>Total Appropriations</b>		<b>42,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
General Government Capital Expansion Fee Fund 268**

<b>Revenues</b>		
Fund Balance		2,122,000
<b>Total Revenue</b>		<b>2,122,000</b>
<b>Appropriations</b>		
<b>Public Works</b>		
268-91-902-0000-43450-CFPCEF13	Professional Services	22,000
268-91-902-0000-47120-GF1107	Transfers to Capital Projects - Service Center	2,100,000
<b>Total Appropriations</b>		<b>2,122,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Water Enterprise Fund 300**

<b>Revenues</b>		
Fund Balance		31,200
300-00-000-0000-35324	Service Center Phase III - Revenues from Wastewater and Power	48,800
<b>Total Revenue</b>		<b>80,000</b>
<b>Appropriations</b>		
<b>Water &amp; Power</b>		
300-45-304-2908-49399-WA930	Service Center Phase III	80,000
<b>Total Appropriations</b>		<b>80,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Wastewater Enterprise Fund 315**

<b>Revenues</b>		
Fund Balance		18,400
<b>Total Revenue</b>		<b>18,400</b>
<b>Appropriations</b>		
<b>Water &amp; Power</b>		
315-45-301-2900-42033-WW520	Service Center Phase III	18,400
<b>Total Appropriations</b>		<b>18,400</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Power Enterprise Fund 330**

<b>Revenues</b>		
Fund Balance		30,400
<b>Total Revenue</b>		<b>30,400</b>
<b>Appropriations</b>		
<b>Water &amp; Power</b>		
330-45-301-2900-42033-PW520	Service Center Phase III	30,400
<b>Total Appropriations</b>		<b>30,400</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Storm Water Enterprise Fund 345**

<b>Revenues</b>		
Fund Balance		1,100,000
<b>Total Revenue</b>		<b>1,100,000</b>
<b>Appropriations</b>		
<b>Public Works</b>		
345-23-280-0000-47120-GF1107	Transfers to Capital Projects - Service Center	1,100,000
<b>Total Appropriations</b>		<b>1,100,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Solid Waste Enterprise Fund 360**

<b>Revenues</b>		
Fund Balance		600,000
<b>Total Revenue</b>		<b>600,000</b>
<b>Appropriations</b>		
<b>Public Works</b>		
360-23-270-0000-47120-GF1107	Transfers to Capital Projects - Service Center	300,000
360-23-271-0000-47120-GF1107	Transfers to Capital Projects - Service Center	180,000
360-23-272-0000-47120-GF1107	Transfers to Capital Projects - Service Center	120,000
<b>Total Appropriations</b>		<b>600,000</b>

**Supplemental Budget  
2012 New Capital Projects and Operations  
Fleet Internal Service Fund 500**

<b>Revenues</b>		
Fund Balance		1,035,000
<b>Total Revenue</b>		<b>1,035,000</b>
 <b>Appropriations</b>		
<b>Public Works</b>		
500-23-260-0000-47120-GF1206	Transfers to Capital Projects - Vehicle Wash	1,000,000
500-23-260-0000-47501	Transfers to Fleet Management	35,000
<b>Total Appropriations</b>		<b>1,035,000</b>

**Vehicle Maintenance Internal Service Fund 501**

<b>Revenues</b>		
501-00-000-0000-37500	Transfers from Fleet Fund	35,000
<b>Total Revenue</b>		<b>35,000</b>
 <b>Appropriations</b>		
<b>Public Works</b>		
501-23-261-0000-48240	Diesel Emmission Fluid Dispensing System - Capital	15,000
501-23-261-1903-48240	Shared Construction Pool GPS - Capital	5,000
501-23-261-1903-48240	Grant Match: Electric Vehicles, Charging Stations - Capital	15,000
<b>Total Appropriations</b>		<b>35,000</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

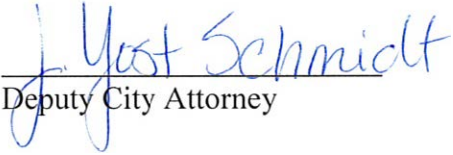
ADOPTED this \_\_\_\_ day of May, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

**CITY OF LOVELAND**  
BUDGET DIVISION

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

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**TO:** City Council

**THROUGH:** Bill Cahill, City Manager  
Brent Worthington, Finance Director

**FROM:** John Hartman, Budget Officer

**DATE:** April 2, 2013

**RE:** Staff Report on New Projects

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Since the adoption of the 2013 Budget, several issues have emerged that require increased appropriations. This ordinance addresses those issues. The total amount of net appropriation (total expenses excluding transfer between funds) is \$5.58 million. The appropriation is funded by \$5.56 million of fund balance and \$13,390 of federal grant revenue.

One project, the Service Center Phase 3 Expansion including the new vehicle wash facilities, is the over 92% of the total at 4.88 million, with 3.88 million of additional funding for the expansion and \$1 million in additional funding for vehicle wash facilities. In the 2013 adopted Budget \$5.9 million for the new building and grounds and \$600,000 for the wash facilities. After the initial concept was completed, the cost estimate was significantly increased. In November staff presented the concept of the project to Council and received direction to proceed. With this ordinance the total budget for the Service Center Expansion is \$9.8 million and the total for the new wash facilities is \$1.6 million, for total expenses on the site of \$11.4 million. The expanded facility will house most of the Public Works Department staff.

The other significant projects in the ordinance are funding for the Information Technology Department to develop a Technology Strategic Plan, and funding for the development of the new CEF concept and capital facilities planning.

Within the General Fund, total appropriations are \$572,750, primarily funded by unassigned fund balance.

The following pages provide explanations and the funding sources for all of the items included in the ordinance.

***New Projects Appropriated*****Public Works Department – Service Center Expansion, Additional Appropriation - \$3,880,000**

Additional funding requested for expansion of the Service Center to include the housing of Streets, Stormwater, and Solid Waste as well as providing additional storage and meeting space. Significant site improvements for stormwater handling are also included. New vehicle wash facilities are also planned, but in a simultaneous, separate project as noted below. The final scope of the project was presented to Council in a study session on November 13, 2012.

Funding sources for the project consist of contributions from General Government CEFs, \$2.1 million; the Stormwater Enterprise, \$1.1 million; Solid Waste Enterprise, \$600,000; and the Water & Power enterprises, \$80,000. This funding is in addition to \$5.9 million already appropriated for the project in 2013 bringing the total budgeted for the project to \$9.8 million.

**Public Works Department – New Vehicle Wash - \$1,000,000**

Additional funding requested for construction of a new vehicle wash and muck-out bays at the Service Center. The final scope of the project was presented to Council in a study session on November 13, 2012 as part of the Service Center expansion. The vehicle wash portion of construction has been broken out into its own capital project. This funding is in addition to \$600,000 already appropriated for the project, bringing the total project budget to \$1.6 million.

The funding source is Fleet Replacement Fund balance.

**Non-Departmental Department – Capital Facilities Plan and CEF fee Updates - \$210,000**

Council direction to change the methodology for calculating Capital Expansion Fees to a plan based cost will require a significant amount of effort to develop a Capital Facilities plan for all the departments. The funding requested is for the consulting costs and public process costs that will be required to develop or update existing plans.

The funding sources are General Fund balance and CEF funds balance.

**Information Technology Department – Strategic Plan Development - \$105,000**

Funding requested for professional consulting services to assist in developing an I.T. strategic plan. The objective is to create a well-documented plan to guide the City over the next three to five years in managing the current and future technology investments and resources. The funding is for consulting services to gather the necessary data on City needs, and write the strategic and implementation plans. The tentative completion date is the fourth quarter of 2013. The previous IT Business Plan was developed in 2004 and is need of updating due to the technological changes over that time.

The funding source is General Fund balance.

**Non-Departmental – Fire Authority Community Safety Division Lieutenant - \$99,600**

Funding requested for the City's share (82%) of a new position in the Fire Authority for managing business and safety inspections.

The funding source is General Fund balance.

**Economic Development Department – Leslie the Cleaner Site Improvements - \$50,000**

Funding requested for sidewalks, landscaping, and art installation on the former Leslie the Cleaner site. This funding is in addition to \$500,000 (\$313,000 in grants and \$187,000 in City funds) spent or re-appropriated for site demolition and remediation.

The funding source is General Fund balance.

**Police Department – Front Range Gun Club Shooting Range - \$36,000**

Funding requested for payment to the Front Range Gun Club for Police use of their shooting range.

The funding source is General Fund balance.

**Police Department – Larimer County Humane Society Payment - \$35,300**

Funding requested to increase the amount paid to the Larimer County Humane Society for providing animal protection and control services.

The funding source is General Fund balance.

**Loveland Public Library - Materials and Supplies - \$35,010**

Reappropriation of gifts and donations received in 2012 for books and materials and other supplies.

The funding source is donations to the Library.

**Fire Authority – Capital Projects - \$28,250**

Reappropriation of funds approved in 2012 for capital projects including:

- 800 MHz Radio Channel - \$21,800; and
- Logo Replacement - \$6,450.

The funding source is General Fund balance.

**Police Department – Larimer County Sheriff Warrant Position Share - \$28,000**

Funding requested to pay for warrant handling services provided under an intergovernmental agreement by the Larimer County Sheriff's Office. In prior years, this service was provided by the Sheriff without charge.

The funding source is General Fund balance.

**Executive Department, City Clerk – Electronic Agenda Management - \$25,000**

Funding requested for a software agenda management solution expected to tie-in with the live streaming video for Council meetings already planned for 2013.

The funding source is General Fund balance.



**Cultural Services Department –Collections Storage Relocation - \$20,000**

Funding requested to provide non-benefitted salary, supplies, shelving, and moving services in the Museum Division to relocate items currently stored in the Home State Bank building, which is scheduled for demolition as a part of the Brinkman North Catalyst project.

The funding source is General Fund balance.

**Public Works Department – Diesel Emission Fluid Dispensing System - \$15,000**

Additional funding requested in the Fleet Management Division for a new diesel emission fluid dispensing system. Based on bids received by the City, costs are expected to be between \$35,000 and \$40,000 rather than the \$25,000 originally anticipated.

The funding source is Fleet Replacement Fund balance. This funding is in addition to \$25,000 requested to be rolled over from the Fleet Replacement Fund's 2012 budget.

**Public Works Department – Colorado Energy Grant Match - \$15,000**

Funding requested by the Fleet Management Division to provide a 20% grant match for \$75,000 in Department of Energy grant funds for electric vehicles and charging stations. Funding is required to be identified in order to secure the grant. Absent a grant award, no funds from this appropriation will be expended.

The funding source is Fleet Replacement Fund balance.

**Police Department – Overtime - \$13,390**

Funding requested to increase the amount available for Police overtime.

The funding source is Federal Justice Assistance Grant.

**Police Department – Vehicle Upgrade for Bomb Unit - \$11,200**

Funding requested to cover the costs necessary to equip a police vehicle for service as a bomb unit.

The funding source is General Fund balance.

**Development Services Department, Building Division – Management and Plan Review Training - \$7,000**

Funding requested to provide continuing education needed by the Chief Building Official and plan review cross-training for a division employee.

The funding source is General Fund balance.

**Public Works Department – Shared Construction Equipment Pool GPS - \$5,000**

Funding requested by the Fleet Management Division to enable tracking of equipment usage in a new shared construction pool. The funds are for AVL/GPS hardware and airtime costs and will be factored into rental rates charged to users of the shared equipment.

The funding source is Fleet Replacement Fund balance.

**Police Department – Architectural Services - \$5,000**

Funding requested to hire an architect for initial design work on a new Police shooting and driving facility.

The funding source is General Fund balance.

**Development Services Department, Building Division – Triennial Building Code Revisions - \$4,000**

Funding requested to provide for the purchase of five building code manual sets, which are printed with revisions on a three year cycle.

The funding source is General Fund balance.


**CITY OF LOVELAND**

BUDGET OFFICE

 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2329 • FAX (970) 962-2901 • TDD (970) 962-2620

**AGENDA ITEM:** 14  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

A Resolution Approving a Supplemental Budget and Appropriation to The Loveland Fire Rescue Authority 2013 Budget

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the resolution

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is an administrative action. The resolution provides for Council approval supplemental changes to the Loveland Fire Rescue Authority 2013 Budget reappropriate operational expenses and the addition of a Lieutenant position in the Community Safety Division. The Council approval of the budget is required for the Authority's budget to be in effect.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The resolution provides approval of the budget changes for reappropriating operational expenses and the addition of a position. Implementation requires an additional contribution from the City of \$249,140 to be appropriated from reserves, reducing the flexibility for other projects.

**SUMMARY:**

The Loveland Fire Rescue Authority was created through the Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate

Governmental Entity (IGA). At the Authority's March 14, 2013 meeting the Authority approved a resolution amending the budget by \$316,830 to reappropriate operational expenses and add a Lieutenant position in the Community Safety Division.

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**REVIEWED BY CITY MANAGER:** *William D. Cavill*

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**LIST OF ATTACHMENTS:**

- Resolution
- Resolution #R-018
- Staff memo

**RESOLUTION #R-27-2013****A RESOLUTION APPROVING A SUPPLEMENTAL BUDGET AND APPROPRIATION FOR THE LOVELAND FIRE RESCUE AUTHORITY 2013 BUDGET**

**WHEREAS**, the Loveland Fire Rescue Authority (“Fire Authority”) is established pursuant to that certain Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity dated August 18, 2011 (the “Authority IGA”) between the City of Loveland, a Colorado home rule municipality (“City”) and the Loveland Rural Fire Protection District, a Colorado Special District (“District”); and

**WHEREAS**, the Fire Authority is authorized under Section 4.1 of the Authority IGA to adopt an annual budget and to supplement such budget from time to time, provided that the annual budget and any supplemental appropriations shall become effective upon the approval of the governing bodies of the City and the District; and

**WHEREAS**, the Fire Authority, by adoption of Resolution #R-018, approved a supplemental appropriation for its 2013 Budget; and

**WHEREAS**, the Fire Authority Board of Directors has also submitted the Fire Authority’s Resolution enacting a supplemental budget and appropriation to the 2013 Budget, which is attached hereto as **Exhibit A** and incorporated herein by reference, to the City and the District for approval as required by Section 4.1 of the Authority IGA; and

**WHEREAS**, the City Council desires to approve the Fire Authority’s 2013 Supplemental Budget and Appropriation as reflected on **Exhibit A**.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the 2013 Loveland Fire Rescue Authority Supplemental Budget and Appropriation, attached hereto as **Exhibit A** and which has been filed with the Fire Authority Administrative Office in its entirety, for the fiscal year beginning January 1, 2013 and ending December 31, 2013, with revenues in the amount of \$316,830, and expenditures of \$316,830 for operations, is hereby approved.

**Section 2.** That this Resolution shall take effect as of the date of its adoption.

**ADOPTED** this 16<sup>th</sup> day of April, 2013.

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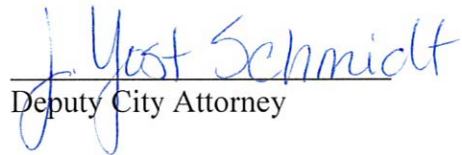
Cecil a. Gutierrez, Mayor

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

  
Deputy City Attorney

## EXHIBIT A

### RESOLUTION NO. R-018

#### **A RESOLUTION APPROVING A SUPPLEMENTAL BUDGET TO THE 2013 LOVELAND FIRE RESCUE AUTHORITY BUDGET FOR ADDITIONAL FUNDING FROM THE CITY OF LOVELAND AND FROM LOVELAND RURAL FIRE PROECTION DISTRICT FROM REMAINING FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2012 AND NEW PROJECTS**

**WHEREAS**, the City's 2012 budget included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring reappropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the Rural District's 2012 budget included appropriations for projects not completed or closed out by the end of 2012, when the 2012 budget appropriations expired in accordance with the state law, requiring reappropriation in 2013 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the City and the Rural District have also received or have reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2012; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2012, as authorized by Section 11-6(a) of the Loveland City Charter; and

**WHEREAS**, the Rural District Board desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the Rural District budget for 2012, as authorized by state law; and

**WHEREAS**, the Authority has requested that City and Rural District reserve funds be appropriated to fund the operations expenditures identified below, according to the provisions of the Intergovernmental Agreement creating the Authority, which provide for allocating the payment of costs and expenses of the Authority between the City at 82% and the Loveland Rural Fire Protection District at 18%; and

**WHEREAS**, the Loveland Fire Rescue Authority Board desires to authorize the expenditure of these funds from the City of Loveland and the Loveland Rural Fire Protection District for operating expenditures in 2013 as identified below.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE LOVELAND FIRE RESCUE AUTHORITY, STATE OF COLORADO, AS FOLLOWS:**

**Section 1.** That additional funds from Thompson Valley Emergency Medical Services of \$13,000, the City of Loveland at \$249,140 and the Loveland Rural Fire Protection District at \$54,690 not appropriated at the time of adoption of the budget for 2013 have resulted from expenditures that were budgeted in the 2012 budget but not made and to add the new Community Safety Lieutenant position. Reappropriation of \$316,830 is necessary to permit expenditure of

the funds in 2013 for purposes previously approved by Council and the Rural Board and new projects. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**2012 Rollover/Carryover Money**

Account Title	Account Number	Amount	Description
<b>Sources of Funds:</b>			
Contribution from the City	604-22-227-1601-38600	\$149,540	82% of the operations fund reappropriated \$'s
Contribution from the Rural District	604-22-227-1601-32402	32,830	18% of the operations fund reappropriated \$'s
	604-22-226-1641-35200	13,000	TVEMS contribution to Quickest Path/Live Routing Software
<b>Total Resources</b>		<b>\$195,370</b>	

<b>Uses of Funds:</b>			
Merit Raise Pool-Suppression	604-22-224-0000-41001	17,100	Raises were approved in excess of the budget allocation
Merit Raise Pool-CSD	604-22-223-0000-41001	1,900	Raises were approved in excess of the budget allocation
Other Services-Gen Oprs	604-22-224-0000-43899	4,000	Move bunker washer to Station 5
Other Capital-Training Center	604-22-224-1605-49399 FRTRAIN	40,710	Fiber at the Training Center
Other Supplies-CSD	604-22-223-0000-42899	10,200	GETS card updates, radio sound card, ARES equipment
Tools & Equip-Communications	604-22-226-1641-42033	10,100	Radio equipment to complete the radio installation project
Other Services-Adm	604-22-227-1601-43899	12,000	Pay Plan and FSLA Schedule Review
Office Furniture	604-22-224-1605-42012 FRTRAIN	3,800	Additional funding for the same number of replacement of tables and chairs as originally budgeted
Payment to Outside Agency	604-22-226-1641-43714	6,900	Installation of a conventional 800 MHz channel (fire share)
Other Capital-Communications	604-22-226-1641-49399	26,000	Quickest Path/Live Routing Tri-tech Software
Computer Supplies	604-22-226-1646-42015	21,400	Laptops, ipads, and related installation accessories
Other Capital-Training	604-22-224-1605-49399 FRTRAIN	12,000	ATV Replacement at the Training Center
Other Capital	604-22-226-1647-49399	11,260	Engine 5 Light Tower
Tools & Equip	604-22-226-1647-42033	8,000	Reassignment of Squad 2 to Engine—equipment under \$5,000
Other Capital	604-22-226-1647-49399	10,000	Reassignment of Squad 2 to Engine—combi-tool that meets capital threshold
<b>Total Uses of Funds:</b>		<b>\$195,370</b>	



**New Community Safety Lieutenant**

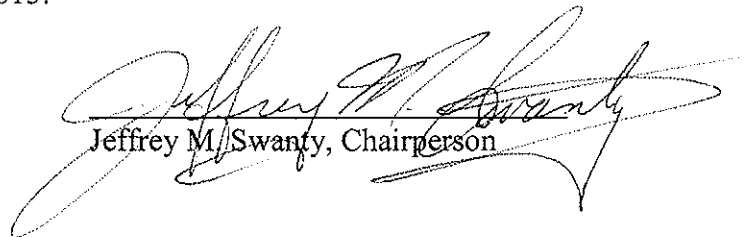
Account Title	Account Number	Amount	Description
<b>Sources of Funds:</b>			
Contribution from the City	604-22-227-1601-38600	\$99,600	82% of the cost of the position
Contribution from the Rural District	604-22-227-1601-32402	21,860	18% of the cost of the position
<b>Total Resources</b>		<b>\$121,460</b>	

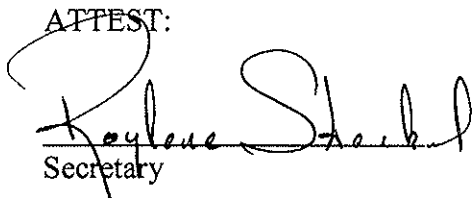
<b>Uses of Funds:</b>			
Salaries-CSD	604-22-223-0000-41011	36,080	16 pay periods in 2013 (start date around 5/6/13)
Overtime	604-22-223-0000-41021	1,810	
Insurance	604-22-223-0000-41543	6,990	
FICA	604-22-223-0000-41544	2,900	
Retirement	604-22-223-0000-41545	4,180	
Radio	604-22-226-1641-42899	6,500	
Radio Maint	604-22-226-1641-43718	600	
PC	604-22-226-1646-42015	2,400	
Vehicle	604-22-223-0000-48244	55,000	Including all the radios, lights, decals/chevrons, etc.
Office Supplies	604-22-223-0000-42011	1,000	
Clothing	604-22-223-0000-42025	250	
Training	604-22-223-0000-43270	3,000	
Vehicle Maint	604-22-223-0000-43534	750	
<b>Total Uses of Funds:</b>		<b>\$121,460</b>	

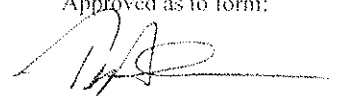
**Section 2.** That as provided in Article IV: Section 4.1 of the Intergovernmental agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity, this Resolution shall be published in full by the Board Secretary.

**Section 3.** That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 14th day of March, 2013.

  
 Jeffrey M. Swanty, Chairperson

ATTEST:  
  
 Kaylene Stark  
 Secretary

Approved as to form:  
  
 Teresa Ablao  
 Assistant City Attorney



Loveland Fire Rescue Authority  
 410 East 5th Street  
 Loveland, Colorado 80537  
 (970) 962-2471 Fax (970) 962-2922 TDD (970) 663-5144  
[www.cityofloveland.org](http://www.cityofloveland.org)

Date: February 22, 2013/ Revised March 5, 2013

TO: Jeff Swanty, Loveland Fire Rescue Authority Board Chairperson  
 Bill Cahill, City Manager  
 Dave Legitis, Loveland Rural Fire Protection District Board Chairperson  
 Greg White, Loveland Rural Fire Protection District Administrator

FROM: Randy Mirowski, Fire Chief  
 Renee Wheeler, PS Administrative Director

Cc: Brent Worthington, City Finance Director  
 John Hartman, Budget Officer

RE: **Request to Appropriate 2012 Budget Savings in 2013 for Incomplete Projects/Equipment Purchases and to Appropriate Funding for the Community Services Division Lieutenant**

**Request to Appropriate 2012 Budget Savings in 2013 for Incomplete Projects/Equipment Purchases**

The following table is used to calculate the amount of money that remains in the 2012 budget. The partner contributions have been excluded so that the calculation is limited to the revenue that LFRA is expected to generate.

<i>Calculation of Amount Available for Incomplete Projects/Equipment Purchases Operations Fund (604)</i>		
<b>Revenue Expected to be Generated by LFRA:</b>		
Budget (less budgeted contributions by City and Rural District)	\$1,151,500	
Revenue Collected (less actual contributions by City and Rural District)	1,167,779	
Actual Collected in Excess of Budget (excluding partner contributions)		\$16,279
<b>Expenditures:</b>		
Budget	9,857,560	
Actual	9,691,469	
Budget Exceeds Actual		\$166,091
<b>Total Available for Incomplete Projects/Equipment Purchases</b>		<b>\$182,370</b>

**Additional Funding Sources**

<b>Fire Capital Expansion Fee Fund (264)</b>	
<u>Station 6 Expansion:</u>	
2012 Revised Budget (1)	\$915,000
2012 Expenditures (2)	<u>815,613</u>
2012 Remaining Budget	\$99,387
(1) \$14,970 was transferred to the Station 2 project to assist with paying for additional easements.	
(2) There are outstanding items on a punch list for the completion of the project related to gutters, phone installations, baseboard heating, etc. that occurred in January that will consume some of this balance.	
<u>Station 2 Land Purchase:</u>	
Revised Budget	\$104,000
Expenditures	<u>99,788</u>
Remaining Budget	\$4,212

<b>City Capital Replacement Fund (120)</b>	
Engine Replacement:	
Adopted Budget	\$515,000
Expenditures	<u>486,750</u>
Remaining Budget	\$28,250

<b>City General Fund (100) for SCBA and AED FEMA Assistance to Firefighters Grant</b>	
March 2012	
Appropriation:	\$554,570
Expenditures to Date:	
AED's	34,340
Repair and Mtn AED's (contract didn't get paid until Jan 2013 for \$4974)	
SCBA's	<u>511,277</u>
2012 Remaining Budget	\$8,953

<b>City General Fund for 2012 Rollover Ordinance of 2011 Budget Savings(100)</b>			
	Itemized Budget	Rollover Appropriation Total	Itemized Difference Between Budget and Actual
May 2012 Rollover Appropriation		\$119,900	
Expenditures to Date:			
Exercise Equipment	3,000	3,000	0
Rope Rescue Equipment	5,000	4,882	118
Mobile Radio	4,000	3,406	594
Battalion Chief Blue Card Simulator	3,400	3,355	45
Positive Pressure Attack Training Prop	18,500	14,039	4,461
Dive Rescue Boat	10,000	9,995	5
Air Compressor	58,000	55,173	2,827
Telestaff Auction & Electronic Timesheet Modules	18,000	<u>12,509</u>	5,491
2012 Remaining Budget		\$13,541	\$13,541

The table below is the listing of requests in the order of high and medium priority and the descriptions associated with each of the requests are in the Exhibit that follows the memorandum.

### Table of Carryover/Rollover Requests

Description of Request	Priority H-High; M-Med.	Operations Fund (604)	General Fund (100)	Capital Replacement Fund (120)	Fire CEF Fund (264)-St. 6 Project	Fire CEF Fund (264)-St. 2 Project
<b>Calculated Savings Available</b>		<b>\$182,370</b>	<b>\$13,541</b>	<b>\$28,250</b>	<b>\$99,387</b>	<b>\$4,212</b>
<b>Requests:</b>						
AED Maintenance Agreement	H		5,310			
Raises approved in excess of allocated amount	H	19,000				
Move bunker gear washer from Station 4 to 5	H	4,000				
Fiber at the Training Center	H	40,710				
Communications Supplies for Emergency Management	H	10,200				
Radio system equipment to complete the radio project	H	10,100				
Pay Plan and FSLA Schedule Review by Mountain States	H	12,000				
Training Facility chairs and tables additional cost	H	3,800				
Cost of Changes to the Heavy Rescue Truck	H				32,000	
Station 6 construction "punch" list items and art in public places	H				29,820	
Logo Replacements Program	H			6,450		
Fitness Equipment	M		1,910			
Refurbish compressor	M		5,600			
Installation of a Conventional 800MHz channel	M	6,900		21,800		
Quickest Path/Live Routing TriTech Software	M	13,000				
Laptops, ipads and accessories	M	21,400				
ATV replacement at the Training Center	M	12,000				
LED Light Tower	M	11,260				
Equipment to reassign Squad 2 to an Engine Company	M	18,000				
<b>Total Requests by Fund</b>		<b>\$182,370</b>	<b>\$12,820</b>	<b>\$28,250</b>	<b>\$61,820</b>	<b>\$0</b>
<b>Difference between funds available and requests</b>		<b>\$0</b>	<b>\$721</b>	<b>\$0</b>	<b>\$37,567</b>	<b>\$4,212</b>
Operations Budget: City Share		\$149,543				
Operations Budget: Rural		\$32,827				

District Share
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## A Supplemental Request

The **Community Safety Division Lieutenant** position to design and manage the business and hazard occupancy business safety inspections program was put on hold during the budget process to ensure that the Rural District mill levy increase ballot measure would pass, allowing them to have the capacity to plan their 18% share of the position. Since that election did pass, LFRA is requesting that the position be funded. The entire cost of the program, including a vehicle is \$121,438 for a mid-year hire (16 pay periods in 2013, May 6, 2013 start); \$99,579 for the City and \$21,859 for the Rural District. The supplemental request form that was submitted during the budget process is attached. It includes an itemized listing of program costs.

## Station 2 Fourth Bay

The capital improvements plan update process is on the calendar for April (forms due in April 19). LFRA would like to request the consideration of adding a fourth bay to the Station 2 project. The original conceptual station submittal was for a three bay station that consisted of approximately 12,000 sq. ft. with living quarters and a community/training room. After further review to meet the fifty year life span of this facility, our request is to add a 4<sup>th</sup> bay which increases the square footage by 3,000 sq. ft. and on initial estimates \$573,000 based on \$191/sq. ft. . The existing two bays are drive through bays that do not allow for storage. There is existing equipment that is stored in overcrowded bays in existing stations and takes too long to get it out of those locations for a response time that meets our criteria. The half of the construction bills for the projects will come due in 2014, which allows for the capital expansion fee fund to be able to receive another payment from the inter-fund loan and to collect an additional year's fees. It is also our understanding that the Rossum Drive property is officially on the market. The proceeds from that sale would be deposited to the Fire Capital Expansion Fee Fund because it is the fund that originally paid for the property. It is our proposal that the project would be revised using the existing capital improvements plan process.

**Exhibit: Carryover Request Descriptions/Justifications**

<b>Title of Request:</b>	AED Maintenance Agreement	<b>Amount of the Request:</b>	\$5,310.00
<b>Description/Justification:</b>			
<p>A maintenance contract for the 15 of the 16 automatic external defibrillators (AED) was signed on 12/20/12 retroactively effective September, 2012 through September, 2013. The sixteenth AED was received after the original fifteen as a result of trading in hard cases and will be added to the contract as an amendment. All the transactions were completed prior to year end and were included in the grant reimbursement submitted in December, received in January and accrued back to December.</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
100-22-225-1607-43569	Repair & Maintenance	\$5,310.00	

<b>Title of Request:</b>	2013 Raises	<b>Amount of the Request:</b>	\$19,000.00
<b>Description/Justification:</b>			
<p>2013 raises were approved by the City Manager to exceed the budget allocation because LFRA had a group of employees performing in excess of expectations that were below the acceptable compensation ratio and in some cases below the pay range after the ranges were adjusted by the City for market.</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
604-22-224-0000-41001	Merit Raise Pool-General Oprs	\$17,100.00	
604-22-223-0000-41001	Merit Raise Pool-Community Safety	1,900.00	

<b>Title of Request:</b>	Move Bunker Washer to Station #5	<b>Amount of the Request:</b>	\$ 4,000.00
<b>Description/Justification:</b>			
<p>The current bunker washer at station #5 does not meet the needs for our current bunker gear with regards to temperature control and spin speed. The bunker washer at station #4 is no longer used and does meet the needed specifications. This request is to relocate the washer from station #4 and properly install it at station #5. The current bunker washer at station #5 should be repurposed to wash station rags. This will save costs and potential damage to bunker gear from mixing oils/grease and structural gear. In addition, less expensive soap can be used to wash rags. This was intended to be complete before year end but the focus on station related equipment was on the Station 6 Expansion project .</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
604-22-224-0000-43899	Other Services-General Operations	\$4,000.00	

<b>Title of Request:</b>	Fiber at the Training Center	<b>Amount of the Request:</b>	\$40,710												
<b>Description/Justification:</b>															
<p>Estimated cost of installation. The training center has extremely slow internet speeds and is in desperate need of an upgrade. The Fiber connection will allow speeds enabling the Training Center to become a video conferencing site.</p> <table border="0"> <tr> <td>10 hand hold pull boxes (8 small, 2 large)</td> <td>\$ 4,800</td> </tr> <tr> <td>4 fiber splices each end, with panel</td> <td>3,000</td> </tr> <tr> <td>1 HP 24 or 48 port switch and 2 10 km optics</td> <td>6,000</td> </tr> <tr> <td>5500' 48 strand single mode fiber installed</td> <td>11,000</td> </tr> <tr> <td>5500' 2" conduit installed</td> <td>9,500</td> </tr> <tr> <td>Boring</td> <td>6,410</td> </tr> </table> <p>The boring is necessary under the BNSF rail lines at the training grounds entrance and Railroad Avenue and there is also boring under irrigation ditches in 2 locations. Boring costs are estimated to be \$5/foot but the exact distance is not yet known, so an estimate is included for 1,282 feet.</p>				10 hand hold pull boxes (8 small, 2 large)	\$ 4,800	4 fiber splices each end, with panel	3,000	1 HP 24 or 48 port switch and 2 10 km optics	6,000	5500' 48 strand single mode fiber installed	11,000	5500' 2" conduit installed	9,500	Boring	6,410
10 hand hold pull boxes (8 small, 2 large)	\$ 4,800														
4 fiber splices each end, with panel	3,000														
1 HP 24 or 48 port switch and 2 10 km optics	6,000														
5500' 48 strand single mode fiber installed	11,000														
5500' 2" conduit installed	9,500														
Boring	6,410														
<b>Account Number</b>		<b>Account Title</b>	<b>Amount by Acct No.</b>												
604-22-224-1605-49399 FRTRAIN		Other Capital - Training Center	\$40,710.00												

<b>Title of Request:</b>	Communications Enhancements for Emergency Management	<b>Amount of the Request:</b>	\$ 10,200.00
<b>Description/Justification:</b>			
<p>LFRA received a \$32,100 check on 11/01/12 for the Emergency Management Program Grant. The qualification for the grant is related to the investment that the organization has made in emergency management programs and is intended to be seed money for advancing additional work on emergency management programs. This money is not generally budgeted because the State has full discretion for the amount and distribution of the money. The percentage of the costs that are submitted that are awarded is based on State funding available and the requests that they receive from organizations throughout the state. The following requests are high priority items for the emergency management program that have not been able to be funded in existing emergency management dollars.</p> <p>Listed in order of priority:</p> <ol style="list-style-type: none"> <li>1. WPS for GETS cards – this will add the ability to make emergency phone calls from cell phones in addition to landlines for city employees who have GETS cards \$4,000</li> <li>2. Radio sound card – to repair or replace a malfunctioning unit in the 1610am radio broadcaster \$1,200</li> <li>3. ARES equipment – to provide a variety of enhancements to emergency backup communications \$5,000</li> </ol>			
<b>Account Number</b>		<b>Account Title</b>	<b>Amount by Acct No.</b>
604-22-223-0000-42899		Other Supplies-Community Safety	\$10,200.00

<b>Title of Request:</b>	Radio System Equipment to Complete the Radio Project	<b>Amount of the Request:</b>	\$10,100.00
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**Description/Justification:**

The federal grant enabled LFRA to replace obsolete radios. The installation of the radios began and was substantially complete at 2012 year end; however, there are some components that need to be upgraded to get the equipment to work as intended to complete this project.

Wireless Firecom for Eng-1 & Eng-5: These wireless headset systems would complete our system upgrade to place 2 headsets on each front line apparatus. The purpose is when the crew must split and take an additional piece of equipment. Example (Engine 1 is responding with Engine 213, a split crew. The Ffer driving 213 can be talking via the wireless headset to his Company Officer without interrupting critical radio traffic. \$3,300

Firecom Headsets (8): Capital Replacement for old broken Firecom Headsets (8) \$2,600

Cellular Booster: Cellular Booster for the City of Loveland Mobile Command Vehicle – Northeast All Hazards Regional asset. \$700

Tone Generators (3). For the three command vehicles: CMD1, CMD2, and MCV: Replacement tone generators. The older style does not integrate with the newer APX style radio. Tone Generators are for the Incident Commander to use, initiating a tone for Emergency Radio Traffic on the Fire Ground. \$3,000.

Firecom cables for radio interface (2): Custom built Firecom cable for APX radio interface with Firecom system at the Command Training Center. Two cables were needed to interface with the two wireless systems at the CTC. \$500

Account Number	Account Title	Amount by Acct No.
604-22-226-1641-42033	Tool & Equip (Non-Cap) Communications	\$10,100.00

<b>Title of Request:</b>	Pay Plan and FSLA Schedule Review	<b>Amount of the Request:</b>	\$12,000.00
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**Description/Justification:**

The 2013 strategic focus for LFRA is on the human asset. There is an overall employee concern that our pay structure is not competitive in the market as our employees talk with other firefighter in the region. We have been working with the City Human Resources Department on getting a quote from Mountain State Employers Council to perform an evaluation of our pay plan structure, including the market comparisons of our position and the compensation. We are also interested in managing our overtime costs so we would like to make sure that the operational schedule we are using is the most cost effective as it related to overtime pay required by Federal Labor Standards Act for shift work.

Account Number	Account Title	Amount by Acct No.
604-22-227-1601-43899	Other Services - Admin	\$12,000.00



<b>Title of Request:</b>	Training Center Tables and Chairs	<b>Amount of the Request:</b>	\$3,800.00				
<b>Description/Justification:</b>							
<p>The 2013 budget for the replacement of the tables and chairs in the training center was:</p> <table> <tr> <td>12 - 5 foot tables</td> <td>2,625</td> </tr> <tr> <td>50 chairs (current tan chairs)</td> <td>13,125</td> </tr> </table> <p>City Facilities staff has received the quotes for those chairs and downgraded the chairs so that they do not have arm rests. Even with that adjustment the quote is \$3,800 more than we had anticipated.</p>				12 - 5 foot tables	2,625	50 chairs (current tan chairs)	13,125
12 - 5 foot tables	2,625						
50 chairs (current tan chairs)	13,125						
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>					
604-22-224-1605-42012 FRTRAIN	Office Furniture & Equip (Non-Cap)	\$3,800.00					

<b>Title of Request:</b>	Heavy Rescue	<b>Amount of the Request:</b>	\$32,000.00
<b>Description/Justification:</b>			
<p>The cab and chassis upgrade on the new Squad 2 will provide for a larger motor for the apparatus. This rig will respond to the west side of our District as a Truck / Support Company, which will require it to respond to areas such as Carter Lake, Pinewood, the Big Thompson Canyon and Storm Mountain, the larger motor will allow for increased power for ascending the grades in these western response areas. The cab upgrade will provide interior space for a large cabinet for securing the Crew's gear bags. The current NFPA standards require all items in the cab of a fire apparatus to be secure, this includes the bags of wildland and special operations protective clothing that are issued to each member of the department. Interior cab safety is at the forefront of the fire apparatus industry currently, a fire service wide effort is in place to secure the equipment and gear inside the vehicle's cab for the safety of our personnel. The cost of these upgrades will definitely enhance our customer service by allowing us to respond to the foothills in a timely fashion and improve firefighter safety inside the cab of the apparatus.</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
264-22-222-0000-48244 GF1204	Motor Vehicle in the Station 2 Project	\$32,000.00	

<b>Title of Request:</b>	Station 6 Expansion Completion	<b>Amount of the Request:</b>	\$29,820.00
<b>Description/Justification:</b>			
<p>While most of the construction was complete on the Station 6 expansion in 2012 there some outstanding items on the final "punch list" for project completion.</p>			
Dickinson Electric for baseboard heating		\$1,538	
Sturgeon Electric for phone installations		766	
John Murphy Millworks for 4 station lockers		2,987	
First Street Signs for a tribute bronze plaque 633 + 167 installation=		800	
Rain gutter chains		2,375	
GTC toilet replacements (low flow toilets aren't working)		2,500	
Finish with furniture purchases		2,000	
Mobile lockers in the Apparatus Room		2,000	
Audio visual equipment and wiring		2,500	
Final building "touch-ups"		5,034	
Art in Public Places (3/5/13)		7,320	
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
264-22-222-0000-49360 GF1106	Construction	\$29,820.00	

<b>Title of Request:</b>	Logo Replacements	<b>Amount of the Request:</b>	\$6,450.00
<b>Description/Justification:</b>			
<p>LFRA would like to begin a logo replacement program. City Fire Department and Loveland Rural Fire Protection District logos would be replaced with the Loveland Fire Rescue Authority logo to create a unified appearance in the public. The City engines and trucks would receive the first priority since this funding is requested from the savings in the City Capital Replacement Fund, followed by the brush trucks and then the smaller vehicles. The program is expected to cost \$10,920. It is our hope that existing budget dollars could be reprioritized by year end to pay for the balance between this request and the total cost of the program.</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	
120-22-222-0000-43899	Other Services	\$6,450.00	

<b>Title of Request:</b>	Physical Fitness Program Equipment	<b>Amount of the Request:</b>	\$1,910.00
<b>Description/Justification:</b>			
<p>Concept 2 row machine for station five, weights for station 3 and six abs mats for station 1, 3, 5. These items will be used to continue the purchasing plan that the fitness program has started in 2012. Having fitness equipment in the stations for all firefighters to utilize is the foundation to maintaining appropriate fitness levels. Maintaining appropriate fitness levels is a part of the goals/strategies listed in the strategic plan section b of the first goal/strategy.</p> <p>Benefits of this purchase include- Cardiovascular workouts in particular increase the amount of endorphins released in the body, which can reduce stress in turn lowering blood pressure. Rowing machines are particularly effective because they place no strain on the back and joints. Abs mats are utilized to support the back during core exercises both of these factors reduce the potential for lower back injuries. Weight equipment provides a means of increase muscular strength and endurance for fire ground operations.</p>			
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>	

100-22-222-0000-42033	Tools/Equip (Non-Cap)-Fitness Proj	\$1,910.00
<b>Title of Request:</b>	Refurbish Compressor	<b>Amount of the Request:</b> \$5,600.00
<b>Description/Justification:</b>		
LFRA was trying to get the land based compressor rebuilt prior to year end for installation at Station 1 to ensure that there is a back-up system for filling air tanks in the event that the primary compressor at the Training Center would be incapacitated. (i.e, power failure at the training center, natural disaster, unit failure). The project was not complete because the number of projects and the length of time it took to get reasonable quotes.		
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>
100-22-222-0000-49399	Other Capital	\$5,600.00

<b>Title of Request:</b>	Installation of a Conventional 800MHz Channel	<b>Amount of the Request:</b>	\$28,700.00
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**Description/Justification:**

The following is the quote LFRA received for the installation of a conventional 800 MHz channel. Directors from Public Works, Fire, Police, and Utilities conducted an after action review finding that the City has risk exposure if the State channel were to ever fail. This is a primary solution for city-wide interoperability if that were to occur. LFRA is requesting that a portion of our savings be invested in the effort and offers that the savings in the 2012 Capital Replacement Fund for the 2012 engine replacement be invested in a solution that benefit every city department that uses radios.

1	Tower Crew	UTS tower work and tower fence grounding. #1136	\$19,799.76
		<b>Note: A cost change order will be required if the existing conduit below the tower cannot be used for the new Conventional repeater 7/8" coax cable to the repeater equipment room.</b>	
280	LMR-1200-DB	7/8" Times cable	
1	IS-50NX-c2-MA	Lightening protection, N-male ext. N-female Int.	
30	RFS 826186-930	RFS interior radio jumper	
2	EZ-1200-NFC-2	7/8" Time N-female connectors	
3	Gk-C78	7/8" ground kits	
1	Misc	Interior grounding parts	
1	Misc	Misc. parts for the rack installation	
1	WAC - provided	9db gain 800 MHz antenna, (18')	
1	WS-S200	2' antenna side mount	
1	FXL-NMNM-6	6' LDF4 jumper N-Males	
6	Labor	Interior grounding of the rack and ground bar	
1	WAC - Services	Electrical conduit upgrade	
1	WAC - Services	Retrofit an existing spare NCRCN Quantar to Convention operation	\$8,846.00
1	Tessco 314205	Comprod #66-80-44, 800 MHz duplexer	
1	System IA/Optimize	Equipment installation & optimization, includes MCC7500 programming	
	WAC - Services	<b>Loveland Fire/PD</b> , Re-program subscribers, (Ea.)	\$70.00
	WAC - Services	<b>Loveland Utilities</b> , Re-program subscribers, (Ea.)	\$70.00
	WAC - Services	<b>Colt</b> , Re-program subscribers, (Ea.)	\$70.00
	WAC - Services	<b>Thompson Valley EMS</b> , Re-program subscribers, (Ea.)	\$70.00

<b>Notes:</b>	Subscriber re-program cost quoted includes all fixed, mobile & portable equipment.		
	2-Interop talkgroups exists in template marked for Windsor		
	Severance Fire. No activity in past 12-months		
	<b>Conventional Repeater: TX 856.8375 / RX 811.8375</b>		
		<b>TOTAL</b>	<b>\$28,645.76</b>

See account numbers on the next page.

Account Number	Account Title	Amount by Acct No.
120-22-222-0000-49399	Other Capital	\$21,800.00
604-22-226-1641-43714		6,900.00

<b>Title of Request:</b>	Quickest Path/Live Routing Tri-tech Software	<b>Amount of the Request:</b>	\$13,000.00 (net cost)
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**Description/Justification:**

This software picks the closest unit/apparatus via the streets; whereas the current system is, as the crow flies. The net cost in this request is half of the estimated cost for the software. Thompson Valley EMS has stated they would pick up the other half. It is possible that LPD will buy into to this software if they find the software beneficial; thus turning the total price of \$26,000.00 into a three way split.

Account Number	Account Title	Amount by Acct No.
604-22-226-1641-35200	Revenue Acct for TVEMS Contribution	\$13,000.00
604-22-226-1641-49399	Other Capital - Communications	26,000.00

<b>Title of Request:</b>	Laptops, ipads and related accessories	<b>Amount of the Request:</b>	\$21,400.00
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**Description/Justification:**

LFRA has been involved in a technology enhancement project trying to improve communications and operational efficiency and effectiveness. There were elements of the project that had not yet been completed.

- iPads and Accessories for Fire Command Staff (6) - \$4,100.00 for iPads, and \$1,000.00 for Accessories: Chief 1, Chief 2, Public Safety Administrative Director, and the three Captains. These tools have proven to be beneficial for both the 4 Battalion Chiefs and personnel in the Community Safety Division. \$5,100
- Laptop Antennas (8): 8 – 4G / GPS / WiFi antennas for the 8 new 2013 replacement laptops. The laptops have built in 4G cards and the antennas must upgraded to support this cellular connection. \$2,800
- BC Staff Vehicle laptop accessories: Accessories for Laptop integration in BC Staff vehicles (Stand, Dock, Antenna, etc.) \$4,650
- Laptops for BC Staff Vehicle (2): Laptop Integration for On Call Battalion Chiefs \$8,850

Account Number	Account Title	Amount by Acct No.
604-22-226-1646-42015	Computer Supplies	\$21,400.00

<b>Title of Request:</b> ATV at the Training Center		<b>Amount of the Request:</b> \$12,000.00
<b>Description/Justification:</b>		
<p>The ATV at the training center is in need of replacement. LFRA was going to replace it in 2012 but many efforts have been made to repair it in hopes that the replacement could be deferred. The throttle sticks and there appears to be something wrong with the fuel injection system. The vendor has tried to fix it and the Parks Shops mechanics have tried to fix it. No repair efforts appear to be effective. The Parks mechanics indicated that this particular brand and model have proven to be unreliable. LFRA has gotten quotes on three models: Polaris Ranger, John Deere Gator, and the Kymco UXV. All three dealership quoted around \$12,000 including the snow blade and winch. Because the Parks are purchasing several replacements (John Deere Gators) and getting favorable pricing, ordering in 2013 with them should result in a more cost effective purchase.</p>		
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>
604-22-224-1605-49399 FRTRAIN	Other Capital - Training	\$12,000.00

<b>Title of Request:</b> Engine 5 Light Tower		<b>Amount of the Request:</b> \$11,260.00
<b>Description/Justification:</b>		
<p>Continual effort to standardize our fleet, adding this SVI light tower to Engine 5 will bring it closer to our standard engine design (Engine 1 and Engine 6). Engine 5 is optimal for this addition because it is the newest of our nonstandard engines in the fleet; It has a life expectancy of more than 10 years of additional front line service. The light tower is a used demo unit that has been refurbished and will still come with a five year SVI warranty. The demo tower will save approximately \$5000 from the cost of a new light tower. The tower contains four LED lights and operates off the engine's electrical system, no generator required.</p> <p>Demo / Used Light Tower - \$10,360.00  SVI Installation - \$900.00  Total – \$11,260.00</p> <p>The light tower provides scene lighting, increasing the safety of our firefighters while working the scene on a fire, rescue or traffic accident.</p>		
		
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>
604-22-226-1647-49399 (revised)	Other Capital – General Oprs	\$11,260.00

<b>Title of Request:</b> Equipment for Squad 2 Reassignment to an Engine Company		<b>Amount of the Request:</b> \$18,000.00																					
<b>Description/Justification:</b>																							
<p>Once the heavy rescue truck is purchased in 2013 (contract has been signed and order placed as of the date of this memo), it has always been the plan to reassign the Squad 2 truck to an Engine company. This kind of shifting in use allows us to make the best possible use of all apparatus and manage the cost of operational apparatus. However, additional equipment that is necessary to accomplish that reassignment has not been funded. We managed the equipment purchases in our operations fund carefully to ensure that there would be savings that could be used to fund the equipment.</p>																							
<table> <tr> <td>Hard Suction</td> <td>\$1,600</td> <td></td> </tr> <tr> <td>Foam tip</td> <td>1,300</td> <td></td> </tr> <tr> <td>2.5 Nozzle</td> <td>1,300</td> <td></td> </tr> <tr> <td>Foam Eductor</td> <td>800</td> <td></td> </tr> <tr> <td>Standpipe Kit</td> <td>2,700</td> <td></td> </tr> <tr> <td>Combi-tool</td> <td>10,000</td> <td></td> </tr> <tr> <td>0460 Chain Saw</td> <td>1,100</td> <td></td> </tr> </table>			Hard Suction	\$1,600		Foam tip	1,300		2.5 Nozzle	1,300		Foam Eductor	800		Standpipe Kit	2,700		Combi-tool	10,000		0460 Chain Saw	1,100	
Hard Suction	\$1,600																						
Foam tip	1,300																						
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Standpipe Kit	2,700																						
Combi-tool	10,000																						
0460 Chain Saw	1,100																						
<b>Account Number</b>	<b>Account Title</b>	<b>Amount by Acct No.</b>																					
604-22-226-1647-49399 Revised	Other Capital	\$10,000.00																					
604-22-226-1647-42033	Tools & Equip	8,000.00																					

City Council Study Session  
March 26, 2013  
Page 1 of 1

Mayor Gutierrez called the Study Session of the Loveland City Council to order at 6:30 p.m. on the above date. Councilors present: Gutierrez, Clark, Farley, McKean, Trenary, Taylor, Klassen and Shaffer. Councilors Fogle and Taylor were absent. City Manager, Bill Cahill was also present along with members of the City's management team.

### **FIRE & RESCUE**

#### **National Incident Management Systems (NIMS) Training**

Lt. Pat Mialy, Loveland Fire & Rescue Authority introduced this item to Council. This course will deliver Part #3 of a three-part NIMS course for executives and will be followed by a discussion based exercise. Lori Hodges from the State of Colorado Emergency Management led a two hour training course covering Modules I and II, including the basics of the Incident Command System, the National Incident Management System, and the roles and responsibilities of the City Council, City Administration, and members of the Management Team during an emergency or disaster.

The study session was adjourned at 8:31 p.m.

Respectfully Submitted,

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Jeannie M. Weaver, Deputy City Clerk

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Cecil A. Gutierrez, Mayor



**CITY OF LOVELAND**  
**ECONOMIC DEVELOPMENT OFFICE**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 16  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Betsy Hale, Economic Development Director  
**PRESENTER:** Betsy Hale and Company Representatives

**TITLE:**

Discussion and Consideration of a Sales Tax Rebate Incentive for “Roughing It In Style”

**RECOMMENDED CITY COUNCIL ACTION:**

Information only item. No action required.

**DESCRIPTION:**

“Roughing It In Style” is a family-owned custom furniture manufacturer and retailer. The ownership group is considering a Loveland location on Byrd Drive immediately north of the Thunder Mountain Harley Davidson dealership. The company is asking the City Council to consider a request for a sales tax rebate of up to, but not to exceed, \$150,000 over a period of 36 months.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The estimated sales tax to be generated in 36 months of operation is \$450,000. The applicant is asking the City to consider rebating up to, but not to exceed, \$150,000 of sales taxes paid.

**SUMMARY:** Goal #2 of the City of Loveland economic development strategy states, “Make Loveland a destination which attracts businesses, visitors and consumers.” Action step 6 encourages the City Council to partner with the private sector on the recruitment and retention of retail businesses throughout the City. A retail leakage analysis completed by the City’s Executive Fiscal Advisor has established that conservatively over \$12 million of retail sales of furniture and furnishings are leaving Loveland. “Roughing It In Style’s” market research estimates the potential for annual sales to reach \$5 million. This would generate \$150,000 of sales tax annually for the City. “Sales shifting” from other furniture retailers is estimated to be negligible as this category of custom furniture has limited competition in Loveland. The company will invest \$4.42 million on the project. They will employ 8-10 people initially with only



1 employee relocating from Wisconsin. They plan to add 2-4 employees by year 3 for a total of 12-14.

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**REVIEWED BY CITY MANAGER:**

*William A. Cavill*

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**LIST OF ATTACHMENTS:**

- Retail incentive project checklist
- Letter of request
- Staff report
- Company information
- website: [http://www.roughingitinstyle.com/category\\_s/55.htm](http://www.roughingitinstyle.com/category_s/55.htm)

City of Loveland Economic Development Policy Project Checklist			
<b>Retail Incentive Guidelines</b>			
<b>Company Name : Roughing It In Style</b>			
Requirement	Completed	Date	Details
Meeting with the Business Development Manager	X	Feb-27-13	
Letter of Intent/Request	X	March 20-13	
Retail Leakage Analysis	X	Mar-13	Completed by Alan Krcmarik
Analysis shows leakage	X		As much as \$12 million in furniture sales
New Jobs	X		1 relocation with 7-9 new hires
Offers Group Health Ins. Coverage to Dependents	X		
Performance Agreement	X		Applicant must perform to receive rebate
Minimum investment of \$500,000	X		Private Investment of \$4.242 million
Net New Revenue to City	X		Estimated \$300,000 over 36 months
Project Budget Submitted	X	March 11-13	
Study Session		April 16-13	
Council Meeting and Approval		TBD	
Average Annual Wages Company wide	Meets		Details
110% of Larimer County Ave Annual Wage	X	\$47,500	Higher than average retail wage
120% of Larimer County Ave Annual Wage			
130% of Larimer County Ave Annual Wage			
140% of Larimer County Ave Annual Wage			
150% or > Larimer County Ave Annual Wage			
Encouraged but not required	Meets		Details
Located in an Enterprise Zone			
Located in Downtown Loveland			
Reuse of an existing vacant facility			
Clean Energy Company			
Health Care			
Aerospace/Aviation			
Bio-Science			
Arts/Sculpture Related	X		Company does manufacture furniture
Rocky Mountain Innovation Initiative Client			
<b>Proposed Incentive</b>	<b>\$150,000.00</b>		<b>1/3 of sales taxes paid rebate for 36 months. Not to exceed \$150,000</b>



*Dreams Fulfilled ~ Promises Kept*  
 N11067 County Highway F  
 Phillips, WI 54555  
 (P)715-339-6910 (F)715-339-6909  
 www.roughingitinstyle.com

Mr. William Cahill, City Manager  
 City of Loveland  
 500 East 3<sup>rd</sup> Street, Suite 330  
 Loveland, CO 80537

Dear Mr. Cahill,

Please acknowledge this letter as the official request of Roughing It In Style for benefits to assist with opening a new location in Loveland. Roughing It In Style has been in business since 1997 and is owned and operated by the founders Gerry and Sue Torgeson and Bo Palenske. Roughing It In Style is a retail furniture and interior design business with two locations in Wisconsin. Both locations combined, have over 25,000 sq. ft. of retail showroom and employ a total of 20 people.

The potential Loveland location would consist of approximately 17,500 sq. ft. of retail showroom with additional warehouse and storage space. Current estimates are to employ 8-10 people initially, increasing to 12-14 employees within a 3-year period. Employee wages would average between \$35,000 - \$60,000 per year depending on position and qualifications. Approximate estimated revenues would be 4.5 – 5 million in the first year and 5-6 million by years two and three. These are conservative estimates based on the current revenue being generated in our existing locations.

Our current estimates to complete this project in Loveland are as follows:

4 Acres \$517,000  
 Estimated Building Costs: \$2,600,000  
 Inventory: \$1,000,000  
 Moving Expenses: \$50,000  
 Equipment: \$75,000  
 Total Estimated Expenses: \$4,242,000

Based on previous discussions, we would greatly appreciate your consideration of a \$.01 cent rebate of the \$.03 cent sales tax collected for a period of 36 months, up to but not to exceed \$150,000. We feel that this would be a substantial help in our effort to move forward on the project as quickly as possible. We are hoping to break ground this spring and be operating by the first of the year, 2014.

Thank you again for your consideration. We feel that a Roughing It In Style would be a perfect fit for The City of Loveland. We look forward to a positive and mutually beneficial relationship with the City of Loveland and the City Manager's Office.

Sincerely,

Gerry & Sue Torgeson & Bo Palenske

**Staff Report:** Roughing It In Style Sales Tax Rebate Request**Background:**

Roughing It In Style is a retail furniture and interior design business with two locations in Wisconsin. The company is family owned by Gerry and Sue Torgeson and Bo Palenske. They have been in business since 1997 and also own a furniture manufacturing company named Reclaimed Rustic Woodworks in Phillips, Wisconsin. Roughing It currently employs 20 people and the company average salary is \$47,500.

The company is proposing a Loveland location on property north of Thunder Mountain Harley Davidson store on Byrd Drive. The project includes a 17,500 sq. ft. showroom, office, and warehouse facility. They expect to employ 8-10 people initially and grow to 12-14 by year three. The total project budget for the land, building, inventory, moving, and equipment is \$4.242 million. The owners estimate annual sales to be over \$5 million and they are asking the City Council to consider a \$.01 sales tax rebate of the \$.03 sales tax collected for a period of 36 months up to but not to exceed \$150,000.


**Rational:**

Alan Krcmarik, City Fiscal Advisor and staff in the Revenue Department have determined that the City is losing retail sales potential of furniture to neighboring Cities in excess of \$12 million. Of the \$440,000 of sales taxes collected on furniture and furnishings purchases in 2011, only 2.9% or \$12,875 was collected from Loveland businesses that would be considered direct competitors. The bulk of the sales taxes received by the City are from purchases Loveland residents make in other cities and then they take delivery at home.

Support for this request is consistent with the City of Loveland Economic Development Strategic Plan and the minimum requirements for consideration per the City's Incentive Policy adopted in March of 2012 have been met. This information is reflected on the Project Checklist included with this report.

This assistance request is very similar to the very successful JAX sales tax rebate which the City approved in 2008. That incentive resulted in \$4951 of net new property tax revenue and \$577,238 of new sales tax revenue. JAX received a \$.01 rebate of the three for a 36 month period up to but not to exceed \$300,000. In addition the JAX redevelopment of the old ShopKo has attracted additional retail outlets.


Staff estimates the net new sales tax from Roughing It In Style over the 36 month period to be \$300,000. The new property tax to the City after construction is complete is estimated to be \$5500. The school district and Larimer County will be larger beneficiaries of new property tax revenue. Staff is requesting that City Council discuss and consider this request and provide direction to the City Manager related to the Council's desire to formally consider the request at a future Council meeting.

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- LIGHTING
- WALL HANGINGS
- GIFTS

- HOME
- RETAIL EXPERIENCE



Roughing It In Style was created, not unlike many of us, after a wonderful dinner and a "couple" of glasses of wine. The founders, Sue and Gerry Torgeson, were looking for their next adventure. They called up Sue's brother Keith and his wife Carol and proposed an idea. What about opening up a gift shop together in "America's Little Switzerland" New Glarus, WI. Keith and Carol, never ones to turn down a chance to serve up a meal and have a lively discussion, invited the whole Torgeson family over for dinner and a brainstorming session.

The marvelous meal led to an energetic debate out on the deck, onto just what kind of shop they would have. One of Gerry and Sue's businesses was designing and building log homes, and they all loved the relaxed, down to earth lifestyle that came with that industry. This gave them a natural theme. Sue said, "We need to come up with a name, then we'll know exactly what kind of store we'll have." The debate began and as the night wore on, nothing seemed to fit. Keith said, "If we stay up any longer, we will have to "Rough It" out on the deck". "That wouldn't be Roughing It!", exclaimed Gerry, "That would be Roughing It In Style!".

The venture started in an old bank building in downtown New Glarus. Roughing It began as a southwest and rustic themed jewelry, clothing, and gift shop with a dash of furniture. Furniture deliveries were made out of an old horse trailer and the whole family pitched in to help. Soon the store began to pick up steam. Folks traveled from all over WI & IL to shop the unique little gift store. It became apparent that they needed more space due to a growing demand for furniture. Roughing It made the move to a revamped red barn in northern IL and continued to flourish. Keith and Carol took a bow and rode off into the sunset (in a pretty darn nice motor home, we might add).



After a few fantastic years in Lena, IL, and ever increasing deliveries north into Wisconsin, The Torgesons decided to bring Roughing It back to the dairy state. Family friend, and true kindred spirit, Bo Palenske, came on board as a partner. He turned his years of experience in exteriors and landscaping towards interiors and furniture design. Roughing It soon made the jump up to Madison and then quickly after added a location way up north in Harshaw, WI.



Roughing It In Style had a humble beginning and Bo, Gerry, and Sue have not forgotten what kind of service, product quality, and creativity brought them to where they are now.



**CITY OF LOVELAND**  
**FIRE & RESCUE DEPARTMENT**  
 Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537  
 (970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

**AGENDA ITEM:** 17  
**MEETING DATE:** 4/16/2013  
**TO:** City Council  
**FROM:** Loveland Fire Rescue Authority (LFRA)  
**PRESENTER:** Randy Mirowski, Fire Chief

**TITLE:**

An Ordinance Amending City Code Chapter 15.28 Granting the City Council and the City Manager Authority to Impose Outdoor Fire Bans and Restrictions Under Certain Emergency Circumstances Within the City of Loveland

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and adopt the ordinance on first reading as submitted

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

**DESCRIPTION:**

This is a legislative action to consider an ordinance amending the City Code to grant authority to both the City Manager and the City Council, under certain emergency situations, to quickly impose outdoor fire bans and restrictions within the City of Loveland. This ordinance does not include the authority to impose a ban or restrictions on the use of permissible fireworks within the City of Loveland.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**SUMMARY:**

The current City of Loveland protocols for implementing bans and restrictions on outdoor fires should be improved and simplified for more effective and efficient operations. Events related to the active fire season in 2012 demonstrated the ineffectiveness of the current City Code

provisions for responding rapidly to changing wildfire environments. The ordinance proposed would give City Council and the City Manager each the authority to quickly impose an outdoor fire ban and restrictions within the City under certain emergency situations.

Should the City Manager impose a ban or restrictions on outdoor fires as authorized by the ordinance, those actions could be terminated or modified by the Council at its next regular Council meeting or at a called special meeting. In addition, the City Council can on its own initiative, impose a ban or restrictions on outdoor fires by just the adoption of a resolution. The ban and restrictions authorized under the ordinance would not include the authority to ban or restrict the use or sale of permissible fireworks within the City of Loveland. Any decisions on fireworks sales and use will continue to be brought to City Council for its consideration by ordinance.

### **HISTORY AND BACKGROUND:**

For many years the City of Loveland and Loveland Fire Rescue Authority have generally followed the burn bans and restrictions implemented by the Larimer County Commissioners through the Sherriff's office. In recent years, extreme weather conditions, with very low relative humidity and high Haines Index numbers, have been occurring.

In 2012, several burn bans and restrictions were initiated by the county commissioners throughout the more extreme months of the fire season (June-September). The implementation of several of these restrictions resulted in inconsistencies within the City's ordinances for burn bans and restrictions and of those being enforced by the Sheriff and the county.

The county commissioners operate predominantly by the use of resolutions for their governing processes. The Loveland City Council, by contrast, has used ordinance adoption as the method for fire regulation. The disadvantage is that the process takes longer to implement, due to the time for second reading and the time to take effect.

In 2012, these differences came to a head during the summer season with bans being implemented in the county, but Loveland's bans and restrictions were being processed more slowly through the system. The result was confusion on the part of citizens for what would be allowed related to open burning.

To improve this procedure staff recommends passing the attached ordinance that would allow the City Manager, after he consults with the Fire Chief, to move quickly to institute a ban or restrictions on open fires. However, the ordinance also allows the City Council to adopt a resolution at its next regular Council meeting or at a called special meeting to terminate or modify the City Manager's ban and restrictions. The City Council may also impose a ban or restrictions on outdoor fires on its own initiative under the ordinance by the adoption of a resolution.

**CONCLUSION:**

The benefits of this model would be that a burn ban and restrictions could be implemented in a quick and effective manner when they are needed. This method also allows the City Council to become involved in this process at an early point if it chooses to do so. Although the ordinance deals with bans or restrictions for outdoor fires, it does not include fireworks. Decisions on the sale and use of permissible fireworks will continue to be brought before City Council for action.

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**REVIEWED BY CITY MANAGER:**



*William D. Cabell*

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**LIST OF ATTACHMENTS:**

Ordinance



**FIRST READING:** \_\_\_\_\_

**SECOND READING:** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE AMENDING CITY CODE CHAPTER 15.28  
GRANTING THE CITY COUNCIL AND THE CITY MANAGER  
AUTHORITY TO IMPOSE OUTDOOR FIRE BANS AND  
RESTRICTIONS UNDER CERTAIN EMERGENCY CIRCUMSTANCES  
WITHIN THE CITY OF LOVELAND**

**WHEREAS**, City staff recommends amending City Code Chapter 15.28 to grant both the City Council and the City Manager the authority to quickly impose outdoor fire bans and restrictions under emergency circumstances; and

**WHEREAS**, certain outdoor fires can represent an unacceptable risk to the public's health, safety and welfare during hot, dry or windy weather conditions; and

**WHEREAS**, the City is authorized under its home rule powers and C.R.S. §§ 31-15-401(q) and 31-15-601 to ban and restrict outdoor fires; and

**WHEREAS**, allowing outdoor fires within the City when hot, dry or windy weather conditions, or any combination thereof, are existing or are forecasted to soon occur, can create a high risk of fire danger to persons or property within the City and areas surrounding the City, as recent wildfires in Larimer County have shown; and

**WHEREAS**, the Council has determined that it is necessary for the public's health, safety and welfare for the Council and the City Manager to each have the legal authority in such emergency circumstances to quickly ban or restrict outdoor fires in order to minimize the risk of fire danger to persons or property within and near the City and to ensure adequate fire protection services are available to Loveland's citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

**Section 2.** That Chapter 15.28 of the Loveland Municipal Code is hereby amended by the addition of a new Section 15.28.025 to read as follows:

**Section 15.28.025. Emergency restrictions on outdoor fires.**

A. If in the judgment of the city council or of the city manager, after his or her consultation with the fire chief of the Loveland Fire Rescue Authority, a high risk of fire danger to persons or property exists or is forecasted to soon occur within the city and areas surrounding

the city as the result of hot, dry or windy weather conditions, or any combination thereof, the city council and the city manager may each ban or restrict outdoor fires within the city as provided in this section.

B. The city council may impose a ban or restrictions on outdoor fires as authorized in this section by the adoption of a resolution. Promptly after the council's adoption of any such resolution, the city clerk shall cause the resolution to be published in a Loveland daily newspaper and to be posted prominently on the city's Internet website. The date upon which the ban or restrictions shall take effect shall not be earlier than the next day after the resolution is published in the newspaper. Following this same procedure, the city council may at any time adopt a resolution terminating or modifying the ban or restrictions to be in effect as of the date and time of its adoption or such other date and time as stated in the resolution.

C. If the city manager imposes a ban or restrictions on outdoor fires as authorized in this section, the city manager shall cause a notice to be published in a Loveland daily newspaper and posted on the city's Internet website notifying the public of the specific date and time when the ban or restriction shall take effect and it shall expressly specify the types of outdoor fires prohibited and/or the restrictions being imposed on outdoor fires. The date upon which the ban or restrictions will take effect shall not be earlier than the next day after the notice is so published. If the city manager determines, after consultation with the fire chief of the Loveland Fire Rescue Authority, that the emergency conditions no longer exist or have lessened, the city manager may, following the same procedure set forth in this paragraph, terminate or modify the ban or restrictions. Any such termination or modification shall not take effect any earlier than the next day after publication of the notice. In addition, the city council may at any time adopt a resolution terminating or modifying any outdoor fire ban or restrictions imposed by the city manager under this section. Any such resolution shall replace, supersede and preempt in all respects any outdoor fire ban and restriction imposed by the city manager under this section. The city council's resolution shall be published and posted in the same manner as any resolution adopted under paragraph B. of this section and the council's action taken in a resolution adopted under this paragraph shall be in effect as of the date and time of its adoption or such other date and time as stated in the resolution.

D. If any provision of this chapter 15.28, this code or of any city ordinance is inconsistent or in conflict with any ban or restriction imposed by the city council or the city manager pursuant to this section, such provision shall be deemed temporarily superseded by this section and its legal effect shall be held in abeyance so long as such ban or restriction remains in legal effect under this section or until the city council or the city manager terminates or modifies the ban or restrictions as provided in this section.

E. As used in this section, "outdoor fire" shall mean the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

F. It shall be unlawful for any person to start, allow, permit or maintain any outdoor fire within the city in violation of any ban or restriction imposed under this section.

**Section 3.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its publication following final adoption, as provided in City Charter Section 4-8(b).

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

Approved as to form:



\_\_\_\_\_  
Teresa Ablao  
Assistant City Attorney