



3. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)  
**SUPPLEMENTAL APPROPRIATION FOR THE HOUSE OF NEIGHBORLY SERVICE AND LOVELAND COMMUNITY HEALTH CENTER (SUNRISE)**  
**A Motion to Approve and Order Published on Second Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Reappropriate Funding Approved in 2013 for Incentives under the House of Neighborly Service Incentive and Fee Waiver Agreement and the Loveland Community Health Center Incentive and Fee Waiver Agreement**  
This is an administrative action. The ordinance on second reading reappropriates funding approved but not completed in 2013, in the amount of \$593,500 for two one-time projects. The two projects are incentive agreements with the House of Neighborly Services (\$500,000) and Loveland Community Health Center (Sunrise) (\$93,500). The funding for the appropriation is from fund balance in the Council Reserve due to the projects not being completed in 2013. The appropriation of this fund balance reduces the flexibility to fund other projects. No specific projects are known to be affected. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.
4. **FINANCE** (presenter: John Hartman)  
**SUPPLEMENTAL APPROPRIATION FOR POLICE OVERTIME EXPENSES**  
**A Motion to Approve and Order Published on Second Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for 2013 Police Overtime Expenses for Special Investigations**  
This is an administrative action. The ordinance on second reading appropriates \$36,620 in police seizure revenues received in 2013 that were not appropriated at the time of adoption of the 2013 Budget and ratifies the expenditure of such funds for police overtime costs incurred and paid in 2013. The appropriation is necessary so that 2013 expenses do not exceed the appropriated amount in the Police Seizure and Forfeiture Fund. The revenue in the ordinance has been received to cover the expenses. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.
5. **PARKS & RECREATION** (presenter: Gary Havener)  
**SUPPLEMENTAL APPROPRIATION FOR MEHAFFEY PARK PHASE 2**  
**A Motion to Approve and Order Published on Second Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Full Build Out and Construction of Mehaffey Park**  
This is an administrative action to approve an appropriation ordinance on second reading for Phase 2 construction of Mehaffey Park per master plan design. A total appropriation of \$3.1 million from the following funds: \$1.6 million from Parks CEF fund, \$ 1.0 million from the Conservation Trust Fund (Lottery) and \$500,000 from the Recreation CEF Fund. These are dedicated funding sources for parks and recreation purposes and have current balances exceeding requested appropriations. The Mehaffey Park Project Phase 1 has a current budget of \$7,669,500. An additional \$3.1 million appropriation will take the total construction cost to \$10,769,500, including the City held contingency of \$384,500. Funding is currently available in the fund balances to provide funding for this request. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.
6. **WATER & POWER** (presenter: Larry Howard)  
**CODE AMENDMENT REGARDING BARNES DITCH & CHUBBUCK DITCH WATER RIGHTS**  
**A Motion to Approve and Order Published on Second Reading an Ordinance**

**Amending the Loveland Municipal Code at Section 19.04.080 Concerning the City's Acceptance of Barnes Ditch and Chubbuck Ditch Water Rights**

This is a legislative action to amend the Loveland Municipal Code at Section 19.04.080 to remove references to the Barnes and Chubbuck ditches in conformance with the terms of a settlement agreement between the City of Loveland and the Greeley Loveland Irrigation Company. There is no budget impact to the City. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.

**7. WATER & POWER (presenter: Larry Howard)  
7TH AMENDMENT FOR THE WINDY GAP FIRING PROJECT**

**A Motion to Adopt Resolution #R-21-2014 Approving and Authorizing the Execution of a Seventh Amendment to the Fourth Interim Agreement with the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firing Project Water Activity Enterprise, for Participation in the Windy Gap Firing Project**

This is an administrative item to adopt a resolution approving the Seventh Amendment to the Fourth Interim Agreement for participation in the Windy Gap Firing Project (Project). This Amendment is needed to raise funds to complete the required environmental permitting and mitigation processes. The additional funds are necessary because of delays in negotiations and associated costs to complete the Reclamation process. Loveland's proportional share in the additional funds is \$162,451. Approval of Seventh Amendment to Fourth Interim Agreement will obligate the City to make a payment of \$162,451 to the Municipal Subdistrict/Northern Colorado Water Conservancy District.

**8. PUBLIC WORKS (presenter: Dave Klockeman)  
AIRPORT GRANT AGREEMENTS**

**1. A Motion to Adopt Resolution #R-22-2014 Authorizing the City Manager to Execute the 2014 Grant Agreement (AIP Project No. 3-08-0023-33-2014) with the Federal Aviation Administration for Improvements at the Fort Collins-Loveland Municipal Airport**

This is an administrative action. The resolution authorizes the City Manager to execute a Grant Agreement from the Federal Aviation Administration (FAA) for up to \$1,000,000. This FAA Grant will be used for capital projects including the acquisition of an Airport Rescue and Fire Fighting vehicle and the design and construction of a snow removal equipment building.

**2. A Motion to Adopt Resolution #R-23-2014 Authorizing the City Manager to Execute a Grant Agreement with the State of Colorado Division of Aeronautics (CDAG #14-FNL-01) for Acquisition of an Aircraft Rescue and Fire Fighting Vehicle and Construction of a Storage Building for Snow Removal Equipment**

This is an administrative action. The resolution authorizes the City Manager to execute a grant agreement from the State of Colorado, Division of Aeronautics (CDAG) for funds in the amount of \$400,000. This State aviation discretionary grant will be used to match the FAA 2014 entitlement grant for the acquisition of an airport rescue and fire fighting vehicle and for the design and construction of a Snow Removal Equipment Storage building. These projects have been appropriated and budgeted for requiring no change in the City Council approved 2014 Airport budget. The projects require a local percentage contribution for each grant that will be taken from the Airport's capital projects reserve. A total of up to \$55,555 is required as a 5% match on the \$1 million FAA entitlement grant, and a 10% match or \$44,444 for the Colorado Department of Transportation division of Aeronautics discretionary grant, for a total of up to \$99,999 of grant match required for the combined \$1.4 million in Federal and State funding.

9. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)  
**PUBLIC HEARING**  
**REZONING WITHIN FOX POINTE FIRST SUBDIVISION**  
**A Motion to Approve and Order Published on First Reading 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 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision, City of Loveland, Larimer County, Colorado**  
 This is a quasi-judicial action to adopt an ordinance on first reading rezoning Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision from P-75 Planned Unit Development District to MAC Mixed-Use Activity Center District. The 12.72-acre property is located on the west side of Lincoln Avenue, between 37th Street and 29th Street. The applicant is Inland Group/Affinity at Loveland LLC.
10. **DEVELOPMENT SERVICES** (presenter: Alison Hade)  
**HABITAT FOR HUMANITY FEE WAIVER**  
**A Motion to Adopt Resolution #R-24-2014 Waiving Certain Development Fees for the Construction of Nine Residences by Loveland Habitat for Humanity**  
 This is an administrative action. Loveland Habitat for Humanity is requesting a waiver of development, capital expansion, and enterprise fees for the construction of five new single family dwellings and one multi-family 4-plex in 2014. The total fee estimate for all nine dwellings is \$213,855.50. The requested fee waiver is \$197,207.59. Habitat for Humanity will pay the remaining \$16,647.91. (\$65,000 was appropriated in the 2014 Budget to backfill enterprise fees waived by the proposed resolution. An additional \$132,207.59 in development and capital expansion fees would be waived by the resolution and not backfilled.)
11. **HUMAN RESOURCES** (presenter: Karen Rees)  
**APPOINTMENT OF AN ACTING CITY ATTORNEY**  
**A Motion to Adopt Resolution #R-25-2014 Appointing Judith Yost Schmidt to the Position of Acting City Attorney Effective April 2, 2014**  
 This is an administrative action regarding compensation and appointment of Judith Yost Schmidt currently serving as the Deputy City Attorney, to the position of Acting City Attorney until such time a new City Attorney is appointed. For the additional responsibilities, Judy's current salary will be increased by ten percent (10%) effective April 2, 2014. The cost is negligible for the recommended action. Salary savings from the unfilled position are expected to be sufficient to cover the costs.

## **END OF CONSENT AGENDA**

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

**PUBLIC COMMENT** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

1. **Larimer County Annual Report on the Community** (presenter: Commissioner Tom Donnelly)

## **PROCEDURAL INFORMATION**

*Anyone in the audience will be given time to speak to any item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. 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**

#### **12. FINANCE (presenter: John Hartman)**

##### **DEVELOPMENT OF PRIORITY BASED BUDGETING RESULT DEFINITIONS**

##### **A Motion, With the Aid of the Center for Priority Based Budgeting, to Approve a Set of Definitions of the Results for the City of Loveland, Previously Approved by Council**

The Center for Priority Based Budgeting will report on the results from workshops with the Management Team, representatives of the Boards and Commissions, and from citizens through the Electronic Outreach Project, to define the Result areas to be used for the Priority Based Budgeting (PBB) exercise. This action will develop the guiding principles for the PBB exercise that will be part of the decision making for the development of the 2015 Budget.

**BUSINESS FROM CITY 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.*

#### **CITY MANAGER REPORT**

#### **CITY ATTORNEY REPORT**

#### **ADJOURN**



2. **LIBRARY** (presenter: Marcia Lewis)  
**SUPPLEMENTAL APPROPRIATION FOR LIBRARY DATABASE**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5844 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Join the Prospector Database for Regional Library Resource Sharing was approved.**  
 This is an administrative action. The ordinance on second reading appropriates \$37,080 from funds donated by the Kroh Charitable Trust Funds for the Loveland Public Library to join Prospector, a resource sharing database that provides access to over 2 million items through an online catalog of 40 public and academic libraries in Colorado and Wyoming. The ordinance is funded by outside resources donated to the City. This ordinance was approved unanimously on first reading by Council at the February 18, 2014 regular meeting.
3. **DEVELOPMENT SERVICES** (presenter: Bob Paulsen)  
**MINOR CODE AMENDMENTS FOR TITLE 18**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5845 Amending Various Sections in Title 18 of the Loveland Municipal Code was approved.**  
 This is a legislative action to adopt an ordinance on second reading amending Title 18 of the Loveland Municipal Code. These amendments correct errors, provide consistency, and clarify use allowances within the zoning code. This ordinance was approved unanimously on first reading by Council at the February 18, 2014 regular meeting.
4. **DEVELOPMENT SERVICES** (presenter: Bob Paulsen)  
**MINOR CODE AMENDMENTS FOR LIMITED SIGNAGE NORTH CLEVELAND SUB-AREA**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5846 Amending Sections 18.16.110, 18.48.020, and 18.50.090 of the Loveland Municipal Code to Permit Limited Signage for Home Occupations in the North Cleveland Sub-Area of the R3E Zone District was approved.**  
 This is a legislative action adopting an ordinance on second reading amending Title 18 of the Loveland Municipal Code. The proposed revisions include text adjustments that allow limited signage for home occupations located in the North Cleveland sub-area of the R3E zone district. This ordinance was approved unanimously on first reading by Council on February 18, 2014 at the regular meeting.
5. **DEVELOPMENT SERVICES** (presenter: Bob Paulsen)  
**MINOR CODE AMENDMENT FOR VARIANCES BY THE ZONING BOARD OF ADJUSTMENT**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5847 Amending Section 18.60.020 of the Loveland Municipal Code Pertaining to Variances Granted by the Zoning Board of Adjustment was approved.**  
 This is a legislative action to adopt an ordinance on second reading amending the zoning board of adjustment provisions of Title 18. The proposed revisions clarify the powers of the zoning board of adjustment to grant variances, specifying that the board has the power to grant variances to properties in all zoning districts and authorizing the board to grant variances for dimensional and numerical standards. This ordinance was approved unanimously on first reading by Council on February 18, 2014 at the regular meeting.

6. **DEVELOPMENT SERVICES** (presenter: Brian Burson)  
**VACATION OF EASEMENT FOR MARIANA COVE**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5848 Vacating a Portion of a Drainage and Utility Easement in Lot 7, Block 7, Mariana Cove PUD Subdivision, City of Loveland was approved.**  
 This is a legislative action to adopt an ordinance on second reading to vacate a 15 foot wide portion of utility and drainage easement along the south side of Lot 7, Block 7, Mariana Cove PUD Subdivision. The owner of the property is Dan Wester. This ordinance was approved unanimously by Council on February 18, 2014 at the regular meeting.
7. **WATER & POWER** (presenter: Melissa Morin)  
**AMENDMENTS CONCERNING WATER AND WASTEWATER REIMBURSEMENTS AND OVERSIZING**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5849 Amending the Loveland Municipal Code at Chapters 13.04 and 13.08 to Revise the City's Water and Wastewater Reimbursement and Oversizing Policies and to Relocate the Policies from the City's Water and Wastewater Development Standards to the Loveland Municipal Code was approved.**  
 This is a legislative action. This ordinance on second reading amends the Loveland Municipal Code concerning reimbursements for water and wastewater line extensions, major structures and oversizing of lines. This ordinance was approved unanimously on first reading by Council on February 18, 2014 at the regular meeting.
8. **WATER & POWER** (presenter: Brieana Reed-Harmel)  
**CODE AMENDMENT FOR ELECTRIC LINE EXTENSION**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5850 Amending the Loveland Municipal Code at Chapter 13.12 Regarding Electricity to Adopt an Electric Line Extension Policy and to Clarify Existing Electric Service Requirements was approved.**  
 This is a legislative action. This ordinance on second reading amends the Municipal Code concerning electric line extensions and oversizing of lines. This ordinance was approved unanimously on first reading by Council on February 18, 2014 at the regular meeting.
9. **PARKS & RECREATION** (presenter: Brian Hayes)  
**SALE OF A PORTION OF LONG VIEW FARM OPEN SPACE**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5851 Authorizing the Conveyance of the City of Loveland's one Sixth Fee Title Interest in a Portion of Long View Farm Open Space to the State of Colorado, Approving an Amendment to the Related Declaration of Covenants, Conditions and Restrictions, and Granting an Adjacent Temporary Easement to Permit Access and Work by the Colorado Department of Transportation was approved.**  
 This is an administrative action. The ordinance on second reading authorizes the City to convey its 1/6 interest and grant a temporary easement to the State for road and drainage improvements at the intersection of U.S. Highway 287 and S.H. 392 (Carpenter Road), and to modify the associated covenants to allow for the improvements. The Colorado Department of Transportation (CDOT) is in the process of planning and designing a project at the intersection of U.S. Highway 287 and S.H. 392 (Carpenter Road) in order to provide a more efficient turning radius and as part of that project will be improving drainage. The State is seeking to purchase land that is jointly owned by the City, Larimer County and Fort Collins for these improvements and seeks a temporary easement for access and construction of the improvements. Open Lands Sales Tax



Fund 202 will receive approximately \$177.67 in net proceeds from the sale of the small corner of the Long View Farm Open Space. This ordinance was approved unanimously on first reading by Council at the February 18, 2014 regular meeting.

10. **FINANCE** (presenter: John Hartman)  
**SUPPLEMENTAL APPROPRIATION FOR 2014 FLOOD RELATED PROJECTS**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5852 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for Flood Related Projects was approved.**  
 This is an administrative action. The ordinance on second reading appropriates funding for engineering costs to determine the scope of several projects and the cost to repair several facilities from damage that occurred as a result of the 2013 Flood. The total appropriation net of transfers is \$10,494,930. Depending on the final determinations from FEMA on eligible costs, and other grant opportunities that may arise, the City's share of these costs will be between \$1,000,000 and \$1,800,000. The appropriation uses existing balance within several funds as the funding source. This reduces the ability to fund future projects in the short term. Over the long term, most of these costs will be reimbursed through insurance payments or FEMA and State distributions. When these reimbursements are received, the fund balances will increase allowing for use on other projects. This ordinance was approved unanimously on first reading by Council on February 18, 2014 at the regular meeting.
11. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)  
**SUPPLEMENTAL APPROPRIATION FOR THE HOUSE OF NEIGHBORLY SERVICE AND LOVELAND COMMUNITY HEALTH CENTER (SUNRISE)**  
**A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Reappropriate Funding Approved in 2013 for Incentives Under the House of Neighborly Service Incentive and Fee Waiver Agreement and the Loveland Community Health Center Incentive and Fee Waiver Agreement was approved.**  
 This is an administrative action. The ordinance reappropriates funding approved but not completed in 2013, in the amount of \$593,500 for two one-time projects. The two projects are incentive agreements with the House of Neighborly Services (\$500,000) and Loveland Community Health Center (Sunrise) (\$93,500). The funding for the appropriation is from fund balance in the Council Reserve due to the projects not being completed in 2013. The appropriation of this fund balance reduces the flexibility to fund other projects. No specific projects are known to be affected.
12. **FINANCE** (presenter: John Hartman)  
**SUPPLEMENTAL APPROPRIATION FOR POLICE OVERTIME EXPENSES**  
**A Public Hearing was held and 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 2013 Police Overtime Expenses for Special Investigations was approved.**  
 This is an administrative action. The ordinance, on first reading, appropriates \$36,620 in police seizure revenues received in 2013 that were not appropriated at the time of adoption of the 2013 Budget and ratifies the expenditure of such funds for police overtime costs incurred and paid in 2013. The appropriation is necessary so that 2013 expenses do not exceed the appropriated amount in the Police Seizure and Forfeiture Fund. The revenue in the ordinance has been received to cover the expenses.

13. **PUBLIC WORKS** (presenter: Eric Lessard)  
**RENEWAL CONSTRUCTION CONTRACT WITH MOUNTAIN CONSTRUCTORS, INC.**  
**A Motion to Renew a Construction Contract with Mountain Constructors, Inc., in the Amount of \$516,000 to Complete Stormwater Maintenance Projects Under Project No. SW1201 for 2014 Stormwater Maintenance Projects and to Authorize the City Manager to Execute the Contract was approved.**  
 This is an administrative action to approve a construction contract renewal with Mountain Constructors, Inc., in the amount of \$516,000 for Stormwater Maintenance Projects under Project No. SW1201 in 2014. This is a planned maintenance contract funded by the Stormwater Utility's Capital Improvement Project Fund appropriated in 2014.
14. **WATER & POWER** (presenter: Larry Howard)  
**CODE AMENDMENT REGARDING BARNES DITCH & CHUBBUCK DITCH WATER RIGHTS**  
**A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Amending the Loveland Municipal Code at Section 19.04.080 Concerning the City's Acceptance of Barnes Ditch and Chubbuck Ditch Water Rights was approved.**  
 This is a legislative action. This ordinance on first reading amends the Loveland Municipal Code at Section 19.04.080 to remove references to the Barnes and Chubbuck ditches in conformance with the terms of a settlement agreement between the City of Loveland and the Greeley Loveland Irrigation Company. There is no budget impact to the City.
15. **FINANCE** (presenter: Brent Worthington)  
**FINANCIAL REPORT- JANUARY 2014**  
 This item was removed from the Consent Agenda to the Regular Agenda.
16. **CITY MANAGER** (presenter: Alan Krcmarik)  
**INVESTMENT REPORT- JANUARY 2014**  
 This item was removed from the Consent Agenda to the Regular Agenda.

#### **END OF CONSENT AGENDA**

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

**PUBLIC COMMENT** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

1. **Larimer County Annual Report on the Community** (presenter: Commissioner Tom Donnelly)

This item was postponed and tentatively scheduled for the April 1, 2014 Agenda.

#### **PROCEDURAL INFORMATION**

*Anyone in the audience will be given time to speak to any item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. 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**

16. **CITY MANAGER** (presenter: Alan Krcmarik)  
**INVESTMENT REPORT- JANUARY 2014**  
 Executive Fiscal Advisor, Alan Krcmarik presented this item to Council. This is an information only item. According to the 2014 budget projections, the budget estimate for investment earnings for 2014 is \$2,025,920. For January, the amount posted to the investment account is \$249,128. Actual earnings are above the year-to-date budget projection by \$68,506. Based on the monthly statement, the estimated annualized 1.02% yield on the securities held by US Bank was down from last month's reading of 1.07%. The annual target earnings rate (determined by the revenue projection for 2014 divided by the 2013 ending market value of \$215.1 million) is 0.94% for 2014. Due to the demands for draws from the fund balances to pay for the cost of flood response and project repair, the portfolio currently has a significantly lower fund balance than it would otherwise. Loveland Resident, George Cornelius spoke regarding the investment policies of the City. The recommendation was to send this issue to Citizens' Finance Advisory Commission (CFAC).
15. **FINANCE** (presenter: Brent Worthington)  
**FINANCIAL REPORT- JANUARY 2014**  
 Financial Director, Brent Worthington introduced this item to Council. This is an information only item. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending January 31, 2014. Councilor Trenary highlighted numbers from the Flood. Councilor Clark requested an update on the Rialto from staff.
17. **CITY CLERK** (presenter: Terry Andrews)  
**APPROVAL OF CITY COUNCIL MEETING MINUTES**  
 1. This is an administrative action to approve the City Council minutes from the February 4, 2014 regular meeting. Councilor Trenary was absent.  
**Councilor Shaffer moved to Approve the City Council Meeting Minutes for the February 4, 2014 Regular Meeting. Councilor Farley seconded the motion which carried with all councilors voting in favor thereof. Councilor Trenary abstained.**  
 2. This is an administrative action to approve the City Council minutes from the February 18, 2014 regular meeting. Councilors Krenning and Clark were absent.  
**Councilor Shaffer moved to Approve the City Council Meeting Minutes for the February 18, 2014 Regular Meeting. Councilor Farley seconded the motion which carried with all councilors voting in favor thereof. Councilors Krenning and Clark abstained.**
18. **PARKS & RECREATION** (presenter: Janet Meisel-Burns)  
**SUPPLEMENTAL APPROPRIATION FOR MEHAFFEY PARK PHASE 2 AND AMENDMENT TO THE CONSTRUCTION CONTRACT**  
 1. Parks & Recreation Director, Gary Havener introduced this item to Council. This is an administrative action. Approval of an appropriation ordinance on first reading for Phase 2 construction of Mehaffey Park per master plan design. A total appropriation of \$3.1 million from the following funds: \$1.6 million from Parks CEF fund, \$ 1.0 million from the Conservation Trust Fund (Lottery) and \$500,000 from the Recreation CEF Fund. These are dedicated funding sources for parks and recreation purposes and have current balances exceeding requested appropriations. Mayor Gutierrez opened the public hearing at 7:42 p.m. and with no further public comment the public hearing was closed at 7:43 p.m.  
**Councilor Shaffer moved to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Full Build Out and Construction of Mehaffey Park.**

**Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.**

2. This is an administrative action. ECI, Site Construction Management, Inc. and staff have reviewed and evaluated the additional costs for construction caused by the delay of Phase 2 and determined that the additional costs of approx. \$300,000 is reasonable and recommends approval of the contract amendment. The additional cost in part, is caused by the 4 months of additional general conditions (\$120,000) to extend construction of the project to February of 2015. There is also an increase due to material costs for both steel and concrete for the construction of the major facilities in phase 2, the skate park, tennis/pickle ball courts, basketball courts and restroom. The Mehaffey Park Project Phase 1 has a current budget of \$7,669,500. An additional \$3.1 million appropriation will take the total construction cost to \$10,769,500, including the City held contingency of \$384,500. Funding is currently available in the fund balances to provide funding for this request. It is anticipated that the only short term project impacted would be the extension of 1 year to fund the Phase 2, Loveland Sports Park development, reflected in the 10 year capital plans. Current projected cash flow and funding needed for flood relief does not anticipate a need for designation or use of the requested fund sources to meet flood related repairs and restoration work.

**Councilor Shaffer moved to Authorize the City Manager to Amend the Contract with ECI, Site Construction Management, Inc., as the Construction Manager/General Contractor (CM/GC) for the Guaranteed Maximum Price (GMP #5) of not to Exceed \$10,385,000 for Full Construction of Mehaffey Park. Councilor Farley seconded the motion which carried with all councilors voting in favor thereof.**

**19. FINANCE (presenter: John Hartman)  
CITIZENS' FINANCE ADVISORY COMMISSION APPOINTMENT**

This is an administrative action recommending the appointment of David Hallet to the Citizens' Finance Advisory Commission. At the February 4, 2013 Council meeting, the appointment of Mr. Hallet was deferred pending staff returning with additional information to allegations made in two emails to a City Councilor. This item supplies that information.

**Councilor Shaffer moved to appoint David Hallet to the Citizen's Finance Advisory Commission for a term effective until December 31, 2016. Councilor Farley seconded the motion which carried with all councilors voting in favor. Councilors McKean and Fogle abstained.**

**20. CITY COUNCIL  
APPOINTMENT OF PLANNING COMMISSIONER**

Discuss and decide the method of interview of applicants and recommendation to fill the vacancy on the Planning Commission. This item is placed on the agenda at the request of four City Council members. Applications have been closed and the applicants are: Alexi Grewal, Jeremy Jersvig, and Bob Massaro. **Councilor Clark moved to identify the Planning Commission Interview Team for this position consists only of the Planning Commission Chair, Vice-Chair and staff liaison. Councilor Taylor seconded the motion which carried with all councilors present voting in favor.**

**21. HUMAN RESOURCES (presenter: Karen Rees)  
DISCUSSION REGARDING THE RECRUITMENT PROCESS FOR THE CITY ATTORNEY AND THE APPOINTMENT OF AN ACTING CITY ATTORNEY  
Actions to Fill a Vacancy in the Office of City Attorney**

Acting Human Resource Director, Karen Rees introduced this item to Council. City Attorney John Duval gave notice of his resignation on February 19, 2014, and has

expressed the intent to stay on as City Attorney through April 1, 2014. Council will need to establish a hiring process and appoint an Acting City Attorney effective April 2, 2014. Staff recommends retaining an executive recruiter because an outside recruiter can streamline the hiring process for Council and provide high-quality, pre-screened candidates reducing a considerable amount of time spent by Council and staff. The Council will also need to appoint an Acting City Attorney effective April 2, 2014, until a new City Attorney is hired. The City's 2014 adopted Budget does not include funding for the costs of the recommended action. However, salary savings from the unfilled position are expected to be sufficient to cover costs.

**1. Councilor Shaffer moved to approve a Motion Directing Staff to Solicit Proposals from Executive Recruiters for the Council's Consideration. Councilor McKean seconded the motion which carried with eight councilors voting in favor and Councilor Krenning voting against.**

**2. At 9:09 p.m. Councilor Shaffer moved that the City Council go into executive session as authorized in CRS Sections 24-6-402(4)(b), 4(e) and 4(f), and City Charter Sections 4-4(c)(1), (c)(3), (c)(5) and (c)(6). This executive session will concern personnel matters related to City Attorney, John Duval's announced resignation effective April 2, 2014. These matters will include the appointment of an Acting City Attorney and other matters personal to particular employees relevant to this announced resignation, but will not include discussion of the process to be followed in hiring a new City Attorney. And to the extent these personnel matters will be subject to future negotiation, to determine negotiation position, developing negotiation strategy, and to instruct negotiators concerning such positions and strategy. And, as needed, to receive legal advice from the City Attorney's Office concerning these matters. Councilor Farley seconded the motion which carried with all councilors present voting in favor.**

**Council reconvened at 9:48 p.m.**

**3. Councilor McKean moved to instruct staff to bring a resolution appointing Judy Schmidt as the Acting City Attorney to the March 18, 2014 meeting. Councilor Fogle seconded the motion which carried with all councilors present voting in favor.**

**BUSINESS FROM CITY 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.*

Council discussed the ipads. Consensus of Council is to consider a Windows based product - Outlook;

Krenning: Asked for Council support to conduct a meeting with Liquor Licensees. Consensus of Council was to hold a meeting on March 31, 2014; Staff was directed to set up the meeting location. Councilor Krenning will send the invitation to Council for review. Staff will create the mailing labels.

Clark: Announced Dancing with the Stars fundraising event raised \$50,000.

Shaffer: Announced North I-25 Elected Meeting Wednesday, March 5, 2014 at the Weld County Service Center at 6:30 p.m; Metropolitan Planning Organization meeting Thursday, March 6, 2014 at 5 p.m. at the Weld County Building in Greeley with Don Hunt, head of CDOT; Expressed thanks to Bill Cahill for the US 287 Coalition meeting; Will attend National League of Cities Conference to attend specifically to hear about train horn noise.

Fogle: Announced Historic Preservation Commission meeting on Thursday, March 6th at 3:00 p.m. at the Odd Fellows Hall regarding Historic Downtown Loveland with merchants and property owners Downtown to

Gutierrez: discuss Historic Downtown description.  
Introduced Steve Adams to make his announcement of Electricity Resources.

**CITY MANAGER REPORT**

Study Session for March 11, 2014 is cancelled.

**CITY ATTORNEY REPORT**

None.

**ADJOURN**

Having no further business to come before Council, the March 4, 2014 Regular Meeting was adjourned at 10:37 p.m.

Respectfully Submitted,

\_\_\_\_\_  
Teresa G. Andrews, City Clerk

\_\_\_\_\_  
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:** 3/18/2014  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager

**TITLE:**

Appointment to Loveland Utilities Commission

**RECOMMENDED CITY COUNCIL ACTION:**

A motion to appoint C. Daniel Greenidge to the Loveland Utilities Commission for a term effective until June 30, 2014.

**OPTIONS:**

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

**SUMMARY:**

This is an administrative action recommending the appointment of a member to the Loveland Utilities Commission for a term effective until June 30, 2014.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

C.J. McKinney resigned from the Loveland Utilities Commission (LUC) in late February. C. Daniel Greenidge was appointed as an alternate member to LUC on July 16, 2013. The Handbook for Boards and Commissions provides as follows: "Alternate appointments shall be effective until the first day on which the term of any member of the board or commission expires. Alternates shall assume unexpired terms in instances of resignation or removal, but shall not be appointed to serve where a vacancy is created by expiration of a term. However, in such circumstances, alternates are encouraged to apply for the position." No LUC's member term has expired since Daniel was appointed an alternate and Daniel is still an alternate. C. Daniel Greenidge is recommended to assume Mr. McKinney's term, which is effective until June 30, 2014.

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**REVIEWED BY CITY MANAGER:**

*William D. Cabill*

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**LIST OF ATTACHMENTS:**

None




**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:** 3  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Mike Scholl, Economic Development  
**PRESENTER:** Mike Scholl, Economic Development Manager

**TITLE:**

An Ordinance on Second Reading Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Reappropriate Funding Approved in 2013 for Incentives Under the House of Neighborly Service Incentive and Fee Waiver Agreement and the Loveland Community Health Center Incentive and Fee Waiver Agreement

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the ordinance on second 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

**SUMMARY:**

This is an administrative action. The ordinance on second reading reappropriates funding approved but not completed in 2013, in the amount of \$593,500 for two one-time projects. The two projects are incentive agreements with the House of Neighborly Services (\$500,000) and Loveland Community Health Center (Sunrise) (\$93,500). This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The funding for the appropriation is from fund balance in the Council Reserve due to the projects not being completed in 2013. The appropriation of this fund balance reduces the flexibility to fund other projects. No specific projects are known to be affected.

**BACKGROUND:**

City Council approved two incentive agreements in 2013, one for Sunrise Community Health and one for House of Neighborly Services (HNS). The incentive agreement for Sunrise was unanimously approved June 18, 2013 and included waived fees, a waived cash-in-lieu payment for Lincoln sidewalk, a cash incentive for site improvements and a challenge grant. The challenge grant payment request was verified and payment issued in November, 2013. The requested appropriation of \$93,500 is for the site improvements.

On October 15, 2013 City Council unanimously approved an incentive agreement with the House of Neighborly Services (HNS) for the construction of the Community Life Center at 1511 E. 11<sup>th</sup> Street. The agreement provided an incentive package which included reimbursements for site improvements (\$250,000), a matching grant (\$250,000) and fee waivers. In accordance with the terms of the agreement, HNS has submitted a request for payment of \$133,000 for site improvements. A field verification for the site improvements was completed in February by an independent service. A request for payment of the matching grant of \$250,000 was received along with supporting documentation.

These projects and expenses were already approved; this item is brought to the Council now only because all appropriations lapse at December 31 of each year.



**REVIEWED BY CITY MANAGER:**



**LIST OF ATTACHMENTS:**

- 1. Ordinance



**FIRST READING**                      March 4, 2014

**SECOND READING**                    March 18, 2014

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

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET TO REAPPROPRIATE FUNDING APPROVED IN 2013 FOR INCENTIVES UNDER THE HOUSE OF NEIGHBORLY SERVICE INCENTIVE AND FEE WAIVER AGREEMENT AND THE LOVELAND COMMUNITY HEALTH CENTER INCENTIVE AND FEE WAIVER AGREEMENT**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, 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 reserves in the amount of \$593,500 from fund balance in the General Fund 100 are available for appropriation. Revenues in the total amount of \$593,500 are hereby appropriated for incentives under the House of Neighborly Services (\$500,000) and Loveland Community Health Center (Sunrise) (\$93,500) Incentive and Fee Waiver Agreements. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
General Fund 100**

<b>Revenues</b>		
Fund Balance		593,500
<b>Total Revenue</b>		<b>593,500</b>
<b>Appropriations</b>		
100-18-180-0000-43714	Payment to Outside Agencies	500,000
100-18-180-0000-43715-EDHEALTH	Payment to Outside Agencies	93,500
<b>Total Appropriations</b>		<b>593,500</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 18<sup>th</sup> day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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


**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:** 4  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

An Ordinance on Second Reading Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for 2013 Police Overtime Expenses for Special Investigations

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the ordinance on second 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

**SUMMARY:**

This is an administrative action. The ordinance on second reading appropriates \$36,620 in police seizure revenues received in 2013 that were not appropriated at the time of adoption of the 2013 Budget and ratifies the expenditure of such funds for police overtime costs incurred and paid in 2013. The appropriation is necessary so that 2013 expenses do not exceed the appropriated amount in the Police Seizure and Forfeiture Fund. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The revenue in the ordinance has been received to cover the expenses.

**BACKGROUND:**

The City received funds from police seizure revenue as part of the Joint Task Force late in December of 2013. These funds are available to fund the overtime costs incurred in these

investigations. Federal reporting requirements require these revenues and costs be segregated in a special fund.

The appropriation is needed to ensure that expenses do not exceed the appropriated amount in the funds at the close of the 2013 fiscal year as required by State Law.

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**REVIEWED BY CITY MANAGER:**

*William D. Cavill*

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**LIST OF ATTACHMENTS:**

1. Ordinance

**FIRST READING**                    March 4, 2014

**SECOND READING**                March 18, 2014

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

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR 2013 POLICE OVERTIME EXPENSES FOR SPECIAL INVESTIGATIONS**

**WHEREAS**, the City has received revenue from seized property as the result of joint investigations with other Police agencies (“Police Seizure revenue”), which revenue is intended to be appropriated to fund overtime costs incurred in the joint investigations; and

**WHEREAS**, the City has Police Seizure revenues in the Police Seizure and Forfeiture Fund 207 that were not appropriated to fund such police overtime costs at the time of the adoption of the City budget for 2013; and

**WHEREAS**, Section 11-6(b) of the City of Loveland Charter prohibits expenditures in excess of amounts appropriated and permits the City Council to ratify a commitment or contract, verbal or written, to expend funds in excess of appropriated amounts if it first adopts an ordinance making the necessary appropriation and determines that ratification of the commitment or contract would be in the best interest of the City; and

**WHEREAS**, the City Council desires to authorize the expenditure of the Police Seizure revenues *nunc pro tunc* by enacting a supplemental budget and appropriation to the City budget for 2013 and to ratify the commitment of such funds to fund 2013 police overtime costs, as authorized by Section 11-6(b) 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 \$36,620 in the Police Seizure and Forfeiture Fund 207 are available for appropriation. These revenues are hereby appropriated *nunc pro tunc* for 2013 police overtime. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Fiscal 2013 Supplemental Budget  
Police Seizure and Forfeiture Funds 207**

<b>Revenues</b>		
207-00-000-0000-32300	Other Government Agency	36,620
<b>Total Revenue</b>		<b>36,620</b>
<b>Appropriations</b>		
207-21-204-2112-41021	Overtime	36,620
<b>Total Appropriations</b>		<b>36,620</b>

**Section 2.** That the City Council hereby determines that ratification of the expenditure of the revenues set forth above to fund 2013 police overtime is in the best interest of the City and, ratifies such expenditure as of the date that this Ordinance becomes effective pursuant to Section 4 below.

**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.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

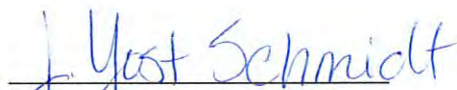
ADOPTED this 18<sup>th</sup> day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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





**CITY OF LOVELAND**  
**PARKS & RECREATION DEPARTMENT**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2303 • FAX (970) 962-2903 • TDD (970) 962-2620

**AGENDA ITEM:** 5  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Gary Havener, Parks and Recreation Department  
**PRESENTER:** Gary Havener, Parks and Recreation Director

**TITLE:**

An Ordinance on Second Reading Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Full Build Out and Construction of Mehaffey Park

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the ordinance on second reading.

**OPTIONS:**

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

**SUMMARY:**

This is an administrative action to approve an appropriation ordinance on second reading for Phase 2 construction of Mehaffey Park per master plan design. A total appropriation of \$3.1 million from the following funds: \$1.6 million from Parks CEF fund, \$ 1.0 million from the Conservation Trust Fund (Lottery) and \$500,000 from the Recreation CEF Fund. These are dedicated funding sources for parks and recreation purposes and have current balances exceeding requested appropriations. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The Mehaffey Park Project Phase 1 has a current budget of \$7,669,500. An additional \$3.1 million appropriation will take the total construction cost to \$10,769,500, including the City held contingency of \$384,500. Funding is currently available in the fund balances to provide funding for this request.

**BACKGROUND:**

Previously, Council funded Phase 1 of the park development budget of \$7,669,500 which included acquisition of an additional 9.36 acres to expand the park to 69.36 acres, full site over lot grading, site work, utility installation, as well as roadways and parking lots in the southern half of the park. The project is progressing well, despite weather delays associated with the September rains and cold winter weather, and is on schedule and within budget. Phase 2 development would include finalizing parking lots in the Northern portion of the park, a second multi-purpose athletic field, restrooms, dog park area, 7 tennis and 4 pickle ball courts, basketball court and a major skate park venue, as well as finalizing irrigation and landscaping for the north portion of the park.

Phase 2 Development at this time not only would add to the overall function of the park, add many of the community requested amenities, but also add to the constructability and efficient use of construction funds with the general contractor currently on-site.

The Parks and Recreation Commission, as well as the community input process have expressed overwhelming support for total park construction with the addition of Phase 2.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

1. Ordinance
2. Exhibit B – Phase 2 and Master Plan Development of Mehaffey Park
3. Exhibit A – Phase 1 of Mehaffey Park

**FIRST READING**                    March 4, 2014

**SECOND READING**                March 18, 2014

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

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET FOR THE FULL BUILD OUT AND CONSTRUCTION OF MEHAFFEY PARK**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, 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 reserves in the amount of \$1,600,000 from the Park Capital Expansion Fee Fund, \$500,000 from the Recreation Capital Expansion Fee Fund, and \$1,000,000 from the Conservation Trust Fund are available for appropriation. Revenues in the total amount of \$3,100,000 are hereby appropriated for full build out and construction of Mehaffey Park. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Capital Projects Fund 120**

<b>Revenues</b>		
120-00-000-0000-37260-PK0802	Transfer from Park Capital Expansion Fee Fund	1,600,000
120-00-000-0000-37261-PK0802	Transfer from Recreation CEF Fund	500,000
<b>Total Revenue</b>		<b>2,100,000</b>
<b>Appropriations</b>		
120-51-562-0000-49360-PK0802	Construction	2,100,000
<b>Total Appropriations</b>		<b>2,100,000</b>

**Supplemental Budget  
Conservation Trust Fund 201**

<b>Revenues</b>		
Fund Balance		1,000,000
<b>Total Revenue</b>		<b>1,000,000</b>
<b>Appropriations</b>		
201-51-562-0000-49399-PK0802	Other Capital	1,000,000
<b>Total Appropriations</b>		<b>1,000,000</b>

**Supplemental Budget  
Parks Capital Expansion Fee Fund 260**

<b>Revenues</b>		
Fund Balance		1,600,000
<b>Total Revenue</b>		<b>1,600,000</b>
<b>Appropriations</b>		
260-51-562-0000-47120-PK0802	Transfer to Capital Projects Fund	1,600,000
<b>Total Appropriations</b>		<b>1,600,000</b>

**Supplemental Budget  
Recreation Capital Expansion Fee Fund 26**

<b>Revenues</b>	
Fund Balance	500,000
<b>Total Revenue</b>	<b>500,000</b>
 <b>Appropriations</b>	
261-51-536-0000-47120-PK0802    Transfer to Capital Projects Fund	500,000
<b>Total Appropriations</b>	<b>500,000</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.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

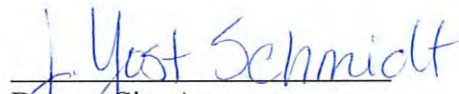
ADOPTED this 18<sup>th</sup> day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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



**CITY OF LOVELAND**  
**WATER & POWER DEPARTMENT**  
 200 North Wilson • Loveland, Colorado 80537  
 (970) 962-3000 • FAX (970) 962-3400 • TDD (970) 962-2620

**AGENDA ITEM:** 6  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Steve Adams, Director – Water & Power  
**PRESENTER:** Larry Howard, Senior Civil Engineer

**TITLE:**

An Ordinance on Second Reading Amending the Loveland Municipal Code at Section 19.04.080 Concerning the City's Acceptance of Barnes Ditch and Chubbuck Ditch Water Rights

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the ordinance on second 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

**SUMMARY:**

This is a legislative action to amend the Loveland Municipal Code at Section 19.04.080 to remove references to the Barnes and Chubbuck ditches in conformance with the terms of a settlement agreement between the City of Loveland and the Greeley Loveland Irrigation Company. This ordinance was approved unanimously on first reading by Council at the March 4, 2014 regular meeting.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

There is no budget impact to the City.

**BACKGROUND:**

In 2010, as part of the settlements in the 2002CW392 Water Court Decree, the City signed an agreement with the Greeley-Loveland Irrigation Company (GLIC) that prohibits the City from changing Barnes and Chubbuck ditch water in Water Court to municipal use (other than those already in the 2002CW392 case). Because the City can no longer change Barnes and

Chubbuck water to municipal use, the City stopped accepting water from these two ditches to satisfy the City's raw water requirements for development. This amendment cleans up Section 19.04.080 by removing the references to the Barnes and Chubbuck ditches from the definition of "ditch water rights" In subsection C.

The Loveland Utilities Commission considered this item at its February 19, 2014 meeting and unanimously recommended that City Council adopt the ordinance.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

1. Ordinance

**FIRST READING**      March 4, 2014

**SECOND READING**   March 18, 2014

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

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 19.04.080 CONCERNING THE CITY’S ACCEPTANCE OF BARNES DITCH AND CHUBBUCK DITCH WATER RIGHTS**

**WHEREAS**, on January 25, 2010, the City entered into an agreement (“Settlement Agreement”) with the Greeley Loveland Irrigation Company to settle certain disputes between them arising out of the City’s water court application in Case Number 02CW392, and the Title Agreement and Operating Agreement between them dated June 22, 1977; and

**WHEREAS**, the Greeley Loveland Irrigation Company owns the Barnes Ditch and the Chubbuck Ditch through which it delivers contractual water entitlements known as Barnes contract inches and Chubbuck contract inches to the owners of said entitlements; and

**WHEREAS**, the Settlement Agreement prohibits the City from including Barnes contract inches or Chubbuck contract inches in any future water court application or using said contract inches for any purpose, except that the City’s Parks and Recreation Department may use said contract inches for irrigation of open space or parks in accordance with the terms and conditions of the Settlement Agreement; and

**WHEREAS**, the City desires to amend the Loveland Municipal Code at Section 19.04.080 to remove the reference to the Barnes Ditch and the Chubbuck Ditch consistent with the terms and conditions of the Settlement Agreement and to make clear that the City does not intend to accept Barnes contract inches or Chubbuck contract inches into the City’s water bank.

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

**Section 1.** That Section 19.04.080 of the Loveland Municipal Code is hereby amended to read as follows:

**19.04.080      Requirements for acceptance of ditch water.**

- A. Applications to transfer ditch water rights to the city shall be filed with the Department of Water and Power. No ditch water rights shall be accepted by the city unless first approved by the Loveland utilities commission. Said approval shall not be given without satisfaction of each of the following requirements:
  - 1. Evidence of the applicant’s ownership of the ditch water rights in a form satisfactory to the city attorney;



- 2. A water bank agreement executed by the applicant and, if applicable, other documentation, such as a statement of historical use and dry-up covenant, in a form approved by the city attorney; and
  - 3. A finding by the Loveland utilities commission that it is in the city’s best interests to accept the ditch water rights.
- B. The Loveland utilities commission may place conditions or restrictions on the city’s acceptance of the ditch water rights or the applicant’s use of the corresponding water bank credit as necessary to protect the city’s interests. Applicants who do not wish to transfer their ditch water rights to the city subject to such conditions or restrictions may withdraw their application prior to execution of the water bank agreement by the city.
- C. As used herein, “ditch water rights” shall refer to and mean water rights from the following ditches or ditch companies, commonly referred to as: Big Thompson Ditch & Manufacturing Company; Buckingham Irrigation Company (George Rist Ditch); Loudon Irrigating Canal and Reservoir Company; and South Side Ditch Company.

**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 ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 18<sup>th</sup> day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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



**CITY OF LOVELAND**  
**WATER & POWER DEPARTMENT**  
 200 North Wilson • Loveland, Colorado 80537  
 (970) 962-3000 • FAX (970) 962-3400 • TDD (970) 962-2620

**AGENDA ITEM:** 7  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Water & Power Department  
**PRESENTER:** Larry Howard, Senior Civil Engineer

**TITLE:**

A Resolution Approving and Authorizing the Execution of a Seventh Amendment to the Fourth Interim Agreement with the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project Water Activity Enterprise, for Participation in the Windy Gap Firming Project

**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

**SUMMARY:**

This is an administrative item to adopt a resolution approving the Seventh Amendment to the Fourth Interim Agreement for participation in the Windy Gap Firming Project (Project). This Amendment is needed to raise funds to complete the required environmental permitting and mitigation processes. The additional funds are necessary because of delays in negotiations and associated costs to complete the Reclamation process. Loveland's proportional share in the additional funds is \$162,451.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Approval of *Seventh Amendment to Fourth Interim Agreement* will obligate the City to make a payment of \$162,451 to the Municipal Subdistrict/Northern Colorado Water Conservancy District.

**BACKGROUND:**

A Seventh Amendment to the Fourth Interim Agreement is necessary with all Project Participants, including Loveland, to complete the National Environmental Policy Act (NEPA) process and negotiate a Carriage Contract with the Bureau of Reclamation. The Final Environmental Impact Study (FEIS) is anticipated soon. The money raised is needed to receive federal approvals from the Bureau of Reclamation for the official Record of Decision (ROD) and U.S. Army Corps of Engineers 404 permit to build. The project also needs State approval from the Colorado Department of Public Health and Environment for a 401 water quality certification. A total request of \$2,000,000 is involved from all the Project Participants, and \$162,451 represents Loveland's 8.12% interest in the Project (7,000 AF for Loveland / 86,180 AF total). The Seventh Amendment requests \$162,451 from Loveland for work to be done during 2014 leading up to a favorable Record of Decision in 2014.

This additional funding does not represent entry into a new phase of the project. The activities of the Fourth Phase, which are a continuation of the activities started in the Third Phase, will continue with this funding. By signing the Seventh Amendment, Loveland agrees to pay this amount to the Windy Gap Firming Enterprise on or before March 31, 2014. The necessary funds have been appropriated and are available in the Water Utility budget.

The Loveland Utilities Commission considered this item at its February 19, 2014 meeting and unanimously recommended that City Council adopt a resolution approving the Seventh Amendment.

Funding will come from the Raw Water Fund, which has a current balance of \$20.6 million.

**REVIEWED BY CITY MANAGER:**

**LIST OF ATTACHMENTS:**

1. Resolution
2. Seventh Amendment (Exhibit A to Resolution)

**RESOLUTION #R-21-2014**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A SEVENTH AMENDMENT TO THE FOURTH INTERIM AGREEMENT WITH THE MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY DISTRICT WINDY GAP FIRING PROJECT WATER ACTIVITY ENTERPRISE, FOR PARTICIPATION IN THE WINDY GAP FIRING PROJECT**

**WHEREAS**, since the 1970s, the City of Loveland has been a participant in the Windy Gap Project (“Project”), which is managed by the Municipal Subdistrict of the Northern Colorado Water Conservancy District (“Subdistrict”); and

**WHEREAS**, the City owns 40 units, which represent raw water, in the Windy Gap Project; and

**WHEREAS**, the Windy Gap Project water rights are junior, and won’t supply water during drought without storage; and

**WHEREAS**, the Subdistrict and participants have been seeking ways to improve the reliability and yield of Windy Gap Project units (the “Windy Gap Firing Project”); and

**WHEREAS**, the City has been involved in the Windy Gap Firing Project, which has identified a possible reservoir site at Chimney Hollow; and

**WHEREAS**, the City has reserved 7,000 acre-feet of storage in the Windy Gap Firing Project; and

**WHEREAS**, the Subdistrict requested a further commitment from all participants, including the City, to make possible the completion of environmental and other permitting, environmental studies, further engineering studies, preliminary design work, and land acquisition for the Project (“the Fourth Phase”) by way of a Fourth Interim Agreement Between the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firing Project Water Activity Enterprise, and City of Loveland, Colorado for Participation in the Windy Gap Firing Project (“Agreement”), which was signed on February 16, 2006; and

**WHEREAS**, the Agreement was amended on December 11, 2007 (“First Amendment”), to provide additional funding to complete the Fourth Phase; on August 18, 2008 (“Second Amendment”) to increase the City’s storage capacity in the Project; on June 10, 2009 (“Third Amendment”) to provide additional funding to complete the Fourth Phase; on July 15, 2010 to provide additional funding to complete the Fourth Phase (“Fourth Amendment”); on February 2, 2012 to provide additional funding to complete the Fourth Phase (“Fifth Amendment”); and on October 17, 2012 to provide additional funding to complete the Fourth Phase (“Sixth Amendment”); and

**WHEREAS**, the Subdistrict needs additional funds to complete the Fourth Phase and is requesting that all participants, including the City, execute another amendment to the Agreement

committing additional monies proportionate to their commitment to the Project; and

**WHEREAS**, the Loveland Utilities Commission recommends that the City enter into an amendment to complete the Fourth Phase of the Project; and

**WHEREAS**, the City Council finds that participation in the Project will benefit the Utility’s ratepayers and is in the best interests of Loveland’s citizens; and

**WHEREAS**, the City Council desires to enter into an amendment to complete the Fourth Phase of the Project.

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

**Section 1.** That the “Seventh Amendment to Fourth Interim Agreement Between the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project Water Activity Enterprise, and the City of Loveland for Participation in the Windy Gap Firming Project” (“Seventh Amendment”), attached hereto as Exhibit A and incorporated herein by reference, is approved, and the Mayor and City Clerk are authorized to execute and enter into the Seventh Amendment on behalf of the City of Loveland.

**Section 2.** That the Mayor is authorized, following consultation with the City Manager and the City Attorney, to approve changes to the form of the Seventh Amendment, in form or in substance, as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

**Section 3.** That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 18<sup>th</sup> day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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

SEVENTH AMENDMENT TO FOURTH INTERIM AGREEMENT BETWEEN THE  
MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY  
DISTRICT, WINDY GAP FIRING PROJECT WATER ACTIVITY ENTERPRISE,  
AND  
**THE CITY OF LOVELAND**  
FOR PARTICIPATION IN THE  
WINDY GAP FIRING PROJECT

This Seventh Amendment is made and entered into as of \_\_\_\_\_, 2014, by and between the Municipal Subdistrict, Northern Colorado Water Conservancy District (a quasi-municipal entity and political subdivision of the State of Colorado) (the "Subdistrict"), acting by and through its Windy Gap Firing Project Water Activity Enterprise (a government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq.), whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "WGF Enterprise"), and the City of Loveland whose address is 200 North Wilson Avenue, Loveland, CO 80537 ("Participant"), for the purpose of amending the Fourth Interim Agreement between the parties (the "Agreement").

1. The Agreement, as previously amended, is amended by deletion of paragraph 3 and the substitution of the following new paragraph 3.

3. Participant agrees to provide to the WGF Enterprise funds for its pro rata share of the costs necessary to complete the Fourth Phase of the Project.

A. The WGF Enterprise estimated that Participant's pro rata share of the costs of the Fourth Phase of the Project was \$68,823 for the 2006 calendar year. Participant paid the WGF Enterprise its pro rata share of the 2006 calendar year costs.

B. The WGF Enterprise estimated that Participant's pro rata share of the costs of the Fourth Phase of the Project was \$68,823 for the 2008 calendar year. Participant paid the WGF Enterprise its pro rata share of the 2008 calendar year costs.

C. The WGF Enterprise estimated that Participant's pro rata share of the costs of the Fourth Phase of the Project was \$80,294 for the 2009 calendar year. Participant paid the WGF Enterprise its pro rata share of the 2009 calendar year costs.

D. The WGF Enterprise estimated that Participant's pro rata share of the cost of the Fourth Phase of the Project was \$80,294 for the 2010 calendar year. Participant paid the WGF Enterprise its pro rata share of the 2010 calendar year costs.

E. The WGF Enterprise did not request that Participant pay any share of the cost of the Fourth Phase of the Project during 2011.

F. The WGF Enterprise estimated that Participant's pro rata share of the cost of the Fourth Phase of the Project was \$81,225 for the first of the 2012 calendar year. Participant paid the WGF Enterprise its pro rata share of the estimated 2012 calendar year costs.

G. The WGF Enterprise estimated that Participant's pro rata share of the cost of the Fourth Phase of the Project was \$81,225 for the second half of the 2012 calendar year. Participant paid the WGF Enterprise its pro rata share of the estimated second half of the 2012 calendar year costs.

H. The WGF Enterprise did not request that Participant pay any share of the cost of the Fourth Phase of the Project during 2013.

I. The WGF Enterprise estimates that Participant's pro rata share of the cost of the Fourth Phase of the Project is \$162,451 for the 2014 calendar year for remaining environmental and permitting tasks, contracting with U.S. Bureau of Reclamation, and other obligations related to mitigation and environmental enhancement. Participant will pay the WGF Enterprise its pro rata share of the 2014 calendar year costs on or before March 31, 2014. This estimated cost will not be increased or exceeded without the prior approval of Participant.

If the Fourth Phase of the Project cannot be completed within these estimated costs, the WGF Enterprise is not obligated to complete the Fourth Phase of the Project for the benefit of Participant unless sufficient additional pro rata funds as determined by the WGF Enterprise are provided by Participant. Attached hereto as Exhibits A, B, C, D, E F, and G are tables showing the pro rata share of the costs of the Project for each Participant for 2006, 2008, 2009, 2010, January 2012, September 2012 and 2014 based upon then-current allocations of capacity in the Project.

2. All other terms and conditions of the Agreement shall continue in full force and effect except as specifically amended herein.

THE CITY OF LOVELAND

MUNICIPAL SUBDISTRICT, NORTHERN  
COLORADO WATER CONSERVANCY  
DISTRICT, ACTING BY AND THROUGH  
THE WINDY GAP FIRING PROJECT  
WATER ACTIVITY ENTERPRISE

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



## EXHIBIT A

### Windy Gap Firing Project Allocation of Costs for Fourth Interim Agreement (Phase 4)

Estimated NEPA Costs due in 2006:   \$ 1,000,000

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Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 289,057
CWCWD	330	\$ 3,785
Erie	6,000	\$ 68,823
Evans	1,750	\$ 20,073
Fort Lupton	1,050	\$ 12,044
Greeley	7,000	\$ 80,294
Lafayette	1,800	\$ 20,647
Little Thompson WD	4,850	\$ 55,632
Longmont	13,000	\$ 149,117
Louisville	2,700	\$ 30,970
Loveland	6,000	\$ 68,823
Middle Park	3,000	\$ -
PRPA	13,000	\$ 149,117
Superior	4,500	\$ 51,617
<b>TOTAL</b>	<b>90,180</b>	<b>\$ 999,999</b>

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**NOTES:**

- (1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.
- (2) Loveland's requested storage volume was increased from 6,000 af to 7,000 af per Amendment 2, August 2008
- (3) PRPA's requested storage volume was decreased from 13,000 af to 12,000 af per Amendment 2, August 2008

## EXHIBIT B

### Windy Gap Firming Project Allocation of Costs for Amendment to Fourth Interim Agreement (Phase 4)

**Estimated NEPA Costs due in January 2008:           \$ 1,000,000**

Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 289,057
CWCWD	330	\$ 3,785
Erie	6,000	\$ 68,823
Evans	1,750	\$ 20,073
Fort Lupton	1,050	\$ 12,044
Greeley	7,000	\$ 80,294
Lafayette	1,800	\$ 20,647
Little Thompson WD	4,850	\$ 55,632
Longmont	13,000	\$ 149,117
Louisville	2,700	\$ 30,970
Loveland	6,000	\$ 68,823
Middle Park	3,000	-
PRPA	13,000	\$ 149,117
Superior	4,500	\$ 51,617
<b>TOTAL</b>	<b>90,180</b>	<b>\$ 999,999</b>

**NOTES:**

- (1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.
- (2) Loveland's requested storage volume was increased from 6,000 af to 7,000 af per Amendment 2, August 2008
- (3) PRPA's requested storage volume was decreased from 13,000 af to 12,000 af per Amendment 2, August 2008

## EXHIBIT C

### Windy Gap FIRMING Project Allocation of Costs for Third Amendment to Fourth Interim Agreement (Phase 4)

**Estimated NEPA Costs due in June 2009:                    \$ 1,000,000**

Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 289,057
CWCWD	330	\$ 3,785
Erie	6,000	\$ 68,823
Evans	1,750	\$ 20,073
Fort Lupton	1,050	\$ 12,044
Greeley	7,000	\$ 80,294
Lafayette	1,800	\$ 20,647
Little Thompson WD	4,850	\$ 55,632
Longmont	12,000	\$ 137,646
Louisville	2,700	\$ 30,970
Loveland	7,000	\$ 80,294
Middle Park	3,000	-
PRPA	12,000	\$ 137,646
Superior	4,500	\$ 51,617
<b>TOTAL</b>	<b>89,180</b>	<b>\$ 988,528</b>

**NOTES:**

- (1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.
- (2) Loveland's requested storage volume was increased from 6,000 af to 7,000 af per Amendment 2, August 2008
- (3) PRPA's requested storage volume was decreased from 13,000 af to 12,000 af per Amendment 2, August 2008

## EXHIBIT D

### Windy Gap Firming Project Allocation of Costs for Fourth Amendment to Fourth Interim Agreement (Phase 4)

**Estimated NEPA Costs due in August 2010:                   \$ 1,000,000**

Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 289,057
CWCWD	330	\$ 3,785
Erie	6,000	\$ 68,823
Evans	1,750	\$ 20,073
Fort Lupton	1,050	\$ 12,044
Greeley	7,000	\$ 80,294
Lafayette	1,800	\$ 20,647
Little Thompson WD	4,850	\$ 55,632
Longmont	12,000	\$ 137,646
Louisville	2,700	\$ 30,970
Loveland	7,000	\$ 80,294
Middle Park	3,000	-
PRPA	12,000	\$ 137,646
Superior	4,500	\$ 51,617
<b>TOTAL</b>	<b>89,180</b>	<b>\$ 988,528</b>

**NOTES:**

- (1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.
- (2) Loveland's requested storage volume was increased from 6,000 af to 7,000 af per Amendment 2, August 2008
- (3) PRPA's requested storage volume was decreased from 13,000 af to 12,000 af per Amendment 2, August 2008

## EXHIBIT E

### Windy Gap FIRMING Project Allocation of Costs for Fifth Amendment to Fourth Interim Agreement (Phase 4)

**Estimated NEPA Costs due January, 2012:                    \$ 1,000,000**

Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 292,411
CWCWD	330	\$ 3,829
Erie	6,000	\$ 69,622
Evans	1,750	\$ 20,306
Fort Lupton	1,050	\$ 12,184
Greeley	7,000	\$ 81,225
Lafayette	1,800	\$ 20,887
Little Thompson WD	4,850	\$ 56,278
Longmont	12,000	\$ 139,243
Louisville	2,700	\$ 31,330
Loveland	7,000	\$ 81,225
Middle Park	3,000	\$ -
PRPA	12,000	\$ 139,243
Superior	4,500	\$ 52,216
<b>TOTAL</b>	<b>89,180</b>	<b>\$ 999,999</b>

**NOTES:**

(1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.

## EXHIBIT F

### Windy Gap Firing Project Allocation of Costs for Sixth Amendment to Fourth Interim Agreement (Phase 4)

Estimated NEPA Costs due October, 2012:                    \$ 1,000,000

Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 292,411
CWCWD	330	\$ 3,829
Erie	6,000	\$ 69,622
Evans	1,750	\$ 20,306
Fort Lupton	1,050	\$ 12,184
Greeley	7,000	\$ 81,225
Lafayette	1,800	\$ 20,887
Little Thompson WD	4,850	\$ 56,278
Longmont	12,000	\$ 139,243
Louisville	2,700	\$ 31,330
Loveland	7,000	\$ 81,225
Middle Park	3,000	\$ -
PRPA	12,000	\$ 139,243
Superior	4,500	\$ 52,216
<b>TOTAL</b>	<b>89,180</b>	<b>\$ 999,999</b>

**NOTES:**

(1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.

## EXHIBIT G

### Windy Gap FIRMING Project Allocation of Costs for Seventh Amendment to Fourth Interim Agreement (Phase 4)

Estimated NEPA Costs due March, 2014:                   **\$ 2,000,000**

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Participant	Requested Storage Volume (af)	Share of NEPA Cost <sup>(1)</sup>
Broomfield	25,200	\$ 584,822
CWCWD	330	\$ 7,658
Erie	6,000	\$ 139,243
Evans	1,750	\$ 40,613
Fort Lupton	1,050	\$ 24,368
Greeley	7,000	\$ 162,451
Lafayette	1,800	\$ 41,773
Little Thompson WD	4,850	\$ 112,555
Longmont	12,000	\$ 278,487
Louisville	2,700	\$ 62,660
Loveland	7,000	\$ 162,451
Middle Park	3,000	\$ -
PRPA	12,000	\$ 278,487
Superior	4,500	\$ 104,433
<b>TOTAL</b>	<b>89,180</b>	<b>\$ 2,000,001</b>

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**NOTES:**

(1) Costs allocated pro rata based upon requested storage volume with Middle Park excluded.



**CITY OF LOVELAND**  
MUNICIPAL AIRPORT

4900 Earhart Road • Loveland, Colorado 80538  
(970) 962-2852 • FAX (970) 962-2855 • TDD (970) 962-2620

**AGENDA ITEM:** 8  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Jason Licon, Airport Director  
**PRESENTER:** Dave Klockeman, Acting Public Works Director

**TITLE:**

1. A Resolution Authorizing the City Manager to Execute the 2014 Grant Agreement (AIP Project No. 3-08-0023-33-2014) with the Federal Aviation Administration for Improvements at the Fort Collins-Loveland Municipal Airport
2. A Resolution Authorizing the City Manager to Execute a Grant Agreement with the State of Colorado Division of Aeronautics (CDAG #14-FNL-01) for Acquisition of an Aircraft Rescue and Fire Fighting Vehicle and Construction of a Storage Building for Snow Removal Equipment

**RECOMMENDED CITY COUNCIL ACTION:**

1. Approve the resolution.
2. Approve 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

**SUMMARY:**

1. This is an administrative action. The resolution authorizes the City Manager to execute a Grant Agreement from the Federal Aviation Administration (FAA) for up to \$1,000,000. This FAA Grant will be used for capital projects including the acquisition of an Airport Rescue and Fire Fighting vehicle and the design and construction of a snow removal equipment building.
2. This is an administrative action. The resolution authorizes the City Manager to execute a grant agreement from the State of Colorado, Division of Aeronautics (CDAG) for funds in the amount of \$400,000. This State aviation discretionary grant will be used to match the FAA 2014 entitlement grant for the acquisition of an airport rescue and fire fighting vehicle and for the design and construction of a Snow Removal Equipment Storage building.

**BUDGET IMPACT:**

Positive



- Negative
- Neutral or negligible

These projects have been appropriated and budgeted for requiring no change in the City Council approved 2014 Airport budget. The projects require a local percentage contribution for each grant that will be taken from the Airport's capital projects reserve. A total of up to \$55,555 is required as a 5% match on the \$1 million FAA entitlement grant, and a 10% match or \$44,444 for the Colorado Department of Transportation division of Aeronautics discretionary grant, for a total of up to \$99,999 of grant match required for the combined \$1.4 million in Federal and State funding.

**BACKGROUND:**

1. This is an annual entitlement grant that is given each year to the airport for high priority projects from the FAA for being a primary commercial service airport.
2. This is an annual discretionary grant that is given each year to the airport for high priority projects from the State of Colorado.

These grants are applied for and used by the Airport for capital projects that are top priority within the approved Airport Capital Improvement Plan. The Airport Capital Improvement Plan is reviewed and approved by the Airport Steering Committee, the FAA, and the CDOT Division of Aeronautics.

**REVIEWED BY CITY MANAGER:**



**LIST OF ATTACHMENTS:**

1. Resolution for FAA 3-08-0023-33-2014 draft Grant Agreement
2. Resolution for CDAG 14-FNL-01 Grant Agreement
3. Grant Agreement listed as (Exhibit A)

**RESOLUTION # R-22 -2014**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE 2014 GRANT AGREEMENT (AIP PROJECT NO. 3-08-0023-33-2014) WITH THE FEDERAL AVIATION ADMINISTRATION FOR IMPROVEMENTS AT THE FORT COLLINS-LOVELAND MUNICIPAL AIRPORT**

**WHEREAS**, the Cities of Fort Collins and Loveland (the “Cities”) jointly own and operate the Fort Collins-Loveland Municipal Airport (the “Airport”); and

**WHEREAS**, the Cities, by resolution, have adopted the Fort Collins-Loveland Municipal Airport Master Plan; and

**WHEREAS**, the Federal Aviation Administration (“FAA”) provides grant funding to eligible airports to enable those airports to pursue, in a timely manner, capital improvements included within an adopted Capital Improvement Plan; and

**WHEREAS**, the Cities have applied for \$1,000,000 in FAA capital grant funding (“2014 Grant Funding”) for airport improvement including the acquisition of an aircraft rescue and fire fighting vehicle (“AIP Project No. 3-08-0023-33-2014”);

**WHEREAS**, any capital grants funds provided by the FAA will be subject to the Cities’ execution of the standard FAA grant agreement that will be in substantially the form of prior years’ FAA grant agreements modified to reflect the purpose of AIP Project No. 3-08-0023-33-2014 (“2014 Grant Agreement”); and

**WHEREAS**, the project listed in AIP Project No. 3-08-0023-33-2014 is identified in the Fort Collins-Loveland Municipal Capital Improvement Plan as first priority projects; and

**WHEREAS**, the matching local funds of ten percent (10%) necessary to accept the 2014 Grant funding from the Federal Aviation Administration are divided between the State of Colorado (“State”) and the Cities (with the State making a matching payment of 5% of the first \$777,776 of 2014 Grant Funding for a total of \$38,888 and the Cities paying the balance) and have been previously appropriated as part of the Airport’s 2014 budget.

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

**Section 1.** That the 2014 Grant Agreement is hereby approved.

**Section 2.** That the City Manager is authorized, following consultation with the City Attorney, to modify the 2014 Grant 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 2014 Grant Agreement on behalf of the City of Loveland.

**Section 4.** That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 18th day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE 2014 GRANT AGREEMENT (PROJECT NO. 3-08-0023-33-2014) WITH THE FEDERAL AVIATION ADMINISTRATION FOR IMPROVEMENTS AT THE FORT COLLINS-LOVELAND MUNICIPAL AIRPORT

**RESOLUTION # R-23-2014****A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
A GRANT AGREEMENT WITH THE STATE OF COLORADO DIVISION OF  
AERONAUTICS (CDAG #14-FNL-01) FOR ACQUISITION OF AN AIRCRAFT  
RESCUE AND FIRE FIGHTING VEHICLE AND CONSTRUCTION OF A  
STORAGE BUILDING FOR SNOW REMOVAL EQUIPMENT**

**WHEREAS**, the General Assembly of the State of Colorado has declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in C.R.S. 43-10-101 (“the Act”) that: “...there exists a need to promote the safe operation and accessibility of general aviation and intrastate commercial aviation in this state; that improvement of general aviation and intrastate commercial aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency”; and

**WHEREAS**, the Act created the Colorado Aeronautical Board (“the Board”) to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics (“the Division”) to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. (See C.R.S. §43-10-103, C.R.S. §43-10-105, and C.R.S. §43-10-108.5 of the Act); and

**WHEREAS**, any entity operating a public-accessible airport in the state may file an application for and be a recipient of a grant to be used solely for aviation purposes (an “Application”); and

**WHEREAS**, The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant’s duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division’s Grant program Project Management Manual, revised 2009 (“the Manual”); and

**WHEREAS**, the City of Fort Collins and the City of Loveland (“the Cities”) own and operate in the State the Fort Collins-Loveland Municipal Airport (“the Airport”); and

**WHEREAS**, the Cities have applied for grant CDAG #14-FNL-01 (the “Grant Agreement”) from the Division for the purpose of funding the acquisition of an aircraft rescue and fire fighting vehicle and construction of a storage building for snow removal equipment (the “Projects”); and

**WHEREAS**, the Grant Agreement is attached hereto as “**Exhibit A**” and incorporated by reference; and

**WHEREAS**, the Grant Agreement provides thirty eight thousand eight hundred and eighty eight dollars (\$38,888) representing a 5% matching payment on the first \$777,776 of federal grant funding of the aircraft rescue and firefighting vehicle, and three hundred sixty one

thousand one hundred twelve dollars (\$361,112) representing 90% payment on the cost of the snow removal equipment storage building, subject to the Cities providing the balance of the funds needed for the Projects.

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

**Section 1.** That the Council of the City of Loveland (“the Council”), as one of the duly authorized governing bodies of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The City of Loveland states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

**Section 2.** That the City of Loveland makes the commitment (a) to keep the Airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/equipment; or (b) to reimburse the Division for any unexpired useful life of the improvements/equipment on a pro-rata basis. By signing the Grant Agreement, the City of Loveland further commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

**Section 3.** That the Council hereby designates Jason Licon, Airport Director, as the Project Director, as described in the Manual, and authorizes the Project Director to act in all matters relating to the work project proposed in the Application on its behalf, and further authorizes the City Manager to execute the Grant Agreement with such modifications in form or substance as the City Manager, in consultation with the City Attorney’s Office, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

**Section 4.** That the City of Loveland has appropriated or will appropriate or otherwise make available in a timely manner its share of all funds that are required to be provided by the Cities under the terms and conditions of the Grant Agreement.

**Section 5.** That the City of Loveland, subject to the foregoing, hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the Grant Agreements submitted by the State, including all terms and conditions contained therein.

**Section 6.** That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 18th day of March, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE STATE OF COLORADO DIVISION OF AERONAUTICS (CDAG #14-FNL-01) FOR ACQUISITION OF AN AIRCRAFT RESCUE AND FIRE FIGHTING VEHICLE AND CONSTRUCTION OF A STORAGE BUILDING FOR SNOW REMOVAL EQUIPMENT

**STATE OF COLORADO**  
**Colorado Department of Transportation**  
**Colorado Aeronautical Board**  
**Division of Aeronautics**  
**Grant Agreement**  
**with the**  
**City of Fort Collins and City of Loveland**

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**1. PARTIES**

This Grant Agreement (“Grant”) is entered into by and between **City of Fort Collins and City of Loveland** (“Sponsors”), and the STATE OF COLORADO acting by and through the Colorado Department of Transportation, Division of Aeronautics (“State” or “Division”). The Sponsors represent and warrant to the State that it has the authority to act on behalf of **Fort Collins/Loveland Municipal Airport** and to bind the Airport to the provisions in this Grant (the Sponsors and the Airport are collectively hereinafter called the “Grantee”).

**2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY**

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee ("Effective Date"). Except as provided in Section 7(B)(v), the State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

### 3. RECITALS

#### A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in CRS §43-10-108.5 and funds have been budgeted, appropriated and otherwise made available pursuant to CRS §§39-27-112(2)(b), 43-10-109 and 43-10-102 and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

#### B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

#### C. Purpose

The purpose of this Grant is to promote aviation for the betterment of the Colorado Aviation System.

#### D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

### 4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

#### A. Budget

"Budget" means the budget for the Work described in **Exhibit A**.

#### B. Evaluation

"Evaluation" means the process of examining Grantee's Work and rating it based on criteria established in §6 and §19.

#### C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Colorado Discretionary Aviation Grant Program Application) ...and... **Exhibit B** (Resolution in accordance with the General Assembly of the State of Colorado declared in CRS §43-10-101).

#### D. Goods

"Goods" means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

#### E. Grant

"Grant" means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

#### F. Grant Funds

"Grant Funds" means available funds payable by the State to Grantee pursuant to this Grant.

#### G. Local Funds

"Local Funds" provided by any city, county or other private entity to fund performance of the Work.

#### H. Manual

"Manual" refers to the Aviation Grant Management Manual as approved by the Colorado Aeronautical Board.

#### I. Party or Parties

"Party" means the State or Grantee and "Parties" means both the State and Grantee.

#### J. Program



“Program” means the Colorado Discretionary Aviation grant program that provides the funding for this Grant.

**K. Review**

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6, §19 and Exhibit A.

**L. Services**

“Services” means the required services to be performed by Grantee pursuant to this Grant.

**M. Subgrantee**

“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

**N. Work**

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and Exhibit A, including the performance of the Services and delivery of the Goods. The Work is further described in the plans and specifications for the project as approved by the Federal Aviation Administration (“FAA”) or the Division.

**O. Work Product**

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

**5. TERM**

**A. Initial Term-Work Commencement**

The Parties respective performances under this Grant shall commence on the Effective Date. This Grant shall terminate on 06/30/2016 unless sooner terminated or further extended as specified elsewhere herein.

**6. STATEMENT OF WORK / CONTRACT OBJECTIVE PLAN**

**A. Brief Project Description:**

Element A: Participate in Federally-Funded ARFF vehicle

Element B: SRE Building design and construction - Phase 1

**B. Completion**

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit A** and in the plans and specifications for the project as approved by the FAA or Division on or before 06/30/2016.

The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

**C. Goods and Services**

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State. Grantee is subject to its local procurement standards. If none exist, Grantee is subject to the general procurement standards of the State.

**D. Employees**

All persons employed by Grantee or Subgrantees shall be considered Grantee’s or Subgrantees’ employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

**7. PAYMENTS TO GRANTEE**

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

**A. Maximum Amount**

The maximum amount payable under this Grant to Grantee by the State is \$400,000.00 as determined by the State based on available funds.

The maximum amount payable under this Grant to Grantee by the State is 5% of the project cost not to exceed \$38,888.00 for Element A and 90% of the project cost not to exceed \$361,112.00 for Element B, as determined by the State from available funds in Fund 160, G/L account #4511000010, & Vendor# 0002000212 & Partner#N/A (if applicable), and Org. #VDG14-033. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit A**. The State and Grantee shall participate in providing the Grant amount as follows:

State:	\$400,000.00
Local Funds:	\$79,012.00
Federal:	\$700,000.00

**B. Payment**

**i. Advance, Interim and Final Payments**

Any advance payment allowed under this Grant, shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State. Grant Funds remaining following the completion and approval of the Work or the termination/expiry of the Grant will be returned to the State.

**ii. Interest**

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

**iii. Available Funds-Contingency-Termination**

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

**iv. Erroneous Payments**

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

**v. Retroactive Payments**

The State shall pay Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or any Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

**C Use of Funds**

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit A**. This shall be used solely for aviation purposes as defined in CRS §43-10-102(3) and this Grant shall not be used for the subsidization of airlines. Misuse of Grant Funds, including subsidization for airlines, may result in immediate termination of this Grant for cause and forfeiture of any remaining Grant Funds.

**D. Local Funds**

Grantee shall provide Local Funds as provided in **Exhibit A**. Grantee shall have raised the full amount of Local Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request.

**E. Payment Compliance**

All Grant reimbursements shall comply with Title 49 Part 18 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Additionally, Grantee shall only be reimbursed for costs allowable under 2 CFR Part 125, Appendix A.

Sponsor requests that all Grant Funds be distributed by the State to the Airport.

**8. REPORTING - NOTIFICATION**

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

**A. Performance, Progress, Personnel, and Funds**

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in the Manual.

**B. Litigation Reporting**

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of CDOT.

**C. Noncompliance**

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

**D. Subgrants**

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

**9. GRANTEE RECORDS**

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

**A. Maintenance**

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

**B. Inspection**

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

**C. Monitoring**

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

**D. Final Audit Report**

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

**10. CONFIDENTIAL INFORMATION-STATE RECORDS**

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, any State records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS §24-72-101 *et seq.*

**A. Confidentiality**

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

**B. Notification**

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

**C. Use, Security, and Retention**

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

**D. Disclosure-Liability**

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. To the extent permitted by law, the Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

**11. CONFLICTS OF INTEREST**

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

**12. REPRESENTATIONS AND WARRANTIES**

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

**A. Standard and Manner of Performance**

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

**B. Legal Authority – Grantee and Grantee's Signatory**

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

**C. Licenses, Permits, Etc.**

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

**13. INSURANCE**

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

**A. Grantee****i. Public Entities**

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

**ii. Non-Public Entities**

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

**B. Grantee and Subgrantees**

Grantee shall require each Grant with Subgrantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

**i. Worker's Compensation**

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Subgrantee employees acting within the course and scope of their employment.

**ii. General Liability**

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

**iii. Automobile Liability**

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

**iv. Additional Insured**

Grantee and the State shall be named as additional insured on the Commercial General Liability Insurance policy (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

**v. Primacy of Coverage**

Coverage required of Grantee and Subgrantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

**vi. Cancellation**

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

**vii. Subrogation Waiver**

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

**C. Certificates**

Grantee and all Subgrantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Subgrantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any subgrant, Grantee and each Subgrantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

**14. BREACH**

**A. Defined**

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

**B. Notice and Cure Period**

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

**15. REMEDIES**

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B), provided however, that the State may terminate this Grant pursuant to §15(B) without a breach. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

**A. Termination for Cause and/or Breach**

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

**i. Obligations and Rights**

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subgrants. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

**ii. Payments**

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

**iii. Damages and Withholding**

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

**B. Early Termination in the Public Interest**

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part.

Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

**i. Method and Content**

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

**ii. Obligations and Rights**

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

**iii. Payments**

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

**C. Remedies Not Involving Termination**

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

**i. Suspend Performance**

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

**ii. Withhold Payment**

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

**iii. Deny Payment**

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

**iv. Removal**

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

**v. Intellectual Property**

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

**16. NOTICES and REPRESENTATIVES**

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**A. State:**



Todd Green
Division of Aeronautics
5126 Front Range Parkway
Watkins, CO 80137
todd.green@state.co.us

**B. Grantee:**

Jason Licon
FORT COLLINS/LOVELAND MUNICIPAL AIRPORT
4900 Earhart Road
Loveland, CO, 80538
jason.licon@cityofloveland.org

**17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE**

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State’s rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works.

**18. GOVERNMENTAL IMMUNITY**

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, *et seq.*, as amended.

**19. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee’s performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee’s performance shall be part of the normal Grant administration process and Grantee’s performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee’s obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee’s obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by CDOT and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation,

Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

## **20. GENERAL PROVISIONS**

### **A. Assignment and Subgrants**

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or Subgrantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

### **B. Binding Effect**

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

### **C. Captions**

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

### **D. Counterparts**

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

### **E. Entire Understanding**

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

### **F. Indemnification-General**

To the extent permitted by law, Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the GIA, or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended. If Grantee is a "public entity" within the meaning of GIA, liability is controlled and limited by the provisions of the GIA.

### **G. Jurisdiction and Venue**

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

### **H. Modification**

#### **i. By the Parties**

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

#### **ii. By Operation of Law**

This Grant is subject to such modifications as may be required by changes in federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

### **I. Order of Precedence**

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. **Colorado Special Provisions,**
- ii. **The provisions** of the main body of this Grant,
- iii. **Exhibit A,** and
- iv. **Exhibit B.**

**J. Severability**

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

**K. Survival of Certain Grant Terms**

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

**L. Taxes**

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

**M. Third Party Beneficiaries**

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

**N. Waiver**

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

**O. CORA Disclosure**

To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

**21. COLORADO SPECIAL PROVISIONS**

These Special Provisions apply to all Grants except where noted in italics.

**A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1)**

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

**B. FUND AVAILABILITY. CRS §24-30-202(5.5)**

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**C. GOVERNMENTAL IMMUNITY**

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 *et seq.*, as applicable now or hereafter amended.

**D. INDEPENDENT CONTRACTOR**

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.

**E. COMPLIANCE WITH LAW.**

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

**G. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

**H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00**

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**J. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4**

*[Not applicable to intergovernmental agreements]*

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq.*; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**K. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101**

*[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]*

Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Grant and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the subgrant if a Subgrantee does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

**L. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101**

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

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22. SIGNATURE PAGE

**THE PARTIES HERETO HAVE EXECUTED THIS GRANT**

**\* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.**

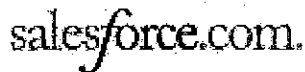
<p style="text-align: center;"><b>GRANTEE</b> <b>City of Fort Collins</b></p> <p><b>By:</b> _____ Print Name of Authorized Individual</p> <p><b>Title:</b> _____ Print Title of Authorized Individual</p> <p>_____ *Signature</p> <p><b>Date:</b> _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b> <b>John W. Hickenlooper, Governor</b> <b>Colorado Department of Transportation</b> <b>Donald E. Hunt – Executive Director</b></p> <p>_____ <b>By: David C. Gordon, Aeronautics Division Director</b></p> <p>Signatory avers to the State Controller or delegate that, except as specified herein, Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules</p> <p><b>Date:</b> _____</p>
<p style="text-align: center;"><b>GRANTEE</b> <b>City of Loveland</b></p> <p><b>By:</b> _____ Print Name of Authorized Individual</p> <p><b>Title:</b> _____ Print Title of Authorized Individual</p> <p>_____ *Signature</p> <p><b>Date:</b> _____</p>	<p style="text-align: center;"><b>This Section is Intentionally Left Blank</b></p>

**ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

**CRS §24-30-202 requires the State Controller to approve all State grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.**

<p><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p><b>By:</b> _____ Colorado Department of Transportation</p> <p><b>Date:</b> _____</p>
--

Colorado Discretionary Aviation Grant Program  
Application



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Application-4386

		Owner	Jason Licon
Grant Name	Application-4386	Status	Ready for Board Review
Grant Full Name	14-FNL-01	Contract Execution Date	
Account	Ft. Collins-Loveland Municipal Airport	Contract Expiration Date	6/30/2016
Airport Identifier	FNL	Diagrams	N/A
Manual Year	2,014	Sponsor	Cities of Ft. Collins/Loveland
Project Director	Jason Licon	Sponsor SAP Vendor #	2000212
Project Director Address	4900 Earhart Road Loveland, CO 80538	Partner #	
Project Director Email	jason.licon@cityofloveland.org	GL	4511000010
Project Director Phone	(970) 962-2852		
Project Definition	<ol style="list-style-type: none"> <li>1. Aquisition of an Index B type, class 4 ARFF vehicle estimated to cost approximately \$777,776. The equipment acquisition will be contingent upon FAA funding.</li> <li>2. Construction of a SRE storage facility to accomodate multiple pieces of snow removal equipment. Cost is estimated at \$716,050.</li> </ol>		

Account Information

Account Mailing Street	4900 Earhart Rd.	Account Formula	Ft. Collins-Loveland Municipal Airport
Account Mailing City	Loveland	Record Type	Default
Account Mailing State	CO		
Account Mailing Zip Code	80538		

Grant Financials

State Funding	\$400,000.00	State Amount Remaining	\$400,000.00
Local Funding	\$79,012.00	Local Amount Remaining	\$79,012.00
Local/Other Funding	\$0.00	Local/Other Amount Remainig	\$0.00
Federal Funds		Federal Amount	

	\$700,000.00	Remaining	\$700,000.00
Project Funding Summary	\$1,179,012.00	Total Remaining	\$1,179,012.00
Allow Supplemental Grant Application	<input type="checkbox"/>	Amended?	<input type="checkbox"/>
Projected Engineering Costs	\$117,901.20	Notes	

Forecasting

Punch List

Application is Complete	Yes	Cost Estimates?	Yes
Proposed Schedule?	Yes	Recommended Action	Approval

Additional Information

Grant Number	14-FNL-01	Cost Center	VDG14-033
SRM PO		Shopping Cart #	700000196
PO		CMS Number	64647
Contract	14HAV64647		

Grant Summary

Identify the existing problem	<ol style="list-style-type: none"> <li>The airport's existing primary ARFF vehicle is over 20 years old, and is in need of replacement.</li> <li>The airport does not have adequate indoor storage areas to accommodate newly acquired snow removal equipment.</li> </ol>	Project Summary	Participation in the federally funded purchase of an airport ARFF vehicle begin design and construction on the SRE equipment storage facility.
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Created By Jason Licon, 10/3/2013 1:39 PM Last Modified By Todd Green, 1/10/2014 3:41 PM

Grant Elements

Participate in Federally Funded ARFF Vehicle

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Status	Submitted
State Percent	5.00
State	\$38,888.00
Local	\$38,888.00
Local (In-Kind)	
Federal/Other	\$700,000.00
Total	\$777,776.00
Remaining State Balance	\$38,888.00
Total Claims	\$0.00



SRE building design and construction - Phase I

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Status Submitted  
State Percent 90.00  
State \$361,112.00  
Local \$40,124.00  
Local (In-Kind)  
Federal/Other  
Total \$401,236.00  
Remaining State Balance \$361,112.00  
Total Claims \$0.00

Notes & Attachments

SRE site.png

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Type	Attachment
Last Modified	Todd Green
Description	<a href="#">View file</a>

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**24. EXHIBIT B**

**RESOLUTION**

**WHEREAS:**

The General Assembly of the State of Colorado declared in Title 43 of the Colorado revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Aviation Grant Management Manual, revised 2009, ("the Manual").

**NOW, THEREFORE, BE IT RESOLVED THAT:**

The **City of Fort Collins** and **City of Loveland**, as duly authorized governing bodies of the grant applicant, hereby formally request assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The **City of Fort Collins** and **City of Loveland** state that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

Each airport-operating entity that applies for and accepts a grant that it thereby makes a COMMITMENT to keep the airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/ equipment; or b) to reimburse the Division for any unexpired useful life of the improvements/ equipment, or a pro-rata basis.

By signing this grant agreement, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

**FURTHER BE IT RESOLVED:**

That the **City of Fort Collins** and **City of Loveland** hereby designate Jason Licon as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application in its behalf, including executions of the grant contract and any amendments.

**FURTHER:**

The **City of Fort Collins** and **City of Loveland** have appropriated or will appropriate or otherwise make available in a timely manner all funds, if any, that are required to be provided by the Applicant under the terms and conditions of the grant contract.

**FINALLY:**

The **City of Fort Collins** and **City of Loveland** hereby accept all guidelines, procedures, standards and requirements described in the Manual as applicable to the performance of the grant work and hereby approve the grant contract submitted by the State, including all terms and conditions contained therein.

\_\_\_\_\_  
for The Grantee  
City of Fort Collins

ATTEST

\_\_\_\_\_  
for The Grantee  
City of Loveland

ATTEST



**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:** 9  
**MEETING DATE:** 3/18/2013  
**TO:** City Council  
**FROM:** Greg George, Development Services Director  
**PRESENTER:** Noreen Smyth, Current Planner

**TITLE:**

An Ordinance on First Reading Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for Certain Property located in Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision, City of Loveland, Larimer County, Colorado

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading as presented.

**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

**SUMMARY:**

This is a quasi-judicial action to adopt an ordinance on first reading rezoning Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision from P-75 Planned Unit Development District to MAC Mixed-Use Activity Center District. The 12.72-acre property is located on the west side of Lincoln Avenue, between 37<sup>th</sup> Street and 29<sup>th</sup> Street. The applicant is Inland Group/Affinity at Loveland LLC.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

This item proposes a rezoning within the Fox Pointe First Subdivision. The 12.72-acre subject property is zoned P-75 Fox Pointe PUD and has an approved Final Development Plan and plat

of subdivision on file for a mixed use residential development that was never constructed. The applicant is seeking rezoning of the vacant property to the MAC Mixed-Use Activity Center district and concurrent approval of a conceptual master plan to allow an independent senior multifamily housing development on the property. The development would consist of 155 rental apartments within one three-story structure with common on-site amenities. Following rezoning, the applicant would seek administrative approval of a lot merger plat, site development plan and building permit. While the MAC district allows a variety of uses, the rezoning of the property would be tied to the associated conceptual master plan, and development of the property must follow the conceptual master plan unless a new plan is submitted for review and approved by staff, the Planning Commission, and the City Council.

On February 24, 2014, the Planning Commission held a public hearing and voted unanimously in favor of the proposal. Staff is supportive of the requested MAC zoning and associated conceptual master plan because the proposed senior multi-family housing development is compatible with existing uses in the neighborhood and is more suitable for this location than the mixed use residential development reflected on the existing Final Development Plan.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

1. Rezoning Map
2. Conceptual Master Plan
3. Staff Memorandum

FIRST READING: March 18, 2014

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 THROUGH 53, BLOCK 1 AND TRACTS A THROUGH L, FOX POINTE FIRST SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO AND IN CONNECTION THEREWITH APPROVING THE CONCEPTUAL MASTER PLAN**

**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 Fox Pointe First Subdivision, City of Loveland, Larimer County, Colorado, and more particularly described as:**

**Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision**

Which territory is now included within the boundaries designated P-75 — Fox Point Planned Unit Development, shall be included within the boundaries of the district designated as follows:

**"MAC – MIXED-USEACTIVITY CENTER"**

Said described parcel of land contains 554,083 sq. ft., or 12.72 acres, more or less(±), and may be subject to all Rights-of-way, Easements, Restrictions and Agreements of record as now existing on said described parcel of land.

**Section 2.** That the foregoing property shall be subject to the Conceptual Master Plan dated February 20, 2014 and on file with the Current Planning Division of the City, which is hereby approved (the "Conceptual Master Plan").

**Section 3.** That development of the property as **MAC – MIXED-USE ACTIVITY** shall be subject to all applicable zoning regulations for the City of Loveland.

**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 \_\_\_\_ of \_\_\_\_\_, 2014.

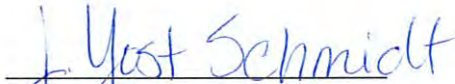
ATTEST:

CITY OF LOVELAND, COLORADO:

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

\_\_\_\_\_

APPROVED AS TO FORM:

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

# REZONING MAP

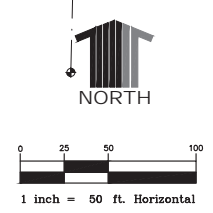
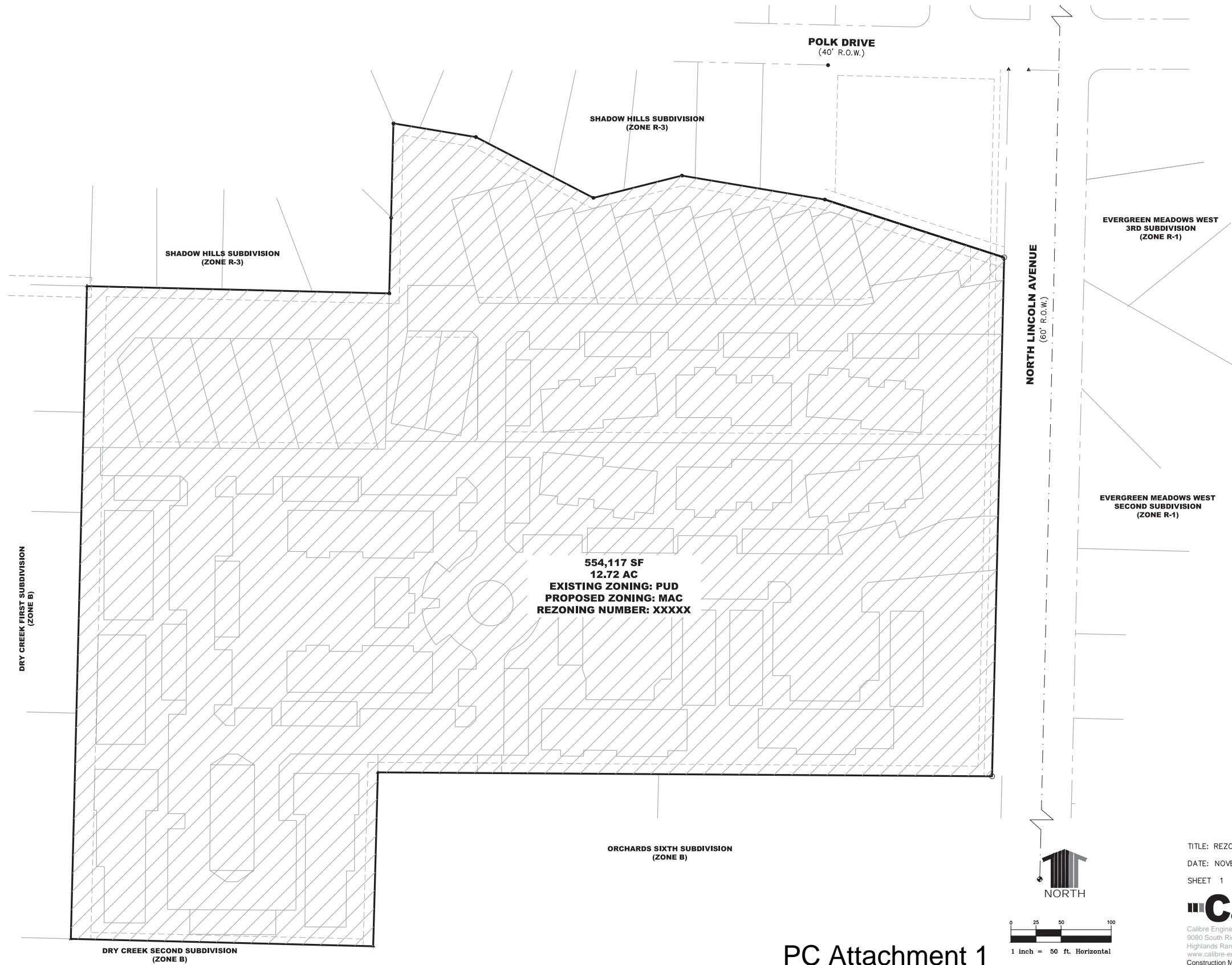
## FOX POINTE FIRST SUBDIVISION

LOCATED IN THE NORTH ONE HALF OF SOUTHWEST QUARTER OF SECTION 1,  
TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO  
SHEET 1 OF 1

**PARCEL DESCRIPTION:**

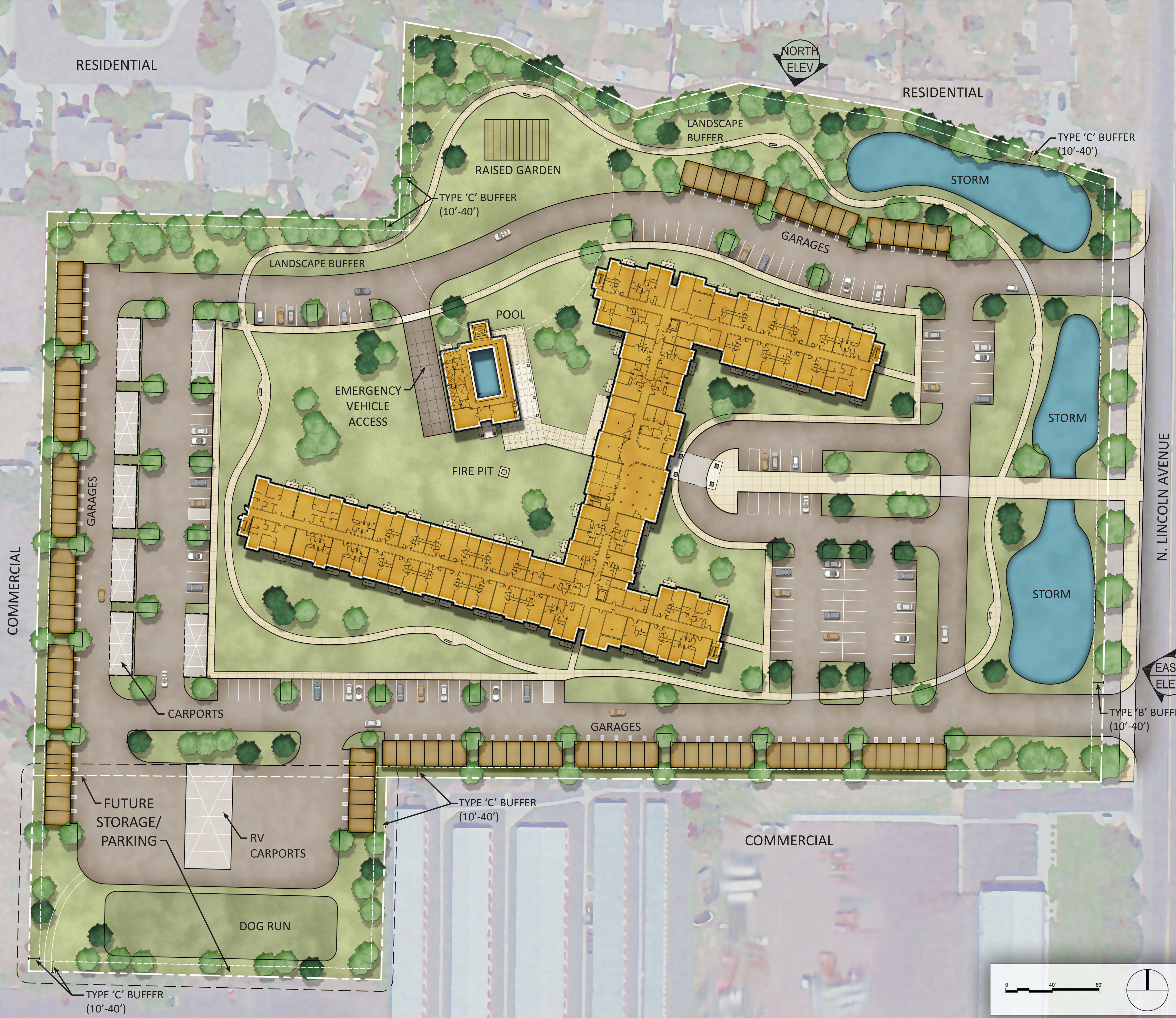
LOTS 2 THROUGH 53, BLOCK 1, AND TRACTS A THROUGH L, BLOCK 1, FOX POINTE SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 11, 2003 AT RECEPTION NO. 2003017104, COUNTY OF LARIMER, STATE OF COLORADO.

TOTAL AREA: 554,117 SF  
12.72 AC



TITLE: REZONING MAP  
DATE: NOVEMBER 15, 2013  
SHEET 1 OF 1

**Calibre**  
 Calibre Engineering, Inc.  
 9090 South Ridgeline Boulevard, Suite 105  
 Highlands Ranch, CO 80129 (303) 730-0434  
 www.calibre-engineering.com  
 Construction Management Civil Engineering Surveying



**NARRATIVE**

The proposed Affinity at Loveland project is an age-restricted (55+) residential apartment project. The project will consist of 154 to 165 apartment units within a single 3-story wood framed building. Final apartment count will be determined with the final market analysis of the community's needs. Each apartment unit will have its own kitchen and laundry. The main building will contain common amenities such as a library, movie theater, lounge, game room, craft room, fitness center, Internet cafe, and pub for the use of the residents.

The project will have a separate pool building, featuring a 20' x 40' pool, hot tub, woodshop and yoga studio. Outdoor common areas will include amenities such as gardens, BBQ area, and a landscaped walking path. Ample parking is provided via reserved garages, carports and surface parking. A future storage/parking area is delineated to meet the properties potential future needs.

The site plan provides density well within the limits of the MAC zone. Setbacks for the main building far exceed the requirements of the MAC zone, with the smallest setback measuring over 95'. The site layout incorporates 10' to 40' wide landscaped bufferyards at its perimeter. Parking has been distributed evenly throughout the site to prevent large parking fields. The south and west borders of the site will use both landscaped bufferyards and the small scale garages to create additional buffer between the commercial and residential use. The north border will include an ample landscape buffer to create space between the single family and multi-family uses. An oversized sidewalk with accentuating landscape leads pedestrians from N. Lincoln Ave to the building's main entrance porte cochere. The site design includes a meandering perimeter walk that provides an exercise path and a connection to the site amenities. The storm water treatment ponds surrounding the entrance will be landscaped to create an amenity and attractive entrance feature in addition to their utility.

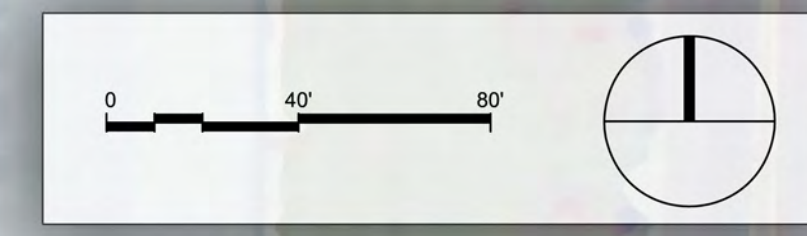
The buildings architecture is designed to attract users to the main entrance with a large scale porte cochere featuring overbuilt columns, followed by a 2-story main entry and common area deck featuring small scale columns, and last a third story set back an additional 35'. These large building elements create the building's focal point and main entrance.

The building's roof line combines multiple ridge elevations and differing gable, shed, and hipped ends to create variation. All of the roof eaves are detailed with decorative knee braces. The exterior wall changes plane at least every 32' and multiple siding materials add depth, variation and residential scale. The first level of the building is defined with stone masonry. The second and third levels will be either a combination of board & batt and lap siding or a two colored stucco finish dependent upon resident preferences determined during the construction phase.

All of the buildings utility services will be internal other than those required to be external by local providers, such as transformers, in which case landscaping will be used to screen them from view. The building will compact and store trash internally. The dumpsters will be rolled to designated parking areas on the sides of the building only for a short time on scheduled pick up days.

**ZONING INFORMATION**

<b>ZONING:</b>	PROPOSED MAC
<b>TOTAL SITE AREA:</b>	554,590 SF 12.73 ACRES
<b>BUILDING DATA:</b>	
LEVEL 1:	51,788 SF - 54,788 SF
LEVEL 2:	51,788 SF - 54,788 SF
LEVEL 3:	47,898 SF - 50,898 SF
POOL:	4,341 SF - 4,341 SF
<b>TOTAL:</b>	<b>155,815 SF - 164,815 SF</b>
<b>BUILDING HEIGHT:</b>	
MAX. PER PUD:	30'-0"
3-STORY PROPOSED	38'-0" (T.O. RIDGE)
<b>UNIT MIX:</b>	
STUDIO	6 - 8
1-BEDROOM	66 - 70
2-BEDROOM:	82 - 87
<b>TOTAL:</b>	<b>154 - 165 (12.1 - 13.0 D.U./ACRE)</b>
<b>BUILDING COVERAGE:</b>	
BUILDING:	9.3%
GARAGES:	4.5%
CAR/RV CARPORTS:	2.0%
<b>TOTAL:</b>	<b>15.8%</b>
<b>PARKING:</b>	
SURFACE:	168
ACCESSIBLE:	8
GARAGE:	96
CARPORT:	42
<b>TOTAL:</b>	<b>314 (1.9 - 2.0/D.U.)</b>
RV CARPORTS:	6







NORTH ELEVATION

SCALE: 3/32"=1'-0"



EAST ELEVATION

SCALE: 3/32"=1'-0"



North Lincoln Avenue, Loveland, Colorado

# AFFINITY AT LOVELAND CONCEPTUAL MASTER PLAN - Elevations

February 20, 2014  
#131350

620 SW 5th Avenue, Suite 500  
Portland, Oregon 97204  
503.236.6000  
www.myhregroup.com



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## 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](http://www.cityofloveland.org)

### MEMORANDUM

**TO:** City Council

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

**DATE:** March 18, 2013

**SUBJECT:** Affinity/Fox Pointe Rezoning and Conceptual Master Plan

#### 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 and conceptual master plan have been resolved through the staff review process. The Planning Commission unanimously recommends approval of the rezoning and conceptual master plan as proposed. Staff considers the proposed MAC Mixed Use Activity Center zoning to be more suitable for the subject property and its vicinity than the existing P-75 Fox Pointe Planned Unit Development zoning, and is supportive of the associated conceptual master plan.

#### III. BACKGROUND

The attached ordinance concerns a request to change the zoning on property within the Fox Pointe Fist Subdivision (2002) and approve an associated conceptual master plan to allow an independent senior multifamily development on the property.

The subject property, located on the west side of Lincoln Avenue between 37th Street and 29th Street, is currently vacant. The property has an approved Preliminary Development Plan, Final Development Plan, and plat of subdivision on file with the City for a mixed use residential development that was never constructed. Single family residential subdivisions are to the north and to the east, across Lincoln Avenue. B-zoned commercial uses are to the south and west.

The applicant is a developer and operator of senior independent living apartment buildings. They currently have nine other “Affinity” senior housing developments throughout western states and are interested in constructing a similar “Affinity” development on the subject property. The Loveland proposal consists of a three story, 155,815 sq ft multifamily apartment building on a 12.73 acre lot. The development will consist entirely of rental units with residents restricted to age 55 and above. It is anticipated that the development will include 155 units, with a potential range of 153-165 units to allow for the mix of two bedroom, one bedroom and studio units to be decided at time of building permit. The development is intended for seniors who are able to live independently, rather than for people who need assistance with daily living.

If the rezoning and conceptual master plan are approved, the applicant can proceed to the necessary lot merger, site development plan (SDP), site work permit, and building permit applications, which undergo staff review only.

#### **IV. REZONING**

The proposed senior independent multifamily housing use is allowed by the current PUD district, but not by the approved Fox Pointe Preliminary and Final Development Plans. There are a few possible options for obtaining approval of the use on the property. One option is to keep the existing Fox Pointe PUD zoning and prepare a new PDP and FDP for the senior housing development. However, since the applicant is proposing a one lot/one building development, the intent of PUD zoning, which encourages integrated development of multiple uses and multiple buildings on a site, is not met.

Rezoning to a district that allows multifamily independent senior housing to be developed by right is another option. In discussions about the use at the time the applicant first approached the City, staff recommended pursuing rezoning to the MAC district. The MAC district allows the proposed use by right, but also requires a conceptual master plan to be submitted in conjunction with the rezoning, with the rezoning approval subject to compliance with the plan. In the event that the master plan approved with the MAC zoning does not proceed to construction, a developer would have to bring a new conceptual master plan before the Planning Commission and City Council for approval before developing the site in a significantly different manner, or with a different use, than that in the approved plan. Thus, the MAC district allows the City greater control than other non-PUD districts over the use that is developed within it, is a more suitable district for the proposal than the existing PUD district. It also provides a more streamlined approval process for the applicant over keeping the PUD zoning and pursuing a new PDP and FDP.

#### **V. CONCEPTUAL MASTER PLAN**

The conceptual master plan specifies the use, density/number of units, site layout, parking, access points, trail/sidewalk locations, architectural elevations, landscaping, general utility information, and added amenities for the proposed development. As a conceptual level plan, it allows the applicant and staff a degree of flexibility during the subsequent site development plan and building permit application reviews to adjust details of the development, but the use and all significant elements of the proposal are approved by the master plan. The submitted plan complies with all Municipal Code requirements and includes features beyond those required by Code, including on-site recreational amenities, dense screening, and quality building materials.

## **VI. PLANNING COMMISSION REVIEW**

The rezoning and vacation were reviewed by the Planning Commission at a public hearing on February 24, 2014. At the meeting, Commissioners inquired about the common features to be included in the development, including those that distinguish an independent senior housing development from an assisted living development. The Commission expressed support for the proposed use, indicating that it filled a need within the community. A number of members of the public expressed support for the proposal, and some inquired about transportation matters and the height of the building. Regarding transportation, a question was raised as to whether the eastward extension of 37<sup>th</sup> Street would occur earlier than planned as a result of increasing the number of residents in the area. Staff replied that the proposed use will generate less traffic than the approved (but not constructed) Fox Pointe First development, and thus approval of the current proposal would not necessitate changing the time frame for the 37<sup>th</sup> Street extension. Regarding height, questions were raised as to whether the building could be constructed at two stories instead of three to eliminate or reduce the blockage of views. In response, the applicant and staff explained that the number of units proposed is less than the number currently approved for the property with the Fox Pointe plat and FDP. Constructing the same number of units in a two story building could be done, but would necessitate a larger building footprint, and thus result in less on-site open space and lesser building setbacks than provided by the current proposal.

The Planning Commission unanimously recommended approval of the rezoning and conceptual master plan at the 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.



## 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

February 24, 2014

**Agenda #:** Regular Agenda -

**Title:** Affinity at Loveland/Fox Pointe

**Applicant:** Inland Group/Affinity at Loveland LLC

**Request:** Rezoning

**Location:** Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision- 3300 Block of N. Lincoln Ave

**Site Size:** 12.72 acres

**Existing Zoning:** P-75 PUD

**Proposed Zoning:** MAC District - Mixed-Use Activity Center District

**Staff Planner:** Noreen Smyth

#### **Staff Recommendation**

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

#### **Recommended Motion:**

1. Move to make the findings listed in Section IX of this report dated February 24, 2014 and, based on those findings, recommend approval of the rezoning of Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision, and approval of the associated conceptual master plan, subject to the condition listed in Section X of this report, as amended on the record.

#### **Summary of Analysis**

This is a public hearing item to consider a rezoning of Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision. The site is located on the west side of North Lincoln Avenue approximately 600 feet south of 37<sup>th</sup> Street. The property is currently zoned P-75 Fox Pointe PUD and has an approved Final Development Plan and plat of subdivision on file for a mixed use residential development that was never constructed. The applicant is seeking rezoning to the MAC Mixed Use Activity Center district and concurrent approval of a conceptual master plan to allow an independent senior multifamily housing development on the 12.72-acre property. The development would consist of 155 rental apartments within one three-story structure with common on-site amenities. Following rezoning, the applicant would seek approval of a lot merger plat, site development plan and building permit.

A publicly noticed neighborhood meeting was held on February 10, at which attendees indicated general support for the proposal. Staff believes that all key issues have been resolved based on City Code, standards contained in the conceptual master plan and the condition of approval recommended in Section X of this staff report.

**I. ATTACHMENTS**

1. Rezoning Map
2. Affinity Conceptual Master Plan
3. MAC Zone District
4. Rezoning Assessment provided by Applicant
5. Fox Pointe First Subdivision Plat

**II. VICINITY MAP**



### **III. PUBLIC HEARING**

This is a public hearing to consider a rezoning within the Fox Pointe First Subdivision, as described and depicted in **Attachment #1**, from PUD-Planned Unit Development to MAC-Mixed Use Activity Center, and to consider an associated conceptual master plan, depicted in **Attachment #2**, per the requirements of rezoning to the MAC district.

The Planning Commission's consideration of the zoning request and conceptual master plan 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. The Planning Commission's recommendation will be forwarded to the City Council to be considered as part of their subsequent public hearing.

### **IV. KEY ISSUES**

City staff believes that all key issues have been addressed in the development proposal and through the recommended condition of approval.

### **V. BACKGROUND**

The following represents a timeline for the background of the property:

- |                          |   |
|--------------------------|---|
| <b>1977</b>              | A portion of the subject property was annexed to the City of Loveland as the Loch Haven Addition.   |
| <b>2002</b>              | The remainder of the property was annexed to the City of Loveland as the Fox Pointe Addition. The Fox Pointe Estates Preliminary Development Plan and later the Final Development Plan (FDP) and Fox Pointe First Subdivision were also approved. The FDP consists of 144 multifamily units in 17 buildings, 18 two-family units in 9 buildings and one single family dwelling, totaling 163 units. The plat established building envelopes for the buildings on the property, with the land between buildings located within HOA-maintained tracts, and included a private road system. Construction of the development never commenced. |
| <b>October 17, 2013</b>  | A Concept Review meeting was held between staff and the applicant. The applicant described their proposal for the subject property and discussed with staff possible approaches to seeking approval of the use. Staff also explained requirements relating to platting, stormwater, transportation and utility matters with the applicant.  |
| <b>February 10, 2014</b> | Neighborhood meeting held (see Section VIII for details).   |

**VI. SITE DATA**

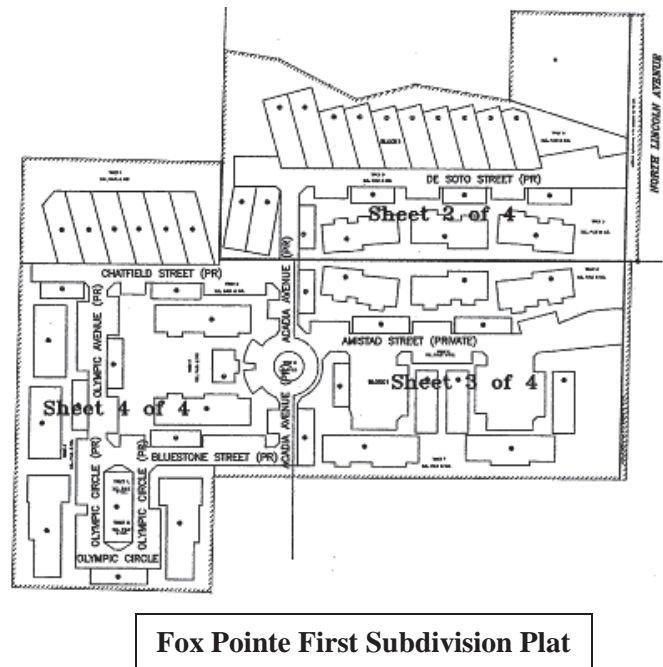
ACREAGE OF SITE (GROSS ACRES) .....	12.72 ACRES
EXISTING ZONING .....	P-75 FOX POINTE ESTATES PUD
PROPOSED ZONING .....	MAC-MIXED USE ACTIVITY CENTER
MASTER PLAN DESIGNATION .....	CAC-COMMUNITY ACTIVITY CENTER
EXISTING USE .....	VACANT
PROPOSED USE .....	INDEPENDENT SENIOR HOUSING
NUMBER OF DWELLING UNITS PROPOSED.....	153-165 (155 ANTICIPATED)
DENSITY (DU/A) .....	12.1 DU/ACRE
EXIST ADJ ZONING & USE – NORTH.....	R3-RESIDENTIAL / SINGLE FAMILY RESIDENTIAL SUBDIVISION
EXIST ADJ ZONING & USE – SOUTH.....	B- DEV BUSINESS / COMMERCIAL
EXIST ADJ ZONING & USE – WEST.....	B- DEV BUSINESS /COMMERCIAL
EXIST ADJ ZONING & USE – EAST.....	R1-RESIDENTIAL / SINGLE FAMILY RESIDENTIAL SUBDIVISION
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 is located on the west side of North Lincoln Avenue in between 29<sup>th</sup> Street and 37<sup>th</sup> Street. It is zoned P-75 Fox Pointe Planned Unit Development. The zoning, platting and approval of the Fox Pointe Final Development Plan occurred in 2002, allowing a combination duplex and multifamily residential development. Construction of that development never commenced and the property has remained vacant undeveloped land.

The current applicant is a developer and operator of senior independent living apartment buildings. They currently have nine “Affinity” senior housing developments throughout western states, with the nearest one located approximately 35 miles away in Lafayette. The different Affinity properties share similar characteristics, and information on the Lafayette and other Affinity developments can be found at [www.affinityforliving.com](http://www.affinityforliving.com).





Approval of a rezoning of the property to the MAC district an associated conceptual master plan are sought by the applicant at this time, requiring review by the Planning Commission and approval by City Council.

### Rezoning

The applicant is interested in developing and operating/managing a senior housing facility on the subject property similar to their other “Affinity” developments. The use is allowed by the current PUD district, but not by the approved Fox Pointe Final Development Plan.

There are a few possible options for obtaining zoning approval of the use on the property. One option is to keep the existing Fox Pointe PUD zoning and seek approval of a new FDP for the new development. However, since the applicant is proposing a one lot/one building development, the intent of PUD zoning, which encourages integrated development of multiple uses and multiple buildings on a site, is not met.

Rezoning to a district that allows multifamily independent senior housing to be developed by right is another option. However, this is a less secure approach for the City. In the event the applicant rezones to such a district but does not follow through and construct the development, many other potentially less desirable uses, as allowed by the chosen district, would then be allowed by right on the site.

A third option is rezoning to the MAC district. Although MAC allows the proposed use by right, the district requires a conceptual master plan to be submitted in conjunction with a request for rezoning, and the rezoning approval is subject to compliance with the associated conceptual master plan. In the event that the master plan approved with the MAC zoning does not proceed to construction, a developer would have to bring a new conceptual master plan before the Planning Commission and City Council for approval before developing the site in a significantly different manner, or with a different use, than that in the approved plan.

Because the MAC district allows the City greater control than other non-PUD districts over the use that is developed within it, and because the applicant’s proposal meets the intent of that district better than the PUD district, staff recommended the third option to the applicant as the approach that would be both simplest for them and in the City’s best interest. Staff discussed and supported this approach at the October 17, 2013 concept review meeting.

### MAC District Standards

As indicated by its title, the MAC district is intended for mixed-use developments. Is it not required that each lot within the district include mixed uses, but that the broader MAC areas be mixed use. Per the MAC chapter of the Code [Section 18.29.60 (6)], for projects exceeding 50% residential land area, sufficient land area must devoted to commercial use to meet future commercial needs within the project *or within the vicinity of the project*. The proposed project is entirely residential, but is situated north of the Orchards Shopping Center and immediately adjacent to commercial uses along US 287/Garfield Avenue. Thus, the subject property is in a heavily commercial area with an adequate mix of residential and nonresidential uses to meet this intent of the MAC district.

If the applicant wishes to change the conceptual master plan prior to construction, any changes of significance would need to be brought before the Planning Commission and City Council. Changes of a minor nature can be approved administratively by the Director of Development Services. It should be noted that because the conceptual master plan specifically identifies the building as a senior housing development, it cannot be converted to non-age restricted housing or any other use without first presenting a new conceptual master plan to the Planning Commission and City Council for review and approval.

### **Proposal/Conceptual Master Plan**

The applicant is proposing an independent senior housing development. The proposal consists of one three story, 155,815 sq ft multifamily apartment building on a 12.73 acre lot. The development will consist entirely of rental units with residents restricted to age 55 and above. It is anticipated that the development will include 155 units, with the concept plan indicating a range of 153-165 units to allow for the mix of two bedroom, one bedroom and studio units to be decided at time of building permit. The footprint of the building would remain unchanged from that shown in the conceptual plan within this range of units. The development is intended for seniors who are able to live independently, rather than for people who need assistance with daily living.

The conceptual master plan has been reviewed by staff for compliance with Code standards. All additional site plan and building details provided with the future permit applications will also be reviewed by staff for Code compliance. No variances to Code standards are being sought.



### **Amenities**

All units within the building will have full kitchens, full laundry facilities, and all other characteristics expected in standard apartments. The property will not include features of a nature found in assisted living facilities such as on-site caregivers or a dining area with meal service. However, the intent of the development is to encourage a community lifestyle among residents and there will be a number of on-site communal facilities and services to promote this. There will be full-time and part-time staff members organizing activities for residents. Indoor and outdoor common areas are designed to allow for resident interaction. While the specific amenities may change, the intent of the applicant at this time is to include the following:

- A separate pool building with a pool, hot tub, pool changing area, woodshop and yoga studio
- An outdoor raised garden
- A barbeque area
- A walking path circulating the grounds

- Common area rooms in the main building for social activities and meeting space, including a “pub” type gathering space for use by residents

### Site Layout

The building is centrally situated on the property, oriented in a manner slightly off-set from alignment with the adjacent road for added visual interest. A pool and related communal facilities are located behind the building. A walking trail and lawn circle the building, connecting to the public sidewalk on Lincoln Avenue. The required bufferyards are located at the property’s perimeter, with additional gardens to the north of the building. Parking is distributed throughout the property. The required stormwater detention facility is situated along the Lincoln Avenue frontage and incorporated into the landscape design. Vehicular access to the site will be through two driveway entrances off of Lincoln Avenue, one near the south property line and one near the north property line. As a traffic study prepared for the previously approved Fox Pointe First development deemed area roadways adequate for the traffic that development would generate, and as the proposed senior housing development will generate less traffic, a revised traffic study was not necessary for this application.

### Landscaping

The grounds will be landscaped in a manner that meets or exceeds all Municipal Code requirements, including the provision of the required Type B bufferyard along Lincoln Avenue, a Type C bufferyard along the north property line adjacent to single family residential, and a Type C bufferyard along the west and south property lines adjacent to commercial.

### Parking

The applicant is opting to utilize the standard multifamily parking requirement of two spaces per unit rather than the lesser “independent living facilities” parking requirement of 1 space per unit plus 1 space for every employee. The 314 parking spaces on site consist of 96 garage spaces, 42 carport spaces and 176 surface spaces, including the required handicap spaces. While there is some risk of the garage spaces being utilized for storage rather than automobile parking, with the property overparked based on the independent living facility standard, staff considers on-site parking to be more than adequate. The conceptual site plan does include an area in the southwest portion of the property for possible future expansion of parking. The parking is spread throughout the site to avoid the inclusion of a large parking lot, with parking concentrated along the west and south property lines bordering the commercial uses.

### Elevations

Building elevations are included with the conceptual master plan. The building will be three stories in height, with a portion near the main entrance at two stories. The structure will be of a multifamily



**Conceptual Master Plan**

residential appearance. The garage structures will be designed to complement the main building. Architectural elements within the conceptual master plan include the following:

- **Materials:** The first floor and portions of the second floor will utilize stone. Portions of the second floor and the third floor will utilize siding and stucco.
- **Roof forms:** The roof will be pitched and include hips and gables. Decorative brackets will be situated at the roof eaves.
- **Color palette:** Warm earth tones with beige stone, red and beige siding and a brown roof.
- **Other detailing:** The wall plane changes a minimum of every 32 feet to avoid long stretches of flat wall. A small protruding balcony is included with many units, adding depth to the elevations. Columns are included in the vicinity of the front entrance.

### **Additional City Applications**

If the rezoning and conceptual master plan are approved, the applicant will then proceed to submittal of a lot merger plat application to consolidate the property into one lot, a site development plan application and a building permit application. All are administratively reviewed and approved. Staff will ensure the conceptual master plan is followed and all Municipal Code standards are met during the reviews.

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

### **A. Notification**

An affidavit was received from Affinity at Loveland, LLC which certifies that a notice was posted in a prominent location on the perimeter of the site and the surrounding property owners within 450 feet of the property were notified on January 21, 2014 of a neighborhood meeting held on February 10, 2014. An affidavit was also received from Affinity at Loveland, LLC that a notice was posted in a prominent location on the perimeter of the site and the surrounding property owners within 450 feet of the property were notified on February 7, 2014 of the February 24, 2014 Planning Commission public hearing. In addition, a notice of the public hearing was published in the Reporter Herald on February 8, 2014.

### **B. Neighborhood Response**

A neighborhood meeting was held on February 10, 2014. There were 29 attendees along with the applicant and city staff. Attendee reaction to the proposal was generally positive. Questions raised at the meeting included the following:

1. **Traffic.** Questions were asked regarding the traffic that the development would generate and whether this development would impact the timing of the future extension of 37<sup>th</sup> Street, approximately 600 feet north of the subject property. The applicant indicated that a traffic impact study was completed at the time of the previous Fox Pointe First Subdivision and Final Development Plan approval indicating that the existing roadway system was adequate, and that the proposed senior housing development would generate less traffic than the previously approved development.

2. **Building Use.** Neighbors asked whether it was possible for the building to be converted to non-senior housing in the future. Staff explained that the same process of presenting a conceptual master plan to the Planning Commission and City Council for review and approval would be necessary if there was interest in changing the use of the property to anything other than independent senior housing. Neighbors also inquired whether the communal facilities could be made available to neighborhood residents. The applicant stated that the Code standards for a public pool are different than the standards for a private pool, so the pool could not be utilized by the public, but it is possible that the meeting room space could be made available for use by neighborhood organizations.
3. **Building Design.** Some neighbors expressed a preference for the building to be two stories instead of three, but supported the large building setbacks from the property lines. The applicant discussed how the number of units is not increasing over what is already approved in the Fox Pointe FDP, and the use of three stories instead of two allows a smaller building footprint and subsequently greater building setbacks and more green space.

No additional correspondence was received by City staff after the neighborhood meeting.

## **IX. FINDINGS AND ANALYSIS**

In reviewing the application, the Planning Commission must determine if the findings specified in the Municipal Code can be met. These findings are listed in italicized font below, along with a summary analysis provided by City staff. If, based on the submitted application, the Planning Commission determines that the findings can be met, the Planning Commission shall recommend approval of the rezoning application. If the Planning Commission determines that the findings cannot be met, the Planning Commission must recommend disapproval of the rezoning application.

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

**Current Planning:** Staff believes that the purpose of Title 18 can be met with the development of permitted uses on this site consistent with Chapter 18.29 Mixed-Use Activity Center District, the Site Development Performance Standards and Guidelines and the additional development standards contained in the conceptual master plan (see **Attachment 2**). Purposes indicated in Section 18.04.010 of the Municipal Code include the following:

- Lessen congestions in the street;
- Secure safety from fire, panic and other dangers;
- Promote health and general welfare;
- Provide adequate light and air, prevent overcrowding of land and avoid undue concentration of population; and
- Facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

Finding 3, below, contains an analysis from City reviewers determining compliance with the adequate provisions of various infrastructure components. The rezoning application and conceptual development plan specify a use, general layout and general building design for development of the property. Technical details such as specific utility design will be reviewed at the time of the lot merger plat, site development plan and building permit to determine compliance with the purposes set forth in Section 18.04.010 of the Municipal Code, as listed above.

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 affected by development of it.*

**Current Planning:** Staff believes that this finding can be met. Development of the site under the provisions of the Mixed-Use Activity District and the submitted conceptual master plan should be compatible with surrounding land uses. The MAC district permits a variety of commercial and residential land uses by right and by special review. While some of the uses may not be compatible with the nearby single family residential uses to the north and east, the conceptual master plan that is tied to the rezoning request limits the use of the property to independent senior housing unless a new conceptual master plan is submitted to the City for review and approval by the Planning Commission and City Council. Properties located directly to the south and west of the site are zoned B-Developing Business and are developed as commercial uses. The use and development standards established by the MAC district and the conceptual master plan provide a compatible transition between the commercial uses to the south and west of the property and the single family residential uses to the north and east.

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 that this finding can be met. Infrastructure and utility service requirements for development on this site can be met with existing or planned service levels for this area. All required improvements would be completed by the developer in accordance with City policy, with more detailed design plans reviewed at the time of the lot merger plat, site development plan and building permit. Staff from Stormwater, Transportation Engineering, Fire Prevention, Water/Wastewater, Power, Building and Parks and Recreation have reviewed the rezoning application and conceptual master plan and have indicated that they have no conflicts with the proposal, and have provided the following analysis:

**Water/Wastewater:** Staff believes that this finding can be met, due to the following:

- 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 because the proposed development will not negatively impact City water and wastewater facilities.

**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.

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

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

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

- All future development or land application within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application. Therefore, pending future proposed development within this property, of which review and approval by the City is required, the Transportation Development Review Staff does not object to the proposed rezoning.

4. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is consistent with relevant philosophies contained in the Loveland Comprehensive Master Plan, particularly those philosophies included in Section 4.0 Land Use.*

**Current Planning:** Staff believes that this finding can be met. The Comprehensive Master Plan designates this area as Community Activity Center (CAC). The CAC category provides areas for a mix of uses designed to provide shopping, services, public uses, and residences, and to serve as centers for the surrounding residential neighborhoods. This area around US 287 and 29<sup>th</sup> Street is classified as an activity center for its commercial function, even though it was not designed cohesively or with a mix of uses as desired in a true activity center. The addition of a new use, senior housing, to this CAC helps meet the Comprehensive Plan's intent of providing a diversity of uses within activity centers.

The Mixed-Use Activity Center zoning district proposed in this application is intended for areas designed on the Land Use Plan as activity centers and thus aligns with the CAC category. Development standards established in the conceptual master plan include the following to ensure a unified, high quality development:

- Architectural design that includes quality building materials, color palette, architectural detailing and roof forms;
- Site planning that provides for a large amount of open space and other outdoor amenities along with sizeable setbacks and landscape buffering from adjacent uses; and
- A pedestrian path circulating the property and connecting to the City's sidewalk system, the building entrance and outdoor amenities on the site.

5. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district 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 that this finding can be met. Development of any of the uses permitted by right in the Mixed-Use Activity Center District must comply with the City of Loveland Building Code, Fire Code, and Title 18 of the Municipal Code. These measures have been adopted with the intent of protecting the health, safety, and welfare of the public. Consequently, such development in accordance with the adopted Codes and provisions would not be detrimental to the health, safety, or welfare of the general public.

## **X. RECOMMENDED CONDITION**

### **Power:**

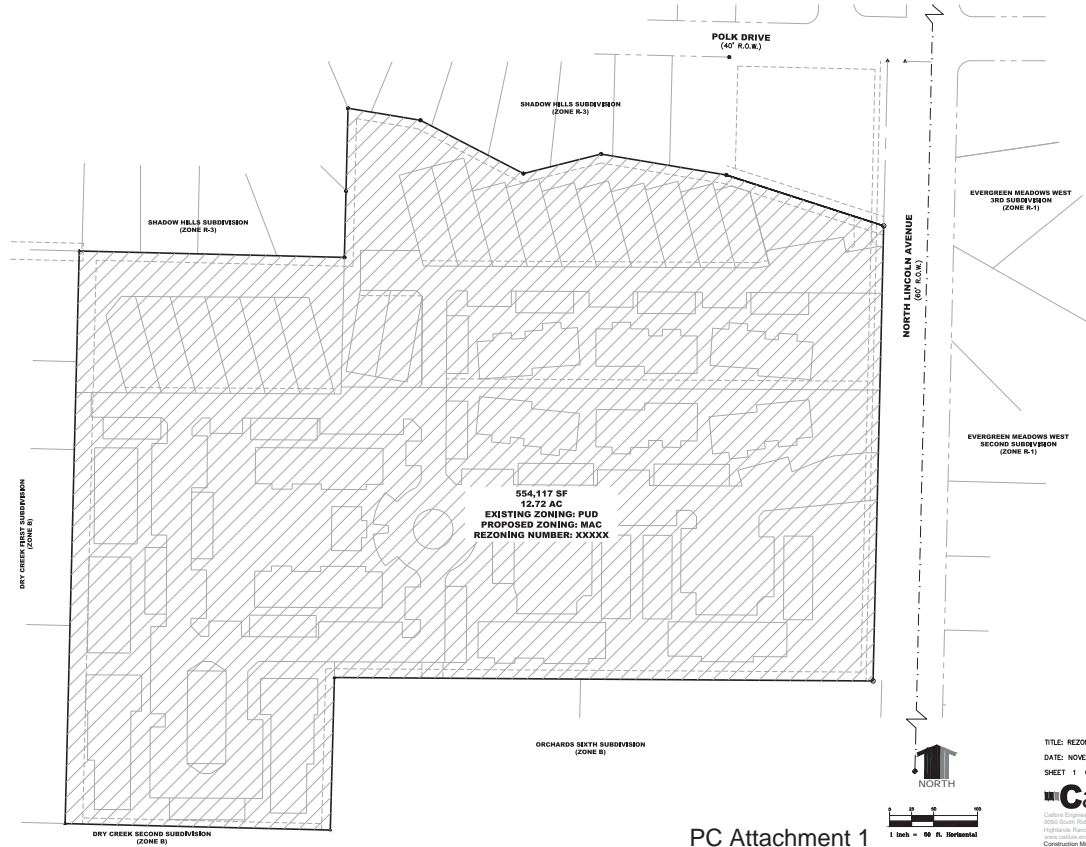
1. Electric meters will be located centrally on or near the building, and the developer or his representative will be responsible for installing the underground electric service to the meter per NEC.



# REZONING MAP

FOX POINTE FIRST SUBDIVISION  
LOCATED IN THE NORTH ONE HALF OF SOUTHWEST QUARTER OF SECTION 1,  
TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO  
SHEET 1 OF 1

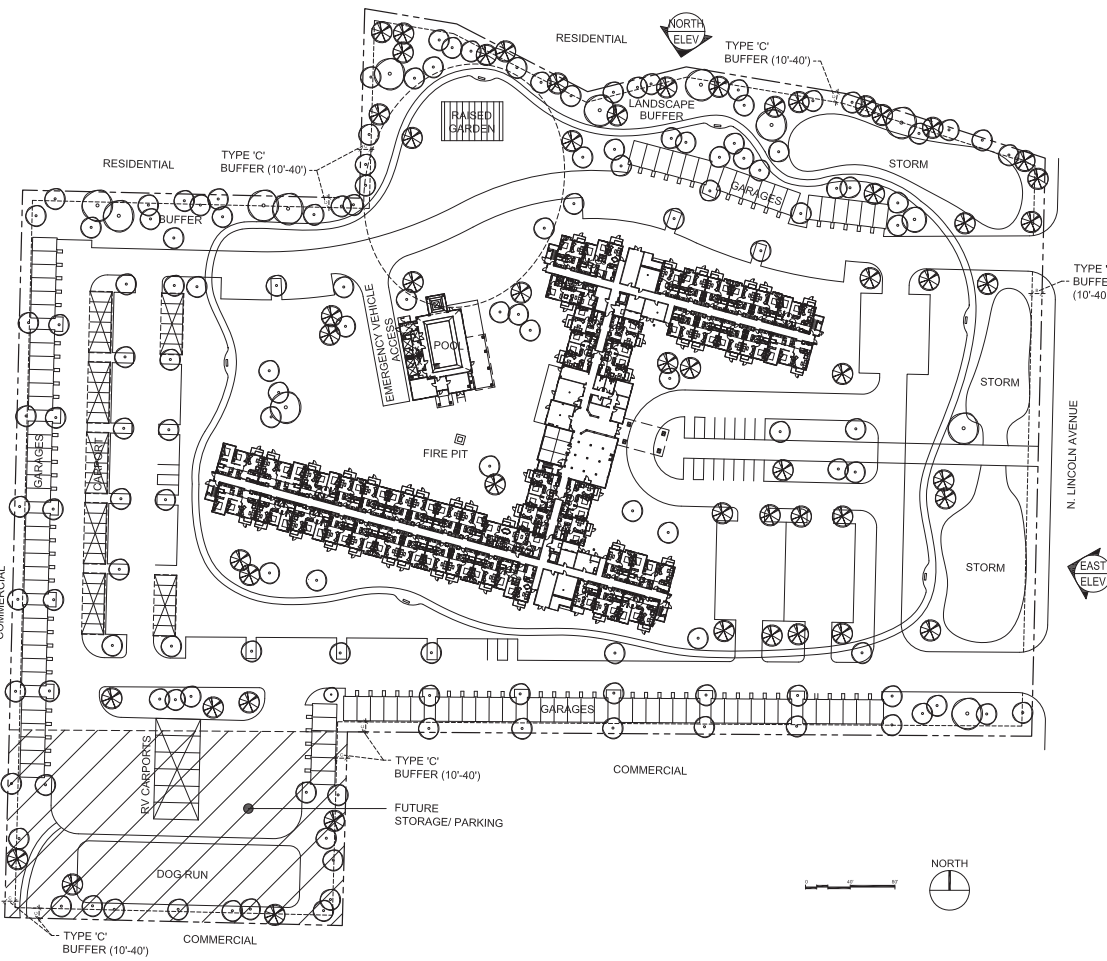
**PARCEL DESCRIPTION:**  
LOTS 2 THROUGH 53, BLOCK 1, AND TRACTS A  
THROUGH L, BLOCK 1, FOX POINTE SUBDIVISION,  
ACCORDING TO THE PLAT THEREOF RECORDED  
FEBRUARY 11, 2003, AT RECEPTION NO. 200307104,  
COUNTY OF LARIMER, STATE OF COLORADO.  
TOTAL AREA: 554,117 SF  
12.72 AC



PC Attachment 1

TITLE: REZONING MAP  
 DATE: NOVEMBER 15, 2013  
 SHEET 1 OF 1

**Calibre**  
 Calibre Engineering, Inc.  
 2000 South Poplar Avenue, Suite 100  
 Highlands Ranch, CO 80129 (303) 730-0434  
 www.calibre-engineering.com  
 Construction Management Civil Engineering Surveying



**NARRATIVE**

THE PROPOSED AFFINITY AT LOVELAND PROJECT IS AN AGE-RESTRICTED (55+) RESIDENTIAL APARTMENT PROJECT. THE PROJECT WILL CONSIST OF 153 TO 165 APARTMENT UNITS WITHIN A SINGLE 3-STORY WOOD-FRAMED BUILDING. THE FINAL APARTMENT COUNT WILL BE DETERMINED WITH THE FINAL MARKET ANALYSIS/DETERMINATION OF THE COMMUNITY'S NEEDS. EACH APARTMENT UNIT WILL HAVE ITS OWN KITCHEN AND LAUNDRY. THE MAIN BUILDING COMMON AREAS INCLUDE A LIBRARY, MOVIE THEATRE, LOUNGE, GAME ROOM, CRAFT ROOM, FITNESS CENTER, INTERNET CAFE, AND PUB FOR THE USE OF THE RESIDENTS.

THE PROJECT WILL HAVE A SEPARATE POOL BUILDING, FEATURING A 20' X 40' POOL, HOT TUB, WOODSHOP AND YOGA STUDIO. OUTDOOR COMMON AREAS WILL INCLUDE RAISED GARDENS, BBQ AREA, AND A LANDSCAPED WALKING PATH. AMPLE PARKING IS PROVIDED VIA RESERVED GARAGES AND CARPORTS OR FREE-AND SURFACE PARKING. A FUTURE STORAGE/PARKING AREA IS DELINEATED TO MEET THE PROPERTIES OCCUPIED POTENTIAL FUTURE NEEDS.

THE SITE PLAN PROVIDES DENSITY WELL WITHIN THE LIMITS OF THE MAC ZONE. SETBACKS FOR THE MAIN BUILDING FAR EXCEED THE REQUIREMENTS OF THE MAC ZONE, WITH THE SMALLEST SETBACK MEASURING OVER 95'. THE SITE LAYOUT INCORPORATES 10' TO 40' WIDE LANDSCAPED BUFFER YARDS AT ITS PERIMETER. PARKING HAS BEEN DISTRIBUTED EVENLY THROUGHOUT THE SITE TO PREVENT LARGE PARKING FIELDS. THE SOUTH AND WEST BORDERS OF THE SITE WILL USE BOTH LANDSCAPING IN THE BUFFERYARDS AND THE SMALL SCALE GARAGES TO CREATE AN ADDITIONAL BUFFER BETWEEN THE COMMERCIAL AND RESIDENTIAL USE. THE NORTH BORDER WILL INCLUDE AN EXAGGERATED AMPLE LANDSCAPE BUFFER TO CREATE SPACE BETWEEN THE SINGLE FAMILY AND MULTI-FAMILY USES. AN OVERSEED SIDEWALK WITH ACCENTUATING LANDSCAPE LEADS PEDESTRIANS FROM N. LINCOLN AVE TO THE BUILDING'S MAIN ENTRANCE PORTO PORTE COCHERE. THE SITE DESIGN INCLUDES A MEANDERING PERIMETER WALK THAT PROVIDES CONNECTION THROUGH THE ADJACENT COMMERCIAL CENTER LOCATED IN THE SOUTHWEST CORNER. THE STORM WATER TREATMENT PONDS SURROUNDING THE ENTRANCE WILL BE LANDSCAPED TO CREATE AN AMENITY AND ATTRACTIVE ENTRANCE FEATURE IN ADDITION TO THEIR UTILITY.

THE BUILDING ARCHITECTURE IS DESIGNED TO DRAW ATTRACT USERS TO THE MAIN ENTRANCE WITH A 1.5 STORY/LARGE SCALE PORTO PORTE COCHERE FEATURING OVERBUILT COLUMNS, FOLLOWED BY A 2-STORY MAIN ENTRY AND COMMON AREA DECK FEATURING SLIGHTLY SMALLER SMALL SCALE COLUMNS UNITS, AND LAST A THIRD STORY SET BACK AN ADDITIONAL 35'. THESE LARGE BUILDING ELEMENTS CREATE THE BUILDING'S FOCAL POINT AND MAIN ENTRANCE.

THE BUILDING'S ROOF LINE COMBINES MULTIPLE RIDGE ELEVATIONS AND DIFFERING GABLE, SHED, AND HIPPED ENDS TO CREATE VARIATION. ALL OF THE ROOF EAVES ARE SUPPORTED BY DETAILED WITH DECORATIVE WINE BRACES. THE EXTERIOR WALL CHANGES PLANE AT LEAST EVERY 32' AND MULTIPLE SIDING MATERIALS ADD DEPTH AND VARIATION AND RESIDENTIAL SCALE. THE FIRST LEVEL OF THE BUILDING IS DEFINED WITH STONE MASONRY. THE SECOND AND THIRD LEVELS WILL BE EITHER A COMBINATION OF BOARD & BATT AND LAP SIDING OR A TWO COLORED STUCCO FINISH DEPENDENT UPON MARKET CONDITIONS/RESIDENT PREFERENCES DETERMINED DURING THE CONSTRUCTION PHASE.

ALL OF THE BUILDING'S UTILITY SERVICES WILL BE INTERNAL OTHER THAN THOSE REQUIRED TO BE EXTERNAL BY LOCAL PROVIDERS, SUCH AS TRANSFORMERS, IN WHICH CASE LANDSCAPING WILL BE USED TO SCREEN THEM FROM VIEW. THE BUILDING WILL COMPACT AND STORE TRASH INTERNALLY. THE DUMPSTERS WILL BE ROLLED TO DESIGNATED PARKING AREAS ON THE SIDES OF THE BUILDING ONLY FOR A SHORT TIME ON SCHEDULED PICK UP DAYS.

**BUFFERYARD INFORMATION**

BUFFERYARD PLANT REQUIREMENTS (PER 100 LINEAR FEET):

- TYPE 'B': 15' WIDE - 2 CANOPY TREES, 2 FLOWERING TREES OR LARGE SHRUBS, 5 SHRUBS AND 1 EVERGREEN/CONIFER.
- TYPE 'C': 15' WIDE - 3 CANOPY TREES, 2 FLOWERING TREES OR LARGE SHRUBS, 15 SHRUBS AND 3 EVERGREEN/CONIFER.

10' BUFFERYARD REQUIRES 1.5 TIMES QUANTITIES ABOVE.

30' BUFFERYARD REQUIRES 3 TIMES QUANTITIES ABOVE.

**ZONING INFORMATION**

ZONING:	PROPOSED MAC
TOTAL SITE AREA:	554,590 SF 12.73 ACRES
<b>BUILDING DATA:</b>	
LEVEL 1:	51,788 SF
LEVEL 2:	51,788 SF
LEVEL 3:	47,898 SF
POOL:	4,241 SF
TOTAL:	155,815 SF
<b>BUILDING HEIGHT:</b>	
MAX. PER PUD:	36'-0"
3-STORY PROPOSED:	36'-0" (T.O. RIDGE)
<b>UNIT MIX:</b>	
STUDIO:	6
1-BEDROOM:	84
2-BEDROOM:	64
TOTAL:	154 (12.1 D.U./ACRE)
<b>BUILDING COVERAGE:</b>	
BUILDING:	9.3 %
GARAGES:	4.5 %
CAR/RV CARPORTS:	2.3 %
TOTAL:	15.8 %
<b>PARKING:</b>	
SURFACE:	168
ACCESSIBLE:	8
GARAGE:	98
CARPORT:	42
TOTAL:	314 (2.04 D.U.)
RV CARPORTS:	6


North Lincoln Avenue, Loveland, Colorado
620 SW 5th Avenue, Suite 500  
Portland, Oregon 97204  
503.236.6000  
www.myfiregroup.com

**AFFINITY AT LOVELAND CONCEPTUAL MASTER PLAN - Site Plan**

July 17, 2014

MGA  
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NORTH ELEVATION

SCALE: 3/32"=1'-0"



EAST ELEVATION

SCALE: 3/32"=1'-0"



North Lincoln Avenue, Loveland, Colorado

### AFFINITY AT LOVELAND CONCEPTUAL MASTER PLAN - Elevations

January 17, 2014

620 SW 5th Avenue, Suite 500  
Portland, Oregon 97204  
503.236.6000  
www.myfiregroup.com



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## Chapter 18.29

### MAC DISTRICT – MIXED-USE ACTIVITY CENTER DISTRICT

#### Sections:

<b>18.29.010</b>	<b>Purpose.</b>
<b>18.29.020</b>	<b>Uses permitted by right.</b>
<b>18.29.030</b>	<b>Uses permitted by special review.</b>
<b>18.29.040</b>	<b>Development standards.</b>
<b>18.29.050</b>	<b>Development approval.</b>
<b>18.29.060</b>	<b>Schedule of flexible standards.</b>

#### **18.29.010 Purpose.**

The MAC district is intended to be applied to areas designated as mixed-use activity centers by the Land Use Plan. This district may also be used in other appropriate locations, such as along existing commercial corridors, or in residential areas to provide larger neighborhood-serving commercial centers. Mixed-use Activity Centers may include a wide variety of retail and commercial uses serving the surrounding area as well as larger retail uses serving a community-wide or regional market. Such areas may also include residential and office uses adjacent to the center's core or above ground floor retail. Such centers are typically located at major road and highway intersections, or along major corridors and are predominantly auto-oriented. However, the center should be designed to provide convenient access to and from adjacent neighborhood(s) for pedestrians and bicyclists. (Ord. 5116 § 1, 2006)

#### **18.29.020 Uses permitted by right.**

The following uses are permitted by right in a MAC district:

- A. Art gallery, studio and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.
- B. Bar or tavern;
- C. Car wash;
- D. Commercial child day care center licensed according to the statutes of the state;
- E. Clubs and lodges;
- F. Convention and conference center;
- G. Entertainment Facilities and Theaters, indoor;
- H. Financial Services;
- I. Food Catering;
- J. Funeral Home;
- K. Gas station with or without convenience goods or other services subject to Section 18.52.060 and 18.50.135 and located 300 feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- L. Health Care Service Facility;
- M. Hospital;
- N. Indoor Recreation;

- O. Lodging Establishment (hotel and motel);
- P. Long Term Care Facilities;
- Q. Medical, dental or professional clinic or office;
- R. Nightclub;
- S. Office, general administrative;
- T. Parking Garage;
- U. Parking Lot;
- V. Personal and Business Service Shops;
- W. Place of Worship or Assembly;
- X. Print Shop;
- Y. Professional Office/Clinic;
- Z. Public and Private Schools;
- AA. Restaurant, Drive-In or Fast Food;
- BB. Restaurant, Standard indoor;
- CC. Restaurant, Standard outdoor;
- DD. Retail laundry (Laundromat);
- EE. Retail Store;
- FF. Veterinary Facilities, Small Animal;
- GG. Workshop and Custom Small Industry (entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.), Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40;
- HH. Dwelling, Attached Single-Family;
  - II. Dwelling, Detached Single-Family;
  - JJ. Dwelling, Multi-Family;
- KK. Dwelling, Two-Family;
- LL. Elderly housing;
- MM. Dwelling, Mixed Use;
- NN. Community Facility;
- OO. Park or recreation area;
- PP. Antennas as defined in [Section 18.55.020\(A\)](#), co-located on an existing tower or structure as provided in Section 18.55.030 and Section 18.55.030 and meeting all other requirements of Chapter 18.55; and
- QQ. Accessory buildings and uses. (Ord. 5116 § 1, 2006)
- RR. Shelter for Victims of Domestic Violence subject to Section 18.52.070. (Ord. 5413 § 6, 2009)

**18.29.030 Uses permitted by special review.**

The following uses are permitted by special review in a MAC district subject to the provisions of Chapter 18.40:

- A. Domestic Animal Day Care Facility;
- B. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located less than 300 feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- C. Open-Air Farmers Market;

- D. Outdoor Recreation Facility;
- E. Self-Service Storage Facility;
- F. Vehicle Minor Repair, Servicing, and Maintenance;
- G. Vehicle Rentals for Cars, Light Trucks and Light Equipment;
- H. Vehicle Sales and Leasing for Cars and Light Trucks;
- I. Research Laboratory;
- J. Essential Public Utility Uses, Facilities, Services, & Structures;
- K. Group Care Facility;
- L. Long Term Care Facility (nursing home);
- M. Personal wireless service facility as defined in [Section 18.55.020\(A\)](#), located on a new structure, meeting all requirements of Chapter 18.55; and
- N. Public Service Facility. (Ord. 5116 § 1, 2006)
- O. Crematorium subject to Section 18.52.080. (Ord. 5446 § 5, 2009)
- P. Off -Track Betting Facility (Ord. 5594 § 4, 2011)

**18.29.040 Development standards.**

The following standards shall be administered as Type 2 standards in accordance with Section 18.53.020 Compliance.

- A. **Architecture:** In addition to architectural standards in Chapter 18.53, commercial and mixed-use buildings in MAC districts shall include at least one significant defining architectural element or feature that conveys a sense of architectural depth and substance. Examples include substantial offsets that differentiate building masses; arcades with substantial columns; towers with roofs that extend fully around the building or feature; extensive use of decorative block; stone and/or brick finish material; deep gable roofs with substantial eaves or over hangs; or other equivalent feature (Figures 18.29.040-1-4).
- B. **Pedestrian Circulation:** A continuous primary pedestrian route shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, and building entrances. Pedestrian/auto crossings shall be concentrated at key intersections, shall be incorporated into the primary pedestrian network, and shall be clearly delineated by a change in paving materials. The primary pedestrian route shall feature an adjoining landscaped area on at least one side with trees, shrubs, benches, ground covers or other such materials for no less than fifty percent (50%) of the length of the primary pedestrian route.
- C. **Screening Large Parking Fields:** Sites with large parking fields shall be encouraged to place and orient outlot or pad site buildings to screen large retail parking lots. Outparcels or pad sites shall minimize parking between the building and the frontage road to create a “building wall” along the frontage road. Where possible, landscape features (e.g. trees and shrubs, trellis, decorative wall, entry feature, etc.) shall be used to fill gaps between outlot buildings and where outlots are not planned. Where possible, “overflow” parking shall be placed to the side or rear of the building (See Figure 18.39.040-5)
- D. **Loading Areas:** The following location and screening requirements shall apply to loading areas, service and storage areas:
  - 1. Loading docks, solid waste facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
  - 2. Screening and landscaping shall prevent direct views of the loading areas from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes.
  - 3. Screening shall be provided in the form of landscaping or as an integral part of the building architecture such as walls, architectural features, and shall be visually impervious. Recesses in the building or depressed access ramps may be used. Chain link fencing with slats shall not be an acceptable form of screening.
- E. **Utility Boxes:** Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals and boxes shall be screened from view on all sides not used for service access. The materials and colors of the materials used to provide the screening shall blend with the site and the surroundings.
- F. **Trash Enclosures:** Enclosures shall be placed around dumpsters and any other proposed trash receptacle. The enclosure shall prevent trash from being scattered by wind or animals. The dumpster shall be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. The enclosure shall be sturdy and built with quality wood and/or masonry materials similar or compatible with the primary materials of the primary structure. The trash enclosure shall be sited so the garbage truck has

convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.

- G. Other: The requirements of Chapter 18.53 Commercial and Industrial Architectural Standards and Site Development Performance Standards and Guidelines shall apply to development within the MAC district. (Ord. 5116 § 1, 2006)



Figure 18.29.040-1



Figure 18.29.040-2



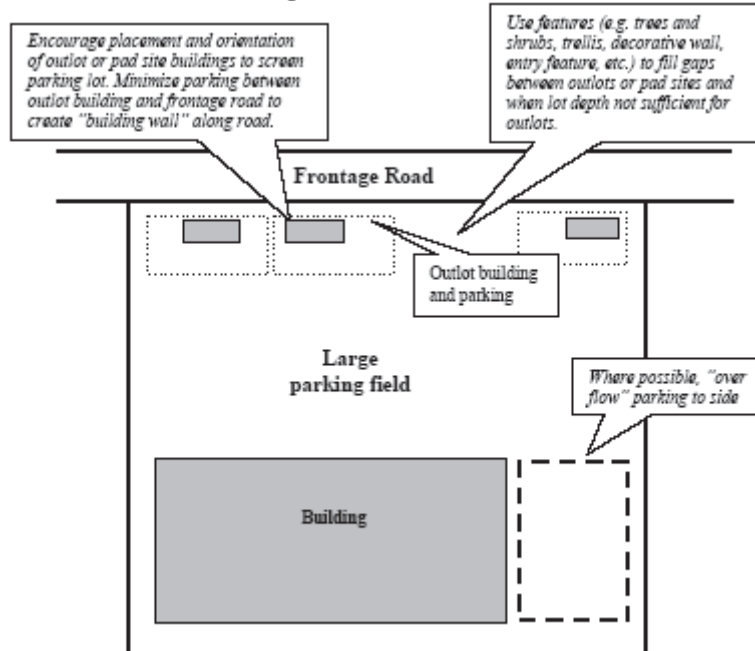
Figure 18.29.040-3



Figure 18.29.040-4



Figure 18.29.040-5



**18.29.050 Development approval.**

A. Development Approval: Uses listed in Section 18.29.020 are permitted subject to the applicant obtaining a Type 1 Zoning Permit as required by [Section 18.04.020](#), with approval of the site plan as required by [Chapter 18.46 - Site Plan Review Requirements & Performance Standards](#), excluding single and two-family residential uses and accessory buildings as excepted by [Section 18.04.020](#). Special review uses listed in Section 18.29.030 may be permitted subject to the applicant obtaining a Type 2 or 3 Zoning Permit as required

by [Chapter 18.40 - Uses Permitted By Special Review](#).

- B. Phased Approval: For larger development sites where site development details are not known for the entire site at the time of obtaining a Type 1, Type 2 or Type 3 Zoning Permit as prescribed above, a conceptual master plan shall be provided for the entire parcel subject to phased approval of site plans to ensure the coordinated development of the entire parcel. The conceptual master plan must include the general type, intensity and location of land uses and public facilities and the overall classification and design of the primary road and pedestrian network, including all information that the planning division may require. The conceptual master plan shall also include a narrative statement, conceptual renderings, schematic designs, architectural guidelines or other information as needed demonstrating how the proposed development plan complies with Section 18.29.040 Development Standards. The conceptual master plan shall be provided with an MAC – Mixed-Use Activity Center rezoning application and the rezoning approval shall be subject to compliance with the conceptual master plan. Subsequent site plans submitted for Type 1, Type 2 or Type 3 Zoning Permit approval shall conform to the conceptual master plan.
- C. Plan Modifications: Modifications to the conceptual master plan as required to show compliance with Section 18.29.040 Development Standards, or that comply with Section 18.29.060 Schedule of Flexible Standards, may be approved administratively by the Director of Development Services. Changes to permitted uses or substantial changes to the location of land uses as depicted on the conceptual master plan shall be submitted for review and recommendation by the Planning Commission with final approval by the City Council. (Ord. 5157 § 1, 2006)

**18.29.60 Schedule of flexible standards.**

<i>Chapter 18.29 MAC and E Districts</i>								
Schedule of Flexible Standards								
Non-Residential				Residential				
District	Front Bldg. Setback (1)	Rear & Side Bldg. Setbacks (2)	Bldg. Height (3)	Residential Density	Front (2)	Rear (2)	Side (2)	Height
MAC-Community Activity Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Up to 16du/ac (6) (7)	20 ft	15 ft	5 ft	40 ft
E-Employment Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Residential up to 20% of total project area, up to 16du/ac (7)	20 ft	15 ft	5 ft	40 ft

Use	Maximum height of building or structure	Maximum height of accessory building or structure
MAC-Mixed-use Activity Center District	As provided in Chapter 18.29 MAC District Schedule of Flexible Standards	50

**Notes to MAC and E Districts Schedule of Flexible Standards:**

- (1) Building setbacks shall be measured from the edge of the future right-of-way. Development sites within the area cover by the U.S. 34 Corridor Plan shall conform to all road setback and design

requirements of that plan. Exceptions from U.S. 34 Corridor Plan standards may be permitted for development plans following guidelines for optional flexible standards in note (2) below. (Ord. 5157 § 1, 2006)

- (2) Optional Flexible Standards: Setback required by this section and buffer standards required by Section 4.04 of the Site Development Performance Standards and Guidelines (SDPSG) may be reduced or waived for projects that orient buildings to streets to create an attractive pedestrian environment following “New Urbanism” or “Smart Code” principles (see “The Lexicon of the New Urbanism” or “[Smart Code](#)”).
  - a. Where front setbacks are reduced, a treelawn not less than four feet in width shall be provided between the outer edge of the curb and the sidewalk. Canopy trees planted not less than 30 feet on-center (Figure 18.29-1) shall be provided in the treelawn. Landscaped bulb-outs and trees planted in tree grates in the sidewalk (Figure 18.29-2), with on-street parking, may be provided instead of a treelawn. Where garages face and are accessed from the street, at least 20 feet shall be provided between the face of the garage and the back of the sidewalk so that adequate space is provided for vehicle parking in the driveway.
  - b. Residential buildings with reduced setbacks shall include features such as covered porches or front stoops and walkways between buildings and the public sidewalk. Also, garages should be placed to the rear of the lot behind the primary structure, with side driveway or alley access.
  - c. In evaluating proposals with reduced setbacks, consideration shall be given to existing setbacks in adjacent developed areas to avoid incompatible and/or inconsistent design conditions.
- (3) Subject to height restriction in Section 18.54.040, which restricts any nonresidential use or multi-family use located closer than fifty (50) feet from the property boundary of a residential use, excluding multi-family dwelling units, shall be limited to the maximum height allowed for a single family residential use.
- (4) All uses other than office, research, lodging and mixed-use (see Note (5)).
- (5) Office, research, lodging and mixed-use (mixed-use means residential located in the same building as non-residential uses).
- (6) There shall be no limit on the amount of land area within a MAC district that may be devoted to residential use; however, for projects exceeding 50 percent residential land area, the applicant must demonstrate that sufficient land area is devoted to commercial use within the project, or within the vicinity of the project, to meet future commercial needs and demands. Such evidence may consist of a market analysis and/or an analysis of development trends and existing and proposed land uses within the vicinity of the project.
- (7) Maximum number of dwelling units permitted per acre. The density calculation shall include the gross land area dedicated to residential use, including roads, drainage areas and open space within and serving the residential component of the project. Residential units that are part of a building that includes non-residential uses (mixed-use) shall not be included in the residential density calculation. (Ord. 5116 § 1, 2006)

Figure 18.29.060-1

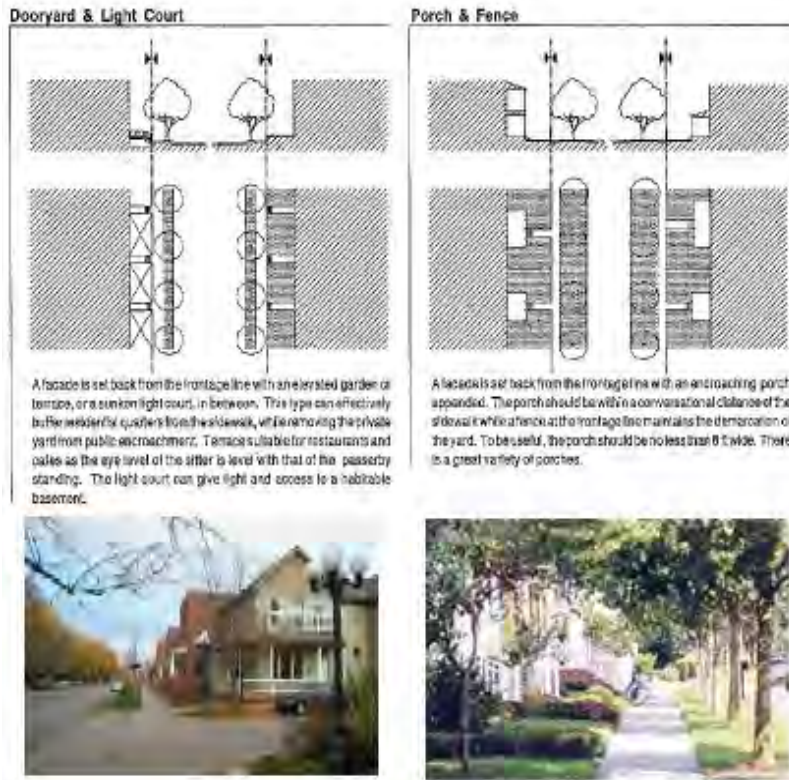
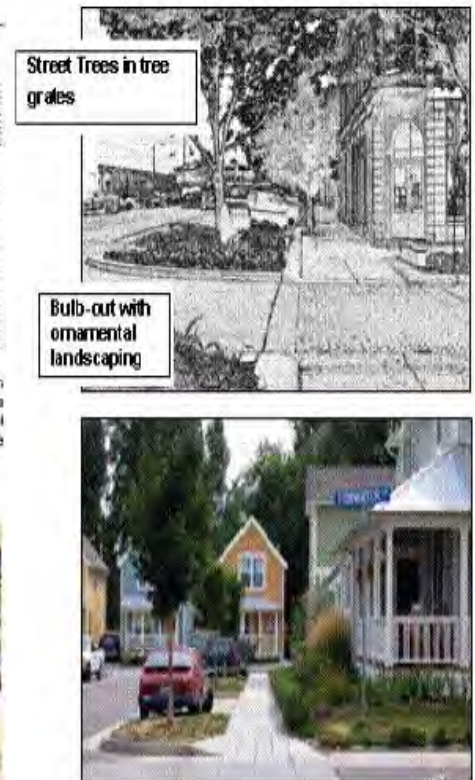


Figure 18.29.060-2



**Rezoning Assessment**  
**Lots 2 through 53, Block 1, and Tracts A through L, Block 1 of**  
**Fox Pointe First Subdivision**

Rezoning of Lots 2 through 53, Block 1, and Tracts A through L, Block 1 of the Fox Pointe First Subdivision *from* Planned Unit Development (PUD) zoning *to* Mixed-Use Activity Center (MAC) zoning is being requested. The primary purpose of the rezoning request is to allow the development of an independent senior apartment building and associated facilities.

- (i) 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.*

The primary purpose of the proposed rezoning is to allow a senior living facility by right. Since the MAC zoning allows uses by right and the property cannot be forced to develop as the proposed assumed use, consideration of other allowed uses by right in the MAC zoning is necessary. Commercial uses would likely pose the greatest impact to the existing surrounding developments, namely the residential subdivisions. However, the lack of visibility and access from an arterial roadway would likely deter potential commercial developments that could be detrimental to the existing single family neighborhoods. In any case, the zoning uses allowed by right under the MAC designation including commercial uses are consistent with the purpose of zoning under Section 18.04.010.

- (ii) 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 the existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.*

The property in question is surrounded by varying uses. Shadow Hill Subdivision, a single family residential development zoned R3 (Developing High-Density Residential), is north of Fox Pointe First Subdivision. The property is bordered by Lincoln Avenue to the east. East of Lincoln Avenue is another single family residential development, Evergreen Meadows West, zoned R1 (Developing Low-Density Residential). The land to the south and east is zoned B (Developing Business) and is made up of Dry Creek and Orchards Subdivisions, consisting of industrial and commercial uses. Either commercial uses or residential uses are compatible with the existing land uses adjacent to the subject property.

- (iii) 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.***

The proposed use for the site is similar to the current approved Final Development Plan. The rezoning is requested to allow the proposed use by right. Since the proposed use is similar to the currently approved use, the resulting development should not be detrimental to City's infrastructure.

- (iv) 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 and contained in Section 4.0 of the 2005 Loveland Comprehensive Plan, as amended.***

The subject property is within a Community Activity Center (CAC) Land Use Category as noted in the City's Comprehensive Plan. The CAC category aligns with the proposed MAC zoning for the property. Both the CAC land use and MAC zoning allow up to 16 dwelling units per acre. The proposed development for this site would require approximately 12 dwelling units per acre. MAC zoning allows commercial, multifamily, senior housing, and single family uses, among others. The broader neighborhood (surrounding R1, R3, and B zoning) is similar to a MAC zoning designation with the combination of commercial and residential uses. The proposed senior housing on the Fox Point Subdivision would provide a logical and needed transition from the commercial uses to the single family uses.

- (v) 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 not detrimental to the health, safety, or welfare of the neighborhood or general public.***

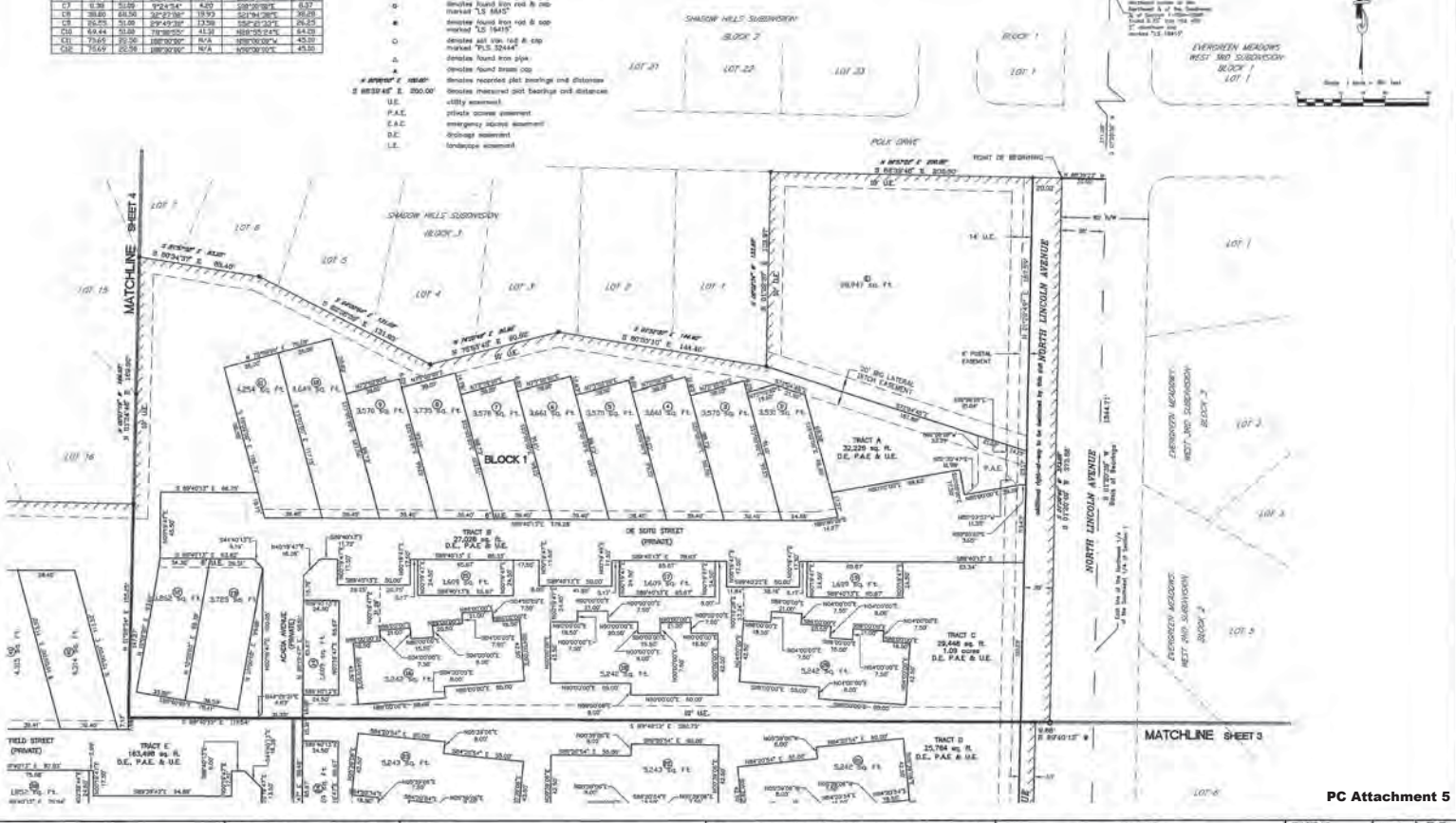
The proposed use for the site is similar to the current approved Final Development Plan. The rezoning is requested to allow the proposed use by right. The proposed zoning and use are in line with the City's Comprehensive plan and should not be considered detrimental to the broader neighborhood or general public.



LINE NO.	LENGTH	BEARING	AREA	COORD. BEARING	CLOSE
1	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
2	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
3	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
4	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
5	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
6	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
7	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
8	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
9	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
10	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
11	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
12	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
13	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
14	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
15	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
16	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
17	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00
18	10.00	E 0° 0' 0" W	10.00	E 0° 0' 0" W	0.00
19	10.00	N 0° 0' 0" W	10.00	N 0° 0' 0" W	0.00
20	10.00	S 90° 0' 0" W	10.00	S 90° 0' 0" W	0.00

**Final Plat**  
**FOX POINTE FIRST SUBDIVISION**  
 BEING A SUBDIVISION OF ALL OF LOCH HAVEN ADDITION AND FOX POINTE ADDITION LOCATED IN THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

- Legend:**
- denotes found iron rod & not marked "LS 1645"
  - denotes found iron rod & not marked "LS 1645"
  - denotes set iron rod & cap marked "LS 1645"
  - denotes found iron pipe
  - denotes found iron cap
  - denotes measured plat bearings and distances
  - denotes measured plat bearings and distances (city assumed)
  - street corner monument
  - emergency street monument
  - drainage monument
  - landscape monument

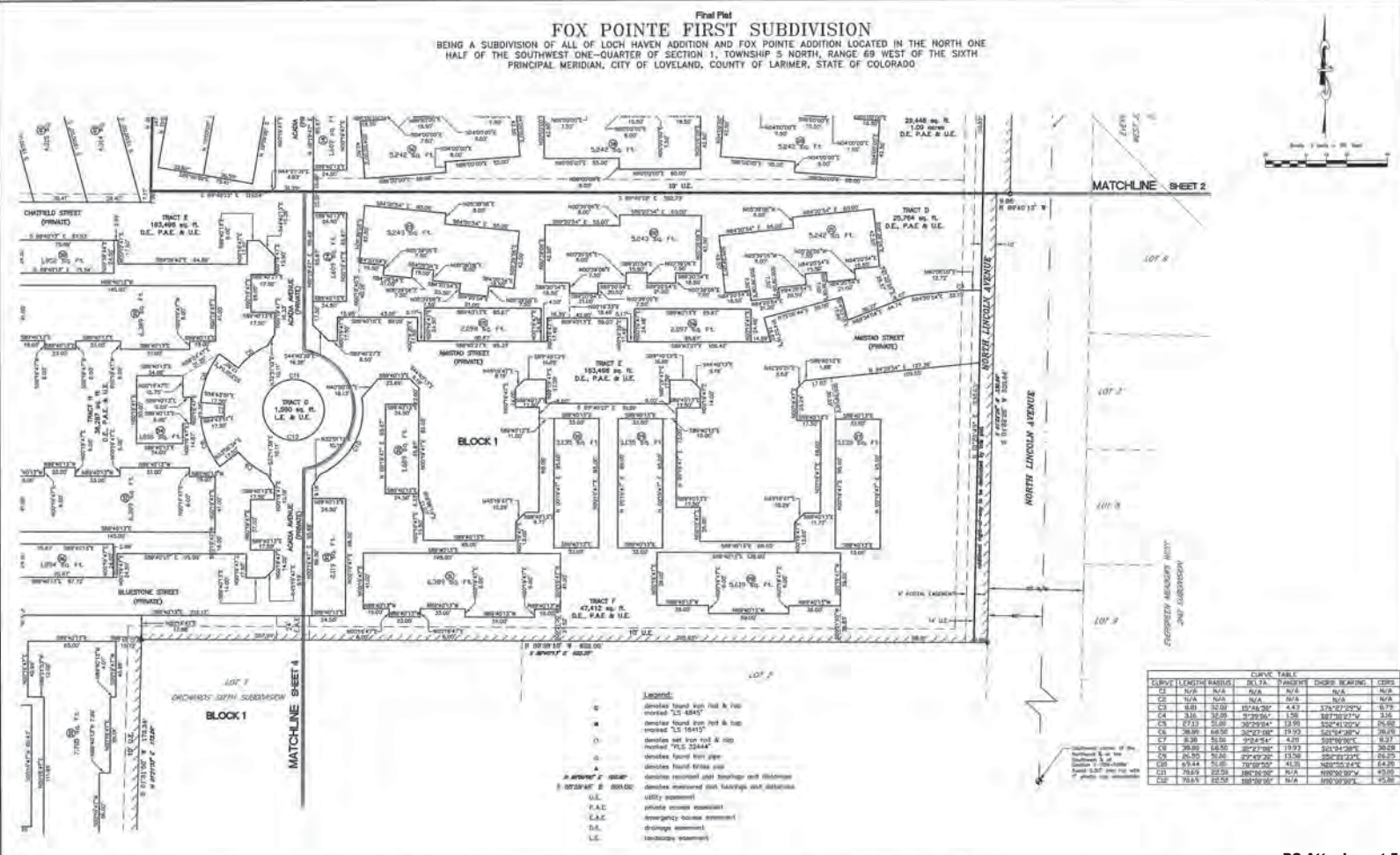


PC Attachment 5

PREPARED BY: DATE: CHECKED BY: DATE:	PROJECT NO.: SHEET NO.: TOTAL SHEETS:	CLIENT: <b>Asset Investment Management Group, LLC</b>	SURVEYOR: <b>Frederick Land Surveying, Inc.</b> 1529 North Lincoln Avenue, Suite 2, Loveland, Colorado 80538 Phone: (970) 589-2100 FAX: (970) 698-8735	TITLE: <b>Fox Pointe First Subdivision</b> Section 1, Twp 5 N, Rng 69 W, 69PM, Larimer County, CO	PROJECT NO.: <b>010033.002</b>	SHEET NO.: <b>2</b>	TOTAL SHEETS: <b>4</b>
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**Final Plat**  
**FOX POINTE FIRST SUBDIVISION**  
 BEING A SUBDIVISION OF ALL OF LOCH HAVEN ADDITION AND FOX POINTE ADDITION LOCATED IN THE NORTH ONE  
 HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH  
 PRINCIPAL MERIDIAN, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



**CURVE TABLE**

CURVE	LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD
C1	107.1	107.1	107.1	107.1	107.1
C2	107.1	107.1	107.1	107.1	107.1
C3	107.1	107.1	107.1	107.1	107.1
C4	107.1	107.1	107.1	107.1	107.1
C5	107.1	107.1	107.1	107.1	107.1
C6	107.1	107.1	107.1	107.1	107.1
C7	107.1	107.1	107.1	107.1	107.1
C8	107.1	107.1	107.1	107.1	107.1
C9	107.1	107.1	107.1	107.1	107.1
C10	107.1	107.1	107.1	107.1	107.1
C11	107.1	107.1	107.1	107.1	107.1
C12	107.1	107.1	107.1	107.1	107.1
C13	107.1	107.1	107.1	107.1	107.1

REVISIONS Date: 12-12-06 By: JLB Description: Corrected plat Date: 12-29-06 By: JLB Description: Added plat boundaries & plat numbers Date: 11-13-08 By: JLB Description: Revised plat per City, Larimer County	Field Survey: 10-01-08 Party Chief: JLB Date: 10-01-08	Drawn: JLB Checked: JLB Approved: JLB	CLIENT Asset Investment Management Group, LLC	Surveyor Frederick Land Surveying, Inc. 1128 North Lincoln Avenue, Suite 2, Loveland, Colorado 80538 Phone (970) 698-1100 FAX (970) 698-3725	TITLE Fox Pointe First Subdivision Section 1, Twp 5 N, Rng 69 W, 69th, Larimer County, CO
PROJECT NO. 01053.000		SHEET NO. 3		NO. OF SHEETS 4	



**CITY OF LOVELAND  
PLANNING COMMISSION MINUTES  
February 24, 2014**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on February 24, 2014 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Massaro, Molloy, Dowding, Crescibene, Forrest, Ray and Prior. Members absent: None. City Staff present: Bob 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**

There were no citizen reports.

**STAFF MATTERS**

1. Code Amendment status- **Mr. Bob Paulsen, Current Planning Manager**, shared that the City Council approved on first reading the code amendments that the Commission recommended for approval in late. Second reading of the ordinances will be on 3/4/14.
2. Development Center plans-City staff is looking to develop a one stop shop development review center. This effort will occur as Public Works staff moves to the expanded service center, therefore opening up a space at the Fire Administration Building on 5<sup>th</sup> Street. The purpose of the Development Center is to improve convenience and review efficiency for customers. ETA is mid-year 2015. Staff is seeking the Planning Commission and Construction Advisory Board to conduct a joint workshop this spring to obtain input from the two boards and their customers. A second workshop is planned for the latter part of the summer.
3. Development Project update-two big projects in the queue, which are both at Centerra. The Lakes at Centerra residential project and the Bass Pro retail outlot and associated development adjacent to the Promenade Shops. These projects will not be brought to the Planning Commission because the Millennium GDP allows for administrative review only.
4. Planning Commission Vacancy-one seat has not been determined. City Council will discuss this matter at the 3/4/14 meeting and make a decision on who should conduct Planning Commission interviews. Applications were accepted until 2/10/14 and have since closed.
5. **Ms. Judy Schmidt, Deputy City Attorney** announced that **Mr. John Duvall, City Attorney**, has submitted his resignation. City Council will address this item at the 3/4/14 City Council meeting.

**COMMITTEE REPORTS**

**Commissioner Molloy** shared that the Title 18 Committee discussed plans for the City Development Review Center at their last meeting. Other topics of discussion questioned how long Commissioners should serve on the Title 18 Committee, and what the goal of the Title 18 Committee should be going forward. **Mr. Paulsen** will send out summary minutes to the

Planning Commission after each Title 18 Committee meeting, held once a month. He would also be willing to send out the minutes to City council if they wish.

**Commissioner Forrest** spoke of the 287 corridor study and shared that there have been two meetings so far, to establish goals. There are several workshops to be held on 2/26/14 for community feedback and questions.

**Chair Meyers** attended a meeting organized by the City to help set priorities for a new priority based budgeting process. He shared that it was an interesting meeting and feedback would be provided by the City Council in the next few weeks.

### COMMISSIONER COMMENTS

**Commissioner Molloy** stated that he listened to the last Planning Commission meeting and explained he took exception some of the items that were discussed, including some apparent criticism of his involvement on multiple committees. He stated he has been on the Planning Commission for seven years and has been chair, vice-chair, and the ZBA hearing officer. He felt that he has had a good reputation during his tenure on the Commission. He stated he would like to remove himself as the ZBA hearing officer alternate.

**Chair Meyers** stated he supports **Commissioner Molloy** and the work he has done on the Commission.

**Commissioner Middleton** clarified that the concern he brought up at the last Planning Commission meeting questioned if one Commissioner should serve on three different committees at the same time.

**Commissioner Molloy** felt he has been appropriate in his involvement on the committees and explained the only thing he gets from the committees is the satisfaction of volunteering.

### APPROVAL OF THE MINUTES

**Chair Meyers** asked if there were any corrections needed in the January 13, 2014 meeting minutes. No corrections were requested. **Commissioner Ray** made a motion to approve the January 13, 2014 meeting minutes, upon a 2<sup>nd</sup> from **Commissioner Crescibene** the minutes were approved 8-1 with **Commissioner Molloy** recusing himself since he was absent from the January 13, 2014 meeting.

### REGULAR AGENDA

#### 1. Jayhawker Addition Annexation

**Mr. Troy Bliss, City Planner II**, introduced **Mrs. Swisher**, the owner of the 1.8-acre property located adjacent to the Jayhawker ponds that is included within the annexation site. **Mrs. Swisher** requested that the Jayhawker Addition Annexation project be continued to the March 10, 2014 Planning Commission meeting due to the fact that her husband was ill and unable to attend tonight's meeting. **Commissioner Middleton** made a motion to continue the Jayhawker

Addition project to the March 10, 2014 Planning Commission meeting. Upon a 2<sup>nd</sup> by **Commissioner Ray**, the motion was unanimously adopted and the item was continued.

## **2. Affinity/Fox Pointe Rezoning**

This is a public hearing item on a quasi-judicial matter. The applicant is requesting to rezone 12.72 acres from PUD to MAC (Mixed-Use Activity Center). The property is currently vacant and is located along the west side of Lincoln Avenue between 33<sup>rd</sup> Street and Polk Drive. The rezoning and associated concept master plan would allow development of a 3-story, 155-unit apartment complex for independent senior living. The complex would consist of one building with associated amenities. The Planning Commission's role is to review the proposed zoning and concept plan and make a recommendation for final action by the City Council.

**Ms. Noreen Smyth, Senior Planner**, explained that the applicant is proposing an independent senior housing development. The proposal consists of one three story, 155,815 sq. ft. multifamily apartment building on a 12.73 acre lot. The development will consist entirely of rental units with residents restricted to age 55 and above. It is anticipated that the development will include 155 units, with the concept plan indicating a range of 153-165 units to allow for the mix of two bedroom, one bedroom and studio units to be decided at time of building permit. The footprint of the building would remain unchanged from that shown in the conceptual plan within this range of units. The development is intended for seniors who are able to live independently, rather than for people who need assistance with daily living.

All units within the building will have full kitchens, full laundry facilities, and all other characteristics expected in standard apartments. The property will not include features of a nature found in assisted living facilities such as on-site caregivers or a dining area with meal service. However, the intent of the development is to encourage a community lifestyle among residents and there will be a number of on-site communal facilities and services to promote this. There will be full-time and part-time staff members organizing activities for residents. Indoor and outdoor common areas are designed to allow for resident interaction. While the specific amenities may change, the intent of the applicant at this time is to include the following:

- A separate pool building with a pool, hot tub, pool changing area, woodshop and yoga studio
- An outdoor raised garden
- A barbeque area
- A walking path circulating the grounds

MAC allows the proposed use by right, the district requires a conceptual master plan to be submitted in conjunction with a request for rezoning, and the rezoning approval is subject to compliance with the associated conceptual master plan. In the event that the master plan approved with the MAC zoning does not proceed to construction, a developer would have to bring a new conceptual master plan before the Planning Commission and City Council for approval before developing the site in a significantly different manner, or with a different use, than that in the approved plan.

**Commissioner Molloy** asked if 37<sup>th</sup> Street would be included in the traffic study for this project. **Ms. Smyth** explained that in the 2005 traffic study, the original plan stated the traffic would be fine. She noted that plans for this development are smaller with less traffic impact.

**Mr. Sean Kellar** addressed traffic concerns on 37<sup>th</sup> Street. He explained senior housing typically produces 30% less traffic (via trip generation rates). The 2035 traffic plan stated the improvement on 37<sup>th</sup> Street would not be needed until 2035 and would be a \$2.4 million project.

**Commissioner Massaro** asked if they completed a study to ensure the increased traffic would not impact the area. **Mr. Kellar** explained that it would not be needed until 2035.

**Mr. Scott Morris** stated that he represents the applicant, along with **Todd Johnson**. He explained the Affinity project would be for seniors 55 years and older. He shared that there will be no health care or food service on site, making it a hybrid of an assisted living facility. Nine other Affinity projects are in operation today, including one in Lafayette and are at 95% capacity. He stated he is not seeking any variances or setbacks. He shared that the developer would be providing adequate parking.

A neighborhood meeting was held on 2/10/14 and most citizens felt this project was a much more acceptable project than those previously proposed. **Mr. Morris** pointed out that traffic flow would not be impacting peak traffic times.

**Commissioner Middleton** asked what the timeframe of the project would be. **Mr. Morris** explained that their building permits would be pulled around the August timeframe, after going through the process with both the Planning Commission and City Council.

**Commissioner Middleton** asked what the rental cost would be. **Mr. Morris** explained rental costs would range between \$1,100 and \$1,600 per month. He stated they look for a 93%-97% occupancy rate.

**Commissioner Middleton** asked if the applicant would be providing meter spaces for electric cars. **Mr. Morris** stated that could be considered.

**Commissioner Crescibene** asked how many Affinity projects have been completed. **Mr. Morris** stated the first Affinity project was started in 2009. **Mr. Morris** also explained that his company does 8-9 projects per year, and stated that since 2000, none of the other development projects have been sold; all have remained in the portfolio. All amenities are included in the rent with the exception of a garage, phone and additional storage units.

**Commissioner Forrest** asked if the design included sustainability options. **Mr. Morris** stated green building standards were included, but it is not a LEED certified project.

**Commissioner Massaro** asked if a walkway area was included in the site plan to allow for a shorter walk to shopping amenities and bus stops to the south. **Mr. Morris** stated they are attempting to work out a solution to allow for that access.

**Commissioner Massaro** asked if there was power to the garages, suggesting that 110v circuit would be adequate for electric cars. **Commissioner Middleton** stated that a 220v circuit would be needed.

**Commissioner Forrest** asked if there were any concerns regarding the retaining ponds. She questioned if would be a concern with small children in the area. **Mr. Morris** stated the majority of the time the ponds would be dry.

**Commissioner Crescibene** asked how large the units are. **Mr. Morris** explained that the studios are 600 sf., 1 bedroom is about 725 sf., and 2 bedrooms are 900-950 sf. He stated that the design of the community is designed to encourage community involvement.

**Chair Meyers** asked if the project has a privacy/or security fence surrounds the property. Access to Lincoln would be open rather than secured. **Mr. Morris** indicated that there will be no security fencing and there are no plans to have on-site security personnel.

**Commissioner Dowding** asked for a description of the pub since there is no food service. **Mr. Morris** explained that each Thursday there would be a social gathering for a few hours and that the alcohol served would be complimentary.

**Commissioner Massaro** questioned about bike storage. **Mr. Morris** explained there are bike racks on site, and that most residents could store bikes in the garage.

**Commissioner Ray** asked why the pitch of the roof was not considered to be lower since there may be concerns about the blockage of views. **Mr. Morris** stated the architectural pitch was for aesthetics, and **Ms. Smyth** explained that the pitch and elevation met city standards. The applicant stated that a 3 story building allowed for a smaller footprint and greater green space.

**Chair Meyers** opened the meeting for Public Hearing.

**Mr. Rob Lindley, 400 Polk Dr.** thanked the Commission for their time and explained that he did not know about the original neighborhood meeting. He shared the project wasn't as bad as he thought it would be. He stated he bought his house (in the neighborhood) because of the view of the Rocky Mountains. He stated that if he sells his house, he cannot advertise the house with a view of the mountains. He stated he would be in favor of a 2 story building. He asked if the city did a study to show how much of his view would be destroyed with a 3 story building. His second concern is the traffic on North Lincoln and stated the traffic has been getting worse each year.

**Commissioner Molloy** explained to the applicant that most likely he would not lose value in the home, but agreed he might but might lose a selling point. He also explained that the walk to Orchards is a safe walk.

**Mr. Gilbert Villavicencio, 280 Harding Court,** explained that he is for the project and would feels it would be good for the neighborhood, both from a density perspective and amenities. He stated he would welcome the project.

**Ms. Kathie Swanson, 264 Harding Court**, stated that compared to the project that was proposed prior to this, this project is much, much better. She feels this project is a better fit for the neighborhood and knows that something inevitably will be built here. She feels this project will fill a great need in the community.

**Ms. Lori Jimison, 422 Prairie Fire Dr.**, stated she felt development at the proposed site might consist of light commercial use, rather than residential. She had concerns about the height of the building, snow removal, and the entering and exiting from the property.

**Commissioner Molloy** asked about the walk to King Soopers, and wanted to know how much of the sidewalk is missing on the West side of the sidewalk. **Mr. Morris** explained that approximately 200 feet is missing.

**Mr. John Davis, 298 Harding Court**, stated he likes the project and shared that this would be a good fit for the neighborhood. He explained that he empathizes with property owners who will lose their view, because he lost his view when his trees grew taller.

**Chair Meyers** closed the public hearing.

**Mr. Todd Johnson** responded to the concerns addressed by the neighbors. He explained that there are areas on the site that would accommodate snow storage after removal. He stated the sidewalk on the east side of the building would be continuous. He explained the traffic study showed this project would have 20-40% less impact than the previously proposed project. He stated the supporting street network would be adequate for traffic. He stated the traffic generated by the project would primarily be off peak. A more detailed traffic study would be done to determine if a turn lane would be required along Lincoln Avenue to facilitate ingress and egress from the project.

**Commissioner Molloy** asked if the sidewalk on the east side would be fully extended. **Mr. Johnson** stated there would be a full connection along the project frontage on Lincoln.

**Commissioner Middleton** asked if the property owner would be doing the snow removal. **Mr. Morris** explained the property owner is responsible for snow removal.

**Mr. Morris** addressed the building height concerns and stated he takes citizen concerns seriously. He understood that it would be hard for the surrounding neighborhood to lose the open space. He explained that a two story building would create a more spread out footprint and stated the 3-story design was chosen to preserve more green space. When you consider the landscaping, setbacks and the use, the building height and impact on views was mitigated as much as possible.

**Commissioner Middleton** stated that he feels this is a well thought out, well managed project and feels the developer would do a great job. He likes the floor plan and foot print and would be supporting it.



**Commissioner Forrest** shared she also likes this project, and felt a lot of effort and care went into the design of it. The amount of landscape on the project was very well done.

**Commissioner Molloy** shared that the landscaping will be better managed than most residential neighborhoods, and felt it would be an asset to the neighborhood. He shared that he likes the idea that it is near The Orchards shopping center, which provides residents conveniences. He would like to see 37<sup>th</sup> Street completed sooner than later.

**Commissioner Crescibene** agreed it is a good project that meets the needs of the community. He felt the amenities are great and the applicant put a lot of thought into what residents would need.

**Commissioner Prior** stated he felt that overall the project was good. He explained he would like to see a continuance of the walkway on Lincoln as the sidewalk in front of the property to the south does not exist.

**Commissioner Ray** talked about the height, and explained that no height requirements had been exceeded. He agreed with the buffer setbacks at the facility and liked how it will be oriented. He stated that if the height allowances had been exceeded, he would support objections about building elevations.

**Chair Meyers** stated that he also would be supporting the project. He felt it provided easy access to neighborhood businesses and would help stimulate the commerce at The Orchards.

**Commissioner Middleton** made a motion to make the findings listed in Section IX of this report dated February 24, 2014 and, based on those findings, recommend approval of the rezoning of Lots 2 through 53, Block 1 and Tracts A through L, Fox Pointe First Subdivision, and approval of the associated conceptual master plan, subject to the condition listed in Section X of this report, as amended on the record. **Commissioner Ray** seconded the motion.

**Commissioner Ray** made a motion to amend the motion, to add a condition that the developer negotiate in good faith to seek an agreement with the current property owner to the south, to add a 200 foot section of sidewalk on the west side of the property to connect with pedestrian access to The Orchards shopping center. Upon a 2<sup>nd</sup> from **Commissioner Middleton** the motion was unanimously approved.

As the applicant, **Mr. Morris** was asked to accept conditions.

After a short discussion, **Mr. Morris** agreed to the conditions, both the condition in the staff report and the new, amended condition.

Vote for motion, as amended was unanimously approved.

**OTHER BUSINESS MATTERS:**

**Commissioner Crescibene** voiced support for **Commissioner Molloy** to remain on the Title 18 Committee.


**Commissioner Ray** strongly encouraged the City to renegotiate with Mr. and Mrs. Swisher regarding the Jayhawker property between now and March 10<sup>th</sup>.

**Commissioner Massaro** agreed with **Commissioner Ray's** comments.

**Mr. Paulsen** explained that real time captioning transcription will be available to **Mr. Swisher** at the next Planning Commission meeting to accommodate his hearing needs, as the city takes this concern very seriously.

**ADJOURNMENT**

**Commissioner Ray** made a motion to adjourn. Upon a second by **Commissioner Prior**, the motion was unanimously adopted and the meeting was adjourned.

Approved by:   
Buddy Meyers, Planning Commission Chairman

  
Kimber Kreutzer, Planning Commission Secretary



# *Affinity / Fox Pointe Rezoning & Conceptual Master Plan*

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City Council Public Hearing  
March 18, 2014



## Affinity/Fox Pointe Rezoning & Conceptual Master Plan

### **Request:**

- Independent Senior Housing Multifamily Development in Fox Pointe PUD
- Use not permitted per approved Fox Pointe PDP/FDP
- Can either seek approval of new PDP & FDP or change in zoning to MAC Mixed-Use Activity Center with Conceptual Master Plan
- Staff recommends MAC/Conceptual Master Plan approach
- Minor plat, site development plan & building permit applications will be required, to be reviewed by staff



## Affinity/Fox Pointe Rezoning & Conceptual Master Plan

### Location:

- West side of Lincoln Avenue between 29<sup>th</sup> Street and 37<sup>th</sup> Street
- North of Orchards Shopping Center & other commercial uses
- East of commercial uses along Highway 287
- South and west of single family residential subdivisions



CITY OF LOVELAND



**Subject Property**

**Orchards Shopping Center**



CITY OF LOVELAND



**Subject property  
looking southwest from Lincoln Ave**



CITY OF LOVELAND



**Single family residential subdivision  
to the north**

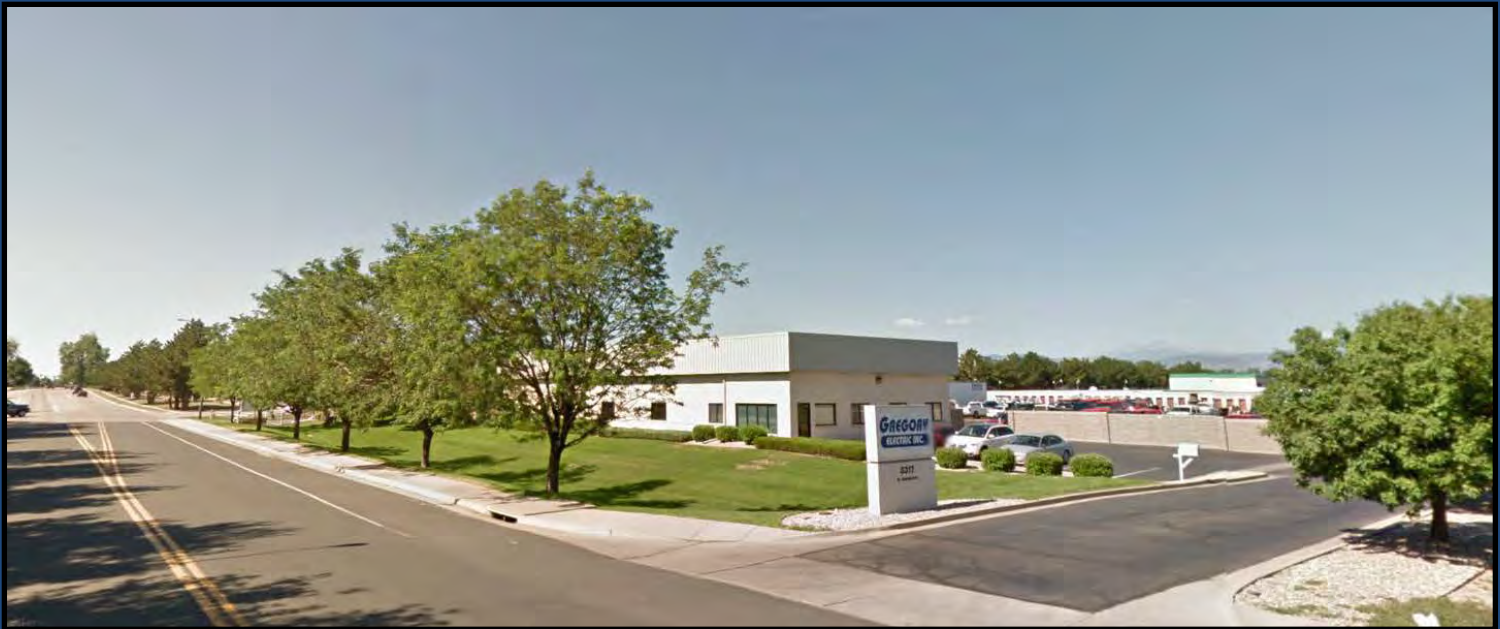




CITY OF LOVELAND



**Single family residential subdivision  
to the east**



**B-zoned commercial properties to the south. The Orchards Shopping Center is south of these properties.**



**Conceptual Master Plan**



CITY OF LOVELAND



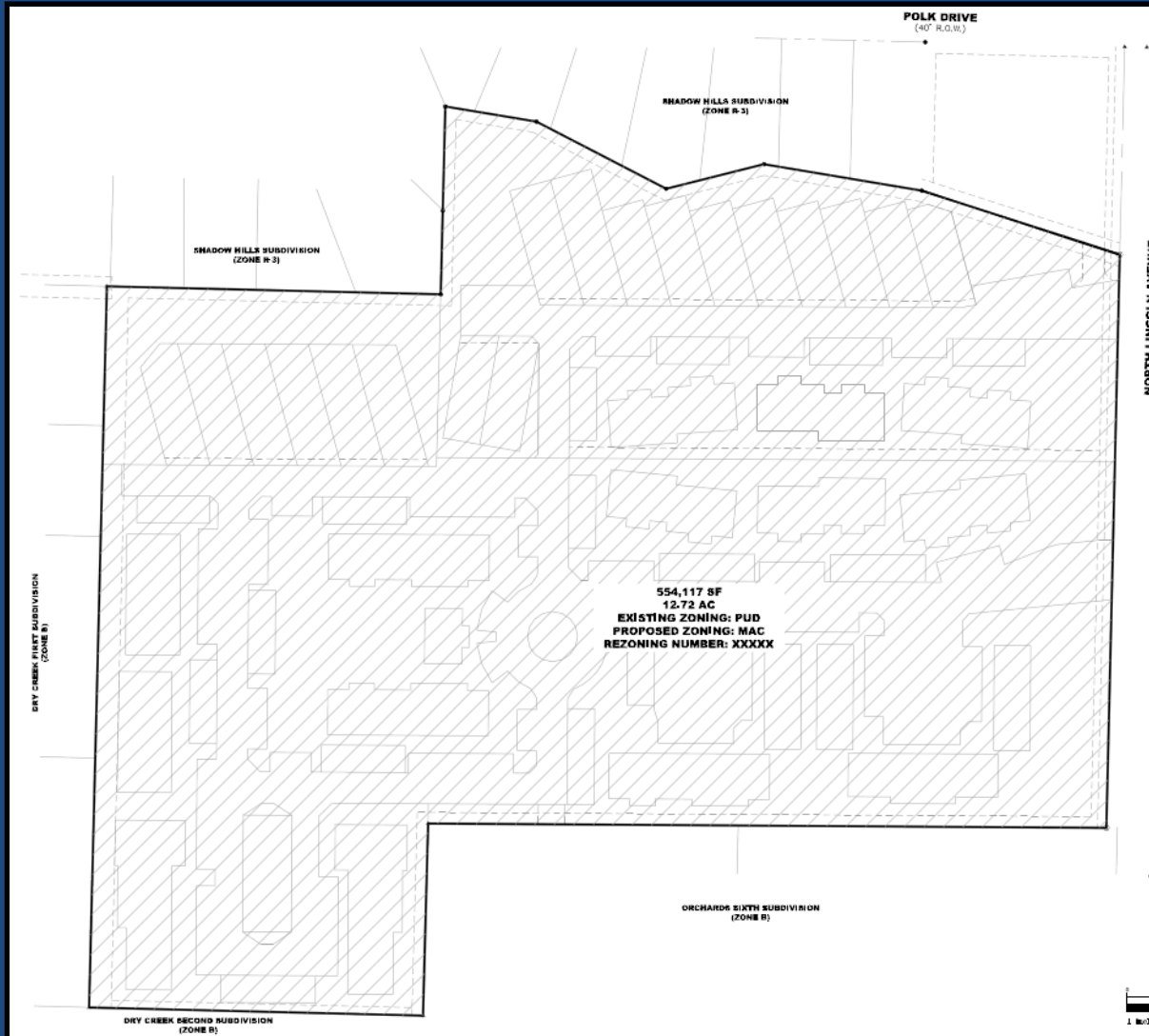
**East Elevation**



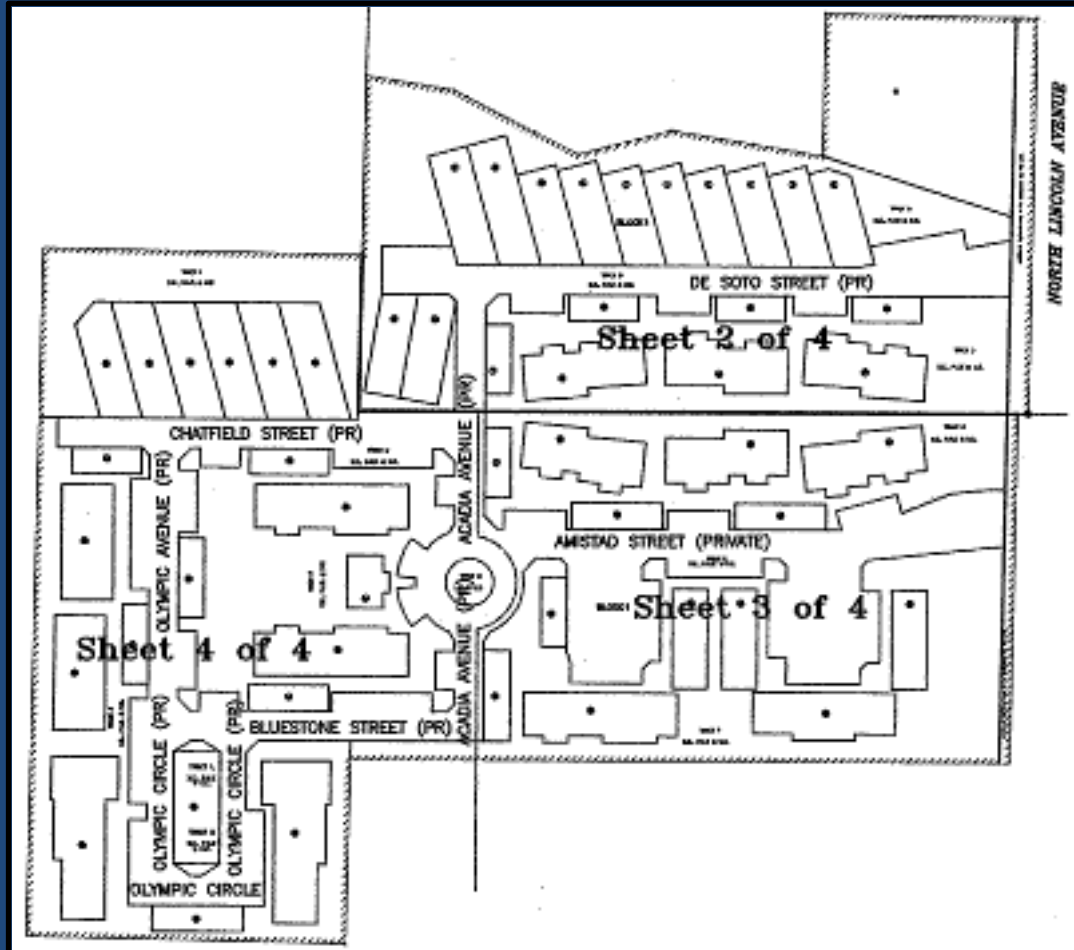
**North Elevation**



CITY OF LOVELAND



Rezoning Map



**Fox Pointe First Subdivision**



## Affinity/Fox Pointe Rezoning & Conceptual Master Plan

### Proposal:

- 12.73-acre property
- Three-story 155,815 sq ft multifamily building
- +/- 154 units, 12.1 DU/acre
- Mix of two-bedroom, one-bedroom & studio rental units
- On-site parking distributed throughout property, 2 ps/unit, combination surface, carport & garage
- Pool, pool house, woodshop, yoga studio
- Outdoor garden, walking path, barbeque, landscape bufferyards
- Common area rooms in main building
- Architectural features: Quality materials, colors, avoid flat walls & roof lines



## Affinity/Fox Pointe Rezoning & Conceptual Master Plan

### **MAC Zone:**

- Mixed-Use Activity Center
- Mixed use not required on each lot; required in broader area
- Conceptual Master Plan is tied to rezoning, similar to GDP
- Site development plan & building permit applications must comply with approved Conceptual Master Plan unless a new Conceptual Master Plan is submitted for similar process-staff review, neighborhood meeting, PC & CC hearings
- Conceptual Master Plan requires Independent Senior Housing use of property





## Affinity/Fox Pointe Rezoning & Conceptual Master Plan

### **Conclusion:**

- MAC zoning appropriate in this area
- MAC zoning more appropriate than PUD zoning
- Conceptual Master Plan secures use and design
- Meets requirements of MAC district
- Generally meets other requirements of Municipal Code; will be confirmed at site development plan & building permit
- Generally supported by neighbors at neighborhood meeting and by most attendees at the PC public hearing
- Planning Commission unanimously recommended approval



**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:** 10  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Alison Hade, Community Partnership Office  
**PRESENTER:** Alison Hade, Community Partnership Manager

**TITLE:**

A Resolution Waiving Certain Development Fees for the Construction of Nine Residences by Loveland Habitat for Humanity

**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

**SUMMARY:**

This is an administrative action. Loveland Habitat for Humanity is requesting a waiver of development, capital expansion, and enterprise fees for the construction of five new single family dwellings and one multi-family 4-plex in 2014. The total fee estimate for all nine dwellings is \$213,855.50. The requested fee waiver is \$197,207.59. Habitat for Humanity will pay the remaining \$16,647.91.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

(\$65,000 was appropriated in the 2014 Budget to backfill enterprise fees waived by the proposed resolution. An additional \$132,207.59 in development and capital expansion fees would be waived by the resolution and not backfilled.)

**BACKGROUND:**

Habitat for Humanity builds and sells homes to households that earn between 30% and 60% of the area median income (AMI) which is a maximum of \$44,100 annually for a family of four. The City of Loveland historically has waived fees on behalf of Habitat for Humanity.

Habitat for Humanity provides the most affordable homes for low income families in Loveland. For example, a family of three living at 30% of the AMI earning \$1,655 a month would likely have to pay more than \$1,000 for a 3-bedroom apartment. As a Loveland Habitat for Humanity homeowner, this same family would pay a monthly mortgage of \$463 (28% of income), including principal and escrow. Of the eight fee waivers granted in 2013, two homes have been built and are occupied; the other six homes are all under construction and will be finished by June.

The Loveland Municipal Code permits City Council to waive development, capital expansion and enterprise fees on behalf of non-profit entities. However, the Code requires that any enterprises fees waived be paid by the City's general fund or other appropriate fund. The 2014 City of Loveland adopted budget includes an appropriation of \$65,000 to pay the enterprise fees waived on behalf of Habitat for Humanity. The request includes waiving enterprise fees totaling \$81,647.91. Under the recommended resolution and current budget appropriation of \$65,000, Habitat for Humanity would pay the remaining enterprise fees of \$16,647.91.

See Attachment B for more detail on the history of fee waivers for Habitat for Humanity, including the number of homes completed for each year.

**REVIEWED BY CITY MANAGER:**

**LIST OF ATTACHMENTS:**

1. Resolution
2. History of Fee Waivers Approved by Loveland City Councils

**RESOLUTION #R-24-2014**

**A RESOLUTION WAIVING CERTAIN DEVELOPMENT FEES FOR CONSTRUCTION OF NINE RESIDENCES BY LOVELAND HABITAT FOR HUMANITY**

**WHEREAS**, Loveland Habitat for Humanity, Inc., a Colorado nonprofit corporation (“Habitat”) has requested that the City waive certain City-imposed development fees, including capital expansion and enterprise fees, for nine residences that it will construct in 2014 in Loveland, Colorado, including 2 residences located in Koldeway Industrial 3<sup>rd</sup> Subdivision at 1926 E 11<sup>th</sup> Street and 1943 Sagittarius Drive; and 7 residences located in Sierra Valley First Subdivision at 1609, 1617, 1625, and 1633 Valency Drive, and 374, 362, and 438 Primrose Drive, (collectively, the “Residences”); and

**WHEREAS**, Loveland Municipal Code Section 16.38.075 provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed upon new development upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts; and

**WHEREAS**, Habitat is willing and able to enter into one or more development agreements with the City pursuant to which Habitat will agree to construct the Residences for the benefit of low and moderate income Loveland households.

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

**Section 1.** That the City Council finds that the waiver of the development fees, capital expansion fees, and enterprise fees which results from the adoption of this Resolution will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts.

**Section 2.** That capital expansion fees in a total amount not to exceed \$99,332.85 payable for the construction of the Residences are hereby waived for the purpose described above.

**Section 3.** That as provided in Loveland Municipal Code Section 16.38.075, when a capital related fee is waived as set forth in Section 2, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund.

**Section 4.** That development fees, including, but not limited to, all building permit fees, plan review fees, and any and all other fees, due and payable for construction of the Residences

between permit application and final certificate of occupancy (but not including capital expansion fees, enterprise fees such as system impact fees, raw water fees, tap fees or other enterprise fees) in a total amount not to exceed \$32,874.74 are hereby waived for the purpose described above.

**Section 5.** That enterprise fees, including system impact fees, raw water fees, tap fees, or any other enterprise fees, payable for construction of the Residences in a total amount not to exceed \$65,000.00 are hereby waived for the purpose described above.

**Section 6.** That the amount of the waived enterprise fees, in an amount not to exceed \$65,000.00 as set forth in Section 5 hereof, shall be paid by the City into the City’s enterprise funds from the general fund of the City, and that such funds have been appropriated in the City’s 2014 budget. It is anticipated that the enterprise fees due for the Residences will exceed the \$65,000.00 waived hereunder and the remaining balance of enterprise funds due shall be paid by Habitat.

**Section 7.** That the waiver of the fees described in Sections 2, 4, and 5 hereof shall be conditioned upon the City, through its City Manager, and Habitat entering into one or more development agreements, which development agreements shall provide for the waiver of said fees in exchange for the construction of the Residences, as well as such other conditions as the City Manager shall deem necessary.

**Section 8.** That this Resolution shall be effective as of the date of its adoption.

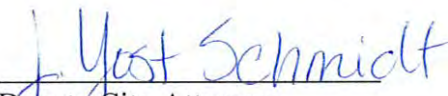
**ADOPTED** this 18<sup>th</sup> day of March 2014.

\_\_\_\_\_  
Cecil Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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



### Habitat for Humanity Fee Waiver History

Year	# Units	\$ Waived	Per Unit	Gen Fund Backfill	Units Built
1995	5	\$43,338	\$8,668	\$21,140	1
1996	2	\$15,450	\$7,725	\$7,748	6
1997	5	\$51,607	\$10,321	\$21,790	1
1998	4	\$48,491	\$12,123	\$19,354	5
1999	5	\$55,908	\$11,182	\$23,962	3
2000	5	\$52,379	\$10,476	\$24,522	6
2001	5	\$66,327	\$13,265	\$28,977	7
2002	5	\$68,736	\$13,747	\$29,622	4
2003	5	\$38,876	\$7,775	\$0	6
2004	5	\$40,437	\$8,087	\$0	7
2005	5	\$41,113	\$8,223	\$0	5
2006	6	\$89,077	\$14,846	\$36,592	5
2007	6	\$136,452	\$22,742	\$64,465	5
2008	6	\$152,425	\$25,404	\$66,733	4
2009	6	\$154,642	\$25,774	\$68,254	7
2010	6	\$148,697	\$24,783	\$65,000	6
2011	6	\$151,462	\$25,244	\$65,000	4
2012	8	\$192,607	\$24,076	\$65,000	7
2013	8	\$185,797	\$23,225	\$65,000	8
<b>2014</b>	<b>9</b>				<b>6 from 2013</b>
Total	112	\$1,733,821	\$21,405	\$673,159	95



**CITY OF LOVELAND**  
**HUMAN RESOURCES DEPARTMENT**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2371 • FAX (970) 962-2919 • TDD (970) 962-2620

**AGENDA ITEM:** 11  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Karen Rees, Acting Human Resources Director  
**PRESENTER:** Karen Rees, Acting Human Resources Director

**TITLE:**

A Resolution Appointing Judith Yost Schmidt to the Position of Acting City Attorney Effective April 2, 2014

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the resolution as recommended.

**OPTIONS:**

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

**SUMMARY:**

This is an administrative action regarding compensation and appointment of Judith Yost Schmidt currently serving as the Deputy City Attorney, to the position of Acting City Attorney until such time a new City Attorney is appointed. For the additional responsibilities, Judy's current salary will be increased by ten percent (10%) effective April 2, 2014.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The cost is negligible for the recommended action. Salary savings from the unfilled position are expected to be sufficient to cover the costs.

**BACKGROUND:**

City Attorney, John Duval gave notice of his resignation on February 19, 2014. Council met on March 4, 2014 to discuss the appointment of Judith Yost Schmidt to the position of Acting City Attorney.

---

**REVIEWED BY CITY MANAGER:**

*William D. Cabill*

---

**LIST OF ATTACHMENTS:**

1. Resolution



**RESOLUTION #R-25-2014**

**A RESOLUTION APPOINTING JUDITH YOST SCHMIDT TO THE POSITION OF ACTING CITY ATTORNEY EFFECTIVE APRIL 2, 2014**

**WHEREAS**, the current City Attorney, John R. Duval, will resign from his position effective 12:01 a.m. on April 2, 2014; and

**WHEREAS**, Loveland City Charter Section 9-1 authorizes the City Council to appoint a City Attorney by the affirmative vote of two-thirds (2/3) of the entire Council; and

**WHEREAS**, the City Council desires to appoint Judith Yost Schmidt, currently serving as the Deputy City Attorney, to the position of Acting City Attorney until such time as a new City Attorney is appointed; and

**WHEREAS**, the City Council desires to formalize this action by the adoption of this Resolution.

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

**Section 1.** That Judith Yost Schmidt is hereby appointed Acting City Attorney effective 12:01 a.m. on April 2, 2014.

**Section 2.** That the monthly rate of compensation for Judith Yost Schmidt while serving as the Acting City Attorney shall be increased by ten percent (10%) of her current salary, effective April 2, 2014.

**Section 3.** That when a successor Acting City Attorney or a new City Attorney is appointed by the City Council, Judith Yost Schmidt shall be reinstated to the position of Deputy City Attorney.

**Section 4.** This Resolution shall go into effect as of the date of its adoption.

SIGNED this 18th day of March, 2014.

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

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

  
Assistant City Attorney


**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:** 12  
**MEETING DATE:** 3/18/2014  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** John Hartman, Budget Officer

**TITLE:**

Development of Priority Based Budgeting Result Definitions

**RECOMMENDED CITY COUNCIL ACTION:**

With the aid of the Center for Priority Based Budgeting, approve a set of definitions of the results for the City of Loveland, previously approved by Council.

**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

**SUMMARY:**

The Center for Priority Based Budgeting will report on the results from workshops with the Management Team, representatives of the Boards and Commissions, and from citizens through the Electronic Outreach Project, to define the Result areas to be used for the Priority Based Budgeting (PBB) exercise.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

This action will develop the guiding principles for the PBB exercise that will be part of the decision making for the development of the 2015 Budget.

**BACKGROUND:**

At the Study Session on January 21, Council approved a set of Community Results that achieve the expectations of the citizens in service delivery and the Governing Results expected for the

internal functions of the organization. This is the foundation for the Result Maps against which the programs provided by the departments will be scored. The next step in the process is to develop definitions to the Results that will provide the context for the Result Maps. This item is to complete the Results Maps development process to include the definitions and will be presented by the Center for Priority Based Budgeting staff.

---

**REVIEWED BY CITY MANAGER:**



---

**LIST OF ATTACHMENTS:**

1. PowerPoint Presentation
2. Time Flow Chart



# ***PRIORITY BASED BUDGETING***

## ***Summary of Results Definitions***

*City of Loveland, Colorado*  
*Jon Johnson & Chris Fabian*  
*March 18, 2014*

# BRINGING VISION INTO FOCUS WITH A NEW "LENS"



# STEPS to SUCCESS – Priority Based Budgeting

## 1. Determine Results

- Accurate prioritization of programs, reflecting the organization's stated objectives, depends on the comprehensive identification of the *Results* it is in business to achieve

## 2. Clarify Result Definitions

- Precision in prioritization depends on the articulation of the cause and effect relationship between a program and a *Result*
- Using clearly defined "*Result Maps*", detailing the factors that influence the way *Results* are achieved, the organization can minimize subjectivity in the process of linking programs with its *Results*

## 3. Identify Programs and Services

- Comparing individual programs and services as opposed to comparing departments that provide those services allows for better prioritization

## 4. Value Programs Based on Results

- With the right *Results* that are clearly defined, the organization can more accurately "value" a program relative to its influence on achieving *Results*

## 5. Allocate Resources Based on Priorities

- Using "*Resource Alignment Diagnostic Tool*"

# "Resource Alignment Diagnostic Tool"

## City of Boulder, CO

**Program Type:**  
*(All Programs, Governance, Community-oriented)*

**Prioritization Perspective:**  
*(City-wide, Fund, Funds)*

**Choose Department:**  
*(All Departments, Specific)*

**Funding Source:**  
*(Est. Budget, Gen Gov Revenue, Program Revenues)*



**Community-Oriented Programs**

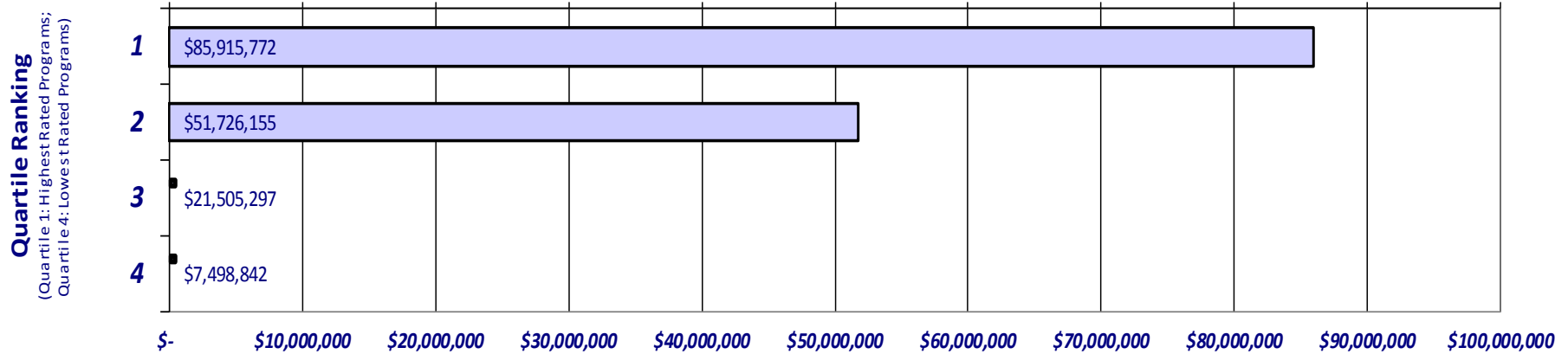
**City-wide**

**All Departments**

**Total Estimated Budget**

October 30, 2012

### Priority Based Budgeting: Spending Array Perspectives



Quartile Ranking	2011 Budget	2012-13 Proposed Budget	Increase (Reduce) %	Impact	2012-13 Target Budget	Programs in Arr
Qrt 1	\$0	\$85,915,772	0.00%	\$0	\$85,915,772	88
Qrt 2	\$0	\$51,726,155	0.00%	\$0	\$51,726,155	116
Qrt 3	\$0	\$21,505,297	0.00%	\$0	\$21,505,297	110
Qrt 4	\$0	\$7,498,842	0.00%	\$0	\$7,498,842	54
<b>TOTALS</b>	<b>\$0</b>	<b>\$166,646,067</b>	<b>0.00%</b>	<b>\$0</b>	<b>\$166,646,067</b>	<b>368</b>



# "Looking Through the "New Lens"



- Which programs are of the highest priority in terms of achieving what is expected by the community?
  - *And which are of lesser importance?*
- Which programs are truly mandated for us to provide
  - *And how much does it cost to provide them?*
- Which programs are offered because they are "self-imposed" ?
- Which programs are offered for which there are no other service providers?
- Are there programs might lend themselves to public/private partnerships?

# "Looking Through the "New Lens"



- Who in the private sector is offering programs that are similar in nature?
  - *And should we consider "getting out of that business"?*
- Which programs are experiencing an increasing level of demand from the community?
  - *And which are experiencing a decreasing need?*
- Are there programs offered that are not helping us achieve our intended "Results"?
- What are we spending to achieve our "Results"?

# Strategic Questions

## 1. *What are we in “business” to do?*



# What are “Results”

- *High-level and over-arching reasons the organization exists in the eyes of the community*
- *Remain consistent and unchanged over time*
- *Comprehensive*
- *Distinguished from (i.e. “Results” are not...)*
  - Vision or Mission Statements
  - Organizational Values
    - **How** we want to achieve our results
  - “**Marketing**” statements
    - Look and feel of the community
  - Specific short-term, projects, goals or initiatives

# "Results Identification Exercise"

**City of Loveland, Colorado**  
**Identifying the Results of Loveland City Government**  
 January, 2014



**DIRECTIONS** In this exercise, you are being asked to help identify the **RESULTS** that the **CITY of LOVELAND** strives to achieve for its residents, businesses and visitors. These **Results** will then be used as the **City** implements its **PRIORITY BASED BUDGETING** process. The sample **Results** shown below are representative of the types of responses identified by elected officials in other communities and utilized in their **PBB** process. Several of these have been included since they have appeared as part of the **City's** mission and vision statements as well as being included as part of its previous strategic goals. For this exercise, imagine that you have 100 points to allocate in identifying the **City's Results**. Where would you allocate your points? You can distribute these 100 points to any of the **Results** identified from other communities if you feel these reflect what is expected by your community. You may also list any additional **Results** that are not reflected in the offered examples if you feel they describe why the **City of Loveland** "exists" in the eyes of the community. **Results** not assigned points represent a belief that this is **NOT** one of the reasons the **City of Loveland** offers programs and services to the community. Allocate your 100 points using the box to the right of the **Results** column until you have allocated your full allotment of points.

## COMMUNITY ORIENTED RESULTS

"When the CITY of LOVELAND offers or provides \_\_\_\_\_, then it achieves the expectations of the community."

Amount Allocated to each Result

### (a) SAFE and SECURE COMMUNITY

Protection, Enforcement & Prevention	Feeling of Personal Safety & Security
Emergency Response & Preparedness	Environmental Safety

### ECONOMIC DEVELOPMENT and VITALITY

Business Attraction, Recruitment & Retention	Economic Vibrancy, Prosperity, Sustainability & Growth
Tourism	Local Commerce & Employment

### MAINTAINED, RELIABLE INFRASTRUCTURE

Transportation (Streets, Sidewalks, Bridges, etc.)	Public Facilities & Public Spaces
Utilities (Water, Wastewater, Storm Drainage, etc.)	Communications & Technology

# “Community Oriented Results”

City of Loveland, Colorado  
Results Validation Exercise

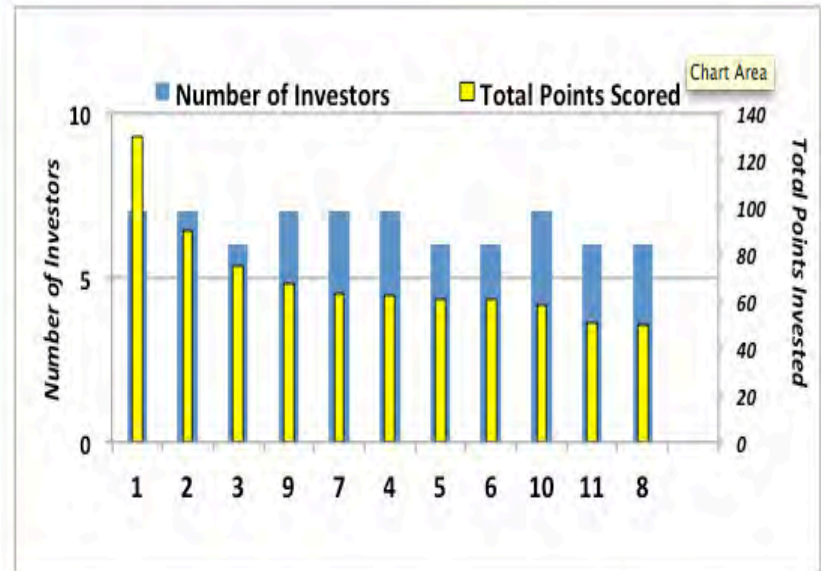
January 16, 2014



## Results Identification Exercise

### City of Loveland, Colorado: Results of Government

	Number of Investors	Percentage of Investors	Total Points Scored
1.) (a) SAFE and SECURE COMMUNITY	7	100%	130
2.) ECONOMIC DEVELOPMENT and VITALITY	7	100%	90
3.) MAINTAINED, RELIABLE INFRASTRUCTURE	6	86%	75
4.) EFFECTIVE TRANSPORTATION and MOBILITY OPTIONS	7	100%	62
5.) MANAGED, WELL-PLANNED GROWTH and DEVELOPMENT	6	86%	61
6.) ACCESS to the ARTS, CULTURE and LIFE-LONG LEARNING	6	86%	61
7.) RECREATIONAL and LEISURE OPPORTUNITIES	7	100%	63
8.) ENVIRONMENTAL SUSTAINABILITY	6	86%	50
9.) (a) CLEAN and ATTRACTIVE COMMUNITY	7	100%	67
10.) (for the) HEALTH and WELL-BEING of its CITIZENS	7	100%	58
11.) (a) LIVABLE COMMUNITY with QUALITY NEIGHBORHOODS	6	86%	51
12.) New Result	0	0%	0
<b>TOTALS</b>	<b>7</b>		<b>768</b>



**Tabulate and Summarize Results of the Exercise**

# Community Results

## CITY of LOVELAND, COLORADO

***The City of Loveland achieves the expectations of the community when it offers/ensures (a)...***

- ***Diverse Ways to Enjoy Culture, Recreation, Life-Long Learning and Leisure***
  - ***Effective Mobility and Reliable Infrastructure***
- ***Healthy, Attractive and Environmentally Sustainable Community***
  - ***Safe and Secure Community***
- ***Thriving, Welcoming and Desirable Place to Live that Provides for the Well-Being of the Community***
  - ***Vibrant Economy***
- ***Well-Planned and Strategically Managed Growth and Development***

# Step 2: Clarify Result Definitions

## Result Maps

### City of Boulder, CO Results



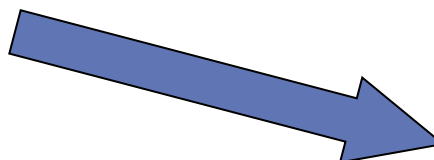
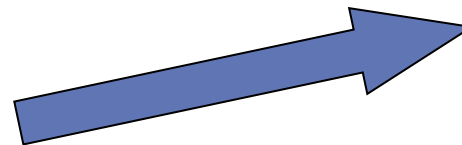
❖ Accessible & Connected Community

❖ Economically Vital Community

❖ Healthy Environment & Community

❖ Inclusive & Socially Thriving Community

❖ Safe Community





# Defining Results Result Mapping Exercise



# Creating Result Maps

## CITY of SPRINGFIELD, OREGON

### Result: ENCOURAGE ECONOMIC DEVELOPMENT through COMMUNITY PARTNERSHIPS

If the CITY of SPRINGFIELD \_\_\_\_\_, then it will have successfully achieved the result of providing ENCOURAGE ECONOMIC DEVELOPMENT through COMMUNITY PARTNERSHIPS

Markets itself as a safe, attractive, thriving and desirable place to live and work; promoting its location, amenities and livability

Enables and encourages opportunities for local businesses to be successful

Works collaboratively to attract, recruit and retain a well-balanced mix of viable businesses that enhance and diversify the City's economy and provide residents with services that meet their day-to-day needs.

Visible presence in the region to push our value	City seen as an attractive place to work and:
New methods of marketing Springfield are being used to draw in people (best place to retire, etc.)	Healthy community
Explore new methods of marketing Springfield to draw more people to the area	High quality of life
Develop ED website	Neighborhoods that show pride of ownership
Increase economic development outreach and promotions	Pedestrian friendly (2)
Identify values that make area attractive to employees /employers and promote them with a visible regional presence (2)	Police bike patrol keeps police more in touch with citizens (2)
Develops a brand for attracting certain types of commercial activities (e.g. health industry supplies)	Police presence- safety/perception of safety
Springfield as a "destination" attractive, vibrant, active	Open banner program



# Citizen Engagement

REPORTER-HERALD

Weather: ☁ Loveland, CO No

LOVELAND NEWS

News
Sports
Business
Entertainment
Lifestyle
Obituaries
Opinion
Milestones

## City of Loveland seeks community input

### Residents have until March 3 to respond to 'Open City Hall'

*By Jessica Maher Reporter-Herald Staff Writer*

POSTED: 02/19/2014 10:48:25 PM MST

Sure, everyone in Loveland wants a safe and secure city, but when it comes to how to achieve that result and others, city officials are looking to residents for ideas and suggestions. This week, the city launched the online tool Open City Hall, and officials hope to hear from as many residents as possible during the planning process for the 2015 budget. The survey focuses on result areas that were previously identified by the City Council as part of new priority based budgeting.

"It's the first piece of the process," City Manager Bill Cahill said. "We're asking, 'What should the city do and what should the city provide for the community?'"

Last April, the City Council voted to join area municipalities -- including Fort Collins, Longmont and Boulder -- in adopting priority based budgeting and contracted with the Denver-based Center for Priority Based Budgeting to help guide the new process. Dubbed a "new lens" by which to

# *Results Definition Exercise*

# Workshop Instructions

## Safe and Secure Community

### Guiding Questions:

- When the CITY of LOVELAND \_\_\_\_\_ (fill in the blank), the Result is achieved.
  - What does "success" look like, feel like...?
  - What is happening in your community when this Result is achieved?
  - What is being or could be done to influence this Result?
  - What actions help produce this result?
  - What would the show the community that the Result has been accomplished?



## Write BIG

**On 8 ½ x 11** - write as many ideas as you can

**On Half Sheets** - write one idea per sheet (*maximum of 5*)



Keeps Streets,  
Sidewalks and Bikeways  
in First-Rate Condition

Ensures Safety for  
Pedestrians and Cyclists  
on an Easily Accessible  
Multi-Modal  
Transportation  
Network

Advocates for Public  
Transit Options and  
Airport Accessibility

**EFFECTIVE  
MOBILITY and  
RELIABLE  
INFRASTRUCTURE**

Invests in Reliable, High  
Quality Water, Electric  
and Sewer Systems

Designs Safe and  
Congestion-Free Traffic  
Systems that are  
Connected and  
Accessible

Participates in Long-  
range Regional  
Planning to meet  
Northern Colorado  
Growth Projections

Fosters an Attractive,  
Clean, Orderly, Safe and  
Environmentally  
Sustainable Community

Protects and Enriches Parks,  
Greenways and Open  
Spaces<sup>1</sup>

Partners to Provide for the  
Physical, Mental and Socio-  
Economic Health and Well-  
being of its Residents

Partners with the Community to  
Develop and Adopt Long-range  
Community Plans, Development  
Standards and Consistent  
Housing Policies

Builds and Maintains Multi-  
Modal Transportation  
Systems and Promotes  
Alternative Mobility Options

**HEALTHY,  
ATTRACTIVE and  
ENVIRONMENTALLY  
SUSTAINABLE  
COMMUNITY**

Fosters Environmental  
Protection and  
Conservation, Flood Control  
and Storm Water  
Management

Offers Accessible Cultural,  
Recreational, Life-Long  
Learning Opportunities,  
Encouraging Ample Options  
of "Things to Do"

Encourages Sustainable  
Building Design Standards,  
Code Enforcement and  
Historic Preservation

Promotes "Curb Appeal" by  
Creating a Clean, Attractive  
and Visually Appealing Place  
to Live

Encourages Energy  
Conservation and Efficiency,  
Alternative Energy;  
Sustainability Planning and  
Recycling



## SAFE and SECURE COMMUNITY

Ensures Timely and Effective Emergency Response and Preparedness

Creates a Feeling of Personal Safety by Emphasizing Prevention, Risk Reduction, a Visible Safety Presence and Positive Activities to Engage Youth

Provides Protection, Enforcement and Justice Administration

Develops and Builds Safe Public Facilities and Transportation Systems that Promote Safe Traffic Flow

Provides Reliable Utilities and Storm Water Management and Monitors Air and Water Quality to Ensure Environmental Protection and Sustainability

Promotes Well-Designed, Well-Planned and Well-Regulated Development. Construction and Land Use Planning

Partners with Community Groups to Promote Physical, Mental and Socio-Economic Health and Provide for Day-to-Day Needs

Encourages Citizens to be Engaged, Well-Informed and Assume Shared Responsibility for their Personal Safety



Maintains Attractive,  
Desirable and Welcoming  
Neighborhoods  
Commercial Areas and  
Public Spaces

Provides Reliable Utility  
and Transportation  
Systems

Engages, Involves, Informs  
and Partners with the  
Community through Two-  
Way Communication and  
Connected Neighborhoods

**THRIVING,  
WELCOMING and  
DESIRABLE PLACE  
to LIVE that  
PROVIDES for the  
WELL-BEING of the  
COMMUNITY**

Promotes Recreation and  
Social Opportunities,  
Community Events and  
Community Gatherings

Feeds a Vibrant Local  
Economy with  
Employment, Education,  
the Arts and Learning  
Opportunities for all Ages  
and Abilities

Encourages Well-Planned  
New Development and  
Redevelopment

Fosters a Safe, Clean,  
Healthy and Helping Place  
to Live and Work

## VIBRANT ECONOMY

Develops Partnerships to Attract and Retain a Diverse Business Mix

Provides Incentives and Support to Recruit, Retain and Revitalize Businesses, Especially Locally-Owned

Ensures Access to Quality Healthcare, Education and a Variety of Desirable Life Amenities

Ensures Transportation Networks, Mobility Options and Utility/Communication Systems Meet Current and Future Needs

Sustains a "Business-Friendly" Climate that Makes it Easy to do Business in Well-Governed, Fiscally Sound Community

Promotes a Safe, Inviting Community with a Vibrant Downtown that Attracts Residents and Visitors Alike

Promotes Availability of "Things to Do" - Culture, Recreation, Arts, and Community Events

Promotes Job Creation and Workforce Development

Promotes Quality Development, Redevelopment and Renovation



## GOOD GOVERNANCE

Protects, Manages, Optimizes and Invests in its Financial, Human, Physical and Technology Resources

Ensures Sound Fiscal Policies and Enables Trust and Transparency by Ensuring Accountability, Efficiency, Flexibility, Innovation and Excellence in all Operations

Supports Decision-Making with Timely and Accurate Short-Term and Long-Range Analysis that Enhances Vision and Planning

Provides Assurance of Regulatory and Policy Compliance to Minimize and Mitigate Risk

Attracts, Motivates and Develops a High-Quality, Engaged and Productive Workforce

Delivers Responsive, Respectful and Courteous Service to Internal and External Customers, while Ensuring Timely and Effective Two-Way Communication

# Thank You !



**CENTER FOR  
PRIORITY BASED BUDGETING**

*Using a Unique Lens to Focus Community Resources on Results*

**[www.pbbcenter.org](http://www.pbbcenter.org)**

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Budgeting,  
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Priority-Based Budgeting Development, City of Loveland							
What	Who	When					
Steps		Dec 13	Jan	Feb	Mar	Apr	May
<p><b>Determine Results:</b> Decide what results the City government should achieve on behalf of the community. The Council determines the list; the list is then defined with public input including boards and commissions; then the Council finalizes the result.</p>	Council, boards, public, staff		[Yellow bar spanning Jan, Feb, Mar]				
<p><b>Identify City Programs:</b> Departments identify specific programs and services they provide. Program inventories are cross-checked and the program lists are finalized.</p>	Staff	[Blue bar spanning Dec 13, Jan, Feb]					
<p><b>Identify Program Costs:</b> Departments identify the costs of all the programs identified; the costs are cross-checked and verified.</p>	Staff				[Green bar spanning Mar, Apr]		
<p><b>Score the programs based on Results:</b> Scoring is done on a 4-point scale, initially by departments themselves. Scores are then “peer-reviewed” by staff panels from other departments, and final scores are assigned. Scoring is done against the community result areas, governance results areas, and for basic attributes.</p>	Staff				[Dark blue bar spanning Mar, Apr, May]		
<p><b>Complete the budget model using all the scoring.</b> All of the scoring and costing of programs goes into a single computer “Diagnostic Tool”, which is used to illustrate results.</p>	PBB Center					[Red bar spanning May]	

**Key Dates**

- |  |                  |
|--|------------------|
| Council workshop on Results                  | January 14       |
| Council approval on results                  | January 21       |
| M-team workshop on definitions               | January 31       |
| Board and commission workshop on definitions | March 19         |
| Public Electronic Input                      | Feb. 20-March 10 |
| Council approval of Definitions              | March 18         |
| Presentation to Council of the Model         | May 11           |