

**AGENDA**  
**LOVELAND CITY COUNCIL MEETING**  
**TUESDAY, MAY 6, 2014**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

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

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

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATION DECLARING May 4-10, 2014 AS MUNICIPAL CLERKS' WEEK (Terry Andrews)**

**PROCLAMATION DECLARING MAY 11-17, 2014 AS POLICE WEEK (Garret Osilka)**

**PROCLAMATION DECLARING MAY 2014 AS FOSTER AND KINSHIP CARE MONTH (Steve Dozier)**

**PROCLAMATION DECLARING MAY 2014 AS ARCHAEOLOGY & HISTORIC PRESERVATION MONTH (David Berglund)**

**CERTIFICATE PRESENTATION TO THE CITY OF LOVELAND DESIGNATING THE MILNER-SCHWARZ HOUSE TO THE NATIONAL REGISTRY (Cecil Gutierrez)**

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

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

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

**CONSENT AGENDA**

1. **CITY CLERK** (presenter: Terry Andrews)  
**APPROVAL OF CITY COUNCIL MEETING MINUTES**
  1. **A Motion to Approve the Council Meeting Minutes for the April 8, 2014 Special Meeting & Study Session**  
This is an administrative action to approve the City Council meeting minutes for the April 8, 2014 Special Meeting & Study Session.
  2. **A Motion to Approve the Council Meeting Minutes for the April 15, 2014 Regular Meeting**  
This is an administrative action to approve the City Council meeting minutes for the April 15, 2014 Regular Meeting.
  
2. **CITY MANAGER** (presenter: Bill Cahill)  
**BOARDS & COMMISSIONS APPOINTMENTS TO THE YOUTH ADVISORY COMMISSION**  
**A Motion to Approve Appointments to the Youth Advisory Commission**  
This is an administrative action recommending appointments of members to the Youth Advisory Commission.  
**Reappointments:**
  - **Wesley Walton, Payton Buhler, Billie Anna Runions, Emilee Mendoza, Gibb Charron, Mattea Wabeke, Anna Kirk, Lauren Howard, Alexandra McKenna and Dylan McNally****Appointments:**
  - **Elijah Solt and Jack Crowley****Alternate Appointments:**
  - **Hattie Volk, Oliver Byles, Lorenzo Scalise and Caitlin Parets**
  
3. **CITY MANAGER** (presenter: Bill Cahill)  
**BOARDS & COMMISSIONS APPOINTMENT TO THE HOUSING AUTHORITY**  
**A Motion to Appoint Grant Waaler to the Housing Authority for a Term Effective until June 30, 2014**  
This is administrative action recommending the appointment of a member to the Housing Authority for a partial term effective until June 30, 2014.
  
4. **CITY MANAGER** (presenter: Bill Cahill)  
**BOARDS & COMMISSIONS APPOINTMENTS TO THE PLANNING COMMISSION**
  1. **A Motion to Appoint Jeremy Jersvig as a Member of the Planning Commission for a Full Term Effective Until December 31, 2016**
  2. **A Motion to Appoint Bob Massaro as an Alternate Member of the Planning Commission for a Term Effective Until December 31, 2014**
These are administrative actions to adopt two motions appointing a regular member and an alternate member of the Planning Commission.
  
5. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)  
**PEAKVIEW GDP AMENDMENT**  
**A Motion to Approve and Order Published on Second Reading an Ordinance Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for “Peakview Commercial Park Addition PUD (#P-95) – Amendment #1,” and Approving an Amendment to the General Development Plan for the Peakview Commercial Park Addition PUD**  
This is a quasi-judicial action to consider adopting an ordinance on second reading amending the Peakview Commercial Park Planned Unit Development (PUD) General Development Plan (GDP). The amendment would to allow the use “vehicle minor

repairs, servicing and maintenance” within the PUD. This ordinance was approved unanimously on first reading by Council at the April 15, 2014 regular meeting.

6. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)  
**PUBLIC HEARING**  
**LOCH MOUNT UTILITY EASEMENT VACATION**  
**A Motion to Approve and Order Published on First Reading an Ordinance Vacating a Portion of a Utility Easement within Lot 3, Block 3, Loch Mount Addition of the City of Loveland, Larimer County, Colorado**  
 This is a legislative action to consider adoption of an ordinance on first reading vacating a portion of a water utility easement. The easement is on a lot currently occupied by a single family dwelling located at 1101 Loch Mount Drive, west of the intersection of Loch Mount Drive and West Eisenhower Boulevard. The applicants are the property owners, Kelly and Anne Kramer.
7. **PUBLIC WORKS** (presenter: Dave Klockeman)  
**FIBER OPTIC CONTRACT AWARD**  
**A Motion to Award Project TS1201 Loveland Fiber Optic Interconnect (Federal Aid Project No. AQC M830-065, 19289) to Paonia Inc. of Colorado Springs, Colorado, in the Amount of \$745,861.63 and Authorize the City Manager to Execute the Contract**  
 This is an administrative action to award Project TS1201 Loveland Fiber Optic Interconnect (Federal Aid Project No. AQC M830-065, 19289) to Paonia Inc. of Colorado Springs, Colorado in the amount of \$745,861.63 and authorize the City Manager to execute the contract. Funding is available in the Adopted 2014 Budget and includes Federal Funds awarded through the North Front Range Metropolitan Planning Organization ("MPO").
8. **CITY MANAGER** (presenter: Alan Krcmarik)  
**ASHLEY ESTATES PRIVATE ACTIVITY BOND**  
**A Motion to Approve Resolution #R-32-2014 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2014 to the Housing Authority of the City of Loveland, Colorado; Providing Other Details in Connection Therewith; and Providing an Effective Date**  
 This is an administrative action. This Resolution will authorize the assignment of all of the City's 2014 private activity bond allocation in the amount of \$3,521,800 to the Housing Authority of the City of Loveland ("HACOL" or the "Authority") for the purpose of issuing bonds for the Ashley Estates Apartment Homes Project (the "Project") to be developed by Pedcor Investments LLC. The Project is an affordable housing project and meets the federal and state requirements for the use of Private Activity Bond financing. Council approved fee waivers for the Project on April 15, 2014, with a unanimous vote. The HACOL will be the issuer of the bonds and will also have bond allocations from Larimer County, the Colorado Housing and Finance Authority ("CHFA") and an allocation from the prior year statewide allocation. The City of Loveland will not incur any costs due to the assignment of the private activity bond 2014 allocation.
9. **POLICE** (presenter: Luke Hecker)  
**PUBLIC HEARING**  
**JAG GRANT**  
**A Motion for Approval of Staff Application for a Federal Justice Assistance Grant (JAG Grant)**  
 This is an administrative action. The Federal JAG grant of \$13,980 for the Police Department will fund overtime for Detectives in the Special Investigations Unit at the

Northern Colorado Drug Task Force. There is no match.

**10. FINANCE (presenter: Brent Worthington)**  
**MARCH 2014 FINANCIAL REPORT**

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 March 31, 2014.

**11. CITY MANAGER (presenter: Alan Krcmarik)**  
**INVESTMENT REPORT FOR MARCH 2014**

This is an information only item. According to the 2014 budget projections, the budget estimate for investment earnings for 2014 is \$2,025,920. 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. For March, the amount posted to the investment account is \$100,067. For the year-to-date, the amount posted is \$463,699. Actual earnings are now below the year-to-date budget projection by \$60,945. Based on the monthly statement, the estimated annualized 1.02% yield on the securities held by US Bank is exactly the same as last month's reading. 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. More funds are liquid (cash and short term) now than a month ago; the City is waiting on reimbursements for flood damage.

**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.*

**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. CITY CLERK (presenter: Terry Andrews)**  
**APPROVAL OF CITY COUNCIL SPECIAL MEETING MINUTES**

**A Motion to Approve the Council Meeting Minutes for the April 10, 2014 Special Meeting**

This is an administrative action to approve the City Council meeting minutes for the April 10, 2014 Special Meeting. Councilors Taylor and Krenning were absent.

**13. CITY CLERK (presenter: Terry Andrews)**  
**BOARDS & COMMISSION HANDBOOK CHANGES**

**A Motion to Approve Resolution #R-33-2014 Amending the City Of Loveland Handbook for Boards and Commissions**

This is an administrative action to adopt a resolution amending the City of Loveland Handbook for Boards and Commissions ("Handbook"). The proposed amendments to the Handbook address the process for selecting and appointing members, and remove references to the Creative Sector Development Advisory Commission, which expired on December 31, 2013, in accordance with City Code Section 2.60.290. This item was removed from the Consent Agenda on April 15, 2014, and due to the lateness of the meeting it was carried forward to this meeting and placed on the Regular Agenda.

**14. CITY CLERK (presenter: Terry Andrews)  
SPECIAL ELECTION DATE**

**A Motion to Approve Resolution #R-34-2014 of the Loveland City Council Calling a Special Election to be Held on June 24, 2014 for the Purpose of Submitting a Citizen-Initiated Ordinance to a Vote of the City's Registered Electors and Setting the Ballot Title**

This is an administrative action to consider a resolution calling a Special Election for the purpose of considering an ordinance submitted to the City of Loveland by Citizen Initiative petition.

**15. CITY ATTORNEY (presenter: Judy Schmidt)  
RELEASE OF PROPOSED SETTLEMENT ANALYSIS - SARNER V CITY OF LOVELAND**

**A Motion to Waive the Attorney-Client Privilege and Release to the Public the "Pro/Con Analysis of Proposed Settlement" Document Provided by the Acting City Attorney to City Council at its Regular Meeting on April 15, 2014**

This is an administrative action. At Council's regular meeting on April 15, 2014, the Acting City Attorney presented to Council members a document titled "Pro/Con Analysis of Proposed Settlement" in connection with the *Sarner v. City of Loveland* lawsuit. More than four Council members have indicated a desire to waive the attorney-client privilege and release this document to the public, so the motion is presented for Council's consideration.

**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**



**PROCLAMATION**

- WHEREAS** The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and
- WHEREAS** The Office of the Municipal Clerk is the oldest among public servants, and
- WHEREAS** The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and
- WHEREAS** Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.
- WHEREAS** The Municipal Clerk serves as the information center on functions of local government and community.
- WHEREAS** Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.
- WHEREAS** It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

**NOW, THEREFORE**, we the City Council of Loveland, do hereby recognize the week of May 4 through May 10, 2014 as

**MUNICIPAL CLERKS' WEEK**

and further extend appreciation to our Municipal Clerk Team and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Signed this 6th day of May, 2014

Cecil A. Gutierrez  
Mayor



## CITY COUNCIL

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

## PROCLAMATION

To recognize National Police Week 2014 and to honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.

**WHEREAS,** there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Loveland, Colorado Police Department; and,

**WHEREAS,** nearly 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and,

**WHEREAS,** since the first recorded death in 1791, almost 20,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including Town Marshal Frank Peak of the Loveland, Colorado Police Department; and,

**WHEREAS,** the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and,

**WHEREAS,** 286 new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 10 officers killed in 2013 and 186 officers killed in previous years; and,

**WHEREAS,** the service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund's 26<sup>th</sup> Annual Candlelight Vigil, on the evening of May 13, 2014; and,

**WHEREAS,** the Candlelight Vigil is part of National Police Week, which takes place this year on May 11-17; and,

**WHEREAS,** May 15 is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half staff.

**THEREFORE, BE IT RESOLVED** that the City of Loveland City Council formally designates May 11-17, 2014, as

## POLICE WEEK

in Loveland, Colorado, and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

Signed this 6th day of May, 2014

Cecil A. Gutierrez  
 Mayor



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**PROCLAMATION**

**WHEREAS,** the family, serving as the primary source of love, nurture, identity, self-esteem and support, is the very foundation of our community; and

**WHEREAS,** in Larimer County there are over 150 children and youths in foster or kinship care being provided with a safe, secure and stable home along with the compassion and care of a foster or kinship family; and

**WHEREAS,** foster and kinship families, who open their homes and hearts to children whose families are in crisis, play a vital role helping children and families heal and reconnect, and/or launching children into successful adulthood; and

**WHEREAS,** working family to family, foster and kinship providers mentor and support the birth parents with the goal of a timely reunification of the child to their family; and

**WHEREAS,** there are numerous individuals, public and private organizations who work to increase public awareness of the needs of children in and leaving foster care as well as the enduring and valuable contribution of foster and kinship parents.

**NOW, THEREFORE,** we, the City Council of the City of Loveland do hereby proclaim May, 2014 as

**FOSTER AND KINSHIP CARE MONTH**

for the City of Loveland and urge all citizens to volunteer their talents and energies on behalf of children in foster or kinship care, and the foster or kinship families who care for them, and the child welfare professional staff working with them during this month and throughout the year.

Signed this 6th day of May, 2014

Cecil A. Gutierrez  
Mayor





## CITY COUNCIL

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### PROCLAMATION

- WHEREAS,** historic preservation helps provide a deeper understanding of the diversity of our uniquely local and American heritage; and
- WHEREAS,** historic preservation is an effective tool for revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability of communities across America; and
- WHEREAS,** Colorado Archaeology & Historic Preservation Month 2014 provides an opportunity for citizens of all ages and from all walks of life to make the connection between historic preservation and the aesthetic, environmental and economic well-being of their communities; and
- WHEREAS,** it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and
- WHEREAS,** “New Age of Preservation: Embark, Inspire, Engage” is the theme for Archaeology & Historic Preservation Month 2014; and
- WHEREAS,** fifteen heritage-related events, ranging from a Mariano Medina-inspired bike tour, a guided downtown walking tour, a roarin’ 20s jazz concert and silent film, a presentation on reclaiming barn wood, and many others will be held by the Loveland community in May 2014 and are listed on the City’s website.

**NOW, THEREFORE,** we, the City Council of the City of Loveland, do hereby proclaim May 2014, as

### ARCHAEOLOGY & HISTORIC PRESERVATION MONTH

and call upon the people of Loveland to recognize and participate in this special observance. In recognition of Archaeology & Historic Preservation Month, we would like to honor all the buildings and sites in Loveland that are on the National Register of Historic Places, Colorado State Register of Historic Places, and Loveland Historic Register.

Signed this 6<sup>th</sup> day of May, 2014

Cecil A. Gutierrez, Mayor

**MINUTES**  
**LOVELAND CITY COUNCIL**  
**SPECIAL MEETING & STUDY SESSION**  
**TUESDAY, APRIL 8, 2014**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

**6:30 P.M. SPECIAL MEETING - City Council Chambers**  
**SPECIAL MEETING AGENDA**

**CALL TO ORDER**

**ROLL CALL**

Councilors Present: Gutierrez, Clark, McKean, Farley, Shaffer, Trenary, Taylor, Fogle, Krenning. City Manager, Bill Cahill was also present.

**1. CITY MANAGER (presenter: Judy Schmidt)**  
**PRELIMINARY DISCUSSION REGARDING THE BALLOT INITIATIVE**

**An information item to receive a report from the City Attorney's Office regarding preliminary discussion with legal counsel representing both Protect Our Loveland and Larry Sarner**

City Manager, Bill Cahill presented this item to Council by summarizing the matters related to dates for holding the ballot initiative election. Acting City Attorney, Judy Schmidt updated Council on the legal aspects of the election. Outside Litigation Counsel, Kim Schutt and City Clerk, Terry Andrews were also present to address Council and answer questions regarding costs and risks of appeal actions. Development Services Director, Greg George updated Council on the timeline for an upcoming submittal of an application for drilling by Anadarko. Larimer County Clerk and Recorder, Angela Myers came forward to address Council regarding a coordinated election for the June 24 primary and the consequences. Public Comment was opened at 7:53 p.m. John Clarke of the Loveland Energy Action Project (LEAP) spoke in support of the earliest election date possible. Kay Essinger of Longmont spoke in opposition to rushing the election. Public Comment was closed at 7:57. Council discussion ensued. **Councilor Clark moved that a Special Election be held on June 24, 2014. Councilor Fogle seconded the motion which failed with four councilors voting in favor and Councilors Shaffer, Trenary, Gutierrez, Taylor and Farley voting against.**

**Councilor Shaffer moved that a Special Election be held on July 29, 2014 for the Protect Our Loveland ballot initiative. Councilor Farley seconded the motion which carried with eight councilors voting in favor and Council Clark voting against.**

**ADJOURNMENT**

Mayor Gutierrez adjourned the Special Meeting at 8:39 p.m. A brief recess was taken before the Study Session

**STUDY SESSION - City Council Chambers**  
**STUDY SESSION AGENDA**

Mayor Gutierrez called the Study Session to order at 8:50 p.m.

**1. FINANCE (presenters: Brent Worthington, Rod Wensing, 60 min)**

City Council Meeting Minutes

April 8, 2014

Page 1 of 2

### **2013 FLOOD: SIX-MONTH COMMUNITY FLOOD RECOVERY REPORT**

Finance Director, Brent Worthington introduced this item to Council as an informational presentation summarizing the City's flood recovery efforts over the last six months, including: flood recovery costs, reimbursements and pending reimbursement applications; infrastructure repairs, business recovery, long-term community recovery, river restoration and examples of ongoing recovery work. Mr. Worthington's presentation covered the financial data of the flood's estimated cost and estimated cost recovery from FEMA, CIRSA and the Federal Highway Administration. Assistant City Manager, Rod Wensing reported on the details of the six months recovery work undertaken by the City of Loveland following the flood. Council discussion included: requests for additional detail of financial statistics, sales tax data and evidence on businesses that didn't recover after the flood. Acting Public Works Director, Dave Klockeman came forward to address the recovery of South Railroad Avenue and the planning for 2015 reconstruction. Council thanked staff for the presentation and noted the public recognition of the City's efforts in the flood's aftermath.

### **2. DEVELOPMENT SERVICES (presenter: Bethany Clark, 60 min) HIGHWAY 287 STRATEGIC PLAN**

City Planner, Bethany Clark introduced this item to Council as an informational presentation summarizing the City's progress on the Highway 287 Strategic Plan. Logan Simpson Design Consultant, Bruce Meighen gave an overview of the preliminary market research gathered to understand and identify opportunities of improving the corridor's economic position. In February, staff and the consulting team held three public workshops to receive input and direction on the preferred overall vision for the corridor. Five case studies were presented and participants were asked to vote on their favorite corridor and identify the elements that they preferred to see on the Highway 287 corridor. The survey was also available on the 287 project website through the end of March, to solicit the public's input and drive the vision for the corridor. Based on survey responses and public comments, Logan Simpson Design developed a concept vision that reflects the community's values and the preferred elements from the case studies. The Logan Simpson team will be creating development alternative templates to address the application of design elements, identifying the role of the public/private sector in improving business opportunities, and developing strategies for implementation. City staff is seeking input from the City Council on the vision for the corridor and the overall direction of the plan. Council discussion ensued. Council directed staff to move forward with the project.

### **ADJOURNMENT**

**Having no further business to come before Council, the April 8, 2014 Special Meeting and Study Session was adjourned at 10:51 p.m.**

Respectfully Submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor

**MINUTES**  
**LOVELAND CITY COUNCIL MEETING**  
**LOVELAND GENERAL IMPROVEMENT DISTRICT #1 BOARD OF DIRECTORS**  
**LOVELAND URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS**  
**TUESDAY, APRIL 15, 2014**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

**6:30 P.M.                   REGULAR MEETING - City Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Councilor Taylor read the PROCLAMATION DECLARING APRIL 13-19, 2014 AS NATIONAL LIBRARY WEEK and it was received by Liz Lucke, Dawn Miller and Dr. Robert Eatman.**

**Councilor Krenning read the PROCLAMATION DECLARING APRIL 19, 2014 AS THE DAY OF THE ANNUAL SPRING WATERWAY CLEAN-UP EVENT ALONG THE BIG THOMPSON RIVER and it was received by Dave Klockeman. The event will be held at Rossum Drive, south of Highway 34, at Centennial Park beginning at 9 a.m. Go to the City website to register for the event or just show up.**

**The Mayor read the PRESENTATION OF 2013 FINANCE AWARD: CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (CAFR) and it was received by Brent Worthington, who recognized the Finance Department and Accounting Division.**

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

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

**CONSENT AGENDA**

**Mayor Gutierrez asked if anyone in the audience, Council or Staff wished to remove any of the items or public hearings listed on the consent Agenda. Councilor Krenning asked to remove Item #11 from the Consent Agenda to the end of the Regular Agenda. Councilor Shaffer moved to approve the Consent Agenda with the exception of Item #11. Councilor Farley seconded the motion which carried with all councilors present voting in**

favor thereof.

1. **CITY MANAGER** (presenter: Bill Cahill)  
**APPOINTMENT TO CITIZENS' FINANCE ADVISORY COMMISSION**  
**A Motion to Appoint Andrew Haines to the Citizens' Finance Advisory Commission for a Term Effective Until December 31, 2015 was approved.**  
 This is administrative action recommending the appointment of a member to the Citizens' Finance Advisory Commission for a partial term effective until December 31, 2015.
  
2. **FINANCE** (presenter: John Hartman)  
**2014 BUDGET ROLLOVER FOR PROJECTS APPROVED BUT NOT COMPLETED**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5858 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Reappropriate Remaining Funds for Projects Approved but Not Completed in 2013 was approved.**  
 This is an administrative action. This second reading ordinance reappropriates funding approved in 2013 for capital, one-time projects and equipment not completed or received prior to the end of the fiscal year. The net expenditures (total expense less transfers) included in the ordinance is \$44,379,810. The projects or programs in the ordinance were funded in 2013. Funding is available since the appropriations that did not occur became fund balance at the end of 2013. The appropriation of these projects, do not have an impact on the 2014 Budget since the assumption in developing the 2014 Budget was that these funds would be spent by the end of 2013. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.
  
3. **FINANCE** (presenter: John Hartman)  
**SUPPLEMENTAL APPROPRIATION FOR NEW PROJECTS**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5859 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for Projects or Programs not Anticipated at the Time of Adoption for the 2014 Budget was approved.**  
 This is an administrative action. Since the adoption of the 2014 Budget, several issues have emerged that require increased appropriations. This second reading ordinance addresses those issues. The total amount of net appropriation (total expenses excluding transfer between funds) is \$1,024,090 primarily funded by available fund balance. Nearly all of the appropriation is funded by fund balance, reducing the flexibility to fund other future projects. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.
  
4. **FINANCE** (presenter: John Hartman)  
**2014 BUDGET ROLLOVER FOR THE AIRPORT**  
**A Motion to Approve and Order Published on Second Reading Ordinance #5860 Enacting a Supplemental Budget and Appropriation to the 2014 Ft. Collins-Loveland Municipal Airport Budget to Appropriate Funds for Projects Approved but Not Completed in 2013 was approved.**  
 This is an administrative action. This second reading ordinance appropriates the remaining balance for capital and one-time projects previously approved in 2013. The total appropriation is \$372,470. The appropriation is funded by fund balance within the Airport Fund from grants previously received or to be drawn down and contributions from the two cities. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.

**CITY COUNCIL ADJOURNED AND CONVENED AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID).**

5. **FINANCE** (presenter: John Hartman)  
**2014 BUDGET ROLLOVER FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID)**

**A Motion to Approve and Order Published on Second Reading Ordinance #5861 Adopting a Supplemental Budget and Appropriation for the 2014 Loveland General Improvement District #1 Budget to Reappropriate Funds for Parking Lot Improvements Approved in 2013 but Not Completed in 2013 was approved.**

This is an administrative action. Funds approved in 2013 for parking lot improvements in the amount of \$77,500 are appropriated to complete the projects. Fund balance has resulted from the project not being completed and is reappropriated to fund this project. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.

**THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 ADJOURNED AND CONVENED AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA).**

6. **FINANCE** (presenter: John Hartman)  
**2014 BUDGET ROLLOVER FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA)**

**A Motion to Approve and Order Published on Second Reading Ordinance #5862 Enacting a Supplemental Budget and Appropriation to the 2014 Loveland Urban Renewal Authority Budget to Reappropriate the Façade Grant Program and Reimbursement to a Developer for Public Improvements and Funding for Parking Lot Improvements, Approved in 2013 but Not Completed was approved.**

This is an administrative action. Reserves in the amount of \$1,085,740 are reappropriated for the Façade Grant Program, reimbursement to a developer for public improvements and parking lot improvements. Fund balance created as a result of the projects not yet completed. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.

**THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY ADJOURNED AND RECONVENED AS CITY COUNCIL.**

7. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)  
**SUPPLEMENTAL APPROPRIATION FOR DOWNTOWN LAND PURCHASES**

**A Motion to Approve and Order Published on Second Reading Ordinance #5863 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for Earnest Money and Costs Associated with Downtown Land Purchases was approved.**

This is an administrative action. This second reading ordinance appropriates \$250,000 in funding for earnest money and costs associated with land purchases in the Downtown area. Environmental studies will be conducted as part of the standard due diligence per the contracts and will begin once the properties are under contract. The ordinance is funded with Council Reserve and undesignated balance of the General Fund, reducing the flexibility to fund future projects. The ordinance was approved unanimously on first reading by Council at the April 1, 2014 regular meeting.

8. **FINANCE** (presenter: John Hartman)  
**SUPPLEMENTAL APPROPRIATION FOR LFRA ROLLOVER AND NEW PROJECTS**  
**A Motion to Adopt Resolution #R-27-2014 Approving a Supplemental Budget to the 2014 Loveland Fire Rescue Authority Budget for Additional Funding from the City of Loveland from Remaining Funds for Projects Approved but Not Completed in 2013 and New Projects was approved.**  
 This is an administrative action. The resolution provides for Council approval of supplemental changes to the Loveland Fire Rescue Authority 2014 Budget to reappropriate operational expenses not spent in 2013 and add new projects. The Council approval of the budget is required for the Authority's budget to be in effect. Implementation of the resolution requires an additional contribution from the City of \$387,490 to be appropriated from reserves, reducing the flexibility for other projects.
9. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)  
**PEAKVIEW GDP AMENDMENT**  
**A Public Hearing was held and 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 "Peakview Commercial Park Addition PUD (#P-95) – Amendment #1," and Approving an Amendment to the General Development Plan for the Peakview Commercial Park Addition PUD was approved.**  
 This is a quasi-judicial action to adopt an ordinance on first reading amending the Peakview Commercial Park Planned Unit Development (PUD) General Development Plan (GDP) to allow the use "vehicle minor repairs, servicing and maintenance" within Lot 4 of the PUD.
10. **CITY ATTORNEY** (presenter: Judy Schmidt)  
**NON-SUBSTANTIAL MODIFICATIONS TO CENTERRA URA**  
**A Motion to Adopt Resolution #R-28-2014 of the Loveland City Council Approving Non-Substantial Modifications to the US 34/Crossroads Corridor Urban Renewal Plan was approved.**  
 This is an administrative action. It is a Resolution to approve three non-substantial modifications to the Centerra Urban Renewal Plan. It does this by adding to the Centerra URA Plan area the following parcels: (1) a 13.422-acre parcel owned by the Thompson R2-J School District to be used as a site for a future elementary school; (2) a 23.437-acre parcel consisting of the north half of the I-25/Crossroads Boulevard Interchange together with the adjacent Crossroads Boulevard right-of-way; and (3) a 14.316-acre parcel consisting of a portion of the Boyd Lake Avenue right-of-way. Since the parcels to be added to the boundaries of the Centerra Urban Renewal Plan area consist of publically-owned land and right-of-way, the Centerra URA Plan area will not receive any additional tax increment revenues from these added properties. In addition, while Centerra URA revenues will be available for the construction of improvements on these properties, all of these improvements are currently contemplated and expected under the MFA to be paid for with MFA revenues.
11. **CITY CLERK** (presenter: Terry Andrews)  
**BOARD & COMMISSION CHANGES IN HANDBOOK**  
 This item was moved to the end of 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.*

## **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. CITY CLERK (presenter: Terry Andrews)**  
**APPROVAL OF CITY COUNCIL MEETING MINUTES**
1. This is an administrative action to approve the City Council meeting minutes for the March 25, 2014 Study Session. Councilors Fogle and Farley were absent.  
**Councilor Shaffer moved to Approve the Council Meeting Minutes for the March 25, 2014 Study Session. Councilor McKean seconded the motion which carried with all councilors voting in favor thereof. Councilors Fogle and Farley abstained.**
2. This is an administrative action to approve the City Council meeting minutes for the April 1, 2014 Regular Meeting. Councilor McKean was absent.  
**Councilor Shaffer moved to Approve the Council Meeting Minutes for the April 1, 2014 Regular Meeting. Councilor Trenary seconded the motion which carried with all councilors voting in favor thereof. Councilor McKean abstained.**
- 13. DEVELOPMENT SERVICES (presenter: Alison Hade)**  
**PEDCOR AFFORDABLE HOUSING DESIGNATION MODIFICATION AND FEE WAIVER**
1. Community Partnership Manager, Alison Hade introduced this item to Council. This is an administrative action. The resolution will modify an affordable housing designation for the Wintergreen Second Subdivision for 80 of 224 affordable housing units and designate as "affordable" the remaining 144 units in the Ashley Estates Apartment Homes. Mayor Gutierrez opened the Public Hearing at 7:46 p.m. the following individuals spoke in support of the resolutions: Affordable Housing Commission member, Dianne Rice; Dave McDaniel, from Disabled Resource Services; and Kelly Evans, Director of Neighbor to Neighbor. Mayor Gutierrez closed the public hearing at 7:55 p.m.  
**Councilor Shaffer moved to Approve Resolution #R-30-2014 Modifying a 2010 Affordable Housing Designation for 80 Rental Units, and Approving a New Affordable Housing Designation and Associated Reduction in Development Fees for an Additional 144 Rental Units, to the Constructed on Outlot C, Wintergreen Second Subdivision, City of Loveland, Colorado Within the Project Known as Ashley Estates Apartment Homes. Councilor Farley seconded the motion which carried with all councilors voting in favor thereof.**
2. This is an administrative action. The resolution will waive capital expansion fees of \$1,333,890 and building permit fees of \$178,970 as provided in Section 16.38.080 of the Loveland Municipal Code. None of the waived fees would require back filling from another funding source. The resolution would also delay the payment of water rights as provided for in Section 19.04.021.A.2 of the Loveland Municipal Code. The applicant is Pedcor Investments from Carmel, Indiana. City staff and the Affordable Housing Commission are recommending that City Council adopt the two resolutions to allow Pedcor Investments to develop an affordable housing project that would provide 224



affordable housing units. Council approval would allow Pedcor Investments to utilize the fee schedule in place in 2010 for 80 of the affordable housing units, and the 2014 fee schedule for the remaining 144 units. The total fee waiver would be \$1,512,860; City Code allows a waiver of 70% of fees for an affordable housing project. This request is for 65.8% waiver of capital expansion fees and building permit fees only. No waived fees would require back filling from another funding source. Granting of the fee waiver would have a negative effect on future fund balances for capital expansion and building permit fees.

**Councilor Shaffer moved to Approve Resolution #R-31-2014 Granting an Exemption from Certain Capital Expansion Fees and Other Development Fees, and Delaying the Payment of Water Rights Applicable to Residential Development, for a Qualified Affordable Housing Development Known as Ashley Estates Apartment Homes. Councilor Farley seconded the motion which carried with all councilors voting in favor thereof.**

**14. CITY ATTORNEY (presenter: Judy Schmidt)  
DISCUSSION REGARDING ELECTION DATE FOR THE BALLOT INITIATIVE**

**Council Consideration of Election Date for the Citizen Initiative Ballot Measure**

Acting City Attorney, Judy Schmidt introduced this item to Council. City Council may want to give the City Attorney additional direction as to how Council would like to proceed with respect to the pending lawsuit and other matters related to the pending Protect Our Loveland ballot initiative. Depending on the nature of the discussion and Council direction, an executive session may be advisable. The City Attorney's Office had received settlement proposals from Sarner and also from POL.

**Councilor Krenning moved to make the Sarner Settlement Agreement a public record. Councilor Shaffer seconded the motion which carried with all councilors present voting in favor thereof.** Larry Sarner did not object to the public release of the Settlement agreement, which would be considered privileged otherwise.

**Councilor McKean moved to Reconsider the Motion Approving the Election Date on July 29, 2014 which was considered at the Special Meeting on April 8, 2014. Councilor Clark seconded the motion which carried with six councilors voting in favor and Councilors Gutierrez, Farley and Trenary voting against.**

Mayor Gutierrez opened public comment at 10:35 p.m. Student legal representatives for Protect Our Loveland, (POL) Nick Lopez and Lauren Hammond discussed POL' position with regard to their concerns regarding the Settlement agreement as well as what POL was willing to do if Council would allow the election to remain as scheduled on July 29, 2014. Protester of the petition and plaintiff in *Sarner v. City of Loveland*, Larry Sarner spoke to Council. City of Loveland outside legal counsel, Kim Schutt answered questions for City Council. Mayor Gutierrez closed the public hearing at 10:54 p.m.

**The original motion from April 8, 2014 was considered "Councilor Shaffer moved to Reconsider the Motion Approving "A Special Election be held on July 29, 2014 for the Protect Our Loveland ballot initiative," from the Special Meeting on April 8, 2014. Councilor Farley seconded the motion." The motion failed with four Councilors voting in favor and Councilors Taylor, Krenning, McKean, Fogle, and Clark voting against.**

**Councilor Fogle moved to refer the Citizen Initiative Petition to a Special Election on June 24, 2014 and to Approve the Settlement Agreement with Sarner.**

Councilor Clark seconded the motion which carried with five councilors voting in favor and Councilors Farley, Shaffer, Trenary and Gutierrez voting against.

11. **CITY CLERK** (presenter: Terry Andrews)  
**BOARD & COMMISSION CHANGES IN HANDBOOK**

This item was postponed until the next regular meeting.

**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.*

None.

**CITY MANAGER REPORT**

None.

**CITY ATTORNEY REPORT**

None.

**ADJOURNMENT**

Having no further business to come before Council, the April 15, 2014, Regular Meeting was adjourned on April 16, 2014, at 12:06 a.m.

Respectfully Submitted,

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

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



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

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**AGENDA ITEM:** 2  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Bill Cahill, City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager

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**TITLE:**

A Motion to Approve Appointments to the Youth Advisory Commission

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the motion.

**OPTIONS:**

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

**SUMMARY:**

This is an administrative action recommending appointments of members to the Youth Advisory Commission.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible
- 

**BACKGROUND:**

In May, four of the current **Youth Advisory Commission (YAC)** members will be graduating from high school. There are also two vacant alternate positions, leaving 6 total vacancies. Interviews were conducted by Jenni Dobson, Phil Farley, Beth Gudmestad, Wes Walton, Reid Maynard, Payton Buehler and Lauren Howard on April 16-17, 2014 to fill these vacancies. YAC would also like to reappoint commissioners and alternates who are not graduating or leaving at this time. YAC has 12 total voting commissioners and four alternate positions. YAC recommends the following for appointments or reappointments to serve as members and alternates from June, 2014 through May, 2015.

**Reappoint as YAC Commissioners**

Wesley Walton  
Payton Buhler  
Billie Anna Runions  
Emilee Mendoza  
Gibb Charron  
Mattea Wabeke  
Anna Kirk  
Lauren Howard  
Alexandra McKenna  
Dylan McNally

**Appoint as YAC Commissioners**

Elijah Solt  
Jack Crowley

**Appoint as YAC Alternates**

Hattie Volk  
Oliver Byles  
Lorenzo Scalise  
Caitlin Parets

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**REVIEWED BY CITY MANAGER:**

*William A. Cavill*

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**LIST OF ATTACHMENTS:**

None



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**AGENDA ITEM:** 3  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager

**TITLE:**

A Motion to Appoint Grant Waaler to the Housing Authority for a Term Effective until June 30, 2014

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the motion.

**OPTIONS:**

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

**SUMMARY:**

This is administrative action recommending the appointment of a member to the Housing Authority for a partial term effective until June 30, 2014.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

Zachary Sullivan resigned from the Housing Authority in November, 2013. Two applications were received. Interviews were conducted on April 11, 2014 and the committee recommends the appointment of Grant Waaler to the Housing Authority for a partial term effective until June 30, 2014. The Authority has two membership terms that expire June 30, 2014 and is included in the current Spring Recruiting Cycle for boards and commissions.

**REVIEWED BY CITY MANAGER:**

*William Cahill*

**LIST OF ATTACHMENTS:**

None



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**AGENDA ITEM:** 4  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager

**TITLE:**

1. A Motion to Appoint Jeremy Jersvig as a Member of the Planning Commission for a Full Term Effective Until December 31, 2016
2. A Motion to Appoint Bob Massaro as an Alternate Member of the Planning Commission for a Term Effective Until December 31, 2014

**RECOMMENDED CITY COUNCIL ACTION:**

1. Approve the motion.
2. Approve the motion.

**OPTIONS:**

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

**SUMMARY:**

These are administrative actions to adopt two motions appointing a regular member and an alternate member of the Planning Commission.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

On January 7, 2014, the City Council filled three of four openings on the Planning Commission by appointing Michele Forrest for a partial term effective until December 31, 2014, Rich Middleton for a full term effective until December 31, 2016, and Mike Ray for a full term effective until December 31, 2016. No consensus was reached regarding the fourth opening, which was subsequently re-posted for application.

Three individuals – Alexi Grewal, Jeremy Jersvig, and Bob Massaro – applied for the opening. On April 10, 2014, all three applicants were interviewed by a committee consisting of the Planning Commission chair, vice chair, and staff liaison. The interview committee has

recommended that Jeremy Jersvig be appointed to a full term effective until December 31, 2016, and Bob Massaro be appointed as an alternate member effective until December 31, 2014.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

None



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**AGENDA ITEM:** 5  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Troy Bliss, Current Planning  
**PRESENTER:** Troy Bliss, City Planner II

**TITLE:**

An Ordinance on Second Reading Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for “Peakview Commercial Park Addition PUD (#P-95) – Amendment #1,” and Approving an Amendment to the General Development Plan for the Peakview Commercial Park Addition PUD

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the ordinance on second reading as presented.

**OPTIONS:**

1. Take 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 quasi-judicial action to consider adopting an ordinance on second reading amending the Peakview Commercial Park Planned Unit Development (PUD) General Development Plan (GDP). The amendment would to allow the use “vehicle minor repairs, servicing and maintenance” within the PUD. This ordinance was approved unanimously on first reading by Council at the April 15, 2014 regular meeting.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

Les Schwab is proposing to develop a 10,000 square foot tire store on Lot 4, Block 1, Amended Plat of Peakview Commercial Park First Subdivision. The lot is 1.21 acres in size and located on the west side of N. Garfield Avenue, south of W. 64th Street. The property is designated as



CC - Corridor Commercial on the Comprehensive Plan Future Land Use Plan and borders North Garfield Avenue (U.S. 287) along its eastern boundary. North Garfield Avenue at this location is designated as a Major Arterial.

The GDP establishes zoning for the Peakview Commercial Park PUD. Currently, the GDP would not allow the proposed tire store within the PUD. Final action to amend the GDP is at the discretion of City Council.

In conjunction with this GDP amendment, an application has been submitted to amend the Preliminary Development Plan (PDP). The proposed amendment to the PDP establishes initial details for the tire store development including site layout, parking, landscaping, and building design. The Planning Commission took the following action at a public hearing on March 24, 2014:

- Unanimously recommended (7-0) approval of the GDP amendment to City Council, and;
- Unanimously approved the PDP amendment, contingent upon City Council approval of the GDP amendment.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

1. Ordinance
2. Complete first reading packet from April 15, 2014 can be accessed at:  
<http://www.cityofloveland.org/index.aspx?page=20&recordid=49801>

**FIRST READING** April 15, 2014

**SECOND READING** May 6, 2014

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

**AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR “PEAKVIEW COMMERCIAL PARK ADDITION PUD (#P-95) – AMENDMENT #1,” AND APPROVING AN AMENDMENT TO THE GENERAL DEVELOPMENT PLAN FOR THE PEAKVIEW COMMERCIAL PARK ADDITION PUD**

**WHEREAS**, on April 18, 2006, the Loveland City Council adopted on second reading Ordinance No. 5080 annexing and Ordinance No. 5081 zoning that real property designated as Peakview Commercial Park Addition PUD (#P-95) and approving the General Development Plan (“GDP”); and

**WHEREAS**, on February 3, 2009, the City Council adopted on second reading Ordinance No. 5384 approving a first amendment to a portion of the Peakview Commercial Park Addition PUD (#P-95), now known as the “Peakview Commercial Park Addition PUD (#P-95) – Amendment #1” (and referred to herein as the “PUD”), and approving an amendment to the GDP; and

**WHEREAS**, SFP-E, LLC, d/b/a Les Schwab Tire Center (the “Applicant”), as owner of Lot 4, Block 1, Amended Plat for Peakview Commercial Park 1<sup>st</sup> Suvdivision, City of Loveland, County of Larimer, State of Colorado (the “Lot”), which is located within the PUD, has filed an application to amend the GDP to allow vehicle minor repairs, servicing, and maintenance on the Lot; and

**WHEREAS**, after holding a duly-noticed public hearing on March 24, 2014, the Loveland Planning Commission made the findings listed in the Planning Commission staff report dated March 24, 2014 (the “Staff Report”), and based on those findings recommended that City Council approve the proposed amendment to the GDP; and

**WHEREAS**, the proposed amendment to the GDP to allow vehicle minor repairs, servicing, and maintenance on the Lot is reflected in the First Amendment to the GDP, a copy of which is on file with the City’s Current Planning Division and is incorporated herein by this reference (the “GDP Amendment # 2”); and

**WHEREAS**, the City Council desires to approve the GDP Amendment #2 to allow vehicle minor repairs, servicing, and maintenance on the Lot.

**NOW, THEREFORE, 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 real property included within the Peakview Commercial Park Addition, City of Loveland, Larimer County, Colorado, described as

**Lot 4, Block 1, Amended Plat for Peakview Commercial Park Subdivision,  
County of Larimer, State of Colorado**

shall be included within the boundaries of the district designated as follows: **PEAKVIEW COMMERCIAL PARK ADDITION PUD (#P-95) – AMENDMENT #2.**

The above-described tract of land contains 1.21 acres, more or less, and is subject to all easements and rights-of-way on record or existing.

**Section 2.** That the City Council hereby makes the findings listed in Section VIII of the Staff Report.

**Section 3.** That the **PEAKVIEW COMMERCIAL PARK ADDITION PUD (#P-95) – AMENDMENT #2** shall be subject to the GDP Amendment #2, which is hereby approved and is on file in the office of the Current Planning Division and incorporated herein by reference.

**Section 4.** That the **PEAKVIEW COMMERCIAL PARK ADDITION PUD - SECOND AMENDMENT (#P-95)** shall be subject to all applicable zoning regulations for the City of Loveland except where they conflict with the GDP Amendment #2, and any Preliminary Development Plan or Final Development Plan applicable to the property.

**Section 5.** 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 6<sup>th</sup> day of May, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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Assistant City Attorney



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**AGENDA ITEM:** 6  
**MEETING DATE:** 5/6/2013  
**TO:** City Council  
**FROM:** Greg George, Development Services  
**PRESENTER:** Noreen Smyth, Current Planning

**TITLE:**

An Ordinance on First Reading Vacating a Portion of a Utility Easement across Lot 3, Block 3, Loch Mount Addition, City of Loveland, County of Larimer, State of Colorado

**RECOMMENDED CITY COUNCIL ACTION:**

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

**OPTIONS:**

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

**SUMMARY:**

This is a legislative action to consider adoption of an ordinance on first reading vacating a portion of a water utility easement. The easement is on a lot currently occupied by a single family dwelling located at 1101 Loch Mount Drive, west of the intersection of Loch Mount Drive and West Eisenhower Boulevard. The applicants are the property owners, Kelly and Anne Kramer.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

The easement proposed for vacation is a 34.1 square foot triangular-shaped portion of a 20-foot wide water utility easement that crosses through the property, which is zoned R3-Established High Density Residential. The owners are proposing to subdivide the property into two lots: one

14,418 sq. ft. lot for the existing single family dwelling and a second 11,800 sq. ft. lot for a new single family dwelling.

The subject easement was dedicated to the City of Loveland in 1925. The existing residence was originally built in 1938. Subsequent additions to the original residence were made by others prior to the purchase of the property by the current applicant. During a survey of the property conducted in advance of submitting the application for a minor subdivision, it was discovered that the northeast corner of the existing residence encroaches into the water utility easement.

According to the Water Division, water lines are not located in the area for which the vacation is requested and this area will not be needed in the future for water utility purposes. Because the easement area proposed to be vacated serves no public benefit, City staff is supportive of the vacation. City staff has completed review of the associated application for a minor subdivision and it is ready to be administratively approved once Council approves the proposed utility easement vacation.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

1. Ordinance
2. Staff Memorandum

**FIRST READING** May 6, 2014

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

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

**AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT ACROSS LOT 3, BLOCK 3, LOCH MOUNT ADDITION, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO**

**WHEREAS**, the City Council, at a regularly scheduled meeting, considered the vacation of a portion of the utility easement described below (the “Utility Easement”) and located across **Lot 3, Block 3, Loch Mount Addition, City of Loveland, County of Larimer, State of Colorado**; and

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

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

**WHEREAS**, the City Council further finds and determines that the application filed with the City’s Current Planning Division was signed by the owners of more than fifty percent of the property abutting the portion of the Utility Easement to be vacated.

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

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

**Section 2.** That based on the City Council’s findings set forth above, the following portion of the Utility Easement be and the same is hereby vacated:

That portion of that certain parcel of land as described in deed recorded at Reception No. 2002006289, records of the Larimer County, Colorado Clerk and Recorders Office, being a portion of Lot 3, Block 3, LOCH-MOUNT ADDITION, situate in the Northwest Quarter of Section 14, Township 5, North, Range 69 West of the 6th P.M., to the City of Loveland, County of Larimer, State of Colorado, being more particularly described as follows:

Considering the Westerly line of said certain parcel of land as described in deed recorded at Reception No. 2002006289 as bearing North 00°48’05” East and with all bearings contained herein relative thereto:

Beginning at the Southwest corner of said certain parcel of land as described in deed recorded at Reception No. 2002006289; thence along the Westerly line of said certain parcel of land as described in deed recorded at Reception No. 2002006289, North 00°48'05" East 143.69 feet, more or less, to a point on the Southerly line of a 20-foot Easement and Right Of Way for a Water Main as described in Book 512 at Page 26, said records of the Larimer County, Colorado Clerk and Recorders Office; thence departing said Westerly line and along said Southerly line of a 20-foot Easement and Right Of Way for a Water Main, South 52°45'26" East 33.79 feet and again South 55°30'39" East 1.65 feet to the TRUE POINT OF BEGINNING; thence departing said Southerly line, North 87°17'24" East 9.48 feet; thence South 02°42'36" East 7.20 feet, more or less, to a point on said Southerly line of a 20-foot Easement and Right Of Way for a Water Main; thence along said Southerly line, North 55°30'39" West 11.90 feet to the TRUE POINT OF BEGINNING.

The above-described easement vacation contains 34.1 square feet, more or less, and is subject to any existing easements and/or rights-of-way of record.

A depiction of the above-described easement vacation is attached hereto as Exhibit A and incorporated herein by reference.

**Section 3.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

**Section 4.** 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.

**ADOPTED** this \_\_\_\_ day of May, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

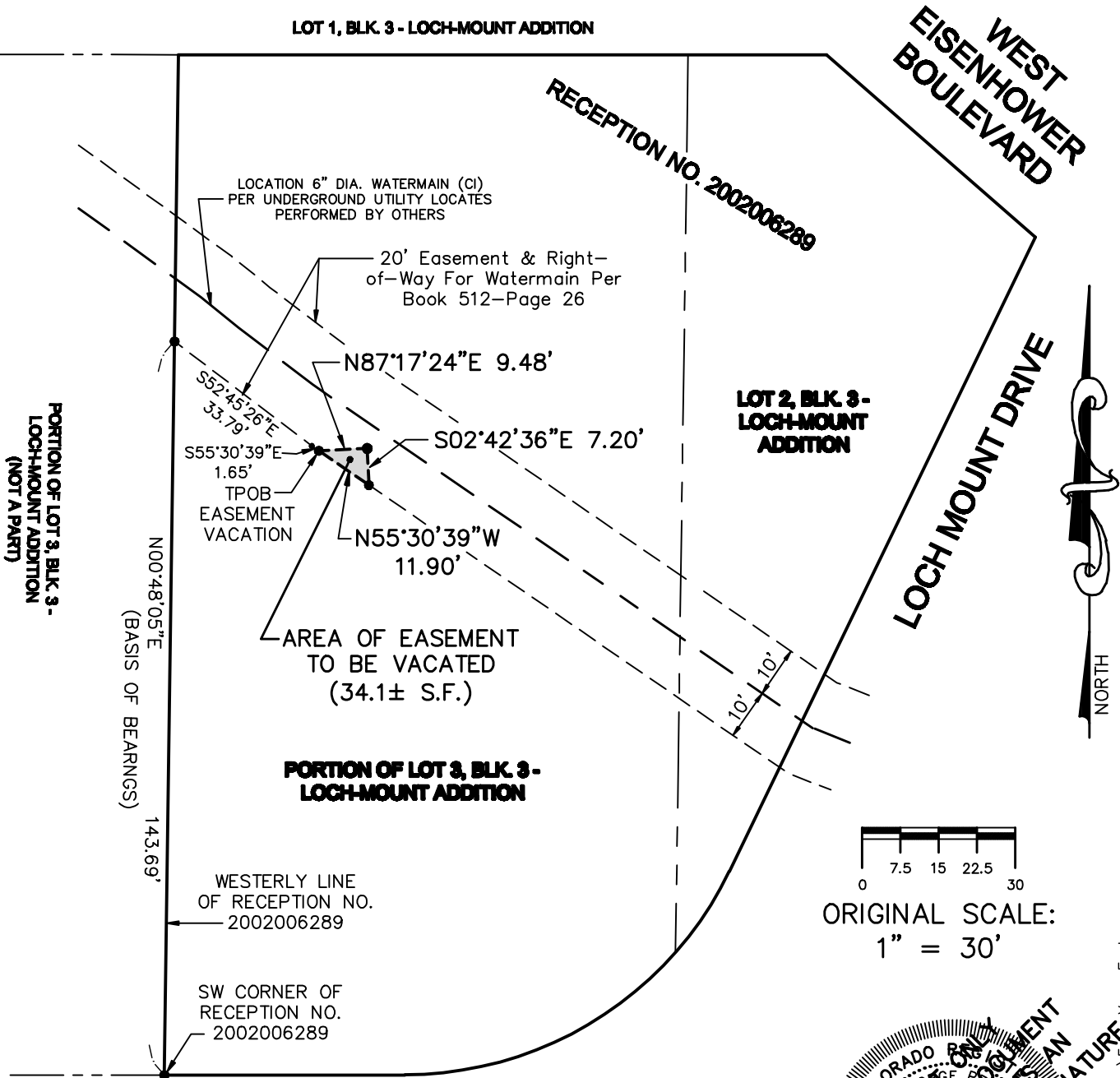
  
\_\_\_\_\_  
Assistant City Attorney



# EASEMENT VACATION EXHIBIT

VACATING A PORTION OF AN 20-FOOT EASEMENT & RIGHT OF WAY FOR A WATERMAIN ON A PORTION OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DEED RECORDED AT RECEPTION No. 2002006289, RECORDS OF LARIMER COUNTY, COLORADO SITUATE IN LOT 3, BLOCK 3, LOCH-MOUNT ADDITION, TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

LOT 1, BLK. 3 - LOCH-MOUNT ADDITION



Project No.: P-13-7523  
 Date: 02/17/2014  
 REV.: 03-25-14 (RGP)  
 Drawn: JEB

Prepared By And On Behalf Of:  
 INTERMILL LAND SURVEYING, INC.  
 1301 North Cleveland Avenue  
 Loveland, Colorado 80537  
 (970) 669-0516

NOTE: THIS DRAWING DOES NOT REPRESENT A MONUMENTED FIELD SURVEY OF THE SUBJECT PROPERTY. IT IS INTENDED TO DEPICT THE ATTACHED EASEMENT DESCRIPTION FOR THE SUBJECT PROPERTY.

Robert George Persichitte  
 Colorado PLS 34174





**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

**M E M O R A N D U M**

**TO:** City Council

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

**DATE:** May 6, 2014

**SUBJECT:** 1101 Loch Mount - Utility Easement Vacation  
PZ-14-29

**I. EXHIBITS**

- A. Vicinity Map
- B. Loch Mount Fifth Subdivision, Application #14-18
- C. Site Plan
- D. Vacation Request Letter
- E. Slide presentation

**II. KEY ISSUES**

Staff believes that all key issues regarding the easement vacation have been resolved through the staff review process. The item has been placed on the Council's consent agenda.

**III. PUBLIC HEARING & NOTICE**

The City Council review of the vacation request is a public hearing. An affidavit was received from the applicant's representative certifying that the required notice of the hearing for the vacation was conducted at least 15 days prior to the date of the hearing. Staff has not received any comments or inquiries on the application.

### **III. BACKGROUND**

This application concerns a request to vacate a small portion of a water utility easement that runs through a single family residential lot at 1101 Loch Mount Drive. The lot contains a house in its southern portion, the 20-foot wide water easement in the center portion, and a large grassy area in the northern portion. The application was submitted in conjunction with a minor plat application, the Loch Mount Fifth Subdivision (PZ-14-18), to divide the property in two. The subdivision would situate the existing single family residence on a 0.331-acre lot and create a 0.271-acre vacant lot to its north for future single family residential development. A portion of the water easement would be situated on each new lot.

The easement was dedicated to the City of Loveland in 1925 and the existing residence constructed thereafter. Subsequent additions to the original residence were made by others prior to the purchase of the property by the current applicant. During a survey of the property conducted in advance of submitting the application for a minor subdivision, it was discovered that a corner of the residence encroaches approximately 7 feet into the 20-foot wide water utility easement. According to the Water Department, water lines are not located in the particular area for which the vacation is requested.

The remainder of the water easement from which the triangular-shaped piece will be vacated will remain, as will all other existing easements, with certain additional easements to be established with the Loch Mount Fifth Subdivision plat.

### **IV. STAFF REVIEW**

Because the easement area proposed to be vacated serves no public benefit, and because it will not be needed in the future for water utility purposes, staff is supportive of the vacation. The associated application for a minor subdivision has completed the staff review process, and can be administratively approved if and when the utility easement vacation is approved.

### **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  
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**TO:** City Council

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

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**SUBJECT:** 1101 Loch Mount - Utility Easement Vacation  
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The easement was dedicated to the City of Loveland in 1925 and the existing residence constructed thereafter. Subsequent additions to the original residence were made by others prior to the purchase of the property by the current applicant. During a survey of the property conducted in advance of submitting the application for a minor subdivision, it was discovered that a corner of the residence encroaches approximately 7 feet into the 20-foot wide water utility easement. According to the Water Department, water lines are not located in the particular area for which the vacation is requested.

The remainder of the water easement from which the triangular-shaped piece will be vacated will remain, as will all other existing easements, with certain additional easements to be established with the Loch Mount Fifth Subdivision plat.

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### **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.



# LOCH MOUNT FIFTH SUBDIVISION

BEING A SUBDIVISION OF LOT 2 AND A PORTION OF LOT 3, BLOCK 3, LOCH MOUNT ADDITION, SITUATE IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

KNOW ALL PERSONS BY THESE PRESENTS that the undersigned, being all the owners and lien holders of the following described property, except any existing public streets, roads or highways, which property is located in the Northwest Quarter of Section 14, Township 5, North, Range 69 West of the 6th P.M., being more particularly described as follows:

LOTS 2 AND 3, BLOCK 3, EXCEPT THE WEST 110 FEET OF LOT 3, BLOCK 3, LOCH-MOUNT ADDITION (ACCORDING TO THE PLAT THEREOF RECORDED JULY 23, 1954 IN THE REAL PROPERTY RECORDS OF THE OFFICE OF THE CLERK AND RECORDER OF LARIMER COUNTY, COLORADO IN BOOK 6, PAGE 83, RECEPTION NO. 683062) TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO the entire parcel being more particularly described as follows:

Considering the South line of said Lot 3, Block 3, LOCH MOUNT ADDITION as bearing South 90°00'00" West and with all bearings contained herein relative thereto:

BEGINNING at the Southwest corner of that parcel of land as described in that certain Warranty Deed recorded January 17, 2002 in the real property records of the Office of the Clerk and Recorder of Larimer County, Colorado at Reception No. 2002006289; said Southwest corner also being a point on the South line of said Lot 3, Block 3, LOCH-MOUNT ADDITION and a point on the North right-of-way line of Loch Mount Drive; thence along said South line of said Lot 3, Block 3, LOCH-MOUNT ADDITION and said North right-of-way line of Loch Mount Drive North 90°00'00" East 47.17 feet to the beginning of a tangent curve concave to the Northwest having a central angle of 64°15'00" and a radius of 70.50 feet, the long chord of which bears North 57°52'30" East a distance of 74.98 feet; thence Northeast along the arc of said curve and along the Southeast line of said Lot 3, Block 3, LOCH-MOUNT ADDITION and along the Southeast line of said Lot 2, Block 3, LOCH-MOUNT ADDITION and along the Northwesterly right-of-way line of Loch Mount Drive 79.06 feet; thence tangent from said curve and continuing along said Southeast line of said Lot 2, Block 3, LOCH-MOUNT ADDITION and along said Northwesterly right-of-way line of Loch Mount Drive North 25°45'00" East 137.95 feet, more or less, to the Southeast corner of said Lot 2, Block 3, LOCH-MOUNT ADDITION; said Southeast corner also being a point on the Southwesterly right-of-way line of West Eisenhower Boulevard; thence departing said Southeast line of said Lot 2, Block 3, LOCH-MOUNT ADDITION and along said Northwesterly right-of-way line of Loch Mount Drive and along the Northwesterly line of said Lot 2, Block 3, LOCH-MOUNT ADDITION and along said Southwesterly right-of-way line of West Eisenhower Boulevard North 48°53'38" West 54.27 feet, more or less, to the Northeast corner of said Lot 2, Block 3, LOCH-MOUNT ADDITION; thence departing said Northwesterly line of said Lot 2, Block 3, LOCH-MOUNT ADDITION and said Southwesterly right-of-way line of West Eisenhower Boulevard and along the Northerly lines of said Lots 2 and 3, Block 3, LOCH MOUNT ADDITION North 89°58'36" West 126.92 feet, more or less, to Northwest corner of said parcel of land as described in Reception No. 2002006289; thence departing said Northerly line of said Lots 3, Block 3, LOCH MOUNT ADDITION and along the Westerly line of said parcel of land as described in Reception No. 2002006289 South 00°48'05" West 199.87 feet, more or less, to the Southwest corner of said parcel of land as described in Reception No. 2002006289; said point being on the South line of said Lot 3, Block 3, LOCH-MOUNT ADDITION and the POINT OF BEGINNING.

Containing 26,250.7 Square Feet (0.603 Acres), more or less, and is subject to all easements and rights-of-way on record or existing, do hereby subdivide the same into lots, blocks, tracts, outlots, rights-of-way and easements, as shown on this plat; and do hereby designate and dedicate: (i) all such rights-of-way and easements, other than utility easements and private easements, to and for public use, except where indicated otherwise on this plat; and (ii) all such utility easements to and for public use for the installation and maintenance of utility, irrigation and drainage facilities; and do hereby designate the same as LOCH MOUNT FIFTH SUBDIVISION to the City of Loveland, Colorado.

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

OWNER(S):  
KELLY NEIL KRAMER and ANNE PHILLIPS KRAMER

LIENHOLDER(S):  
JPMORGAN CHASE BANK, N.A.

KELLY NEIL KRAMER ANNE PHILLIPS KRAMER  
STATE OF COLORADO )  
COUNTY OF LARIMER )

By: \_\_\_\_\_  
As: \_\_\_\_\_  
of JPMorgan Chase Bank, N.A.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Kelly Neil Kramer and Anne Phillips Kramer.

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Witness my hand and official seal.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ as \_\_\_\_\_

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

of JPMorgan Chase Bank, N.A.

Notary Public

Witness my hand and official seal.

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

Notary Public

### DIRECTOR OF DEVELOPMENT SERVICES' APPROVAL

This plat is approved by the Director of Development Services of the City of Loveland, Larimer County, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for filing with the Clerk and Recorder of Larimer County and for conveyance to the City of the public dedications shown hereon, which are accepted; subject to the provision that approval in no way obligates the City of Loveland, for financing or constructing of improvements on land, streets, or easements dedicated to the public except as specifically agreed to by the Director of Development Services.

Director of Development Services  
Witness my hand and seal of the City of Loveland.

ATTEST:

City Clerk

### ATTORNEY'S CERTIFICATE:

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

So sworn this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attorney at Law: \_\_\_\_\_  
Address: \_\_\_\_\_

Registration No: \_\_\_\_\_

### PRIVATE SHARED ACCESS EASEMENT DEDICATION

The owner(s) hereby dedicate the 20' Private Shared Access Easement located within Lots 1 & 2, Block One of this Plat (subdivision) to the owner(s), patrons, business invitees, and guests of the owner(s) and the owner's successors and assigns for their reciprocal and mutual use and enjoyment. This dedication shall run with the land, be binding and enforceable upon the owner(s), future owner(s), the owner's successors and assigns and it shall inure to the benefit of all current and future owner(s), patrons, business invitees, and guests of Lots 1 & 2, Block One, Loch Mount Fifth Subdivision to the City of Loveland, Colorado.

This Private Access Easement dedication shall be maintained equally by the owner(s), future owner(s), the owner's successors and assigns.

OWNER(S):  
KELLY NEIL KRAMER and ANNE PHILLIPS KRAMER

KELLY NEIL KRAMER ANNE PHILLIPS KRAMER  
STATE OF COLORADO )  
COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Kelly Neil Kramer and Anne Phillips Kramer.

Witness my hand and official seal.

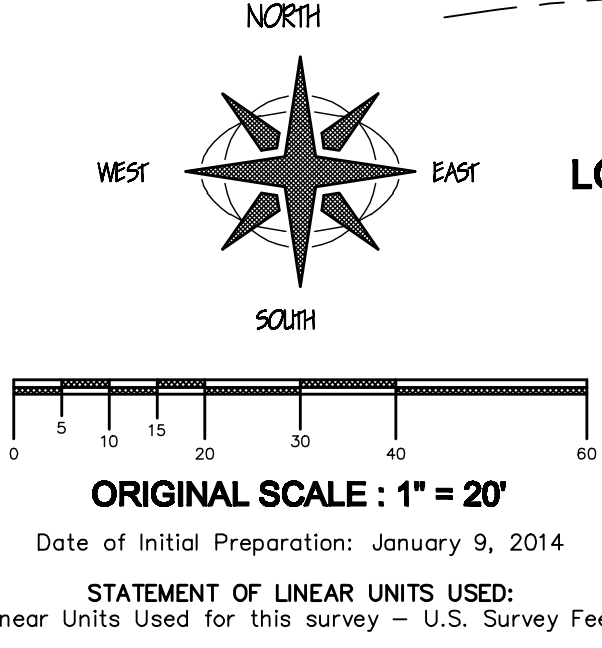
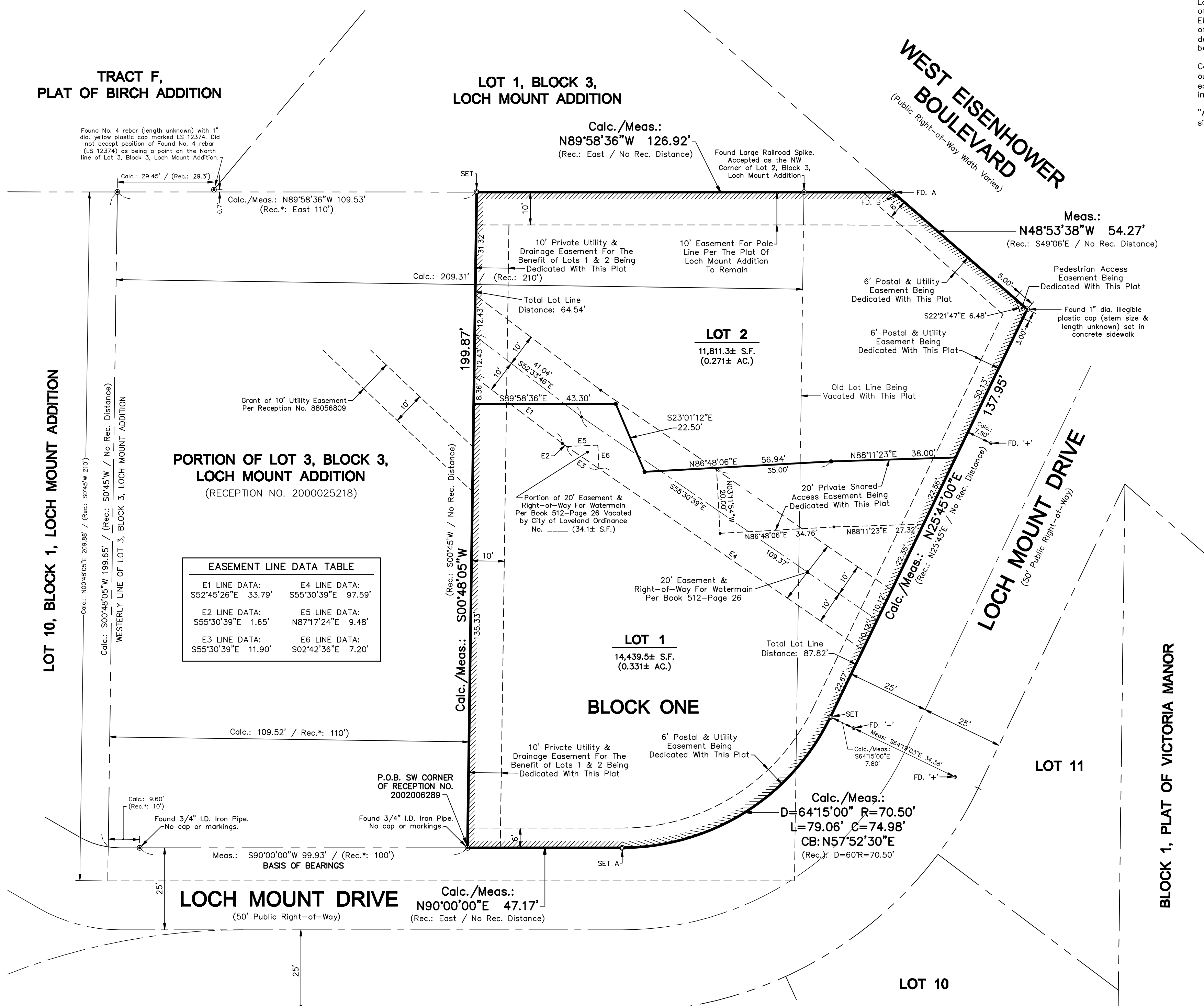
My commission expires \_\_\_\_\_.

Notary Public

### MONUMENTATION LEGEND

- SET: Indicates Set No. 4 rebar (16" long) with 1" dia. blue plastic cap marked LS 34174.
- SET A: Indicates Set 1" long concrete nail with 1" dia. brass shiner marked LS 34174 in brick driveway surface.
- FD, "+": Indicates Found chiseled cross "+" in concrete surface.
- FD, "A": Indicates Found No. 4 rebar (length unknown). No cap or markings. Accepted as the NE corner of Lot 2, Block 3, Loch Mount Addition.
- FD, "B": Indicates Found No. 4 rebar (length unknown). No cap or markings. Found No. 4 rebar lies S31°45'36"E 0.14' from the NE corner of Lot 2, Block 3, Loch Mount Addition depicted as FD, "A" on this Plat.

EASEMENT LINE DATA TABLE	
E1 LINE DATA: S52°45'26"E 33.79'	E4 LINE DATA: S55°30'39"E 97.59'
E2 LINE DATA: S55°30'39"E 1.65'	E5 LINE DATA: N87°17'24"E 9.48'
E3 LINE DATA: S55°30'39"E 11.90'	E6 LINE DATA: S02°42'36"E 7.20'



**BASIS OF BEARINGS STATEMENT:** Basis of Bearings for this survey are based on an assumed bearing of South 90°00'00" West on the South line of Lot 3, Block 3, LOCH MOUNT ADDITION to the City of Loveland, County of Larimer, State of Colorado between the Found 3/4" I.D. Iron Pipe (No cap or markings) marking the SW corner of this Plat and the Found 3/4" I.D. Iron Pipe (No cap or markings) lying South 90°00'00" West 99.93' from said SW corner of this Plat. Note: Monumentation of said line as shown on Map.

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

**INTERMILL LAND SURVEYING, INC.**  
1301 NORTH CLEVELAND AVENUE  
LOVELAND, COLORADO 80537  
BUS. (970)-669-0516 / FAX (970)-635-9775

**LOCH MOUNT FIFTH SUBDIVISION**  
TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

**KELLY and ANNE KRAMER**

DRAWN BY: RGP  
CHECKED BY: \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_  
DATE: 01-09-14  
SCALE: 1"=20'

PROJECT NO.: P-13-7523

SHEET 1 OF 1

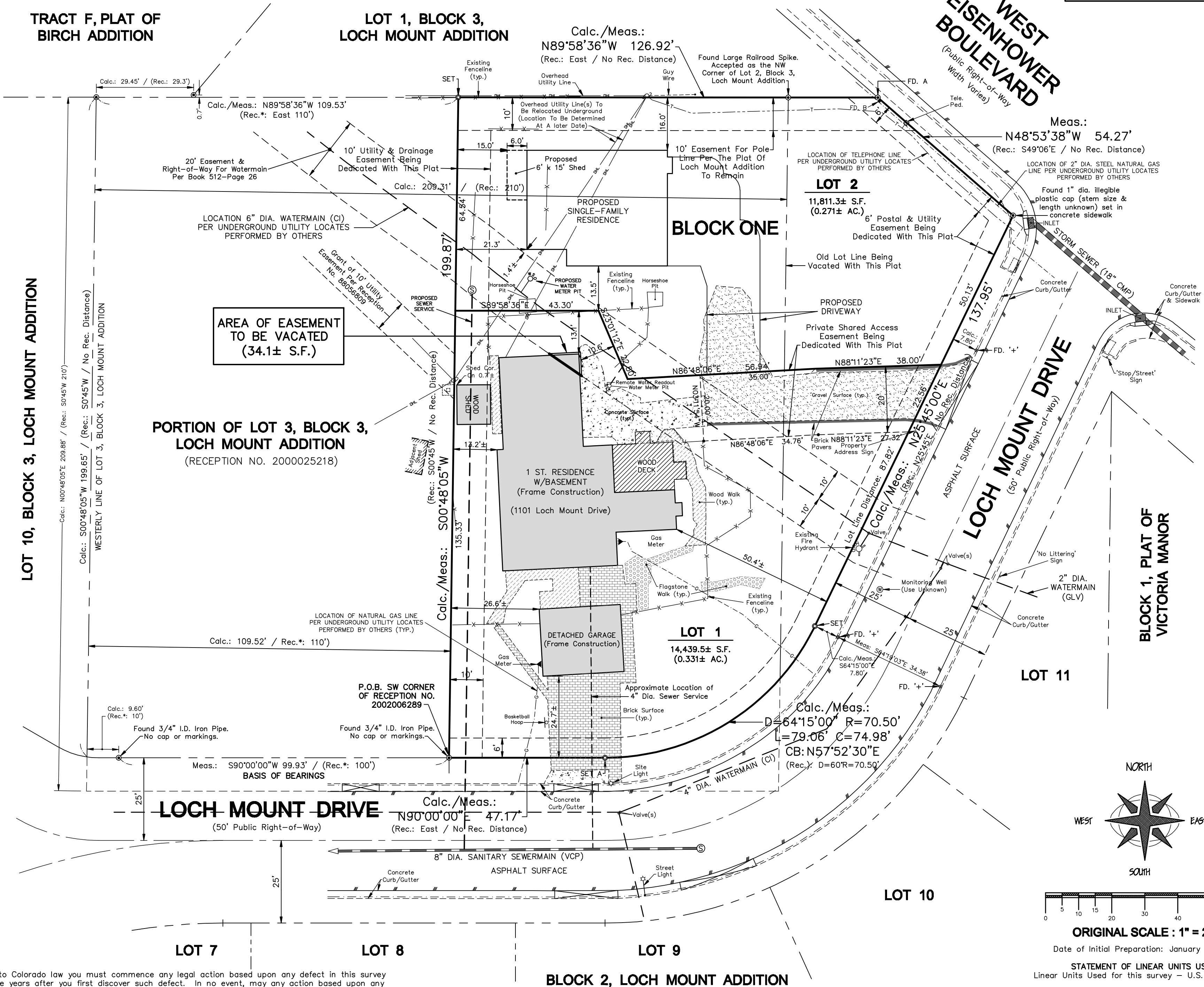


PLOTTED FOR RESUBMITTAL:  
DATE: 03-25-14 BY: RGP

# EASEMENT VACATION SITE PLAN

VACATING A PORTION OF AN 20-FOOT EASEMENT & RIGHT OF WAY FOR A WATERMAIN ON A PORTION OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2002006289, RECORDS OF LARIMER COUNTY, COLORADO SITUATE IN LOT 3, BLOCK 3, LOCH-MOUNT ADDITION, TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

NOTE:  
THIS EASEMENT VACATION SITE PLAN REFLECTS THOSE CONDITIONS PROPOSED WITH THE LOCH MOUNT FIFTH SUBDIVISION APPLICATION TO THE CITY OF LOVELAND FOR REVIEW.



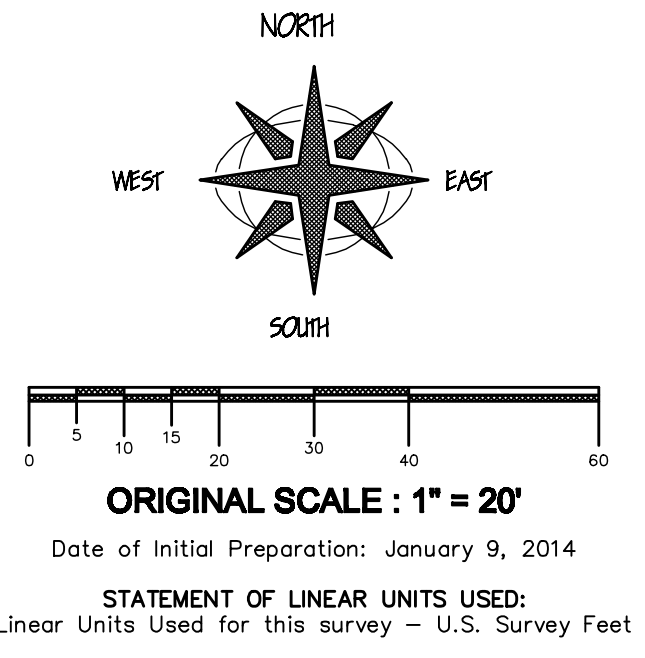
DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
 REVISIONS: \_\_\_\_\_  
 T. Revisions Per City Comments (03-21-14 Review)

**INTERMILL LAND SURVEYING, INC.**  
 1301 NORTH CLEVELAND AVENUE, LOVELAND, COLORADO 80537 P: (970)-669-0516 F: (970)-635-9775

**EASEMENT VACATION SITE PLAN**  
 On A Portion Of Lot 3, Blk. 3, Loch-Mount Add., Loveland, CO

**KELLY & ANNE KRAMER**  
 1101 Lock Mount Drive  
 Loveland, CO 80537

DRAWN BY: RGB/JEB  
 CHECKED BY: \_\_\_\_\_  
 APPROVED BY: \_\_\_\_\_  
 DATE: 02/14/2014  
 SCALE: 1" = 20'  
 PROJECT NO.: P-13-7523  
 SHEET 1 OF 1



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



# Intermill Land Surveying



1301 N. Cleveland Ave.  
Loveland, Colorado 80537

(970) 669-0516  
Fax: (970) 635-9775  
E-mail: intermill@qwestoffice.net



February 18, 2014

City Of Loveland Current Planning

Re: Easement Vacation on a portion of Lot 3, Block 3, LOCH MOUNT  
ADDITION, City Of Loveland, County of Larimer, State of Colorado

Dear Sir / Madam,

Please let this letter serve as Vacation Request Submittal Checklist Item No. 3

Kelly & Anne Kramer are requesting a vacation of a portion of a 20-foot wide water main easement and right of way that crosses their property at 1101 Loch Mount Drive.

The easement was dedicated to the City of Loveland with the document recorded on April 14, 1925 in Book 512 at Page 26, records of the Larimer County Clerk & Records Office. The existing residence was originally built in 1938 according to information from the Larimer County Assessors Office. Subsequent additions to the original residence were made by others prior to current ownership of the property by the Kramers. During a recent Land Survey of the subject property it was discovered that the Northeast corner of the existing residence is located within the aforesaid easement.

The Owners are requesting a vacation  $\pm 52.8$  square feet of the existing easement. Vacation of this portion of the easement will provide for a 1.5-foot cushion between the residence & the easement.

Sincerely  
Kelly & Anne Kramer

*KK*  
*AK*



CITY OF LOVELAND

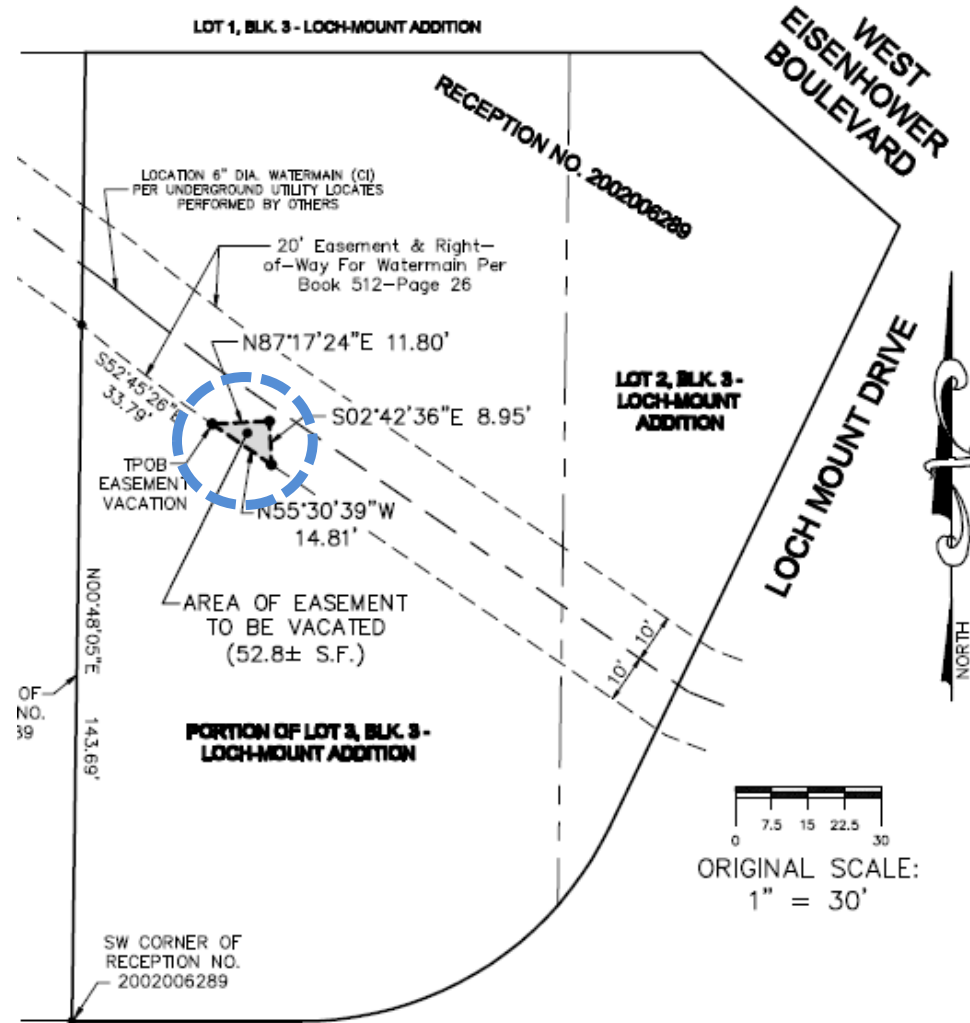


Exhibit E



**CITY OF LOVELAND**  
**PUBLIC WORKS DEPARTMENT**  
 Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537  
 (970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

**AGENDA ITEM:** 7  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Traffic Division, Public Works Department  
**PRESENTER:** Dave Klockeman, Acting Public Works Director / City Engineer

**TITLE:**

A Motion to Award Project TS1201 Loveland Fiber Optic Interconnect (Federal Aid Project No. AQC M830-065, 19289) to Paonia Inc. of Colorado Springs, Colorado, in the Amount of \$745,861.63 and Authorize the City Manager to Execute the Contract

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the motion.

**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 to award Project TS1201 Loveland Fiber Optic Interconnect (Federal Aid Project No. AQC M830-065, 19289) to Paonia Inc. of Colorado Springs, Colorado in the amount of \$745,861.63 and authorize the City Manager to execute the contract.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Funding is available in the Adopted 2014 Budget and includes Federal Funds awarded through the North Front Range Metropolitan Planning Organization ("MPO").

**BACKGROUND:**

The Loveland Fiber Optic Interconnect (Federal Aid Project No. AQC M830-065, 19289) Project generally consists of the installation of conduit, pull boxes, fiber optic cable, closed circuit

television cameras, and fiber communications hardware along portions of US Highway 287, US Highway 34, State Highway 402, Taft Avenue and Wilson Avenue, all within the City of Loveland.

The City received seven (7) sealed bids that were opened on March 13, 2014. Some of the bid item totals from some of the bidders, including the apparent low bidder, had minor mathematical errors. After consultation with the Colorado Department of Transportation (CDOT), the City's Finance Department, and Paonia Inc., Staff is comfortable moving forward as the minor errors did not affect the outcome of the bidding process.

The seven (7) bids, including the corrections for the minor mathematical errors, are as follows:

<b>Contractor</b>	<b>Bid Amount</b>
Paonia Inc.	\$745,861.63
Interface Communications Company	\$871,533.00
Colorado Boring Company	\$890,459.50
Rocky Mountain Communication Specialties	\$927,880.24
WL Contractors Inc.	\$1,124,169.00
Sturgeon Electric Company, Inc.	\$1,491,374.00
Tetra Tech	\$2,167,367.81

The Engineer's estimate for the construction of the project was \$1,002,335.00. The City of Loveland has received concurrence to award the project to Paonia Inc. from the CDOT.

Staff recommends that City Council waive the minor mathematical errors and award the contract to Paonia Inc. based upon the bid item quantities multiplied by the their bid unit price.

**Funding Background:**

This project was submitted to the MPO for funding as part of the October 2010 Call for Projects request. The City was notified of the availability of this Federal funding in late February 2012 and that it would become available in June 2012.

<b>Cost:</b>	Federal:		\$ 883,000
	Local Match*:	\$	0
	Local Overmatch**:	<u>\$200,000</u>	
	Local Subtotal	\$200,000	<u>\$ 200,000</u>
	<b>Project Total:</b>		<b>\$1,083,000</b>

\* Local Match Funds are defined as funding required to be provided by a local entity as part of the Federal grant process. For CMAQ Funds, a Local Agency Match is typically required in the amount of 17.21 percent of the total of the Local Match Funds added to the Federal Funds. For this specific type of project, Local Match funds are not required but are encouraged, showing

that the Local Entity is interested in putting funding into a specific project. (Note: It was previously considered a condition of this project to provide a Local Match, so that amount was included in the project submittal. In processing the contract for this project, CDOT determined that a Local Match was not required, but since it was included in the original award consideration, the funds are being designated at "Local Overmatch Funds" as they are necessary to complete the project as submitted.)

\*\* Local Overmatch Funds are defined as funding provided by a local entity above the required amount of Local Agency Match Funds in order to complete a project. Overmatch Funds are encouraged and were included in this project.

The funding for this grant, which brings a significant amount of unexpected federal funding to the City, along with the City General portion, was approved by Ordinance by City Council at the July 17, 2012 meeting.

City Staff is currently working with CDOT for opportunities to invest the full amount of the Federal Grant to further enhance the project.

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**REVIEWED BY CITY MANAGER:**



---

**LIST OF ATTACHMENTS:**

None



**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:** 8  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Alan Krcmarik, Executive Fiscal Advisor  
**PRESENTER:** Alan Krcmarik, Executive Fiscal Advisor

**TITLE:**

A Resolution Authorizing the Assignment of the City's Private Activity Bond Allocation for 2014 to the Housing Authority of the City of Loveland, Colorado, Providing Other Details in Connection Therewith, and Providing an Effective Date

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the resolution.

**OPTIONS:**

1. Take 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. This Resolution will authorize the assignment of all of the City's 2014 private activity bond allocation in the amount of \$3,521,800 to the Housing Authority of the City of Loveland ("HACOL" or the "Authority") for the purpose of issuing bonds for the Ashley Estates Apartment Homes Project (the "Project") to be developed by Pedcor Investments LLC. The Project is an affordable housing project and meets the federal and state requirements for the use of Private Activity Bond financing. Council approved fee waivers for the Project on April 15, 2014, with a unanimous vote. The HACOL will be the issuer of the bonds and will also have bond allocations from Larimer County, the Colorado Housing and Finance Authority ("CHFA") and an allocation from the prior year statewide allocation.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The City of Loveland will not incur any costs due to the assignment of the private activity bond 2014 allocation.

**BACKGROUND:**

Private Activity Bonds are tax-exempt bonds that can be issued for specific purposes, including affordable multi-family housing, single-family mortgages and credits, industrial development bonds, and exempt facility bonds. The federal government grants annual allocations of private activity bond authority to states under the Tax Reform Act of 1986. The State of Colorado allocates 50% of its private activity bond ceiling to local governments on a per capita basis. Loveland's 2014 allocation is \$3,521,800. The bonds will be issued by the HACOL and will be repaid from revenue generated by the project. The City is not liable for the debt service payments on the bonds.

The City has used its private activity bond allocation in the past to assist in the financing of affordable multi-family housing. Two examples of past housing projects are the Waterford Apartments and The Reserve Apartments. The City has also completed private activity bond transactions for industrial projects and combines with state-wide efforts for single-family mortgage bond programs.

The 2007 to 2009 economic downturn in the financial markets has resulted in greater restrictions on access to capital for residential projects. Pedcor, in its presentation to the Council on April 15, 2014, was able to show substantial unmet demand for affordable housing in Loveland. By assigning the annual City allocation to the Housing Authority, along with the Larimer County allocation of \$4.6 million, \$10 million allocation from HACOL, and additional allocation from CHFA, there will be sufficient bonding allocation to issue approximately \$28 million of bonds. The total project will cost approximately \$40 million.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

1. Resolution
2. Exhibit A – Assignment of Allocation
3. Certificate

**RESOLUTION #R-32-2014**

**A RESOLUTION AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY BOND ALLOCATION FOR 2014 TO THE HOUSING AUTHORITY OF THE CITY OF LOVELAND, COLORADO, PROVIDING OTHER DETAILS IN CONNECTION THEREWITH, AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, pursuant to the Colorado Private Activity Bond Ceiling Allocation Act, constituting Title 24, Article 32, Part 17, Colorado Revised Statutes (the "Allocation Act"), the City of Loveland, Colorado (the "City") has received a direct allocation of the State of Colorado's Private Activity Bond Ceiling for the year 2014 (the "2014 Allocation"); and

**WHEREAS**, the Housing Authority of the City of Loveland, Colorado (the "Authority") has requested that the City assign all of the 2014 Allocation equal to \$3,521,800 (the "Assigned Allocation") to the Authority pursuant to Section 24-32-1706 of the Allocation Act for the purpose of assisting in the financing of the construction and equipping of a 224-unit rental housing project to be known as Ashley Estates Apartment Homes, located at 657 W. 64<sup>th</sup> Street, in the City of Loveland, Larimer County, Colorado; and

**WHEREAS**, the City desires to assign the Assigned Allocation to the Authority; and

**WHEREAS**, there has been presented to the City Council (the "Council") the form of an Assignment of Allocation (the "Assignment").

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

**Section 1.** That the City hereby authorizes the assignment of the Assigned Allocation to the Authority for use as described above.

**Section 2.** That the form, terms, and provisions of the Assignment hereby are approved and the officers of the City hereby are authorized and directed to execute and deliver the Assignment, with such changes therein as are approved by the officers of the City executing the Assignment. The execution of the Assignment shall be conclusive evidence of the approval by the City of such document in accordance with the terms hereof.

**Section 3.** That the officers of the City shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution and the Assignment.

**Section 4.** That all action not inconsistent with the provisions of this Resolution heretofore taken by the Council and the officers of the City directed toward the assignment of the Assigned Allocation and the authorization of the Assignment hereby are ratified, approved, and confirmed.



**Section 5.** That if any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

**Section 6.** All orders, resolutions, bylaws, ordinances, or regulations of the City, or parts thereof, inconsistent with this Resolution are hereby repealed to the extent only of such inconsistency.

**Section 7.** That this Resolution shall take effect as of the date of its adoption.

**ADOPTED** this 6<sup>th</sup> day of May, 2014.

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

ATTEST:

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

APPROVED AS TO FORM:

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

**ASSIGNMENT OF ALLOCATION**

THIS ASSIGNMENT OF ALLOCATION (the “Assignment”), dated May \_\_\_\_, 2014, is between the City of Loveland, Colorado, a body corporate and politic (the “Assignor”), and the Housing Authority of the City of Loveland, Colorado, a body corporate and politic (the “Assignee”).

**RECITALS**

A. The Assignee intends to finance a project consisting of the construction and equipping of a 224-unit rental housing project to be known as Ashley Estates Apartment Homes, located at 657 W. 64<sup>th</sup> Street in the City of Loveland, Larimer County, Colorado (the “Project”). The Project will be designed to qualify as a “project” within the meaning of Title 29, Article 4, Part 2, Colorado Revised Statutes, as amended (the “Act”).

B. The Assignee intends to provide for the issuance of its Multi-family Housing Revenue Bonds (the “Proposed Bonds”), pursuant to the provisions of the Act for the purpose of financing the Project.

C. The Assignee has requested that the Assignor assign to the Assignee all \$3,521,800 of the Assignor’s 2014 allocation under the bond ceiling for the State of Colorado and its issuing authorities (the “State Ceiling”) computed under Section 146(d) of the Internal Revenue Code of 1986 (the “Code”) as provided for the Assignor as a “designated local issuing authority” under Title 24, Article 32, Part 17, Colorado Revised Statutes (the “Allocation Act”), for use in connection with the financing of the Project.

D. Subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept, \$3,521,800 of the Assignor’s 2014 allocation from the State Ceiling.

**ASSIGNMENT**

In exchange for the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Assignor hereby assigns and transfers to the Assignee the Assignor’s 2014 Allocation from the State Ceiling for private activity bonds in an amount equal to \$3,521,800. The Assignor and the Assignee understand that such assigned allocation shall automatically be relinquished to the “Statewide Balance” as defined under the Allocation Act unless: (a) the Proposed Bonds are issued by the Assignee prior to September 15, 2014; or (b) Section 24-32-1706(3)(c), Colorado Revised Statutes, applies.

2. The Assignor represents that it has received no monetary consideration for the assignment set forth above.

3. The Assignee hereby:

(a) accepts the assignment of \$3,521,800 of the Assignor's allocation from the State Ceiling described above; and

(b) agrees to abide by each of the terms and conditions of this Assignment in connection with the use of such allocation.

4. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

5. This Assignment shall not constitute the debt or indebtedness or financial obligation of the Assignor within the meaning of the constitution or statutes of the State of Colorado or give rise to a pecuniary liability or charge against the general credit or taxing power of the Assignor.

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this instrument to be executed to be effective as of the date and year first written above.

CITY OF LOVELAND, COLORADO,  
as Assignor

[SEAL]

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

ATTEST:

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

HOUSING AUTHORITY OF THE CITY  
OF LOVELAND, as Assignee

[SEAL]

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

Its: \_\_\_\_\_

ATTEST:

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

Its: \_\_\_\_\_

CERTIFICATE OF THE CITY OF LOVELAND, COLORADO  
CONCERNING ASSIGNMENT OF  
PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION  
TO THE HOUSING AUTHORITY OF THE CITY OF LOVELAND

I, the undersigned, hereby certify that I am the duly chosen, qualified, and acting City Manager of the City of Loveland, Colorado (the “City”), and that:

1. The City is a public body politic and corporate, duly organized and existing under the constitution and laws of the State of Colorado.
2. The City has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Title 24, Article 32, Part 17, Colorado Revised Statutes (the “Allocation Act”), it has an allocation of a portion of the State ceiling (as defined in the Allocation Act) for 2014 in the amount of \$3,521,800.
3. Attached hereto as Exhibit A is a true and correct copy of a resolution and the related minutes thereto (the “Resolution”) authorizing the assignment to the Housing Authority of the City of Loveland (the “Authority”) of all of such allocation of the 2014 State ceiling in the amount of \$3,521,800 (the “Assigned Allocation”), and authorizing the execution and delivery of an Assignment of Allocation dated as of May \_\_\_\_, 2014 (the “Assignment of Allocation”) between the City and the Authority in connection therewith, which Resolution was duly adopted by the City Council of the City (the “City Council”) at a meeting thereof held on May 6, 2014, at which meeting a quorum was present and acting throughout and which Resolution has not been revoked, rescinded, repealed, amended, or modified and is in full force and effect on the date hereof.
4. The meeting of the City Council at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.
5. With respect to the Assigned Allocation, the City has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another “issuing authority,” as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carryforward purpose, as defined in the Allocation Act.
6. The Assignment of Allocation, attached hereto as Exhibit B, is in the form presented to and approved by the City Council at the meeting thereof held on May 6, 2014.
7. On or before the date hereof, the Mayor of the City and the City Clerk officially executed counterparts of the Assignment of Allocation.
8. The City has authorized the execution, delivery, and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the City with the provisions thereof will not, to the best of my knowledge,

conflict with or constitute on the part of the City a breach of or a default under any existing Colorado law, City resolution, court or administrative regulation, decree, or order or any agreement or other instrument to which the City is subject or by which it is bound.

- 9. To the best of the undersigned’s knowledge, there does not exist any action, suit, proceeding, or investigation pending or threatened against the City contesting: (a) the corporate existence of the City; (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the City Council; (c) the validity of the Assignment of Allocation; or (d) the power of the City to execute, deliver, or perform the Assignment of Allocation.
- 10. No referendum petition has been filed concerning the Resolution, and to the best of my knowledge, none is being circulated or planned for circulation.

WITNESS my hand this \_\_\_\_ day of May, 2014.

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



**CITY OF LOVELAND**  
POLICE DEPARTMENT

810 East 10<sup>th</sup> Street • Loveland, Colorado 80537  
(970) 667-2151 • FAX (970) 962-2917 • TDD (970) 962-2620

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**AGENDA ITEM:** 9  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Tim Brown, Police Department  
**PRESENTER:** Luke Hecker, Police Chief

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**TITLE:**

A Motion for Approval of Staff Application for a Federal Justice Assistance Grant (JAG Grant)

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the motion.

**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 Federal JAG grant of \$13,980 for the Police Department will fund overtime for Detectives in the Special Investigations Unit at the Northern Colorado Drug Task Force. There is no match.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible
- 

**BACKGROUND:**

Federal regulations require review of the grant application to be conducted prior to submitting the grant application. The public hearing notice was published in the Loveland Reporter-Herald on May 1, 2014.

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**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

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**LIST OF ATTACHMENTS:**

1. JAG Grant Application Solicitation

U.S. Department of Justice

OMB No. 1121-0329

Approval Expires 07/31/2016

Office of Justice Programs

Bureau of Justice Assistance



The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#)' (OJP) [Bureau of Justice Assistance](#) (BJA) is seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal efforts to prevent or reduce crime and violence.

## Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2014 Local Solicitation

### Eligibility

Applicants are limited to units of local government appearing on the FY 2014 JAG Allocations List. To view this list, go to [www.bja.gov/programs/jag/14jagallocations.html](http://www.bja.gov/programs/jag/14jagallocations.html). For JAG Program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe that performs law enforcement functions (as determined by the Secretary of the Interior). Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means a district attorney or parish sheriff. In the District of Columbia or any U.S. Trust Territory, a unit of local government is any agency of the District of Columbia or federal government performing law enforcement functions for the District of Columbia or U.S. Trust Territory.

### Deadline

Applicants must register in [OJP's Grants Management System](#) (GMS) prior to submitting an application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. See the "How to Apply" section on page 20 for more details. All registrations and applications are due by 8:00 p.m. eastern time on June 10, 2014. (See "Deadlines: Registration and Application," page 4.)

### Contact Information

For technical assistance with submitting an application, contact the Grants Management System Support Hotline at 1-888-549-9901, option 3, or via e-mail to [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov). The [GMS](#) Support Hotline hours of operation are Monday-Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

Applicants that experience unforeseen GMS technical issues beyond their control that prevent them from submitting their application by the deadline must e-mail the BJA contact identified



below **within 24 hours after the application deadline** and request approval to submit their application.

For assistance with any other requirement of this solicitation, contact the BJA Justice Information Center at 1-877-927-5657, via e-mail to [JIC@telesishq.com](mailto:JIC@telesishq.com), or by [live web chat](#). The BJA Justice Information Center hours of operation are 8:30 a.m. to 5:00 p.m. eastern time, Monday through Friday, and 8:30 a.m. to 8:00 p.m. eastern time, on the solicitation close date. You may also contact your [State Policy Advisor](#).

**Release date:** April 24, 2014

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# **Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY 2014 Local Solicitation (CFDA #16.738)**

## **Overview**

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution and court programs including indigent defense, prevention and education programs, corrections and community corrections, drug treatment and enforcement, crime victim and witness initiatives, and planning, evaluation, and technology improvement programs.

## **Deadlines: Registration and Application**

Applicants must register in GMS prior to submitting an application for this funding opportunity. The deadline to register in GMS and the deadline to apply for funding under this announcement is 8:00 p.m. eastern time on June 10, 2014. See “How To Apply” on page 20 for details.

## **Eligibility**

Refer to the title page for eligibility under this program.

## **Program-Specific Information**

### **Program Areas**

JAG funds may be used for state and local initiatives, technical assistance, strategic planning, research and evaluation (including forensics), data collection, training, personnel, equipment, forensic laboratories, supplies, contractual support, and criminal justice information systems that will improve or enhance such areas as:

- Law enforcement programs.
- Prosecution and court programs, including indigent defense.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

#### **\*Please note that JAG funding may be utilized in support of:**

- Systems upgrades (hardware/software), including potential upgrades necessary for state, territories, units of local government and/or tribes to come into compliance with the [FBI's UCR Redevelopment Project \(UCRRP\)](#).
- Developing or sustaining state compatible incident based reporting systems.

**Award Recipient Responsibilities:** The Chief Executive Officer (CEO) of an eligible unit of local government or other officer designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting quarterly financial status (SF-425) and performance metrics reports and annual programmatic reports; and providing ongoing oversight and assistance to any subrecipients of the funds.

**Governing Body Review:** No fewer than 30 days prior to application submission, the applicant agency (fiscal agent in disparate situations) must make the grant application available for review by the governing body (or to the organization designated by the governing body. **See the Review Narrative section on page 15 for additional information.**

**Public Comment:** At the time of application submission, the applicant agency (the fiscal agent in disparate situations) must provide an assurance that the application was made public and an opportunity to comment was provided to citizens and neighborhood or community organizations to the extent the applicable law or established procedure makes such an opportunity available. **See the Review Narrative section on page 15 for additional information.**

**Prohibited Uses:** No JAG funds may be expended outside of JAG program areas. Even within these program areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, **JAG funds may not be used directly or indirectly to pay for any of the following items unless the BJA Director certifies that extraordinary and exigent circumstances exist**, making them essential to the maintenance of public safety and good order:

- \*Vehicles, vessels, or aircraft.
- \*\*Unmanned aerial vehicles/unmanned aircraft, aircraft system, or aerial vehicles (UA/UAS/UAV).
- Luxury items.
- Real estate.
- Construction projects (other than penal or correctional institutions).
- Any similar items.

**\*Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.**

**\*\*Unmanned Aircraft, Aircraft System, or Aerial Vehicles (UA/UAS/UAV):** No JAG funds may be expended on these items unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order. In addition, no JAG funds may be expended for this purpose without Federal Aviation Administration (FAA) approval and certification that the use is legal in the local jurisdiction. Also, any grant award using funds for this purpose may be subject to additional conditions and reporting criteria, which will be spelled out in a customized special condition attached to the grant award.

***For information related to requesting a waiver to obtain BJA certification for any prohibited item, or for examples of allowable vehicles that do not require BJA certification, refer to the JAG FAQs on BJA's [JAG web page](#).***

## Evidence-Based Programs or Practices

OJP strongly emphasizes the use of data and evidence in policy making and program development in criminal justice, juvenile justice, and crime victim services. OJP is committed to:

- improving the quantity and quality of evidence OJP generates;
- integrating evidence into program, practice, and policy decisions within OJP and the field; and
- improving the translation of evidence into practice.

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based.

OJP's [CrimeSolutions.gov](http://CrimeSolutions.gov) web site is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and crime victim services. Additionally, when considering evidence-based programs and practices specific to reentry, it is recommended that jurisdictions review the [What Works in Reentry Clearinghouse](#) for important research on the effectiveness of a wide variety of reentry programs and practices. The Clearinghouse provides a one-stop shop for practitioners and service providers seeking guidance on evidence-based reentry interventions.

## Amount and Length of Awards

Eligible allocations under JAG are posted annually on BJA's JAG web page: [www.bja.gov/ProgramDetails.aspx?Program\\_ID=59](http://www.bja.gov/ProgramDetails.aspx?Program_ID=59).

Awards of at least \$25,000 or more are 4 years in length with an award period of October 1, 2013 through September 30, 2017. Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date**.

Awards that are less than \$25,000 are 2 years in length with an award period of October 1, 2013 through September 30, 2015. Requests for up to an additional 2 years to complete performance of the award will be granted automatically, pursuant to 42 U.S.C. § 3751(f). Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date**.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

## Budget Information

**AG awards are based on a statutory formula as described below.**

**Although JAG grantees and subgrantees are required to report on quarterly accountability measures through BJA’s Performance Measurement Tool (PMT), those reports are intended to promote greater transparency about the use of JAG funds and do not determine the amount of JAG funds allocated to a state and/or localities.**

Applicants must submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. **See the budget narrative description under the “How to Apply” section (page 20) for more information.**

**JAG Formula:** Once each fiscal year’s overall JAG Program funding level is determined, BJA partners with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process which consists of:

1. Computing an initial JAG allocation for each state and territory, based on their share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine if the state or territory allocation is less than the minimum (“de minimus”) award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state or territory is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on their share of violent crime and population.
3. Dividing each state’s final award amount (except for the territories and District of Columbia) between state and local governments at a rate of 60 and 40 percent, respectively.
4. Determining local unit of government award allocations, which are based on their proportion of the state’s 3-year violent crime average. If a local eligible award amount is less than \$10,000, the funds are returned to the state to be awarded to these local units of government through the state agency. If the eligible award amount is \$10,000 or more, then the local government is eligible to apply for a JAG award directly from BJA.

**Administrative Funds:** A unit of local government may use up to 10 percent of the award, including interest, for costs associated with administering JAG funds.

**Supplanting:** Supplanting is prohibited under JAG. Applicants cannot replace or supplant non-federal funds that have been appropriated for the same purpose. See the JAG FAQs on BJA’s [JAG web page](#) for examples of supplanting.

**Leveraging of Grant Funds:** Although supplanting is prohibited, the leveraging of federal funding is encouraged. For example, a city may utilize JAG and Homeland Security Grant Program (HSGP) money to fund different portions of a fusion center project. In instances where leveraging occurs, all federal grant funds must be tracked and reported on separately and may not be used to fund the same line items. Additionally, federal funds cannot be used as match for other federal awards.

**Disparate Certification:** A disparate allocation occurs when a city or municipality is allocated one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crimes. A disparate allocation also occurs when multiple cities or municipalities are collectively allocated four times (400 percent) more than the county, and the county bears more than 50 percent of the collective costs associated with prosecution or incarceration of each municipality's Part 1 violent crimes.

- ★ Jurisdictions certified as disparate must identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds must be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to [www.bja.gov/Funding/JAGMOU.pdf](http://www.bja.gov/Funding/JAGMOU.pdf).

**Trust Fund:** SAAs may draw down JAG funds in advance. To do so, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. This trust fund requirement does not apply to direct JAG award recipients or subrecipients that draw-down on a reimbursement basis rather than in advance.

**Match Requirement:** Match is not required under the JAG Program. Although match is an effective strategy to expand justice funds and build buy-in for local criminal justice initiatives, BJA encourages states to consider financial and other potential local constraints related to imposing a match requirement on subgrantees, as it may adversely affect small local jurisdictions. Matching funds become part of the overall award amount, and as such are subject to audit and should be expended prior to closeout.

**Limitation on Use of Award Funds for Employee Compensation; Waiver**

With respect to any award of more than \$250,000 made under this solicitation, recipients may not use federal funds to pay total cash compensation (salary plus cash bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. The 2014 salary table for SES employees is available at [www.opm.gov/salary-tables](http://www.opm.gov/salary-tables). Note: A recipient may compensate an employee at a greater rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The Assistant Attorney General for OJP may exercise discretion to waive, on an individual basis, the limitation on compensation rates allowable under an award. An applicant requesting a waiver should include a detailed justification in the budget narrative of the application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit the budget.

The justification should include the particular qualifications and expertise of the individual, the uniqueness of the service the individual will provide, the individual's specific knowledge of the

program or project being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work to be done.

### **Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs**

OJP strongly encourages applicants that propose to use award funds for any conference-, meeting-, or training-related activity to review carefully—before submitting an application—the OJP policy and guidance on “conference” approval, planning, and reporting available at [www.ojp.gov/funding/confcost.htm](http://www.ojp.gov/funding/confcost.htm). OJP policy and guidance (1) encourage minimization of conference, meeting, and training costs; (2) require prior written approval (which may affect project timelines) of most such costs for cooperative agreement recipients and of some such costs for grant recipients; and (3) set cost limits, including a general prohibition of all food and beverage costs.

### **Costs Associated with Language Assistance (if applicable)**

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits for individuals with limited English proficiency may be allowable. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services where appropriate.

For additional information, see the "Civil Rights Compliance" section of the OJP "Other Requirements for OJP Applications" web page at [www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm).

## **Other JAG Requirements**

### **Body Armor Certification**

- Ballistic-resistant and stab-resistant body armor can be funded through two BJA-administered programs: the JAG Program and the Bulletproof Vest Partnership (BVP) Program.
- The BVP Program is designed to provide a critical resource to state and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. A jurisdiction is able to request up to 50 percent of the cost of a vest with BVP funds. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#).
- JAG funds may also be used to purchase vests for an agency, but they may not be used to pay for that portion of the ballistic-resistant vest (50 percent) that is not covered by BVP funds. Unlike BVP, JAG funds used to purchase vests do not require a 50 percent match.
- Vests purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, vests purchased must be American-made. Information on the latest NIJ standards can be found at: [www.nij.gov/topics/technology/body-armor/safety-initiative.htm](http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm).
- As is the case in BVP, grantees who wish to purchase vests with JAG funds must certify that law enforcement agencies receiving vests have a written "mandatory wear" policy in effect.



FAQs related to the mandatory wear policy and certifications can be found at [www.bja.gov/Funding/JAGFAQ.pdf](http://www.bja.gov/Funding/JAGFAQ.pdf). This policy must be in place for at least all uniformed officers before any FY 2014 funding can be used by the agency for vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. The certification **must** be signed by the certifying official and **must** be attached to the application. If the grantee proposes to change project activities to utilize JAG funds to purchase bulletproof vests after the application period (during the project period), the grantee must submit the signed certification to BJA at that time. A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center [atvests@usdoj.gov](mailto:atvests@usdoj.gov) or toll free at 1-877-758-3787.

- A copy of the certification related to the mandatory wear can be found at: [www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf](http://www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf).

### **Interoperable Communications**

- Grantees (including subgrantees) that are using FY 2014 JAG Program funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order) must ensure:
  - Compliance with the [FY 2014 SAFECOM Guidance on Emergency Communications Grants](#) (including provisions on technical standards that ensure and enhance interoperable communications).
  - Adherence to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band.
  - Projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the state of the project. As the central coordination point for their state's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the 56 states and territories. Contact [OEC@hq.dhs.gov](mailto:OEC@hq.dhs.gov).
  - All communications equipment purchased with grant award funding (plus the quantity purchased of each item) is identified during quarterly performance metrics reporting.

### **Use of Global Standards Package**

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [www.it.ojp.gov/gsp\\_grantcondition](http://www.it.ojp.gov/gsp_grantcondition). Grantees shall document planned approaches to information sharing and describe compliance

to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

### **DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database**

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation (FBI)) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2014 DNA Backlog Reduction Program, available at <https://ncjrs.gov/pdffiles1/nij/sl001112.pdf>.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.

## **Reporting Requirements, Accountability Measures, and JAG Showcase**

Award recipients will be required to submit quarterly financial status (SF-425) and annual programmatic reports through [GMS](#), quarterly accountability metrics reports (see below) through BJA's Performance Measurement Tool ([PMT](#)), and Federal Funding Accountability and Transparency Act (FFATA) reports through the FFATA Sub-award Reporting System ([FSRS](#)) as necessary (see FFATA section below).

### **Accountability Measures**

To assist the Department in fulfilling its responsibilities under the Government Performance and Results Act of 1993 (GPRA), Public Law 103-62, and the GPRA Modernization Act of 2010, Public Law 111-352, applicants who receive funding under this solicitation must provide data that measures the results of their work done under this solicitation. **Quarterly accountability metrics reports must be submitted through BJA's PMT, available at [www.bjaperformancetools.org](http://www.bjaperformancetools.org). The accountability measures can be found at: [www.bjaperformancetools.org/help/JAGMeasuresQuestionnaire.pdf](http://www.bjaperformancetools.org/help/JAGMeasuresQuestionnaire.pdf).**

Data reported by JAG grantees and subgrantees for this report does not determine JAG funding, which is calculated based on a statutory formula combining population and Uniform Crime Reporting Part I crime data. BJA encourages JAG grantees to make decisions on funding through a collaborative process involving all major stakeholders including law enforcement, courts, indigent defense, prosecution, corrections and community corrections, treatment providers, crime victims, and others. The measures are not designed to replace the planning that should occur at the state and local level.

Submission of accountability measures data is not required for the application. Instead, applicants should discuss in their application their proposed methods for collecting data for accountability measures. Refer to the section "What an Application Should Include" on page 14 for additional information.

### **Note on Project Evaluations**

Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations

designed to develop or contribute to generalizable knowledge) may constitute “research” for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP’s performance measure data reporting requirements likely do not constitute “research.” Applicants should provide sufficient information for OJP to determine whether the particular project they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research.

Research, for the purposes of human subjects protections for OJP-funded programs, is defined as, “a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge” 28 C.F.R. § 46.102(d). For additional information on determining whether a proposed activity would constitute research, see the decision tree to assist applicants on the “Research and the Protection of Human Subjects” section of the OJP “Other Requirements for OJP Applications” web page ([www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm)). Applicants whose proposals may involve a research or statistical component also should review the “Confidentiality” section on that Web page.

## **JAG Showcase**

The [JAG Showcase](#) was designed to identify and highlight JAG projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. BJA has now expanded the concept of the JAG Showcase to other BJA grant programs and created a new [BJA Success Story web page](#). This new web page will be a valuable resource for states, localities, territories, tribes and criminal justice professionals who seek to identify and learn about JAG and other successful BJA funded projects linked to innovation, crime reduction, and evidence based practices.

If you have a JAG Success Story you would like to submit, sign in to your [My BJA account](#) to access the Success Story Submission form. If you do not have a [My BJA account](#), please [Register](#). Once you register, one of the available areas on your *My BJA* page will be “*My Success Stories*”. Within this box, you will see an option to add a *Success Story*. Once reviewed and approved by BJA, all success stories will appear on the new [BJA Success Story web page](#).

## **Priorities**

BJA recognizes that the downturn in the economy has resulted in significant pressures on state and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. In light of this, it is important to make SAAs and local JAG recipients aware of several areas of priority that may be of help in maximizing the effectiveness of JAG funding at the state and local level.

In addition to our longstanding and unwavering commitment to keeping violent crime at its lowest level in decades, the following priorities represent key areas where BJA will be focusing nationally and invite each state and local JAG recipient to join us in addressing these challenges as a part of our JAG partnership.

## Reducing Gun Violence

Gun violence has touched every state, county, city, town, and tribal government in America. In the aftermath of the Sandy Hook Elementary School tragedy and recent mass shooting at the Washington Navy Yard, BJA continues to encourage states and localities to invest valuable JAG funds in programs to: combat gun violence, enforce existing firearms laws, improve the process used to ensure that those prohibited from purchasing or owning guns are prevented from doing so, enhance reporting to the FBI's National Instant Criminal Background Check System (NICS) and provide active shooter response training to law enforcement officers and first responders.

## Recidivism Reduction, Pretrial Reform and Justice System Realignment

In this time of fiscal austerity and smaller state and local budgets, reducing unnecessary incarceration in a manner that promotes public safety is a paramount goal. Effective community supervision coupled with evidence-based program interventions can result in significant reductions in recidivism. A priority funding area is the implementation of effective pretrial services programs. The use of validated risk assessment tools to inform pre-trial release decisions is critical. For a variety of resources, or to request BJA supported technical assistance from the Pre-trial Justice Institute, see [www.pretrial.org](http://www.pretrial.org). Another priority for JAG funding is to support innovative programs and approaches in probation and parole supervision that improve services to offenders and increase collaborative efforts among community supervision agencies with law enforcement and the courts. Another promising approach to justice systems reform is the Justice Reinvestment Initiative (JRI), a public-private partnership between BJA and the PEW Public Safety Performance Project. Currently, 19 states and 17 local governments are working to control spiraling incarceration costs through JRI and reinvestment savings in evidence-based criminal justice programs and strategies. Strategic investment of JAG funds to implement JRI legislation and policy changes in those states and localities can augment federal funds and achieve greater cost savings and reinvestments in programs to promote public safety. (See the Urban Institute's [Justice Reinvestment Initiative State Assessment Report](#).)

## Indigent Defense

Another key priority area is support for indigent defense. BJA continues to encourage states and units of local government to use JAG funds to support the vital needs of the indigent defense community. Attorney General Holder has consistently stressed that the crisis in indigent defense reform is a serious concern which must be addressed if true justice is to be achieved in our nation. In 2002, the American Bar Association (ABA) published Ten Principles of a Public Defense Delivery System which represent fundamental building blocks for implementing quality legal representation for indigent defendants. (See ABA's [Ten Principles of a Public Defense Delivery System](#).)

## Improving Mental Health Services

Disproportionate numbers of people with mental illness are involved in the criminal justice system often as a result of untreated or undertreated mental illness. This is an issue that impacts numerous facets of the criminal justice system. After the Newtown tragedy, numerous states began pushing for and adopting policies supporting early identification and intervention. States aimed to enhance mental health screening services to identify emerging mental illness in children and adolescents and to ensure adequate access to care. BJA encourages states and units of local government to utilize JAG funding in support of programs and policy changes

aimed at the following: identifying and treating people with severe mental illness before they reach crisis point; training law enforcement and correctional officers on mental health and mental health related crisis-intervention; increasing justice system diversion strategies to divert offenders with mental illness from unnecessary arrest and incarceration to more appropriate and cost-effective community-based treatment and supervision; mental health courts, allowing inmates to continue psychotropic medication in jails; and improving oversight of mental health care in jails, increasing post-jail housing options and enhancing community mental health services. (See [Adults with Behavioral Health Needs under Correctional Supervision](#).)

## Evidence-Based “Smart” Programs

Many criminal justice agencies continue to experience unprecedented budget cuts, layoffs, and reductions in force. These challenges must be met by making wider use of advancements in the criminal justice field in the last several decades which rely on use of data, crime analysis, cutting edge technology, research and evaluations regarding evidenced-based and high-performing programs. A useful matrix of evidence-based policing programs and strategies is available through the [Center for Evidence-Based Policy](#) at George Mason University. In the re-entry field, a summary of research-based re-entry strategies is available on the National Reentry Resource Center’s [What Works in Reentry Clearinghouse](#) link. BJA offers a number of program models designed to effectively implement evidence based strategies including Smart Policing, Smart Supervision, Smart Pretrial, and Smart Prosecution.

BJA encourages states and units of local government to use JAG funds to support these “smart on crime” strategies, including effective partnerships with universities and research partners and with non-traditional criminal justice partners.

## What an Application Should Include

Applicants should anticipate that if they fail to submit an application that contains all of the specified elements, it may negatively affect the review of their application; and, should a decision be made to make an award, it may result in the inclusion of special conditions that preclude the recipient from accessing or using award funds pending satisfaction of the conditions.

Refer to the BJA Grant Writing and Management Academy and OJP’s Grants 101 for an overview of what should be included in each application requirement. These trainings can be found at [bja.ncjrs.gov/gwma/index.html](http://bja.ncjrs.gov/gwma/index.html) and [www.ojp.gov/grants101/](http://www.ojp.gov/grants101/).

OJP strongly recommends use of appropriately descriptive file names (e.g., “Program Narrative,” “Budget Narrative,” “Memoranda of Understanding,” etc.) for all attachments.

### 1. Information to Complete the Application for Federal Assistance (SF-424)

The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant’s profile to populate the fields on this form.

### 2. Project Abstract

Applicants **must** provide an abstract that includes the applicant's name, title of the project, goals of the project, and a description of the strategies to be used. In addition, above or below the abstract narrative, applicants **must identify up to 5 project identifiers** that would

be associated with proposed project activities. The list of all identifiers can be found at [www.bja.gov/funding/JAGIdentifiers.pdf](http://www.bja.gov/funding/JAGIdentifiers.pdf). The abstract **should not** exceed a half-page, or 400-500 words.

**Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.**

### 3. Program Narrative

Applicants **must** submit a program narrative that generally describes the proposed program activities for the two or four year grant period. The narrative must outline the type of programs to be funded by the JAG award and provide a brief analysis of the need for the programs. Narratives must also identify anticipated coordination efforts involving JAG and related justice funds. Certified disparate jurisdictions submitting a **joint application** must specify the funding distribution to each disparate unit of local government and the purposes for which the funds will be used.

**Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.**

### 4. Budget and Budget Narrative

Applicants must submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. This narrative should include a full breakdown of administrative costs, as well as an overview of how funds will be allocated across approved JAG purpose areas. Applicants should utilize the following approved budget categories to label the requested administrative and/or sub-grant expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other category. For informational purposes only, a sample budget form may be found at [www.ojp.usdoj.gov/funding/forms/budget\\_detail.pdf](http://www.ojp.usdoj.gov/funding/forms/budget_detail.pdf).

For questions pertaining to budget and examples of allowable and unallowable costs, see the OJP Financial Guide at [www.ojp.usdoj.gov/financialguide/index.htm](http://www.ojp.usdoj.gov/financialguide/index.htm).

**Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.**

#### a. Non-Competitive Procurement Contracts In Excess of Simplified Acquisition Threshold

If an applicant proposes to make one or more non-competitive procurements of products or services, where the non-competitive procurement will exceed the simplified acquisition threshold (also known as the small purchase threshold), which is currently set at \$150,000, the application should address the considerations outlined in the [OJP Financial Guide](#).

### 5. Review Narrative

Applicants **must** submit information documenting that the date the JAG application was made available for review by the governing body, or to an organization designated by that governing body, not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens prior

to application submission to the extent applicable law or established procedures make such opportunity available.

**Below are notification language templates that can be utilized in completing this section of the application.**

The (provide name of City/County/Tribe) made its Fiscal Year 2014 JAG application available to the (provide name of governing body) for its review and comment on (provide date); or intends to do so on (provide date).

The (provide name of City/County/Tribe) made its Fiscal Year 2014 JAG application available to citizens for comment prior to application submission by (provide means of notification); or the application has not yet been made available for public review/comment.

**Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.**

**6. Applicant Disclosure of Pending Applications**

Applicants are to disclose whether they have pending applications for federally funded grants or subgrants (including cooperative agreements) that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation. The disclosure should include both direct applications for federal funding (e.g., applications to federal agencies) and indirect applications for such funding (e.g., applications to state agencies that will subaward federal funds).

OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

Applicants that have pending applications as described above are to provide the following information about pending applications submitted within the last 12 months:

- the federal or state funding agency
- the solicitation name/project name
- the point of contact information at the applicable funding agency.

Federal or State Funding Agency	Solicitation Name/Project Name	Name/Phone/E-mail for Point of Contact at Funding Agency
DOJ/COPS	COPS Hiring Program	Jane Doe, 202/000-0000; jane.doe@usdoj.gov
HHS/ Substance Abuse & Mental Health Services Administration	Drug Free Communities Mentoring Program/ North County Youth Mentoring Program	John Doe, 202/000-0000; john.doe@hhs.gov

Applicants should include the table as a separate attachment, with the file name “Disclosure of Pending Applications,” to their application. Applicants that do not have pending applications as described above are to include a statement to this effect in the separate attachment page (e.g., “[Applicant Name on SF-424] does not have pending applications submitted within the last 12 months for federally funded grants or subgrants (including cooperative agreements) that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation.”).

#### **7. Memorandum of Understanding (if applicable)**

Jurisdictions certified as disparate **must** identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application **must** determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds **must** be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU **must** be attached to the application. For a sample MOU, go to [www.bja.gov/Funding/JAGMOU.pdf](http://www.bja.gov/Funding/JAGMOU.pdf).

**Failure to submit this required information will result in an application being change requested in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding special condition at the time of award if time does not permit for a change request process.**

#### **8. Tribal Authorizing Resolution (if applicable)**

Tribes, tribal organizations, or third parties proposing to provide direct services or assistance to residents on tribal lands should include in their applications a resolution, a letter, affidavit, or other documentation, as appropriate, that certifies that the applicant has the legal authority from the tribe(s) to implement the proposed project on tribal lands. In those instances when an organization or consortium of tribes applies for a grant on behalf of a tribe or multiple specific tribes, then the application should include appropriate legal documentation, as described above, from all tribes that would receive services/assistance under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without an authorizing resolution or comparable legal documentation from each tribal governing body) may submit, instead, a copy of its consortium bylaws with the application.

Applicants unable to submit an application that includes a fully-executed (i.e., signed) copy of appropriate legal documentation, as described above, consistent with the applicable tribe’s governance structure, should, at minimum, submit an unsigned, draft version of such legal documentation as part of its application (except in cases in which, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If receiving funding, BJA will make use of and access to funds will be contingent on receipt of the fully-executed legal documentation.

#### **9. Applicant Disclosure of High Risk Status**

Applicants are to disclose whether they are currently designated high risk by another federal grant making agency. This includes any status requiring additional oversight by the federal agency due to past programmatic or financial concerns. If an applicant is designated high risk by another federal grant making agency, you must email the following information to



[OJPComplianceReporting@usdoj.gov](mailto:OJPComplianceReporting@usdoj.gov) at the time of application submission:

- The federal agency that currently designated the applicant as high risk;
- Date the applicant was designated high risk;
- The high risk point of contact name, phone number, and email address, from that federal agency; and
- Reasons for the high risk status.

OJP seeks this information to ensure appropriate federal oversight of any grant award. Unlike the Excluded Parties List, this high risk information does not disqualify any organization from receiving an OJP award. However, additional grant oversight may be included, if necessary, in award documentation.

#### **10. Additional Attachments (if applicable)**

##### **Research and Evaluation Independence and Integrity**

If a proposal involves research and/or evaluation, regardless of the proposal's other merits, in order to receive funds, the applicant must demonstrate research/evaluation independence, including appropriate safeguards to ensure research/evaluation objectivity and integrity.

For purposes of this solicitation, research and evaluation independence and integrity pertains to ensuring that the design, conduct, or reporting of research and evaluation funded by BJA grants, cooperative agreements, or contracts will not be biased by any personal or financial conflict of interest on the part of the investigators responsible for the research and evaluation or on the part of the applicant organization. Conflicts can be either actual or apparent. Examples of potential investigator (or other personal) conflict situations may include those in which an investigator would be in a position to evaluate a spouse's work product (actual conflict), or an investigator would be in a position to evaluate the work of a former colleague (potential apparent conflict). With regard to potential organizational conflicts of interest, as one example, generally an organization could not be given a grant to evaluate a project if that organization had itself provided substantial prior technical assistance to that project, as the organization in such an instance would appear to be evaluating the effectiveness of its own prior work. The key is whether a reasonable person understanding all of the facts would be able to have confidence that the results of any research or evaluation project are objective and reliable. Any outside personal or financial interest that casts doubt on that objectivity and reliability is a problem.

In the attachment dealing with research and evaluation independence and integrity, the applicant should explain the process and procedures that the applicant has put in place to identify and eliminate (or, at the very least, mitigate) potential personal or financial conflicts of interest on the part of its staff, consultants, and/or subrecipients. It should also identify any potential organizational conflicts of interest on the part of the applicant with regard to the proposed research/evaluation. If the applicant reasonably believes that no potential personal or organizational conflicts of interest exist, then the applicant should provide a brief narrative explanation of how and why it reached that conclusion. Documentation that may be helpful in this regard could include organizational codes of ethics/conduct or policies regarding organizational, personal, and financial conflicts of interest.

For situations in which potential personal or organizational conflicts of interest exist, in the attachment, the applicant should identify the safeguards the applicant has or will put in place to eliminate, mitigate, or otherwise address those conflicts of interest.

Considerations in assessing research and evaluation independence and integrity will include, but may not be limited to, the adequacy of the applicant's efforts to identify factors that could affect the objectivity or integrity of the proposed staff and/or the organization in carrying out the research, development, or evaluation activity; and the adequacy of the applicant's existing or proposed remedies to control any such factors.

#### **11. Accounting System and Financial Capability Questionnaire**

Any applicant (other than an individual) that is a non-governmental entity and that has not received any award from OJP within the past 3 years must download, complete, and submit this [form](#).

### **Review Process**

OJP is committed to ensuring a fair and open process for awarding grants. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. BJA will review applications for formula awards to ensure statutory requirements have been met.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

### **Additional Requirements**

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP encourages applicants to review the information pertaining to these additional requirements prior to submitting an application. Additional information for each requirement can be found at [www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm).

- Civil Rights Compliance
- Civil Rights Compliance Specific to State Administering Agencies
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- Reporting of Potential Fraud, Waste, and Abuse, and Similar Misconduct
- National Environmental Policy Act (NEPA)

- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with [Office of Justice Programs Financial Guide](#)
- Suspension or Termination of Funding
- Non-profit Organizations
- For-profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act of 2006 (FFATA)
- Awards in Excess of \$5,000,000 – Federal Taxes Certification Requirement
- Active SAM Registration
- Policy and Guidance for Approval, Planning, and Reporting of Conferences (including Meetings and Trainings)
- OJP Training Guiding Principles for Grantees and Subgrantees

## How to Apply

Applicants must submit applications through the Grants Management System ([GMS](#)), which provides cradle to grave support for the application, award, and management of awards at OJP. Applicants **must register in GMS for each specific funding opportunity**. Although the registration and submission deadlines are the same, OJP urges applicants to **register promptly**, especially if this is their first time using the system. Find complete instructions on how to register and submit an application in GMS at [www.ojp.usdoj.gov/gmscbt/](http://www.ojp.usdoj.gov/gmscbt/). Applicants that experience technical difficulties during this process should e-mail [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov) or call 888-549-9901 (option 3), Monday–Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP recommends that applicants **register promptly** to prevent delays in submitting an application package by the deadline.

**Note on File Types: GMS does not accept executable file types as application attachments.** These disallowed file types include, but are not limited to, the following extensions: “.com,” “.bat,” “.exe,” “.vbs,” “.cfg,” “.dat,” “.db,” “.dbf,” “.dll,” “.ini,” “.log,” “.ora,” “.sys,” and “.zip.”

All applicants should complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or a supplement to an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and differentiating entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at [www.dnb.com](http://www.dnb.com). A DUNS number is usually received within 1-2 business days.
2. **Acquire registration with the System for Award Management (SAM).** SAM is the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the SAM database. Applicants must **update or renew their SAM registration annually** to maintain an active status.

Information about SAM registration procedures can be accessed at [www.sam.gov](http://www.sam.gov).

3. **Acquire a GMS username and password.** New users must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more information on how to register in GMS, go to [www.ojp.usdoj.gov/gmscbt/](http://www.ojp.usdoj.gov/gmscbt/).
4. **Verify the SAM (formerly CCR) registration in GMS.** OJP requests that all applicants verify their SAM registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the SAM (formerly CCR) registration.
5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select “Bureau of Justice Assistance” and the “Edward Byrne Memorial Justice Assistance Grant (JAG) Program–Local Solicitation.”
6. **Register by selecting the “Apply Online” button associated with the funding opportunity title.** The search results from step 5 will display the funding opportunity title along with the registration and application deadlines for this funding opportunity. Select the “Apply Online” button in the “Action” column to register for this funding opportunity and create an application in the system.
7. **Complete the Disclosure of Lobbying Activities, if applicable.** Any applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities* ([SF-LLL](#)).
8. **Follow the directions in GMS to submit an application consistent with this solicitation.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, applicants must wait for GMS approval before submitting an application. OJP urges applicants to submit the application **at least 72 hours prior** to the application due date.

**Note: Duplicate Applications**

If an applicant submits multiple versions of an application, BJA will review the most recent version submitted.

**Experiencing Unforeseen GMS Technical Issues**

Applicants that experience unforeseen GMS technical issues beyond their control that prevent them from submitting their application by the deadline must e-mail your [State Policy Advisor](#) **within 24 hours after the application deadline** and request approval to submit their application. The e-mail must describe the technical difficulties and include a timeline of the applicant's submission efforts, the complete grant application, the applicant's DUNS number, and any GMS Help Desk or SAM tracking number(s). **Note: BJA does not approve requests automatically.** After the program office reviews the submission, and contacts the GMS Help Desk to validate the reported technical issues, OJP will inform the applicant whether the request to submit a late application has been approved or denied. If OJP determines that the applicant failed to follow all required procedures, which resulted in an untimely application submission, OJP will deny the applicant's request to submit their application.

The following conditions are generally insufficient to justify late submissions:

- failure to register in SAM or GMS in sufficient time
- failure to follow GMS instructions on how to register and apply as posted on the GMS Web site
- failure to follow each instruction in the OJP solicitation
- technical issues with the applicant's computer or information technology environment, including firewalls.

**Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding Web page at [www.ojp.usdoj.gov/funding/solicitations.htm](http://www.ojp.usdoj.gov/funding/solicitations.htm).**

**Provide Feedback to OJP**

To assist OJP in improving its application and award processes, we encourage applicants to provide feedback on this solicitation, the application submission process, and/or the application review/peer review process. Provide feedback to [OJPSolicitationFeedback@usdoj.gov](mailto:OJPSolicitationFeedback@usdoj.gov).

**IMPORTANT:** This e-mail is for feedback and suggestions only. Replies are **not** sent from this mailbox. If you have specific questions on any program or technical aspect of the solicitation, **you must** directly contact the appropriate number or e-mail listed on the front of this solicitation document. These contacts are provided to help ensure that you can directly reach an individual who can address your specific questions in a timely manner.

If you are interested in being a reviewer for other OJP grant applications, please e-mail your resume to [ojpeerreview@lmbps.com](mailto:ojpeerreview@lmbps.com). The OJP Solicitation Feedback email account will not forward your resume. **Note:** Neither you nor anyone else from your organization can be a peer reviewer in a competition in which you or your organization have submitted an application.

## Application Checklist

### Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2014 Local Solicitation

This application checklist has been created to assist in developing an application.

#### What an Applicant Should Do:

##### *Prior to Registering in GMS:*

- Acquire a DUNs Number (see page 21)
- Acquire or renew registration with SAM (see page 21)

##### *To Register with GMS:*

- For new users, acquire a GMS username and password\* (see page 21)
- For existing users, check GMS username and password\* to ensure account access (see page 21)
- Verify SAM registration in GMS (see page 21)
- Search for correct funding opportunity in GMS (see page 21)
- Register by selecting the "Apply Online" button associated with the funding opportunity title (see page 21)

\*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contacts designated within GMS at the time the account was established. Neither OJP or the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

#### General Requirements:

- Review "[Other Requirements](#)" web page

#### Eligibility Requirement:

- Jurisdiction listed as the legal name on the application corresponds with the eligible jurisdiction listed on BJA's [JAG web page](#)
- Federal amount requested is within the allowable limit of the FY 2014 JAG Allocations List as listed on BJA's [JAG web page](#)

#### What an Application Should Include:

- Application for Federal Assistance (SF-424) (see page 14)
- Project Abstract (see page 14)
- Program Narrative (see page 15)
- Budget and Budget Narrative (see page 15)
- Review Narrative (see page 15)
- Applicant Disclosure of Pending Applications (see page 16)
- Memorandum of Understanding, if applicable (see page 17)
- Tribal Authorizing Resolution, if applicable (see page 17)
- Applicant Disclosure of High Risk Status (see page 17)
- Research and Evaluation Independence and Integrity, if applicable (see page 18)
- Accounting System and Financial Capability Questionnaire (if applicable) (see page 19)
- Disclosure of Lobbying Activities, if applicable ([SF-LLL](#)) (see page 21)



**CITY OF LOVELAND**  
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 10  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Brent Worthington, Finance  
**PRESENTER:** Brent Worthington, Finance Director

**TITLE:**

March 2014 Financial Report

**RECOMMENDED CITY COUNCIL ACTION:**

This is an information only item. No action is required.

**SUMMARY:**

The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending March 31, 2014.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

The Snapshot Report is submitted for Council review and includes the reporting of the City's revenue and expenditures, including detailed reports on tax revenue and health claims as of March 31, 2014. Citywide Revenue (excluding internal transfers) of \$59,691,128 is 107.4% of year to date (YTD) budget or \$4,097,774 over the budget. Sales Tax collections are 102.9% of the YTD budget or \$281,962 over budget. Building Material Use Tax is 82.3% of YTD budget, or \$75,806 under budget. Sales and Use Tax collections combined were 103.8% of YTD budget or \$399,295 over budget. When the combined sales and use tax for the current year are compared to 2013 for the same period last year, they are higher by 5.7% or \$1,189,372.

Citywide total expenditures of \$51,222,605 (excluding internal transfers) are 79.2% of the YTD budget or \$13,482,890 under the budget.

**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

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**LIST OF ATTACHMENTS:**

1. March Snapshot Presentation
2. Snapshot Report for March 2014





# Snapshot

## March 2014

**Brent Worthington**  
Finance Director

**Presented**  
May 6, 2014

# March 2014 Snapshot

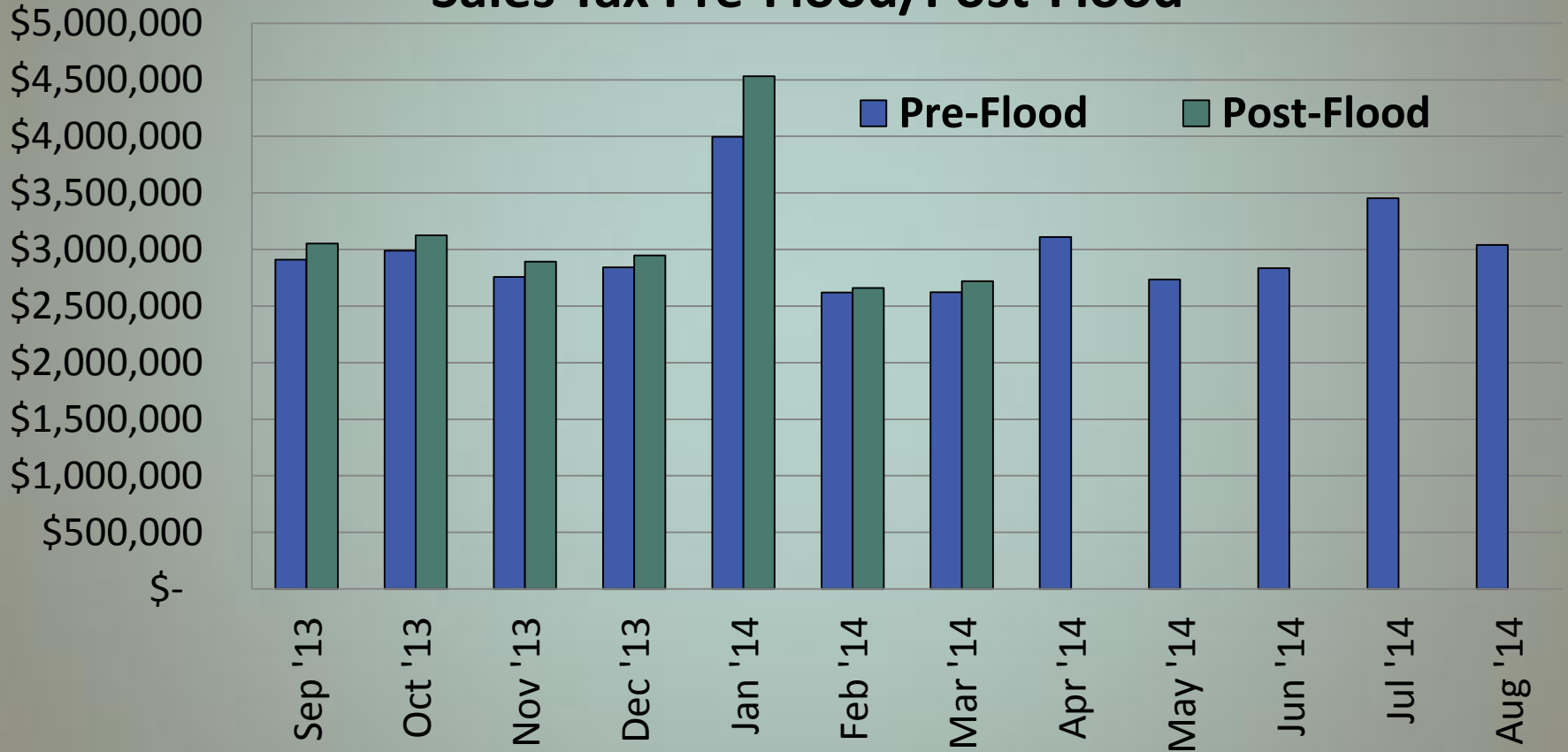
- Citywide Revenue
  - \$59.7 million, excluding transfers
  - 7.4% above budget projections
  
- Citywide Expenditures
  - \$51.2 million, excluding transfers
  - 20.8% below budget projections
  
- Citywide revenues exceed expenditures by \$8.5 million.

# March 2014 Snapshot

- General Fund Revenue
  - \$22 million YTD, excluding transfers
  - 11.7% above YTD Budget
  - 16.0% above same period last year
  
- Sales and Use Tax Revenue
  - \$10.9 million YTD
  - 3.8% above budget projections
  - 6.0% above same period as last year
  
- Sales Tax only
  - \$9.9 million YTD
  - 2.9% above budget projections
  - 7.3% above same period last year

# March 2014 Snapshot

## Sales Tax Pre-Flood/Post-Flood



# March 2014 Snapshot

- General Fund Expenditures
  - \$14.6 million YTD, excluding transfers
  - 3.1% below budget projections
  
- General Fund Revenues Exceed Expenditures by \$6.4 million
  
- Health Claims
  - March Claims \$832k
  - 2014 YTD increased from \$2.1 mil to \$2.9 mil from same time as last year (38.4%)

# March 2014 Snapshot

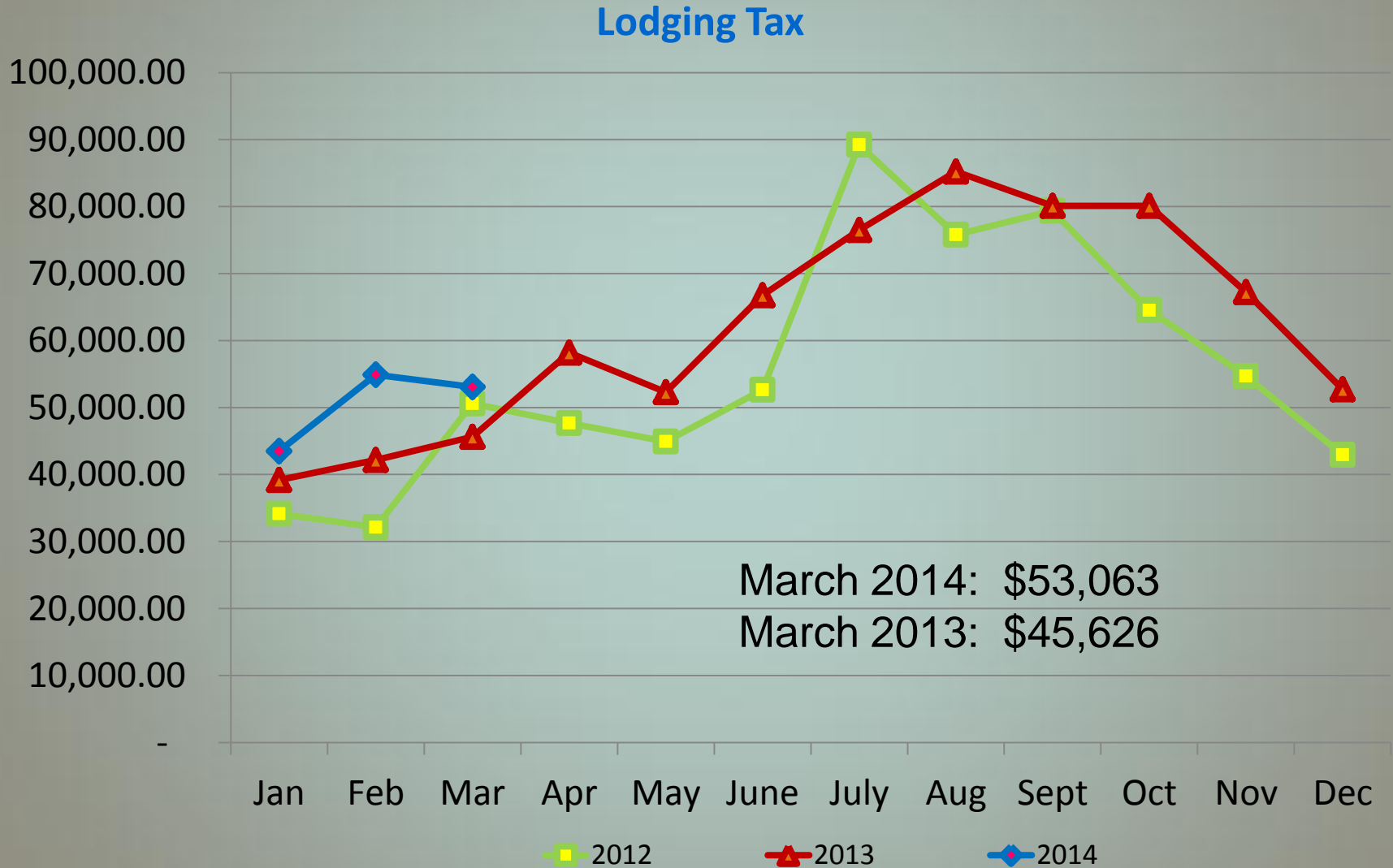
## ➤ March “All Other Areas” on Geo Map

OCO Total	\$ 217,881	Out of Colorado
CNL Total	192,487	Colorado Not Loveland
OCL Total	8,349	Out of City limits
INT Total	3,216	Internet
INN Total	5	Innoprise Conversion
PEN Total	-	Pending (Application filed on-line for new account)
<b>Grand Total</b>	<b>\$ 421,938</b>	

## ➤ Other highlights

- Lodging tax YTD is \$151,463 (19.3% higher than 2013 YTD).

# Lodging Tax Comparison



# Flood Report

## Cost Estimates

Operational	\$2,780,000
Business Assistance	1,200,000
Capital	26,530,000
<b>Total</b>	<b>\$30,510,000</b>

## Actual Expenditures

	<u>March</u>	<u>To Date</u>
<b>Total</b>	665,500	8,413,826

## Reimbursements Applied For

	<u>March</u>	<u>To Date</u>
FEMA	2,121,551	2,288,053
CIRSA	1,021,298	4,339,176
Other	-	247,471 <sup>1</sup>
<b>Total</b>	<b>\$ 3,142,849</b>	<b>6,874,700</b>

## Reimbursements Received

	<u>March</u>	<u>To Date</u>
FEMA	\$ -	\$ -
CIRSA	556,207	3,874,085
Other	-	247,471
<b>Total</b>	<b>\$ 556,207</b>	<b>4,121,557</b>





# March 2014 Snapshot

## Questions?

**Brent Worthington**  
Finance Director

**Presented**  
**May 6, 2014**

March

# Snapshot

Monthly Financial Report

2014

## A Snapshot In Time

Citywide Revenues & Expenditures	2-3
General Fund Revenues & Expenditures	4-5
Capital Projects	5
Tax Totals & Comparison	6-7
Flood Update	8-9
Geo Codes & Sales Tax SIC	10-12
Health Care Claims	13
Activity Measures	14
Rialto Quarterly Report	14

- ◇ Citywide Revenue, excluding transfers between funds, \$59.7million (7.4% above budget projections)
- ◇ Sales & Use Tax Collection, \$10.9 million (3.8% above budget projections)
- ◇ Citywide Expenditures, excluding transfers between funds, \$51.2 million (20.8% below budget projections)
- ◇ Citywide Year-To-Date Revenues exceed Year-To-Date Expenditures by \$8.5 million
- ◇ General Fund Revenue, excluding transfers between funds, \$22 million (11.7% above budget projections)
- ◇ General Fund Expenditures, excluding transfers between funds, \$14.6 million, (3.1% below budget projections)
- ◇ General Fund Revenues exceed Expenditures by \$6.4 million

## The Sales / Use Tax Basics



March 2014	Sales Tax	Motor Vehicle Use Tax	Building Materials Use Tax	Combined
Budget 2014	\$ 9,627,740	\$ 451,240	\$ 427,810	\$ 10,506,790
Actual 2014	9,909,702	644,379	352,005	10,906,086
% of Budget	102.9%	142.8%	82.3%	103.8%
Actual 2013	\$ 9,237,455	\$ 611,937	\$ 436,569	\$ 10,285,961
Change from prior year	7.3%	5.3%	-19.4%	6.0%

## 2013 Flood:

The 2013 Flood resulted in some businesses being closed during the clean-up/restoration process. In addition, reduced traffic on U.S. 34 due to the closure at the canyon may have reduced sales in businesses along the 34 Corridor. Tracking the impact of the flood on retail sales will provide important information related to the sustainability of City finances due to the flood event. Pre-flood to post flood tracking on a monthly basis began in the September 2013 Snapshot. Sales tax revenue for the seven months included is above the previous year by \$1,189,372 or 5.7%.

# Citywide Revenues & Expenditures

Combined Statement of Revenues and Expenditures				
March 2014				
REVENUE	Current Month	YTD Actual	YTD Revised Budget	% of Budget
<b>General Governmental</b>				
1	General Fund	\$ 7,993,116	\$ 21,996,366	\$ 19,690,803 111.7%
2	Special Revenue	542,340	1,645,043	1,420,247 115.8%
3	Other Entities	4,325,784	7,265,296	6,375,637 113.9%
4	Internal Service	1,403,803	4,229,633	4,126,092 102.5%
5	<i>Subtotal General Govt Operations</i>	<i>14,265,044</i>	<i>35,136,339</i>	<i>31,612,779 111.1%</i>
6	Capital Projects	952,572	2,031,429	1,997,725 101.7%
<b>Enterprise Fund</b>				
7	Water & Power	5,896,107	19,584,532	18,755,330 104.4%
8	Stormwater	387,727	1,157,035	1,211,235 95.5%
9	Golf	173,238	439,464	528,510 83.2% <sup>1</sup>
10	Solid Waste	440,526	1,342,330	1,487,775 90.2% <sup>2</sup>
11	<i>Subtotal Enterprise</i>	<i>6,897,597</i>	<i>22,523,361</i>	<i>21,982,850 102.5%</i>
12	<b>Total Revenue</b>	<b>\$ 22,115,213</b>	<b>\$ 59,691,128</b>	<b>\$ 55,593,354 107.4%</b>
	<i>Prior Year External Revenue</i>		<i>54,230,420</i>	
	<i>Increase From Prior Year</i>		<i>10.1%</i>	
13	Internal Transfers	130,186	1,077,635	8,999,840 12.0%
14	<b>Grand Total Revenues</b>	<b>\$ 22,245,400</b>	<b>\$ 60,768,763</b>	<b>\$ 64,593,194 94.1%</b>
<b>EXPENDITURES</b>				
<b>General Governmental</b>				
15	General Fund	5,413,836	13,936,415	14,545,374 95.8%
16	Special Revenue	904,676	2,176,735	2,083,356 104.5%
17	Other Entities	3,801,388	5,327,414	5,363,422 99.3%
18	Internal Services	1,856,334	4,106,130	4,545,783 90.3%
19	<i>Subtotal General Gov't Operations</i>	<i>11,976,234</i>	<i>25,546,694</i>	<i>26,537,934 96.3%</i>
20	Capital	3,656,031	6,653,136	20,054,868 33.2%
<b>Enterprise Fund</b>				
21	Water & Power	7,765,526	17,001,801	15,770,810 107.8% <sup>3</sup>
22	Stormwater	376,629	643,996	605,553 106.3% <sup>4</sup>
23	Golf	215,435	492,941	567,627 86.8%
24	Solid Waste	351,539	884,037	1,168,703 75.6%
25	<i>Subtotal Enterprise</i>	<i>8,709,128</i>	<i>19,022,776</i>	<i>18,112,693 105.0%</i>
26	<b>Total Expenditures</b>	<b>\$ 24,341,394</b>	<b>\$ 51,222,605</b>	<b>\$ 64,705,495 79.2%</b>
	<i>Prior Year External Expenditures</i>		<i>42,757,077</i>	
	<i>Increase (-Decrease) From Prior Year</i>		<i>19.8%</i>	
27	Internal Transfers	130,186	1,077,635	8,999,840 12.0%
28	<b>Grand Total Expenditures</b>	<b>\$ 24,471,580</b>	<b>\$ 52,300,240</b>	<b>\$ 73,705,335 71.0%</b>

<sup>1</sup> Lower than projected revenue due to lower revenue generated from green fees due to weather.

<sup>2</sup> Lower than projected revenue from proceeds on sale of assets due to timing of sale.

<sup>3</sup> Higher expenditures than anticipated due to a higher amount of power purchased than projected.

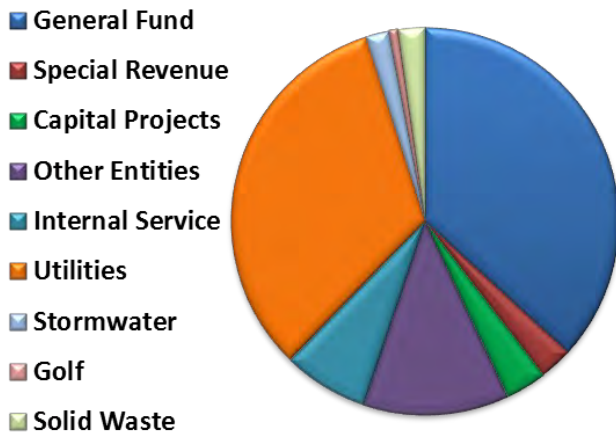
<sup>4</sup> Higher expenditures than anticipated due to higher repair & maintenance costs.

**Special Revenue Funds:** Community Development Block Grant, Cemetery, Local Improvement District, Lodging Tax, Affordable Housing, Seizure & Forfeitures, Transit, Transportation.

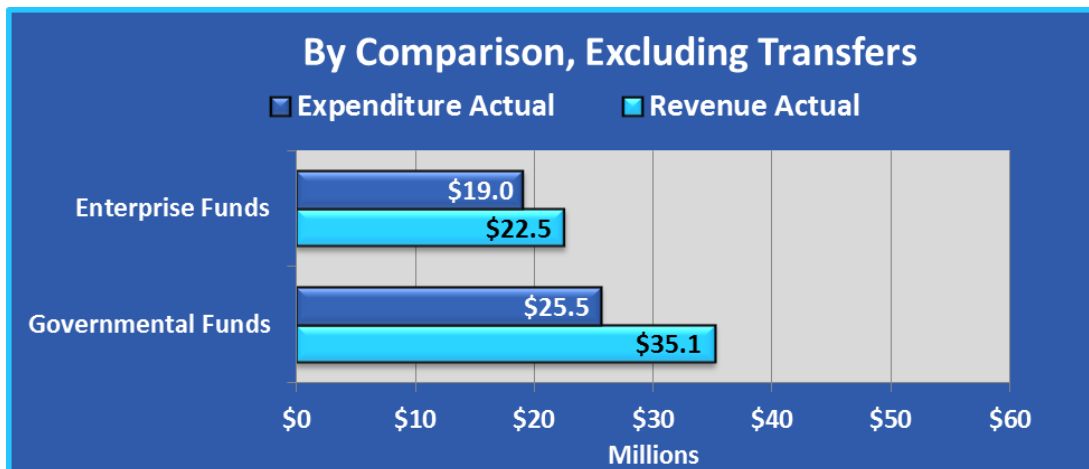
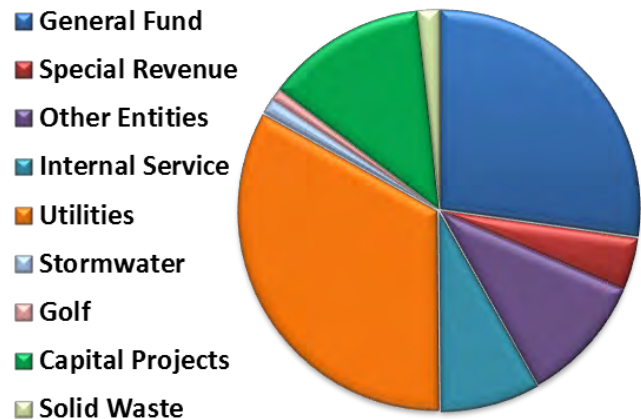
**Other Entities Fund:** Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority, Loveland Fire and Rescue Authority.

**Internal Service Funds:** Risk/Insurance, Fleet, Employee Benefits.

## YTD Operating Revenues of \$59.7 Million



## YTD Operating Expenditures of \$51.2 Million



- ◆ General Fund Revenue, excluding transfers between funds, \$22 million (11.7% above budget projections)
  - \* 16.0% above 2013 YTD
- ◆ General Fund Expenditures, excluding capital and transfers between funds, \$13.9 million (4.2% below budget projections)
  - \* 21.2% above 2013 YTD
- ◆ Water & Power Revenue, excluding transfers between funds, \$19.6 million (4.4% above budget projections)
  - \* 9.8% above 2013 YTD
- ◆ Water & Power Expenditures, excluding transfers between funds, \$17 million (7.8% above budget projections)
  - \* 28.3% above 2013 YTD
- ◆ Other Entities Fund Revenue, excluding transfers between funds, \$7.3 million (14.0% above budget projections)
  - \* 19.0% above 2013 YTD
- ◆ Other Entities Expenditures, excluding capital and transfers between funds, \$5.3 million (0.7% below budget projections)
  - \* 5.3% above 2013 YTD

# General Fund Revenues & Expenditures

General Fund Revenue & Expenditures March 2014				
REVENUES	Current Month	YTD Actual	YTD Revised Budget	% of Budget
1 Taxes				
2 Property tax	\$ 2,211,110	\$ 2,354,183	\$ 1,890,210	124.5%
3 Sales tax	2,719,254	9,909,702	9,627,740	102.9%
4 Building use tax	120,768	352,004	427,810	82.3% <sup>1</sup>
5 Auto use tax	197,666	644,379	451,240	142.8%
6 Other taxes	372,041	899,249	766,460	117.3%
7 Intergovernmental	847	12,638	57,315	22.1% <sup>2</sup>
8 License & Permits				
9 Building Permits	117,435	314,117	453,000	69.3% <sup>3</sup>
10 Other Permits	15,425	74,900	54,070	138.5%
11 Charges for Services	1,220,718	3,943,686	3,886,466	101.5%
12 Fines & Forfeitures	85,356	231,630	245,330	94.4%
13 Interest Income	19,509	91,239	83,250	109.5%
14 Miscellaneous	912,987	3,168,638	1,747,912	181.3% <sup>4</sup>
<b>15 Subtotal</b>	<b>7,993,116</b>	<b>21,996,366</b>	<b>19,690,803</b>	<b>111.7%</b>
16 Interfund Transfers	6,560	44,700	45,390	98.5%
<b>17 Total Revenue</b>	<b>\$ 7,999,676</b>	<b>\$ 22,041,066</b>	<b>\$ 19,736,193</b>	<b>111.7%</b>
<b>EXPENDITURES</b>				
Operating Expenditures				
18 Legislative	9,730	29,855	29,384	101.6%
19 Executive & Legal	154,560	384,481	416,452	92.3%
20 City Clerk & Court Admin	59,741	157,219	194,981	80.6%
21 Economic Development	478,570	640,174	644,275	99.4%
22 Cultural Services	138,244	417,308	421,837	98.9%
23 Development Services	249,200	683,111	801,868	85.2%
24 Finance	338,925	898,390	1,040,867	86.3%
25 Fire & Rescue	232	232	7,500	0.0%
26 Human Resources	88,202	238,250	264,663	90.0%
27 Information Technology	400,461	1,084,095	1,162,773	93.2%
28 Library	241,006	649,251	743,817	87.3%
29 Parks & Recreation	833,192	1,987,068	2,261,186	87.9%
30 Police	1,564,686	3,994,587	4,189,467	95.3%
31 Public Works	534,501	1,264,623	1,248,044	101.3%
32 Water/ Waste Operations	-	-	100,350	0.0%
33 Non-Departmental	554,201	2,153,129	1,525,160	141.2% <sup>5</sup>
<b>34 Subtotal Operating</b>	<b>5,645,450</b>	<b>14,581,774</b>	<b>15,052,624</b>	<b>96.9%</b>
35 Internal Transfers	119,827	1,022,892	6,747,830	15.2%
<b>36 Total Expenditures</b>	<b>\$ 5,765,278</b>	<b>\$ 15,604,666</b>	<b>\$ 21,800,454</b>	<b>71.6%</b>

<sup>1</sup> Lower than projected revenue due to lower than anticipated construction.

<sup>2</sup> Lower than anticipated revenue from timing of payments for Ambulance Dispatches.

<sup>3</sup> Lower than projected revenue due to less Residential & Multi-Family permits issued than anticipated.

<sup>4</sup> Higher than projected revenue due to higher than anticipated revenue generated from insurance recovery.

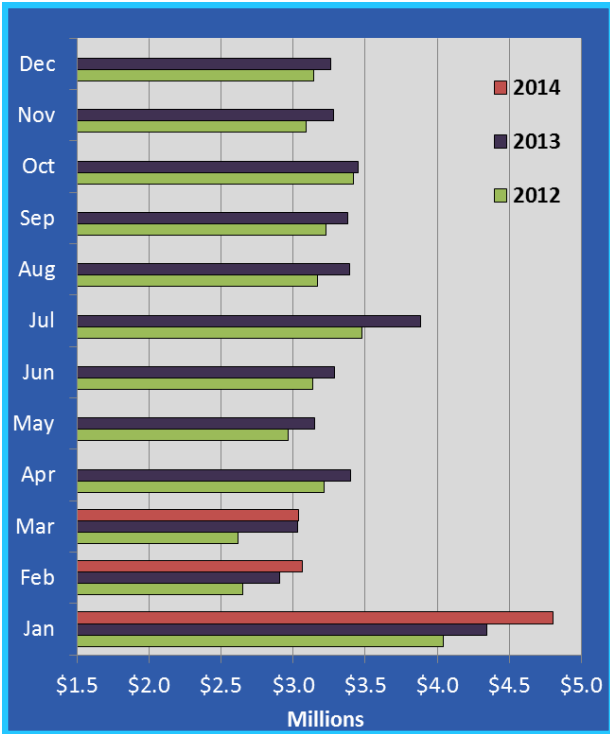
<sup>5</sup> Higher than projected expenditures due to timing of payments to outside entities.

## Capital Projects \$500,000+

Project Title	2014 Budget	2014 Expenditures	Remaining 2014 Budget	% of 2014 Budget (Exp/Bud)
<b>Water Capital</b>				
Water Treatment Plant Phase II Expansion (38 MGD)	\$ 9,587,500	\$ 467,187	\$ 9,120,313	4.87%
2014 Water Line Replacements- Phase 1	1,341,990	28,273	1,313,717	2.11%
2014 Water Line Replacements- Phase 2	800,130	-	800,130	0.00%
<b>Raw Water Capital</b>				
Windy Gap Firming Project	750,000	28,000	722,000	3.73%
<b>Wastewater Utility Capital</b>				
Gas Conditioning at WWTP	1,010,000	-	1,010,000	0.00%
Digester Building Code Compliance	555,000	-	555,000	0.00%
Fairgrounds/Namaqua Intcp Rehab-Phase 2 St. Louis to Lincoln	656,500	-	656,500	0.00%
<b>Power Capital</b>				
Idylwilde Dam	2,875,000	-	2,875,000	0.00%
Horseshoe Substation Replace H1 Transformer	750,000	-	750,000	0.00%
Colorado Renewable Energy Standard Compliance	500,000	-	500,000	0.00%
Callisto (vault 2716) East along 5th, North on Boyd Lake to railroad xing	570,000	-	570,000	0.00%
OH to UG Conversion (Circuit 314) from 42nd along Garfield to 57th	890,000	-	890,000	0.00%
Horseshoe Substation - purchase new transformer H4	650,000	-	650,000	0.00%
Horseshoe Substation - new switgear & transformer install H4	500,000	-	500,000	0.00%
Extend new feeders from Horseshoe H4 into system	1,000,000	-	1,000,000	0.00%
<b>Stormwater Capital</b>				
Airport Regional Detention Pond	1,300,000	-	1,300,000	0.00%
29th & Monroe Outfall (Phase II- Dry Creek)	1,000,000	-	1,000,000	0.00%
MeHaffey Park Regional Detention Pond	502,447	425	502,022	0.08%
<b>Streets Transportation Program</b>				
2014 Street Rehabilitation	5,320,000	40,048	5,279,952	0.75%
<b>All Other</b>				
Facilities Maintenance Capital Projects	517,500	1,228	516,272	0.24%
Open Lands Acquisition	2,371,000	-	2,371,000	0.00%
Fire Station 2 Relocation	3,797,290	-	3,797,290	0.00%
Police RMS (Communications)	3,000,000	-	3,000,000	0.00%
Barnes Park Field Lighting	610,000	369,359	240,641	60.55%
Telephone Switch Replacement	750,000	-	750,000	0.00%
Transportation Program	\$ 2,347,880	\$ 556,415	\$ 1,791,465	23.70%



## Sales & Use Tax

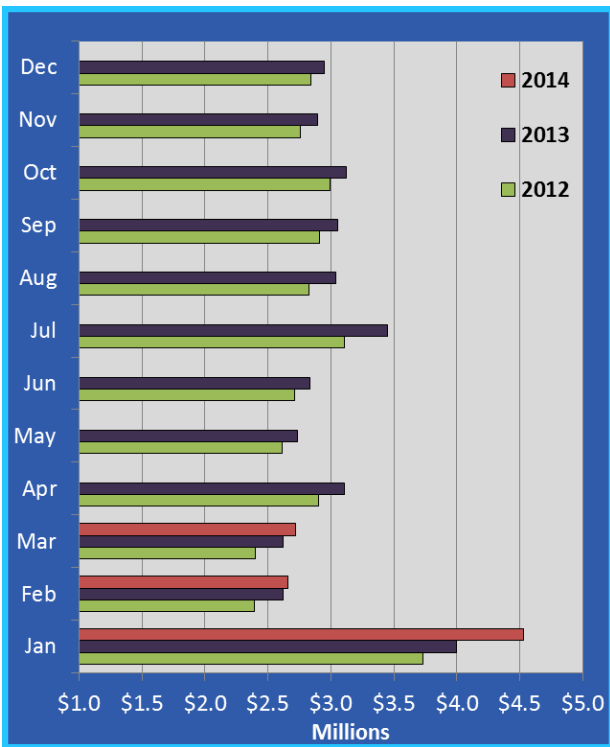


	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 4,039,678	\$ 4,345,835	\$ 4,801,433	\$ 4,459,360	7.7%
Feb	2,649,229	2,906,780	3,066,965	2,973,250	3.2%
Mar	2,618,052	3,033,347	3,037,688	3,074,180	-1.2%
Apr	3,215,437	3,397,074	-	3,633,800	
May	2,966,032	3,150,201	-	3,298,790	
Jun	3,136,015	3,284,808	-	3,435,130	
Jul	3,480,123	3,882,561	-	3,832,510	
Aug	3,171,055	3,392,757	-	3,550,120	
Sep	3,225,155	3,379,303	-	3,576,270	
Oct	3,421,098	3,452,052	-	3,757,520	
Nov	3,092,095	3,280,666	-	3,436,030	
Dec	3,142,793	3,259,189	-	3,728,460	

\$38,156,762 \$ 40,764,573 \$10,906,086 \$42,755,420

YTD \$ 9,306,959 \$ 10,285,962 \$10,906,086 \$10,506,790 3.8%

## Retail Sales Tax



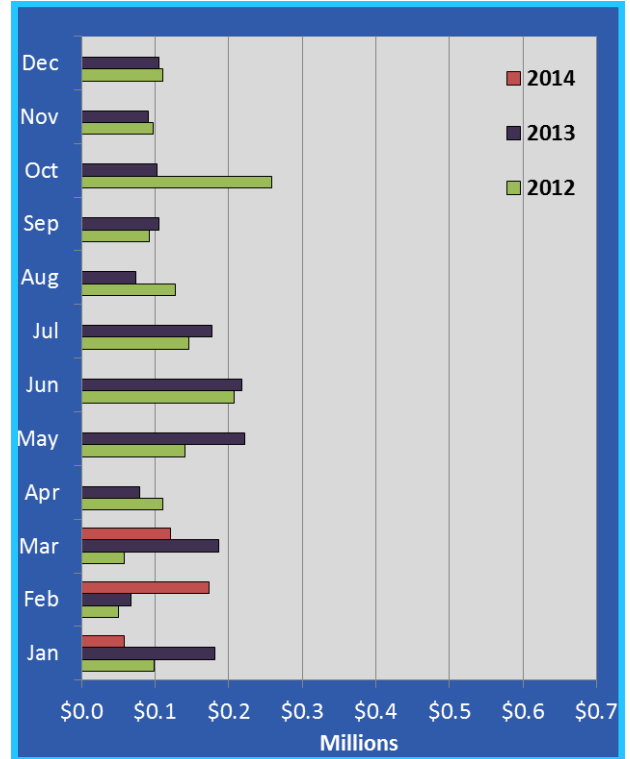
	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 3,733,309	\$ 3,995,194	\$ 4,531,650	\$ 4,192,160	8.1%
Feb	2,390,409	2,619,453	2,658,798	2,698,090	-1.5%
Mar	2,403,380	2,622,808	2,719,254	2,737,490	-0.7%
Apr	2,905,558	3,109,701	-	3,309,560	
May	2,614,500	2,733,983	-	2,966,740	
Jun	2,711,906	2,835,171	-	3,119,270	
Jul	3,105,564	3,453,149	-	3,492,520	
Aug	2,823,319	3,039,219	-	3,214,360	
Sep	2,909,008	3,051,797	-	3,236,980	
Oct	2,991,033	3,125,566	-	3,402,460	
Nov	2,757,932	2,892,986	-	3,123,880	
Dec	2,841,959	2,946,709	-	3,413,130	

\$34,187,877 \$ 36,425,736 \$ 9,909,702 \$38,906,640

YTD \$ 8,527,098 \$ 9,237,455 \$ 9,909,702 \$ 9,627,740 2.9%

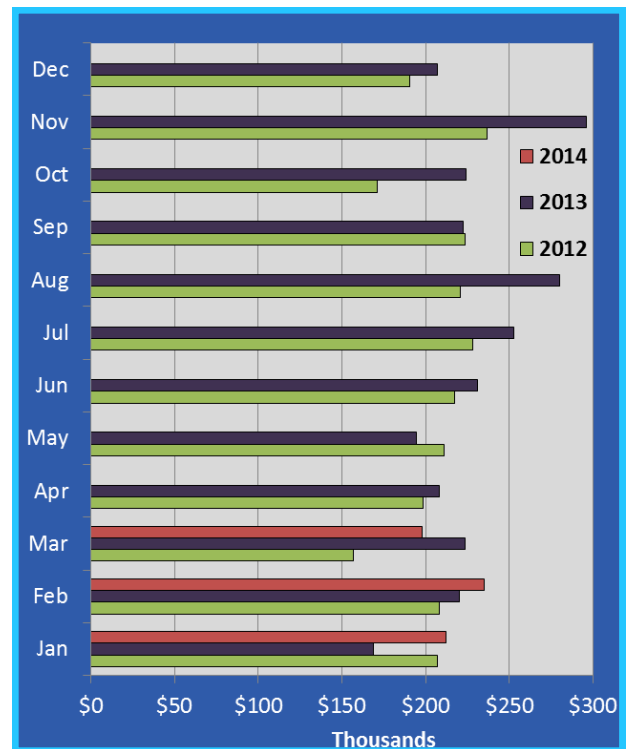
## Building Materials Use Tax

	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 99,108	\$ 181,907	\$ 57,942	\$ 120,610	-52.0%
Feb	50,703	67,440	173,295	114,230	51.7%
Mar	57,845	187,222	120,768	192,970	-37.4%
Apr	111,197	79,229		158,210	
May	140,470	221,834		156,550	
Jun	207,024	218,722		162,080	
Jul	146,570	176,829		161,510	
Aug	127,261	73,524		153,690	
Sep	92,415	105,174		155,700	
Oct	259,279	102,584		170,910	
Nov	97,778	91,453		140,530	
Dec	110,414	105,740		161,790	
	\$1,500,063	\$1,611,658	\$ 352,005	\$1,848,780	
YTD	\$ 207,656	\$ 436,569	\$ 352,005	\$ 427,810	-17.7%



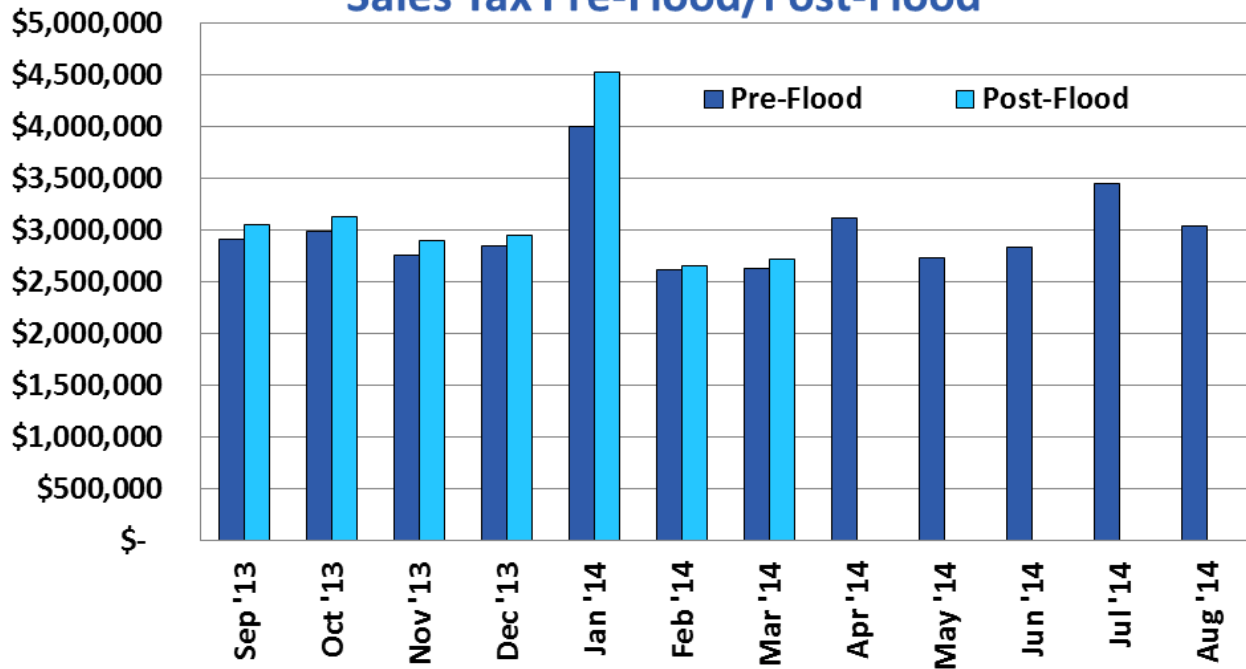
## Motor Vehicle Use Tax

	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 207,261	\$ 168,734	\$ 211,841	\$ 146,590	44.5%
Feb	208,117	219,886	234,872	160,930	45.9%
Mar	156,828	223,317	197,666	143,720	37.5%
Apr	198,682	208,144		166,030	
May	211,062	194,384		175,500	
Jun	217,084	230,915		153,780	
Jul	227,989	252,583		178,480	
Aug	220,475	280,014		182,070	
Sep	223,732	222,332		183,590	
Oct	170,786	223,902		184,150	
Nov	236,385	296,227		171,620	
Dec	190,420	206,740		153,540	
	\$2,468,822	\$2,727,178	\$ 644,379	\$2,000,000	
YTD	\$ 572,206	\$ 611,937	\$ 644,379	\$ 451,240	42.8%





## Sales Tax Pre-Flood/Post-Flood



	Pre-Flood	Post-Flood
Sep '13	\$ 2,909,008	\$ 3,051,797
Oct '13	2,991,034	3,125,566
Nov '13	2,757,932	2,892,986
Dec '13	2,841,959	2,946,709
Jan '14	3,995,194	4,531,650
Feb '14	2,619,453	2,658,798
Mar '14	2,622,808	2,719,254
Apr '14	3,109,701	
May '14	2,733,983	
Jun '14	2,835,171	
Jul '14	3,452,149	
Aug '14	3,040,219	
<b>YTD</b>	<b>\$ 35,908,611</b>	<b>\$ 21,926,760</b>

Cost Estimates	
Operational	\$ 2,780,000
Business Assistance	1,200,000
Capital	26,530,000
<b>Total</b>	<b>\$ 30,510,000</b>

Actual Expenditures		
	March	To Date
<b>Total</b>	665,500	8,413,826

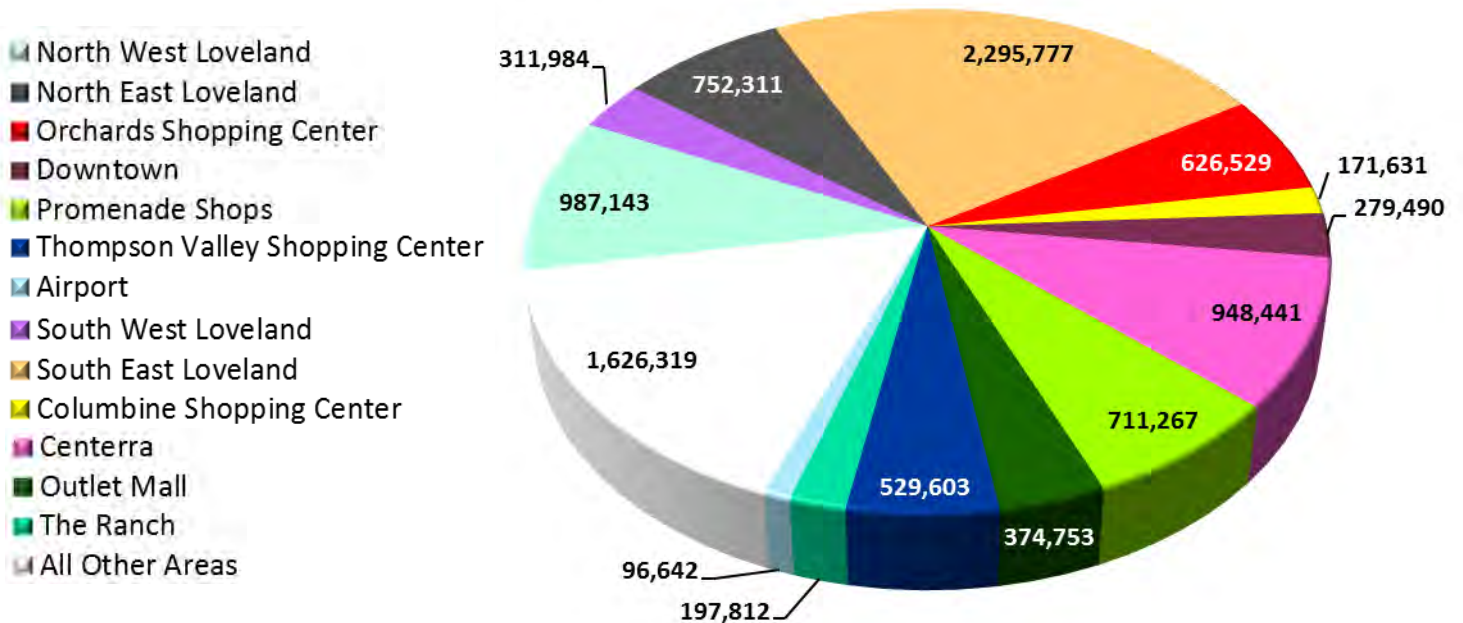
Reimbursements Applied For		
	March	To Date
FEMA	2,121,551	2,288,053
CIRSA	1,021,298	4,339,176
Other	-	247,471 <sup>1</sup>
<b>Total</b>	<b>\$ 3,142,849</b>	<b>\$ 6,874,700</b>

Reimbursements Received		
	March	To Date
FEMA	\$ -	\$ -
CIRSA	556,207	3,874,085
Other	-	247,471
<b>Total</b>	<b>\$ 556,207</b>	<b>\$ 4,121,557</b>

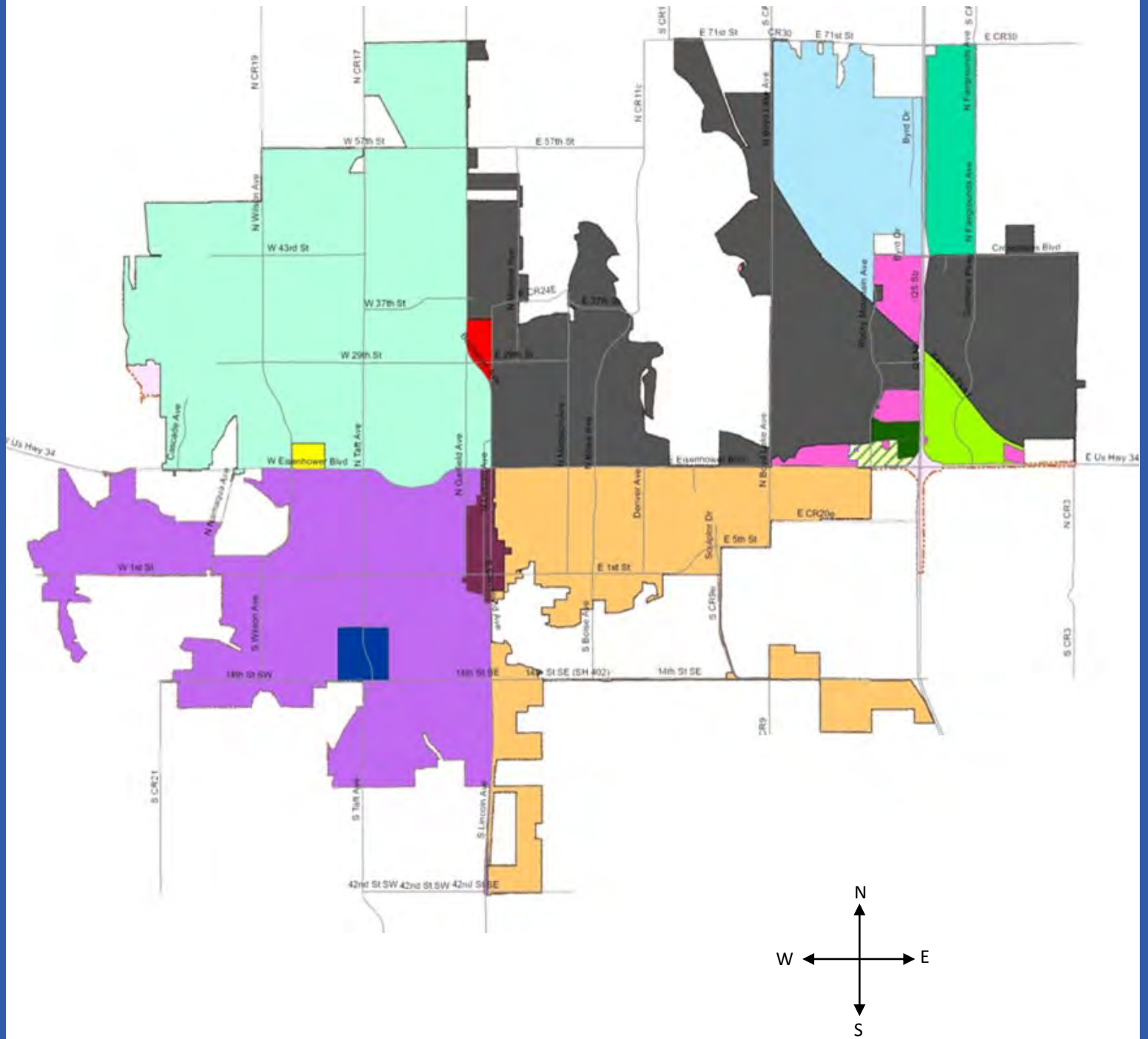


Geographical Area	YTD 2014	YTD 2013	Change
South East Loveland	2,295,777	2,158,449	6.4%
North West Loveland	987,143	1,007,171	-2.0%
Centerra	948,441	984,146	-3.6%
North East Loveland	752,311	621,447	21.1%
Promenade Shops	711,267	615,887	15.5%
Orchards Shopping Center	626,529	684,177	-8.4%
Thompson Valley Shopping Center	529,603	515,008	2.8%
Outlet Mall	374,753	347,788	7.8%
South West Loveland	311,984	251,705	23.9%
Downtown	279,490	255,109	9.6%
The Ranch	197,812	167,534	18.1%
Columbine Shopping Center	171,631	166,239	3.2%
Airport	96,642	85,282	13.3%
All Other Areas (1)	1,626,319	1,377,513	18.1%
<b>Total</b>	<b>\$9,909,702</b>	<b>\$9,237,455</b>	<b>7.3%</b>

(1) Refers to sales tax remitted by vendors who are located outside of the City but make sales to customers within Loveland.

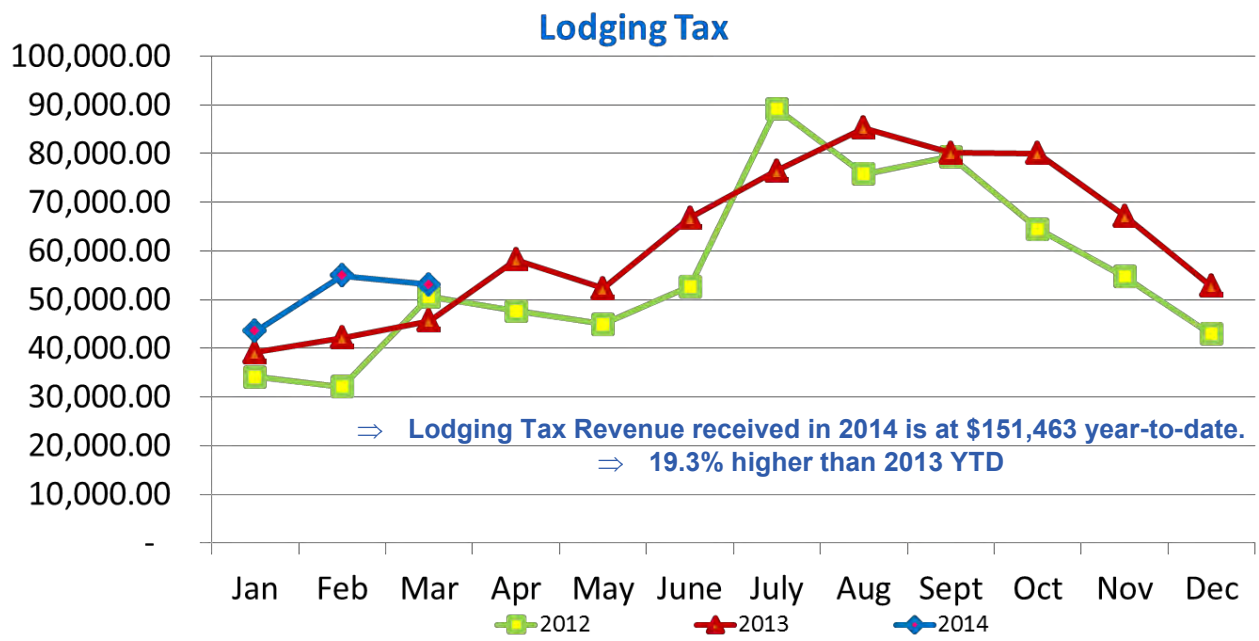


Map →



# Sales Tax Collections

Description	YTD 2014	YTD 2013	\$ Change	% Change	% of Total	Total %
Department Stores & General Merchandise	\$ 2,034,434	\$ 2,077,945	\$ (43,511)	-2.1%	20.5%	20.5%
Restaurants & Bars	1,161,071	1,093,992	67,079	6.1%	11.7%	32.2%
Grocery Stores & Specialty Foods	1,083,743	1,046,310	37,433	3.6%	10.9%	43.2%
Clothing & Clothing Accessories Stores	709,002	660,457	48,545	7.4%	7.2%	50.3%
Motor Vehicle Dealers, Auto Parts & Leasing	652,887	556,364	96,523	17.3%	6.6%	56.9%
Utilities	621,082	550,701	70,381	12.8%	6.3%	63.2%
Building Material & Lawn & Garden Supplies	598,073	490,620	107,453	21.9%	6.0%	69.2%
Sporting Goods, Hobby, Book & Music Stores	478,161	591,326	(113,165)	-19.1%	4.8%	74.1%
Broadcasting & Telecommunications	379,199	331,651	47,548	14.3%	3.8%	77.9%
Used Merchandise Stores	345,333	284,640	60,693	21.3%	3.5%	81.4%
Beer, Wine & Liquor Stores	217,265	208,327	8,938	4.3%	2.2%	83.6%
Hotels, Motels & Other Accommodations	200,807	160,059	40,748	25.5%	2.0%	85.6%
Consumer Goods & Commercial Equipment Rental	191,855	179,267	12,588	7.0%	1.9%	87.5%
Electronics & Appliance Stores	188,130	109,982	78,148	71.1%	1.9%	89.4%
Electronic Shopping & Mail-Order Houses	187,998	155,888	32,110	20.6%	1.9%	91.3%
Health & Personal Care Stores	167,320	164,894	2,426	1.5%	1.7%	93.0%
Furniture & Home Furnishing Stores	134,412	122,032	12,380	10.1%	1.4%	94.4%
Office Supplies, Stationery & Gift Stores	96,332	87,354	8,978	10.3%	1.0%	95.3%
Gasoline Stations with Convenience Stores	77,542	59,051	18,491	31.3%	0.8%	96.1%
All Other Categories	385,056	306,595	78,461	25.6%	3.9%	100.0%
<b>Total</b>	<b>\$ 9,909,702</b>	<b>\$ 9,237,455</b>	<b>\$ 672,247</b>	<b>7.3%</b>	<b>100.0%</b>	

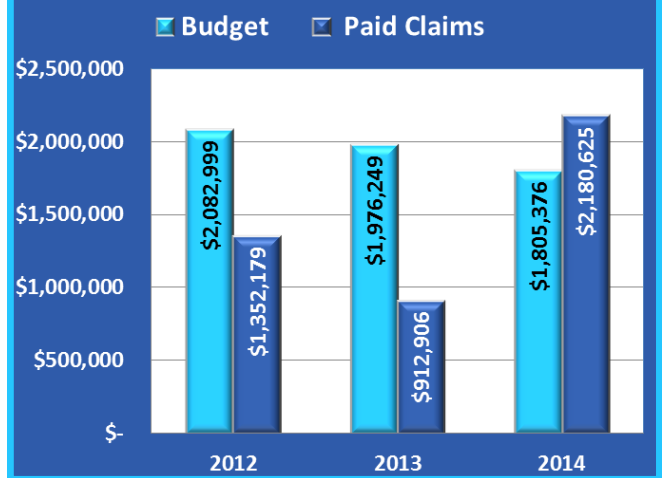


## Claims Incurred

		OAP	HRA	Total
2014	Mar	626,977	204,742	831,719
	YTD	2,091,245	822,511	2,913,756
2013	Mar	450,528	170,009	620,537
	YTD	1,604,766	500,572	2,105,338
Change	Mar	176,449	34,733	211,182
	% Mar	39.2%	20.4%	34.0%
	YTD	486,479	321,939	808,418
	% YTD	30.3%	64.3%	38.4%

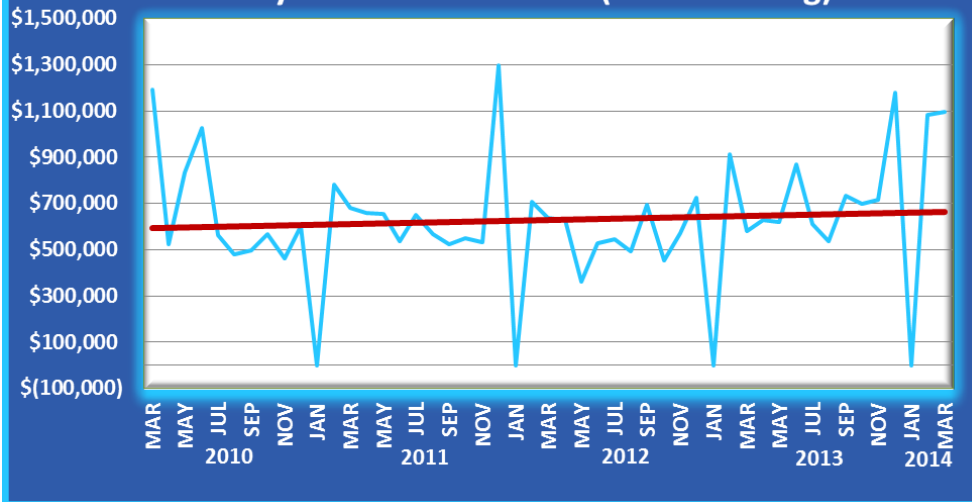
- ⇒ HRA—Health Reimbursement Arrangement
- ⇒ OAP—Open Access Plan

## YTD Paid Claims vs Budget



Incurred claims are total expenses the City is obligated to pay for claims, including claims paid and unpaid. Paid claims are those claims that have been paid and reconciled through the bank to-date, which may not reflect Stop Loss reimbursements or other refunds.

## Monthly Health Claims Paid (4 Year Rolling)



## Comparison of YTD Claims Over \$25k

March	2011	2012	2013	2014
<b># of claims</b>	13	13	12	23
<b>YTD Cost of high claims</b>	\$721,453	\$620,274	\$612,323	\$1,681,200

- ⇒ 2014 # of StopLoss claims: 3  
(claims over \$150k paid by StopLoss Carrier)

## Building Permit Comparison History



Measures	Mar 2012	Mar 2013	Mar 2014	2012 YTD	2013 YTD	2014 YTD
# of Building Permits	188	175	145	485	478	455
Building Permit Valuations	\$ 8,364,821	\$27,701,671	\$ 8,356,735	\$ 22,917,508	\$ 44,123,982	\$ 35,531,935
# of Certified Occupancies	29	39	16	57	77	37
Net # of Sales Tax Licenses	18	(35)	(63)	(118)	(367)	(126)
New Residential Electric Meter Sets	16	37	12	39	72	105
# of Utility Bills Sent	35,912	36,507	36,804	107,833	109,343	110,233
Rounds of Golf	9,592	3,645	5,252	11,341	7,634	6,358
\$ Average Health Claim Costs/Emp.	\$ 990	\$ 953	\$ 1,268	\$ 1,034	\$ 1,087	\$ 1,479
KWH Demand (kH)	88,578	91,251	90,246	277,716	282,538	292,851
KWH Purchased (kwh)		59,202,465	58,218,182	176,926,247		123,585,983
Gallons of Water Sold		139,059,750	131,233,169	423,231,868		434,762,390
# of Workers' Comp Claims 2014	8	8	7	29	26	15
\$ of Workers' Comp Claims Paid 2014	\$ 58,589	\$ 26,180	\$ 88,105	\$ 172,556	\$ 75,193	\$ 159,735
# of Total Open Claims	19	12	15	<i>Not Cumulative</i>		
\$ of Total Open Claims	455,617	249,273	471,962	<i>Not Cumulative</i>		
\$ of Lodging Tax Collected	\$ 50,576	\$ 45,626	\$ 53,063	\$ 116,821	\$ 126,988	\$ 151,463

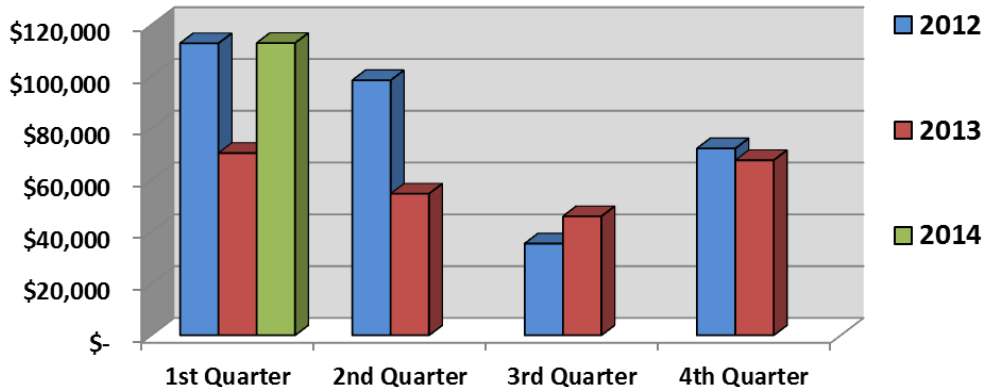
# Quarterly Rialto Report

**City of Loveland**  
**Statement of Results of Operations for Rialto Theatre Center**  
 For Quarter Ending 03/31/2014

	YTD Amount	YTD Budget	% of Budget	2013 YTD	Change from Prior Year
<b>Rialto Theatre</b>					
<b>Rialto Theatre Revenues</b>					
Revenues from Operations	\$ 59,617.03	\$ 186,673.00	31.94%	\$ 45,411.37	31.28%
Gifts/Donations	22,000	3,000	733.33%	-	0.00%
Transfers from Lodging Tax Fund	25,000	25,000	100.00%	25,000	0.00%
<b>Total Rialto Theatre Revenues</b>	<b>106,617</b>	<b>214,673</b>	<b>49.66%</b>	<b>70,411</b>	<b>51.42%</b>
<b>Rialto Theatre Expenses</b>					
Personnel Costs	51,155	47,650	107.36%	63,448	-19.38%
Supplies	3,451	5,860	58.90%	8,493	-59.36%
Purchased Services	32,536	25,721	126.50%	26,849	21.18%
Capital Outlay	-	-	0.00%	1,132	-100.00%
<b>Total Direct Costs</b>	<b>87,143</b>	<b>79,231</b>	<b>109.99%</b>	<b>99,923</b>	<b>-12.79%</b>
Administrative Allocations	36,520	36,520	100.00%	37,330	0.00%
<b>Total Rialto Theatre Expenses</b>	<b>123,663</b>	<b>115,751</b>	<b>106.84%</b>	<b>137,253</b>	<b>-9.90%</b>
<b>Rialto Theatre Net Income (Loss)</b>	<b>\$ (17,046)</b>	<b>\$ 98,922</b>	<b>-17.23%</b>	<b>\$ (66,841)</b>	<b>-74.50%</b>
<b>Rialto Event Center</b>					
<b>Rialto Event Center Revenues</b>					
Revenues from Operations	6,270	13,730	45.67%	3,180	97.17%
Gifts/Donations	-	-	0.00%	-	0.00%
<b>Total Event Center Revenues</b>	<b>6,270</b>	<b>13,730</b>	<b>45.67%</b>	<b>3,180</b>	<b>97.17%</b>
<b>Rialto Event Center Expenses</b>					
Personal Services	-	850	0.00%	19,995	-100.00%
Supplies	-	13,920	0.00%	2,186	-100.00%
Purchased Services	-	-	0.00%	1,972	-100.00%
Capital Outlay	8,341	37,180	22.43%	1,132	0.00%
<b>Total Rialto Event Center Expenses</b>	<b>\$ 8,341</b>	<b>\$ 51,950</b>	<b>16.06%</b>	<b>\$ 25,285</b>	<b>-67.01%</b>
<b>Rialto Event Center Net Income (Loss)</b>	<b>\$ (2,071)</b>	<b>\$ (38,220)</b>	<b>5.42%</b>	<b>\$ (22,105)</b>	<b>-90.63%<sup>1</sup></b>
<b>Grand Total Rialto Theatre Center Revenues</b>	<b>112,887</b>	<b>228,403</b>	<b>49.42%</b>	<b>73,591</b>	<b>53.40%</b>
<b>Grand Total Rialto Theatre Center Expenses</b>	<b>132,004</b>	<b>167,701</b>	<b>78.71%</b>	<b>162,537</b>	<b>-18.79%</b>
<b>Rialto Theatre Center Net Income (Loss)</b>	<b>\$ (19,117)</b>	<b>\$ 60,702</b>	<b>-31.49%</b>	<b>\$ (88,946)</b>	<b>-78.51%</b>

<sup>1</sup>Rialto Event Center 2013 Net Income/(Loss), NET OF \$105,000 donation = (22,105)

**Rialto Theater Center Quarterly Revenue Comparison**



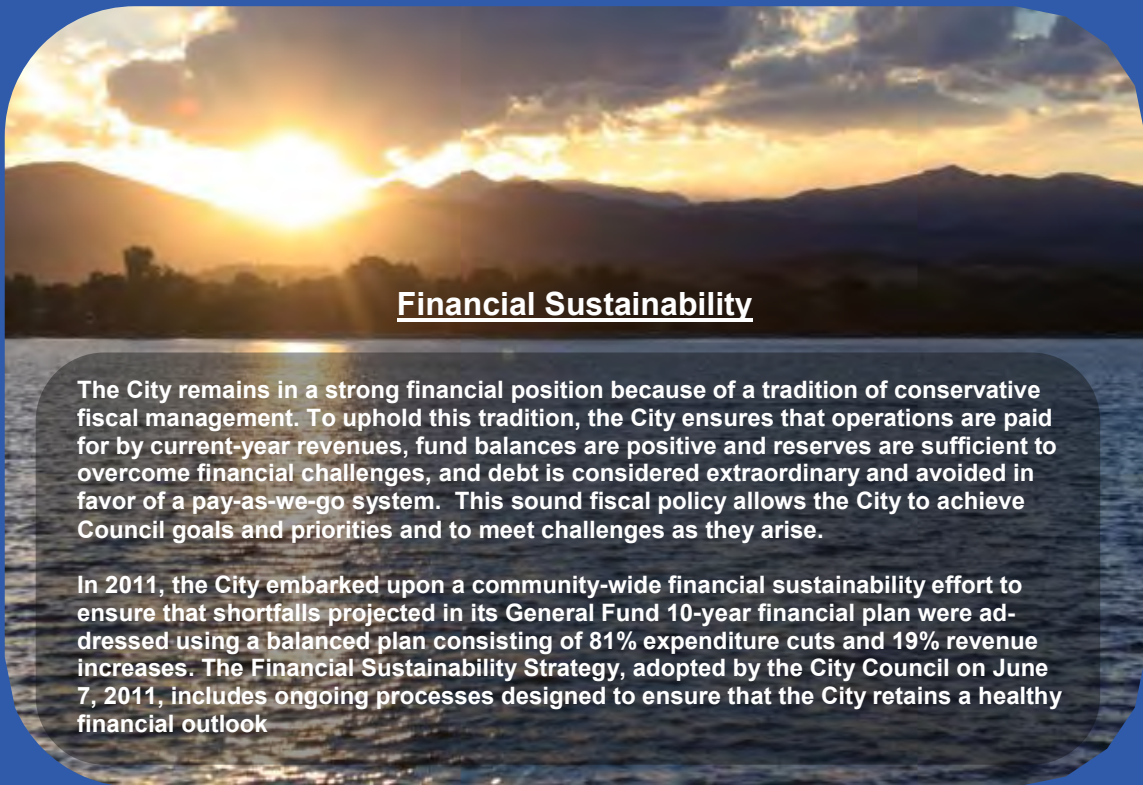


March

# Snapshot

Monthly Financial Report

2014



## Financial Sustainability

The City remains in a strong financial position because of a tradition of conservative fiscal management. To uphold this tradition, the City ensures that operations are paid for by current-year revenues, fund balances are positive and reserves are sufficient to overcome financial challenges, and debt is considered extraordinary and avoided in favor of a pay-as-we-go system. This sound fiscal policy allows the City to achieve Council goals and priorities and to meet challenges as they arise.

In 2011, the City embarked upon a community-wide financial sustainability effort to ensure that shortfalls projected in its General Fund 10-year financial plan were addressed using a balanced plan consisting of 81% expenditure cuts and 19% revenue increases. The Financial Sustainability Strategy, adopted by the City Council on June 7, 2011, includes ongoing processes designed to ensure that the City retains a healthy financial outlook





**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:** 11  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Alan Krcmarik, Executive Fiscal Advisor  
**PRESENTER:** Alan Krcmarik, Executive Fiscal Advisor

**TITLE:**

Investment Report for March 2014

**RECOMMENDED CITY COUNCIL ACTION:**

This is an information only item. No Council action is required.

**SUMMARY:**

According to the 2014 budget projections, the budget estimate for investment earnings for 2014 is \$2,025,920. 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. For March, the amount posted to the investment account is \$100,067. For the year-to-date, the amount posted is \$463,699. Actual earnings are now below the year-to-date budget projection by \$60,945. Based on the monthly statement, the estimated annualized 1.02% yield on the securities held by US Bank is exactly the same as last month's reading. 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. More funds are liquid (cash and short term) now than a month ago; the City is waiting on reimbursements for flood damage.

**BACKGROUND:**

At the end of March the City's portfolio had an estimated market value of \$215.4 million, about \$700,000 less than a month ago. Of this amount, US Bank held (including accrued interest) \$185.7 million in trust accounts; other funds are held in local government investment pools, in operating accounts at First National Bank, and a few miscellaneous accounts. Interest rates trended to record lows in 2012 – 2013 before rising in the second half of last year. Short-term rates are projected to rise but still remain historically low through 2014 and into 2015. Investments are in US Treasury Notes, high-rated US Agency Bonds, high-rated corporate bonds, money market accounts, and local government investment pools. The City's investment strategy emphasizes safety of principal, then sufficient liquidity to meet cash needs, and finally, return on investment. Each percent of earnings on the portfolio equates to about \$2.1 million annually.

**REVIEWED BY CITY MANAGER:**

*William D. Cavill*

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**LIST OF ATTACHMENTS:**

1. Investment Focus March 2014



# Investment Focus

Monthly Investment Report

March 2014

## What's in here?

Focal Points	1
Gain / Loss	
Rate Trends	2
Cash Statement	3
Portfolio size	4
Investment types	
Transactions /	5
Maturity	
Future Scan	6

## Focal Points

- \* 2014 targets for the City's portfolio: 1) the interest rate target is **0.94%**; 2) the earnings goal = **\$2,025,920**.
- \* City investments are in high quality, low risk securities, in compliance with state law and the adopted investment policy.
- \* Interest earnings posted for the month totaled **\$100,067**. Revenue posted to accounts YTD = **\$463,699: 88.4% of the target**.
- \* Each 1% of the market value amounts to nearly **\$2.1 million**.
- \* The month end market value shows the unrealized loss was larger, estimated to be **\$2,249,188** at the end of March.

## Sluggish Economic Recovery Proves Resilient

"The recovery from the recession has been nasty, brutish and long. It also is shaping up as one of the most enduring.

The National Bureau of Economic Research, the semi-official arbiter of business cycles, judges that the U.S. economy began expanding again in June 2009, just over 58 months ago. That means the current stretch of growth, in terms of duration, is poised to drift past the average for post-World War II recoveries.

*continued on page 2*

Due to rounding, column and row totals may not add exactly.

Type of Investment	Purchase Price	Market Value	Unrealized Gain or Loss
Checking Accounts	\$ 10,230,788	\$ 10,230,788	-
Investment Pools	19,510,984	19,510,984	-
Money Markets	<u>14,840,891</u>	<u>14,840,891</u>	-
Subtotal	\$ 44,582,662	\$ 44,582,662	-
Notes, Bonds, and CDs	<u>173,074,464</u>	<u>170,825,275</u>	\$ (2,249,188)
Total Portfolio	\$217,657,126	\$ 215,407,938	\$ (2,249,188)
Data Sources	(Morgan Stanley)	(US Bank)	

## Treasury rate trends / Sluggish Resilient Recovery

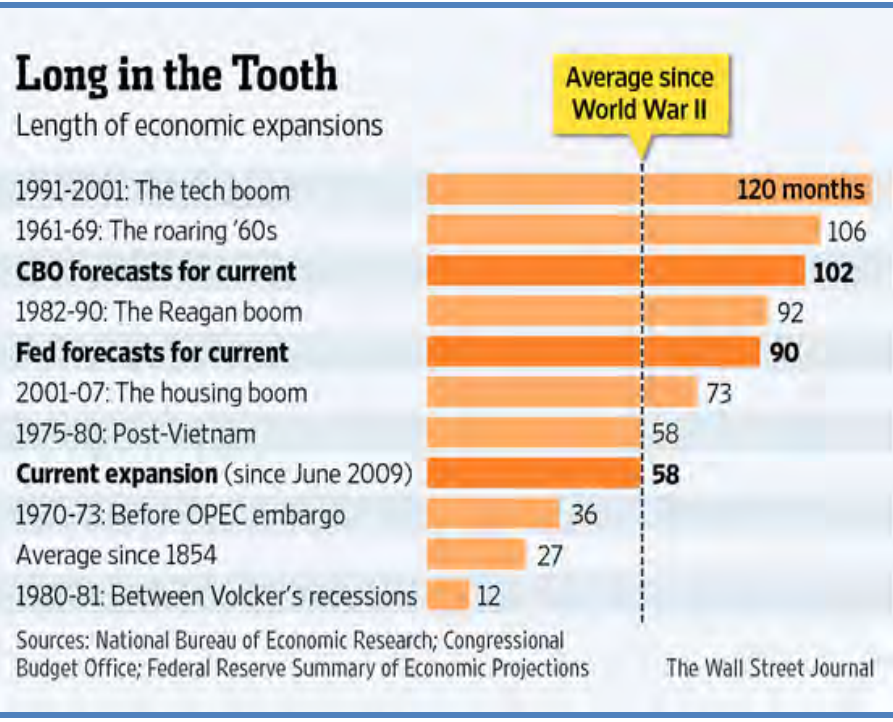


Interest rates on U.S. Treasuries **rose** in March. The 2-year was up 11 basis points, the 3-year was up 21, and 5-year treasury rose by 22 basis points.

When rates rise, the price of securities held in the portfolio decreases, resulting in a larger unrealized loss at month end.

Yet after almost five years, the recovery is proving to be one of the most lackluster in modern times.

The nation's 6.7% jobless rate is the highest on record at this stage of recent expansions. Gross domestic product has grown 1.8% a year on average since the recession, half the pace of the previous three expansions. Federal Reserve officials forecast growth at least through 2016, which would make the expansion the fourth longest since the Civil War, according to NBER. The Congressional Budget Office projects growth through at least 2017, or an expansion of 8½ years; only the 1960s and 1990s booms ran so long. Some economists attribute the unusually weak growth to the continuing effects of the 2007-2009 financial crisis. Recessions caused by sharp credit contractions have historically generated long-lasting drags on financial conditions as banks and consumers heal."



(Source: Josh Zumbrun, in THE WALL STREET JOURNAL, April 21, 2014.

*Bottom line year-to-date activity stable*

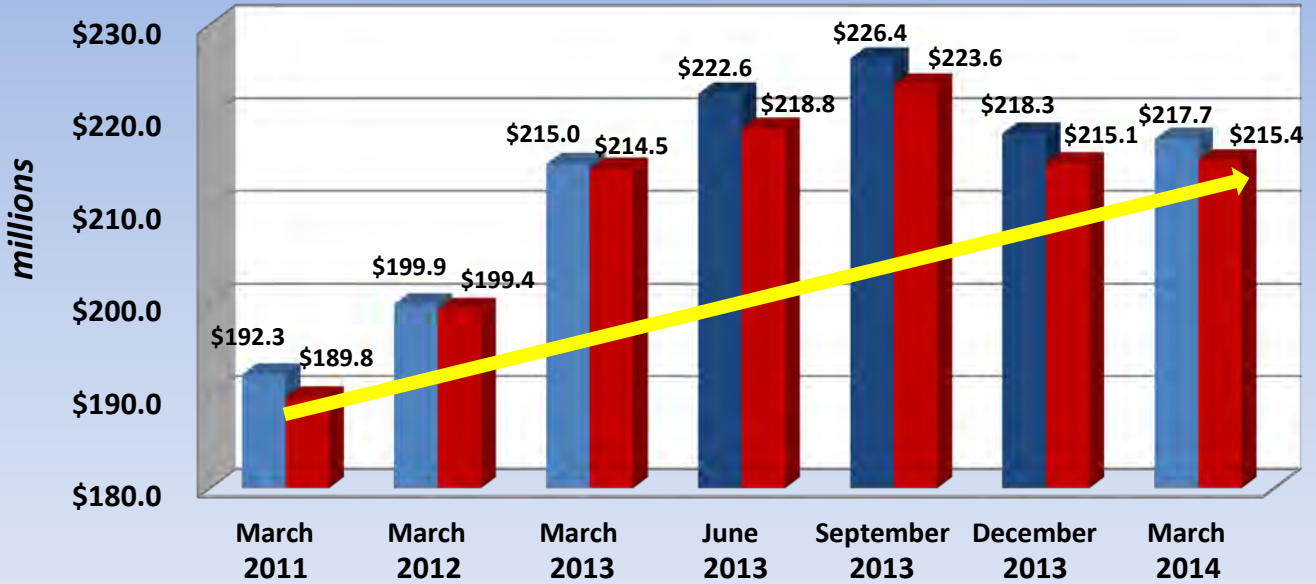
		2014 Beginning	YTD Activity	Month End Total
	<b>Restricted Reserves</b>			
1	Capital Expansion Fees	\$34,039,809	\$2,613,793	\$36,653,602
2	Water System Impact Fees	8,664,500	(33,011)	8,631,489
3	Raw Water Revenue – Windy Gap	22,950,353	(576,464)	22,373,889
4	Wastewater System Imp. Fees	5,585,617	140,890	5,726,507
5	Storm Drain System Imp. Fees	1,322,008	30,434	1,352,442
6	Power Plant Investment Fees	3,649,774	853,454	4,503,227
7	Cemetery Perpetual Care	2,717,271	17,858	2,735,129
8	Other Restricted	34,992,332	(4,423,783)	30,568,549
9	<b>Total Restricted</b>	<b>\$113,921,664</b>	<b>-\$1,376,830</b>	<b>\$112,544,834</b>
	<b>Committed/ Assigned</b>			
10	General Fund	\$11,224,908	\$664	11,225,572
11	Enterprise Funds	5,378,529	(28,374)	5,350,155
12	Internal Service Funds	19,704,008	(539,144)	19,164,864
13	<b>Total Reserves</b>	<b>\$36,307,445</b>	<b>-\$566,853</b>	<b>\$35,740,592</b>
14	<b>Total Restricted and Reserved</b>	<b>\$150,229,109</b>	<b>-\$1,943,683</b>	<b>\$148,285,425</b>
	<b>Unassigned Balance</b>			
15	General Fund	29,263,846	\$1,760,539	31,024,385
16	Airport	1,200,770	522,902	1,723,673
17	Internal Service – Vehicle Maint	77,200	(10,265)	66,935
18	Enterprise Funds	36,636,506	(38,107)	36,598,399
19	<b>Total Unrestricted</b>	<b>\$67,178,322</b>	<b>\$2,235,070</b>	<b>\$69,413,392</b>
20	<b>TOTAL CASH</b>	<b>\$217,407,431</b>	<b>\$291,387</b>	<b>\$217,698,817</b>

Due to rounding, column and row totals may not add exactly.

# Monthly Investment Report

## Portfolio Growth Trend / Types of Investments

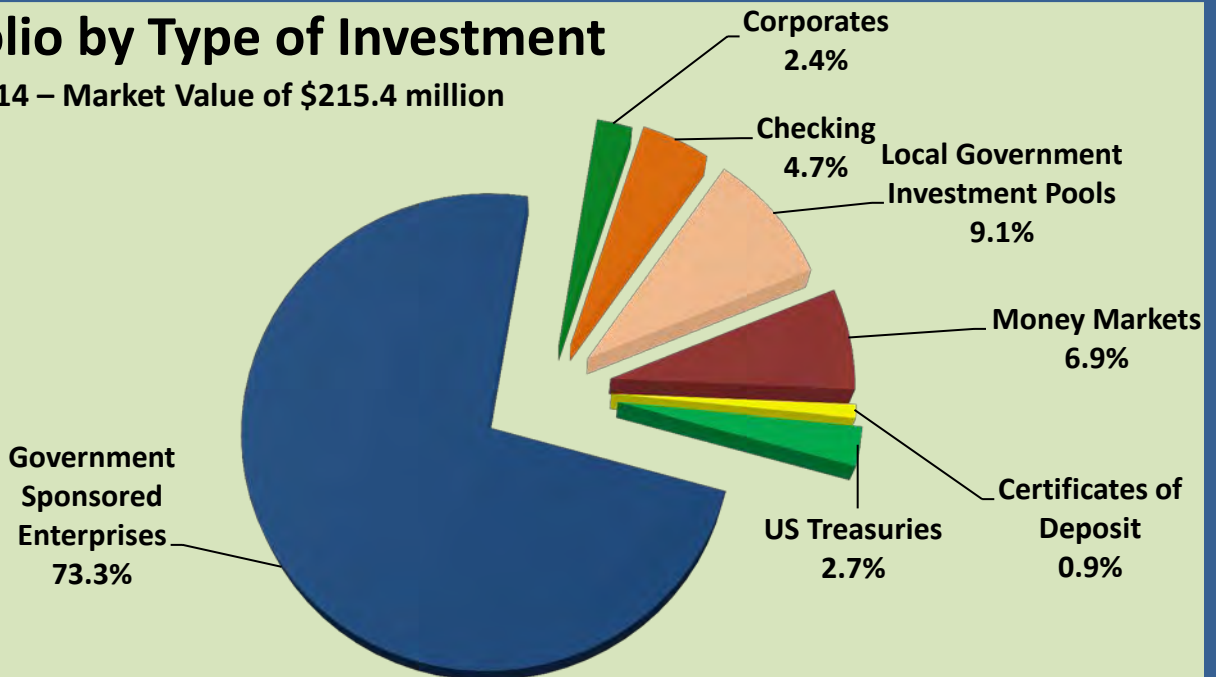
### Portfolio Size since March 2011



Blue bars show Purchase value; red and green bars show Market value (red = loss and green = gain).

### Portfolio by Type of Investment

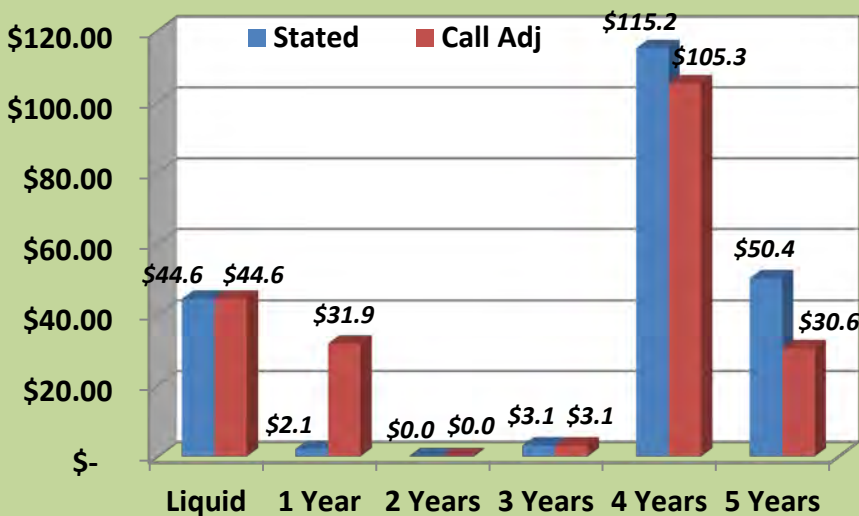
March 2014 – Market Value of \$215.4 million



# Transactions / Portfolio by Maturity

	Maturity Date	Face Value	Purchase \$	Stated Rate
<b><u>Purchases</u></b>				
none this month				
<b><u>Matured</u></b>				
none this month				
<b><u>Called</u></b>			<b><u>Call Value \$</u></b>	
none this month				
<b><u>Sales</u></b>			<b><u>Gain \$</u></b>	
none this month				

**Portfolio by Estimated Maturity Term**  
(in millions - Total = \$215.4 at the end of March)



The target interest earnings rate for 2014 is 0.94%. Rates are now up from the near record lows. For the year-to-date (one month), the portfolio proceeds are above the earnings target level for 2014.

To support earnings, or to reposition the portfolio, bonds may be sold. No sales have been completed so far.

The blue bars show the stated term; red bars show the calls. Due to the recent drop in interest rates, many of the five year bonds may be called early.





## Future Scan: Fed trying to calm the markets, inflation too low

- ❖ On April 9, the **Federal Open Market Committee** released the minutes from the March 18-19 meeting. Their discussion showed growing worry about low inflation.
  - “Federal Reserve officials are growing concerned the U.S. inflation rate won't budge from low levels, the latest sign of angst among central bankers about weakness in the global economy.”
  - “ ‘We think there is also a risk of deflation, negative inflation. And we think that if this were to happen, this would make the adjustment both at the euro level, and even more so for the countries in the periphery, very difficult,’ IMF chief economist Olivier Blanchard said of Europe on Tuesday, after the IMF released updated economic projections. ‘We think that everything should be done to try to avoid it.’ ”
  - “On its face, flat consumer prices sound like a blessing that holds down household costs. But when tepid inflation is associated with small wage gains, excess business capacity and soft global demand, as now, economists see it as a sign of broader economic malaise that restrains investment and hiring. Exceptionally slow wage and profit gains also make it harder for household and business borrowers to pay off debt.”
  - “Below-target inflation is a world-wide phenomenon, and it is difficult to be confident that all policy makers around the world have fully taken its challenge on board,” said Charles Evans, president of the Federal Reserve Bank of Chicago, in a speech in Washington on Wednesday.”
  - After the release of the minutes and the Committee news conference, rates moved lower.  
(Source: *Fed Shows Growing Worry About Low Inflation*, Jon Hilsenrath, in **THE WALL STREET JOURNAL** Online, April 10, 2014)
- ❖ **Morgan Stanley Fixed Income Commentary – “Taking A Mulligan”**
  - “Recent economic data tend to confirm the thesis that Q1 activity was adversely impacted by the weather and that Q2 growth should reveal improvement. The MS & Co. tracking estimate for Q1 real GDP stands at +1.2%, and for 2014 as a whole, growth is expected to improve to +2.7%.”
  - “Discounting the timing of the first Fed rate hike should lead to a further flattening of the UST yield curve over time, but a near-term re-steepening should not be ruled out.”
  - “Tapering appears to be ‘yesterday’s news’, as the fixed income markets are now focused on the Fed’s rate guidance language. Although the UST market apparently viewed Fed Chair Yellen’s first policy meeting as tilting ‘hawkish’, we feel the FOMC’s outlook has not materially changed, and do not expect the Fed to raise rates until 2H 2015.”  
(Source: Morgan Stanley **Basis Points** Fixed Income Strategy, Kevin Flanagan & Jon Mackay, April 7, 2014.)
- ❖ **The Colorado Employment Situation March 2014** was released April 18. Colorado added 3,300 jobs. People are returning to the labor force. The latest data show Loveland’s unemployment rate to be 6.0%, down from 6.1% in February. The “mostly flat” trend applies to the other cities and counties across the state.  
(Source: Colorado Department of Labor and Employment **Colorado Employment Situation March 2014**, April 18, 2014.)
- ❖ **Recession Outlook:** Four indicators, Industrial Production, Nonfarm Employment, Real Personal Income, and Real Retail Sales are the basis for determining a recession. Based on March data, Industrial Production rose 0.7% and Real Retail Sales rose 0.9%. Employment continued on its bland 0.1% growth trend. Real Income was up 0.2% in February. The average of the four indicators is now positive. Despite the improvements in the indicators’ growth rates, “The overall picture of the US economy remains one of a ploddingly slow recovery from the Great Recession.” (Source: **Advisor Perspectives**, Doug Short, April 16, 2014.)

For more information regarding this report, please contact:

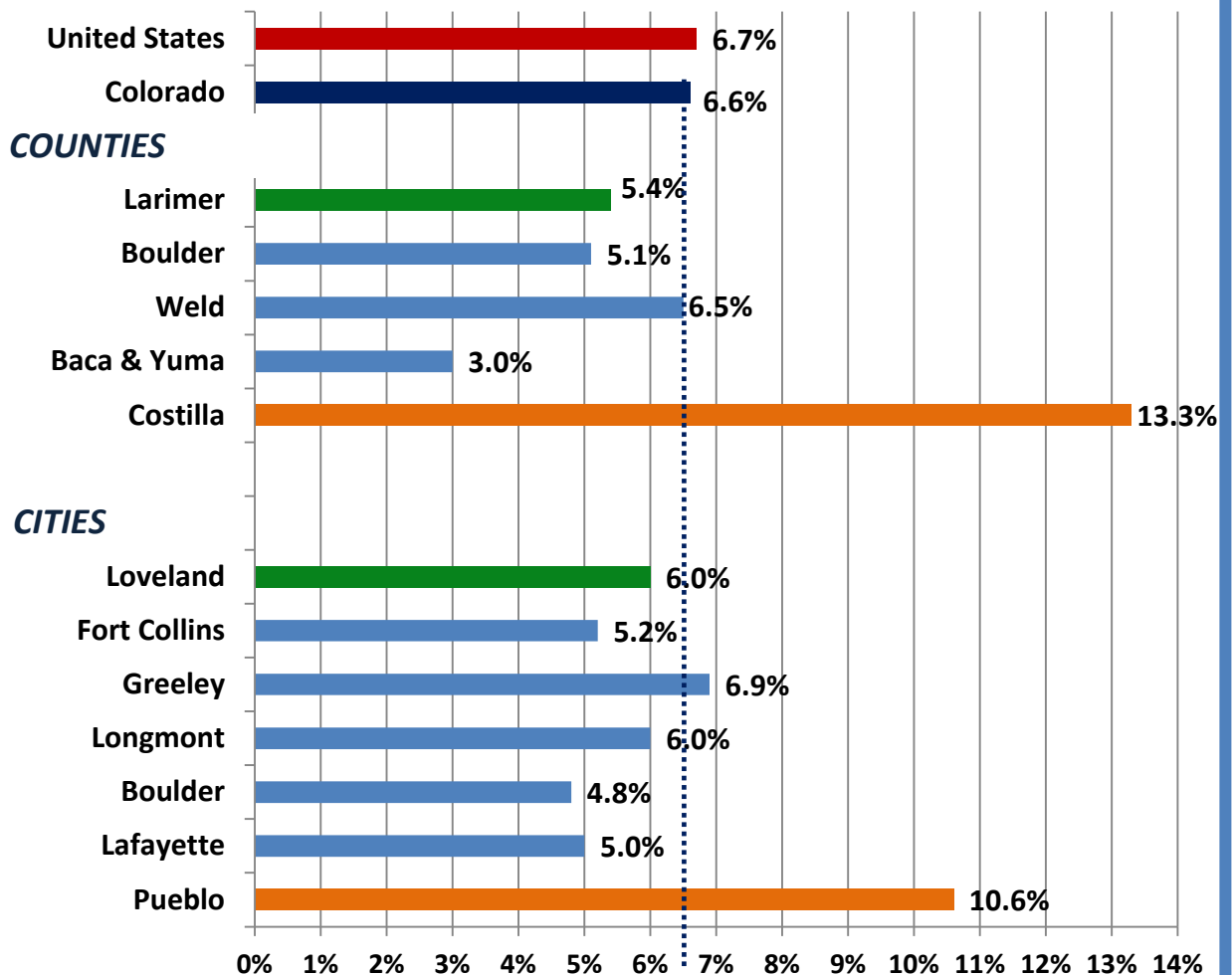
**Alan Krcmarik, Executive Fiscal Advisor** 970.962.2625 or [Alan.Krcmarik@cityofloveland.org](mailto:Alan.Krcmarik@cityofloveland.org)

# Updated Colorado Labor Data

- ❑ Loveland’s employed workforce expanded in **March**, up 254 jobs from February.
- ❑ Compared to March of 2013, there are now 1,324 **more** jobs reported in Loveland.

## Unemployment Rates

Data *not* adjusted for seasonality



## Current “missing worker” estimates at a glance

*Updated April 4, 2014, based on most current data available*

Total missing workers, March 2014: <b>5,290,000</b>	Unemployment rate if missing workers were looking for work: <b>9.8%</b>	Official unemployment rate: <b>6.7%</b>
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In today’s labor market, the unemployment rate drastically understates the weakness of job opportunities. This is due to the existence of a large pool of “*missing workers*” – potential workers who, because of weak job opportunities, are neither employed nor actively seeking a job. In other words, these are people who would be either working or looking for work if job opportunities were significantly stronger. Because jobless workers are only counted as unemployed if they are actively seeking work, these “missing workers” are not reflected in the unemployment rate. See website below for more information. When persons marginally attached to the labor force and those plus total employed part time for economic reasons are added to the official unemployment rate (the 6.7% above right), the rate rises to **13.6% (the U-6 number)**.

<http://www.epi.org/publication/missing-workers/>

**MINUTES**  
**LOVELAND CITY COUNCIL SPECIAL MEETING**  
**THURSDAY, APRIL 10, 2014**  
**CIVIC CENTER; 500 E. 3<sup>RD</sup> ST; LOVELAND, CO 80537**

**8:20 a.m. SPECIAL MEETING – CITY MANAGER’S CONFERENCE ROOM**

**CALL TO ORDER**

**ROLL CALL**

Councilors Present: Gutierrez, Clark, McKean, Farley, Shaffer, Trenary and Fogle. Councilors Taylor and Krenning were absent.

Acting Human Resources Director, Karen Rees welcomed Council and discussed the interview process for hiring the recruiter to conduct the search for a City Attorney. The following interviews took place.

**1. THE MERCER GROUP**

**8:50 a.m. In-person interview of executive recruiting firm for the City Attorney vacancy – Gary Suiter**

**2. COLIN BAENZIGER & ASSOCIATES**

**10:00 a.m. Interview (via conference call) of executive recruiting firm for the City Attorney vacancy -- Colin Baenziger**

**3. WILLIAM AVERY & ASSOCIATES**

**11:00 a.m. Skype interview of executive recruiting firm for the City Attorney vacancy – Bill Avery**

**4. COUNCIL DISCUSSION AND ACTION**

Council discussion ensued.

**Councilor Shaffer moved to direct City staff to engage the services of William Avery & Associates as the recruiting firm for the City of Loveland Attorney vacancy. The motion was seconded by Councilor McKean which carried with all Councilors present voting in favor thereof.**

**ADJOURNMENT**

Mayor Gutierrez adjourned the Special Meeting at 11:44 a.m.

**Respectfully Submitted,**

---

**Teresa G. Andrews, City Clerk**

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**Cecil A. Gutierrez, Mayor**



**CITY OF LOVELAND**  
CITY CLERKS OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2322 • FAX (970) 962-2901 • TDD (970) 962-2620

**AGENDA ITEM:** 13  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Terry Andrews, City Clerk  
**PRESENTER:** Terry Andrews, City Clerk

**TITLE:**

A Resolution Amending the City of Loveland Handbook for Boards and Commissions

**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)

**SUMMARY:**

This is an administrative action to adopt a resolution amending the City of Loveland Handbook for Boards and Commissions ("Handbook"). The proposed amendments to the Handbook address the process for selecting and appointing members, and remove references to the Creative Sector Development Advisory Commission, which expired on December 31, 2013, in accordance with City Code Section 2.60.290. This item was removed from the Consent Agenda on April 15, 2014, and due to the lateness of the meeting it was carried forward to this meeting and placed on the Regular Agenda.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

This item has been brought forward at the request of City Council to amend the process for selecting and appointing members to the City's advisory boards and commissions. A redline draft of the amended Handbook illustrating the proposed changes is attached.

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**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

---

**LIST OF ATTACHMENTS:**

1. Resolution
2. Redline draft of Handbook
3. Handbook (Exhibit A to Resolution)

**RESOLUTION #R-33-2014**

**A RESOLUTION AMENDING THE CITY OF LOVELAND HANDBOOK FOR BOARDS AND COMMISSIONS**

**WHEREAS**, Section 2.60.010 of the Loveland Municipal Code authorizes the City Council to adopt a Handbook for Boards and Commissions to guide the City of Loveland’s advisory boards and commissions regarding policy and procedures; and

**WHEREAS**, the City Council desires to amend the previously-adopted Handbook for Boards and Commissions.

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

**Section 1.** That the Handbook for Boards and Commissions (revised March 2013) is hereby repealed and replaced by the Handbook for Boards and Commissions (revised May 2014), a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

**Section 2.** That this Resolution shall take effect as of the date of its adoption.

**ADOPTED** this 6<sup>th</sup> day of May, 2014.

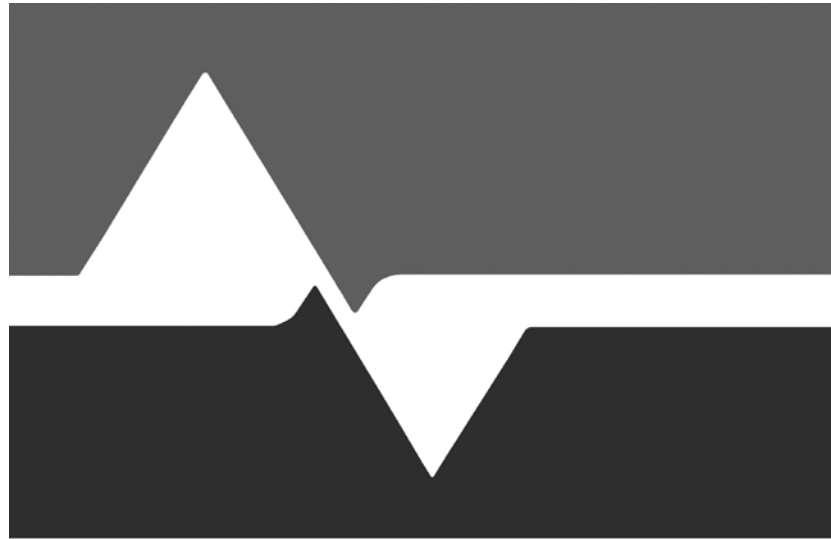
\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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



# City of Loveland

*Handbook for  
Boards and Commissions*

Revised ~~March-May~~ 20134



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    Vice Chair

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## **INTRODUCTION**

The public is playing an ever increasing role in local government. Citizens concerned about quality of life for themselves and their families, taxes and governmental services are speaking out as never before, and are shaping local government in a way that meets their needs. Indeed, the governing body of a city like Loveland is composed of citizens elected by their fellow citizens to set policy and to guide and direct city government.

In order to assist it in setting direction for the city, the City Council considers the advice of its various boards and commissions. Citizens who serve on boards and commissions, therefore, play an important part in translating ideas into programs and suggestions and concerns into change. They also expand the knowledge and experience base of the elected decision makers.

The City Council has engaged more and more citizens in the process of government by creating new advisory boards when the need arises. At present, the City of Loveland has the following advisory bodies:

Affordable Housing Commission (AHC)  
 Citizens' Finance Advisory Commission (CFAC)  
 Community Marking Commission (CMC)  
 Construction Advisory Board (CAB)  
~~Creative Sector Development Advisory Commission (CSDAC)\*~~  
 Cultural Services Board (CSB)  
 Disabilities Advisory Commission (DAC)  
 Fire & Rescue Advisory Commission (FRAC)  
 Golf Advisory Board (GAB)  
 Historic Preservation Commission (HPC)  
 Human Services Commission (HSC)  
 Library Board (LB)  
 Loveland Utilities Commission (LUC)  
 Open Lands Advisory Commission (OLAC)  
 Parks and Recreation Commission (PRC)  
 Planning Commission (PC)  
 Police Citizen Advisory Board (PDCAB)  
 Senior Advisory Board (SAB)  
 Transportation Advisory Board (TAB)  
 Visual Arts Commission (VAC)  
 Youth Advisory Commission (YAC)

~~\*In accordance with City Code Section 2.60.290, the CSDAC shall expire on December 31, 2013 unless extended by ordinance of the City Council.~~

In addition to the above, the City Council is responsible for making appointments to several boards and commissions whose powers and duties are defined under state law, and whose functions go beyond advising and making recommendations to the City Council. Those boards and commissions are:

Employees' Pension Board  
 Housing Authority  
 Local Licensing Authority  
 Police Pension Board of Trustees  
 Volunteer Firefighters' Pension Board of Trustees

## **PURPOSE**

The purpose of this Handbook for Boards and Commissions is to explain the role of boards and commissions in advising the City Council and to set forth guidelines to assist in carrying out their work.

## **CITY STRUCTURE**

In order to be more effective in fulfilling their purpose, board and commission members should understand the organizational structure of the city. The City of Loveland is a home rule municipality operating pursuant to the City of Loveland Charter, adopted by the citizens of Loveland in May, 1996. The citizens have chosen a council-manager form of government. Under this form, the citizens elect eight council members, two from each ward, and one mayor at large. The entire City Council elects the mayor pro tem.

The City Council sets the goals and policies for city government and annually adopts a budget in support of city activities. City staff, under the direction of the City Manager, is responsible for carrying out the direction of the City Council in implementing programs and services. The municipal judge, City Manager, and City Attorney report directly to the City Council. Department directors and their staffs are under the direction of the City Manager.

As the city's chief executive officer, the City Manager oversees responsibilities for the day-to-day administrative affairs of the city, including assigning staff to assist boards and commissions in carrying out their responsibilities. The City Manager is responsible for conveying and implementing City Council policy.

## **BOARD MEMBER EXPECTATIONS**

### **Attendance**

The effective operation of a board depends upon regular attendance of the members at meetings. Members shall be required to attend a minimum of 70% of the meetings each calendar year. If a member is unable to attend a meeting, he or she should contact the chairperson or staff liaison at least 24 hours in advance of the meeting, when possible. If a member has three unexcused absences in a row, the member shall automatically lose his or her position on the board or commission. For the purposes of this rule, "unexcused absences" shall be all absences other than for illness, family emergency, or participation in other City of Loveland business. The chairperson shall monitor attendance and forward attendance information to the City Manager's Office when a member fails to meet the attendance requirements stated herein. The City Manager's Office shall inform the member that his or her membership has been terminated for failure to meet the attendance requirements, and shall begin the process for appointment of a replacement member as set forth herein.

In addition, the chairperson shall provide attendance information to the City Clerk's Office upon request. Each calendar year, the City Clerk shall report to the City Council attendance information for every board and commission to include the number of meetings held by each board and commission, the number of meetings attended by each member, and the number of positions vacated due to failure to meet the attendance requirements.

### **Conflicts of Interest**

The objective of City Council is that the appointed member avoids any conflicts of interest. A member should also carefully consider for himself or herself avoiding even the appearance of impropriety. Since there may be areas where board members are unsure or unaware that a conflict exists, the following guidelines should be considered.

If a board member has acquired confidential information in the course of official duties that information cannot be used to substantially further the member's personal financial interests.

Occasionally gifts are offered to board members. Rules regarding acceptance of gifts are set forth in Chapter 2.73 of the City Code.

State law provides that a board member shall not hold an interest in a business or undertaking that may possibly be directly and substantially economically affected by any official action of the member's board. A board member shall not perform an official act causing an economic detriment to the member's business or personal competitors.

For six months following termination of office, a board member should not obtain employment in which a direct advantage, unavailable to others, will be gained in matters with which the board member was directly involved.

A board member shall not engage in a substantial financial transaction for private business purposes with a person under the direction of that member's board.

If a member has a personal or private interest in any matter before the board, the member must disclose the interest to the board, must not vote on the matter, and must refrain from attempting to influence the other board members in voting on the matter. However, if that member's participation is necessary to obtain a quorum or to otherwise enable the board to act, the member may vote if, prior to acting, the interested member discloses the nature of his private interest. The disclosure shall be made in writing to the Secretary of State, listing the amount of his financial interest, if any; the purpose and duration of his services rendered, if any; and the compensation received for the services and such other information as is necessary to describe his interest. Following this procedure, if the interested member then proceeds to vote, the member shall state for the record that the member has an interest and shall summarize the nature of the interest. The member should consider not only his or her financial interests and investments, but also those of spouse and children.

If you are unsure of your legal responsibilities on any matter coming before your advisory body, you should seek the advice of the City Attorney's Office as soon as possible before the meeting.

### **Training for New Board Members**

Recognizing that a newly appointed board or commission member will need a basic foundation of knowledge concerning the subject matter having to do with the particular board or commission, the city will provide informal and/or formal training opportunities for each newly appointed member. The Council liaison, staff liaison, and chairperson of the board or commission shall work cooperatively to establish a training process which will provide to the new member a basic foundation of knowledge concerning the subject matter having to do with the particular board or commission. Where appropriate, in-service training should be provided which may include presentations on the responsibility of board and commission members, parliamentary procedure, conflicts of interest, specific board or commission mission, consensus and decision

making model, city administration overview, open meetings, and language of local government and commonly used abbreviations and acronyms.

Board and commission members should be invited to in-service opportunities offered by the city. Board and commission members should be encouraged to identify in-service opportunities which would be specifically beneficial to their particular board or commission. When possible, exit interviews should be conducted with departing board and commission members to determine areas in which the city can be more helpful to the board or commission. The city should provide funding for appropriate in-service training for board and commission members

### **Board Responsibilities**

Each advisory board and commission is responsible to investigate and make thoughtful recommendations to the City Council and city staff on issues coming before it. Such recommendations are often most useful if they include alternatives that were considered and an analysis of the pros and cons of the alternatives.

Matters upon which a board makes recommendations can come from the City Council, from city staff, the citizens of Loveland, and from the board members themselves. The City Council does not wish to impose a rigid structure upon the thoughts and ideas of any board or commission, but instead believes that creative and innovative ideas can come from many different sources. Often, however, ideas will originate with the consideration and adoption of goals by the City Council, and boards and commissions will be asked to consider such goals.

The normal channels for communication between the City Council and the boards and commissions are through the City Council liaison to the board and city staff in the affected department. Such persons will report to the Council the deliberations and recommendations of the board. The boards and commissions, and their individual members, are always free to communicate directly with the City Council on any matter concerning their areas of responsibility.

In considering recommendations from boards and commissions, the City Council will attempt to balance the many diverse interests in our community.

### **ORGANIZATION OF THE BOARD**

Each board shall choose a chairperson and a vice chairperson. Additional offices may be created by the board from time to time as necessary. If a city staff person is not made available to serve as recording secretary, a board shall also choose a recording secretary.

#### **Chairperson**

The chairperson serves as the presiding officer over all meetings. It is the responsibility of the chairperson to conduct meetings, keep the discussion on track, encourage the input of ideas and facilitate the overall decision process. The chairperson should clarify ideas as they are discussed and should repeat motions to ensure that all members fully understand the wording of the item upon which they are voting. It is also the chairperson's responsibility to sign all documents on behalf of the board, see that all of the decisions of the board are carried out properly, and perform any other duties and functions requested by the board.

The chairperson, working with the recording secretary, is responsible for preparing an agenda for each meeting, and assuring its circulation in advance to all members of the board and other persons who have requested notification and to ensure public notice of the board's regular and, if any, special meetings.

### **Vice Chairperson**

The vice chairperson shall perform the duties of the chairperson in the absence of the chairperson. The vice chairperson shall also perform any other duties assigned to his office by the board. The vice chairperson may request the assistance of other members of the board in carrying out the duties of the office.

### **Recording Secretary**

The recording secretary keeps the record of the board, is responsible for the minutes of the meeting, and keeps a record of the proceedings of the board. The secretary also performs any additional duties or functions that the board may assign. The secretary prepares an agenda in advance of each meeting. A copy of the approved minutes from each meeting shall be deposited with the Loveland city clerk. Minutes from meetings shall be recorded as soon as possible.

### **Officers' Terms of Office**

The term of office for the chairperson and the vice chairperson shall be 1 year. Each officer shall be eligible for reelection. However, chairpersons are encouraged not to serve for more than 2 consecutive years so that other board or commission members may gain experience as a chairperson. Officers shall be elected at the next regular meeting following the month of the year in which the terms of office of the members of the board expire.

### **Council Liaison**

The City Council liaison assigned to a board or commission shall serve the following roles:

1. Communicate with the board or commission when City Council communication is needed and to serve as the primary two-way communications channel between the City Council and the board or commission.
2. Participate in filling vacancies, reviewing applications, and interviewing candidates for the board or commission.
3. Serve as the primary informal City Council contact.
4. Help resolve questions the board or commission may have about the role of the City Council, municipal government, and the board or commission.
5. Establish formal or informal contact with the chairperson of the board or commission and effectively communicate the role of the liaison.
6. Provide procedural direction and relay the City Council's position to the board or commission, and to communicate to the board or commission that the liaison's role is not to direct the board in its activities or work.

7. Serve as City Council contact rather than an advocate for or ex-officio member of the board or commission.

## **CONDUCT OF MEETINGS**

### **Open Public Meetings**

All meetings at which any public business is discussed where a quorum of the board is present are public meetings open to the public at all times. No board or commission shall conduct any closed meeting without first consulting with the City Attorney's Office concerning its propriety.

### **Quorum**

The majority of all of the members of a board shall constitute a quorum. In order to conduct business at any meeting, a quorum shall be present. No action shall be taken in the absence of a quorum, except to adjourn the meeting to a future date.

### **Special Meetings**

A special meeting may be called by the chairperson or vice chairperson, or upon the written request of three members of the board. Notice should be given to each of the board members by personally serving them or by leaving notice at their usual place of residence. Notice of special meetings should be given as much in advance as possible. The notice of a special meeting shall set forth the time, place, date and purpose of the meeting. Attendance at a special meeting constitutes a waiver of the notice of the meeting.

### **Public Notice**

Public notice of all meetings where the board may take any formal action or at which a majority or quorum of the board is expected to attend shall be given. The public notice shall be given no less than twenty-four hours in advance of the meeting and shall be posted at a location designated by the City Council, including the bulletin board outside the City Council Chambers. The public notice should also be posted on the City's website. The notice shall contain a specific agenda if possible, and should be in the format specified by the City Clerk.

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Occasionally, a board will be called upon to conduct a public hearing on a matter coming before it. A public hearing is a process by which official input on a matter coming before a board is received from all those wishing to present testimony. It is a matter of fundamental due process that decisions made as a result of the public hearing are based solely upon the evidence presented at the public hearing, and no prior investigation or discussion should be conducted by any member. If members have acquired information from outside the hearing, they should state during the hearing what the information is and allow public comment.

The chairperson should declare the public hearing open, and after hearing public testimony, declare the hearing closed. Following the public hearing, board members should discuss the matter among themselves (still in open meeting), and reach a decision by adopting a motion that sets forth the basis for the decision. Any such decision should be set out in the minutes of the meeting.

Further information regarding the conduct of public hearings is available from the City Attorney's Office.

### **APPOINTMENT AND VACANCIES**

Unless otherwise provided by state law or by the ordinance establishing the particular board or commission, the following guidelines will be used in dealing with appointments and vacancies to boards and commissions.

When ~~ever~~ a vacancy occurs ~~in~~ a board or commission, ~~whether~~ by ~~expiration of term of office~~, removal of a member, ~~or~~ resignation ~~or other reason~~, the Council-appointed alternate shall automatically ~~assume~~ be recommended to the City Council for appointment to the position. If there is no alternate, ~~or if the vacancy occurs due to expiration of term of office~~, the following steps will be taken unless otherwise directed by the City Council:

1. The chairperson shall notify the City Manager's Office of the vacancy.
2. Upon notice of the vacancy or not less than 75 days prior to the expiration of a term, whichever is applicable, the City Manager's Office will notify the City Council of the vacancy and advertise for the position. Said advertisement shall include, at minimum, publication of a notice in a newspaper of general circulation within the city. The City Manager's Office shall establish a closing date for the receipt of applications, which date shall be not less than 30 days from the date of first newspaper advertisement. Applications received after the closing date shall not be considered by the interview committee.
2. The chairperson should announce the vacancy at the first meeting after being notified of the vacancy and urge the members to solicit qualified candidates.
3. Applications shall be in a form determined by the City Manager, but shall include, without limitation, a question related to the applicant's current service on other city boards and commissions.
4. Private interviews for the position shall be required for all applicants, including existing board or commission members seeking reappointment to a new term on the same board or commission, except that interviews shall not be required for members of the Youth Advisory Commission who have successfully completed a term of office and desire to be reappointed to a new term. Interviews shall occur within a reasonable time following the closing date for receipt of applications and shall be scheduled by the staff liaison. Except as otherwise provided by a formal action of the City Council, ~~the~~ interview committee shall consist of the following persons: the City Council liaison; the staff liaison; and the chairperson.
5. Immediately following the interviews, the interview committee, or in the case of the Youth Advisory Commission where no interviews are held, the staff liaison, shall advise the City Manager's Office of ~~its~~ the recommendation, ~~and~~ the City Manager's Office will endeavor to place the matter on the next available City Council agenda for consideration of appointment.



6. The recommendation of the interview committee and the appointment by the City Council shall be based upon qualification, experience, knowledge, interest, willingness to serve, ward residency, the need for a diverse cross-section of the community, past and current service on other city boards and commissions, and other factors deemed relevant by the City Council. The recommendation of the interview committee shall be considered but shall not be binding upon the City Council.
7. The City Manager's Office shall forward a letter of appointment and a Handbook for Boards and Commissions to the newly appointed member.

Members shall serve for their appointed term as specified in the City Code. Alternates appointments shall be effective until the expiration of the term of any other member on the board or commission for which the alternate appointment was made. Alternates shall be available to 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.

There shall be no term limits for board and commission members unless the term limits for the board or commission are specifically set forth in state law or in the City Charter or Code. In addition, board and commission members may not serve on more than one board and commission at a time, unless: (i) the member is the only qualified applicant for the position; or (ii) the member resigns his or her position on the first board or commission prior to or upon appointment to the second board or commission.

~~Any person who has served less than 50% of a full term will be eligible for consecutive reappointment for a full term, pursuant to the following process:~~

- ~~1.—90 days prior to the partial term expiration, a letter will be sent by the City Manager's Office to the member advising the member that he or she must notify the City Manager's Office in writing within 15 days of the date of the letter if the member desires to be reappointed to the board or commission. If the member provides such notification and if the member remains otherwise eligible to serve on the board or commission, the member shall be recommended to the City Council for reappointment without the need for solicitation of applicants and interviews.~~
- ~~2.—If the member does not provide timely notification as set forth in paragraph 1, the member will not be eligible for reappointment without the solicitation of applicants and interviews.~~

Unless otherwise provided by state law or by the City Charter or Code, a person shall not be eligible for appointment to a board or commission unless either: (a) such person resides within or has substantial ties within the corporate limits of the city; or (b) where the City Council determines that the duties and functions of a board or commission impact, or are likely to impact, areas beyond the corporate limits, such person resides within or has substantial ties to the affected area. Factors which may be considered in determining whether a person has substantial ties to the city or an affected area are property ownership, employment, conduct of a business or profession or other factors deemed relevant by the City Council. Any person who ceases to reside in, or have substantial ties to, the area which was determined to be the basis for appointment may be removed from the board or commission by the City Council.

Further, unless otherwise provided by state law or by the City Charter or Code, no appointment of a person to any board or commission shall have the effect of increasing the number of nonresident members on that board or commission to more than 50% of the total membership of the board or commission.

A person shall not be eligible for appointment to any city board or commission if that person's spouse, parent, sibling, or child (whether related by blood, marriage, or adoption) is a city employee who in his or her capacity as a city employee regularly appears before or advises that board or commission. This does not prohibit such person from being eligible for appointment to any other city board or commission not affected by this eligibility limitation.

### **EXPENSE REIMBURSEMENT**

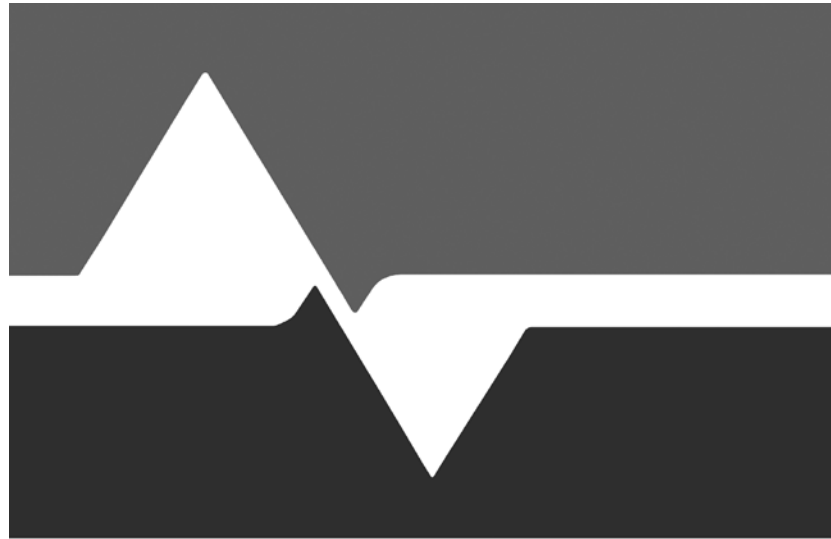
The city will reimburse any member of a board or commission who incurs expense for travel, lodging, registration fees and the like where such expenses have been provided for in the budget of the department with which the board is connected. To make sure that an anticipated expense is authorized, all subject expenditures must be cleared in advance through the City Manager's Office.

### **LIABILITY**

When performing the function for which a member is appointed, such member is an authorized volunteer of the City of Loveland, and is entitled to the protection of the Governmental Immunity Act. The Act, generally speaking, protects the board member from personal liability for any action within the scope of such appointment, except where the act is willful or wanton. Many homeowners' insurance policies provide some coverage for acts undertaken as a volunteer. Please consult your insurance agent regarding any such coverage. The City Attorney's Office is available for further discussions regarding liability.

### **BOARDS AND COMMISSIONS**

For specific information regarding the City's boards and commissions and a description of their membership requirements and duties, please see City Code Chapter 2.60, available online at [www.cityofloveland.org](http://www.cityofloveland.org), or contact the City Manager's Office at (970) 962-2303, or the City Clerk's Office at (970) 962-2322.



# City of Loveland

*Handbook for  
Boards and Commissions*

*Revised May 2014*

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## **INTRODUCTION**

The public is playing an ever increasing role in local government. Citizens concerned about quality of life for themselves and their families, taxes and governmental services are speaking out as never before, and are shaping local government in a way that meets their needs. Indeed, the governing body of a city like Loveland is composed of citizens elected by their fellow citizens to set policy and to guide and direct city government.

In order to assist it in setting direction for the city, the City Council considers the advice of its various boards and commissions. Citizens who serve on boards and commissions, therefore, play an important part in translating ideas into programs and suggestions and concerns into change. They also expand the knowledge and experience base of the elected decision makers.

The City Council has engaged more and more citizens in the process of government by creating new advisory boards when the need arises. At present, the City of Loveland has the following advisory bodies:

- Affordable Housing Commission (AHC)
- Citizens' Finance Advisory Commission (CFAC)
- Community Marking Commission (CMC)
- Construction Advisory Board (CAB)
- Cultural Services Board (CSB)
- Disabilities Advisory Commission (DAC)
- Fire & Rescue Advisory Commission (FRAC)
- Golf Advisory Board (GAB)
- Historic Preservation Commission (HPC)
- Human Services Commission (HSC)
- Library Board (LB)
- Loveland Utilities Commission (LUC)
- Open Lands Advisory Commission (OLAC)
- Parks and Recreation Commission (PRC)
- Planning Commission (PC)
- Police Citizen Advisory Board (PDCAB)
- Senior Advisory Board (SAB)
- Transportation Advisory Board (TAB)
- Visual Arts Commission (VAC)
- Youth Advisory Commission (YAC)

In addition to the above, the City Council is responsible for making appointments to several boards and commissions whose powers and duties are defined under state law, and whose functions go beyond advising and making recommendations to the City Council. Those boards and commissions are:

- Employees' Pension Board
- Housing Authority
- Local Licensing Authority
- Police Pension Board of Trustees
- Volunteer Firefighters' Pension Board of Trustees

## **PURPOSE**

The purpose of this Handbook for Boards and Commissions is to explain the role of boards and commissions in advising the City Council and to set forth guidelines to assist in carrying out their work.

## **CITY STRUCTURE**

In order to be more effective in fulfilling their purpose, board and commission members should understand the organizational structure of the city. The City of Loveland is a home rule municipality operating pursuant to the City of Loveland Charter, adopted by the citizens of Loveland in May, 1996. The citizens have chosen a council-manager form of government. Under this form, the citizens elect eight council members, two from each ward, and one mayor at large. The entire City Council elects the mayor pro tem.

The City Council sets the goals and policies for city government and annually adopts a budget in support of city activities. City staff, under the direction of the City Manager, is responsible for carrying out the direction of the City Council in implementing programs and services. The municipal judge, City Manager, and City Attorney report directly to the City Council. Department directors and their staffs are under the direction of the City Manager.

As the city's chief executive officer, the City Manager oversees responsibilities for the day-to-day administrative affairs of the city, including assigning staff to assist boards and commissions in carrying out their responsibilities. The City Manager is responsible for conveying and implementing City Council policy.

## **BOARD MEMBER EXPECTATIONS**

### **Attendance**

The effective operation of a board depends upon regular attendance of the members at meetings. Members shall be required to attend a minimum of 70% of the meetings each calendar year. If a member is unable to attend a meeting, he or she should contact the chairperson or staff liaison at least 24 hours in advance of the meeting, when possible. If a member has three unexcused absences in a row, the member shall automatically lose his or her position on the board or commission. For the purposes of this rule, "unexcused absences" shall be all absences other than for illness, family emergency, or participation in other City of Loveland business. The chairperson shall monitor attendance and forward attendance information to the City Manager's Office when a member fails to meet the attendance requirements stated herein. The City Manager's Office shall inform the member that his or her membership has been terminated for failure to meet the attendance requirements, and shall begin the process for appointment of a replacement member as set forth herein.

In addition, the chairperson shall provide attendance information to the City Clerk's Office upon request. Each calendar year, the City Clerk shall report to the City Council attendance information for every board and commission to include the number of meetings held by each board and commission, the number of meetings attended by each member, and the number of positions vacated due to failure to meet the attendance requirements.

### **Conflicts of Interest**

The objective of City Council is that the appointed member avoids any conflicts of interest. A member should also carefully consider for himself or herself avoiding even the appearance of impropriety. Since

there may be areas where board members are unsure or unaware that a conflict exists, the following guidelines should be considered.

If a board member has acquired confidential information in the course of official duties that information cannot be used to substantially further the member's personal financial interests.

Occasionally gifts are offered to board members. Rules regarding acceptance of gifts are set forth in Chapter 2.73 of the City Code.

State law provides that a board member shall not hold an interest in a business or undertaking that may possibly be directly and substantially economically affected by any official action of the member's board. A board member shall not perform an official act causing an economic detriment to the member's business or personal competitors.

For six months following termination of office, a board member should not obtain employment in which a direct advantage, unavailable to others, will be gained in matters with which the board member was directly involved.

A board member shall not engage in a substantial financial transaction for private business purposes with a person under the direction of that member's board.

If a member has a personal or private interest in any matter before the board, the member must disclose the interest to the board, must not vote on the matter, and must refrain from attempting to influence the other board members in voting on the matter. However, if that member's participation is necessary to obtain a quorum or to otherwise enable the board to act, the member may vote if, prior to acting, the interested member discloses the nature of his private interest. The disclosure shall be made in writing to the Secretary of State, listing the amount of his financial interest, if any; the purpose and duration of his services rendered, if any; and the compensation received for the services and such other information as is necessary to describe his interest. Following this procedure, if the interested member then proceeds to vote, the member shall state for the record that the member has an interest and shall summarize the nature of the interest. The member should consider not only his or her financial interests and investments, but also those of spouse and children.

If you are unsure of your legal responsibilities on any matter coming before your advisory body, you should seek the advice of the City Attorney's Office as soon as possible before the meeting.

### **Training for New Board Members**

Recognizing that a newly appointed board or commission member will need a basic foundation of knowledge concerning the subject matter having to do with the particular board or commission, the city will provide informal and/or formal training opportunities for each newly appointed member. The Council liaison, staff liaison, and chairperson of the board or commission shall work cooperatively to establish a training process which will provide to the new member a basic foundation of knowledge concerning the subject matter having to do with the particular board or commission. Where appropriate, in-service training should be provided which may include presentations on the responsibility of board and commission members, parliamentary procedure, conflicts of interest, specific board or commission mission, consensus and decision making model, city administration overview, open meetings, and language of local government and commonly used abbreviations and acronyms.

Board and commission members should be invited to in-service opportunities offered by the city. Board and commission members should be encouraged to identify in-service opportunities which would be specifically beneficial to their particular board or commission. When possible, exit interviews should be conducted with departing board and commission members to determine areas in which the city can be more helpful to the board or commission. The city should provide funding for appropriate in-service training for board and commission members

### **Board Responsibilities**

Each advisory board and commission is responsible to investigate and make thoughtful recommendations to the City Council and city staff on issues coming before it. Such recommendations are often most useful if they include alternatives that were considered and an analysis of the pros and cons of the alternatives.

Matters upon which a board makes recommendations can come from the City Council, from city staff, the citizens of Loveland, and from the board members themselves. The City Council does not wish to impose a rigid structure upon the thoughts and ideas of any board or commission, but instead believes that creative and innovative ideas can come from many different sources. Often, however, ideas will originate with the consideration and adoption of goals by the City Council, and boards and commissions will be asked to consider such goals.

The normal channels for communication between the City Council and the boards and commissions are through the City Council liaison to the board and city staff in the affected department. Such persons will report to the Council the deliberations and recommendations of the board. The boards and commissions, and their individual members, are always free to communicate directly with the City Council on any matter concerning their areas of responsibility.

In considering recommendations from boards and commissions, the City Council will attempt to balance the many diverse interests in our community.

### **ORGANIZATION OF THE BOARD**

Each board shall choose a chairperson and a vice chairperson. Additional offices may be created by the board from time to time as necessary. If a city staff person is not made available to serve as recording secretary, a board shall also choose a recording secretary.

#### **Chairperson**

The chairperson serves as the presiding officer over all meetings. It is the responsibility of the chairperson to conduct meetings, keep the discussion on track, encourage the input of ideas and facilitate the overall decision process. The chairperson should clarify ideas as they are discussed and should repeat motions to ensure that all members fully understand the wording of the item upon which they are voting. It is also the chairperson's responsibility to sign all documents on behalf of the board, see that all of the decisions of the board are carried out properly, and perform any other duties and functions requested by the board.

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### **Vice Chairperson**

The vice chairperson shall perform the duties of the chairperson in the absence of the chairperson. The vice chairperson shall also perform any other duties assigned to his office by the board. The vice chairperson may request the assistance of other members of the board in carrying out the duties of the office.

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The recording secretary keeps the record of the board, is responsible for the minutes of the meeting, and keeps a record of the proceedings of the board. The secretary also performs any additional duties or functions that the board may assign. The secretary prepares an agenda in advance of each meeting. A copy of the approved minutes from each meeting shall be deposited with the Loveland city clerk. Minutes from meetings shall be recorded as soon as possible.

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The term of office for the chairperson and the vice chairperson shall be 1 year. Each officer shall be eligible for reelection. However, chairpersons are encouraged not to serve for more than 2 consecutive years so that other board or commission members may gain experience as a chairperson. Officers shall be elected at the next regular meeting following the month of the year in which the terms of office of the members of the board expire.

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5. Establish formal or informal contact with the chairperson of the board or commission and effectively communicate the role of the liaison.
6. Provide procedural direction and relay the City Council's position to the board or commission, and to communicate to the board or commission that the liaison's role is not to direct the board in its activities or work.
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The chairperson should declare the public hearing open, and after hearing public testimony, declare the hearing closed. Following the public hearing, board members should discuss the matter among themselves

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2. The chairperson should announce the vacancy at the first meeting after being notified of the vacancy and urge the members to solicit qualified candidates.
3. Applications shall be in a form determined by the City Manager, but shall include, without limitation, a question related to the applicant's current service on other city boards and commissions.
4. Private interviews for the position shall be required for all applicants, including existing board or commission members seeking reappointment to a new term on the same board or commission, except that interviews shall not be required for members of the Youth Advisory Commission who have successfully completed a term of office and desire to be reappointed to a new term. Interviews shall occur within a reasonable time following the closing date for receipt of applications and shall be scheduled by the staff liaison. Except as otherwise provided by a formal action of the City Council, the interview committee shall consist of the following persons: the City Council liaison; the staff liaison; and the chairperson.
5. Immediately following the interviews, the interview committee, or in the case of the Youth Advisory Commission where no interviews are held, the staff liaison, shall advise the City Manager's Office of the recommendation. The City Manager's Office will endeavor to place the matter on the next available City Council agenda for consideration of appointment.
6. The recommendation of the interview committee and the appointment by the City Council shall be based upon qualification, experience, knowledge, interest, willingness to serve, ward residency, the need for a diverse cross-section of the community, past and current service on other city boards and

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Unless otherwise provided by state law or by the City Charter or Code, a person shall not be eligible for appointment to a board or commission unless either: (a) such person resides within or has substantial ties within the corporate limits of the city; or (b) where the City Council determines that the duties and functions of a board or commission impact, or are likely to impact, areas beyond the corporate limits, such person resides within or has substantial ties to the affected area. Factors which may be considered in determining whether a person has substantial ties to the city or an affected area are property ownership, employment, conduct of a business or profession or other factors deemed relevant by the City Council. Any person who ceases to reside in, or have substantial ties to, the area which was determined to be the basis for appointment may be removed from the board or commission by the City Council.

Further, unless otherwise provided by state law or by the City Charter or Code, no appointment of a person to any board or commission shall have the effect of increasing the number of nonresident members on that board or commission to more than 50% of the total membership of the board or commission.

A person shall not be eligible for appointment to any city board or commission if that person's spouse, parent, sibling, or child (whether related by blood, marriage, or adoption) is a city employee who in his or her capacity as a city employee regularly appears before or advises that board or commission. This does not prohibit such person from being eligible for appointment to any other city board or commission not affected by this eligibility limitation.

### **EXPENSE REIMBURSEMENT**

The city will reimburse any member of a board or commission who incurs expense for travel, lodging, registration fees and the like where such expenses have been provided for in the budget of the department with which the board is connected. To make sure that an anticipated expense is authorized, all subject expenditures must be cleared in advance through the City Manager's Office.

### **LIABILITY**

When performing the function for which a member is appointed, such member is an authorized volunteer of the City of Loveland, and is entitled to the protection of the Governmental Immunity Act. The Act, generally

speaking, protects the board member from personal liability for any action within the scope of such appointment, except where the act is willful or wanton. Many homeowners' insurance policies provide some coverage for acts undertaken as a volunteer. Please consult your insurance agent regarding any such coverage. The City Attorney's Office is available for further discussions regarding liability.

### **BOARDS AND COMMISSIONS**

For specific information regarding the City's boards and commissions and a description of their membership requirements and duties, please see City Code Chapter 2.60, available online at [www.cityofloveland.org](http://www.cityofloveland.org), or contact the City Manager's Office at (970) 962-2303, or the City Clerk's Office at (970) 962-2322.



**CITY OF LOVELAND**  
CITY CLERKS OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2322 • FAX (970) 962-2901 • TDD (970) 962-2620

**AGENDA ITEM:** 14  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Terry Andrews, City Clerk's Office  
**PRESENTER:** Terry Andrews, City Clerk

**TITLE:**

A Resolution of the Loveland City Council Calling a Special Election to be Held on June 24, 2014 for the Purpose of Submitting a Citizen-Initiated Ordinance to a Vote of the City's Registered Electors and Setting the Ballot Title

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the resolution.

**OPTIONS:**

1. Adopt the actions as recommended
2. Deny the actions
3. Adopt a modified actions (specify in the motion)

**SUMMARY:**

This is an administrative action to consider a resolution calling a Special Election for the purpose of considering an ordinance submitted to the City of Loveland by Citizen Initiative petition.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

On April 15, 2014, City Council moved to direct City Staff, to take the necessary steps to call a special election on the citizen-initiated ordinance enacting a two-year moratorium on hydraulic fracturing for June 24, 2014. The resolution will:

- 1) Call a special election for June 24, 2014, to be conducted as a mail ballot election, pursuant to the "Municipal Election Code of 1965";
- 2) Refer the citizen-initiated ordinance to the registered electors of the City of Loveland;

- 3) Direct the City Clerk to publish the ordinance;
- 4) Set the Ballot Title language for the ballot; and
- 5) Authorize the City Clerk, pursuant to the City Charter, to have charge of duties relating to the special election.

According to City Charter Section 6-3, a special election shall be called by resolution, which shall set forth the purpose of the election. The Charter also indicates that elections shall be conducted under Colorado Municipal Election Code, unless otherwise indicated by ordinance or Charter.

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**REVIEWED BY CITY MANAGER:**

*William D. Cavill*

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**LIST OF ATTACHMENTS:**

1. Resolution
2. Questions and Answers: Ballot Measure

**RESOLUTION #R-34-2014****A RESOLUTION OF THE LOVELAND CITY COUNCIL CALLING A SPECIAL ELECTION TO BE HELD ON JUNE 24, 2014 FOR THE PURPOSE OF SUBMITTING A CITIZEN-INITIATED ORDINANCE TO A VOTE OF THE CITY'S REGISTERED ELECTORS AND SETTING THE BALLOT TITLE**

**WHEREAS**, under Section 7-1(a) of the City of Loveland Charter ("City Charter"), the registered electors of the City have the power to propose an ordinance, pursuant to the initiative power reserved by Article V, Section 1(9) of the Colorado Constitution, which ordinance must be initiated pursuant to the Colorado statutes which establish the procedure for municipal initiatives, except as otherwise provided by the City Charter; and

**WHEREAS**, C.R.S. Section 31-11-102 provides that Article 11 of Title 31 shall apply to municipal initiatives unless alternative procedures are provided by charter, ordinance or resolution; and

**WHEREAS**, a citizen-initiated petition proposing an ordinance for the imposition of a two-year moratorium on the use of hydraulic fracturing within the City to extract oil, gas or other hydrocarbons and on the storage and disposal of its waste in order to fully study the impacts of hydraulic fracturing on property values and human health has been submitted to the City Clerk (the "Citizen Initiative"); and

**WHEREAS**, on July 23, 2013, the City Clerk issued her statement, pursuant to C.R.S. Section 31-11-109(2), that said petitions contained a sufficient number of valid signatures for the referral and submission of the proposed ordinance in the Citizen Initiative to a vote of the people at a regular or special City election (the "Statement of Sufficiency"); and

**WHEREAS**, on August 16, 2013, Larry Sarner, a Loveland registered elector, (the "Protestor") timely filed under C.R.S. § 31-11-110(1) his written protest to the Statement of Sufficiency (the "Protest"); and

**WHEREAS**, the City Clerk noticed and held on August 22, 2013, the hearing required by C.R.S. § 31-11-110(3) to consider the Protest; and

**WHEREAS**, on August 27, 2013, the City Clerk issued her written determination, as required in § 31-11-110(3), upholding her previously issued Statement of Sufficiency with a few modifications (the "Determination"); and

**WHEREAS**, an appeal of the Determination was timely filed by the Protestor in Larimer County District Court as authorized in C.R.S. § 31-11-110(3); and



**WHEREAS**, on March 27, 2014 Larimer County District Court Judge Kaup issued his Order Re: Final Determination of Petition Sufficiency finding and concluding that the Court’s Rule 106 Order issued on February 11, 2014 was the “final determination of petition sufficiency” and providing that the effective date of the Court’s finding and determination was March 27, 2014; and

**WHEREAS**, C.R.S. Section 31-11-104 provides that within twenty (20) days following the “final determination of petition sufficiency,” the City Council may adopt the initiated ordinance without alteration or if not so adopted, shall publish the proposed ordinance as other ordinances are published and refer the proposed ordinance, in the form petitioned for, to the City’s registered electors at a regular or special election; and

**WHEREAS**, the City Council has decided not to adopt the initiated ordinance as proposed in the Citizen Initiative and, therefore desires to publish the proposed ordinance and schedule a special election for June 24, 2014 for the purpose of submitting the initiated ordinance to Loveland’s registered electors as set forth in C.R.S. Section 31-11-104; and

**WHEREAS**, pursuant to C.R.S. Section 31-11-111, the City Council is also required to fix the ballot title for the ordinance proposed in the Citizen Initiative.

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

**Section 1.** That pursuant to City Charter Section 6-3, a special election of the City of Loveland shall be held on June 24, 2014 between the hours of 7:00 a.m. and 7:00 p.m. of said day. The special election shall be held as a mail ballot election pursuant to Municipal Election Code of 1965, Title 31, Article 10 of the Colorado Revised Statutes, as amended.

**Section 2.** That there is hereby referred and submitted to the registered electors of the City of Loveland at the City’s special election to be held on June 24, 2014, the following proposed citizen-initiated ordinance:

**CITIZEN-INITIATED ORDINANCE No. 1, 2013**

**LOVELAND PUBLIC HEALTH, SAFETY AND WELLNESS ACT**

**Section 1. Purpose.** To protect property, property values, public health, safety and welfare by placing a moratorium on the use of hydraulic fracturing to extract oil, gas, or other hydrocarbons within the City of Loveland in order to study the impacts of the process on the citizens of the City of Loveland.

Section 2. Findings. The people of Loveland hereby make the following findings with respect to the process of hydraulic fracturing within the City of Loveland:

- The Colorado Constitution confers on all individuals in the state, including the citizens of Loveland, certain inalienable rights, including “the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness,” Colo. Const. Art. II, Sec. 3;
- The Colorado Oil and Gas Act requires oil and gas resources to be extracted in a “manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources,” Colo. Rev. Stat. § 34-60-102;
- The well stimulation process known as hydraulic fracturing is used to extract deposits of oil, gas, and other hydrocarbons through the underground injection of large quantities of water, gels, acids or gases; sands or other proppants; and chemical additives, many of which are known to be toxic;
- The people of Loveland seek to protect themselves from the harms associated with hydraulic fracturing, including threats to public health and safety, property damage and diminished property values, poor air quality, destruction of landscape, and pollution of drinking and surface water;
- Representatives from the State of Colorado have publicly stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development.

Section 3. Moratorium. Therefore, the people of Loveland have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as provided under the Colorado Oil and Gas Act, is to place a moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Loveland for a period of two years in order to fully study the impacts of this process on property values and human health. The moratorium can be lifted upon a ballot measure approved by the people of the City of Loveland.

Section 4. Retroactive Application. In the event this measure is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

Section 3. That pursuant to C.R.S. Section 31-11-104(1), the City Clerk is hereby directed to publish the proposed ordinance in Section 2 as other ordinances are required to be published under the City’s Charter.

Section 4. That the ballot title for the proposed ordinance in the Citizen Initiative shall be as follows:

Question No. 1: Citizen-Initiated Ordinance To Place A Two-Year Moratorium On The Use Of Hydraulic Fracturing Within The City Of Loveland To Fully Study The Impacts Of Hydraulic Fracturing On Property Values And Human Health

Shall An Ordinance Be Adopted That Places A Two-Year Moratorium On The Use Of Hydraulic Fracturing Within The City Of Loveland To Extract Oil, Gas Or Other Hydrocarbons And On The Storage And Disposal Of Its Waste Products In Order To Fully Study The Impacts Of Hydraulic Fracturing On Property Values And Human Health?

\_\_\_\_\_  
Yes \_\_\_\_\_  
\_\_\_\_\_  
No \_\_\_\_\_

OFFICIAL BALLOT FOR THE SPECIAL MUNICIPAL ELECTION  
HELD IN THE CITY OF LOVELAND, COLORADO, ON TUESDAY,  
JUNE 24, 2014.

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

Section 5. That the City Clerk is hereby authorized pursuant to City Charter Section 6-5 to have charge of all activities and duties relating to the conduct of the special election, including appointment of election judges pursuant to C.R.S. Section 31-10-401.

Section 6. That to the extent of any conflict between the statutory requirements applicable to the timing of this special election as provided in Article 11 of Title 31 of the Colorado Revised Statutes, as amended, and the scheduled date of the special election set forth herein, this Resolution is intended to provide an alternative procedure pursuant to C.R.S. Section 31-11-102.

Section 7. That this Resolution shall be effective as of the date and time of its adoption.

Signed this 6<sup>th</sup> day of May, 2014.

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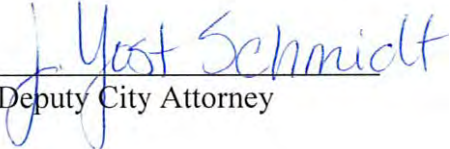
Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

  
Deputy City Attorney

To: City Council  
 From: William D. Cahill, City Manager  
 Judy Schmidt, Acting City Attorney  
 Date: April 30, 2014  
 RE: Fracking Moratorium Ballot Measure: Questions and Answers

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This question-and-answer sheet is intended to provide additional information, as best we can, concerning the ballot measure election now scheduled for June 24, as well as the results of the election. Much of the material presented here has been presented before, but is gathered here in one place. Other more recent questions are also answered here.

**What is the moratorium required by the ballot measure? Does it ban all oil and gas drilling, and for how long?**

The measure calls for adoption of an ordinance *“to place a moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Loveland for a period of two years in order to fully study the impacts of this process on property values and human health.”* The measure is limited to fracking and products of fracking. It does not ban all oil and gas drilling. Conventional drilling (not fracked) is still allowed.

**Can oil companies still obtain permits from the State for fracking in Loveland?**

Yes. If the measure passes, the State can still issue well permits for fracking within Loveland. However, the City would not issue permits. This may cause inconsistency in position between the City and the State, which may or may not be resolved. If the State issues a permit to drill and frack a well within the Loveland City limits and the permittee drills and fracks a well without obtaining a permit due to the moratorium, the City may have to decide whether to take action to enforce the moratorium.

**Who has the authority to interpret the ballot measure’s language if it becomes law?**

It is interpreted by the same means as other laws. On an administrative level, the City will interpret the language. This means the City Council or City staff, as appropriate. If there is dispute over the City’s actions, the courts may ultimately interpret the language. If the measure becomes law, the original proponents of the measure do not have any special authority to interpret it or guide interpretation.

**What happens procedurally if the initiative is passed? What steps is Council required to take?**

If the initiated ordinance is adopted, it is not clear that Council is obligated to take any steps immediately. When and if the moratorium is challenged or a permit is requested, Council may need to take action to respond to these situations.

**Are any studies required by the ballot measure language?**

Maybe. The language of the ballot question does not specifically require them. It simply imposes a two-year moratorium *“in order to fully study the impacts of this process on property values and human health.”*

### **Does the City have to perform the studies?**

The measure does not require the City specifically to perform studies. They could be done by someone else. The measure language specifically refers to studies which the State of Colorado might perform, for example. Section 2 of the initiated ordinance says: “Representatives from the State of Colorado have publicly stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development”.

Any study by the City (or a consultant hired by the City) would require appropriation of funds by the City Council. Appropriations are administrative matters that are not subject to citizen initiative. City Charter Section 7-1(a) expressly states that the citizens of the City may initiate an ordinance only as to legislative matters.

### **What is the scope of the studies?**

Unknown. Two studies are referenced (property values and human health). Neither is defined further except that in Section 1, the measure’s purpose is to “study the impacts of the process on the citizens of the City of Loveland” (emphasis added). Therefore, the studies must be applicable to Loveland, although it does not appear that they need to be specific to Loveland only. If the measure passes, the City can define the level of study to satisfy the requirements of the measure. This would be a future City Council decision. At a minimum, the Council may elect to have the City conduct no studies. At the opposite extreme, the Council may direct thorough and exhaustive studies.

### **Does the City have the capability to perform the studies, if needed?**

No, the City staff do not have the training or capabilities to directly do the studies. If the City Council were to direct any studies be done, then they would need to be performed by outside consultants. However, there is one work item that might be performed by City staff directly. That would be to collect existing studies from other sources, and make them available by posting on the internet or other means.

### **What is the cost of the studies?**

Unknown. It depends on the scope of the studies decided upon by the City Council, if any. Extensive new studies could cost several hundred thousand dollars to perform. If the Council directs work that collects and analyzes existing studies (a literature search and compendium), then that amount of work might take between \$10,000 and \$80,000. If the Council directs that the work simply is to research existing studies and post them or provide internet links to them, than that work could be accomplished using dedication of existing staff, but probably \$10,000 to \$30,000 worth of effort.

### **How long will it take to perform the studies?**

Unknown. It depends on the scope of the studies prescribed by the City Council, if any. Should the Council direct City staff to simply collect and post existing studies, that would be a continuing effort with no specific completion date.

### **Can the moratorium be ended earlier than two years?**

Yes. The measure provides that it can be lifted upon “*a ballot measure approved by the people of the*

*City of Loveland*".

In addition, City Charter Section 7-4(a) provides that an initiated ordinance may not be "substantively amended or repealed" by Council for one year after the date of the election, unless the amendment or repeal is approved by the affirmative vote of two thirds (2/3) of the entire Council. Therefore, the ordinance may be amended or repealed by action of the City Council. This action can range from minor changes to a complete repeal.

**Will the City be sued if the ballot measure passes?**

Maybe. Litigation may come from any number of parties, for any number of reasons. Cities in the Front Range which have adopted various anti-fracking measures have all been sued, or threatened with litigation.

**Will the City be sued if the ballot measure fails?**

This is also a possibility. Whether the measure passes or fails, the City might also be sued on matters relating to the conduct of the election. For example, Broomfield has encountered litigation related to the election itself.

**Are there are any issue committees currently registered with the City for the election?**

Yes. Both Loveland Energy Action Project (LEAP) and Protect Our Loveland (POL) have registered with the City Clerk's office.

**If the City is sued on issues related to the election or the moratorium, does the City have an obligation to defend the lawsuit?**

We do not think so, but the devil is in the details. Preliminary research has not identified any legal authority that would require the City to enforce or defend the moratorium if there is a good faith basis to conclude that the moratorium is not enforceable for constitutional or other legal reasons. It is difficult to assess the obligation of the City to "enforce" or "defend" the moratorium in absence of the specifics of a challenge.

**What is the cost of litigation?**

This is very uncertain. It may be nearly zero if the City does not defend itself. If the City does defend possible litigation, the cost depends on what the content of the lawsuit is, and that is completely unknown. However, among Front Range cities, the City of Longmont is the farthest along in the legal process of defending a fracking-related lawsuit. Longmont has already spent over \$100,000 in its defense, and projects that its costs when finished may exceed \$500,000.

**If the City does not defend itself in a lawsuit, what are the results or implications?**

This is difficult to assess in the abstract. If the initiated ordinance passes and is challenged, a challenge could come up in a number of ways. The implications of deciding not to defend may differ depending on the nature of the claim that is brought forward. Implications could include the possibility that a court

might make a determination as to the application of the ordinance based on the pleadings filed by a complainant or take other action depending upon the nature of the relief sought in a particular lawsuit.

**What risks do City Council members run if they are sued individually for action or inaction?**

Claims brought against Council members in their individual capacities are generally defended by the City and city officials are generally indemnified by the City, subject to the certain exceptions described below. So long as Council members are acting in good faith and within their specific powers and duties as a Council member, are not acting in recklessly, maliciously, or with deliberate intent to harm someone, and proceed thoughtfully and deliberately, Council members are unlikely to expose themselves to individual liability in connection with legislative or quasi-judicial decisions undertaken in connection with the initiated ordinance.

Generally speaking, under the Colorado Governmental Immunity Act, the City is obligated to defend and indemnify its officials with respect to most civil claims brought against them, so long as the claim arises from acts or omissions occurring during the performance of an official's duties and within the scope of the official's employment and the act or omission was not "willful and wanton" (generally meaning deliberate, intentional, or malicious). The Governmental Immunity Act also provides immunity against state law tort claims so long as elected officials act within the scope of their official duties and do not act "willfully and wantonly". In addition, Section 1983 claims against individual Council members might be based on a deprivation of an individual's rights under the U.S. Constitution or federal law. Municipal officials are afforded absolute immunity to a Section 1983 claim if they are acting in a legislative or quasi-judicial capacity. In addition, qualified immunity against a 1983 claim may be available where a municipal official is performing discretionary functions provided their conduct did not violate a clearly established federal statutory or constitutional right of which a reasonable person would have known.





**CITY OF LOVELAND**  
CITY ATTORNEY'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2540 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 15  
**MEETING DATE:** 5/6/2014  
**TO:** City Council  
**FROM:** Judy Schmidt, Acting City Attorney  
**PRESENTER:** Judy Schmidt, Acting City Attorney

**TITLE:**

A Motion to Waive the Attorney-Client Privilege and Release to the Public the "Pro/Con Analysis of Proposed Settlement" Document Provided by the Acting City Attorney to City Council at its Regular Meeting on April 15, 2014

**RECOMMENDED CITY COUNCIL ACTION:**

Consider the Motion and take action as determined by a majority vote of Council members

**OPTIONS:**

1. Adopt the motion presented.
2. Adopt an additional motion to waive the attorney-client privilege and release to the public the following email communications from the Acting City Attorney to the City Council pertaining to a potential settlement in the *Sarner v. City of Loveland* lawsuit:
  - a. Email dated Saturday, April 05, 2014 at 10/14 AM from Judy Schmidt to City Council;
  - b. Email dated Tuesday, April 08, 2014 at 3:36 PM from Judy Schmidt to City Council;
  - c. Email dated Friday, April 11, 2014 at 1:54 PM from Judy Schmidt to City Council;
  - d. Email dated Tuesday, April 15, 2014 at 2:35 PM from Judy Schmidt to City Council;
  - e. Email dated Tuesday, April 15, 2014 at 5:17 from Judy Schmidt to City Council.
3. Direct staff to conduct additional work (please specify in motion) and return to Council.
4. Take no action.
5. Defer to a later Council meeting.

**SUMMARY:**

This is an administrative action. At Council's regular meeting on April 15, 2014, the Acting City Attorney presented to Council members a document titled "Pro/Con Analysis of Proposed Settlement" in connection with the *Sarner v. City of Loveland* lawsuit. More than four Council members have indicated a desire to waive the attorney-client privilege and release this document to the public, so the motion is presented for Council's consideration.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible
- 

**BACKGROUND:**

At Council's regular meeting on April 15, 2014, the Acting City Attorney presented to Council members a document titled "Pro/Con Analysis of Proposed Settlement" in connection with the *Sarner v. City of Loveland* lawsuit. This document was prepared by the Acting City Attorney, with input from outside litigation counsel, to provide Council with legal advice regarding a proposed settlement and was marked "Confidential and Privileged Attorney-Client Communication and Work Product". The Reporter Herald has filed a request to inspect this document under the Colorado Open Records Act.

The attorney-client privilege belongs to the client – in this case to the Council as a body. It may be waived by an affirmative vote of a majority of the Council.

In addition, leading up to the April 15, 2014 regular Council meeting, the Acting City Attorney sent five emails to the City Council regarding confidential settlement discussions in the *Sarner v. City of Loveland* lawsuit that were sent as privileged and confidential attorney-client communications. Since some Council members have expressed a desire to waive the privilege as to these emails and disclose them to the public, and second alternative motion to accomplish this is included for Council's consideration.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

None