

January 30, 2015 Special Meeting.

2. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
FOX POINTE FIRST SUBDIVISION EMERGENCY ACCESS EASEMENT VACATION
A Motion to Approve and Order Published on Second Reading an Ordinance Vacating an Emergency Access Easement across Tract F of the Fox Pointe Subdivision, City of Loveland, County of Larimer, State of Colorado
 This is a legislative action to consider adoption of an ordinance on second reading vacating an emergency access easement. The 24 ft. wide by 18 ft. long easement is located on vacant land in the Fox Pointe First Subdivision, north of the Orchards commercial development. The applicant, Traditions at Loveland LLC, has also submitted a site development plan application to construct a 161,176 sq. ft., 155 unit independent senior housing development on the property and an accompanying amended plat application. The amended plat includes new emergency access easements in locations suitable for the development, making the existing emergency access easement established with the Fox Pointe First Subdivision unnecessary. This item was approved unanimously by Council at the February 3, 2015 regular meeting.

3. **FIRE RESCUE AUTHORITY** (presenter: Mark Miller)
PUBLIC HEARING
CODE AMENDMENT CONCERNING FIRE CODE APPEALS
A Motion to Approve and Order Published on First Reading an Ordinance Amending the Loveland Municipal Code Chapter 15.04 Concerning Fire Code Appeals
 This is a legislative action to consider an ordinance on first reading. The Loveland Fire Rescue Authority Board at their meeting on January 28, 2015 voted to recommend to City Council that a new Fire Code Board of Appeals be established. The Fire Rescue Advisory Commission currently serves in this capacity (per Loveland Municipal Code Section 15.04.150). The Fire Authority Board recommends that the Appeals Board be comprised of the Fire Chief and two LFRA Board members, one from the City and one from the Rural District.

4. **FIRE RESCUE AUTHORITY** (presenter: Mark Miller)
PUBLIC HEARING
DISSOLUTION OF THE FIRE RESCUE ADVISORY COMMISSION
A Motion to Approve and Order Published on First Reading an Ordinance Amending the City Code to Dissolve the Fire Rescue Advisory Commission
 This is a legislative action to dissolve the Fire Rescue Advisory Commission. The Commission over the years has played an important role in strategic planning and policy considerations. Since the Loveland Fire Rescue Authority (LFRA) Board is responsible for setting policy for the Authority, the Citizen Advisory Board that is responsible for bringing the citizens' perspective to policy considerations should be aligned with the decision-making authority. Therefore the LFRA Board unanimously voted at their meeting on January 28, 2015 to make a recommendation to the Loveland City Council to dissolve the commission as a City Commission. If the City Council approves that action, then the LFRA Board would reinstate the existing members as an ad hoc commission and the LFRA Bylaws would be amended to accomplish this.

5. **FIRE RESCUE AUTHORITY** (presenter: Mark Miller)
IGA MUTUAL AID AGREEMENT WITH POUUDRE FIRE AUTHORITY
A Motion to Approve a Resolution #R-17-2015 Approving an Intergovernmental Mutual Aid Response Agreement Between the Loveland Fire Rescue Authority and the Poudre Fire Authority
 This is an administrative action to consider a resolution approving an intergovernmental automatic mutual aid agreement between the Loveland Fire Rescue Authority (LFRA) and

the Poudre Fire Authority. It was approved by the LFRA Board on January 28, 2015.

6. **FIRE RESCUE AUTHORITY** (presenter: Mark Miller)
SECOND AMENDMENT TO IGA FOR LFRA OPERATIONS
A Motion to Adopt a Resolution #R-18-2015 to Approve a Second Amendment to the Intergovernmental Agreement Between the City of Loveland and the Loveland Rural Fire Protection District for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity Concerning Section 1.9(H) Mutual Aid and Automatic Aid Agreements
 This is an administrative action to allow the LFRA Board to approve mutual and auto aid agreements without also needing City Council approval. The Loveland Fire Rescue Authority (LFRA) Board on January 28, 2015 unanimously voted to recommend to City Council and the Rural Fire Protection District that a second amendment to the intergovernmental agreement that established the Loveland Fire Rescue Authority as a separate legal entity be approved.
7. **PUBLIC WORKS** (presenter: Dave Klockeman)
CHANGE ORDER FOR CONCRETE REPAIR
A Motion to Approve a Change Order Request to Existing Street Rehabilitation Concrete Repair Contract Purchase Order
 This is an administrative action. It adds a Second Change Order of \$150,000 to the initial \$800,000 contract with JAG's Enterprises, Inc. for concrete repair. The original contract has previously been amended by the first Change Order of \$137,500. This Change Order is brought to Council because the contract and changes exceed the administrative approval limit of \$500,000. The Street Rehabilitation Concrete Repair Contract is available through March 18, 2015 and funding for this Change Order request is available in the 2015 Street Rehabilitation Program Budget. Expanding the concrete repair work that is currently underway given the favorable weather, would enhance the overall project delivery related to this year's Annual Asphalt Paving Program.
8. **FINANCE** (presenter: Brent Worthington)
FINANCIAL REPORT FOR DECEMBER 2014
 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 December 31, 2014.
9. **CITY MANAGER** (presenter: Alan Krcmarik)
INVESTMENT REPORT FOR DECEMBER 2014
 This is an information only item. The 2014 budget projection for investment earnings for 2014 was \$2,025,920. On the portfolio's January beginning balance this equates to an annual interest rate of 0.94%. For December, the amount posted to the investment account is \$201,852. For the year-to-date, the amount posted is \$1,968,423. Actual earnings are below the year-to-date budget projection by 1.63%. In addition to the interest received, the City also received a services credit on banking services of \$66,000, putting the combined total over the annual target. Based on the monthly statement, the estimated annualized yield in December on the securities held by US Bank was 1.08%. Due to draws from fund balances to pay for the cost scheduled capital projects and flood response and project repair, the portfolio is about \$6 million lower than December 2013 and \$17 million lower than the pre-flood peak.

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****10. DEVELOPMENT SERVICES (presenter: Alison Hade)****LOVELAND HOUSING AUTHORITY FEE WAIVER****A Motion to Approve Resolution #R-19-2015 Granting an Exemption from Certain Capital Expansion Fees and Other Development Fees for Qualified Affordable Housing to be Constructed by the Loveland Housing Authority**

This is an administrative action. The Loveland Housing Authority is requesting a waiver of fees for the construction of 70 multi-family dwelling units for people living between 30% and 60% of the Area Median Income. Ten of these units will house homeless veterans. The total fee waiver request for the project is \$1,045,870.84, of which \$402,099 would be required to be backfilled by City Council. The \$1.046 million fee waiver request consists of \$643,771.84 in permit and capital expansion fees that do not need to be backfilled, but would constitute a potential revenue loss to the City. The remaining \$402,099 would require backfilling from the unassigned General Fund balance.

11. ECONOMIC DEVELOPMENT (presenter: Mike Scholl)**A PROPOSED ECONOMIC INCENTIVE AGREEMENT WITH ESH'S SURPLUS MARKET, LLC.**

This is an informational item. Under the City's approved Economic Incentive Policy, any proposed agreement over \$20,000 must go before the City Council as an information item before full consideration. The Economic Incentive Agreement with Esh's Surplus Market, LLC would be for a deferral of fees not to exceed \$200,000 for a 33,000 square foot store and warehouse on 71st Street off of Highway 287. Esh's currently operates in Larimer County outside of City limits west of the City on Highway 34. The location on 71st would help make the store more accessible to residents in Fort Collins and Loveland. An appropriation from the Economic Incentive Fund will be required to backfill the Capital Expansion Fees that will be deferred under the proposed agreement. The agreement would defer \$200,000 in building permit fees and capital expansion fees to be repaid through collection of normal sales tax over 18 months.

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,** National Engineers Week, founded in 1951 by the National Society of Professional Engineers, is always celebrated at the time of George Washington's birthday in February because he was our first president and a military engineer, and
- WHEREAS,** the purpose of National Engineers Week is to increase public awareness and appreciation of the engineering profession; and
- WHEREAS,** engineers are encouraging our young math and science students to realize the practical power of their knowledge; and
- WHEREAS,** the Engineers of the State of Colorado will actively help to maintain and sustain the vital infrastructure of our civilized and national environments; and
- WHEREAS,** engineers help America remain at the forefront of technological development and contribute to countless breakthroughs that improve the quality of life for people throughout the world.

NOW, THEREFORE, we, the Loveland City Council of the City of Loveland, do hereby proclaim February 22 through 28, 2015 as

NATIONAL ENGINEERS WEEK

in the City of Loveland.

Signed this 17th day of February, 2015

Cecil Gutierrez, Mayor

MINUTES
LOVELAND CITY COUNCIL MEETING
THE WATER ENTERPRISE BOARD OF DIRECTORS
TUESDAY, JANUARY 20, 2015
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 JANUARY 2015 TO HONOR MARTIN LUTHER KING, JR. AND RENEW OUR COMMITMENT TO CIVIL RIGHTS, which was received by Diann Rice.

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.

Mayor Gutierrez asked if anyone wished to remove any items from the Consent Agenda. No items were removed. Councilor Shaffer moved to approve the Consent Agenda. The motion was seconded by Councilor Farley which carried with all councilors present voting in favor.

CONSENT AGENDA

1. **CITY CLERK** **(presenter: Terry Andrews)**
APPROVAL OF MEETING MINUTES
A Motion to Approve the City Council Meeting Minutes for the December 16, 2014 Regular Meeting was approved.
This is an administrative action to approve the City Council meeting minutes for the December 16, 2014 Regular Meeting.

2. **CITY MANAGER** **(presenter: Bill Cahill)**
APPOINTMENT TO THE CITIZENS' FINANCE ADVISORY COMMISSION
A Motion to Appoint Frank Kolodziej to the Citizens' Finance Advisory Commission for a Term Effective until December 31, 2017 was approved.
This is an administrative action recommending the appointment of a member to the Citizens' Finance Advisory Commission.

3. **ECONOMIC DEVELOPMENT** (presenter: Betsey Hale)
SUPPLEMENTAL APPROPRIATION FOR 2015 PRO CHALLENGE CYCLING RACE AND RTA APPLICATION

A Motion to Approve and Order Published on Second Reading Ordinance #5910 Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget for the 2015 Pro Challenge Cycling Race and for Completion of the Regional Tourism Authority (RTA) Application was approved.

This is an administrative action. The ordinance on second reading appropriates Lodging Tax Funds: \$75,000 for consultants to develop the application for the Regional Tourism Act to the State Economic Development Commission, and \$100,000 in funding associated with hosting the US Pro Cycling Challenge event. The funding is from reserves in the Lodging Tax Fund and reduces the flexibility for funding other future events or programs. No specific adverse impacts to projects are projected. The current balance of the Lodging Tax reserves is \$976,794.36. City Council unanimously approved the first reading of the appropriation ordinance on January 6, 2015.

4. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)
SUPPLEMENTAL APPROPRIATION FOR THE ARCADIA HOTEL INCENTIVE AGREEMENT

A Motion to Approve and Order Published on Second Reading Ordinance #5911 Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget for an Incentive Agreement with 351 Linden Street LLC for Development of the Arcadia Hotel Property was approved.

This is an administrative action to approve the second reading of a supplemental appropriation ordinance for \$125,000 from Council Reserves. On January 6, 2015 City Council unanimously approved the first reading of the supplemental appropriation ordinance and Resolution #R-6-2015 authorizing the City Manager to sign an incentive agreement with 351 Linden Street LLC (aka Howard Perko), the developer of 140 E. 4th Street. This agreement is for \$125,000. The total request, including this agreement, the Urban Renewal Agreement and the commitment from the Loveland Downtown Partnership will be \$298,000. It also includes a Materials Use Tax Waiver not to exceed \$35,000. There is \$1 million available in Council Reserves, if this project is approved, the balance for 2015 will be \$875,000.

CITY COUNCIL ADJOURNED AND CONVENED AS THE WATER ENTERPRISE BOARD OF DIRECTORS AT 6:40 P.M.

5. **CITY MANAGER** (presenter: Alan Krcmarik)
WATER ENTERPRISE BOND SALE AND ISSUANCE

A Motion to Approve and Order Published on Second Reading Ordinance #5912 Authorizing the Issuance and Sale of the City of Loveland, Colorado, Water Enterprise Revenue Bond, Series 2015, Payable Solely Out of the Net Revenues to be Derived from the Operation of the City's Water Enterprise; and Providing Other Details Concerning the Bond, Including, Without Limitation, Covenants and Agreements in Connection Therewith was approved.

This is an administrative action authorizing the Water Enterprise to complete a financial transaction to obtain up to \$3.2 million of bond proceeds to be used by the Water Enterprise to improve the Water Treatment Plant. The need for the additional funding was caused by the bids coming in higher than expected. Council provided direction to obtain the financing by an ordinance in July 2014. The Water Enterprise will benefit from the receipt of proceeds from the proposed bank financing for construction of the capital project, the expansion of the Water Treatment Facility. This ordinance was approved unanimously on first reading by Council at the January 6, 2015 regular meeting.

THE WATER ENTERPRISE BOARD OF DIRECTORS ADJOURNED AND RECONVENED AS CITY COUNCIL AT 6:40 P.M.

6. **CITY MANAGER** (presenter: Alan Krcmarik)
WATER ENTERPRISE BOND TERMS AND PROVISIONS
A Motion to Approve and Order Published on Second Reading Ordinance #5913 of the City of Loveland, Authorizing the Terms and Provisions Relating to the Water Enterprise Revenue Bonds, Series 2015, to be Issued by the City of Loveland, Colorado, Water Enterprise, the Finance Improvements to the City's Water System, Including, Without Limitation, Covenants and Agreement of the City in Connection Therewith was approved.
 This is an administrative action by the City Council. Pursuant to Ordinance 4454 adopted by the Council in 1999, the Council ratified the establishment of the City of Loveland Water Enterprise. In separate action, the City Council, acting as the Board of the Water Enterprise, considered on first reading the terms of the Water Enterprise Revenue Bonds, Series 2015. This proposed ordinance indicates the City Council's agreement to and authorization of the bond ordinance. This Ordinance was adopted unanimously on first reading by Council at the January 6, 2015 regular meeting.
7. **DEVELOPMENT SERVICES** (presenter: Alison Hade)
HABITAT FOR HUMANITY FEE WAIVER
A Motion to Approve Resolution #R-8-2015 Waiving Certain Development Fees for the Construction of Nine Residences by Loveland Habitat for Humanity was approved.
 Loveland Habitat for Humanity is requesting a waiver of development fees, consisting of building permit fees, capital expansion fees and enterprise fees, for the construction of four single family detached dwellings, four attached single family dwellings within a four-plex building and one attached single family dwelling within a duplex building, for a total of nine dwelling units to be constructed in 2015. One of these homes will be occupied by a flood survivor. The total fee estimate for all nine dwellings is \$229,885.72. The requested fee waiver will not exceed \$210,000. Habitat for Humanity will pay the balance of any fees. \$65,000 was appropriated in the 2015 Budget to backfill enterprise fees waived by the proposed resolution. An additional amount, not to exceed \$145,000, in development and capital expansion fees would be waived by the resolution and not backfilled.
8. **DEVELOPMENT SERVICES** (presenter: Alison Hade)
AMENDMENT TO FEE WAIVER FOR LOT CHANGE FOR HABITAT FOR HUMANITY
A Motion to Approve Resolution #R-9-2015 Amending Resolution #R-24-2014 Pertaining to Fee Waivers for Construction of Nine Residences by Loveland Habitat for Humanity was approved.
 This is an administrative action. On March 18, 2014, City Council adopted a resolution granting Loveland Habitat for Humanity fee waivers for the construction of a total of nine homes in the Koldeway Industrial 3rd Subdivision and the Sierra Valley First Subdivision. One of the lots identified in the resolution for construction of a home receiving a fee waiver is currently unsuitable for construction pending the correction of some drainage issues. The dollar amount of the fee waiver will remain the same.
9. **CITY CLERK** (presenter: Terry Andrews)
APPOINTMENT OF ELECTION JUDGES FOR SPECIAL ELECTION
A Motion to Approve Resolution #R-10-2015 of the Loveland City Council Authorizing the City Clerk to Appoint Election Judges for the Special Election to be Held on February 10, 2015 Concerning the Establishment of a Downtown Development Authority was approved.
 This is an administrative action. Council approved an ordinance calling for a special election on February 10, 2015, regarding the establishment of a Downtown Development Authority (DDA). This resolution confirms authority to the City Clerk, acting as the Designated Election Official, to appoint election judges pursuant to Section 31-101-401 C.R.S.

10. **PUBLIC WORKS** (presenter: Steve Kibler)

AWARD OF 2015 FLEET FUEL CONTRACT

A Motion to Award a Contract to Rex Oil in the Amount of \$2,000,000; Authorize the City Manager to Sign the Contract; and Authorize the Public Works Director to Lock Prices if it is in the Best Interest of the City was approved.

This is an administrative action to approve a Contract with Rex Oil Company for \$2,000,000 (two million dollars) for diesel and unleaded fuel purchases for various City locations including the fleet management fueling center, golf courses, the water and wastewater treatment plants, and the airport for a period covering February 1, 2015 to January 31, 2016. This also authorizes the City Manager to sign the Contract and authorizes the Public Works Director to lock prices if determined to be in the best interest of the City. Budget dollars are available in various departments with the bulk (\$1,500,000) budgeted in the Public Works Vehicle Maintenance Fleet Operations Fund (501-23-261-1902-42030). Should City Council approve this recommended award of contract and fuel prices remain favorable, City staff intends to pursue the price lock in option. Assuming January 13, 2015 per gallon prices compared to per gallon pricing assumed at the time of budget development, estimated 2015 budgetary savings could exceed \$500,000. (Please note, however, that final budgetary saving estimates are also dependent on gallons actually purchased compared to original projections.)

11. **HUMAN RESOURCES** (presenter: Julia Holland)

CITY EMPLOYEE CLINIC (HEALTHSTAT) CONTRACT RENEWAL

A Motion to Ratify and Approve the Contract Dated May 2, 2014 Between the City and Healthstat, Inc. for Operation of the City Employee Clinic was approved.

This is an administrative action to ratify and approve the contract with Healthstat for operation of the Employee Clinic and related services. The agreement may cover operations and services for up to five years, and the cost for the term of the contract in 2015, will be an amount not to exceed \$526,000. Healthstat will provide clinic services to eligible participants during 2015 as outlined in the contract. The amount of \$526,000 is within the projected and approved 2015 Budget.

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

PUBLIC COMMENT

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PROCEDURAL INFORMATION

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REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

12. **CITY MANAGER** (presenter: Bill Cahill)

CONSIDERATION OF REQUIRED ENDING TIME FOR CITY COUNCIL MEETINGS

This item was not considered.

13. **WATER & POWER** (presenter: Larry Howard)

AMENDMENT TO THE AGREEMENT FOR HOME SUPPLY BIG DAM FLOOD REPAIR

Steve Adams and Larry Howard introduced this item to Council. This is an administrative action. On October 7, 2014 Council authorized a First Amendment to the Agreement for Home

Supply Big Dam Flood Repair, which modified the January 15, 2014 Agreement. The First Amendment added work during construction and mitigation measures to protect against future flood damages to the original scope and increased the City's maximum 50% contribution to \$800,000. Home Supply's application to FEMA for the mitigation measures restarted the approval process for the entire project, causing delay in the expected FEMA and State Office of Emergency Management repayment schedule. All Project Worksheets submitted by Home Supply for the Project have been approved by FEMA and are currently being processed by the State, and payment is expected. This action, if approved by Council, will not change the Project scope of work. It will increase the City's not-to-exceed amount from \$800,000 to \$1M to fund continuation and completion of the FEMA eligible work of repair and mitigation (referred to as Phase I and Phase IA in the First Amendment) on a 50:50 basis, pending receipt of FEMA reimbursement by Home Supply. Proceeds from FEMA funds on all shared portions of the repairs and mitigation will also benefit Home Supply and the City on a 50:50 basis. Funds are available in the 2014 budget to cover this cost. Mayor asked for public comment at 7:30. There were no public comments.

Councilor Shaffer moved to Approve Resolution #R-11-2015 Approving the Second Amendment to Agreement for Home Supply Big Dam Flood Repair. This motion was seconded by Councilor McKean which carried with all councilors present voting unanimously in favor.

**14. ECONOMIC DEVELOPMENT (presenter: Mike Scholl)
SUPPLEMENTAL APPROPRIATION FOR ASSOCIATED COSTS RELATED TO THE SOUTH CATALYST PROJECT**

Economic Development Manager, Mike Scholl introduced this item to Council. This is an administrative action. The ordinance reappropriates funding of \$3,218,877.30 approved in 2014 for the acquisition of Downtown property in support of the South Catalyst redevelopment project. The proposed project, a partnership with the Michaels Development Company and Larimer County, is expected to result in a vertically dense mixed-use project that would include office, residential and retail. The total investment is expected to generate between \$50 to \$70 million. Ten properties were purchased in 2014 with an additional property under contract scheduled to close in February, 2015. This action does not increase the Council's original appropriations of funds; it only continues funding into early Fiscal Year 2015 to allow purchases of properties. The funding for the appropriation of \$3,218,877.30 is from Unreserved Fund Balance in the General Fund. The appropriation of this fund balance reduces the flexibility to fund other projects. On January 6, 2015 City Council approved the first reading of the supplemental appropriation by a vote of six to three.

Councilor Shaffer moved to approve and Order Published on Second Reading Ordinance #5914 Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget to Reappropriate Funding Approved in 2014 for the Purchase of Property and other Costs Associated with Downtown Land Purchases for the South Catalyst Project. The motion was seconded by Councilor Farley. Councilor Krenning moved to amend the motion to add a provision that the appropriation would expire 180 days from tonight. The motion, seconded by Councilor Clark failed with three councilors voting in favor and Councilors Trenary, Fogle, Gutierrez, Taylor, Farley, and Shaffer voting against thereof. Council considered the original motion, which carried with seven councilors voting in favor and Councilors McKean and Krenning voting against.

**15. CITY ATTORNEY (presenter: Bill Cahill)
DISCUSSION OF A POSSIBLE RECONSIDERATION OF EVERGREEN INCENTIVE-SPROUTS**

This is an administrative action. On January 6, 2014, Ordinance No. 5905 enacting a supplemental appropriation to fund the "Evergreen Incentive" was adopted on second reading by City Council. Subsequent to that date, a citizen letter addressed to the Mayor and City Council and alleging discrepancies in the adoption process (including a lack of public comment at the meeting on second reading) was delivered to the City Clerk. If City Council desires to reconsider Ordinance No. 5905 on second reading, a motion to reconsider must be adopted

in accordance with City Council's rules. If the motion to reconsider is adopted, City Council could take public comment on this item and conduct a vote on the re-adoption on Ordinance No. 5905 on second reading.

Mayor Gutierrez asked for public comment at 7:59 p.m. the following members of the public spoke in favor of the reconsideration and in opposition of the ordinance: Brian Wood, resident; Greg Schneider, resident; Tom Buchanan, resident; Buddy Meyers, planning commission; Jeremy Jersvig, planning commission; David Cavanaugh, resident; Jordan Millheim, resident minor; Evelyn King, resident; Irene Tues, resident, Gary Miller, resident, Darin Barrett, resident. The following members of the public spoke in support; Laura Lair, resident Ward 3, Pam Krugman resident. **THERE WAS NO MOTION MADE TO RECONSIDER THE ORDINANCE.**

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.

Farley: Announced on January 28, 2015, the Community Foundation will be sponsoring the 3rd Destination Downtown Event regarding the DDA held at the Rialto at 4:30 p.m.

Fogle: The Historic Preservation Commission unanimously voted to forward the Downtown Historic Loveland to the National Historic Register.

CITY MANAGER REPORT Announced it may necessary to cancel the March 10th Study Session due to councilors being away.

CITY ATTORNEY REPORT Announced that an Executive Session may be added to the agenda notice on January 27th for the January 30, 2015 meeting for deliberation or direction regarding the Deputy Municipal Judges.

ADJOURNMENT

With no more business to come before Council, Mayor Gutierrez adjourned the January 20, 2015 meeting at 9:24 p.m.

Respectively Submitted,

Teresa G. Andrews, City clerk

Cecil A. Gutierrez, Mayor

MINUTES
LOVELAND CITY COUNCIL STUDY SESSION and SPECIAL MEETING
TUESDAY, JANUARY 27, 2015
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

STUDY SESSION AGENDA

1. **COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)** (presenters: CDOT Representatives; 30 min)
CDOT PRESENTATION ON INTER-REGIONAL BUS SERVICE, "BUSTANG"
 Dave Krutsinger from The Colorado Department of Transportation ("CDOT") Division of Transit and Rail, presented this item to Council on its inter-regional bus service, the "Bustang." Mr. Krutsinger's presentation covered the background, routes and number of vehicles, the contract operator, fare structure, and advertising leading up to the maiden voyage in Spring 2015. Council discussion concerned availability for Loveland passengers, operating costs and success of the plan. Council thanked Mr. Krutsinger for the presentation.

2. **PUBLIC WORKS** (presenters: Lorna Holmes, Kerri Burchett, Mark Belford; 60 min)
REMODEL OF FIRE & ADMINISTRATION BUILDING TO CREATE DEVELOPMENT CENTER
 Facilities Management Planner, Lorna Holmes presented this item to Council with the history of the building. This informational presentation summarized the efforts of staff and consultant Mark Belford of the Belford Watkins Group on the conceptual design for the remodel of the Fire & Administration Building to create a Development Center. Senior Planner Kerri Burchett discussed the work the project committees did in 2014 to research and develop the recommendations for the remodel of the building. Mr. Belford presented the plans for the remodel and budget options. The project team desires to move forward with final design and bid the construction in 2015 with occupancy anticipated in early 2016. Council discussion concerned EOC expansion, parking and costs of the project. Staff was directed to move forward and return at a later date for formal consideration at a regular meeting. Council thanked Mr. Belford and staff for the presentation.

ADJOURNMENT

Mayor Gutierrez adjourned the Study Session at 8:08 p.m.

SPECIAL MEETING - City Council Chambers
SPECIAL MEETING AGENDA

CALL TO ORDER**ROLL CALL**

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

PROCEDURAL INFORMATION

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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

1. HUMAN RESOURCES (presenter: Julia Holland)

SPECIAL MEETING FOR JANUARY 30, 2015

A Motion Setting a Special Meeting of City Council on January 30, 2015, at 8:30 a.m. in the City Manager's Conference Room and to Conduct an Executive Session at that Meeting for the Purposes of Interviews for the Deputy Municipal Judge and Personnel Discussions Related to the Recruitment of the Position. Council May Consider Direction to Staff in Open Session. Council Waives the Requirement of Notice of the Meeting Delivery to their Homes.

This is an administrative action to set a special meeting and to conduct an executive session for the purposes of interviews and personnel related discussion for the Deputy Municipal Judge position. **Councilor Shaffer moved to Set a Special Meeting of City Council on January 30, 2015, at 8:30 a.m. in the City Manager's Conference Room and to Conduct an Executive Session at that Meeting for the Purposes of Interviews for the Deputy Municipal Judge and Personnel Discussions Related to the Recruitment of the Position. Council May Consider Direction to Staff in Open Session. Council Waives the Requirement of Notice of the Meeting Delivery to their Homes. The motion was seconded by Councilor Farley which carried with all Councilors present voting in favor thereof.**

2. ECONOMIC DEVELOPMENT (presenter: Betsey Hale)

REGIONAL TOURISM ACT PROJECTS

A Public update on the Regional Tourism Act Application and Executive Session to Discuss Confidential Commercial and Financial Information Protected Under the Open Meetings Law and City Charter and/or Colorado Open Records Act

This is an administrative action. Since July of 2014, the City of Loveland, Town of Windsor and Larimer County have been developing an application to the State of Colorado Economic Development Commission for the award of a Regional Tourism Act Grant. This session will update the public on the status of the application and potential projects. The application is due February 17, 2015.

Councilor Shaffer moved that the City Council go into executive session to discuss proposed Regional Tourism Act projects as authorized by the following sections of the Colorado Open Meetings Law and the City Charter:

- **These matters include the presentation of confidential commercial and financial information authorized by CRS Section 24-72-204(3)(a)(IV) and Charter Section 4-4(c)(6); and**
- **Since these matters may be subject to future negotiations, to receive reports concerning negotiations, to develop the City's negotiation positions and strategies, and to instruct the City's negotiators concerning those positions and strategies as authorized by CRS Section 24-6-402(4)(e) and Charter Section 4-4(c)(1); and**
- **As needed, to receive legal advice from the City Attorney's Office as authorized in CRS Section 24-6-402(4)(b) and Charter Section 4-4(c)(3).**

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

The executive session began at 8:20 p.m.

Council recalled the meeting to order at 10:08 p.m.

ADJOURNMENT

With no more business to come before this Council, Mayor Gutierrez adjourned the January 27, 2015 meeting at 10:08 p.m.

Respectively Submitted,

Teresa G. Andrews, City clerk

Cecil A. Gutierrez, Mayor

MINUTES

**LOVELAND CITY COUNCIL SPECIAL MEETING
FRIDAY, JANUARY 30, 2015
CITY MANAGER'S CONFERENCE ROOM
500 EAST THIRD STREET, THIRD FLOOR
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, 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 or 970-962-3319.

8:30 A.M.

CALL TO ORDER Mayor Pro Tem Dave Clark, called the January 30, 2015 meeting to order at 8:33 a.m.

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

1. EXECUTIVE SESSION

The purpose of this Executive Session is to conduct interviews for the Deputy Municipal Judge position.

Councilor Shaffer moved that the City Council go into executive session to interview applicants for the position of Deputy Municipal Judge, to consider application materials related to the candidates, and to deliberate regarding candidates for the position, as authorized by the following section of the Colorado Revised Statutes and the City of Loveland Charter: 1) Personnel matters to include review, evaluation, consideration of references for, interviews, and deliberation regarding candidates for position of Deputy Municipal Judge as authorized by C.R.S. §24-6-402(4)(f) and Charter section 4-4 (c)(5); and 2) To consider application and materials related to candidates for the position of Deputy Municipal Judge, with are documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act, as authorized by C.R.S. § 24-6-402(4)(g) and Charter section 4-4(c)(6); and 3) Since these personnel matters will be the subject of future negotiations, to determine negotiation positions, develop negotiation strategy and to instruct negotiators concerning such positions and strategy as authorized by C.R.S. § 24-6-402(4)(e) and Charter section 4-4(c)(1); and As needed , to receive legal advice from the City Attorney's Office as authorized in C.R.S. §24-6-402(4)(b) and Charter Section 4-4(c)(3) at 8:30 a.m. The motion, seconded by Councilor Farley, carried with all councilors present voting in favor thereof.

Council reconvened at 1:30 p.m. Councilor Taylor left the exec session at 12:50 p.m.

2. OPEN MEETING

Direction to Staff regarding the appointment of Deputy Judge (s):

Councilor McKean moved to direct Staff to conduct the necessary steps and bring a motion, regarding the appointment of one or more Deputy Judges to the February 10, 2015 meeting, for City Council consideration. The motion seconded by Councilor Krenning, carried with all councilors present voting in favor thereof.

Consensus of Council was to delay consideration of the IGA with the Thompson School District regarding Teen Court (February 3, 2015 agenda item), until such time as the Deputy Municipal Judge(s) can be retained and prepared to address the matter.

ADJOURN

Having no more business to come before Council, Mayor Pro Tem Clark adjourned the January 30, 2015 meeting at 1:45 p.m.

Teresa G. Andrews, City Clerk

Dave Clark, Mayor Pro-Tem

**CITY OF LOVELAND**

DEVELOPMENT SERVICES DEPARTMENT

Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 2
MEETING DATE: 2/17/2014
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Noreen Smyth, Current Planning

TITLE:

An Ordinance on Second Reading Vacating an Emergency Access Easement across Tract F of the Fox Pointe Subdivision, City of Loveland, County of Larimer, State of Colorado

RECOMMENDED CITY COUNCIL ACTION:

Adopt the ordinance on second reading as presented.

OPTIONS:

1. Adopt the action as recommended
 2. Deny the action
 3. Adopt a modified action (specify in the motion)
 4. Refer back to staff for further development and consideration
-

SUMMARY:

This is a legislative action to consider adoption of an ordinance on second reading vacating an emergency access easement. The 24 ft. wide by 18 ft. long easement is located on vacant land in the Fox Pointe First Subdivision, north of the Orchards commercial development. The applicant, Traditions at Loveland LLC, has also submitted a site development plan application to construct a 161,176 sq. ft., 155 unit independent senior housing development on the property and an accompanying amended plat application. The amended plat includes new emergency access easements in locations suitable for the development, making the existing emergency access easement established with the Fox Pointe First Subdivision unnecessary. This item was approved unanimously by Council at the February 3, 2015 regular meeting.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

The emergency access easement being vacated provided an emergency vehicle connection between the Fox Pointe Estates residential development, which was approved in 2003 but never constructed, and a commercial property within the Orchards Sixth Subdivision to the south. Because the Fox Pointe Estates residential development was never constructed, the 24 ft. wide by 18 ft. long emergency access easement was never utilized.

The Fox Pointe First Subdivision plat is being amended in conjunction with the Affinity Senior Housing development. The amended plat will create one buildable lot and an outlot on the subject property, with a new emergency access easement extending at two points to North Lincoln Avenue. With these two new emergency access easements, the existing emergency access easement is no longer needed. The emergency access easements on the new plat associated with the Affinity project are in more suitable locations for that development than the existing emergency access easement being vacated.

The establishment of the new emergency access easement through the recordation of the amended plat will occur after the existing emergency access easement is formally vacated. The amended plat of the Fox Pointe First Subdivision and the associated site development plan are nearing completion of the staff review process. Once those processes are complete and the associated easement is vacated, the plat showing the new easement can be approved and recorded.

The Development Review Team is supportive of the vacation because all necessary emergency access easements will be established in suitable locations with the recordation of the associated plat.

REVIEWED BY CITY MANAGER:

LIST OF ATTACHMENTS:

1. Ordinance
2. Complete first reading packet can be accessed at:
<http://www.cityofloveland.org/index.aspx?page=20&recordid=58762>

FIRST READING: February 3, 2015

SECOND READING: February 17, 2015

ORDINANCE NO. _____

AN ORDINANCE VACATING AN EMERGENCY ACCESS EASEMENT ACROSS TRACT F OF THE FOX POINTE SUBDIVISION, CITY OF LOVELAND COUNTY OF LARIMER, STATE OF COLORADO

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of the emergency access easement described below (the “Easement”), located across Tract F, Fox Pointe Subdivision, City of Loveland, County of Larimer, Sate of Colorado; and

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

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

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

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

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

Section 2. That, based on such findings, the Easement located across Tract F, Fox Pointe Subdivision, City of Loveland, County of Larimer, Sate of Colorado described on **Exhibit A** attached hereto and incorporated by reference and containing 430.6 square feet, more or less, shall be and the same is hereby vacated:

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

ADOPTED this _____ day of February, 2015.

CITY OF LOVELAND, COLORADO:

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AN ORDINANCE VACATING AN EMERGENCY ACCESS EASEMENT ACROSS TRACT F OF THE FOX POINTE SUBDIVISION, CITY OF LOVELAND COUNTY OF LARIMER,
STATE OF COLORADO

EMERGENCY ACCESS EASEMENT

LEGAL DESCRIPTION

AN EMERGENCY ACCESS EASEMENT LYING WITHIN TRACT F, FOX POINTE FIRST SUBDIVISION AS RECORDED AT RECEPTION NUMBER 2003017104, OF THE RECORDS OF LARIMER COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT F; THENCE N 89°38'10" W, ALONG THE SOUTH LINE OF SAID TRACT F, A DISTANCE OF 488.74 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°38'10" W, ALONG SAID SOUTH LINE, A DISTANCE OF 24.00 FEET; THENCE N 00°19'47" E, A DISTANCE OF 17.93 FEET; THENCE S 89°40'13" E, A DISTANCE OF 24.00 FEET; THENCE S 00°19'47" W, A DISTANCE OF 17.95 FEET TO THE POINT OF BEGINNING,
COUNTY OF LARIMER, STATE OF COLORADO.

SAID PARCEL CONTAINS 430.6 SQUARE FEET, MORE OR LESS.

ROGER A. VERMAAS, COLO. PLS #24968
FOR, AND ON BEHALF OF:
ASPEN SURVEYING, INC.
2993 S. PEORIA ST., G-5
AURORA, CO 80114



EXHIBIT A

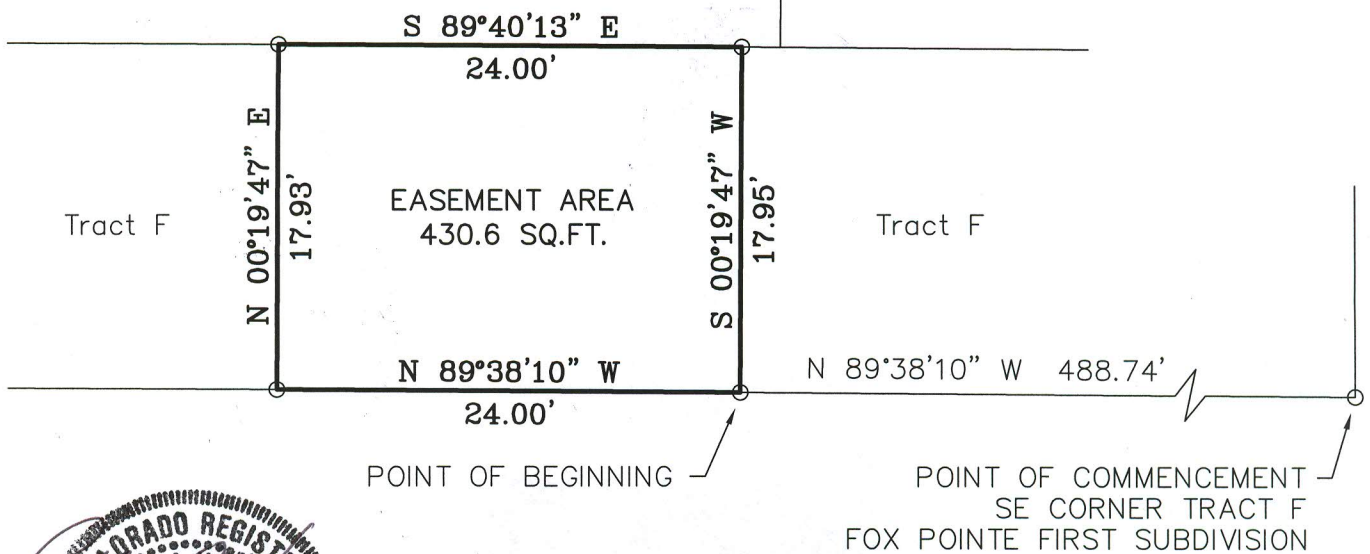
EMERGENCY ACCESS EASEMENT

FOX POINTE FIRST SUBDIVISION




Tract E
BLUESTONE STREET (PRIVATE)

Lot 33



ORIGINAL SCALE: 1"=10'

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

 Aspen Surveying, Inc. 2993 S. Peoria Street, Suite G-5 Aurora, Co. 80014 Ph. (303) 750-4590 Fax (303) 750-0646		
		SCALE: 1"=10'
DATE: 8/12/14	AFFINITY ALTA.DWG	
DRAWN BY: TPF	1 OF 2	

**CITY OF LOVELAND****LOVELAND FIRE RESCUE AUTHORITY**

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

AGENDA ITEM: 3
MEETING DATE: 2/17/2015
TO: City Council
FROM: Mark Miller, Loveland Fire Rescue Authority
PRESENTER: Mark Miller, Fire Chief

TITLE:

An Ordinance on First Reading Amending Chapter 15.04 Concerning Fire Code Appeals

RECOMMENDED CITY COUNCIL ACTION:

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

OPTIONS:

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

SUMMARY:

This is a legislative action to consider an ordinance on first reading. The Loveland Fire Rescue Authority Board at their meeting on January 28, 2015 voted to recommend to City Council that a new Fire Code Board of Appeals be established. The Fire Rescue Advisory Commission currently serves in this capacity (per Loveland Municipal Code 15.04.150). The Fire Authority Board recommends that the Appeals Board be comprised of the Fire Chief and two LFRA Board members, one from the City and one from the Rural District.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

Title 15 of the Loveland Municipal Code designates the Appeals Board to hear appeals if a person is denied a permit, has a permit revoked, is issued an order to correct or abate, or is issued a stop work order by the Fire Code Official.

The Fire Rescue Advisory Board has heard only one appeal since its inception, based on records available. During the appeal process the Commission members expressed concern about the difficulty of this quasi-judicial role as a Citizen Advisory Board, where the primary responsibility of the Commission is advising City Council on policy issues. The interpretation of fire codes was deemed technical in nature by the Commission and many of them felt unable with their limited background.

The LFRA Board considered a couple of options (Fire Chief serving as the final appeal and the LFRA Board serving as the final appeal). They rejected those options and voted to approve a recommendation to City Council that the Appeals Board be comprised of the Fire Chief and two LFRA Board members, one from the City and one from the Rural District. One of the LFRA Board members on the Appeals Board would serve as the hearing officer. The Board felt it was important to include Appeals Board members that would be considered independent by the appellant.

The appellant's recourse after the Appeals Board would be to take the matter to District Court, which has not changed.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Ordinance

FIRST READING: February 17, 2015

SECOND READING: _____

ORDINANCE No. _____

**AN ORDINANCE AMENDING CHAPTER 15.04 CONCERNING
FIRE CODE APPEALS**

WHEREAS, On August 19, 2011, pursuant to an intergovernmental agreement between the City of Loveland (“City”) and the Loveland Rural Fire Protection District (“District”), the Loveland Fire Rescue Authority (“Fire Authority”) was created as a separate governmental entity with a beginning operational date of January 1, 2012 at 12:01 a.m.; and

WHEREAS, the Fire Authority, through the Fire Chief or his authorized designee, is responsible for enforcing the fire code as adopted by the District and the; and

WHEREAS, the city’s Fire Rescue Advisory Commission (“FRAC”) was designated as the appeal board for appeals of the fire code official’s determinations, with final review by city council; and

WHEREAS, the FRAC has heard only one appeal since its inception, based on records available and during that one appeal, the Commission members expressed concern about the difficulty of this quasi-judicial role for members of as a citizen advisory board, whose primary responsibility is advising City Council on policy issues; and

WHEREAS, the Fire Authority board discussed the issue of interpretation of fire codes and appeals of the fire code official’s determinations and voted at its January 28, 2015 meeting to recommend that the Fire Authority board be designated to hear final appeals and to conduct such appeals by appointing one District and one City member of the board, together with one other member to act as hearing chair; and

WHEREAS, City Council desires to have the Loveland Fire Rescue Authority be designated as the final appeals board for hearing appeals of the fire code official’s determinations and orders.

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

Section 1. That section 15.04.150 of the Loveland Municipal Code is hereby amended to read in full as follows:

15.04.150 Appeals.

The construction advisory board shall serve as the board of appeals in connection with all codes adopted in this Title 15 by reference with the exception of appeals arising out of the fire code adopted by this Title. ~~The fire and rescue advisory commission shall serve as the board of appeals in connection with appeals arising out of said fire code.~~

Section 2. That section 15.04.152 of the Loveland Municipal Code is hereby amended to read in full as follows:

15.04.152 Appeals to Loveland Fire Rescue Authority~~fire and rescue advisory commission.~~

A. If under the fire code adopted by this Title 15 a person is denied a permit, has a permit revoked, ~~or~~ is issued an order to correct or abate, or issued a stop work order by the code official, such person may appeal the code official's action to the ~~fire and rescue advisory~~Loveland Fire Rescue Authority appeals board by filing ~~with the code official~~ a written notice of appeal to the code official not later than fifteen days after the permit has been denied or revoked or fifteen days after the issuance of an order to correct or abate or stop work order, which notice shall specifically state the appellant's grounds for appeal.

B. ~~If the fire and rescue advisory commission~~The Loveland Fire Authority appeals board may authorize the issuance of a denied permit or rescind the revocation of a permit, order to correct or abate, or a stop work order, and when doing so may designate and impose such conditions as it may reasonably determine to be justified under the circumstances only if the board determines the following:

1. ~~T~~determines that the denial of the permit, the revocation of the permit, order to correct or abate or the issuance of a stop work order is not justified under the applicable provisions of the fire code; or

2. ~~T~~hat the alternative design, materials, or methods of construction proposed by the appellant are equivalent to those prescribed by the applicable fire code provisions concerning quality, strength, effectiveness, fire resistance, durability, safety and all other pertinent factors and adequately protect the health safety or welfare of the occupant, intended occupants, surrounding properties and the public generally; or

3. ~~T~~hat the applicable requirements, of the fire code would work an undue and unique hardship upon the appellant. An appeal based on undue hardship must also include a statement from the appellant specifying the nature and extent of the hardship;

4. And, that the issuance of the denied permit or the rescission of the revocation of a permit, order to correct or abate, or stop work order will not unreasonably jeopardize the health, safety and welfare of the occupant, intended occupants, surrounding properties and the public generally. , the commission may authorize issuance of the denied permit, rescind the revocation of the permit, or rescind the stop work order and, when doing so, may designate and impose such conditions as it may reasonably determine to be justified under circumstances.

Section 3. That section 15.04.153 of the Loveland Municipal Code is hereby amended to read in full as follows:

15.04.153 Public hearings.

Every appeal under Section 15.04.151 and Section 15.04.152 shall be heard by the construction advisory board ~~and the fire and rescue advisory board, as applicable,~~ at a public hearing. Notice of the public hearing shall be given at least fifteen days in advance by publication of a notice of the public hearing in a newspaper of general circulation in the city. At the appeal hearing, members of the public, the appellant and city staff shall be entitled to address the appeals board. The public hearing shall be recorded.

Section 4. That section 15.04.155 of the Loveland Municipal Code is hereby amended to read in full as follows:

15.04.155 Review by City Council.

The appellant or the city official whose decision was appealed under Section 15.04.151 to the construction advisory board ~~or under Section 15.04.152 to the fire and rescue advisory commission,~~ and who is aggrieved by the decision of the ~~applicable~~ appeal board, may appeal that decision to the city council. In addition, ~~any member of the fire and rescue advisory commission~~ **the Fire Chief** may appeal a decision of the construction advisory board reasonably related to a fire related issue. A person appealing a decision of the construction advisory board shall file a written notice of appeal with the city's building official no later than fifteen days after the board's decision and shall in the notice the grounds for appeal. ~~A person appealing a decision of the fire and rescue advisory commission shall file a written notice of appeal with the city's code official not later than fifteen days after the commission's decision and shall state in the notice the grounds for appeal.~~ In the event of such appeal to the city council, the powers and duties set forth in Section 15.04.151 ~~and Section 15.04.152, as applicable,~~ shall be exercised by the city council, which shall conduct a new public hearing on the matter.

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 (10) days after its final publication as provided in the City Charter Section 4-8(b).

ADOPTED _____ day of _____, 2015.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:

A handwritten signature in purple ink, appearing to be 'TA', written over a horizontal line.

Teresa Ablao
Assistant City Attorney



CITY OF LOVELAND
LOVELAND FIRE RESCUE AUTHORITY
Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537
(970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

AGENDA ITEM: 4
MEETING DATE: 2/17/2015
TO: City Council
FROM: Mark Miller, Loveland Fire Rescue Authority
PRESENTER: Mark Miller, Fire Chief

TITLE:

An Ordinance on First Reading Amending the City Code to Dissolve the Fire Rescue Advisory Commission

RECOMMENDED CITY COUNCIL ACTION:

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

OPTIONS:

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

SUMMARY:

This is a legislative action to dissolve the Fire Rescue Advisory Commission. The Commission over the years has played an important role in strategic planning and policy considerations. Since the Loveland Fire Rescue Authority (LFRA) Board is responsible for setting policy for the Authority, the Citizen Advisory Board that is responsible for bringing the citizens' perspective to policy considerations should be aligned with the decision-making authority. Therefore the LFRA Board unanimously voted at their meeting on January 28, 2015 to make a recommendation to the Loveland City Council to dissolve the commission as a City Commission. If the City Council approves that action, then the LFRA Board would reinstate the existing member as an ad hoc commission and the LFRA Bylaws would be amended.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

When the Fire Authority was established, the City Council added two positions to the seven member commission for representation from the Rural District, Loveland Municipal Code Section 2.60.110(B), and the alignment of the commission remained with City Council. This section of the Code specifically identifies the purpose of the commission as an advisory body to the City Council and to the Loveland Fire Rescue Authority in the implementation of the fire protection master plan and the future strategic planning for the City and the Authority. In addition, the commission shall serve as an advisory body to the Fire Chief concerning fire protection, rescue, and emergency management issues.

This ordinance would revise the Loveland Municipal Code. Because the Municipal Code in Section 15 also designates the Fire Rescue Advisory Board as the Appeals Board the two actions need to be considered sequentially.

The LFRA Board voted to reinstate the commission as an ad hoc commission. This would allow for them to invest their time specifically associated with project work (i.e. updating the Strategic Plan or the Rural District Mill Levy Strategy). If at some point in the future there is no project assignment, then meetings could be suspended. The mechanics of how this would work would be approved by the LFRA Board as an addition to the Rules and Regulations document that identifies how LFRA administrative policies and procedures are handled.

The roster for the commission is attached. There are ten positions listed. However, Jon Smela's term is expired, and he continues to serve as Chair until another Chair is designated. Therefore, one of the three vacancies listed is the position he currently "occupies". He is scheduled for the required interview on February 11, 2015 to be considered for the appointment. If City Council appoints him to a new term at the next available City Council meeting, then that would leave two City vacant positions for recruitment.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Ordinance
2. FRAC Roster

FIRST READING: February 17, 2015

SECOND READING: _____

ORDINANCE No. _____

**AN ORDINANCE AMENDING THE CITY CODE TO DISSOLVE THE
FIRE RESCUE ADVISORY COMMISSION**

WHEREAS, On August 19, 2011, pursuant to that Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity (The “Formation Agreement”) the City of Loveland (“City”) and the Loveland Rural Fire Protection District (“District”) created the Loveland Fire Rescue Authority (“Fire Authority”); and;

WHEREAS, the City established a fire rescue advisory commission (“FRAC”) to serve as a citizen advisory board to council and the Fire Authority and has played an important role in strategic planning and policy considerations; and

WHEREAS, since the Fire Authority board, is responsible for setting policy of the Authority, the citizen advisory board that is responsible for bringing the citizen’s perspective to policy considerations should be aligned with the decision-making authority; and

WHEREAS, the Fire Authority board voted at their meeting on January 28, 2015 to make a recommendation to the Loveland City Council to dissolve the commission so that FRAC and all current members may be reappointed as an ad hoc commission to assist and advise the Fire Authority board;

WHEREAS, City Council desires to dissolve the FRAC as a City advisory board finding that it is better suited to be an advisory board to the Fire Authority.

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

Section 1. That Loveland Municipal Code Section 2.16.110 is hereby repealed and all members of the FRAC serving as of the date of this resolution shall be reappointed as an ad hoc commission of the Loveland Fire Rescue Authority.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten (10) days after its final publication as provided in the City Charter Section 4-8(b).

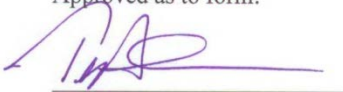
ADOPTED this _____ day of March, 2015.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

FIRE AND RESCUE ADVISORY COMMISSION

<u>MEMBER</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>	<u>APPOINT- MENT DATE</u>	<u>EXPIRA- TION DATE</u>
City Commission Members				
Jonathan Q. Smela jqstanley@comcast.net	236 Riker Ct Loveland CO 80537	H 667-3981 B 898-9439	4/3/12	6/30/14 serves until replacement named
Dave Adams david@heroshand.com	2522 N Empire Ave Loveland CO 80538	H 667-8229 B 217-1440	8/21/12	6/30/15
Vacant				6/30/15
Paul W. Pfeiffer pfeiffer331@gmail.com	331 Morgan Dr Loveland CO 80537	H 635-1907 B (303) 692-2896	8/21/07 7/20/10 11/19/13	6/30/16
Elton Bingham ecbingham@frii.com	3326 Indigo Ct Loveland CO 80538	H 669-9449 B 663-4145	2/4/14	6/30/16
Vacant				6/30/16
Leo Wotan leowotan@gmail.com	3608 Akron Ct Loveland CO 80538	H 669-0479 B 663-2400	1/6/15	6/30/17
Vacant				6/30/17
Rural Commission Members				
Bob Boggio bboggio2@lpbroadband.net	3905 Glade Rd Loveland CO 80538	H 667-4472 B 430-8157	10/9/13	
William Tillman william.tillman@thompsonschoools.org	3 Idlewild Ln Loveland CO 80537	H 669-3008 B 613-7576	7/25/12	
Cecil Gutierrez Mayor@cityofloveland.org Council Liaison	1035 Crabapple Loveland CO 80538	H 619-0025 Phone Mail: 962-2190		
Leroy E. Anderson (Andy) Rural Board Liaison	808 Ptarmigan Run Loveland, CO 80538	H 402-2839	7/27/10	
Mark Miller, Chief Mark.Miller@cityofloveland.org Staff Liaison	410 E 5 St Loveland CO 80537	B 962 2827		
Bonnie Wright Bonnie.Wright@cityofloveland.org Office Support	410 E 5 St Loveland CO 80537	B 962-2497		

The term on the Commission is three years.

Two members are appointed by the Rural Fire Protection District and serves a term that is determined by the District.
2/12/15

**CITY OF LOVELAND**

LOVELAND FIRE RESCUE AUTHORITY

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

AGENDA ITEM: 5
MEETING DATE: 2/17/2015
TO: City Council
FROM: Mark Miller, Loveland Fire Rescue Authority
PRESENTER: Mark Miller, Fire Chief

TITLE:

A Resolution Approving an Intergovernmental Mutual Aid Response Agreement Between the Loveland Fire Rescue Authority and the Poudre Fire Authority

RECOMMENDED CITY COUNCIL ACTION:

Approve the resolution as written.

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
-

SUMMARY:

This is an administrative action to consider a resolution approving an intergovernmental automatic mutual aid agreement between the Loveland Fire Rescue Authority (LFRA) and the Poudre Fire Authority. It was approved by the LFRA Board on January 28, 2015.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

Section 1.9(h) of the intergovernmental agreement that established the Fire Authority provides that the Authority shall have the power to enter into mutual and automatic aid agreements with other emergency services entities; but also requires such agreements to be first approved by the District and the City.

Poudre Fire Authority (PFA) reviewed their existing mutual aid agreements and identified that the agreement between PFA and LFRA still had the Loveland Fire and Rescue Department

organizational title. The only modification to the attached agreement is title of the LFRA organization.

A mutual aid agreement provides that both LFRA and the Poudre Fire Authority will be dispatched to an emergency response within a particular response area. It is a standard agreement necessary to ensure that there are policies and procedures in place for mutual aid response. It clarifies the roles and responsibilities, establishes procedures for cooperation and coordination, liability, workers compensation coverage, provides no compensation for services with provisions to negotiate the reimbursement of costs for a longer term response, provides for response determination in terms of availability, sets an indefinite term, and set procedures for termination of the agreement by either party.

REVIEWED BY CITY MANAGER:

William D. Cabill

LIST OF ATTACHMENTS:

1. Resolution
2. LFRA Resolution
3. Agreement

RESOLUTION # R-17-2015**A RESOLUTION APPROVING AN INTERGOVERNMENTAL MUTUAL AID RESPONSE AGREEMENT BETWEEN THE LOVELAND FIRE RESCUE AUTHORITY AND THE POUDE FIRE AUTHORITY**

WHEREAS, in accordance with section §29-1-203 of the Colorado Revised Statutes, governments may cooperate or contract one with another to provide any function, service or facility lawfully authorized to each of the respective units of governments; and

WHEREAS, in accordance with C.R.S. §29-1 -201, governments are permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, the Poudre Fire Authority (“PFA”) and Loveland Fire Rescue Authority (“LFRA”) are independent governmental entities duly organized and existing in accordance with Colorado law are called upon to respond to emergency areas contained within their respective jurisdictions; and

WHEREAS, PFA and LFRA (collectively, the "Participating Agencies") are called upon to respond to emergencies occurring in areas contained within their respective jurisdictions; and

WHEREAS, the Participating Agencies strive to improve the emergency services provided within their respective jurisdictions through mutual aid responses; and

WHEREAS, the Participating Agencies have entered into an Intergovernmental Agreement for Disaster-Emergency Mutual Aid and Disaster-Emergency Funding Assistance which is intended to be separate and distinct from circumstances to be addressed by this Agreement; and

WHEREAS, notice to the Participating Agencies of fire emergencies in the designated area is made by and through the Participating Agencies' Emergency Communications Centers ("Comm. Centers"); and

WHEREAS, it is the intent and desire of the Participating Agencies to provide an emergency fire response system that meets the health, safety and welfare needs of the affected residents; and

WHEREAS, by the terms Section 1.0 of the Rules and Regulations of the Loveland Fire Rescue Authority, such agreements must be presented to and approved by the LFRA Board of Directors before becoming effective; and

WHEREAS, the LFRA Board of Directors adopted the “Intergovernmental Automatic Mutual Aid Agreement” attached hereto as **Exhibit A**; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Loveland to adopt the Agreement attached hereto as **Exhibit A** and incorporated by reference.

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

Section 1. That the Agreement is hereby approved.

Section 2. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this _____ day of _____, 2015.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

RESOLUTION # R- 041**A RESOLUTION APPROVING AN INTERGOVERNMENTAL MUTUAL AID RESPONSE AGREEMENT BETWEEN THE LOVELAND FIRE RESCUE AUTHORITY AND THE POUFRE FIRE AUTHORITY**

WHEREAS, in accordance with section §29-1-203 of the Colorado Revised Statutes, governments may cooperate or contract one with another to provide any function, service or facility lawfully authorized to each of the respective units of governments; and

WHEREAS, in accordance with C.R.S. §29-1 -201, governments are permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, the Poudre Fire Authority (“PFA”) and Loveland Fire Rescue Authority (“LFRA”) are independent governmental entities duly organized and existing in accordance with Colorado law are called upon to respond to emergency areas contained within their respective jurisdictions; and

WHEREAS, PFA and LFRA (collectively, the "Participating Agencies") are called upon to respond to emergencies occurring in areas contained within their respective jurisdictions; and

WHEREAS, the Participating Agencies strive to improve the emergency services provided within their respective jurisdictions through mutual aid responses; and

WHEREAS, the Participating Agencies have entered into an Intergovernmental Agreement for Disaster-Emergency Mutual Aid and Disaster-Emergency Funding Assistance which is intended to be separate and distinct from circumstances to be addressed by this Agreement; and

WHEREAS, notice to the Participating Agencies of fire emergencies in the designated area is made by and through the Participating Agencies' Emergency Communications Centers ("Comm. Centers"); and

WHEREAS, it is the intent and desire of the Participating Agencies to provide an emergency fire response system that meets the health, safety and welfare needs of the affected residents; and

WHEREAS, by the terms Section 1.0 of the Rules and Regulations of the Loveland Fire Rescue Authority, such agreements must be presented to and approved by the LFRA Board of Directors; and

WHEREAS, the LFRA Board of Directors finds that it is in the best interests of the Fire Authority to adopt the “Mutual Aid Agreement” attached hereto as **Exhibit A** and incorporated by reference (the “Agreement”).

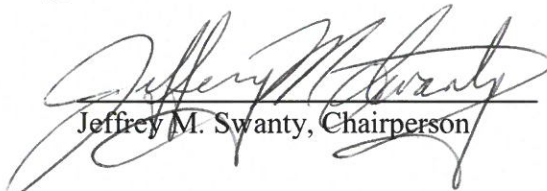
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE LOVELAND FIRE RESCUE AUTHORITY, STATE OF COLORADO, AS FOLLOWS:

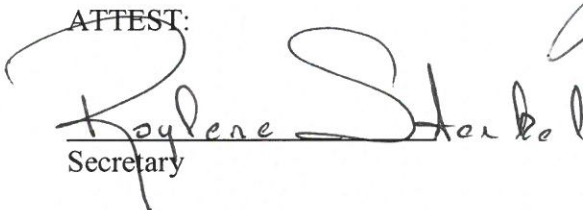
Section 1. That the Agreement is hereby approved.

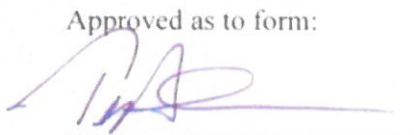
Section 2. That the Fire Chief is hereby authorized and directed to execute the Agreement on behalf of the Loveland Fire Authority, subject to City Council and Loveland Fire Protection District approval and to such modifications in form or substance as the Fire Chief, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this Resolution or to protect the interests of the Fire Authority.

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

ADOPTED this 28th day of January, 2015.


Jeffrey M. Swanty, Chairperson

ATTEST:

Secretary

Approved as to form:

Teresa Ablao
Assistant City Attorney

MUTUAL AID AGREEMENT

THIS AGREEMENT is made and entered into this 16th day of December, 2014 by and between the POUFRE FIRE AUTHORITY ("PFA") and LOVELAND FIRE AND RESCUE AUTHORITY ("LFRA"), collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, PFA is a fire authority which was established by intergovernmental agreement between the City of Fort Collins, Colorado, and the Poudre Valley Fire Protection District of Larimer County, Colorado, organized for the purposes of providing fire protection and other emergency services within the territorial limits of the City of Fort Collins and the Poudre Valley Fire Protection District; and

WHEREAS, LFRA is a fire authority which was established by intergovernmental agreement between the City of Loveland, Colorado, and the Loveland Rural Fire Protection District of Larimer County, Colorado, organized for the purposes of providing fire protection and other emergency services within the territorial limits of the City of Loveland and the Loveland Rural Fire Protection District; and

WHEREAS, in accordance with section §29-1-203 of the Colorado Revised Statutes, governments may cooperate or contract one with another to provide any function, service or facility lawfully authorized to each of the respective units of governments; and

WHEREAS, in accordance with C.R.S. §29-1 -201, governments are permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, the Poudre Fire Authority and Loveland Fire Rescue Authority are independent governmental entities duly organized and existing in accordance with Colorado law are called upon to respond to emergency areas contained within their respective jurisdictions; and

WHEREAS, the Parties have entered into an Intergovernmental Agreement For Disaster-Emergency Mutual Aid and Disaster-Emergency Funding Assistance which is intended to be separate and distinct from circumstances to be addressed by this Agreement; and

WHEREAS, it is the intent and desire of the Parties to provide emergency responses in non-disaster circumstances to assist each other, as provided below, in protecting the health, safety and welfare of residents in each jurisdiction; and

WHEREAS, it is to the mutual advantage and benefit of the PFA and the LFRA that each of them assist the other, as hereinafter provided, in the event of a fire or other emergency that endangers life or property.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Requested Response. Each of the parties hereto agrees to respond to reported fires and other emergencies endangering life of property located in the jurisdiction or area of operation of other party if such mutual aid and assistance is requested by the other party. In so responding, the responding party shall provide mutual aid and assistance in fighting the fire or responding to the emergency to the extent that it chooses in its sole discretion.
2. Request for Aid. Any request for aid under this Agreement by a party shall include a statement of the amount and type of equipment and personnel requested from the responding party, and shall specify the location to which the equipment and personnel are to be dispatched. However, the amount and type of equipment and number of personnel actually to be furnished by the responding party shall be determined at the sole discretion of the responding party.
3. Command. The officer-in-charge of the responding party shall report to the requesting party's officer-in-charge at the location to which the equipment is dispatched and shall be under the direction and control of the requesting party's officer-in-charge. The equipment and personnel that are provided by the responding party shall be under the immediate command and control of the responding party's officer-in-charge.
4. Termination of Aid. The responding party shall be permitted to withdraw its personnel and/or equipment from the scene of any incident in the requesting party's jurisdiction when;
 - a. The personnel and/or equipment are released by the requesting party's officer-in-charge;
 - b. The conditions at the incident create an extraordinary risk of injury or death to the responding party's personnel; or
 - c. The needs of the responding party require the return of its personnel and/or equipment to its jurisdiction.
5. Compensation/Reimbursement. No party to this Agreement shall be required to pay any compensation to any other party for any services rendered hereunder, the mutual aid and assistance to be afforded under this agreement being considered adequate compensation to all parties. Notwithstanding the foregoing, the intent of the

Parties is that the responding party may make resources and personnel available for short-term aid and assistance. In the event the requesting party requires more long-term assistance from the responding party, or at any time the responding party determines that there is a need for reimbursement, the responding party will notify the requesting party of its intention to request reimbursement. The parties will then negotiate the extent to which the requesting party will reimburse the responding party. In addition, this Agreement shall not be construed as to limit or waive reasonable compensation or reimbursement for costs incurred in response to hazardous materials or disaster-emergency, fire, or other incidents that may be eligible for reimbursement by local, state or federal agencies or any other third parties. The requesting party agrees that it will reasonably pursue any legal reimbursement possible and upon receipt of any such reimbursement (after subtracting the reasonable costs of pursuing and collecting the reimbursement), will distribute the received funds in a fair and equitable manner to the responding party based upon a pro rata share of their documented expenses.

6. Effect of Agreement. This Agreement is not intended to, nor should it be construed to, affect or extend the legal responsibilities of either of the parties hereto; or create or modify any pre-existing legal obligations, if any. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

7. Liability. The parties hereto agree, in accordance with the provisions of Section 29-5-108, C.R.S., that during the time that a responding party's personnel and equipment are assigned under this Agreement to temporary duty within the jurisdiction of the requesting party any liability which accrues under the provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., on account of a negligent or otherwise tortious act of the responding party's firefighter or other personnel while performing such duties shall be imposed upon the requesting party not the responding party. Nothing in this Agreement shall be deemed a waiver of the defenses and limitations of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., nor deemed to confer any benefits to any person not a party to this Agreement.

8. Benefits. Pursuant to Sections 29-5-109 and 29-5-110, C.R.S., if any firefighter or other personnel of the responding party is injured, disabled, or dies as a result of performing his or her services under this Agreement within the boundaries of the requesting party, said individual shall remain covered by, and be eligible for, the worker's compensation and firefighter's pension benefits which said individual would otherwise be entitled to receive if the injury, disability, or death had occurred within the boundaries of the responding party.

9. Attorneys' Fees. In the event of any of the respective parties hereto shall default in any of the covenants or obligations herein provided and a party not in default commences a legal or equitable action against the defaulting party, the defaulting party expressly agrees to pay all off the non-defaulting party's reasonable expenses of such litigation, including a reasonable sum for attorneys' fees.

10. Term. This Agreement shall be effective as of the date and year first above written and shall continue in effect indefinitely. Any party to this Agreement may terminate its interest in this Agreement at any time by serving fifteen (15) days prior written notice to all other parties of such termination.

11. Governing Law. It is expressly understood and agreed by and between the parties hereto that this Agreement is made in and shall be construed and interpreted in accordance with the laws of the State of Colorado.

12. Assignment. This Agreement shall not be assigned by any of the parties hereto without the prior written consent of the other parties.

13. Relationship of Parties. The parties hereto enter into this Agreement as separate and independent governmental entities and each shall maintain such status throughout the term of this agreement.

14. Headings. Headings used in this Agreement are for the convenience of reference and shall not control or affect the meaning or interpretation of any provision of this Agreement.

15. Construction. This Agreement shall be construed according to its fair meaning and as if prepared by all of the parties hereto, and shall be deemed to be and contain the entire understanding and agreement among the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by all the parties hereto.

16. Severability. If any provision of this Agreement, or the application of such provision to any person, entity or circumstance, shall be held invalid, the remainder of this Agreement or the application of such provision to persons, entities, or circumstances other than those in which it is held invalid, shall not be affected thereby.

17. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

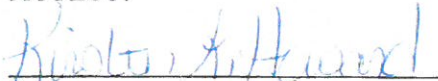
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

POUDRE FIRE AUTHORITY

By: _____

Chairperson

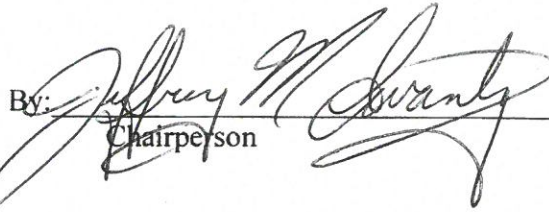
ATTEST:

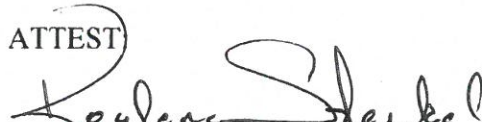

Secretary

APPROVED AS TO FORM:

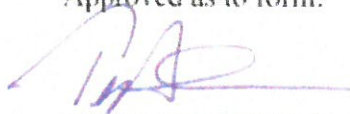
Poudre Fire Authority Attorney

LOVELAND FIRE AND RESCUE AUTHORITY

By: 
Chairperson

ATTEST

Secretary

Approved as to form:



Teresa Ablao
Assistant City Attorney

**CITY OF LOVELAND****LOVELAND FIRE RESCUE AUTHORITY**

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

AGENDA ITEM: 6
MEETING DATE: 2/17/2015
TO: City Council
FROM: Mark Miller, Loveland Fire Rescue Authority
PRESENTER: Mark Miller, Fire Chief

TITLE:

A Resolution to Approve a Second Amendment to the Intergovernmental Agreement Between the City of Loveland and the Loveland Rural Fire Protection District for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity Concerning Section 1.9(H) Mutual Aid and Automatic Aid Agreements

RECOMMENDED CITY COUNCIL ACTION:

Approve the resolution as written.

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 allow the LFRA Board to approve mutual and auto aid agreements without also needing City Council approval. The Loveland Fire Rescue Authority (LFRA) Board on January 28, 2015 unanimously voted to recommend to City Council and the Rural Fire Protection District that a second amendment to the intergovernmental agreement that established the Loveland Fire Rescue Authority as a separate legal entity be approved.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

Section 1.9(h) of the intergovernmental agreement that established the Fire Authority provides that the Authority shall have the power to enter into mutual and automatic aid agreements with other emergency services entities; but also requires such agreements to be first approved by the District and the City.

These agreements clarify the area of mutual or auto response, roles and responsibilities, establishes procedures for cooperation and coordination, liability, workers compensation coverage, provides no compensation for services, provides for response determination in terms of availability, generally sets the term for one year renewable annually, and sets procedures for termination of the agreement by either party. They are administrative in nature and are structured similarly; however, they do permit for the use of resources currently owned by each of the entities outside the response area boundaries. This was the reason that the IGA originally included the provision that both governing partner boards would have to approve them after the LFRA Board approved them.

Since the inception in 2012, the LFRA Board has considered eight mutual or auto aid agreements. All of those agreements have been approved by all three Boards. It takes roughly one and half months to two months to get these agreements through the required process for approval. The efficiency for this operational function can be significantly be improved.

REVIEWED BY CITY MANAGER:

William A. Cahill

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION NO. #R-18-2015

A RESOLUTION TO APPROVE A SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LOVELAND RURAL FIRE PROTECTION DISTRICT FOR THE ESTABLISHMENT AND OPERATION OF THE LOVELAND FIRE RESCUE AUTHORITY AS A SEPARATE GOVERNMENTAL ENTITY CONCERNING SECTION 1.9(h) MUTUAL AID AND AUTOMATIC AID AGREEMENTS

WHEREAS, On August 19, 2011, pursuant to that Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity (The “Formation Agreement”) the City of Loveland (“City”) and the Loveland Rural Fire Protection District (“District”) created the Loveland Fire Rescue Authority (“Fire Authority”); and

WHEREAS, Section 1.9(h) of the Formation Agreement provides that the Authority shall have the power to enter into mutual and automatic aid agreements with other emergency services entities, but also requires such agreements to be first approved by the District and the City; and

WHEREAS, the LFRA Board has determined that requiring such agreements to be first approved by both the City Council and the Rural Board is cumbersome and inefficient;

WHEREAS, the City and the Rural District wish to have the Fire Authority Board fully exercise its power to enter into mutual and automatic aid agreements in a timely and efficient manner; and

WHEREAS, the City Council desires to amend Article I of the Formation Agreement to amend section 1.9(h); and

WHEREAS, the City Council finds that it is in the best interests of the Fire Authority to adopt the “Second Amendment To The Intergovernmental Agreement For The Establishment And Operation Of The Loveland Fire Rescue Authority As A Separate Governmental Entity” as set forth below.

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

Section 1. That Section 1.9(h) of Article I of the Formation Agreement is hereby amended as follows:

(h) To enter into mutual and automatic aid agreements with other fire and/or emergency service organizations including other special districts, municipalities, counties and sheriff offices, ~~which agreements must be first approved by the Parties’ governing bodies;~~

Section 2. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this ____ day of February, 2015.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney



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: 2/17/2015
TO: City Council
FROM: Leah Browder, Public Works
PRESENTER: Dave Klockeman, City Engineer

TITLE:

A Motion to Approve a Change Order Request to Existing Street Rehabilitation Concrete Repair Contract Purchase Order

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
-

SUMMARY:

This is an administrative action. It adds a Second Change Order of \$150,000 to the initial \$800,000 contract with JAG's Enterprises, Inc. for concrete repair. The original contract has previously been amended by the first Change Order of \$137,500. This Change Order is brought to Council because the contract and changes exceed the administrative approval limit of \$500,000.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The Street Rehabilitation Concrete Repair Contract is available through March 18, 2015 and funding for this Change Order request is available in the 2015 Street Rehabilitation Program Budget. Expanding the concrete repair work that is currently underway given the favorable weather, would enhance the overall project delivery related to this year's Annual Asphalt Paving Program.

BACKGROUND:

Typically concrete repairs are completed in the fall of each year in advance of the upcoming year's scheduled paving program locations. This approach ensures the work is delivered as effectively as possible. By completing the concrete work in advance, damage to new street surfaces is avoided. After concrete repair and paving project completion, citizens experience an overall enhancement to multiple travel paths.

The first Change Order of \$137,500 was applied to the initial \$800,000 contract with JAG's Enterprises, Inc. in 2014. This second Change Order of \$150,000 would result in a total contract amount of \$1,087,500. This additional contract amount would allow the City to take full advantage of the favorable weather in preparation for the 2015 Paving Program. City Council approval is required for the second change order as it would result in an accumulative increase to the original contract of 35.94 percent (the previous change order resulted in an increase of 17.19 percent). The funding for this Change Order request is available in the 2015 Street Rehabilitation Program Budget.

REVIEWED BY CITY MANAGER:

ATTACHMENTS:

None

**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: 8
MEETING DATE: 2/10/2015
TO: City Council
FROM: Brent Worthington, Finance
PRESENTER: Brent Worthington

TITLE:

December 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 December 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 December 31, 2014. Citywide Revenue (excluding internal transfers) of \$249,605,589 is 103.1% of year to date (YTD) budget or \$7,501,159 over the budget. Sales Tax collections are 101.2% of the YTD budget or \$485,198 over budget. Building Material Use Tax is 164.4% of YTD budget, or \$1,190,222 over budget. Sales and Use Tax collections combined were 106.2% of YTD budget or \$2,655,076 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 21.1% or \$7,905,113.

Citywide total expenditures of \$260,282,498 (excluding internal transfers) are 73.6% of the YTD budget or \$93,165,029 under the budget.

PLEASE NOTE:

1. Citywide Expenditures exceed Citywide Revenues by \$10,676,909. This is due to (budgeted) Capital Projects; the funds for these projects have been accumulated over time, specifically for these Capital Projects.
 2. Citywide Operating Revenues exceed Citywide Operating Expenses by \$45,107,091. This is a very healthy Operating Surplus for 2014.
 3. The financial information presented in the December Snapshot shows the results of operations on the cash basis. This information is likely to differ somewhat from the final numbers which will be included in the 2014 CAFR, as end of year accruals (non-cash items) will also be incorporated.
-

REVIEWED BY CITY MANAGER:

William D. Cabill

LIST OF ATTACHMENTS:

1. December Snapshot Presentation
 2. Snapshot report for December 2014
-

Snapshot

P.53



December 2014

Brent Worthington
Finance Director

Presented
February 17, 2015

December 2014 Snapshot

- Citywide Revenue
 - \$249.6 million, excluding transfers
 - 3.1% above budget projections

- Citywide Expenditures
 - \$260.3 million, excluding transfers
 - 26.4% below budget projections

- Citywide expenditures exceed revenues by \$10.7 million.

December 2014 Snapshot

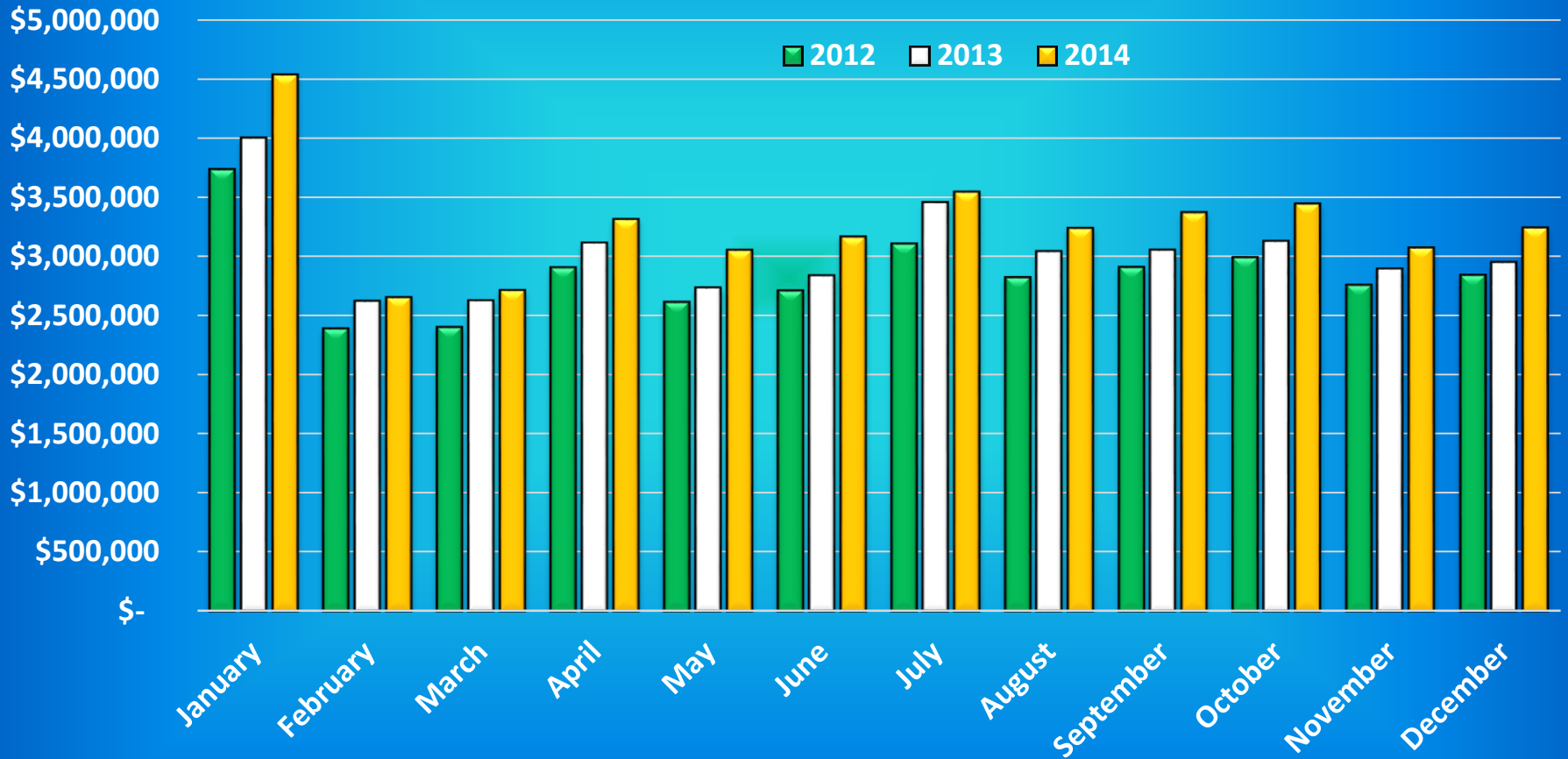
- General Fund Revenue
 - \$85.7 million YTD, excluding transfers
 - 8.4% above YTD Budget
 - 15.3% above same period last year

- Sales and Use Tax Revenue
 - \$45.4 million YTD
 - 6.2% above budget projections
 - 11.4% above same period as last year

- Sales Tax only
 - \$39.4 million YTD
 - 1.2% above budget projections
 - 8.1% above same period last year

December 2014 Snapshot

Sales Tax Pre / Post Flood



December 2014 Snapshot

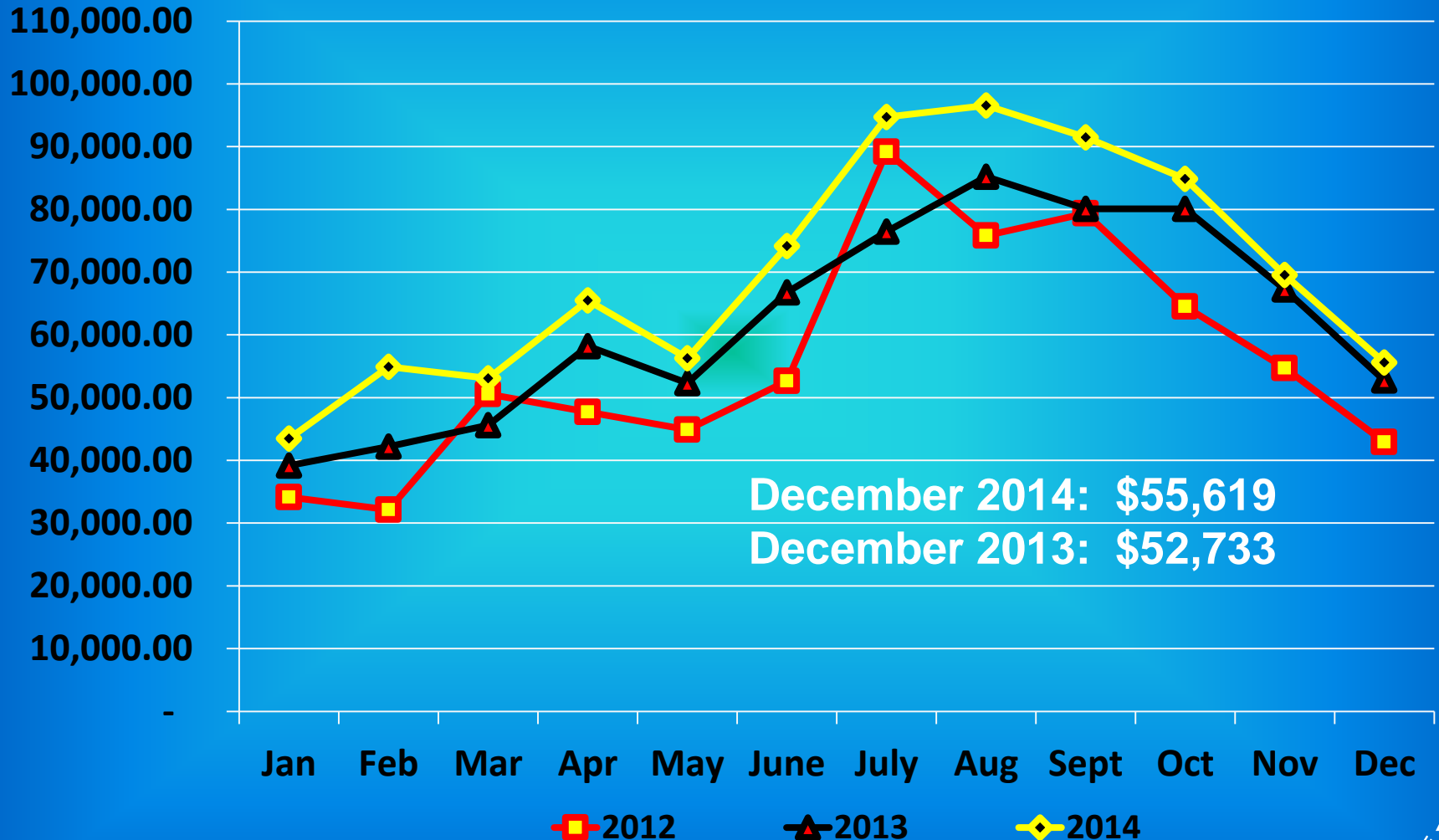
- General Fund Expenditures
 - \$68.2 million YTD, excluding transfers
 - 12.8% below budget projections

- General Fund Revenues Exceed Expenditures by \$9.3 million

- Health Claims
 - December Claims \$896k
 - 2014 YTD increased from \$8.0 mil to \$10.4 mil from same time as last year (29.2%)

Lodging Tax Comparison

Lodging Tax



December 2014: \$55,619
December 2013: \$52,733

➤ Lodging tax YTD is \$840,273 (12.6% higher than 2013 YTD).

Flood Report

Cost Estimates

Emergency Response	\$2,000,000
Business Assistance	600,000
Capital	23,100,000
Total	\$25,700,000

Actual Expenditures

	<u>December</u>	<u>To Date</u>
Total	2,013,963	16,811,423

Reimbursements Applied For

	<u>December</u>	<u>To Date</u>
FEMA	\$ -	\$ 9,267,580
CIRSA	-	6,920,480
Other	-	247,471
Total	\$ -	\$ 16,435,531

Reimbursements Received

	<u>December</u>	<u>To Date</u>
FEMA	\$ 40,006	\$ 4,189,465
CIRSA	22,137	6,920,480
Other	-	247,471
Total	\$ 62,143	\$ 11,357,417

December 2014 Snapshot

P.60



Questions?

Brent Worthington
Finance Director

Presented
February 17, 2015

December

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
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- ◇ Citywide Revenue, excluding transfers between funds, \$249.6 million (3.1% above budget projections)
- ◇ Sales & Use Tax Collection, \$45.4 million (6.2% above budget projections)
- ◇ Citywide Expenditures, excluding transfers between funds, \$260.3 million (26.4% below budget projections)
- ◇ Citywide Year-To-Date Expenditures exceed Year-To-Date Revenues by \$10.7 million
- ◇ General Fund Revenue, excluding transfers between funds, \$85.7 million (8.4% above budget projections)
- ◇ General Fund Expenditures, excluding transfers between funds, \$68.2 million, (12.8% below budget projections)
- ◇ General Fund Revenues exceed Expenditures by \$9.3 million

The Sales / Use Tax Basics



December 2014	Sales Tax	Motor Vehicle Use Tax	Building Materials Use Tax	Combined
Budget 2014	\$ 38,906,640	\$ 2,000,000	\$ 1,848,780	\$ 42,755,420
Actual 2014	39,391,838	2,979,655	3,039,002	45,410,495
% of Budget	101.2%	149.0%	164.4%	106.2%
Actual 2013	\$ 36,425,736	\$ 2,727,178	\$ 1,611,658	\$ 40,764,572
Change from prior year	8.1%	9.3%	88.6%	11.4%

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 through December is above the previous year by \$3.0 million or 8.1%, and above 2012 by \$5.2 million or 15.2%, evidence that city businesses as an aggregate were not affected by the flood.

Combined Statement of Revenues and Expenditures December 2014					
REVENUE	Current Month	YTD Actual	YTD Revised Budget	% of Budget	
General Governmental					
1 General Fund	\$ 5,945,272	\$ 85,715,003	\$ 79,094,520	108.4%	
2 Special Revenue	835,101	9,084,188	11,737,810	77.3% ¹	
3 Other Entities	1,149,767	24,555,105	26,334,110	93.2% ²	
4 Internal Service	1,618,942	17,139,585	16,504,780	103.8%	
5 <i>Subtotal General Govt Operations</i>	<i>9,549,082</i>	<i>136,493,881</i>	<i>133,671,220</i>	<i>102.1%</i>	
6 Capital Projects	1,035,892	10,075,924	10,411,780	96.7% ³	
Enterprise Fund					
7 Water & Power	5,795,043	88,244,915	82,855,160	106.5%	
8 Stormwater	289,289	4,927,121	4,844,960	101.7%	
9 Golf	31,046	3,629,277	3,800,910	95.4% ⁴	
10 Solid Waste	422,385	6,234,470	6,520,400	95.6% ⁵	
11 <i>Subtotal Enterprise</i>	<i>6,537,763</i>	<i>103,035,784</i>	<i>98,021,430</i>	<i>105.1%</i>	
12 Total Revenue	\$ 17,122,736	\$ 249,605,589	\$ 242,104,430	103.1%	
<i>Prior Year External Revenue</i>		<i>233,511,340</i>			
<i>Increase From Prior Year</i>		<i>6.9%</i>			
13 Internal Transfers	452,633	22,497,723	54,472,803	41.3%	
14 Grand Total Revenues	\$ 17,575,369	\$ 272,103,312	\$ 296,577,233	91.7%	
EXPENDITURES					
General Governmental					
15 General Fund	7,568,992	63,677,963	69,048,180	92.2%	
16 Special Revenue	1,139,198	11,780,680	12,283,060	95.9%	
17 Other Entities	1,451,627	23,079,531	24,795,910	93.1%	
18 Internal Services	2,733,494	17,876,274	18,138,550	98.6%	
19 <i>Subtotal General Gov't Operations</i>	<i>12,893,311</i>	<i>116,414,448</i>	<i>124,265,700</i>	<i>93.7%</i>	
20 Capital	8,094,825	65,859,926	141,636,122	46.5%	
Enterprise Fund					
21 Water & Power	6,463,761	67,691,275	76,326,125	88.7%	
22 Stormwater	221,373	2,724,601	2,838,110	96.0%	
23 Golf	193,758	2,845,714	3,245,080	87.7%	
24 Solid Waste	515,443	4,746,535	5,136,390	92.4%	
25 <i>Subtotal Enterprise</i>	<i>7,394,334</i>	<i>78,008,124</i>	<i>87,545,705</i>	<i>89.1%</i>	
26 Total Expenditures	\$ 28,382,470	\$ 260,282,498	\$ 353,447,527	73.6%	
<i>Prior Year External Expenditures</i>		<i>226,507,143</i>			
<i>Increase (-Decrease) From Prior Year</i>		<i>14.9%</i>			
27 Internal Transfers	452,633	22,497,723	54,472,803	41.3%	
28 Grand Total Expenditures	\$ 28,835,103	\$ 282,780,221	\$ 407,920,330	69.3%	

¹ Lower than anticipated Revenue due to timing of transfers from the General Fund.

² Lower than anticipated revenue due to timing of payments.

³ Lower than anticipated revenue due to timing of transfers.

⁴ Lower than anticipated revenue generated from Special Promotions and Green Fees.

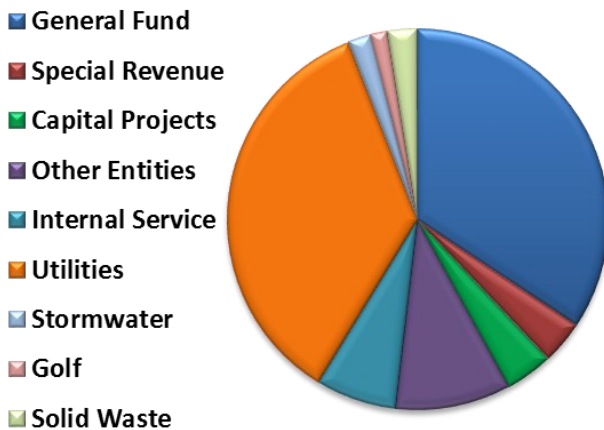
⁵ Lower than anticipated revenue due to timing of sales of assets.

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

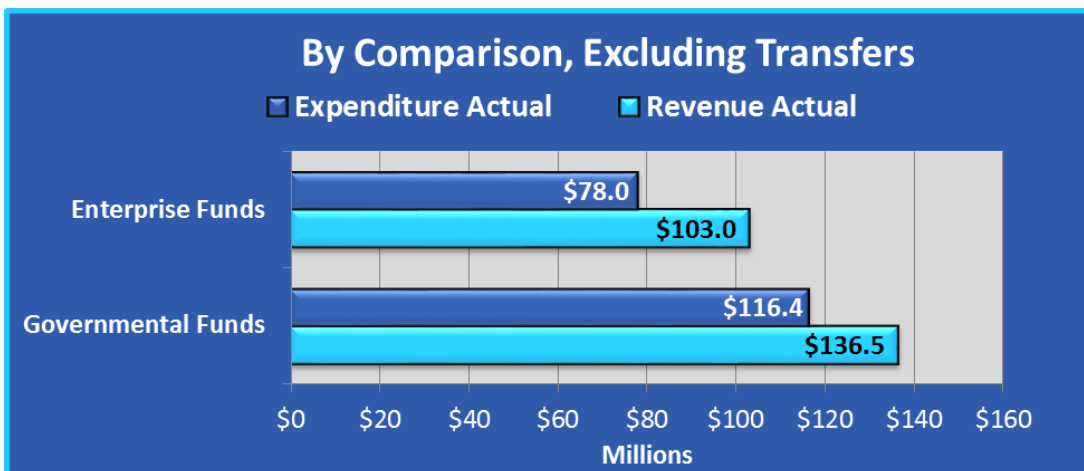
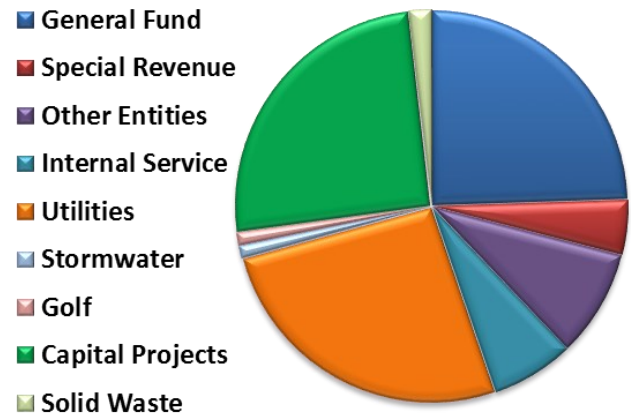
Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority, Loveland Fire and Rescue Authority.

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

YTD Operating Revenues of \$249.6 Million



YTD Operating Expenditures of \$260.3 Million



- ◆ General Fund Revenue, excluding transfers between funds, \$85.7 million (8.4% above budget projections)
 - * 15.3% above 2013 YTD
- ◆ General Fund Expenditures, excluding capital and transfers between funds, \$63.7 million (7.8% below budget projections)
 - * 7.6% above 2013 YTD
- ◆ Water & Power Revenue, excluding transfers between funds, \$88.2 million (6.5% above budget projections)
 - * 12.0% above 2013 YTD
- ◆ Water & Power Expenditures, excluding transfers between funds, \$67.7 million (11.3% below budget projections)
 - * 1.6% above 2013 YTD
- ◆ Other Entities Fund Revenue, excluding transfers between funds, \$24.6 million (6.8% below budget projections)
 - * 89.3% below 2013 YTD
- ◆ Other Entities Expenditures, excluding capital and transfers between funds, \$23.1 million (6.9% below budget projections)
 - * 0.8% above 2013 YTD

General Fund Revenues & Expenditures

P.64

General Fund Revenue & Expenditures December 2014				
REVENUES	Current Month	YTD Actual	YTD Revised Budget	% of Budget
1 Taxes				
2 Property tax	\$ 29,765	\$ 7,534,368	\$ 7,762,450	97.1%
3 Sales tax	3,246,096	39,391,838	38,906,640	101.2%
4 Building use tax	217,712	3,039,002	1,848,780	164.4%
5 Auto use tax	253,764	2,979,656	2,000,000	149.0%
6 Other taxes	89,955	3,290,347	2,837,340	116.0%
7 Intergovernmental	72,709	1,322,171	449,240	294.3% ¹
8 License & Permits				
9 Building Permits	189,720	2,231,783	1,808,000	123.4%
10 Other Permits	(216,595)	366,122	169,600	215.8% ²
11 Charges for Services	1,319,459	15,358,195	15,144,180	101.4%
12 Fines & Forfeitures	82,979	963,454	1,010,100	95.4%
13 Interest Income	44,660	422,677	332,980	126.9%
14 Miscellaneous	615,049	8,815,389	6,825,210	129.2%
15 <i>Subtotal</i>	5,945,272	85,715,003	79,094,520	108.4%
16 Interfund Transfers	9,320	106,560	106,560	100.0%
17 Total Revenue	\$ 5,954,592	\$ 85,821,563	\$ 79,201,080	108.4%
EXPENDITURES				
Operating Expenditures				
18 Legislative	21,759	162,625	153,160	106.2%
19 Executive & Legal	164,478	1,826,297	1,956,560	93.3%
20 City Clerk & Court Admin	63,281	940,577	1,051,380	89.5%
21 Economic Development	1,629,747	5,060,049	8,752,500	57.8%
22 Cultural Services	189,793	1,836,239	2,020,140	90.9%
23 Development Services	382,273	3,624,397	4,192,990	86.4%
24 Finance	385,438	4,585,661	4,860,890	94.3%
25 Fire & Rescue	-	6,523	7,500	0.0%
26 Human Resources	93,086	1,078,991	1,230,190	87.7%
27 Information Technology	242,419	3,351,717	3,806,510	88.1%
28 Library	263,861	2,948,848	3,178,010	92.8%
29 Parks & Recreation	1,009,262	11,156,897	13,122,760	85.0%
30 Police	1,540,930	17,749,898	18,922,610	93.8%
31 Public Works	579,050	5,506,142	5,645,190	97.5%
32 Water/ Waste Operations	-	-	100,350	0.0%
33 Non-Departmental	864,806	8,359,083	9,191,060	90.9%
34 <i>Subtotal Operating</i>	7,430,184	68,193,943	78,191,800	87.2%
35 Internal Transfers	191,557	8,355,185	22,035,170	37.9%
36 Total Expenditures	\$ 7,621,741	\$ 76,549,128	\$ 100,226,970	76.4%

¹ Higher than projected revenue due to FEMA reimbursements for small project and insurance reimbursements.

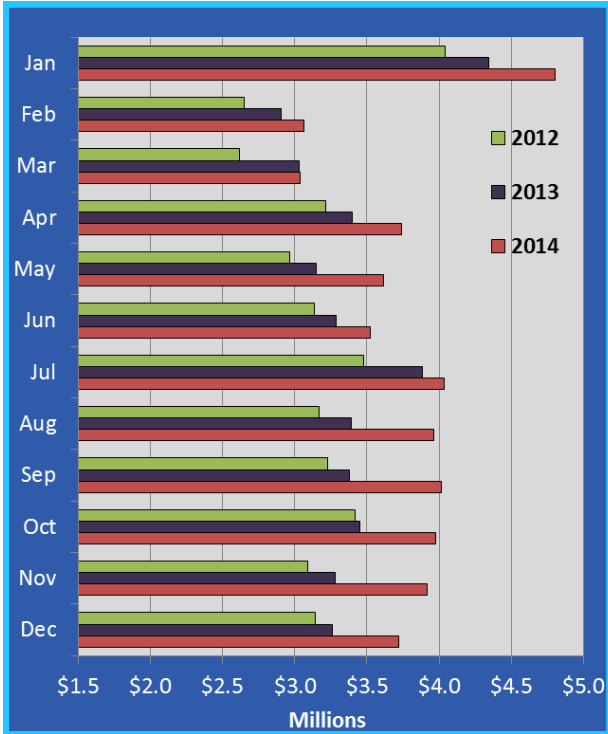
² Higher than projected revenue generated from Development Construction Permits.

Capital Projects \$500,000+

Project Title	2014 Budget	2014 Expenditures	Remaining 2014	% of 2014 Budget
Water Capital				
2013 Flood-48" Water Trans Line-WTP to Hwy 34 Capl	\$ 4,167,303	\$ 3,647,244	\$ 520,059	87.52%
WTP Phase II Expansion (38MGD)	26,436,410	5,271,178	21,165,232	19.94%
36"&20" Wtr Transmission Line River X'ings (capl)	1,500,000	305,409	1,194,591	20.36%
2013 Small Diameter Waterline Replacement	973,590	877,776	95,814	90.16%
Water Line Replacements Project	687,750	660,605	27,145	96.05%
2014 Water Line Replacements- Phase 1	1,729,960	1,355,735	374,225	78.37%
Raw Water Capital				
Windy Gap Firming Project	1,886,770	190,451	1,696,319	10.09%
Purchase CBT Water	1,120,090	-	1,120,090	0.00%
Wastewater Utility Capital				
WWTP Digester System Improvements	3,104,790	815,112	2,289,678	26.25%
Southside Lift Station	529,000	11,349	517,651	2.15%
2014 CIPP Sewer Rehabilitation	1,056,500	-	1,056,500	0.00%
Power Capital				
Idylwilde Dam	2,875,000	-	2,875,000	0.00%
Horseshoe Substation Replace H1 Transformer	750,000	1,174,386	-424,386	156.58%
Colorado Renewable Energy Standard Compliance	500,000	-	500,000	0.00%
Callisto (vault 2716) East along 5th, North on Boyd Lake to railroad crossing	570,000	-	570,000	0.00%
OH to UG Conversion (Circuit 314) from 42nd along Garfield to 57th	890,000	30,016	859,984	3.37%
Horseshoe Substation - new switchgear & transformer install H4	1,150,000	631,440	518,560	54.91%
Extend new feeders from Horseshoe H4 into system	1,000,000	-	1,000,000	0.00%
Stormwater Capital				
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%
2013 Flooding Response	616,700	3,117	613,583	0.51%
Streets Transportation Program				
2014 Street Rehabilitation	5,360,000	4,605,920	754,080	85.93%
Fiber Network to signals and other facilities	976,830	637,431	339,399	65.26%
Boise & 37th Intersection Improvements	796,860	473,024	323,836	59.36%
Small Capital Projects- Citywide (yearly)	685,880	8,510	677,370	1.24%
Miscellaneous Repairs	736,170	5,150	731,020	0.70%
All Other				
Open Lands Acquisition	2,371,000	1,500,000	871,000	63.26%
Fire Station 2 Relocation	3,841,740	3,625,312	216,428	94.37%
Fire- Aerial Platform Truck	1,458,610	485,844	972,766	33.31%
Police RMS (Communications)	3,000,000	22,000	2,978,000	0.73%
Barnes Park Field Lighting	610,000	2,803	607,197	0.46%
Mehaffy Park	8,694,190	6,666,985	2,027,205	76.68%
Telephone Switch Replacement	\$ 750,000	\$ 523,621	\$ 226,379	69.82%



Sales & Use Tax

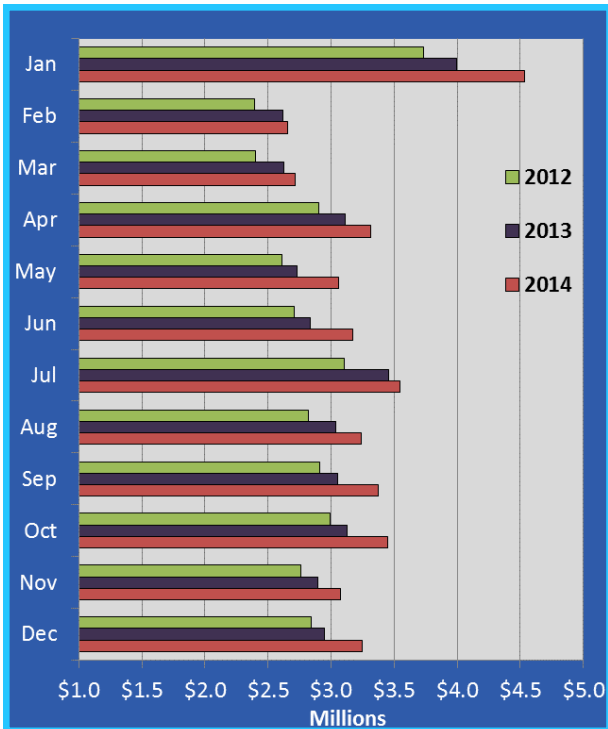


	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 4,039,678	\$ 4,345,835	\$ 4,801,433	\$ 4,459,360	7.7%
Feb	2,649,229	2,906,780	3,066,965	2,973,250	3.2%
Mar	2,618,052	3,033,347	3,037,688	3,074,180	-1.2%
Apr	3,215,437	3,397,074	3,737,255	3,633,800	2.8%
May	2,966,032	3,150,201	3,614,459	3,298,790	9.6%
Jun	3,136,015	3,284,808	3,525,536	3,435,130	2.6%
Jul	3,480,123	3,882,561	4,038,555	3,832,510	5.4%
Aug	3,171,055	3,392,757	3,962,915	3,550,120	11.6%
Sep	3,225,155	3,379,303	4,014,321	3,576,270	12.2%
Oct	3,421,098	3,452,052	3,974,590	3,757,520	5.8%
Nov	3,092,095	3,280,666	3,919,205	3,436,030	14.1%
Dec	3,142,793	3,259,189	3,717,573	3,728,460	-0.3%

\$38,156,762 \$ 40,764,572 \$45,410,495 \$42,755,420

YTD \$38,156,762 \$ 40,764,572 \$45,410,495 \$42,755,420 6.2%

Retail Sales Tax



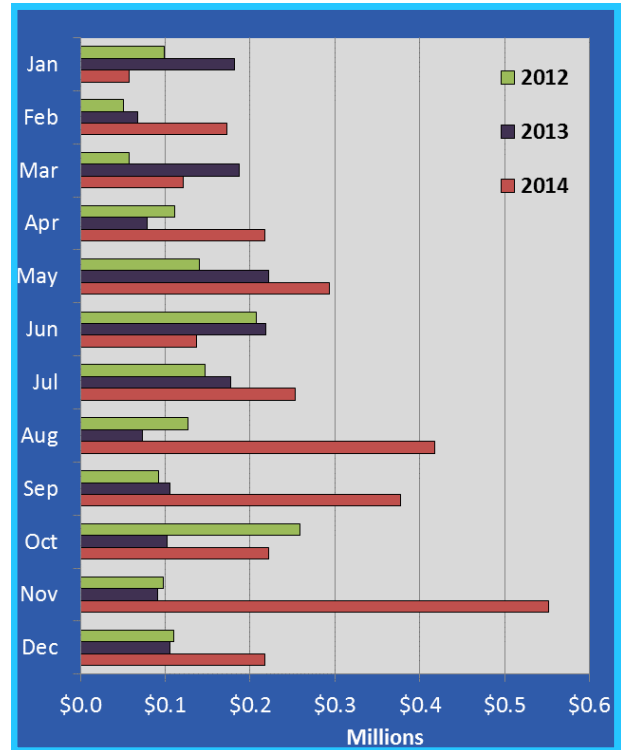
	2012	2013	2014	2014 Budget	+ / - Budget
Jan	\$ 3,733,309	\$ 3,995,194	\$ 4,531,650	\$ 4,192,160	8.1%
Feb	2,390,409	2,619,453	2,658,798	2,698,090	-1.5%
Mar	2,403,380	2,622,808	2,719,254	2,737,490	-0.7%
Apr	2,905,558	3,109,701	3,317,905	3,309,560	0.3%
May	2,614,500	2,733,983	3,059,076	2,966,740	3.1%
Jun	2,711,906	2,835,171	3,170,467	3,119,270	1.6%
Jul	3,105,564	3,453,149	3,546,945	3,492,520	1.6%
Aug	2,823,319	3,039,219	3,241,521	3,214,360	0.8%
Sep	2,909,008	3,051,797	3,374,248	3,236,980	4.2%
Oct	2,991,033	3,125,566	3,448,473	3,402,460	1.4%
Nov	2,757,932	2,892,986	3,077,404	3,123,880	-1.5%
Dec	2,841,959	2,946,709	3,246,097	3,413,130	-4.9%

\$34,187,877 \$ 36,425,736 \$39,391,838 \$38,906,640

YTD \$34,187,877 \$ 36,425,736 \$39,391,838 \$38,906,640 1.2%

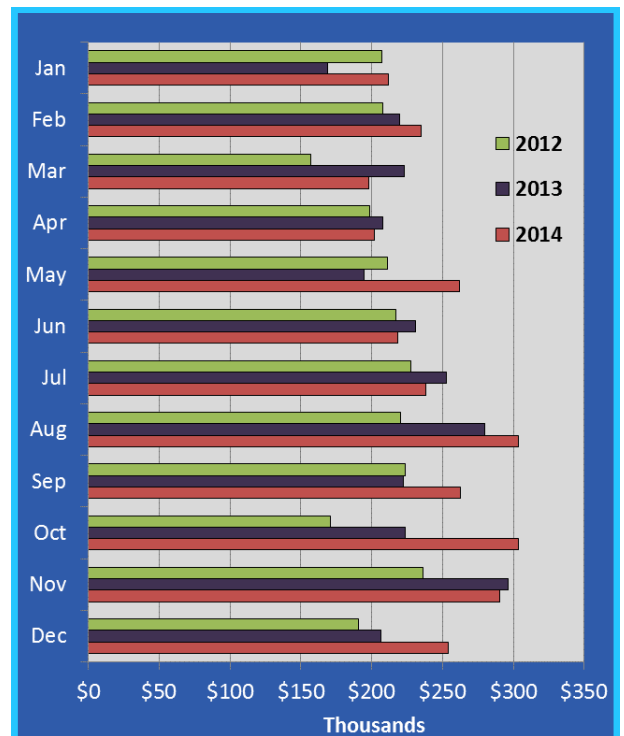
Building Materials Use Tax

	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	217,134	158,210	37.2%
May	140,470	221,834	293,543	156,550	87.5%
Jun	207,024	218,722	136,432	162,080	-15.8%
Jul	146,570	176,829	253,077	161,510	56.7%
Aug	127,261	73,524	417,801	153,690	171.8%
Sep	92,415	105,174	377,319	155,700	142.3%
Oct	259,279	102,584	222,297	170,910	30.1%
Nov	97,778	91,453	551,682	140,530	292.6%
Dec	110,414	105,740	217,712	161,790	34.6%
	\$1,500,064	\$1,611,658	\$3,039,002	\$1,848,780	
YTD	\$1,500,064	\$1,611,658	\$3,039,002	\$1,848,780	64.4%

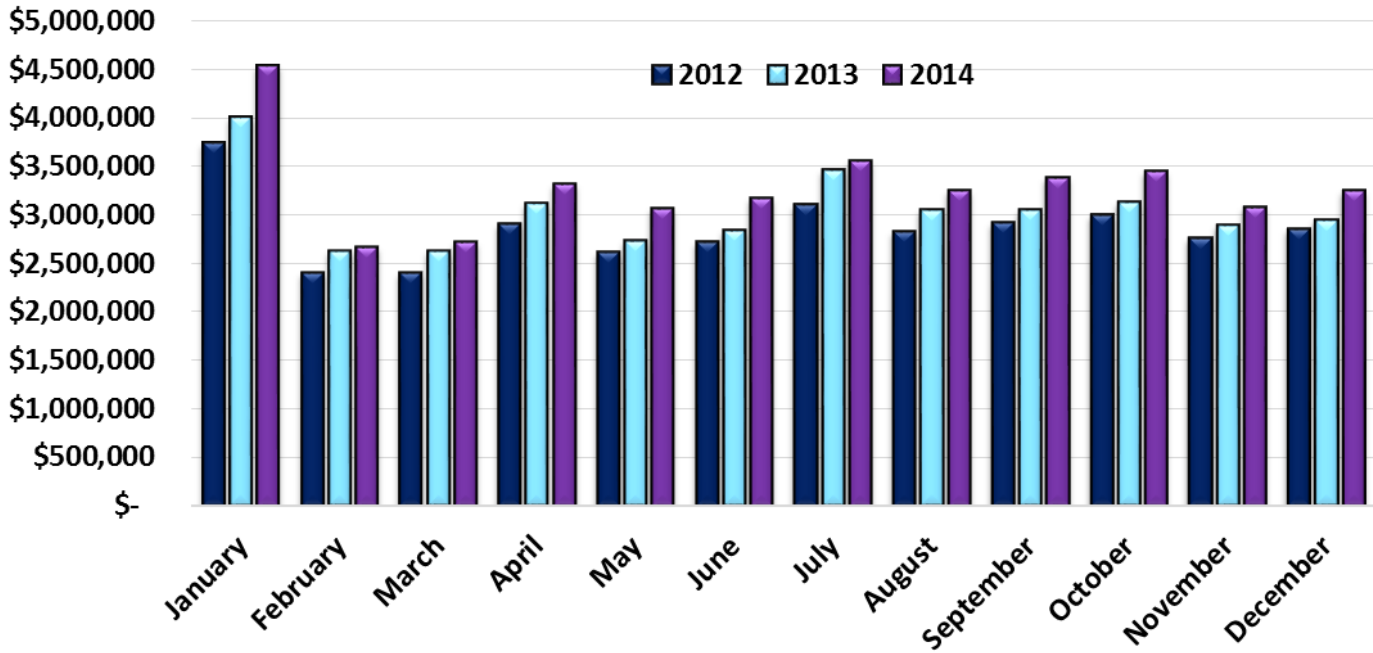


Motor Vehicle Use Tax

	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	202,216	166,030	21.8%
May	211,062	194,384	261,840	175,500	49.2%
Jun	217,084	230,915	218,637	153,780	42.2%
Jul	227,989	252,583	238,533	178,480	33.6%
Aug	220,475	280,014	303,593	182,070	66.7%
Sep	223,732	222,332	262,754	183,590	43.1%
Oct	170,786	223,902	303,820	184,150	65.0%
Nov	236,385	296,227	290,119	171,620	69.0%
Dec	190,420	206,740	253,764	153,540	65.3%
	\$2,468,821	\$2,727,178	\$2,979,655	\$2,000,000	
YTD	\$2,468,821	\$2,727,178	\$2,979,655	\$2,000,000	49.0%



Sales Tax Pre-Flood/Post Flood



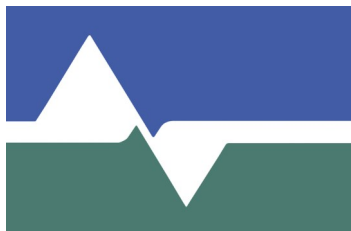
	<u>Pre-Flood</u>		<u>Post-Flood</u>	
	<u>2012</u>	<u>2013</u>	<u>2014</u>	
January	\$ 3,733,309	\$ 3,995,194	\$ 4,531,650	
February	2,390,409	2,619,453	2,658,798	
March	2,403,380	2,622,808	2,719,254	
April	2,905,558	3,109,701	3,317,905	
May	2,614,500	2,733,983	3,059,076	
June	2,711,906	2,835,171	3,170,467	
July	3,105,564	3,453,149	3,546,945	
August	2,823,319	3,021,900	3,241,521	
September	2,909,008	3,051,797	3,374,248	
October	2,991,034	3,125,566	3,448,473	
November	2,757,932	2,892,986	3,077,404	
December	2,841,959	2,946,709	3,246,097	
YTD	\$ 34,187,878	\$ 36,425,736	\$ 39,391,838	

Cost Estimates	
Emergency Response	\$ 2,000,000
Business Assistance	600,000
Capital	23,100,000
Total	\$ 25,700,000

Actual Expenditures		
	December	To Date
Total	2,013,963	16,811,423

Reimbursements Applied For		
	December	To Date
FEMA	\$ -	\$ 9,267,580
CIRSA	-	6,920,480
Other	-	247,471
Total	\$ -	\$ 16,435,531

Reimbursements Received		
	December	To Date
FEMA	\$ 40,006	\$ 4,189,465
CIRSA	22,137	6,920,480
Other	-	247,471
Total	\$ 62,143	\$ 11,357,417

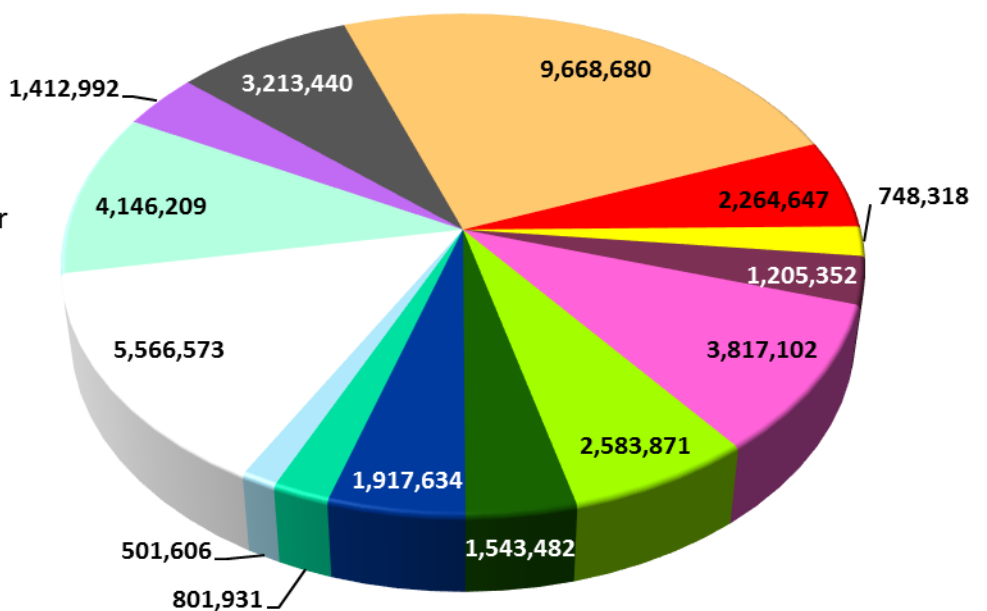


Geographical Codes

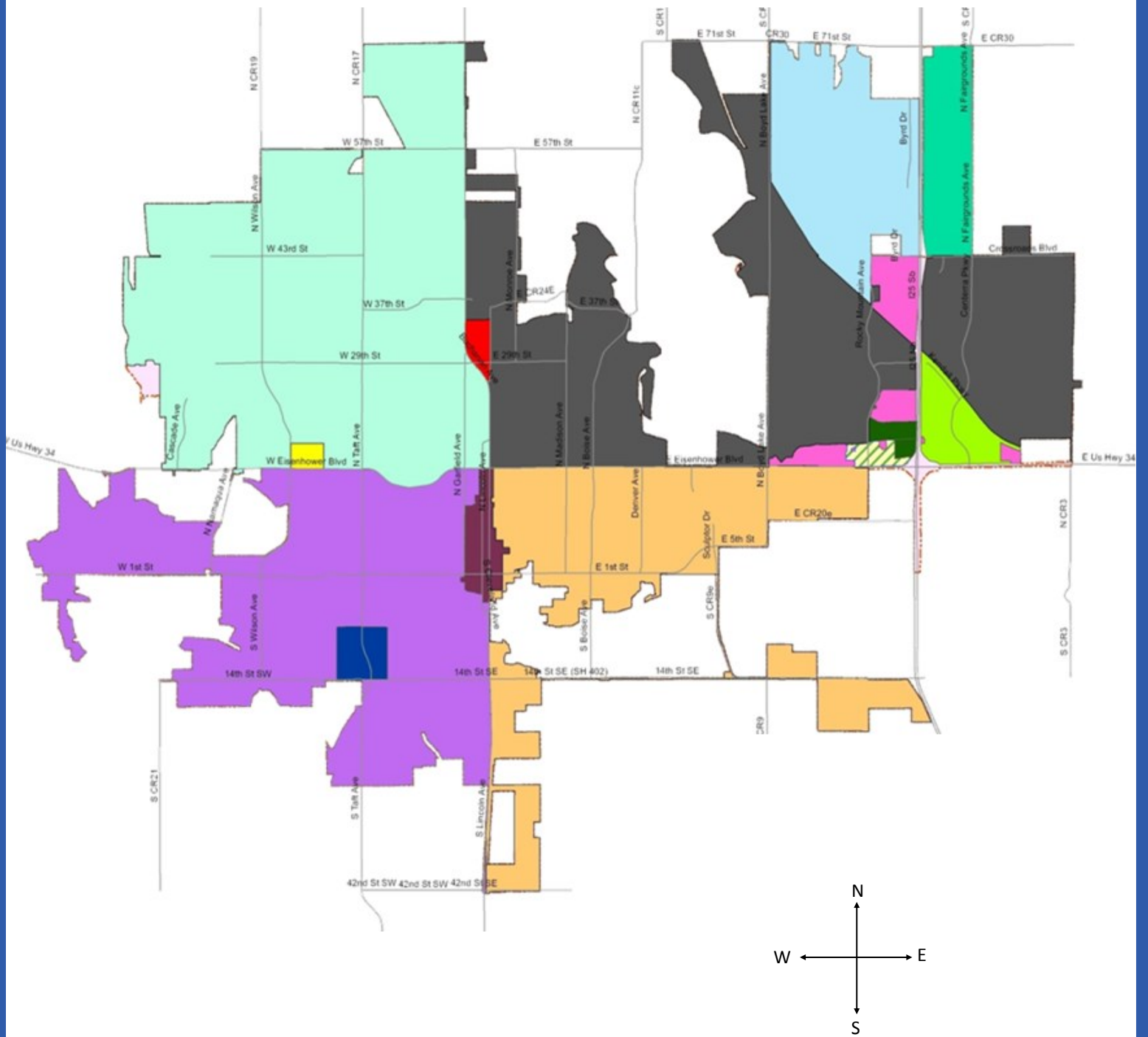
Geographical Area	YTD 2014	YTD 2013	Change
South East Loveland	9,668,680	9,017,274	7.2%
North West Loveland	4,146,209	4,019,672	3.1%
Centerra	3,817,102	3,691,747	3.4%
North East Loveland	3,213,440	2,782,776	15.5%
Promenade Shops	2,583,871	2,350,690	9.9%
Orchards Shopping Center	2,264,647	2,333,607	-3.0%
Thompson Valley Shopping Center	1,917,634	1,733,377	10.6%
Outlet Mall	1,543,482	1,447,627	6.6%
South West Loveland	1,412,992	1,235,744	14.3%
Downtown	1,205,352	1,114,060	8.2%
The Ranch	801,931	706,374	13.5%
Columbine Shopping Center	748,318	737,779	1.4%
Airport	501,606	413,639	21.3%
All Other Areas (1)	5,566,574	4,841,370	15.0%
Total	\$39,391,838	\$36,425,736	8.1%

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

- █ North West Loveland
- █ North East Loveland
- █ Orchards Shopping Center
- █ Downtown
- █ Promenade Shops
- █ Thompson Valley Shopping Center
- █ Airport
- █ South West Loveland
- █ South East Loveland
- █ Columbine Shopping Center
- █ Centerra
- █ Outlet Mall
- █ The Ranch
- █ All Other Areas



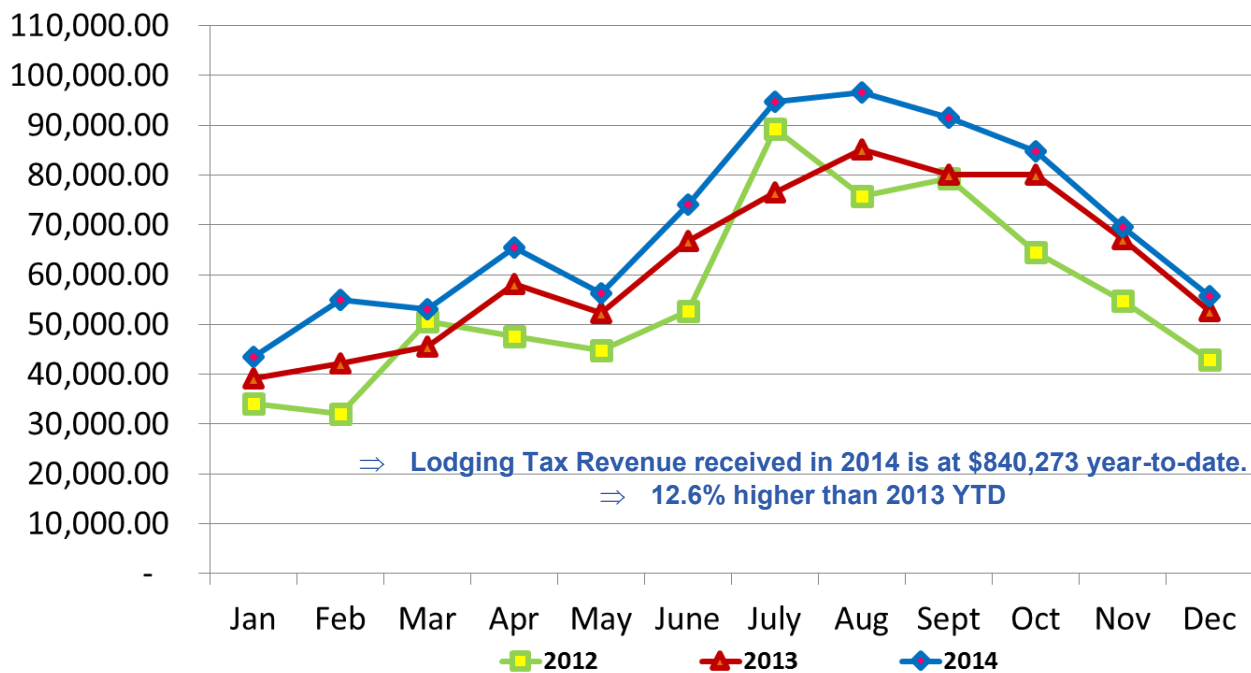
Map →



Sales Tax Collections

Description	YTD 2014	YTD 2013	\$ Change	% Change	% of Total	Total %
Department Stores & General Merchandise	\$ 8,034,830	\$ 7,911,490	\$ 123,340	1.6%	20.4%	20.4%
Restaurants & Bars	5,118,434	4,715,323	403,111	8.5%	13.0%	33.4%
Grocery Stores & Specialty Foods	3,869,847	3,622,745	247,102	6.8%	9.8%	43.2%
Motor Vehicle Dealers, Auto Parts & Leasing	2,967,934	2,582,659	385,275	14.9%	7.5%	50.7%
Building Material & Lawn & Garden Supplies	2,948,406	2,461,189	487,217	19.8%	7.5%	58.2%
Clothing & Clothing Accessories Stores	2,886,617	2,669,120	217,497	8.1%	7.3%	65.6%
Utilities	1,893,751	1,815,154	78,597	4.3%	4.8%	70.4%
Sporting Goods, Hobby, Book & Music Stores	1,743,246	1,926,207	(182,961)	-9.5%	4.4%	74.8%
Broadcasting & Telecommunications	1,413,924	1,290,596	123,328	9.6%	3.6%	78.4%
Used Merchandise Stores	1,393,372	1,117,068	276,304	24.7%	3.5%	81.9%
Hotels, Motels & Other Accommodations	970,884	829,303	141,581	17.1%	2.5%	84.4%
Beer, Wine & Liquor Stores	965,143	894,914	70,229	7.8%	2.5%	86.8%
Consumer Goods & Commercial Equipment Rental	762,589	734,310	28,279	3.9%	1.9%	88.8%
Electronic Shopping & Mail-Order Houses	660,195	465,353	194,842	41.9%	1.7%	90.4%
Health & Personal Care Stores	641,031	602,462	38,569	6.4%	1.6%	92.1%
Electronics & Appliance Stores	566,310	479,158	87,152	18.2%	1.4%	93.5%
Furniture & Home Furnishing Stores	521,989	474,919	47,070	9.9%	1.3%	94.8%
Gasoline Stations with Convenience Stores	391,119	312,917	78,202	25.0%	1.0%	95.8%
Office Supplies, Stationery & Gift Stores	344,425	324,513	19,912	6.1%	0.9%	96.7%
All Other Categories	1,297,792	1,196,336	101,456	8.5%	3.3%	100.0%
Total	\$ 39,391,838	\$ 36,425,736	\$ 2,966,102	8.1%	100.0%	

Lodging Tax

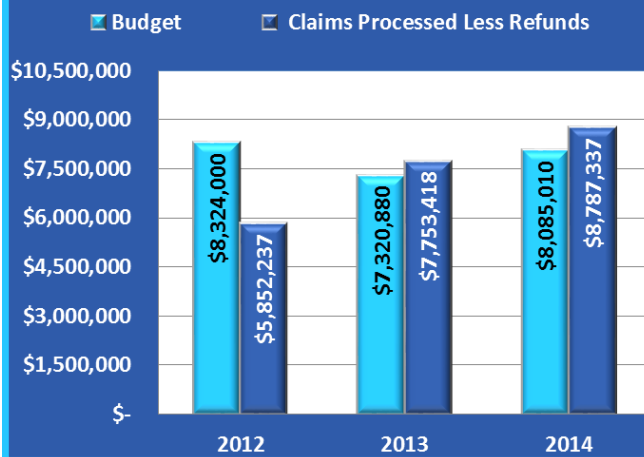


Claims Incurred

		OAP	HRA	Total
2014	Dec	772,384	123,738	896,122
	YTD	8,085,506	2,280,823	10,366,329
2013	Dec	536,974	98,149	635,123
	YTD	6,345,462	1,678,669	8,024,131
Change	Dec	235,410	25,589	260,999
	% Dec	43.8%	26.1%	41.1%
	YTD	1,740,044	602,154	2,342,199
	% YTD	27.4%	35.9%	29.2%

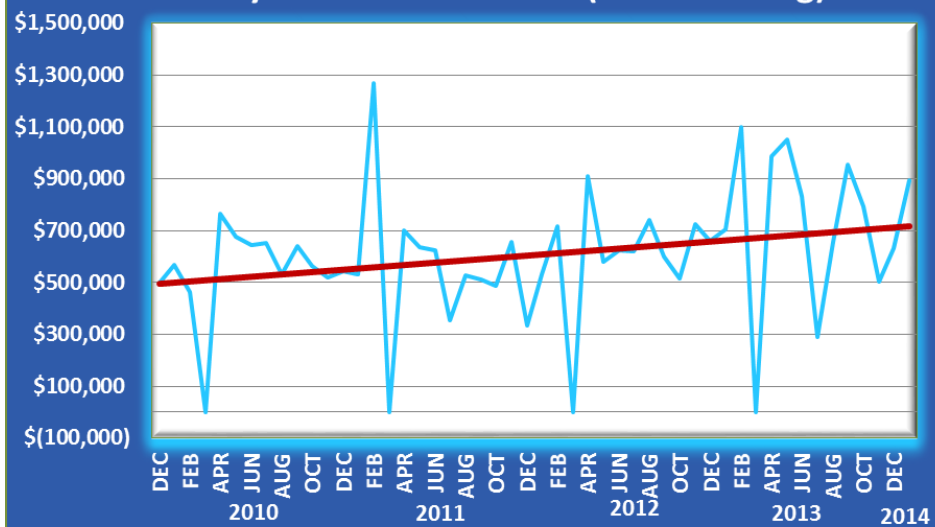
- ⇒ HRA—Health Reimbursement Arrangement
- ⇒ OAP—Open Access Plan

YTD Claims Processed Less Refunds 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)

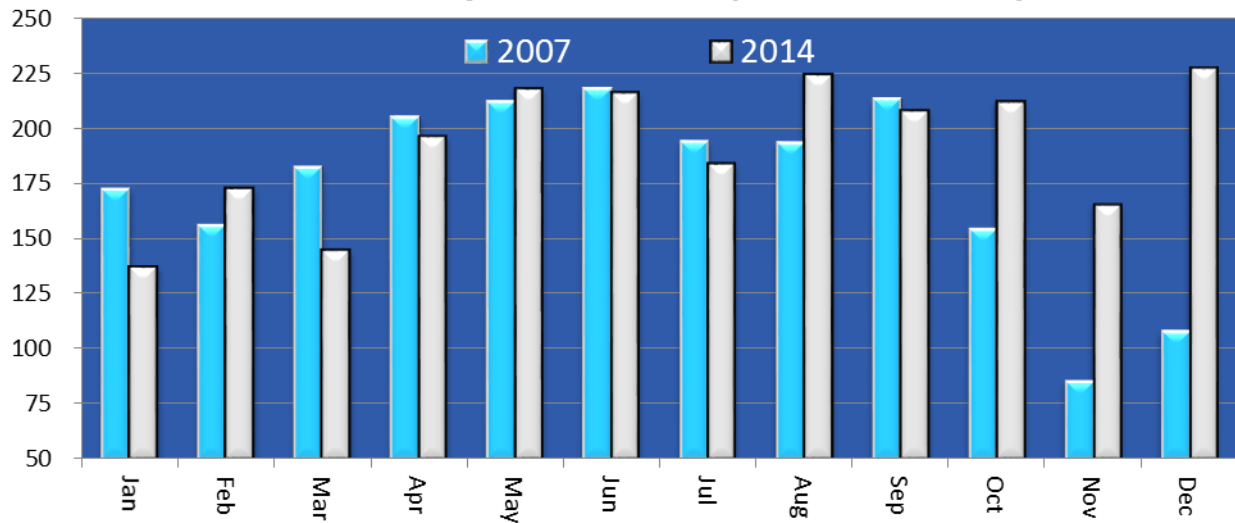


Comparison of YTD Claims Over \$25k

December	2011	2012	2013	2014
# of claims	66	51	69	77
YTD Cost of high claims	\$3,376,922	\$2,780,612	\$4,005,604	\$6,414,786

- ⇒ 2014 # of StopLoss claims: 7
- ⇒ Projected YTD Reimbursements: \$1,579,285
(claims over \$150k paid by StopLoss Carrier)

Building Permit Comparison History

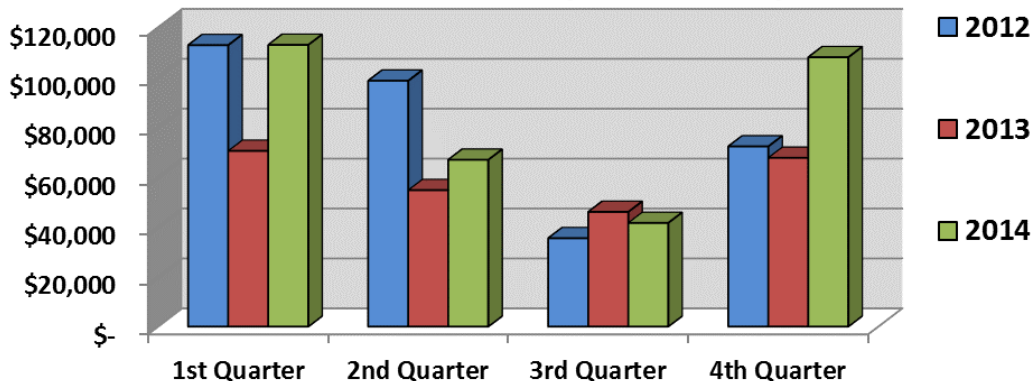


Measures	Dec 2012	Dec 2013	Dec 2014	2012 YTD	2013 YTD	2014 YTD
# of Building Permits	154	153	227	2,212	2,085	2,305
Building Permit Valuations	\$7,543,284	\$7,543,180	\$15,652,351	\$ 134,290,222	\$155,023,820	\$ 255,911,918
# of Certified Occupancies	36	9	42	350	315	294
Net # of Sales Tax Licenses	13	(7)	14	(54)	(302)	(73)
New Residential Electric Meter Sets	95	38	45	359	298	332
# of Utility Bills Sent	36,347	36,588	37,208	433,607	438,510	443,362
Rounds of Golf	694	875	2,607	122,849	107,534	112,178
\$ Average Health Claim Costs/Emp.	\$366	\$973	\$1,098	\$ 814	\$ 1,025	\$ 1,276
KWH Demand (kH)	101,596	105,191	109,464	1,292,209	1,328,171	1,306,199
KWH Purchased (kwh)	62,688,462	64,750,816	66,032,658	742,506,716	752,038,685	699,153,551
Gallons of Water Sold	151,780,723	156,219,108	147,884,373	4,190,277,746	3,423,021,352	3,503,149,438
# of Workers' Comp Claims 2014	4	10	4	98	114	86
\$ of Workers' Comp Claims Paid 2014	\$90,907	\$28,729	\$20,882	\$ 614,053	\$ 534,132	\$ 589,937
# of Total Open Claims	10	23	14	<i>Not Cumulative</i>		
\$ of Total Open Claims	216,104	360,246	243,315	<i>Not Cumulative</i>		
\$ of Lodging Tax Collected	\$42,945	\$52,733	\$55,619	\$ 668,591	\$ 746,135	\$ 840,272

City of Loveland
Statement of Results of Operations for Rialto Theatre Center
 For Quarter Ending 12/31/2014

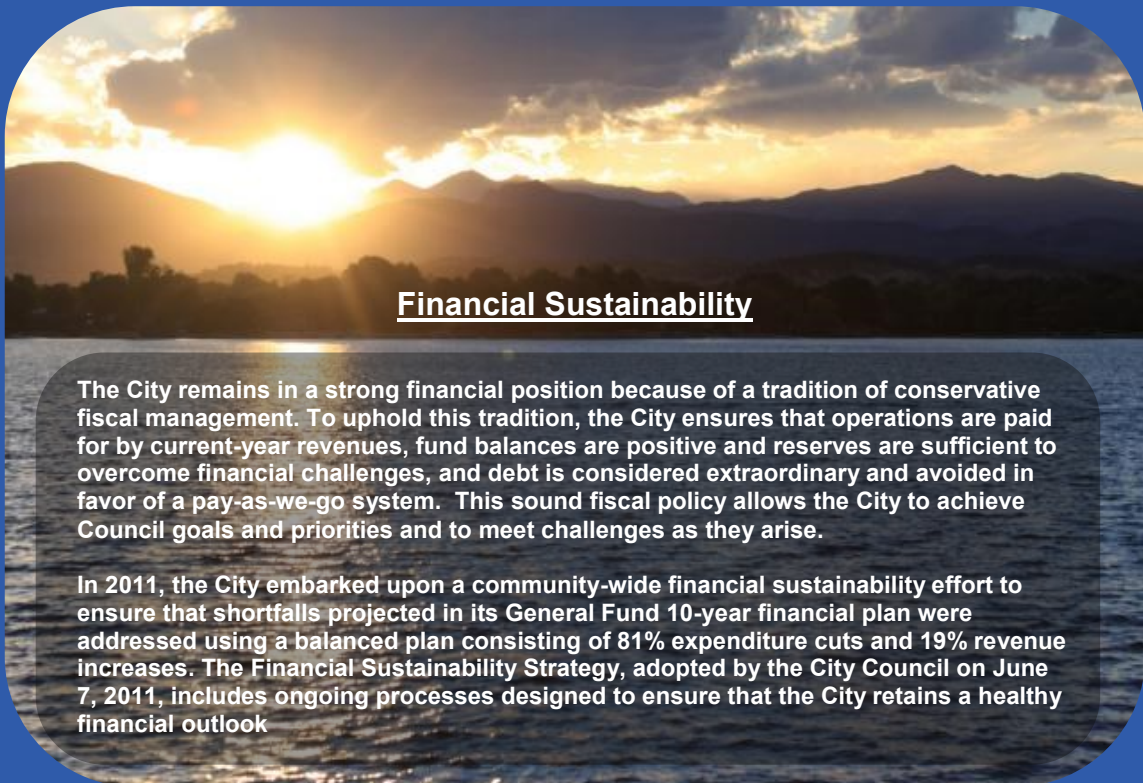
	YTD Amount	YTD Budget	% of Budget	2013 YTD	Change from Prior Year
Rialto Theatre					
Rialto Theatre Revenues					
Revenues from Operations	222,247	195,200	113.86%	187,129	18.77%
Gifts/Donations	25,193	32,000	78.73%	-	0.00%
Transfers from Lodging Tax Fund	25,000	25,000	100.00%	25,000	0.00%
Total Rialto Theatre Revenues	272,440	252,200	108.03%	212,129	28.43%
Rialto Theatre Expenses					
Personnel Costs	231,161	298,255	77.50%	230,409	0.33%
Supplies	19,077	25,647	74.38%	38,931	-51.00%
Purchased Services	142,891	154,955	92.21%	99,768	43.22%
Capital Outlay	27,419	17,943	0.00%	7,137	284.18%
Total Direct Costs	420,548	496,800	84.65%	376,245	11.77%
Administrative Allocations	146,140	146,140	100.00%	97,150	0.00%
Total Rialto Theatre Expenses	566,688	642,940	88.14%	473,395	19.71%
Rialto Theatre Net Income (Loss)	(294,248)	(390,740)	75.31%	(261,266)	12.62%
Rialto Event Center					
Rialto Event Center Revenues					
Revenues from Operations	20,562	27,120	75.82%	26,580	-22.64%
Gifts/Donations	-	5,000	0.00%	-	0.00%
Total Event Center Revenues	20,562	32,120	64.02%	26,580	-22.64%
Rialto Event Center Expenses					
Personal Services	37,407	47,930	78.05%	74,372	-49.70%
Supplies	312	800	38.99%	9,314	-96.65%
Purchased Services	48,523	54,210	0.00%	44,062	10.12%
Capital Outlay	-	-	-	-	0.00%
Total Rialto Event Center Expenses	86,242	102,940	83.78%	127,747	-32.49%
Rialto Event Center Net Income (Loss)	(65,680)	(70,820)	92.74%	(101,167)	-35.08%
Grand Total Rialto Theatre Center Revenues	293,002	284,320	103.05%	238,710	22.74%
Grand Total Rialto Theatre Center Expenses	652,930	745,880	87.54%	601,143	8.61%
Rialto Theatre Center Net Income (Loss)	(359,928)	(461,560)	77.98%	(362,433)	-0.69%

Rialto Theater Center Quarterly Revenue Comparison



Snapshot

Monthly Financial Report



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

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(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 9
MEETING DATE: 2/17/2015
TO: City Council
FROM: Alan Krcmarik, Executive Fiscal Advisor
PRESENTER: Alan Krcmarik, Executive Fiscal Advisor

TITLE:

Investment Report for December 2014

RECOMMENDED CITY COUNCIL ACTION:

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

SUMMARY:

The 2014 budget projection for investment earnings for 2014 was \$2,025,920. On the portfolio's January beginning balance this equates to an annual interest rate of 0.94%. For December, the amount posted to the investment account is \$201,852. For the year-to-date, the amount posted is \$1,968,423. Actual earnings are below the year-to-date budget projection by 1.63%. In addition to the interest received, the City also received a services credit on banking services of \$66,000, putting the combined total over the annual target. Based on the monthly statement, the estimated annualized yield in December on the securities held by US Bank was 1.08%. Due to draws from fund balances to pay for the cost scheduled capital projects and flood response and project repair, the portfolio is about \$6 million lower than December 2013 and \$17 million lower than the pre-flood peak.

BACKGROUND:

At the end of December the City's portfolio had an estimated market value of \$209.2 million, about \$3.3 million less than a month ago. Of this amount, US Bank held \$188.6 million (including accrued interest) in trust accounts; other funds are held in local government investment pools, in operating accounts at First National Bank, and a few other miscellaneous accounts. Interest rates trended to all-time record lows in 2012 – 2013 before rising in the second half of 2014. In recent months, they have again reached record lows. Short-term rates are projected to rise starting around the middle of 2015. City investments are in US Treasury Notes, high-rated US Agency Bonds, highly-rated corporate bonds, money market accounts, insured certificates of deposit 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. Cahill

LIST OF ATTACHMENTS:

1. Investment Focus-December 2014

Lowland Municipal Building

Investment Focus

Monthly Investment Report

December 2014

What's in here?

Focal Points	1
Gain / Loss	
Cheaper Oil	
Rate Trends	2
Cash Statement	3
Portfolio Size /	4
Investment Types	
Transactions /	5
Maturity	
Labor Data	6-7
Future Scan	8

Focal Points

- * **2014 targets for the City's portfolio:**
1) interest rate = **0.94%**; 2) earnings = **\$2,025,920**.
- * **City investments are in high-quality low-risk securities to comply with state law and the City's adopted investment policy.**
- * **Interest earnings posted for the month totaled \$201,852.**
- * **Revenue posted Year-to-Date = **1.6% under target**.**
- * **Each 1% of market value amounts to nearly \$2.1 million.**
- * **Month end market value shows the unrealized loss is now an estimated **\$1,329,369** at the end of December.**

Why Cheaper Oil Doesn't Always Lead to Economic Growth

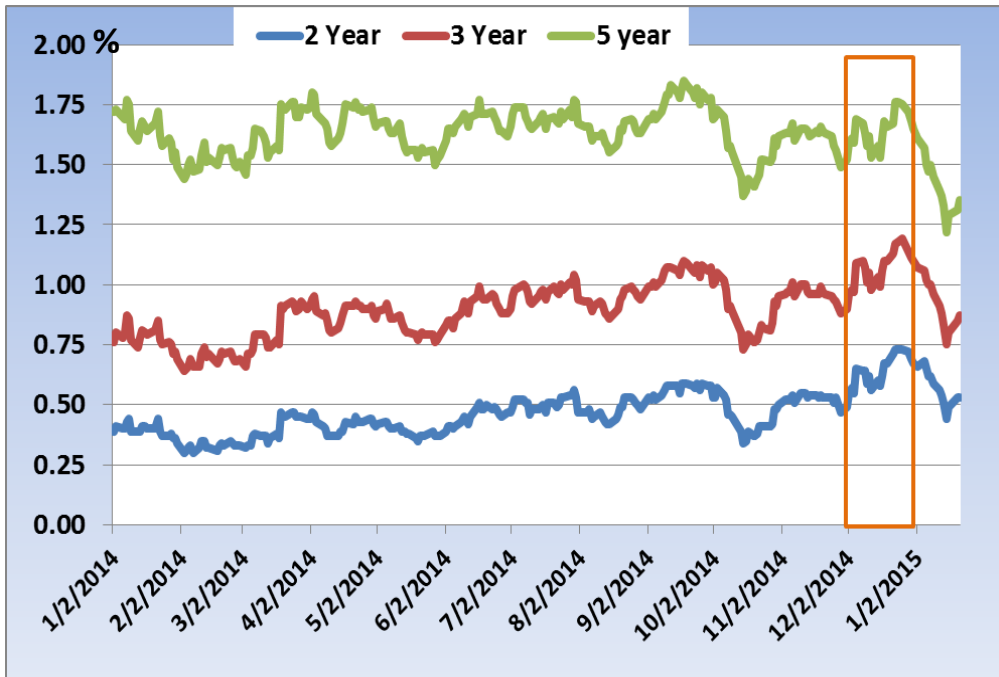
"Tumbling oil prices were supposed to boost growth in a host of major oil-importing economies. It isn't necessarily working out that way. Some governments have moved already to shore up their revenues by raising gasoline taxes or cutting fuel subsidies. At the same time, falling oil costs have pumped up deflation fears across Europe and Japan, adding to the risk that consumers and businesses will hold back on spending and investment, dragging on growth."

continued on page 2

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

Type of Investment	Purchase Price	Market Price	Unrealized Gain or Loss
Checking Accounts	\$ 11,011,809	\$ 11,011,809	-
Investment Pools	\$ 9,522,548	\$ 9,522,548	-
Money Markets	\$ 10,870,200	\$ 10,870,200	-
Subtotal	\$ 31,404,557	\$ 31,404,557	-
Notes, Bonds, and CDs	\$ 179,088,241	\$ 177,758,872	\$ (1,329,369)
Total Portfolio	\$ 210,492,798	\$ 209,163,429	\$ (1,329,369)
Data sources	(Morgan Stanley)	(US Bank)	

Treasury rate trends / Auto sector improves



Interest rates on U.S. Treasuries rose at the end of December. The 2-year was up 20 basis points, the 3-year was up 22, and the 5-year treasury was up 16 basis points.

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

Continued from page 1

Headwinds

The IMF has lowered its growth forecasts for some economies, despite halving its oil-price assumptions, due to other economic factors.

PROJECTED CHANGE IN GDP FOR 2015



Source: IMF

The Wall Street Journal

Source: Article by Ian Talley and Brian Spegele, in the February 4, 2015 edition of THE WALL STREET JOURNAL.

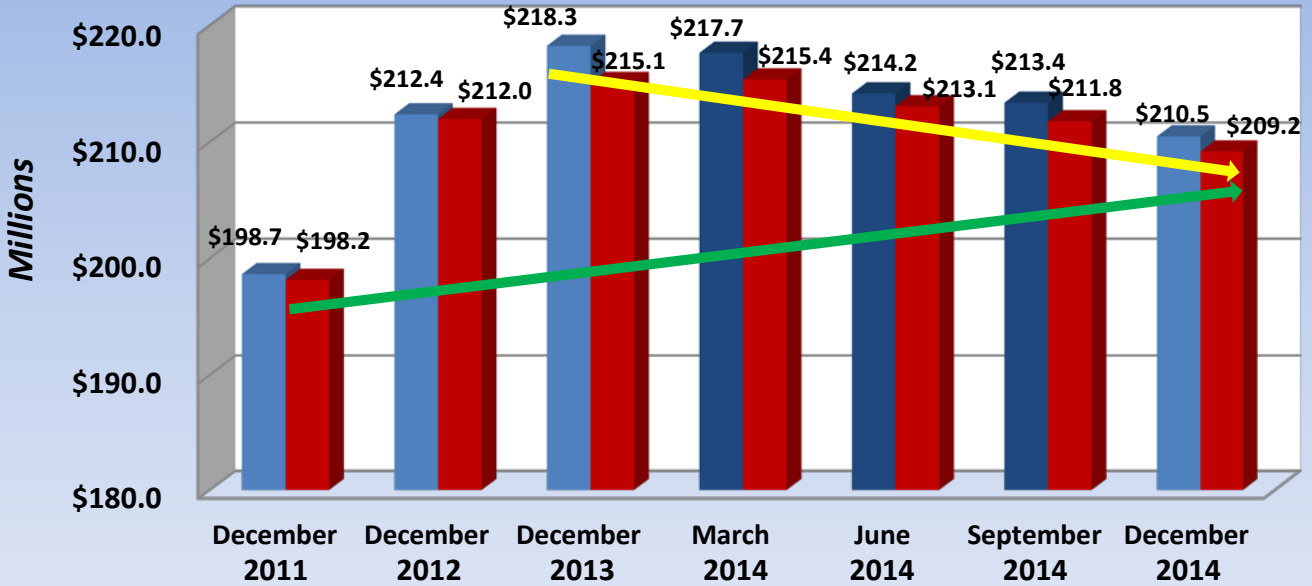
Bottom line: 3.9% below beginning balance

		2014 Beginning	YTD Activity	Month End Total
Restricted Reserves				
1	Capital Expansion Fees	\$ 34,039,809	\$ (6,682,435)	\$ 27,357,375
2	Water System Improvement Fees	8,688,911	(364,221)	8,324,691
3	Raw Water Revenue - Windy Gap	22,950,353	740,919	23,691,272
4	Wastewater System Imp. Fees	5,585,617	975,807	6,561,424
5	Storm Drainage System Imp. Fees	1,322,008	427,816	1,749,824
6	Power Plant Investment Fees	3,649,774	(269,488)	3,380,285
7	Cemetery Perpetual Care	2,717,271	79,592	2,796,863
8	Other Restricted	34,992,332	(3,401,634)	31,590,697
9	Total Restricted	\$ 113,946,075	\$ (8,493,645)	\$ 105,452,430
Committed / Assigned				
10	General Fund	\$ 11,224,908	\$ 2,829	\$ 11,227,737
11	Enterprise Funds	5,378,529	(97,882)	5,280,647
12	Internal Service Funds	19,704,008	(3,511,574)	16,192,434
13	Total Committed / Assigned	\$ 36,307,445	\$ (3,606,627)	\$ 32,700,818
14	Total Restricted/Committed/Assigned	\$ 150,253,520	\$ (12,100,272)	\$ 138,153,248
Unassigned Balance				
15	General Fund	\$ 29,263,846	\$ 4,775,269	\$ 34,039,115
16	Airport	1,200,770	557,489	1,758,259
17	Internal Service - Vehicle Maint.	77,200	(64,073)	13,127
18	Enterprise Funds	36,636,506	(1,553,091)	35,083,415
19	Total Unassigned	\$ 67,178,322	\$ 3,715,594	\$ 70,893,916
20	TOTAL FUND BALANCE	\$ 217,431,842	\$ (8,384,678)	\$ 209,047,164

Source: City of Loveland Budget Office
 Due to rounding, column and row totals may not add exactly.

Portfolio Growth Trend / Types of Investments

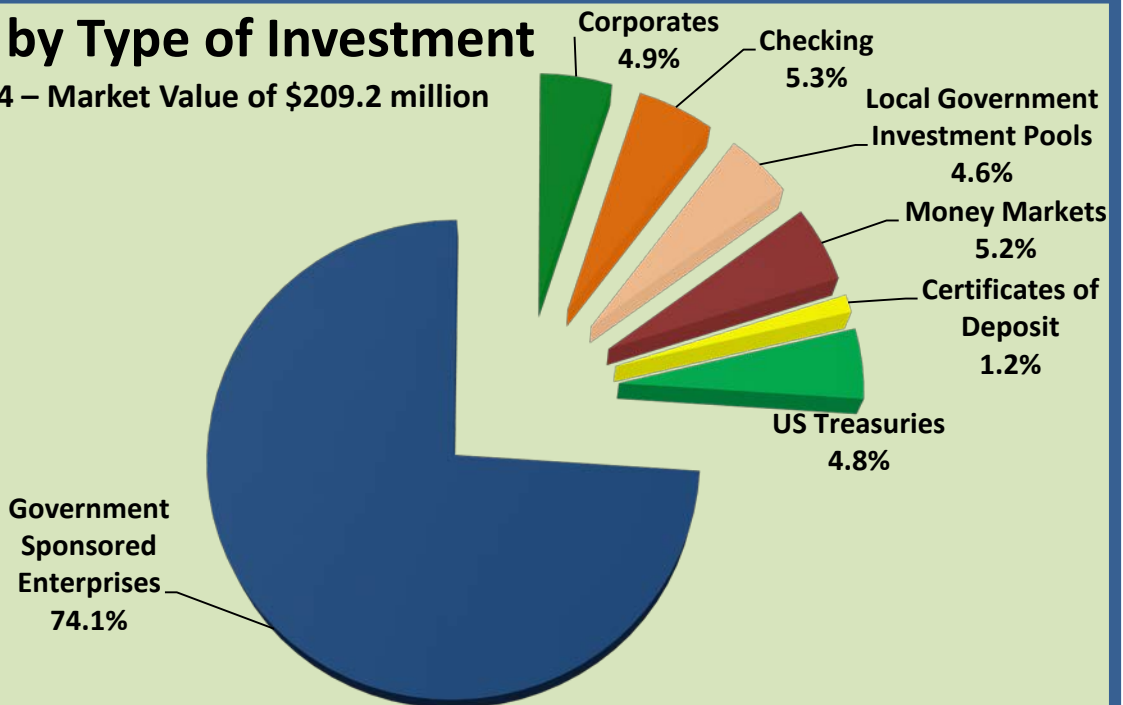
Portfolio Size Since December 2011



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

Portfolio by Type of Investment

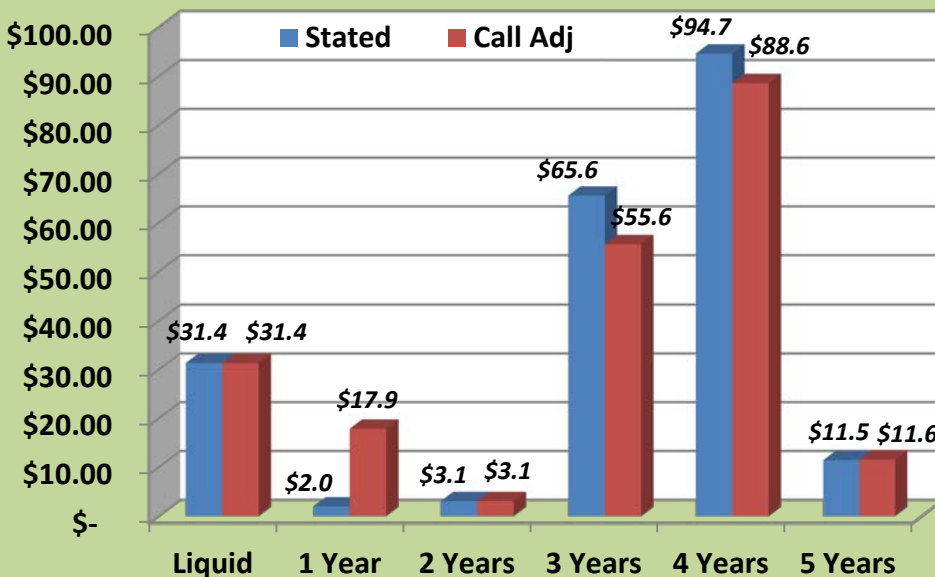
December 2014 – Market Value of \$209.2 million



Transactions / Portfolio by Maturity

	Maturity Date	Face Value	Purchase \$	Stated Rate
Purchases				
Federal Home Loan Bank	06/14/2018	\$ 5,000,000.00	\$ 5,000,000.00	1.450%
U.S. Treasury Note	11/30/2019	\$ 3,000,000.00	\$ 2,970,000.00	1.500%
Matured				
None this month				
Called			<u>Call Value \$</u>	
None this month				
Sales			<u>Gain \$</u>	
None this month				

Portfolio by Estimated Maturity Term
(in millions - Total = \$209.2 at the end of December)



The target interest earnings rate for 2014 was 0.94%. Rates have been volatile over recent months and reached all-time lows for the 10-year treasury. The portfolio earnings finished below the target level for 2014.

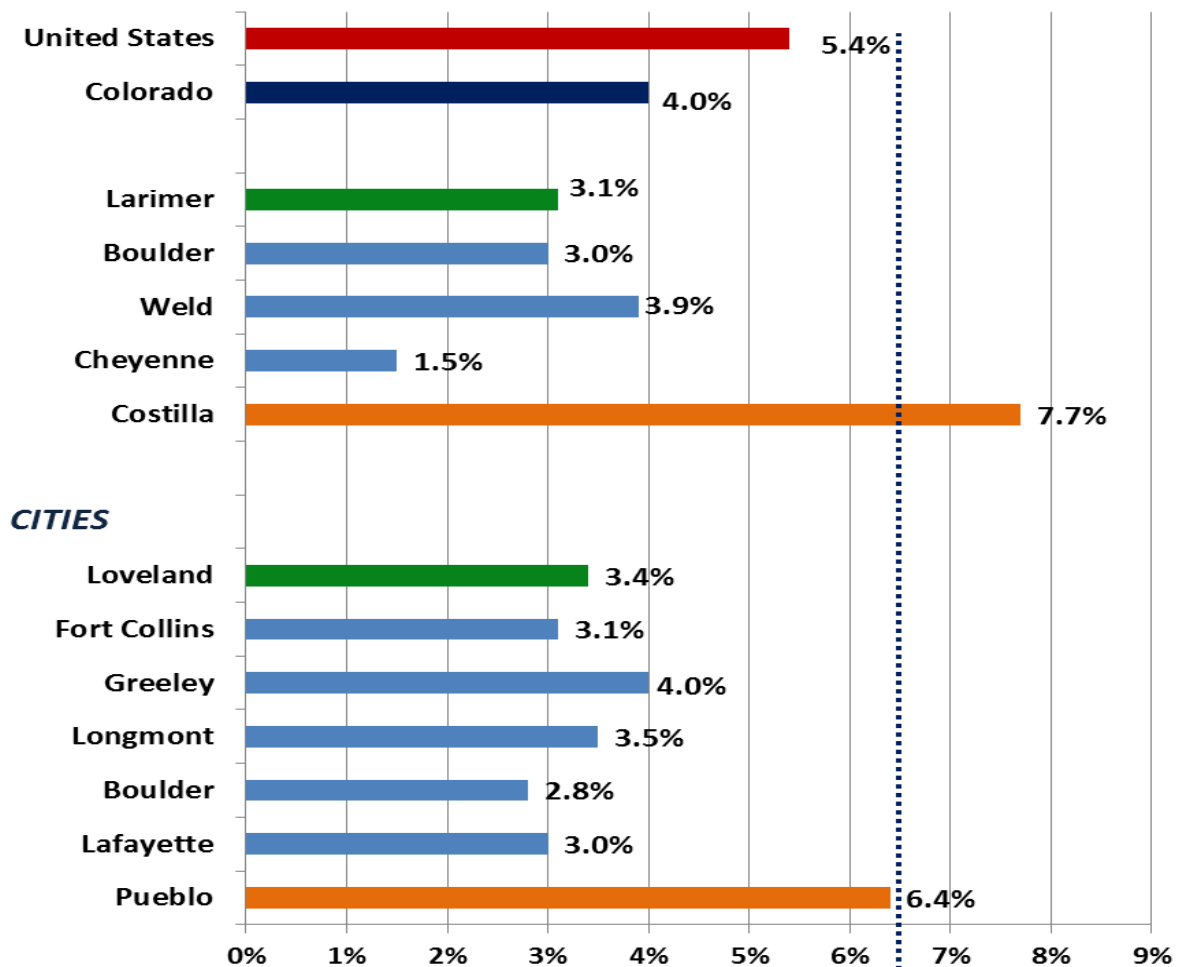
To support earnings, or to reposition the portfolio, bonds may be sold. Sales have netted \$24,790 this year.

Blue bars show the stated term; red bars show possible calls.

- ❑ Loveland’s employed workforce contracted in December, **down 328** jobs from November.
- ❑ Compared to December of 2013, there are now **1,326 more** jobs reported by Loveland residents.

Unemployment Rates

Data not adjusted for seasonality



Current “missing worker” estimates at a glance

Updated February 6, 2015, based on most current data available.

Total missing workers,
January, 2015:
5,770,000

Unemployment rate if
missing workers were
looking for work:
9.0%

Official
unemployment rate:
5.7%





Future Scan

- ❖ On January 28, the **Federal Open Market Committee** held its first meeting of 2015. Indications from the meeting show that committee members are united in their bullish assessment of the U.S. recovery. Below is some commentary in response to the meeting:
 - “The FOMC minutes . . . noted the strong economic recovery and . . . as ‘expanding at a solid pace.’ The latest available information is the third quarter 2014 growth of 5.0%.”
 - “[T]he recovery resulted in strong labor conditions and this can be seen in the impressive 0.2% decline in unemployment from 5.8% to 5.6% in December 2014.”
 - “The only point that is holding back the FOMC from raising rates is the inflation data. . . The current annual inflation data as measured by the Consumer Price Index is 0.8% for December 2014 compared to December 2013.”
 (Source: *The First FOMC Meeting of 2015 Anchors USD Strength*, in **SeekingAlpha** online, January 30, 2015.)
- ❖ **Investing.com - Quantitative Easing worked and it will work in Europe**
 - “In the 2008–2014 Fed version, QE injected liquidity into markets that were frozen. More QE was then piled on as the Fed expanded its holdings of federally backed securities. A single sovereign guaranteed that debt, and that was the United States government.”
 - “The QE process quickly drove the short-term interest rate to zero but not below zero. Over time the longer-term interest rates followed a similar path to lower and lower levels. The reduction in interest rates translated to reduced mortgage and corporate-financing costs. The process has continued for seven years.”
 - “Seven years on, the debate continues, with the detractors predicting doom. Meanwhile, in the United States, interest rates are very low. There is minimal inflation. The economic recovery is strengthening. The American stock markets reached all-time highs within the last month. The positive trends continue and are becoming more robust. In addition, we have the world’s strongest major reserve currency, with a long run still ahead of it. And we have a better fiscal balance in the US than most nations enjoy.”
 - “In the US, QE was controversial and still is. Meanwhile, look at results. It worked.”
 (Source: *ECB, Euro, USD, Interest Rates by Cumberland Investors* in **Investing.com** online, January 25, 2015.)
- ❖ **The December 2014 Colorado Employment Situation** was released January 27. For the year, nonfarm payroll jobs have increased by 62,300. In December, the Labor Force increased by 2,200. The latest household survey data show Loveland’s unemployment rate to be 3.4%, a bit lower than November. Other cities and counties show similar results. The chart with other cities and counties is on page 6.
 (Source: Colorado Department of Labor and Employment **December 2014 Colorado Employment Situation**, January 27, 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 December data, Industrial Production fell by **0.11%**; December Real Retail Sales fell by **0.57%**; and, Employment continued on its slow 0.18% growth trend. Real Income was up 0.62% in November. The average is +0.03%. “The overall picture of the US economy had been one of slow recovery from the Great Recession with a clearly documented contraction during the winter, as reflected in Q1 GDP. Data for Q2 and Q3 supported the consensus view that severe winter weather was responsible for the Q1 contraction -- that it was not the beginnings of a business cycle decline. However, the Big Four average in recent months suggests that, despite the rebound in GDP in Q2 and Q3, the economy remains near stall speed..”
 (Source: **Advisor Perspectives**, Doug Short, January 20, 2015.)

[For more information regarding this report, please contact:](#)

Alan Krcmarik, Executive Fiscal Advisor 970.962.2625 or Alan.Krcmarik@cityofloveland.org



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

AGENDA ITEM: 10
MEETING DATE: 2/17/2015
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Alison Hade, Community Partnership Office Administrator

TITLE:

A Resolution Granting an Exemption from Certain Capital Expansion Fees and Other Development Fees for Qualified Affordable Housing to be Constructed by the Loveland Housing Authority

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution as presented.

OPTIONS:

1. Deny the action. If the \$402,099 is not backfilled, LHA will not be able to provide as many units at the 30% and 40% level. Five (5) of the 30% AMI units and 4 of the 40% units would become 50% units. These numbers can be seen below under "Background".
2. Adopt a modified action (specify in the motion).
3. Refer back to staff for further development and consideration. The LHA tax credit and Community Development Block Grant/Disaster Recovery proposals must be submitted by March 2, 2015. If this request is referred back to staff for further development and to be presented at a later City Council meeting, LHA will not be able to meet the deadlines for submitting the tax credit and disaster recovery applications.
4. Adopt a motion continuing the item to a future Council meeting. However, this may prevent the Housing Authority from applying for tax credit financing in the current round.

SUMMARY:

This is an administrative action. The Loveland Housing Authority is requesting a waiver of fees for the construction of 70 multi-family dwelling units for people living between 30% and 60% of the Area Median Income. Ten of these units will house homeless veterans. The total fee waiver request for the project is \$1,045,870.84, of which \$402,099 would be required to be backfilled by City Council.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The \$1.046 million fee waiver request consists of \$643,771.84 in permit and capital expansion fees that do not need to be backfilled, but would constitute a potential revenue loss to the City. The remaining \$402,099 would require backfilling from the unassigned General Fund balance.

BACKGROUND:

LHA is requesting a waiver of certain fees associated with the development of The Edge, an affordable housing project located on the east side of Loveland on 15th Street and Denver Avenue. The estimated cost of the project is \$19.7 million.

The total cost of all permit, capital expansion and other development fees is \$1,112,090.84. The Housing Authority is requesting a fee waiver of \$1,045,870.84. The remaining amount of \$66,220 is school fees that the Housing Authority would pay.

The rent amounts shown below will be the maximum based on current annual rent/income tables found at www.chfainfo.com.

# of Units	1 Bedroom	2 Bedroom	3 Bedroom
15 units @ 30%	\$413	\$496	\$573
10 units @ 40%	\$551	\$662	\$764
27 units @ 50%	\$689	\$827	\$955
18 units @ 60%	\$827	\$993	\$1,146

LHA is also requesting the use of Housing Choice Vouchers (Section 8) from the U.S. Department of Housing and Urban Development. Those vouchers will help reduce the rent for the homeless veterans, who will pay only 30% of their monthly income on rent. A veteran with a monthly income of \$500 will only pay about \$150 regardless of the actual cost of the rent.

This project is recommended due to the project's low cost per unit for the City, as well as the provision of affordable units for very low income groups, which is only rarely provided by housing developers. The cost of the requested fee waiver distributed over the life of the project (99 years) and based on the number of units would be \$13 per month, compared with \$26/month and \$24/month for the recent fee waiver requests from Pedcor and Inland Group respectively.

The Loveland Housing Authority (LHA) is the only builder of new affordable housing for people at or below the 30% Area Median Income (AMI). Recent applicants have only offered units at the 60% AMI level. There are currently 1,885 people living at 30% of AMI on the LHA waitlist. Ten units will also be reserved for homeless veterans.

Currently, the only other known housing-related project expected to be presented to City Council in the near future will be a fee waiver request from Alternatives to Violence for the rehabilitation of the Safehouse. Several years ago, fees for building a new safehouse were estimated to be about \$44,400. The rehabilitation of the purchased safehouse is expected to cost less.

Please see the staff memo for more information specific to the requested fee waiver.

REVIEWED BY CITY MANAGER:

William D. Cahill

LIST OF ATTACHMENTS:

1. Resolution
2. Staff memo
3. Fee spreadsheet
4. Prorated fee waivers 2006 – 2014
5. Summary of Affordable Vouchers
6. Presentation

RESOLUTION #R-19-2015**A RESOLUTION GRANTING AN EXEMPTION FROM CERTAIN CAPITAL EXPANSION FEES AND OTHER DEVELOPMENT FEES FOR QUALIFIED AFFORDABLE HOUSING TO BE CONSTRUCTED BY THE LOVELAND HOUSING AUTHORITY**

WHEREAS, the Loveland Housing Authority (“LHA”), is a political subdivision of the state acting in its governmental capacity to, among other things, develop and construct affordable housing; and

WHEREAS, in 2013, LHA filed, and the City Council approved by Resolution #R-69-2013, an application to designate Lot 1, Block 1, Waterfall Sixth Subdivision (the “Edge”) encompassing approximately 4.4 acres as an “affordable housing development” pursuant to City Code (“Designation”); and

WHEREAS, following approval of the application, and in accordance with Section 16.38.085 of the Loveland Municipal Code as it then existed, the capital expansion fees (“CEFs”) and other development fees, including utility fees (collectively, “Development Fees”), and water rights requirements imposed on the Edge were locked at the 2013 rate (the “Rate Lock”); and

WHEREAS, the Edge is planned as three story walk-up buildings with a total of seventy units of for-rent housing comprised of twenty 1-bedroom units, forty-one 2-bedroom units and nine 3-bedroom units, all of which are targeted at households earning at or below sixty percent of the area median income; and

WHEREAS, ten of the seventy units will be reserved as permanent housing for formerly homeless veterans who are transitioning out of a shelter or other temporary housing, and LHA intends to provide a variety of support services for said veterans; and

WHEREAS, the Edge will have a separate, central club house accessible to all residents (“Club House”), a designated meeting room with a kitchen area for resident veterans (“Meeting Room”), and a private office for outside professionals offering counseling and other support services (“Office”); and

WHEREAS, the City Manager has determined, in consultation with the City Attorney, that because the seventy units qualify for Designation and the Club House, Meeting Room and Office are accessory uses to such units, pursuant to City Code Section 18.48.010, the Club House, Meeting Room and Office all qualify for the Rate Lock; and

WHEREAS, the City Manager has also determined, in consultation with the City Attorney, that the Edge, including the Club House, Meeting Room and Office, is “qualified affordable housing” for purposes of City Code Section 16.38.085, and therefore residential Development Fees should apply; and

WHEREAS, LHA has further requested, in accordance with City Code Section 16.38.080, that the City Council waive all of the Development Fees, including CEFs, building permit fees, plan review fees, enterprise (utility) fees, and all other fees due and payable for construction of the Edge between permit application and final certificate of occupancy; and

WHEREAS, City Code Section 16.38.080 provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the City upon new development, whether for capital or other purposes, upon a finding set forth in a development agreement, that the project for which the fees would otherwise be imposed is a qualified affordable housing development; and

WHEREAS, City Code Section 16.38.080 sets forth the percentage of Development Fees to be waived for qualified affordable housing, which percentage may be increased upon a finding by the City Council, set forth in a resolution, that such increase will serve a public purpose; and

WHEREAS, City believes that the requested waiver of City fees by LHA will serve a public purpose as set forth below.

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

Section 1. That the City Council hereby finds that the Edge is a qualified affordable housing development for purposes of City Code Section 16.38.080.

Section 2. That the City Council hereby finds that construction of the Edge will serve the public purpose of providing affordable housing for residents, in particular veterans transitioning from shelters or other temporary housing, and therefore the percentage of fees to be waived for the Edge shall be increased above those stated in City Code Section 16.38.080.

Section 3. That the CEFs due and payable for construction of the Edge, including the Club House, Meeting Room and Office, are hereby waived for the purpose described above in a total amount not to exceed \$516,461.65.

Section 4. That the Development Fees, including, without limitation, all building permit fees, plan review fees, and any and all other fees due and payable for construction of the Edge, including the Club House, Meeting Room and Office, between permit application and final certificate of occupancy (but not including CEFs or enterprise fees), are hereby waived for the purpose described above in a total amount not to exceed \$127,310.19.

Section 5. That as provided in City Code Section 16.38.080, there shall be no reimbursement to the capital expansion fund by the City's general fund or any other City fund, for fees waived under Section 3 and 4 above as such fees are capital-related fees that are not utility fees or charges.

Section 6. That the enterprise (utility) fees, including system impact fees, raw water fees, tap fees or any other enterprise fees, payable for construction of the Edge, including the Club

House, Meeting Room and Office, are hereby waived for the purpose described above in a total amount not to exceed \$402,099.00

Section 7. That as provided in City Code Section 16.38.080, the City’s general fund shall reimburse the affected enterprise (utility) fund for fees waived under Section 6 above as such fees are capital-related fees for a utility fee or charge.

Section 8. That the waiver of the fees described in Sections 3, 4, and 6 hereof shall be conditioned upon the City, through its City Manager, and LHA entering into a development agreement, which development agreement shall provide for the waiver of said fees in exchange for the construction of the Edge, compliance with the Loveland Municipal Code, including restrictions on conveyance of the units, and such other conditions as the City Manager shall deem necessary.

Section 9. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of February, 2015.

Cecil Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

MEMORANDUM

TO: City Council

FROM: Alison Hade, Community Partnership Office

DATE: February 17, 2014

RE: Fee Waiver - The Edge, Attachment 2

SUMMARY

The Edge- the next proposed affordable housing community by the Loveland Housing Authority (LHA)- will be a 70 unit “family” work-force housing development located on the east side of Loveland near 15th Street and Denver Avenue at the former Crystal Rapids Water Park site. The size of the site is approximately 4.4 acres. The buildings will consist of three story walk-up units plus a central club house. There will be (20) 1 bedroom units; (41) 2 bedroom units and (9) 3 bedroom units. Current income targeting will be as follows: 15 units at 30% AMI; 10 @ 40% AMI; 27 @ 50% AMI; and 18 @ 60% AMI- provided LHA is able to close its current funding gap of approximately \$1.7 Million. Presently there are over 2,000 income eligible households on the Housing Authority wait list. The primary target market for this project consists of retail workers at the Outlet mall and the Shops at the Promenade, and as replacement housing for survivors of the September, 2013 floods. In addition, 10 of the units will be reserved as permanent supportive housing for formerly homeless vets who are transitioning out of a shelter or other temporary supportive housing. The LHA will be working with other local providers as well as the Veterans Administration on the support services for the vets.

The estimated cost of this project is approximately \$19.7 million. LHA expects to finance the project with 4% tax exempt bonds, equity from the sale of federal and state tax credits, and CDBG Disaster Recovery (CDBG-DR) funds. In addition LHA expects to use approximately \$3 million of their public housing disposition funds for this project.

As part of the process for qualifying for the CDBG-DR funds, LHA requests City Council to recommend this project as a priority project for CDBG-DR funding.

In 2013, the City of Loveland Affordable Housing Commission qualified The Edge development as affordable by Resolution, allowing LHA to use the 2013 fee schedule for any fee amounts not waived.

VETERAN SERVICES

LHA is working with local agencies to provide support services for the formerly homeless vets that will reside at the Edge. The 10 units designated for homeless veterans will offer the following services:

1. Section 8 Project Based Rental Assistance (when approved by HUD for the building complex)
2. Case management is intended to be provided by Rocky Mountain Human Services (RMHS) (www.rmhumanservices.org) and will include:
 - a. Navigation of complex benefit systems
 - b. Medical/counseling services
 - c. Emergency financial and food needs
 - d. Assistance with mental health and substance abuse concerns
 - e. Employment services
 - f. Legal and financial planning services
 - g. One-on-one partnership with trained volunteer veterans following the Mary Ellen Copeland Wellness Recovery Action Plan (www.mentalhealthrecovery.com/wrap/)

The building itself has been designed by the LHA Architectural and Development team with the assistance of Touchstone Mental Health to assist and support group and self-management. The philosophy of the building and services is to strongly encourage a sense of ownership and responsibility among the veterans to self-manage both the building and the ongoing residency of each veteran. LHA believes that the veterans are in the best position to understand what other veterans are experiencing, and with the correct amount of support, counseling, and assistance, they are the best opportunity for individual and group success. The lobby of the building will host a large meeting room with a kitchen area and a private office for the RMHS staff member. The room will be managed by the veterans as much as possible. All veterans are welcome to all areas of the complex and grounds, however, this will be considered their room to use and manage. LHA is in the process of securing (attempting to serve) funds for a van that will be utilized to offer transportation for the veterans to local medical appointments, shopping, and other destinations in addition to using COLT services.

Veterans, with the assistance of Housing Choice Vouchers (Section 8), will be able to retain their units as they work on income, education, and health. Their portion of the rent will be 30% of their adjusted monthly income. Participants will work as a team on building management skills, group therapy and their own individual needs. A potential group garden area may be planned, if requested. Veterans will be included in all community events planned at the complex, but will have a strong system for support and to encourage success.

COST OF FEES OVER LIFE OF THE PROJECT

- Loveland Housing Authority will provide 70 units for 99 years. The fee waiver request of \$1,045,870.84 prorated per month is **\$12.58** or \$150.92 per year.
- The same totals for Pedcor (224 units, fee waiver \$1,417,213) = **\$26** per month and for Inland Group (165 units, fee waiver \$947,153) = **\$24.**

CITY OF LOVELAND MUNICIPAL CODE

Section 16.38.075.A of the Loveland Municipal Code contains the following provisions allowing City Council to grant exemptions from the payment of development fees to not-for-profit organizations.

- A. The City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the City upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.

ARCHITECTURAL RENDERINGS





Attachment 3 to the coversheet is a spreadsheet listing estimated permit and other development fees calculated using 2013 fee rates.

MEMORANDUM

TO: City Council

FROM: Alison Hade, Community Partnership Office

DATE: February 17, 2014

RE: Prorated fee waivers by project

Fee Waiver	Year	# of Units	Duration	Per Unit	Annual	Monthly
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Loveland Housing Authority

1,045,871	2015	70	99	14,941.01	150.92	12.58
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Inland Group

947,153	2014	165	20	5,740.32	287.02	23.92
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Pedcor

1,554,514	2014	224	20	6,939.79	346.99	28.92
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Mirasol - Green Houses

699,401	2013	60	99	11,656.68	117.74	9.81
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Mirasol II

331,953	2012	60	99	5,532.55	55.88	4.66
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Mirasol I

484,221	2006	49	99	9,882.06	99.82	8.32
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MEMORANDUM

TO: City Council

FROM: Alison Hade, Community Partnership Office

Summary of Affordable Vouchers - 2006 - 2015

Last updated 1/12/2015

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Grand Total
† Giuliano											
Count of Type		45	28	16	14	11	16		30	4	164
Sum of Assessed Fees		1,159,749	754,211	435,599	382,860	302,802	457,722		893,573	121,165	4,507,681
Sum of Amount Waived for Affordability		442,876	323,390	191,819	166,335	131,698	206,747		416,768	55,801	1,935,435
† Habitat											
Count of Type								1	8		9
Sum of Assessed Fees								26,242	143,391		169,633
Sum of Amount Waived for Affordability								23,457	117,027		140,484
Sum of Backfilled Amount								8,153	41,705		49,858
† Habitat for Humanity-Willow Park II											
Count of Type						6	8				14
Sum of Assessed Fees						158,010	218,517				376,527
Sum of Amount Waived for Affordability						151,462	192,201				343,663
Sum of Backfilled Amount						58,160	66,090				124,250
† Habitat-Koldeway											
Count of Type		6	3	5	8			7	2		31
Sum of Assessed Fees		141,764	73,875	128,650	207,140			182,614	53,899		787,941
Sum of Amount Waived for Affordability		127,742	69,970	127,667	202,227			164,454	48,733		740,793
Sum of Backfilled Amount		57,333	-	40,361	83,637			56,847	16,148		254,326
† Harvest Pointe											
Count of Type		1									1
Sum of Assessed Fees		1,084,286									1,084,286
Sum of Amount Waived for Affordability		150,041									150,041
† Koldeway											
Count of Type					5						5
Sum of Assessed Fees					138,474						138,474
Sum of Amount Waived for Affordability					66,626						66,626
† Koldeway-61%											
Count of Type				2							2
Sum of Assessed Fees				52,625							52,625
Sum of Amount Waived for Affordability				11,974							11,974
† Mirasol I											
Count of Type	9	2	1					1			13
Sum of Assessed Fees	160,364	36,623	20,366					22,352			239,705
Sum of Amount Waived for Affordability	105,526	23,602	13,863					15,953			158,944
† Mirasol I - Apartment Bldg											
Count of Type	1										1
Sum of Assessed Fees	649,700										649,700
Sum of Amount Waived for Affordability	484,221										484,221
† Mirasol II Multi-Family											
Count of Type							1				1
Sum of Assessed Fees							1,041,687				1,041,687
Sum of Amount Waived for Affordability							331,953				331,953
† Mirasol II Senior Living											
Count of Type								7			7
Sum of Assessed Fees								933,539			933,539
Sum of Amount Waived for Affordability								699,401			699,401
† Pedcor											
Count of Type									18		18
Sum of Assessed Fees									4,287,553		4,287,553
Sum of Amount Waived for Affordability									1,512,860		1,512,860
Total Count of Type	10	54	32	23	27	17	25	16	58	4	266
Total Sum of Valuation	3,955,928	16,901,823	5,833,684	3,692,617	4,025,663	2,762,391	12,662,525	10,119,411	33,997,794	924,069	94,875,906
Total Sum of Assessed Fees	810,064	2,422,422	848,452	616,874	728,473	460,813	1,717,926	1,164,747	5,378,416	121,165	14,269,351
Total Sum of Amount Waived for Affordability	589,747	744,260	407,224	331,460	435,188	283,161	730,901	903,265	2,095,389	55,801	6,576,395
Total Sum of Other Amounts Waived or Adjusted		3,067	1,534	762	4,363	2,260	6,042	3,989	42,794		64,810
Total Sum of Total Waived	589,747	747,327	408,758	332,222	439,551	285,420	736,943	907,254	2,138,182	55,801	6,641,205
Total Sum of Backfilled Amount	-	57,333	-	40,361	83,637	58,160	66,090	65,000	57,853	-	428,434

The Edge



Presented to Loveland City Council
Samuel G. Betters
February 17, 2015

Site Plan P.101





BUILDING A
N.T.S.



BUILDING A
N.T.S.





BUILDING B
N.T.S.





BUILDING B
N.T.S.

Who Will it Benefit? P.106

The Edge is targeted to serve 3 primary groups

- *Affordable Work Force housing for employees in the retail and service industry*
- *Formerly homeless Veterans transitioning out of temporary supportive housing into permanent supportive housing*
- *Families impacted by the 2013 floods*

Income Targeting P.107

- *15 Units @ 30% AMI*
- *10 Units @ 40% AMI*
- *27 Units @ 50% AMI*
- *18 Units @ 60% AMI*

Partners for Veteran's Housing P.108

- *Rocky Mountain Human Services
(in conjunction with VA grant)*
- *Larimer County Workforce Center*
- *Colorado State School of Veterinary Sciences*
- *Touchstone Health Partners*
- *Copeland Center for Wellness and Recovery*
- *Veterans Administration – Northern Branch*
- *Disabled Resource Center – Loveland*
- *House of Neighborly Services*
- *Habitat for Humanity*
- *Various local services, clubs, and organizations*

Budget

Revenue and Expenses	
Annual Rent	610,524
Other Revenue	8,400
Vacancy	(43,325)
Annual Expenses	(315,222)
NOI	260,377
Debt Service	(222,295)
DSCR Year 1	1.17
DSCR Year 15	1.27

Federal Tax Credit Equity	
Annual Credit	488,759
Credit Pricing	0.9700
Tax Credit Equity	4,740,962

State Tax Credit Equity	
Annual Credit	895,912
Credit Pricing	0.4500
Tax Credit Equity	2,418,961

1st Mortgage Terms	
PAB Mortgage	4,000,000
Rate	3.750%
Term	18
Amortization	30
Annual Payment	222,295

Construction Loan Terms	
Amount	11,500,000
Rate	3.750%
Origination Fee - 1.03%	119,000
Construction Interest	275,000

Per Unit Metrics	
Total Dev Cost per Unit	279,702
Const+Site Wk per Unit	205,843
Federal Credit per Unit	6,982
Construction Interest	12,799

Sources of Financing	
PAB Mortgage	4,000,000
HACOL Disposition Funds	3,000,000
GAP	-
	-
	-
	-
	-
CDBG DR FUNDS	3,000,000
Deferred Developer Fee	500,000
Other Owner Equity	-
	-
	-
	-
	-
	-
	-
Federal Tax Credit Equity	4,740,962
State Tax Credit Equity	2,418,961
Total Sources	17,659,923

Total Uses	19,579,160
Gap	1,919,237

Developer Fee	
Developer Fee	2,030,000
Deferred Developer Fee	(500,000)
Paid Developer Fee	1,530,000
	pct paid 75%

Investor Pay In Schedule	
Partnership Closing - 20%	1,431,985
50% Constr Comp - 0%	-
Construction Complete - 60%	4,295,954
Stabilization - 20%	1,431,985

Uses of Financing	
Land & Buildings	
Land	1,026,811
Existing Structures	-
Demolition	-
Subtotal	1,026,811
Site Work	
On Site Work	1,352,019
Off Site Work	-
Subtotal	1,352,019
Rehab. & New Construction	
New Structures	10,161,092
Rehabilitation	-
Accessory Structures	-
Green Systems (Solar, Geotherr	-
General Requirements	441,474
Contractor Overhead	-
Contractor Profit	268,399
Contractor Construction Conting	623,181
Owner Hard Cost Contingency	100,000
Furniture, Fixtures, & Equipment	286,257
Tap Fees (Water/Sewer)	1,101,587
Other (Weather Protection)	75,000
Other (Specify)	-
Subtotal	13,056,990
Professional Fees	
Architect, Design	418,350
Architect Construction Managem	-
Landscape Design	-
Structural Engineering	84,000
Civil Engineering	-
Other Engineering	-
Surveyor	15,600
Attorney, Real Estate	50,000
Green Consultant	-
Green Charrette	7,500
Construction Accounting	-
Other	-
Preconstruction	18,756
Subtotal	594,206
Construction Interim Costs	
Hazard & Liability Insurance	64,416
Builder's Risk Insurance	36,670
Perform. & Pymt Bonds	92,698
Construction Interest	275,000
Constr. Origination Fees	119,000
Mortgagee Fee	55,000
Impact fees	-
Materials Testing	-
Power and Telecom Provider fee	134,050
3rd Party/Bank Inspections/Adm	32,500
Title & Recording	32,000
Construction Lender Legal Fees	-
Prop. Taxes During Construction	-
Bridge Loan	-
Other (E-Star Certification)	14,000
Other (Hazard & Liability Insurar	19,000
Other (Specify)	-
Subtotal	874,334
Permanent Financing	
Bond Premium	-
Bond Issue 30-day lag reserve	-
Bond Cost of Issuance	30,000
Discount Points	-
Perm Loan Origination	60,000
Credit Enhancement	-
Title & Recording	15,000
Legal Fees	65,000
Prepaid MIP	-
Forward Rate Lock	-
Conversion Fee	-
Other (Specify)	-
Subtotal	170,000
Soft Costs	
Marketing/Leasing Costs	25,000
Cost Estimating/Capital Needs A:	-
Geotechnical/Soils Study	13,100
Appraisal	12,500
Market Study	12,250
Environmental Study (Phase 1, F	7,350
Other Studies (traffic, wetlands,	4,600
Tax Credit Fees	35,000
Compliance Fees	21,000
Cost Certification	12,500
Green Certification Fees (LEED C	-
Relocation	-
Soft Cost Contingency	21,500
Building Permits and other Plann	-
Other (Specify)	-
Subtotal	164,800
Syndication Costs	
Organization Costs	70,000
Tax Opinion	-
Syndication Legal Fees	-
Other (Title Insurance for Invest	25,000
Other (Specify)	-
Subtotal	95,000
Developer Fees	
Developer Fee	2,030,000
Developer Overhead	-
Developer Profit	-
Third Party Development Manag	-
Financial/Tax Credit Consultant,	-
Other Consultant Fees	-
Subtotal	2,030,000
Project Reserves	
Rent-up Reserves	30,000
Operating Reserves	185,000
Replacement Reserves	-
Other (Specify)	-
Other (Specify)	-
Subtotal	215,000
Total Project Costs	19,579,160

Importance of City Participation P.110

- *Demonstration of local support - will leverage approximately 19:1 in “other funding”*
- *Help close current gap in excess of \$2 Million*
- *Opportunity to create housing for “Hardest to Serve”*
- *Replacement housing for those affected by the 2013 Flood*

**CITY OF LOVELAND**

ECONOMIC DEVELOPMENT OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 11
MEETING DATE: 2/17/2015
TO: City Council
FROM: Economic Development Department
PRESENTER: Mike Scholl, Economic Development Manager

TITLE:

A Proposed Economic Incentive Agreement with Esh's Surplus Market, LLC.

RECOMMENDED CITY COUNCIL ACTION:

Information only.

SUMMARY:

This is an informational item. Under the City's approved Economic Incentive Policy, any proposed agreement over \$20,000 must go before the City Council as an information item before full consideration. The Economic Incentive Agreement with Esh's Surplus Market, LLC would be for a deferral of fees not to exceed \$200,000 for a 33,000 square foot store and warehouse on 71st Street off of Highway 287. Esh's currently operates in Larimer County outside of City limits west of the City on Highway 34. The location on 71st would help make the store more accessible to residents in Fort Collins and Loveland. An appropriation from the Economic Incentive Fund will be required to backfill the Capital Expansion Fees that will be deferred under the proposed agreement.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The agreement would defer \$200,000 in building permit fees and capital expansion fees to be repaid through collection of normal sales tax over 18 months.

BACKGROUND:

Esh's is a discount grocery chain located in Northern Colorado. The building on 71st Street in the Longview Midway business park would be a retail store, warehouse and the office headquarters for the grocery chain. According to Reuben Esh, the store is expected to do between \$5 and \$7 million annually in sales. Esh's has outgrown their current location on W. Eisenhower in Larimer County and have been looking for locations in and around Loveland. Esh's believes that the location on 71st will allow for greater convenience for customers in Fort Collins and Windsor.

Esh's is not a traditional grocery store. The products they carry are overstocked and damaged goods from the major grocery chains and distributors. Unlike traditional grocery stores, Esh's has an operating agreement with most of the large chains and grocery distributors including Walmart, to purchase overstocked inventory or items damaged in the warehouse. Esh's then sells the items at steep discounts. Under the operating agreement, Esh's is not allowed to advertise and relies primarily on word-of-mouth. While the customers cannot rely on consistent product offerings, what they offer is sold at steep discounts.

The City is being requested to defer \$200,000 in building permit fees, construction materials use tax, and capital expansion fees for an 18 month period, during which sales tax revenues generated by the store would be credited against the deferred amount. An appropriation of about \$130,000 from the Economic Incentive Fund will be required to backfill the Capital Expansion Fees that will be deferred under the proposed agreement. If Esh's fails to generate \$200,000 in sales tax over the 18 month period, it would be responsible to pay the City any unpaid balance. If the City Council were to reduce or eliminate the sales tax on groceries, Esh's would still be responsible for any unpaid balance. However, the agreement would provide for a 12 month extension on the deferral period in that event.

Despite having limited ability to advertise, Esh's does around \$3.5 million in sales from a cramped location in the County west of the City. The incentive agreement would bring those sales into Loveland and increase them substantially.

Support for this request is consistent with Goal #2 of the City's Economic Development Strategic Plan, "Make Loveland a destination that attracts businesses, visitors and consumers". Action Step 6 states "Partner with the private sector on the recruitment and retention of retail businesses throughout the City".

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Draft Agreement
2. Council Memorandum (8/19/14)
3. Preliminary Commitment Letter (5/8/14)
4. Economic Impact Analysis
5. Letter of Request
6. Project Checklist

ESH'S SURPLUS MARKET
INCENTIVE AGREEMENT

THIS ESH'S DISCOUNT GROCERY INCENTIVE AGREEMENT is made and entered into this _____ day of _____, 2015, by and between **THE CITY OF LOVELAND, COLORADO**, a home rule municipality (the "City"), and **ESH'S SURPLUS MARKET, LLC**, a Colorado limited liability company (the "Company").

WHEREAS, the Company is in the process of purchasing, and intends to build an approximately 30,000 square foot Esh's Discount Grocery Store and warehouse (the "Store") on that real property located at 71st Street in Loveland, Colorado and legally described on **Exhibit "A"** attached hereto and incorporated herein by reference ("the Property"); and

WHEREAS, if the Company constructs the Store, it will be required to pay the City certain City fees, including building plan check fees, permit fees, capital expansion fees ("Fees") and City use tax ("Use Taxes") as a precondition to receiving from the City a building permit and/or a final certificate of occupancy or letter of completion for the Store; and

WHEREAS, pursuant to City Code Section 16.38.070, the City Council may by resolution grant a credit for all or a portion of the Fees if the City Council makes a finding that such credit is in the best interests of the public by encouraging activities that provide significant economic benefits;

WHEREAS, pursuant to City Code Section 16.38.071, the City Council may by resolution allow for the deferral of the Fees, if it makes a determination and finding that such deferral will serve a public purpose, which may include providing the public with significant economic benefits, and if Council's resolution approves a written agreement with the person owing the Fees containing such terms and conditions as the City Council determines are in the best interests of the City; and

WHEREAS, pursuant to City Code Section and 3.16.590, the City Council may grant by resolution a use tax credit against the collection of the Use Taxes that would otherwise be collected on such terms and conditions as it determines is in the best interest of the City and if it finds that such deferral and waiver serves a public purpose, including, without limitation, providing the public with significant social, economic or cultural benefits; and

WHEREAS, the Company has informed the City that the financial incentives set forth herein are required to make the budget for the purchase of the Property and the construction and opening of the Store feasible; and

WHEREAS, the Company has asked the City to allow the Company to defer for approximately eighteen (18) months payment of \$200,000.00 in Fees and Use Taxes that will otherwise be due with respect to development of the Store in accordance with City Code Section 16.38.071; and

WHEREAS, the Company has also asked the City to agree that the City's sales taxes from the sale of merchandise at the Store collected and remitted to the City by the Company during this eighteen (18) month deferral period be credited as hereinafter provided to reduce the Fees and Use Taxes deferred herein; and

WHEREAS, by the adoption of Resolution No. _____, the City Council has made a finding that the construction and the operation of the Store in Loveland would produce significant economic benefits to the citizens of Loveland, primarily in the form of increased property tax and sales tax revenues to the City, and therefore a deferral and a credit of a portion of the Fees and Use Taxes is in the best interests of the public by encouraging activities that provide significant economic benefits; and

WHEREAS, by the adoption of its Resolution _____, the City Council has approved this Agreement allowing the Company to defer payment of \$200,000.00 of the Fees and Use Taxes for a period of approximately eighteen (18) months at no interest and has agreed to the Company's requested credit for certain City sales taxes.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Deferral of Fees and Use Taxes

- A. The City agrees, as authorized under City Code Section 16.38.071, that the Company may defer payment of the Fees and Use Taxes that the Company will owe to the City when it applies for one or more building permits and a final certificate of occupancy or letter of completion for the Store in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00) (the "Deferred Amount"), which deferral shall be on the terms and conditions as set forth in this Agreement.
- B. The Fees and Use Taxes that are deferred under this Agreement shall be limited to City Fees and Use Taxes only and shall not include any amounts due to Larimer County or any other taxing jurisdiction with respect to construction of the Store.
- C. The Company acknowledges and agrees that the actual Fees and Use Taxes that will be due in connection with the construction of the Store have not been finally determined and have been estimated on the basis of information provided to the City by the Company. All Fees and Use Taxes in excess of the Deferred Amount shall be paid by the Company.

2. Payment of Fees and Use Taxes

- A. The Company promises to pay to the City on the date that is sixty (60) days after the end of the Credit Period (as defined in paragraph 3 below) the

Deferred Amount, less the credits available to the Company as set forth in paragraph 3 below.

- B. Notwithstanding anything to the contrary set forth herein, if at any time prior to the end of the Credit Period the Company discontinues the operation of its business in the Store for a reason other than a Permitted Reason (as defined below), the Company shall pay the Deferred Amount, less any Credit as set forth in paragraph 3 below, on the date that is sixty (60) days after the date the Company so discontinues its business. As used herein, "Permitted Reasons" shall mean (i) damage or destruction due to casualty, (ii) force majeure, (iii) condemnation, (iv) labor disputes or (v) periods of remodel, remerchandising, renovation or repair.

3. Credit for City Sales Taxes Collected and Paid

- A. Subject to the provisions of paragraph 4 below, and in the event that the Company shall construct and open the Store to the public not later than July 1, 2016 (the "Completion Date"), the Company may reduce and credit against the Deferred Amount an amount equal to one hundred (100%) of all City sales taxes collected by the Company and received by the City with respect to transactions in or from the Store (the "Credit") during the eighteen (18) calendar month period commencing on the first day of the month following the date on which the Company opens the store to the public (the "Credit Period"). The Credit, however, shall only be available for City sales taxes collected by the Company that are imposed by and have in fact been paid to the City. The total amount of the Credit granted herein shall in no event exceed the Deferred Amount.
- B. If the Company fails to obtain one or more building permits for the Store on or before December 31, 2015, the City shall have no further obligation to waive Fees and Use Taxes under this Agreement and this Agreement shall terminate.
- C. If the Company obtains one or more building permits for the Store and fails to construct and open the Store on or before July 1, 2016, the Credit Period shall be deemed to have ended on that date and the Company shall pay the Deferred Amount to the City on or before September 1, 2016. Notwithstanding the foregoing, if the Company's failure to construct and open the Store on or before July 1, 2016 is the result of force majeure or for good cause shown, and such force majeure or good cause is approved by the City Manager in his discretion, the Credit Period shall be deemed to end on that date which is six (6) months after the date on which such force majeure or good cause is so approved by the City Manager.
- D. The Company acknowledges that the City may reduce, eliminate, or otherwise modify the City's ordinance imposing sales tax on certain groceries at any time during the Credit Period which could result in a reduction or elimination of the Credit granted to the Company under this paragraph 3. In the event the

City Council reduces or eliminates the sales tax on certain groceries during the Credit Period, the Company may file a written request for an additional extension of the Credit Period of up to twelve (12) months, subject to approval at the discretion of the City Manager. The Company acknowledges that notwithstanding any such reduction, elimination or modification of City sales tax on groceries, it shall remain obligated to pay to the City any portion of the Deferred Amount remaining outstanding after application of all credits available under this paragraph 3 at the end of the Credit Period (as the same may be extended) as set forth in paragraph 2.

4. **Multi-Year Fiscal Obligation.**

To the extent that the City's obligation in paragraph 3 above to allow a credit for certain City sales taxes collected and paid to the City against the Deferred Amount is a multi-year fiscal obligation, such obligation shall be subject to annual appropriation by the Loveland City Council in accordance with Article X, Section 20 of the Colorado Constitution and the City's Charter Section 11-6. The City shall have no obligation to provide the Credit authorized in paragraph 3 above if the necessary appropriation(s) has not been made by the City Council to transfer the City sales tax revenue representing the Credit into the City's appropriate capital expansion fee, fee, use tax, and other funds. However, the City agrees that City staff shall include in the annual budget and appropriation ordinances for the Credit Period(as it may be extended) for City Council's consideration the necessary appropriations to transfer the sales tax revenue representing the available Credit authorized in paragraph 3 to the City's appropriate capital expansion fee fund.

5. **Remedies upon Default**

- A. Default by the Company shall be deemed to have occurred under this Agreement upon the occurrence of any one of the following events:
- (1) application for appointment of a receiver for the Property;
 - (2) commencement of any proceeding under any bankruptcy or insolvency laws by or against the Company;
 - (3) the sale, transfer or conveyance of the Property or the Store without the prior written consent of the City, such consent not to be unreasonably withheld; or
 - (4) the failure of the Company to timely pay the Deferred Amount as required in paragraph 2 above.
- B. Upon the occurrence of any one or more of these events of default and the failure by the Company to cure such default within thirty (30) days written notice from the City, the City shall have, as provided in City Code Section 16.38.071 and as granted in paragraph 14 below, a perpetual lien upon the Property from the date all or any portion of the Deferred Amount is due under this Agreement until paid and such lien shall have priority over all other liens

against the Property except those for real property taxes. In addition, upon the occurrence of any one or more of the defaults described above in subparagraphs (1), (2), (3), and (4) of this paragraph, the entire unpaid Deferred Amount due under paragraph 2 above, less any Credit earned under paragraph 3 above as of the date of such default, shall at once become due and payable without further notice at the option of the City. Such unpaid sum shall thereafter accrue the interest at the default rate as provided in paragraph 7 below.

- C. The City may pursue all remedies available to it under the law or in equity to collect any or all of the amounts owed to it under this Agreement including, without limitation, by judicially foreclosing its lien against the Property. The City Clerk may also certify such amounts in default to the Treasurer of Larimer County and those amounts may then be collected in the same manner as though they were real property taxes. In addition, the City shall have the right to revoke the certificate of occupancy or letter of completion which has been issued for the Store.

6. Expenses and Costs of Collection

In the event that the Company is in default under this Agreement and the City pursues collection efforts through suit or otherwise, the Company agrees to pay all of the City's reasonable expenses and costs of collection incurred by the City in connection with any such collection efforts and/or suit, in addition to the other amounts owed under this Agreement, which expenses and costs of collection shall include, without limitation, the following: attorneys fees; receiver's fees and costs; treasurer's fees and costs; payment of real property taxes owed for the Property; appraisal fees; property inspection fees; environmental audit costs; expert witness fees; deposition costs; filing fees; the cost of mailing, notice and other documents; the cost of serving process, notice and other documents; copy costs; and title insurance premiums or abstracting charges.

7. Default Interest

Upon the Company's default under this Agreement to timely pay any or all of the amounts owed to the City by the Company under this Agreement, which amounts shall include, without limitation, the costs and expenses of collection as described in paragraph 6 above, such amounts in default shall bear interest at the default rate of twelve percent (12%) per annum compounded annually from the date of default until paid in full.

8. Applicable Law and Venue

This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado and the City's obligations hereunder shall be further subject to all requirements of the Colorado Constitution and the City's Charter and Code. Venue for any judicial proceeding concerning this Agreement shall be in the District Court for Larimer County, Colorado.

9. Time is of the Essence

Time shall be of the essence for the performance of all obligations under this Agreement.

10. **Assignment**

The Company shall not assign or transfer any or all of its interests, rights or obligations under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld.

11. **Entire Agreement**

This Agreement contains the entire agreement between the parties relating to the subject matter hereof and may not be modified or amended except by written agreement signed by both parties.

12. **Headings**

Paragraph headings used in this Agreement are used for convenience of reference only and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

13. **Notices**

Any written notice given under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested, to the following addresses:

If to the City:	William D. Cahill City Manager City of Loveland 500 East Third Street Loveland, CO 80537
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With Copy to:	City Attorney City of Loveland 500 East Third Street Loveland, CO 80537
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If to the Company:	Esh's Surplus Market 4221 W Eisenhower Loveland, CO 80537
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14. **Grant of Lien and Recording of Agreement**

A copy of this Agreement shall be recorded with the Larimer County Clerk and Recorder and upon the occurrence of any event of default under this Agreement as provided in paragraph 5 above, this Agreement shall constitute a consensual grant by the Company, and by its successors and assigns, to the City of the lien against the Property described above in paragraph 5 securing payment of all amounts in default that are due and owing to the City under this Agreement. The lien herein granted shall remain a lien against the Property until the full amounts owed to the City under this Agreement are paid in full to the City. The parties also agree that this lien shall be deemed a lien against the Property as a matter of law as provided in City Code Section 16.38.071.

15. **Waiver of Confidentiality**

Under C.R.S. § 24-72-204 of the Colorado Open Records Act and under City Code Section 3.16.230, the City is required to maintain as confidential documents that are not subject to public inspection, including the Company's sales tax information and records that are submitted to and on file with the City. However, notwithstanding these provisions of law or any other applicable provisions of the law, the Company hereby authorizes the City to provide such sales tax information and records to members of the Loveland City Council provided that such information and records are provided to City Council members in a confidential communication from the City Attorney, and are not otherwise used except for the purposes provided in this Agreement.

16. **Binding Effect**

This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of successors and assigns of the respective parties hereto.

17. **Right of Offset.**

The Company agrees that the City shall have the right to withhold and set off any amounts which may become payable to the Company by the City under this Agreement against any amounts which the Company may owe to the City, whether arising under this Agreement or otherwise. For example, but not by way of limitation, if the Company fails to pay any amounts due to the City for services not related to this Agreement, such as utility or other services, the City shall have the right to withhold payment of and set off any amounts that may be due by the City to the Company against any amounts that may be due to the City by the Company, if Company fails to cure the amount of the claimed offset within thirty (30) days after written notice by the City to Company.

18. **Extension.**

The Completion Date and the Credit Period set forth in Paragraph 2 above shall be subject to extension by the City Manager for good cause shown for a period not to exceed an additional eighteen (18) months, provided that any such extension shall be set forth in writing and signed by the City Manager.

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Lots 4 & 5, Block 6
Longview-Midway Fourth Addition to the City of Loveland



CITY OF LOVELAND
ECONOMIC DEVELOPMENT OFFICE
Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

Memorandum

To: Loveland City Council
Through: Bill Cahill, City Manager
From: Mike Scholl, Economic Development Manager
Date: August 19, 2014
RE: Esh's Discount Groceries/Fee Deferral – STAFF UPDATE

Background:

Esh's Discount Groceries is a successful local discount grocery store. They have three locations in Northern Colorado with the nearest being on West Eisenhower in unincorporated Larimer County.

<http://www.eshsdiscoutgroceries.com/>

Unlike traditional grocery stores, Esh's has an operating agreement with most of the large chains and grocery distributors including Walmart, to purchase overstocked inventory or items damaged in the warehouse. Esh's then sells the items at steep discounts. Under the operating agreement, Esh's is not allowed to advertise and relies primarily on word of mouth.

Even with the inability to advertise, Esh's is doing around \$3.5 million in sales at their cramped 5,000 square foot building on West Eisenhower. According to Rueben Esh, the owner, the store attracts customers from as far away as Wyoming.

Esh's is proposing to build a new 30,000 square foot store and distribution center at 301 W. 71st Street. The store would manage distribution to their stores in Dacono and Evans and would include a wholesale bakery. Esh's anticipates doubling their sales from the store on W. Eisenhower to \$7 million annually, which would yield \$210,000 in annual sales tax revenue to the City. Esh's is interested in the location to attract more customers from Fort Collins and to provide much needed space for distribution.

Proposed CEF deferral agreement:

The proposed CEF deferral agreement, would allow Esh's to defer up to \$200,000 in Capital Expansion Fees for up to eighteen months and pay the City through the normal collection of sales tax collection. If Esh's Discount Groceries fails to generate enough sales tax revenue to cover the \$200,000 CEF deferral within 18 months they would be required to make up the difference. The agreement will also include a 3

percent interest charge that accrues annually. Based on the projected sales, the fee deferral would be repaid with interest in just over 12 months. *Staff will include in the agreement a provision that allows the terms of the agreement to remain in effect in the event that Council votes to eliminate the sales tax on grocery items.*

Next Steps:

Because the incentive package is greater than \$20,000, staff will bring the item to a study session or regular meeting for review prior to formal consideration. Staff anticipates bringing the item in early fall.

The memorandum is intended to provide Council with an opportunity for any questions or concerns prior to the completion of negotiations.

ATTACHMENTS:

Conditional Commitment Letter



May 8, 2014

Reuben Esh, Owner
Esh's Discount Market
4221 W Eisenhower Blvd
Loveland, CO 80537

RE: *Esh's Market/301 W. 71st Street*

Dear Reuben,

Please accept this letter on behalf of the City of Loveland in regard Esh's Discount Market's interest in developing a grocery store at 301 W. 71st Street. We welcome the opportunity to work in partnership with you on this project.

It is our understanding that you plan to build a 30,000 square foot building that would include a retail store, warehouse and wholesale bakery. Further, based on estimates provided to the City, the store would expect to contribute roughly \$210,000 in sales tax revenue annually to the City.

Based on the information submitted to the City, we have provided a business proposal on the following page. The business proposal is intended to serve as a starting point for negotiations and the City is willing to discuss additional terms and conditions. Also, any agreement will be subject to full negotiation and subject to approval by Loveland City Council.

Thank you for the opportunity to present our business proposal. We recognize that this is merely a starting point for what we hope will be a long-term partnership. We look forward to working with you.

Thank you.

Sincerely,

William D. Cahill, City Manager
City of Loveland

Business Proposal

The City of Loveland offers the following for consideration by Esh’s Discount Groceries. The terms provide the framework for negotiation which may result in some modification. The final package is subject to final approval by the Loveland City Council, and any other limitations outlined in the proposal. We also acknowledge that additional negotiation on the terms and conditions will be likely. In addition, the figures will need to be verified through a fee estimate and an economic impact analysis.

<u>Items</u>	<u>Estimated Value</u>
<ul style="list-style-type: none"> • Credit on City fees to be repaid through sales tax revenue not to exceed \$200,000. <ul style="list-style-type: none"> ○ The fees would be paid to the City through normal sales tax collection for 18 months following the issuance of a certificate of occupancy. ○ At the end of the 18 months, should the total sale tax collection to the City be less than \$200,000, Esh’s Market would be responsible for making up the difference. • Expedited review of site plan and building permit applications: <ul style="list-style-type: none"> ○ The City will work with applicant’s design team to set clear deadlines and reasonable assumptions for submittals and review periods ○ City’s review team will work directly with the applicant’s design team to ensure timely review and approvals ○ Staff from the Economic Development Department will be assigned to manage the project 	<p style="margin-top: 100px;">\$200,000</p> <p style="margin-top: 100px;">NA</p>
TOTAL	\$200,000

City of Loveland

<u>Permit Estimate</u>

Estimate New - Retail Building 301 W 71st St Esh's Discount Grocery	Estimate Printed Date: 05/06/2014
--	--

Description	Item Amount	Total Estimate
A02a N-R Bldg PC (New)	\$8,390.69	\$8,390.69
D02b N-R Bldg Permit Fee (New)	\$12,908.75	\$12,908.75
D02c N-R Mech Permit Fee (New)	\$644.25	\$644.25
D02d N-R Elec Permit Fee (New)	\$644.25	\$644.25
D02e N-R Plum Permit Fee (New)	\$391.25	\$391.25
D14 City Use Tax	\$44,991.00	\$44,991.00
D15 County Open Space Tax	\$3,749.25	\$3,749.25
D16 County Jail Tax	\$2,999.40	\$2,999.40
D17 County Fairgrounds Tax	\$2,249.55	\$2,249.55
Sub Total		\$76,968.39
F05 Stormwater Invest Fee Commercial	\$8,052.56	\$8,052.56
F42 CEF Com Fire Protection	\$9,000.00	\$9,000.00
F42 CEF Com General Government	\$12,600.00	\$12,600.00
F42 CEF Com Law Enforcement	\$11,700.00	\$11,700.00
F42 CEF Com Street Retl		\$158,100.00
	\$158,100.00	
F47 Street Insp Non-Res (ea Building)	\$150.00	\$150.00
F49 Stormwater Insp Non-Res (ea Building)	\$150.00	\$150.00
Sub Total		\$199,752.56
		\$276,720.95

Address:301 W 71st St

Contact: Reuben Esh 970-481-1965 / Jesse Peight 970-218-0454 jp.cpnstruction@yahoo.com

**THIS IS AN ESTIMATE ONLY, ACTUAL COSTS MAY VARY.
This estimate is valid until 5/31/14**

This estimate is based on the following provided information:

Total project valuation	\$2,999,400	City valuation used
Electrical sub-valuation	\$50000	
Mechanical valuation	\$50000	
Plumbing valuation	\$25000	
Building size	30000 sq ft	
Construction type	2-B	
Occupancy type	15,000 M / 15,000 S-2	
Water service size	FCLWSD	
Street CEF	\$5.27 per sq ft	
Lot size	75271.68 sq ft	

- The final street CEF costs will be established based on information provided in the TIS or traffic worksheet. These amounts are subject to change during the review process.

The sales tax paid with building permits is a deposit only. All projects are subject to an audit at the conclusion of the project to determine the final sales tax amount to be paid. As project changes, additional fees and taxes may be required; subject to audit by the City of Loveland. Sales tax paid is for City of Loveland and Larimer County tax only; the applicant will still be required to pay State of Colorado sales tax.

This estimate does not include costs associated with electrical engineering; contact Kathleen Porter at 970-962-3561 for additional information.

This estimate does not include costs associated with water rights (contact Scott Dickmeyer at 970-962-3718) or irrigation System Impact Fees, if any (contact Colleen Cameron at 970-962-3701).

This estimate does not include costs associated with any fire suppression, fire alarm, or hood/duct permits required separately by the Loveland Fire Prevention Bureau. Please contact them at 970-962-2536 for additional information on these fees.

Feel free to contact me if you have any questions or would like any additional information.

*Development Services/Building Division
Amanda Dwight
970-962-2610
Amanda.Dwight@cityofloveland.org*



May 8, 2014

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Esh's Discount Market
4221 W Eisenhower Blvd
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This estimate does not include costs associated with electrical engineering; contact Kathleen Porter at 970-962-3561 for additional information.

This estimate does not include costs associated with water rights (contact Scott Dickmeyer at 970-962-3718) or irrigation System Impact Fees, if any (contact Colleen Cameron at 970-962-3701).

This estimate does not include costs associated with any fire suppression, fire alarm, or hood/duct permits required separately by the Loveland Fire Prevention Bureau. Please contact them at 970-962-2536 for additional information on these fees.

Feel free to contact me if you have any questions or would like any additional information.

*Development Services/Building Division
Amanda Dwight
970-962-2610
Amanda.Dwight@cityofloveland.org*

Fiscal Analysis of the Esh's Discount Groceries Project February 2015

	Year 1 2015	Year 2 2016	Year 3 2017	Year 4 2018	Year 5 2019	Year 6 2020	Year 7 2021	Year 8 2022	Year 9 2023	Year 10 2024	TOTAL
Property Tax City Only	-	6,878	6,981	7,086	7,192	7,300	7,410	7,521	7,634	7,748	65,749
Building Permit Use Tax	50,000										50,000
Capital Expansion Fees	216,000										216,000
Use Tax on Equipment		200	203	206	209	212	215	219	222	225	1,912
Sales tax from Business	-	150,000	152,250	154,534	156,852	159,205	161,593	164,016	166,477	168,974	1,433,900
Employee Sales Tax			4,500	4,568	4,636	4,706	4,776	4,848	4,920	4,994	37,948
Total City Low	266,000	157,078	163,934	166,393	168,889	171,422	173,994	176,604	179,253	181,942	1,805,508
Deferral	(200,000)	-	-	-	-	-	-	-	-	-	(200,000)
Grand total cumulative Low Estimate	66,000	157,078	163,934	166,393	168,889	171,422	173,994	176,604	179,253	181,942	1,605,508

The estimate is based on \$5 million in new sales starting in 2016. The owners expect to do up to \$7 million in sales
 The property tax is based on building valuation of \$3,100,000



SURPLUS MARKET, LLC
4221 W EISENHOWER BLVD.
LOVELAND, CO 80537

Dear City Council,

2/6/2015

On behalf of Esh's Surplus Market, LCC, I would like to seek some assistance with the opening of our new store, warehouse and company headquarters on W. 71st St in Loveland. We are seeking a deferral of building permit and capital expansion fees of \$200,000.

Esh's is a family business. We've been around for almost 13 years and currently have three stores in Northern Colorado, including one west of town on Eisenhower. I started the business with my father 13 years ago and my brother is the General Manager of our three retail locations. Our business caters to the cost conscious consumers and hard working families looking for a good deal on grocery items. Our business specializes in resale of overstocked and slightly damaged items for the major grocery chains and distributors. Our customers find loads of bargains in every aisle, saving up to 50% off of regular grocery costs.

The incentive will help us expand and grow in Northern Colorado. We believe the new store location will make it easier for our Fort Collins and Windsor customers to access Esh's Market. In addition, we will be bringing on approximately 20 new employees over the next year.

We appreciate your consideration of our request. We are a true family business and look forward to growing right here in Loveland.

Sincerely,

A handwritten signature in black ink that reads "Reuben Esh".

Reuben Esh
Esh's Surplus Market, LLC
rmesh@msn.com
970-481-1965

City of Loveland Economic Development Policy Project Checklist		February 17, 2014	
Company Name : Esh's Surplus Market		Incentive Type:	Deferral of fee payment pending sales tax generation
Requirement	Meets (y/n)	Date	Details
Met with the Economic Development Manager	Y	April 25, 2104	
Letter of Intent/Request Received	Y	February 6, 2015	
Economic Impact Analysis Data Submitted	Y	February 1, 2015	
Impact Analysis shows Positive Net New Revenue	Y		\$1.38 million over ten years
Pays 80% of Employee Health Ins. Premium	NA		
Offers Group Health Ins. Coverage to Dependents	NA		
Performance Agreement	Y		Yes.
Minimum investment of \$500,000	Y		Total investment including land of \$2.4 million
Net New Jobs to Loveland	Y		20 new jobs one year after completion of construction
Project Budget Submitted	Y	January 1, 2015	
Study Session		February 17, 2014	
Council Meeting and Approval			
Average Annual Wages Company wide	Meets (y/n)		Details
110% of Larimer County Ave Annual Wage	n/a		
120% of Larimer County Ave Annual Wage	n/a		
130% of Larimer County Ave Annual Wage	n/a		
140% of Larimer County Ave Annual Wage	n/a		
150% or > Larimer County Ave Annual Wage	n/a		
Encouraged but not required	Meets (y/n)		Details
Located in an Enterprise Zone	N		
Located in Downtown Loveland	N		
Reuse of an existing vacant facility	N		
Clean Energy Company	N		
Health Care	N		
Aerospace/Aviation	N		
Bio-Science	N		
Arts/Sculpture Related	N		
Rocky Mountain Innovation Initiative Client	N		
Proposed Incentive			\$200,000