

Mayor Gutierrez called the Study Session of the Loveland City Council to order at 6:30 p.m. on the above date. Councilors present: Gutierrez, Heckel, Solt, Klassen, McEwen, Rice, Johnson, McKean and Shaffer. City Manager, Bill Cahill was also present.

1. FIRE & RESCUE

Fire Authority Implementation for Loveland Fire and Rescue

Fire Chief, Randy Mirowski presented this item to Council as a progress report and recommendation for implementation to City Council from the Fire Authority Review Committee. The recommendation to create a fire authority, if approved, would result in an intergovernmental agreement to create a partnership between the City of Loveland and the Loveland Rural Fire Protection District to provide all fire and rescue services to the citizens living within the boundary lines of both the City and the Rural District. Chief Mirowski reviewed the governance model, the establishment of the first Fire Authority Board, schedule of meetings and the new revenue allocation percentages for the City and Rural District. Renee Wheeler, Jeff Swanty and Greg White, members of the review committee, came forward to address Council and answer questions. Discussion ensued. Council directed staff to move forward to bring the intergovernmental agreement to the August 16, 2011 Regular meeting for consideration.

2. DEVELOPMENT SERVICES

Pulliam Building Capital Campaign

City Planner, Mike Scholl presented this item to Council. The Center of Loveland (COL) led by Norm Rehme has approached the Council with a proposal to lease the Pulliam Community Building from the City in exchange for participation in a capital campaign to renovate the building. Mr. Scholl reviewed the financial history of the building, the historic agreement, the City's grant application to the State Historical Fund and the three options the City has for the building. Mr. Rehme came forward to review the proposal and answer questions. Discussion ensued. Council directed staff to move forward to develop a formal business plan for operating the Pulliam Community Building and return to a future meeting for consideration.

City Manager, Bill Cahill gave an update on the ACE technology manufacturing park. On Tuesday the developers told city officials they need an extension on the agreement from August 20, 2011 until October 1, 2011 to submit a formal proposal with more detailed terms for the deal conditioned upon a clarification of the City of Loveland's long-term role in the park and the extent of financial support for the proposed redevelopment. City negotiators urged the development team to strive to produce as much as they can by the original date.

The Mayor will recommend Councilor Joan Shaffer for appointment to the CML Policy Committee to represent Loveland.

The study session was adjourned at 7:54 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor

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

PLEDGE OF ALLEGIANCE

ROLL CALL Roll was called and the following responded: Gutierrez, McKean, Klassen, Heckel, Johnson, Solt, Shaffer and Rice. Councilor McEwen was absent.

PROCLAMATION Mayor Gutierrez read a proclamation declaring Samuel G. Betters, "Honored Citizen". The proclamation was received by Sam Betters.

PROCLAMATION

WHEREAS Samuel G. Betters has served the Housing Authority of the City of Loveland for thirty-five years; and

WHEREAS Samuel G. Betters has been an exemplary Executive Director of the Housing Authority of the City of Loveland since 1981; and

WHEREAS Samuel G. Betters has dedicated his professional career toward providing clean, safe, and affordable housing for the citizens of Loveland; and

WHEREAS Samuel G. Betters has provided assistance, leadership, and expertise to other affordable housing agencies throughout the State of Colorado; and

WHEREAS Samuel G. Betters is a strong advocate for the growth and personal development of Loveland residents who reside in affordable housing; and

WHEREAS Samuel G. Betters has served the City of Loveland as a member of its committees, boards, and commissions including Chairperson of the City of Loveland's Affordable Housing Commission; and

WHEREAS Samuel G. Betters' service and commitment to the citizens of Loveland has made the City of Loveland a better community.

NOW, THEREFORE, the City Council for City of Loveland, Colorado do hereby proclaim

SAMUEL G. BETTERS, "HONORED CITIZEN" OF THE CITY OF LOVELAND

and express the City's appreciation and gratitude for his leadership and the contributions he has made toward making Loveland the "jewel" of Northern Colorado.

Signed this 2nd day of August, 2011

Cecil A. Gutierrez, Mayor
City of Loveland, Colorado

PRESENTATION Jim Tolstrup, Executive Director of the High Plains Environmental Center, presented an overview of the environmental center. Their website is www.suburbitat.org.

PROCEDURAL INFORMATION

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

CONSENT AGENDA

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

1. MINUTES

- a) Minutes for the July 12, 2011 study session were approved.
- b) Minutes for the July 19, 2011 regular meeting were approved.

2. DEVELOPMENT SERVICES

Easement Vacation, Ferrero First Addition (Larimer County Food Bank)

Ordinance #5613

Legislative Action: "AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT ON LOT 2, BLOCK 1, OF THE AMENDED PLAT OF LOTS 1 AND 2, BLOCK 1, FERRERO FIRST ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO was approved and ordered published on second reading.

3. FINANCE

Municipal Code Amendment Regarding Construction Contracts

Ordinance #5614

Legislative Action: "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 3.12.140 CONCERNING PERFORMANCE AND PAYMENT BONDS REQUIRED FOR CONSTRUCTION CONTRACTS, AND SECTION 3.12.150 CONCERNING RETAINAGE HELD ON CONSTRUCTION CONTRACTS" was approved and ordered published on second reading.

4. AIRPORT

Supplemental Appropriation – Airport Terminal Building

Ordinance #5615

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND AIRPORT BUDGET FOR THE PURCHASE OF A MODULAR BUILDING" was approved and ordered published on second reading.

5. PUBLIC WORKS

Supplemental Appropriation – School Crossing Guard

1st Rdg Ord & P.H.

Administrative Action: A public reading was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A NEW SCHOOL CROSSING GUARD AT 29TH STREET AND MADISON AVENUE" was approved and ordered published on first reading.

6. INFORMATION TECHNOLOGY

Dissolve Communications Technologies Commission

1st Rdg Ord & P.H.

Legislative Action: A public reading was held and "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 2.60.070 TO DISSOLVE THE COMMUNICATIONS TECHNOLOGIES COMMISSION" was approved and ordered published on first reading.

7. DEVELOPMENT SERVICES

CDBG Annual Action Plan

Resolution #R-47-2011

Administrative Action: Resolution #R-47-2011 of the City Council of the City of Loveland, Colorado approving a Community Development Block Grant Annual Action Plan and Grant Application for 2011- 2011 was approved.

RESOLUTION #R-47-2011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN AND GRANT APPLICATION FOR 2011 – 2012

WHEREAS, the City of Loveland, Colorado receives federal Community Development Block Grant (“CDBG”) dollars from the U.S. Department of Housing and Urban Development (“HUD”); and

WHEREAS, HUD requires the City to submit an annual action plan and grant application providing detailed information regarding the City’s plan to spend the federal funding; and

WHEREAS, the City has developed a Community Development Block Grant Annual Action Plan and Grant Application for 2011 – 2012, a copy of which is on file with the City Clerk (“Annual Action Plan”); and

WHEREAS, the Annual Action Plan includes information regarding the allocation of 2011 – 2012 CDBG funds that were approved by the City Council on June 21, 2011 through the adoption of Resolution #R-43-2011; and

WHEREAS, the City Council desires to approve the Annual Action Plan.

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

Section 1. That the Community Development Block Grant Annual Action Plan and Grant Application for 2011 – 2012, a copy of which is on file with the City Clerk, is hereby approved.

Section 2. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 2nd day of August, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens’ Reports

Eric Sutherland, Fort Collins resident, expressed appreciation for the Council’s willingness to discuss the Platte River Power Authority project.

b) Business from Council

Gutierrez

There was discussion about creating an abatement policy. The Mayor complemented all those involved with the Larimer County Parade. The Mayor attended several events in conjunction with Colorado Cares Day. Human Resources Director Julia Garcia sent Council the 2011 schedule for evaluations of the City Manager, Judge and City Attorney. In response to a question by the Mayor, Chief Mirowski stated the Fire Authority does not have any taxing ability. The funding is from the city of Loveland and rural district.

Gutierrez

The Mayor addressed a letter received from Mayor Weitkunat of Fort Collins regarding a request to Council to send a joint directive (with Fort Collins Council) to Platte River Power Authority to investigate alternatives to building the Dixon transmission line through the Pineridge Natural Area. Discussion ensued. Councilor Klassen made a motion for Council to hold a special meeting on August 9, 2011 at 6:30 p.m. and discuss with Platte River Power Authority possible alternate routes and technologies to the current plan for the Dixon transmission line that will still allow the current schedule to be met. Councilor Shaffer seconded the motion and a roll call vote was called with seven councilors present voting in favor and Councilor McKean voting against. The motion passed. The Fort Collins City Council and Platte River Power Authority will be invited to the August 9, 2011 meeting.

c) City Manager Report

City Manager Cahill gave an update on the building facade collapse at 309 E. 4th Street.

d) City Attorney Report

None

PROCEDURAL INFORMATION

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

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

8. FINANCE

Ballot Measure for November 1, 2011 Election

1st Rdg Ord & P.H.

Administrative Action: Budget Officer John Hartman introduced this item to Council. This is an administrative action to refer a ballot measure to allow the City to retain revenue in excess of the TABOR (State Constitutional Amendment) revenue limits beginning January 2013. Councilor Johnson made a motion to approve the ordinance and submit to the registered electors of the City of Loveland at the regular election to be held on November 1, 2011, the ballot issue of whether, without creating a new tax or increasing the rate of any existing tax, the City of Loveland shall be permitted to collect, retain, and spend all city revenues in excess of the spending and revenue limitation in Article X, Section 20 of the Colorado Constitution to be used for police, fire, street construction and maintenance, and parks construction and maintenance. Councilor Shaffer seconded the motion. Councilor Klassen made a motion to set sunset provisions by adding the following language "through December 31, 2022" to the ballot language. Councilor Rice seconded the motion and a roll call vote was taken with three councilors present voting in favor and Councilors Johnson, Gutierrez, Shaffer Solt and Heckel voting against. The motion failed. A roll call vote was taken on the ordinance as originally moved with five Councilors present voting in favor and Councilors McKean, Rice and Klassen voting against. The motion passed.

9. BUSINESS DEVELOPMENT

Fee Waivers – Wood Group Power Plant Services, Inc

Resolution #R-48-2011

Administrative Action: Business Development Manager Betsey Hale introduced this item to Council. Gary Schwartz, Vice President Controls Operations/ Wood Group GRS, and Kelly Peters, Director of Business, Northern Colorado Economic Development Corporation were also present. This is an administrative action. Wood Group has requested City Council consideration of a \$13,835.00 economic incentive package for the expansion of the company located at 591 West 66th Street. Councilor Johnson made a motion to approve Resolution #R-48-2011 waiving certain permit and development fees for Wood Group Power Plant Services, Inc. Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-48-2011

A RESOLUTION WAIVING CERTAIN PERMIT AND DEVELOPMENT FEES FOR WOOD GROUP POWER PLANT SERVICES, INC.

WHEREAS, Wood Group Power Plant Services Inc., a Nevada corporation ("Wood Group") provides engineering and support services, retrofit controls upgrades for gas and steam turbines, and remote monitoring and diagnostic services

for power generation, compression and transmission for power plants operated by John Wood Group PLC in the United States; and

WHEREAS, Wood Group has entered into a new five year lease (the "New Lease") for existing and new space located at 567, 579, 583, 587, 581, 595, 599 W. 66th Street, Loveland (the "Premises"), including renovation and expansion of the Premises at Wood Group's cost (the "Renovation and Expansion"); and

WHEREAS, as a result of entering into the New Lease, completing the Renovation and Expansion, and remaining in its current location in Loveland, Wood Group will create 15 new positions and retain 50 existing employees in the Premises in Loveland; and

WHEREAS, Wood Group has requested from the City certain economic incentives, including a credit for construction materials use tax due on application for a building permit for the Renovation and Expansion up to a maximum of \$6,000.00 (the "Use Taxes"), waiver of building permit and inspection fees due on application for a building permit for the Renovation and Expansion of the Premises of up to \$5,225.00 (the "Permit Fees"), and waiver of capital expansion fees due at time of certificate of completion for the Renovation and Expansion of the Premises of up to \$2,610.00 (the "CEF's"), to help defray some of its costs to complete the Renovation and Expansion to remain in its current location in Loveland; and

WHEREAS, Section 16.38.070 of the Loveland Municipal Code provides that the City Council may grant an exemption from all or any part of the CEF's or Permit Fees, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic, or cultural benefits; and

WHEREAS, Section 16.38.070 provides further that, whenever any capital related CEF is waived, the City Council shall direct that the waived fee be paid by the general fund or another appropriate fund; and

WHEREAS, Section 3.16.590 of the Loveland Municipal Code provides that the City Council may grant by resolution a use tax credit upon a finding that such a credit will serve a public purpose, including but not limited to providing the public with significant social and economic benefits;

WHEREAS, the City Council believes that granting Wood Group an exemption from the CEF's and Permit Fees and a credit for the Use Taxes is in the best interests of the public because Wood Group's completion of the Renovation and Expansion of the Premises and continued location in Loveland will provide significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased sales and property tax revenues to the City.

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

Section 1. That the City Council hereby finds that granting Wood Group an exemption from CEF's and Permit Fees is in the best interests of the public because the Renovation and Expansion of the Premises and continued location of Wood Group in Loveland will provide significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased tax revenues to the City.

Section 2. That the City Council hereby finds that granting Wood Group a use tax credit will serve a public purpose because the Renovation and Expansion of the Premises and continued location in Loveland will provide significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased tax revenues to the City.

Section 3. That the Permit Fees identified on Exhibit A attached hereto and incorporated herein by this reference, due on application for a building permit for the Renovation and Expansion of the Premises in an amount not to exceed Five Thousand Two Hundred and Twenty Five Dollars (\$5,225.00) are hereby waived, provided that Wood Group obtains a building permit for the Renovation and Expansion of the Premises on or before October 31, 2011.

Section 4. That the a credit for the Use Taxes due on application for a building permit for the Renovation and Expansion of the Premises in an amount not to exceed Six Thousand Dollars (\$6,000.00) is hereby approved, provided that Wood Group obtains a building permit for the Renovation and Expansion of the Premises on or before October 31, 2011.

Section 5. That the CEF's identified on Exhibit A, attached hereto and incorporated herein by reference, due on issuance of a certificate of completion for the Renovation and Expansion of the Premises in an amount not to exceed Two Thousand Six Hundred and Ten Dollars (\$2,610.00) are hereby waived, provided that Wood Group obtains a temporary or permanent certificate of completion for the Renovation and Expansion of the Premises on or before May 31, 2012. Waived CEF's shall be backfilled by the general fund or other appropriate fund.

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

ADOPTED this 2nd day of August, 2011.

Cecil A. Gutierrez, Mayor
Attest: Teresa G. Andrews, City Clerk
Exhibit A is available in the City Clerk's Office

10. DEVELOPMENT SERVICES

Municipal Code Amendment Regarding Affordable Housing

1st Rdg Ord & P.H.

Legislative Action: Community Partnership Administrator Alison Hade introduced this item. This is a public hearing to consider a legislative action to adopt an ordinance on first reading to amend Title 16, adding language to definition of "affordable housing development" establishing that an affordable housing development means a development designated as such by the City Council and establishes that fees calculated under this section are valid for only five years and thereafter can only be calculated based on the development fee schedule in affect a maximum of five years prior (the "five-year rolling lock"). The Mayor opened the public hearing at 8:58 p.m. and hearing no comments closed the hearing at 8:58 p.m. Councilor Johnson made a motion to approve and ordered published on first reading "AN ORDINANCE AMENDING TITLE 16 OF THE LOVELAND MUNICIPAL CODE AT SECTION 16.08.101, CHAPTER 16.38 AND CHAPTER 16.43 REGARDING AFFORDABLE HOUSING". Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

11. FINANCE

June 2011 Financial Report

This is an information only item. No action is required. Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the six months ending June 30, 2011.

12. CITY MANAGER

Investment Report - June 2011

This is an information only item. No Council action is required. Executive Fiscal Advisor, Alan Krcmarik, introduced this item to Council. The budget estimate for investment earnings for 2011 is \$3,163,130. For the first half of 2011, the amount posted to the investment account is \$1,944,127 including realized gains. Actual year-to-date earnings are higher than the year-to-date projection by \$362,562. Based on June's monthly statement, the estimated annualized yield on the U.S. agencies and corporates slipped to 1.63%, which is under the annual target rate. The slippage is due to \$44 million of called bonds. Most of the \$44 million will be reinvested. Interest rates are trending lower, but annual returns should still meet the target.

ADJOURNMENT

Having no further business to come before Council, the August 2, 2011 Regular Meeting was adjourned at 9:25 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
CITY MANAGER'S OFFICE

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

AGENDA ITEM: 2
MEETING DATE: 8/16/2011
TO: City Council
FROM: City Manager
PRESENTER: Bill Cahill

TITLE:

Appointment of members to Cultural Services Board and Transportation Advisory Board

DESCRIPTION:

An administrative item appointing members to the Cultural Services Board and Transportation Advisory Board.

BUDGET IMPACT:

● No

SUMMARY:

Rose Watson resigned from the **Cultural Services Board** ("CSB") effective after the August 23, 2011 CSB meeting. During the previous recruiting and interview process for the CSB, which took place in December, 2010, Teresa Mueller was deemed qualified as an alternate member to the CSB by the interview committee. It was the intent of the interview committee to formally designate Ms. Mueller as an alternate member to the CSB, however, this recommendation was inadvertently omitted from City Council action on January 4, 2011, when City Council approved the appointment of several board and commission members, including members on the CSB. With Ms. Watson's resignation, staff now asks City Council to approve the appointment of Teresa Mueller as a regular member on the Cultural Services Board for a partial term effective until December 31, 2012.

The **Transportation Advisory Board** ("TAB") recruited for three term vacancies. Applications were only received from the three incumbents. Interviews were conducted, and the committee recommends the reappointment of Irene Fortune, Robert Massaro, and David Martinez to TAB, all for three year terms effective until June 30, 2014.

LIST OF ATTACHMENTS:

None

RECOMMENDED CITY COUNCIL ACTION:

Motion to appoint Teresa Mueller to the Cultural Services Board for a partial term effective until December 31, 2012.

Motion to reappoint Irene Fortune, Robert Massaro, and David Martinez to the Transportation Advisory Board, all for three year terms effective until June 30, 2014.

REVIEWED BY CITY MANAGER:

**CITY OF LOVELAND**
POLICE DEPARTMENT

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

AGENDA ITEM: 3
MEETING DATE: 8/16/2011
TO: City Council
FROM: Keith Reester, Public Works Director
PRESENTER: Keith Reester

TITLE:

Ordinance on Second Reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for a new school crossing guard at 29th Street and Madison Avenue

DESCRIPTION:

This is an administrative action. The ordinance appropriates funds for a new school crossing guard at the beginning of the new school year.

BUDGET IMPACT:

● Yes

Undesignated fund balance is used to fund the appropriation. The amount is for one quarter of the annual cost and begins in the Fall of 2011. The annual cost is estimated at \$5,000 and will need to be added to the 2012 budget.

SUMMARY:

The Thompson R2J School District has requested approval of the stationing and funding for another paid crossing guard position at 29th Street and Madison Avenue. The Public Works-Traffic division has reviewed the location and concurs with the request from a traffic and pedestrian safety standpoint.

Under the current IGA with the Thompson School District the City of Loveland pays 100% of the costs for crossing guards within the city limits, including equipment. This totals \$65,000 per year. In a recent review of other area cities staff found that this percentage of cost sharing is out of line with peer cities and districts. Fort Collins stands at 50% share, Longmont at 50%, and Greeley at 50%. Staff recommends that this issue be a discussion point in upcoming item reviews with the school district.

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for a new crossing guard at 29th Street and Madison Avenue.

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on Second Reading

REVIEWED BY CITY MANAGER:

FIRST READING August 2, 2011

SECOND READING August 16, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A NEW SCHOOL CROSSING GUARD AT 29TH STREET AND MADISON AVENUE

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That reserves in the amount of \$1,240 from Undesignated Fund Balance in the General Fund 01 are available for appropriation. Revenues in the total amount of \$1,240 are hereby appropriated for the addition of a school crossing guard at 29th Street and Monroe Avenue and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 01 -School Crossing Guard**

Revenues		
Fund Balance		1,240
Total Revenue		1,240
Appropriations		
001-52505-409-03-34	School Crossing Guards	1,240
Total Appropriations		1,240

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

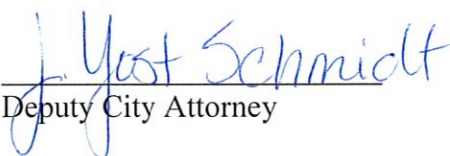
ADOPTED this 16th day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
INFORMATION TECHNOLOGY DEPARTMENT
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AGENDA ITEM: 4
MEETING DATE: 8/16/2011
TO: City Council
FROM: Ed Roth, Information Technology
PRESENTER: Ed Roth

TITLE:
AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 2.60.070 TO DISSOLVE THE COMMUNICATIONS TECHNOLOGIES COMMISSION

DESCRIPTION:
This is a legislative action to dissolve the Communications Technologies Commission.

BUDGET IMPACT:

Yes

SUMMARY:

As part of the financial sustainability plan's review of the governance structure of the organization, Boards and Commissions were analyzed for resource consumption and effective use of the extraordinary talent that volunteers were willing to contribute. One of the outcomes of that review was a recommendation to eliminate the CTC as a scheduled, standing Commission. The primary reasons were the lack of topics for the CTC to consider over the last couple of years, and the problem with having a quorum in regular attendance even though the meetings were changed from a monthly to quarterly meeting frequency.

Current members of the CTC have been notified of the possible dissolution of the commission and none have stated any objection.

LIST OF ATTACHMENTS:

Ordinance

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading

REVIEWED BY CITY MANAGER:

FIRST READING August 2, 2011

SECOND READING August 16, 2011

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 2.60.070 TO DISSOLVE THE COMMUNICATIONS TECHNOLOGIES COMMISSION

WHEREAS, as part of the City of Loveland’s financial sustainability plan, City staff reviewed the City’s current boards and commissions for effective use of volunteer talent and resource consumption; and

WHEREAS, as a result of that review, staff recommends that the Communications Technologies Commission be resolved due to the lack of issues for consideration and repeated failure to obtain a quorum, even at quarterly meetings; and

WHEREAS, the members of the Communications Technologies Commission have been informed of City staff’s recommendation and agree with said recommendation; and

WHEREAS, the City Council desires to dissolve the Communications Technologies Commission and to express its appreciation to the members of the Communications Technologies Commission for their service and contribution to the City of Loveland.

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

Section 1. That Section 2.60.070 of the Loveland Municipal Code establishing the Communications Technologies Commission is hereby repealed.

Section 2. That the Communications Technologies Commission is hereby dissolved.

Section 3. That the City Council hereby recognizes and expresses its appreciation to the members of the Communications Technologies Commission for their service and contribution to the City of Loveland. The City Council commends the members for their willingness to volunteer their time and talents for the betterment of our community.

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

ADOPTED this 16th day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney



CITY OF LOVELAND
CITY COUNCIL

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AGENDA ITEM: 5

MEETING DATE: 8/16/2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Alison Hade, Community Partnership Office Administrator

TITLE:

AN ORDINANCE AMENDING TITLE 16 OF THE LOVELAND MUNICIPAL CODE AT SECTION 16.08.101, CHAPTER 16.38 AND CHAPTER 16.43 REGARDING AFFORDABLE HOUSING.

DESCRIPTION:

Consideration of a legislative action to adopt an ordinance on second reading to amend Title 16 as follows:

- A. Section 16.08.010:
 - i. Adds language to definition of “affordable housing development” establishing that an affordable housing development means a development designated as such by the City Council.
 - ii. Adds language to paragraph (7) of the definition of “affordable housing development” establishing that any other housing development in which a percentage of the total proposed units are affordable to household earning a percentage of Qualified Income is also an “affordable housing development”.
- B. Section 16.38.085:
 - i. Revises paragraph A to establish the date on which a development is officially designated as an “affordable housing development” to be the date on which City Council grants the designation, instead of when a substantially complete application for approval of such a development has been submitted to the City.
 - ii. Revises paragraph A to establish that fees calculated under this section are valid for only five years and thereafter can only be calculated based on the development fee schedule in affect a maximum of five years prior (the “five-year rolling lock”).
 - iii. Adds language to paragraph B to establish that any “affordable housing development” designation expires ten years after the designation date, unless at least one affordable housing unit has received a certificate of occupancy.
 - iv. Adds paragraph C to establish that if at any time the development fees applicable to the market rate housing units are lower than for the “affordable housing development”, then the developer is entitled to the lower fees.

- C. Section 16.43.035: New section establishing that applications for a designation of an “affordable housing development” must obtain a recommendation from the Affordable Housing Commission and final approval by City Council.
- D. Section 16.43.070: Adds language allowing the Director of Development Services to approve the final location of affordable housing units, provided the locations are in substantial conformance with those shown on the preliminary subdivision plat approved by the Planning Commission.

BUDGET IMPACT:

● No

SUMMARY:

The proposed code amendments address issues raised by City Council during the process in which City Council considered extensions of “affordable housing development” designations for Aspen Knolls and Wilson Commons in April 2010.

The proposed amendments were developed jointly by the Affordable Housing Commission and the City Attorney’s office. The amendments were reviewed and are supported by the Affordable Housing Commission. On May 12, 2011, the Affordable Housing Commission recommended that City Council approve the proposed amendments by a vote of 5-0.

The ordinance amending Title 16 was adopted unanimously on first reading by the City Council on August 2, 2011.

LIST OF ATTACHMENTS:

Ordinance amending Title 16

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

“Move to adopt on second reading “AN ORDINANCE AMENDING TITLE 16 OF THE LOVELAND MUNICIPAL CODE AT SECTION 16.08.101, CHAPTER 16.38 AND CHAPTER 16.43 REGARDING AFFORDABLE HOUSING.”

REVIEWED BY CITY MANAGER:

FIRST READING August 2, 2011

SECOND READING August 16, 2011

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 16.08.010, SECTION 16.38.085, AND CHAPTER 16.43 REGARDING AFFORDABLE HOUSING

WHEREAS, the City Council desires to amend certain sections of the Loveland Municipal Code concerning affordable housing to eliminate obsolete terminology and requirements, and to require a recommendation of the Affordable Housing Commission and approval of the City Council in order to designate a housing development as affordable.

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

Section 1. That Section 16.08.010 of the Loveland Municipal Code is hereby amended to read as follows:

16.08.010 Definitions.

...

“Affordable housing development” means a development designated as such by the city council by resolution in accordance with Section 16.43.035 and that is: (1) a housing development in which at least twenty percent of the total proposed units are sold to households earning seventy percent or less of Qualified Income and in which the units are owner-occupied; (2) a housing development in which at least twenty-five percent of the total proposed units are sold to households earning seventy-five percent or less of Qualified Income, and in which the units are owner-occupied; (3) a housing development in which at least thirty percent of the total proposed units are sold to households earning eighty percent or less of Qualified Income, and in which the units are owner-occupied; (4) a rental housing development in which at least twenty percent of the total proposed units are affordable to households earning fifty percent or less of Qualified Income; (5) a rental housing development in which at least twenty-five percent of the total proposed units are affordable to households earning fifty-five percent or less of Qualified Income; (6) a rental housing development in which at least forty percent of the total proposed units are affordable to households earning sixty percent or less of Qualified Income; or (7) any other housing development in which a percentage of the total proposed units, as determined by the city council, are affordable to households earning a percentage of Qualified Income, as determined by the city council. As used herein, “affordable” shall mean that the monthly cost of a rental housing unit is no more than the monthly rent set forth by income and

rent tables released annually by the United States Department of Housing and Urban Development, a copy of which is on file with the city clerk's office.

Section 2. That Section 16.38.085 of the Loveland Municipal Code is hereby amended to read as follows:

16.38.085 Capital expansion fees for affordable housing developments.

- A. Capital expansion fees, water rights requirements and fees, and any other fees imposed by the city upon an affordable housing development, whether for capital or other purposes (collectively, "development fees"), shall be calculated as of the date on which the city council adopts a resolution designating the housing development as affordable (the "designation date"). The development fees calculated under this section shall be valid for five years thereafter. At the end of the five-year period, the development fees shall be calculated each year thereafter on the basis of those development fees in effect five years prior. This adjustment shall continue each year until the last affordable housing unit within the affordable housing development receives a building permit, or the housing development loses its affordable designation in accordance with subparagraph B. below.
- B. Ten years after the designation date, the housing development shall lose its affordable designation unless at least one affordable housing unit within the housing development has received a certificate of occupancy, in which case the development fees shall continue to be calculated as set forth in subparagraph A. above. Notwithstanding the foregoing, any developer that has not obtained a certificate of occupancy at the end of the ten-year period may request that the affordable housing commission consider and make a recommendation to the city council to extend the housing development's affordable designation and the fee reduction provided for herein for good cause shown. Any such extension shall be set forth in a development agreement approved by resolution of the city council.
- C. Notwithstanding anything herein to the contrary, the developer shall be entitled to pay the lower of the development fee in effect as of the designation date and the development fee in effect at the time such fees are paid.

Section 3. That Chapter 16.43 of the Loveland Municipal Code is hereby amended by addition of a new Section 16.43.035 to read as follows:

16.43.035 Affordable housing developments; designation.

All applications for designation of a housing development as affordable shall be submitted to the affordable housing commission for review and recommendation to the city council. The city council shall review such applications and make the final determination to approve, approve with conditions, or deny such applications by resolution.

Section 4. That Section 16.43.060 of the Loveland Municipal Code is hereby amended to read as follows:

16.43.060 Dispersion of affordable housing units.

Where affordable housing units are part of a residential development also containing market-rate housing units, the planning commission shall review the preliminary plat to ensure that the affordable housing units shall, to the extent possible without creating practical difficulties, be mixed with the market-rate housing units and not clustered together or segregated from market-rate housing units in the development. The director of development services, in all instances, shall have the discretion to approve the final location and distribution of affordable housing units in the development on the final plat, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat.

Section 5. That Section 16.43.070 of the Loveland Municipal Code is hereby amended to read as follows:

16.43.070 Designation of affordable housing units required.

All development plans for affordable housing developments or that include affordable housing units shall indicate which dwelling units shall be constructed as affordable housing units. For single-family detached dwelling units, each lot upon which an affordable housing unit is to be constructed shall be designated on the development plan. For multi-family housing or duplex housing, the development plan shall indicate the percentage of units within the development that shall be constructed as affordable housing units. An affordable housing development may be developed in phases. For a phased development, each development plan shall indicate which dwelling units shall be constructed as affordable housing units. The director of development services, in all instances, shall have the discretion to approve the number and location of affordable housing units within a phased development so long as the required percentage of affordable housing units is met. The director of development services shall also have the authority to approve administrative amendments to development plans changing the location of affordable housing units designated on a development plan for non-phased developments, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat and with all other applicable provisions of this chapter.

Section 6. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 16th day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney



CITY OF LOVELAND
CITY ATTORNEY'S OFFICE

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

AGENDA ITEM: 6
MEETING DATE: 8/16/2011
TO: City Council
FROM: City Clerk / City Attorney
PRESENTER: Terry Andrews / John Duval

TITLE:

A Resolution approving and authorizing the execution of an agreement between the City of Loveland and the Larimer County Clerk and Recorder concerning the coordinated mail ballot election to be held on November 1, 2011

DESCRIPTION:

This is an administrative action to adopt a resolution authorizing the execution of an agreement between the City of Loveland and the Larimer County Clerk and Recorder concerning the coordinated election to be held on November 1, 2011

BUDGET IMPACT:

● No

SUMMARY:

On July 5, 2011, the City Council adopted Resolution #R-44-2011 authorizing the City Clerk to notify the Larimer County Clerk and Recorder ("County Clerk") of the City's intention to participate in the November 1, 2011 election and to coordinate the City's participation in that election with the County Clerk. The County Clerk has presented the City with an "Agreement Concerning Election Services" dated July 21, 2011, a copy of which is attached as Exhibit "A" to the proposed Resolution ("the Election Agreement"). CRS Section 1-7-116(2) provides that when the County Clerk is conducting a coordinated election with a municipality, the County Clerk is required to enter into an agreement with that municipality concerning the conduct of the election. Therefore, in order for the City to participate in a coordinated election with the County Clerk on November 1, 2011, it is necessary for the City to enter into the Election Agreement.

LIST OF ATTACHMENTS:

Resolution

RECOMMENDED CITY COUNCIL ACTION:

Approval of the Resolution

REVIEWED BY CITY MANAGER:

RESOLUTION #R-49-2011**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LARIMER COUNTY CLERK AND RECORDER CONCERNING THE COORDINATED MAIL BALLOT ELECTION TO BE HELD ON NOVEMBER 1, 2011**

WHEREAS, on July 5, 2011, the Loveland City Council adopted Resolution #R-44-2011 authorizing the Loveland City Clerk (“City Clerk”) to notify the Larimer County Clerk and Recorder (“County Clerk”) of the City of Loveland’s intention to participate in the November 1, 2011, election and to coordinate the City’s participation in that election with the County Clerk; and

WHEREAS, on July 19, 2011, the City Council adopted on second reading Ordinance No. 5612 authorizing that the City’s November 1, 2011, regular municipal election be governed by the Colorado Uniform Election Code of 1992 to the extent necessary in order to conduct the election as a coordinated election with the County Clerk held on November 1, 2011; and

WHEREAS, C.R.S. §1-7-116(2) of the Uniform Election Code provides that when the County Clerk is conducting a coordinated election with a municipality, the County Clerk is required to enter into an agreement with that municipality concerning the conduct of that election; and

WHEREAS, the County Clerk has presented to the City an “Intergovernmental Agreement For Coordinated Election,” dated July 21, 2011, a copy of which is attached hereto as **Exhibit “A”** and incorporated by reference (“the Election Agreement”); and

WHEREAS, in order for the City to participate in the coordinated election with the County Clerk, it is therefore necessary for the City to enter into the Election Agreement.

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

Section 1. The Election Agreement is hereby approved and the Mayor is authorized to enter into it on behalf of the City.

Section 2. The City Clerk shall comply with the provisions of the Election Agreement and shall act as the City’s designated local election official in all matters related to the November 1, 2011, regular municipal election. The City Clerk shall also comply with the applicable provisions of the City Charter, of the Municipal Election Code of 1965 and, to the extent required by Ordinance No. 5612, with the applicable

provisions of the Uniform Election Code of 1992 in conducting the November 1, 2011, regular municipal election as a coordinated mail ballot election with the County Clerk.

Section 3. This Resolution shall go into effect as of the date of its adoption.


SIGNED this 16th day of August, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

INTERGOVERNMENTAL AGREEMENT FOR COORDINATED ELECTION

This Intergovernmental Agreement ("Agreement") is entered into by and between the Larimer County Clerk and Recorder ("County Clerk") and the City of Loveland ("Entity"). This Agreement is made effective July 21, 2011.

WITNESSETH

WHEREAS, pursuant to C.R.S. §1-7-116(2), as amended, the County Clerk and the Entity shall enter into an agreement for the administration of their respective duties concerning the conduct of the coordinated election to be held on November 1, 2011 ("Election"); and

WHEREAS, the County Clerk and the Entity are authorized to conduct elections as provided by law;

WHEREAS, the County Clerk will conduct the Election as a "Mail ballot election" as such term is defined in the Uniform Election Code of 1992, C.R.S. Title 1, as amended ("Code") and the current Colorado Secretary of State Election Rules, as amended ("Rules");

WHEREAS, the Entity has certain ballot race(s), ballot issue(s) and/or ballot question(s) to present to its eligible electors and shall participate in this Election; and

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the County Clerk and the Entity agree as follows:

ARTICLE I PURPOSE AND GENERAL MATTERS

A. Goal.

The purpose of this Agreement is to set forth the respective tasks in order to conduct the Election and to allocate the cost thereof.

B. Coordinated Election Official.

The County Clerk shall act as the "Coordinated Election Official" ("CEO") in accordance with the Code and Rules and shall conduct the Election for the Entity.

The County Clerk designates Doreen Bellfy, whose telephone number is 970.498.7941, as the "Contact Officer", to act as the primary liaison between the County Clerk and the Entity. The Contact Officer shall act under the authority of the County Clerk and shall have primary responsibility for the coordination of the Election with the Entity.

C. Designated Election Official.

The Entity designates Teresa G. Andrews as its "Designated Election Official" ("DEO"), whose phone is 970-962-2322, cell is 303-651-1057 and fax is 970-962-2901, to act as primary liaison between the Entity and the Contact Officer. The DEO shall have primary responsibility for Election procedures to be handled by the Entity. The DEO shall act as the "designated election official" in accordance with the Code and Rules. The DEO shall be readily available and accessible during regular business hours, and at other times when notified by the Contact Officer in advance, for the purposes of consultation and decision-making on behalf of the Entity.

In addition, the DEO is responsible for receiving and timely responding to inquiries made by its voters or others interested in the Entity's election.

D. Jurisdictional Limitation.

The Entity encompasses territory within Larimer County, Colorado. This Agreement shall be construed to apply only to that portion of the Entity situated within Larimer County.

E. Term.

The term of this Agreement shall be from the date set forth above through December 31, 2011 and shall apply only to the Election.

**ARTICLE II
DUTIES OF THE COUNTY CLERK**

A. Voter Registration.

Supervise, administer and provide necessary facilities and forms for all regular voter registration sites.

B. Ballot Preparation.

1. Layout the text of the ballot in a format that complies with Code and Rules. To avoid ballot space issues, the County Clerk requests each ballot issue and ballot question are not more than 250 words.

2. The County Clerk will assign the letter and/or number of the Entity's ballot issue(s) or ballot question(s) which will appear on the ballot, and provide this assignment to the Entity.

3. Provide ballot printing layouts and text for the Entity's review and signature. If the Entity fails to provide approval by the required deadline, the content is to be considered approved.

4. Certify the ballot content to the printer(s).

5. Contract for ballots.

C. Voter Lists.

Upon request of the Entity, create and certify a list of registered voters containing the names and addresses of each elector registered to vote in the Entity.

D. Election Judges.

Appoint and compensate a sufficient number of election judges.

E. Mail Ballot and Walk-in sites.

1. Provide that mail ballot packets be mailed to every active elector and that the Election shall be conducted in accordance with C.R.S. Title 1, Article 7.5.

2. Conduct mail, accessible, and emergency voting. Coordinate the location of walk-in sites.

3. Obtain and provide all ballots and supplies necessary for mail, accessible and emergency voting together with replacement ballots and affidavits and ballots for property owners who live in another Colorado county.

4. Provide all necessary equipment, forms and supplies to conduct the Election, including electronic voting equipment.

F. Voting Jurisdiction.

Provide the Entity a street locator file, which lists the street addresses located in the Entity within the statewide voter registration system. In order for the County Clerk to provide correct ballots to the electors, it is critical that the information contained in the Entity's locator file be accurate.

G. Election Day Preparation.

1. Provide, no later than twenty days before the Election, notice by publication of a mail ballot election in accordance with C.R.S. §1-7.5-107(2.5). Such notice shall satisfy the publication requirement for all entities participating in the election pursuant to C.R.S. §1-5-205(1.4).

2. Prepare and run pre-election logic and accuracy testing and required post-election tests and audits of the voting system in accordance with C.R.S. §1-7-509 and Rules.

3. Provide necessary electronic voting equipment together with personnel and related computer equipment for pre-election logic and accuracy testing and Election day needs.

4. Conduct post-election audit of voting equipment and vote-counting equipment in accordance with C.R.S. §1-7-509 and Rules.

H. TABOR Notice.

1. If the County Clerk is responsible for preparing a TABOR notice, the County Clerk shall do so in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules.

2. Charge the Entity for all expenses for the preparation, printing, labeling and postage for the TABOR notice. Said expenses shall be prorated among all Entities participating in the TABOR notice. Such pro-ration to be based, in part, upon the number of addresses where one or more active registered voters of the Entity reside.

3. Coordinate and mail the TABOR notice not less than thirty days prior to the election in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules. The County Clerk shall determine the least cost method for mailing the TABOR notice and address the TABOR notice to "All Registered Voters" at each address in Larimer County where one or more active registered voters of the Entity reside. Nothing herein shall preclude the County Clerk from sending the TABOR Notice of the Entity to persons other than electors of the Entity if such sending arises from the County Clerk's efforts to mail the TABOR Notice at least cost.

I. Counting Ballots.

1. Conduct and oversee the ballot counting process and report the results by Entity.

2. Establish backup procedures and backup sites for ballot counting should counting equipment and/or building facilities fail. In such event, counting procedures will be moved to a predetermined site.

3. If it is determined that counting must be moved to an established backup site, all related costs shall be paid by the Entities.

J. Certifying Results.

1. Appoint, instruct and oversee the board of canvassers.

2. Certify the results of the Entity's Election within the time required by law and provide the Entity with a copy of all Election statements and certificates required under Code.

3. If a recount is called for, conduct a recount in accordance with Code.

K. Recordkeeping.

1. Pursuant to C.R.S. §1-7-802, store all Election records as required.

2. Keep an accurate account of all Election costs.

L. No Expansion of Duties.

Nothing contained in this Agreement is intended to expand the duties of the County Clerk beyond those set forth in Code or Rules.

**ARTICLE III
DUTIES OF THE ENTITY**

A. Authority.

Provide the County Clerk with a copy of the ordinance or resolution stating that the Entity will participate in the Election in accordance with the terms and conditions of this Agreement. The ordinance or resolution shall further authorize the presiding officer of the Entity or other designated person to execute this Agreement.

B. Call and Notice.

1. Publish all notices relative to the Election as required by Code, Rules, the Entity's Charter and any other statute, rule or regulation.

2. Mail notices pursuant to C.R.S. §1-7-906(2) for active registered electors who do not reside within Larimer County or counties where the Entity is located.

C. Voting Jurisdiction.

1. Review the information contained in the street locator file and certify its accuracy, as well as any changes, additions or deletions to the file. It is the Entity's responsibility to ensure that the information contained in the locator file is an accurate representation of the Entity's street indexes contained within the Entity's legal boundaries. The certification of the street locator file shall be made no later than August 5, 2011 at 5:00 p.m. to the County Clerk. If the certification is not provided by the date specified herein, the Entity may not participate in the Election.

2. Any proposed Entity not already identified by a tax authority code in the county Assessor's records, shall provide the County Clerk with a certified legal description, map and locator, identifying all "high/low" ranges for street addresses within the proposed Entity, no later than August 5, 2011 at 5:00 p.m. Once the information has been entered in the statewide voter registration system, the DEO shall review the information contained in the street locator file and shall certify its accuracy, as well as any changes, additions or deletions to the file no later than August 19, 2011 at 5:00 p.m. to the County Clerk. If the certification is not provided by the required deadline specified herein, the Entity may not participate in the Election.

D. Petitions, Preparation and Verification.

Perform all responsibilities required to certify any candidate or initiative petition to the ballot.

E. Ballot Preparation.

1. Be solely responsible for determining whether a ballot race, ballot issue, or ballot question is properly placed before the voters.

2. Pursuant to C.R.S. §1-5-203(3)(a), provide a certified copy of the ballot content (races, issues and questions) to the County Clerk as an email attachment to elections@co.larimer.co.us or on compact disc (650 MB or higher), at the earliest possible time and in any event no later than sixty days before the election, September 2, 2011 at 5:00 p.m., The ballot content must be certified exactly in the order in which it is to be printed on the ballot pages and sample ballots in the following format:

Microsoft Word '97 or a version of Microsoft Word able to be converted to Microsoft Word '97
 Font Type: Arial
 Font Size: 8 point
 Justification: Left
 All Margins: 0.5 inches

3. The certified list of ballot race(s), ballot issue(s) and/or ballot question(s) submitted by the Entity shall be final.

4. Proofread and approve the Entity's ballot content for printing within one business day of receipt from the County Clerk. The Entity shall provide a fax number and designate a person to be available for proofing and approving ballot content for printing. Due to time constraints, the Entity must provide contact information for someone who is available from 8:00 a.m. to 10:00 p.m. from September 6, 2011 until September 16, 2011, or until final approval of printing of ballots has been reached. The County Clerk agrees to keep all contact personnel informed of ballot printing status. The Entity has designated Teresa G. Andrews, whose phone is 970-962-2322, cell is 303-651-1057 and fax is 970-962-2901.

5. Once approval has been received, the County Clerk will not make any changes to the ballot content. If the Entity fails to provide approval by the required deadline, the content is to be considered approved.

6. Provide audio recording of the proper pronunciation of any candidate name certified to the County Clerk. Please see Exhibit B.

7. The Entity shall defend and resolve at its sole expense all challenges relative to the ballot race(s), ballot issue(s) and/or ballot question(s) as certified to the County Clerk for inclusion in the Election.

F. Election Participation.

If requested by the County Clerk, provide person(s) to participate and assist in the Election process. The person(s) provided by the Entity must be registered to vote in Larimer County.

G. Property Owners.

1. Notify and provide information and materials to property owners where an eligible elector may vote at any walk-in site or make application for a mail-in ballot specific to that district to be voted on and filed with the County Clerk. C.R.S. §32-1-806, C.R.S. §1-7-104, C.R.S. §1-8-104(3)

2. The Entity shall be responsible for obtaining its property owner list(s) from the County Assessor's office in accordance with C.R.S. §1-5-304. The Entity shall provide an initial list of voters who are registered to vote in Colorado and own property within the district to the County Clerk no later than October 3, 2011, and will provide a final list of voters who are registered to vote in Colorado and own property within the district to the County Clerk no later than October 12, 2011. Both lists will be provided in either a .txt or .xls file format.

3. Electors who own property within the district in Larimer County but who reside and are registered to vote in another Colorado county may vote in person or may request a mail ballot from the County Clerk.

H. TABOR Notice.

1. If the Entity is responsible for preparing a TABOR notice for any ballot issue(s), the Entity shall do so in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Code and Rules.

2. The Entity shall be solely responsible for calculating and providing to the County Clerk any fiscal information necessary to comply with TABOR. The County Clerk shall in no way be responsible for the Entity's compliance with TABOR or the accuracy of the fiscal information.

3. The process of receiving written comments relating to ballot issue(s) and summarizing such comments, as required by TABOR, is the sole responsibility of the Entity.

4. The Entity shall be solely responsible for its preparation, accuracy and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the County Clerk no later than September 20, 2011 at 5:00 p.m., pursuant to C.R.S. §1-7-904. Such notice shall be provided to the County Clerk as an email attachment to elections@co.larimer.co.us or on compact disc (650 MB or higher) in the following format:

Microsoft Word '97 or a version of Microsoft Word able to be converted to Microsoft Word '97
Font Type: Arial
Font Size: 8 point
Justification: Left
All Margins: 0.5 inches

5. The certified text, summary of comments and fiscal information submitted by the Entity shall be final.

6. Proofread and approve the Entity's TABOR content for printing. The Entity shall provide a fax number and designate a person to be available for proofing and approving TABOR content for printing. Due to time constraints, the Entity must provide contact information for someone who is available from 8:00 a.m. to 10:00 p.m. from September 20, 2011 until

September 30, 2011, or until the TABOR notice is mailed. The County Clerk agrees to keep all contact personnel informed of TABOR printing status. The Entity has designated Teresa G. Andrews, whose phone is 970-962-2322, cell is 303-6511057 and fax is 970-962-2901.

7. Once approval has been received, the County Clerk will not make any changes to the TABOR content. If the Entity fails to provide approval by the required deadline, the content is to be considered approved.

8. Pursuant to C.R.S. §1-7-906(2), the Entity shall be responsible for mailing the TABOR notice to each address of one or more active registered electors who do not reside within Larimer County.

I. Cancellation of Election by the Entity.

If the Entity resolves not to participate in the Election, notice shall be delivered in writing to the Contact Officer immediately; *provided, however that* the Entity shall not cancel after the 25th day prior to the Election, October 7, 2011, pursuant to C.R.S. §1-5-208(2). The Entity shall reimburse the County Clerk for the actual expenses incurred in preparing for the Election. If cancellation occurs after the certification deadline, full election costs may be incurred. The Entity shall provide notice by publication, as defined in Code, of cancellation of the Election and a copy of such notice shall be posted at each walk-in site, in the office of the Entity, in the office of the County Clerk, in the office of the DEO, and, if the Entity is a special district, in the office of the Division of Local Government.

**ARTICLE IV
COSTS**

A. Election Costs.

The minimum fee for election services is \$650.00.

1. The Entity's proportional share of costs shall be based on County expenditures relative to the Election and the number of electors per Entity. Costs include, but are not limited to, supplies, printing, postage, legal notices, temporary labor, rentals, and other expenses attributable to the County Clerk's administration of the Election for the Entity. The Entity shall be charged its pro-rated share of election costs for any software programs used to count voted ballots as well as pre-election and post-election maintenance and on-site technical support.

2. The Entity affirms that it has sufficient funds available in its approved budget to pay its prorated Election expenses.

3. If it is determined that counting must be moved to an established backup site, the Entity shall be charged its pro-rated share.

4. The cost of any recount(s) will be charged to the Entity, or if more than one Entity is involved in the recount, the cost will be prorated among the participating Entities.

5. Upon receipt of the invoice, pay to the County Clerk within thirty days a fee which shall be an amount determined in accordance with the formula set forth on Exhibit A. If Exhibit A cannot be completed at the time of the mailing of this Agreement, it will be provided as soon as possible.

6. The Entity shall pay any additional or unique election costs resulting from Entity delays and/or special preparations or cancellations relating to the Entity's participation in the Election.

B. TABOR Costs.

The minimum fee for TABOR services is \$350.00.

The Entity shall pay a pro-rated amount for the costs to produce and mail the TABOR notice. Such pro-ration to be based, in part, on addresses where one or more active registered electors of the Entity reside.

C. Invoice.

The County Clerk shall submit to the Entity an itemized invoice for all expenses incurred under this Agreement and the Entity shall remit to the County Clerk the total due upon receipt. Any amount not paid within 30 days after receipt will be subject to an interest charge at the lesser of 1 ½% per month or the highest rate permitted under law.

**ARTICLE V
MISCELLANEOUS**

A. Entire Agreement.

This Agreement and its Exhibits constitute the entire agreement between the parties as to the subject matter hereof and supersede all prior or current agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written.

B. Indemnification.

To the extent permitted by law, each party agrees to indemnify and hold harmless the other party, its officials, officers, employees and agents from and against any and all losses, costs (including attorneys' fees), demands or actions arising out of or related to any negligent actions, errors or omissions of the indemnifying party in connection with the transactions contemplated by this Agreement.

In the event a court of competent jurisdiction finds the Election for the Entity was void or otherwise fatally defective as a result of the sole breach or failure of the County Clerk to perform in accordance with this Agreement or laws applicable to the Election, the Entity shall be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the Entity to the County Clerk. The County Clerk shall in no event be liable for any expenses, damages or losses in excess of the amounts paid under this Agreement. This remedy shall be the sole and exclusive remedy for the breach available to the Entity.

No term or condition in this agreement shall constitute a waiver of any provisions of the Colorado Government Immunity Act.

C. Conflict of Agreement with Law, Impairment.

Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Agreement shall be of full force and effect.

D. Time of Essence.

Time is of the essence in the performance of this Agreement. The time requirements of Code and Rules shall apply to completion of required tasks.

E. No Third Party Beneficiaries.

Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties, and nothing contained herein shall give or allow any such claim or right of action by any other person or Entity.

F. Governing Law; Jurisdiction & Venue.

This Agreement, the interpretation thereof, and the rights of the parties under it will be governed by, and construed in accordance with, the laws of the State of Colorado. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under this Agreement. Venue for any and all legal actions arising shall lie in the District Court in and for the County of Larimer, State of Colorado.

G. Headings.

The section headings in this Agreement are for reference only and shall not effect the interpretation or meaning of any provision of this Agreement.

H. Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.

SAMPLE
 LARIMER COUNTY
 NOVEMBER 1, 2011 - COORDINATED ELECTION
 COST PRORATION SUMMARY ESTIMATED COSTS
 EXHIBIT A

PARTICIPATING ENTITY	ELECTION	TABOR	ESTIMATE ONLY TABOR				ESTIMATE ONLY ELECTION BILLING COSTS				TOTAL			
			NUMBER OF HOUSEHOLD MAILED ESTIMATED	COST SUBJECT TO MINIMUM CHARGE \$350 \$50,000	% OF TOTAL HOUSEHOLDS FOR GENERAL COST PRORATION	BALANCE OF COSTS X % OF HOUSEHOLDS INCL. MIN	ACTUAL NUMBER OF REG VOTERS ESTIMATED	COST SUBJECT TO MINIMUM CHARGE \$650 \$813,500	% OF TOTAL REGISTERED VOTERS FOR GENERAL COST PRORATION	BALANCE OF COSTS X % OF REG VOTERS INCL. MIN & SOS	TOTAL ELECTION COST PER PARTICIPANT			
											NA	NA	NA	NA
State of Colorado (Active voters @ .70 ea.)	YES	NA	NA	NA		NA	170,000	NA	NA	\$119,000.00	\$119,000.00			
Larimer County	YES	NO	0	\$0.00	0.00000%	\$0.00	170,000	NA	36.13561%	\$248,613.03	\$248,613.03			
City of Loveland	YES	NO	0	\$0.00	0.00000%	\$0.00	36,900	NA	7.84355%	\$53,963.65	\$53,963.65			
City of Fort Collins	YES	YES	45,525	NA	30.43115%	\$14,150.48	75,000	NA	15.94218%	\$109,662.22	\$123,832.70			
Town of Johnstown	YES	NO	0	\$0.00	0.00000%	\$0.00	250	\$650	0.00000%	\$650.00	\$650.00			
Town of Windsor	YES	YES	1,530	\$350.00	0.00000%	\$350.00	3,000	NA	0.63769%	\$4,387.29	\$4,737.29			
Town of Berthoud	YES	NO	0	\$0.00	0.00000%	\$0.00	2,800	NA	0.59517%	\$4,094.80	\$4,094.80			
Park School District R-3	YES	NO	0	\$0.00	0.00000%	\$0.00	7,250	NA	1.54108%	\$10,802.61	\$10,802.61			
Thompson School District R-2J	YES	YES	35,125	NA	23.47928%	\$10,917.86	59,000	NA	12.54118%	\$86,283.35	\$97,201.21			
Poudre School District R-1	YES	YES	59,000	NA	39.43850%	\$18,338.90	99,000	NA	21.04368%	\$144,780.53	\$163,119.43			
Lyons Fire Protection District	YES	YES	250	\$350.00	0.00000%	\$350.00	500	\$650	0.00000%	\$650.00	\$1,000.00			
Poudre Valley Fire Protection District	YES	YES	9,950	NA	6.65107%	\$3,092.75	17,500	NA	3.71984%	\$25,592.52	\$28,685.27			
Rainbow Lakes Estates PID No.39	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Grayhawk Knolls PID No.43	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Terry Shores PID No.44	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Koral Heights PID No.46	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Park Hill PID No.47	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Puebla Vista Estates PID No.48	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Wagon Wheel PID No.49	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
Country Meadows GID No.17	YES	YES	100	\$350.00	0.00000%	\$350.00	200	\$650	0.00000%	\$650.00	\$1,000.00			
TOTAL			152,180	\$3,500.00	100%	\$50,000.00	472,800	\$6,500	100.00000%	\$813,500.00	\$863,500.00			

Cost subject to minimum charge (\$50,000-estimated cost to print/mail tabor) less the total of all minimum charges to entities (\$3,500) X percentage of total households for general cost proration for your district.

Cost subject to minimum charge (\$813,500) less the total balance of cost subject to minimum charge (\$6,500) less the total elections costs of State of Colorado (\$119,000) X percentage of total registered voters for general costs proration for your district

EXHIBIT B
AUDIO FOR ACCUVOTE TSX UNIT

In accordance with Secretary of State Rule 10.5, all candidates shall provide an audio recording to the County Clerk no later than the last day upon which the Entity certifies the ballot content, pursuant to C.R.S. §1-5-203(3)(a). The audio recording of the candidate's name shall be recorded exactly as it is certified to the County Clerk.

To be in compliance with the above Code and Rule, the Larimer County Clerk and Recorder's office has set up a voice mailbox at 970.498.7946 that candidates will need to call to provide the correct pronunciation of their name. Upon calling the voice mailbox, they will receive instructions on recording their information, as well as, options for listening, deleting, re-recording and saving their message. Please inform candidates within your district of the necessity of recording the correct pronunciation of their name.

The Larimer County Clerk and Recorder's office will contact the Entity if pronunciation guidelines on any ballot race(s), ballot issue(s) and/or ballot question(s) are needed.

Please contact our office at 970.498.7820 if you have any questions or need additional information.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective upon the date first above written.

LARIMER COUNTY, COLORADO
CLERK AND RECORDER

Date: _____

Scott Doyle

ENTITY:

NAME OF ENTITY:

Date: _____

By: _____

Entity phone number

Title of Authorized Representative
signing on behalf of Entity

Approved as to Form:

Dunda K Connors
Sr. Asst County Attorney



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: 7
MEETING DATE: 8/16/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION CONFERENCES AND EDUCATION

DESCRIPTION:

A public hearing and administrative action of an ordinance, on first reading, to appropriate funding from donations received in 2010 for historic preservation conferences and education.

BUDGET IMPACT:

● No

The total funding is from donations of \$2,770 received by the Historic Preservation Commission from the Loveland Historical Society in September of 2010.

SUMMARY:

In 2010, the Historic Preservation Commission received a donation of \$2,770 from the Loveland Historical Society for the purpose of continuing their education related to Historic Preservation and providing educational outreach to the community. The Commission desires to use these funds and the appropriation would allow City staff to manage the funds for their future use.

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for historic preservation conferences and education.

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to adopt on first reading AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION CONFERENCES AND EDUCATION

REVIEWED BY CITY MANAGER:

FIRST READING August 16, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET for HISTORIC PRESERVATION CONFERENCES AND EDUCATION

WHEREAS, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues in the amount of \$2,700 from donations received in the prior year in the General Fund 001 are available for appropriation. Revenues in the total amount of \$2,700 are hereby appropriated for historic preservation conferences and education and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund - Historic Preservation Doanation**

Revenues	
Fund Balance	2,770
Total Revenue	2,770
Appropriations	
001-1914-409-03-70-SP1103 Travel & Meetings	2,770
Total Appropriations	2,770

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

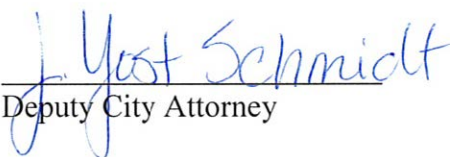
ADOPTED this ____ day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



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: 8
MEETING DATE: 8/16/2011
TO: City Council
FROM: Greg George, Development Services Director
PRESENTER: Brian Burson, Current Planning Division

TITLE:

AN ORDINANCE VACATING A PORTION OF A WATER MAIN AND PIPELINE EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6, AND 7, BLOCK 1, WEST INDUSTRIAL ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

DESCRIPTION:

A public hearing and legislative consideration of an ordinance, on first reading, to vacate a portion of a water main and pipeline easement on Lot 1, Block 1, of the Replat of Lots 1, 4, 5, 6, and 7, Block 1 of the West Industrial Addition.

BUDGET IMPACT:

● No

SUMMARY:

The site is located along the west side of North Van Buren Avenue, near the intersection of North Van Buren Avenue and West 8th Street. The application proposes to vacate a portion of the easement that affects the property. This historic easement was dedicated in 1902, far in advance of annexation or subdivision of this property in the City, and was for the purpose of installation, maintenance and access for an old water main and pipeline easement. No such water main is installed on the applicant's property, and City staff has determined that the easement is no longer needed on this property.

Planning Commission action is not required for vacation of a utility easement. No Planning Commission staff report or minutes are attached.

LIST OF ATTACHMENTS:

- A. Vacation ordinance
 - B. Staff memorandum dated August 16, 2011, with exhibits.
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

“Move to make the findings in Section V. of the Staff memorandum dated August 16, 2011, and approve, ‘AN ORDINANCE VACATING A PORTION OF A WATER MAIN AND PIPELINE EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6, AND 7, BLOCK 1, WEST INDUSTRIAL ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: August 16, 2011

SECOND READING: _____

ORDINANCE NO. ____

AN ORDINANCE VACATING A PORTION OF CERTAIN WATER MAIN OR PIPELINE EASEMENTS LOCATED ON LOT 1, BLOCK 1, OF THE REPLAT OF LOTS 1, 4, 5, 6, AND 7, BLOCK 1 OF THE WEST INDUSTRIAL ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of that portion of certain water main or pipeline easements described below, located within the boundaries of the Lot 1, Block 1, of The Replat of Lots 1, 4, 5, 6, And 7, Block 1 of the West Industrial Addition, City of Loveland, Larimer County, Colorado; and

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

WHEREAS, the City Council finds and determines that the portion of the water main or pipeline easements to be vacated is no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the portion of the water main or pipeline easements to be vacated.

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

Section 1. That the following described portion of those water main or pipeline easements be and the same is hereby vacated:

That portion of those easements for a water main or pipeline dedicated to the City of Loveland by those deeds recorded February 27, 1902 at Book 151, page 210, Reception # 71635; and Book 151, Page 211, Reception # 71636; which lies on, over, and under Lot 1, Block 1, of the Replat of Lots 1, 4, 5, 6, and 7, Block 1 of the West Industrial Addition to the City of Loveland, County of Larimer, State of Colorado.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the

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

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

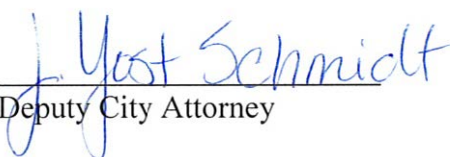
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:



Deputy City Attorney



**Development Services
Current Planning**

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

M E M O R A N D U M

TO: City Council

FROM: Brian Burson, Current Planning Division

DATE: August 16, 2011

SUBJECT: Vacation of a water line easement on Lot 1, Block 1, Replat of Lots 1, 4, 5, 6, and 7, Block 1, West Industrial Addition

I. EXHIBITS

1. Vicinity Map
2. Applicants letter of request
3. Vacation Exhibits

II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested easement vacation.

III. STAFF SUMMARY

A. Project Description

This historic easement was dedicated in 1902, far in advance of annexation or subdivision of this property in the City, and was for the sole purpose of installation, maintenance and access for a water main/pipeline easement. No information could be discovered in City files to indicate the specific purpose of these historic easements. The very general nature of the original legal description implies that a specific location and alignment of the water main was not known at the time of dedication.

In 1960, the site was annexed into the City and zoned for industrial land uses. Various industrial land uses have occupied the site, most recently Cardinal Glass. As part of redevelopment of the site by Cardinal Glass, the historic easement was discovered. All of the existing buildings on the site lie within the easement, which is normally not allowed. This can only be explained by the

age of the easement and that no City process prompted its discovery before now. Staff have determined that it is no longer needed on this property.

B. Site location

The site is located along the west side of North Van Buren Avenue, near the intersection of North Van Buren Avenue and West 8th Street. The application proposes to vacate a portion of an old water line easement that affects this property, which is now platted as Lot 1, Block 1, Replat of Lots 1, 4, 5, 6, and 7, Block 1, West Industrial Addition, aka 999 North Van Buren Avenue. The easements are both blanket easements, together encumbering the entire north one-half of Section 15, Township 5 North, Range 69 West in which this property lies, covering all the land between West Eisenhower and West 8th Street, and between Taft Avenue and the western alignment of Wilson Avenue, approximately one-half mile square.



IV. BACKGROUND

2/27/1902 - dedication of original easements

12/6/1960 - annexation of West Industrial Addition

1/18/1977 - approval of Replat of Lots 1, 4, 5, 6, and 7, Block 1, West Industrial Addition

*** - approval of a Site Development Plan for Cardinal Glass

V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the water line easement. These findings are included in section 16.36.010.B of the Loveland City Code.

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

Transportation: The proposed vacation of these easements does not involve the vacation of any existing public street or alley rights-of-way, no land will be left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.

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

Transportation: The vacation is for utility easements only, and does not include any existing alley or street rights of way. The vacation of the utility easements has no bearing on the existing public use and convenience in regards to vehicular access. The Transportation Division has no objection to the vacation of the easements.

Water/Wastewater: The subject site is within the City's current service area for both water and wastewater. The existing easement area to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development. The existing easement to be vacated is no longer necessary for public use and convenience.

Power: The easement to be vacated is solely for installation, maintenance and access for a water main, and not for any other public utility purpose. Power Division has an existing overhead power line running east to west across the southerly portion of the site, but this will not be affected by vacation of the water main easement.

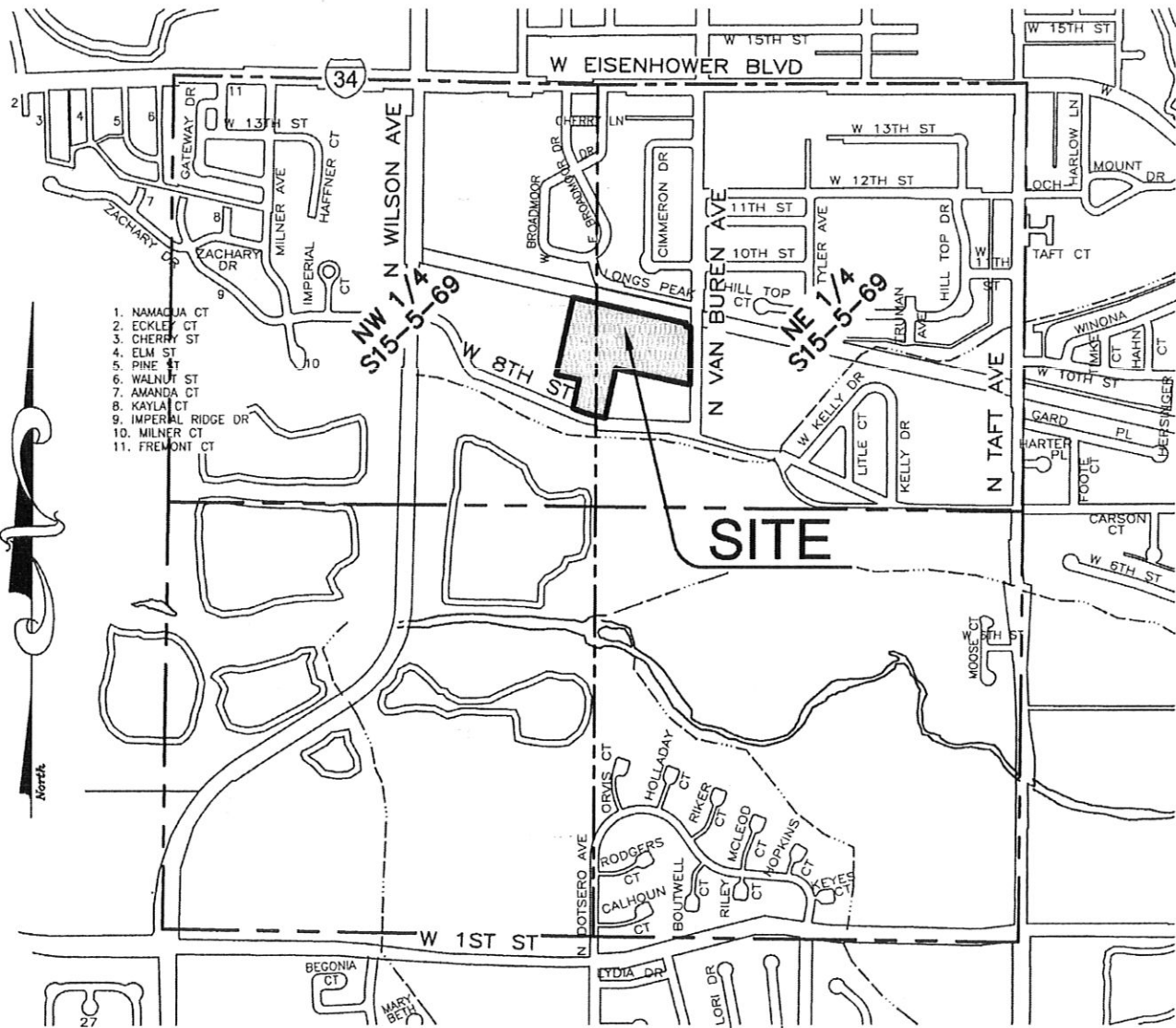
Stormwater: The existing easement to be vacated is not used to convey storm water and thus is not necessary for the public use and conveyance of storm water.

VI. CONDITIONS

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

VICINITY MAP FOR BLANKET UTILITY EASEMENT VACATION

BEING TWO (2) BLANKET UTILITY EASEMENTS AFFECTING LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 WEST INDUSTRIAL ADDITION, AND SITUATE IN THE NORTHWEST QUARTER AND NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



VICINITY MAP

SCALE: 1" = 1000'

PREPARED BY:
INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue - Loveland, Colorado 80537
P: 970-669-0516 F: 970-635-9775
E: intermill@qwestoffice.net

Project No.: P-10-6872

Date: April 25, 2011

EXHIBIT 1

Intermill Land Surveying



1301 N. Cleveland Ave.
Loveland, Colorado 80537

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



P-10-6872
April 25, 2011

City of Loveland Development Services
Current Planning Division
500 East 3rd Street
Loveland, Colorado 80537
(970) 962-2525

RE: Proposed Blanket Utility Easement Vacation for Lot 1, Block 1, Replat of Lots 1, 4, 5, 6, & 7 West Industrial Addition to the City of Loveland, Colorado (a.k.a.: 999 North Van Buren, Loveland, Colorado, 80537)

To Whom It May Concern:

This letter is being prepared on behalf of Cardinal CG Loveland Colorado Company, applicant, and shall act as a letter of request and explanation for a proposed Blanket Easement Vacation Request. As you may already know, Cardinal CG Loveland Colorado Company is the owner of the property known as Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6, & 7 WEST INDUSTRIAL ADDITION to the City of Loveland, County of Larimer, State of Colorado. The property is commonly known as 999 North Van Buren Ave., Loveland, Colorado, 80537 and currently contains an existing warehouse building and two (2) accessory buildings.

Cardinal CG Loveland Colorado Company is requesting a site-specific easement vacation of two (2) blanket easements dedicated to the City of Loveland in February of 1902. The two (2) easements (Book 151, Page 210 and Book 151, Page 211) were dedicated to the City of Loveland for the construction and maintenance of water supply mains. No specific location or route of the proposed water mains is contained within the aforesaid deeds.

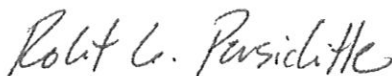
The first of these easements was dedicated to the City of Loveland in 1902 by Mary V. Warren (Book 151, Page 210) and encompassed the entire Northwest Quarter of Section 15, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado. The second of these easements was dedicated to the City of Loveland in 1902 by Ira W. Clapper (sp) (Book 151, Page 211) and encompassed the entire Northeast Quarter of Section 15, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado. Neither of these easements contained a 'site-specific location or route.

The existence of these two (2) easements came to light during the review of the Commitment for Title Insurance prepared for the property prior to purchase of the subject property by Cardinal CG Loveland Colorado Company. This request is to vacate only that portion of the previously dedicated blanket easements (Book 151, Page 210 and Book 151, Page 211) encumbering Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6, & 7 WEST INDUSTRIAL ADDITION to the City of Loveland, County of Larimer, State of Colorado. Through the years, site-specific easement dedications have been dedicated on and around the subject property through previous platting and replatting processes. All other blanket easement areas, which are a part of the previously dedicated blanket easements (Book 151, Page 210 and Book 151, Page 211), are not affected by this site-specific vacation request.

Please review this letter and the occupying documents for this Blanket Utility Easement Vacation request during regularly scheduled staff review schedules. As always, if any City of Loveland staff members have any questions, concerns or desire additional information on this request, please feel free to call myself at (970) 669-0516.

Respectfully Submitted,

INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue
Loveland, Colorado 80537
(P) 970-669-0516
(F) 970-635-9775
(E) rob.ils@qwestoffice.net



Robert G. Persichitte

For and On Behalf Of Cardinal CG Loveland Colorado Company

INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue - Loveland, Colorado 80537
P: 970-669-0516 - F: 970-635-9775
E: intermill@qwestoffice.net

**PROPERTY DESCRIPTIONS FOR AREAS WITHIN
BLANKET EASEMENT DEDICATION TO BE VACATED**

EASEMENT AREA 'A' TO BE VACATED FROM BOOK 151 PAGE 210:

Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 WEST INDUSTRIAL ADDITION,
Situate in the Northwest Quarter of Section 15, Township 5 North, Range 69 West of the
6th P.M., To The City of Loveland, County of Larimer, State of Colorado

EASEMENT AREA 'B' TO BE VACATED FROM BOOK 151 PAGE 211:

Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 WEST INDUSTRIAL ADDITION,
Situate in the Northeast Quarter of Section 15, Township 5 North, Range 69 West of the
6th P.M., To The City of Loveland, County of Larimer, State of Colorado

PREPARED BY AND ON BEHALF OF:

INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue
Loveland, Colorado 80537
P: 970-669-0516
F: 970-635-9775
E: intermill@qwestoffice.net

Robert George Persichitte
Colorado PLS 34174

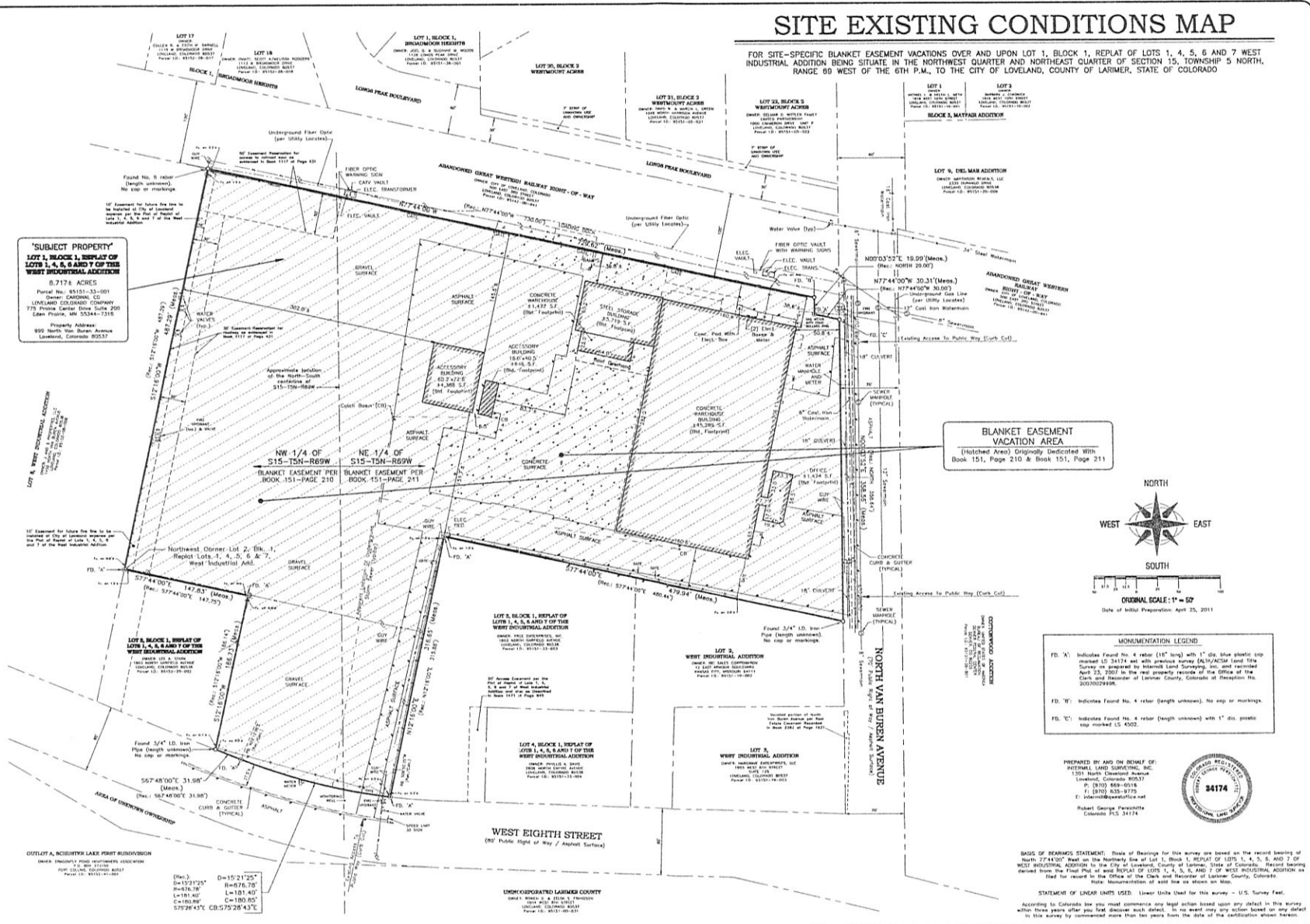
Date: 04/25/2011



SITE EXISTING CONDITIONS MAP FOR THE BLANKET EASEMENT VACATION FOR LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6, AND 7 OF WEST INDUSTRIAL ADDITION

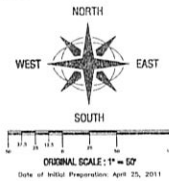
SITE EXISTING CONDITIONS MAP

FOR SITE-SPECIFIC BLANKET EASEMENT VACATIONS OVER AND UPON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 WEST INDUSTRIAL ADDITION BEING SITUATE IN THE NORTHWEST QUARTER AND NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



'SUBJECT PROPERTY'
LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF THE WEST INDUSTRIAL ADDITION
 8.7174 ACRES
 Parcel No. 93151-33-001
 OWNER: CARDINAL CG
 LOVELAND COLORADO COMPANY
 775 Prairie Center Drive Suite 200
 Eden Prairie, MN 55344-7316
 Property Address:
 939 North Van Buren Avenue
 Loveland, Colorado 80537

BLANKET EASEMENT VACATION AREA
 (Hatched Area) Originally Dedicated With Book 151, Page 210 & Book 151, Page 211



MONUMENTATION LEGEND

FD. 'X': Indicates Found No. 4 rebar (18" long) with 1" dia blue plastic cap marked 15 34174 set with previous survey (ALTA/ACTUAL found 15). Survey as prepared by InterMill Land Surveying, Inc. and recorded April 23, 2007 in the real property records of the Office of the Clerk and Recorder of Larimer County, Colorado at Reception No. 20070229498.

FD. 'B': Indicates Found No. 4 rebar (length unknown). No cap or markings.

FD. 'C': Indicates Found No. 4 rebar (length unknown) with 1" dia plastic cap marked 15 4302.

PREPARED BY AND ON BEHALF OF:
 INTERMILL LAND SURVEYING, INC.
 1301 North Cleveland Avenue
 Loveland, Colorado 80537
 P: (970) 868-6518
 F: (970) 833-9775
 E: intermill@earthlink.net
 Robert George Pevsitt
 Colorado PLS 34174



BASIS OF MEASUREMENTS STATEMENT: Plots of Bearings for this survey are based on the record bearing of North 77°44'00" West on the Northernly line of Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6, AND 7 OF WEST INDUSTRIAL ADDITION to the City of Loveland, County of Larimer, State of Colorado. Record bearing derived from the Final Plat of said REPLAT OF LOTS 1, 4, 5, 6, AND 7 OF WEST INDUSTRIAL ADDITION as filed for record in the Office of the Clerk and Recorder of Larimer County, Colorado.

STATEMENT OF LINEAR MEASUREMENTS: Linear Units Used for this survey = U.S. Survey Feet.

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

DATE:	
BY:	
REVISED:	

INTERMILL LAND SURVEYING, INC.
 1301 NORTH CLEVELAND AVENUE
 LOVELAND, COLORADO 80537
 TEL: (970) 868-6518
 FAX: (970) 833-9775
 E: intermill@earthlink.net

CARDINAL CG
 LOVELAND COLORADO COMPANY

DATE:	04-25-2011
SCALE:	1"=50'
PROJECT NO.:	P-10-6872
SHEET:	1
OF:	1



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: 9
MEETING DATE: 8/16/2011
TO: City Council
FROM: Renee Wheeler, Assistant City Manager/Finance Director
PRESENTER: Renee Wheeler

TITLE: Amendment to the contract for tree trimming service

DESCRIPTION: This is an administrative action to increase the contract with Asplundh Tree Experts Company for tree trimming in Parks, Golf Courses, ROW, facility grounds, and around City owned electrical lines from \$350,000 to \$600,000 and authorizes the City Manager to execute the contract change.

BUDGET IMPACT:

● Yes

The Water & Power Department originally budgeted \$190,000 for tree trimming for 2011. A budget adjustment was made to transfer \$200,000 from 044-4830-409-09-99 Capital Projects to 044-4830-409-03-99 Miscellaneous Services to cover the added expense. This \$200,000 will be from savings from the west substation tie east along Arkins Branch, north along Wilson Avenue project. Funding to accomplish 2012 goals will be reflected in 2012 budget.

SUMMARY

In November 2009 sealed bids were opened for tree trimming/removal services on an as needed basis for Public Works, Parks & Recreation, Golf, and Water and Power. The contract for the 2010 budget year was extended with the same contractor at the same prices for the 2011 budget year.

The not to exceed contract amount for 2011 was set by estimates given by each department in 4th quarter of 2010; Public Works \$100,000, Parks & Golf \$60,000, and Power \$190,000.

The Water and Power Department, Power Division, has been utilizing two Asplundh crews and a planner full time to aggressively trim trees in the Canyon, the additional growth related areas, and the customer requests for trimming around power lines. The objective is to create a four year trimming cycle. It would be detrimental to the service levels of the Power Division to abort

the plan before completing the work in the 2011-2012 budget years. There are also many safety concerns in the Canyon that need to be immediately addressed.

Since this contract is used for multiple departments and for emergency clean-ups in case of adverse weather or disaster, staff recommends increasing the contract to \$600,000 to have \$50,000 unencumbered funds in case of emergency. This agenda item is submitted for City Council consideration because the purchasing regulations require that City Council approve contract amendments that change by 20% or more or contracts that exceed \$500,000.

LIST OF ATTACHMENTS:

Attachment A: Table comparing the budget (contract) to actual tree trimming expenditures for 2+ years.

RECOMMENDED CITY COUNCIL ACTION:

Approve a contract change in the amount of \$250,000 to the Asplundh Tree Experts Company contract for 2011, bringing the total not to exceed \$600,000, and authorize the City Manager to execute the contract change.

REVIEWED BY CITY MANAGER:

ATTACHMENT A

Below is an overview of the contracted tree trimming not to exceed dollar amount and breakdown of spending by each department for the past two years plus current year to date.

YEAR	CONTRACT/ BUDGET	PUBLIC WORKS	PARKS & REC.	POWER	TOTAL SPENT	DIFFERENCE (Budget – Actual)
2009	\$300,000	\$96,062	\$74,666	\$94,210	\$264,938	\$ 35,062
2010	\$400,000	\$65,497	\$70,509	\$170,564	\$306,570	\$ 93,430
2011 YTD	\$350,000	\$47,899 (\$100,000)	\$26,479 (\$60,000)	\$181,453 (\$190,000)	\$ 255,831	\$ 94,169

(Figures in parenthesis are what City Departments have allocated from 2011 budgeted.)

If City Council approves the contract amendment, the contract distribution would be:

YEAR	CONTRACT/ BUDGET	PUBLIC WORKS	PARKS & REC.	POWER	TOTAL SPENT	TOTAL DIFFERENCE
2011 AFTER APPROPRIATION	\$600,000	\$100,000	\$60,000	\$440,000	\$600,000	\$0



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

AGENDA ITEM: 10
MEETING DATE: 8/16/2011
TO: City Council
FROM: Randy Mirowski, Fire Chief, Loveland Fire and Rescue [rm](#)
PRESENTER: Randy Mirowski

TITLE:

A Resolution Approving an Intergovernmental Agreement between the City of Loveland and the Loveland Rural Fire Protection District Creating the Loveland Fire Rescue Authority

DESCRIPTION:

The fire authority will be established with an intergovernmental agreement (IGA), creating a partnership between the City of Loveland and the Loveland Rural Fire Protection District, to provide all fire and rescue services to the citizens living within the boundary lines of both the City and the Rural District. The attached IGA is the legal document that will be used for implementation of the fire authority.

BUDGET IMPACT:

Yes

SUMMARY:

For more than two and one-half years, research, evaluation and planning has occurred to create a fire authority between the City of Loveland and the Loveland Rural Fire Protection District. Three committees worked to determine the best governance model, the feasibility for that model and the details for how the model would work. The fire authority has emerged as the most appropriate governance model for the operation of Loveland Fire and Rescue. Since July 2010, work has gone into developing the best plan for operation of the governance model and the best method and time for implementation.

The Fire Authority Review Committee (made up of the Mayor, a City Council member, Rural Board Members and Renee Wheeler) has spent eleven months in its evaluation, and has determined that the details are in place within the structure of the intergovernmental agreement (*Exhibit A to the attached Resolution*) to move forward with implementation of the fire authority in January of 2012. The committee's recommendation has been reviewed with several groups,

including the Rural Board and FRAC, and has received the full support from both groups for this recommendation.

BACKGROUND:

Loveland Fire and Rescue (LFR) currently operates as a City fire department with a contract to provide fire/rescue related services to the Loveland Rural Fire Protection District (Rural District). The City and Rural District have had an association through a contract for more than fifty years with essentially the same type of governance model. However, significant changes have occurred over the years in the department's responsibilities and their requirements for providing service. The control of the department has also shifted from a basic volunteer-combination organization to a career paid department with a limited number of volunteers acting in an adjunct capacity. Numerous problems have been identified with the current governance model from both the City's perspective and the perspective of the Rural District. Examples include:

- ◆ Financial fairness/equity of the current contract (City)
- ◆ Stability for future fire/rescue services (Rural District)
- ◆ Input and control over fire/rescue operations (Both)
- ◆ Improving relationships and building a strong partnership (Both)

In addition to these issues, serious questions have emerged about the existing governance model's ability to address and resolve the current financial problems facing the department and for problems that will arise in the future. Research data clearly suggests that the department is considerably underfunded and understaffed when compared to other like departments in the region. The department is also lacking in strategic and operational level plans to address critical issues. A change in the governance model for LFR was one option submitted to City Council by the Fire Chief during a study session, on November 10, 2009, as a possible means to improve the department's administrative management and operations. The Fire Chief was directed by Council, and the Rural Board, to conduct a comprehensive feasibility study for the implementation of a fire authority governance model for LFR's future. The feasibility study concluded, in May of 2010, that a fire authority was achievable for LFR with a restructured revenue allocation formula and funding increases as appropriate from both the City and the Rural District. In addition, operational details would need to be constructed into an intergovernmental agreement (IGA) that would address such issues as the make-up of the governing board, organizational responsibilities and procedures, services provided, capital improvement and termination of the agreement. Furthermore, a comprehensive review of the current services provided, needed staffing and deployment levels, and estimated cost increases to provide the appropriate level of citizen service, would need to be conducted.

In July of 2010, the Fire Authority Review Committee was formed. This committee began meeting monthly, and with numerous other ad hoc meetings, from August of 2010 to address the above-mentioned issues and to formalize a plan and an IGA that would later be presented to each governing body for approval of the formation of a fire authority for Loveland Fire and Rescue.

In February of 2011, a progress report and presentation was made to City Council providing an update on the details for how a fire authority would work for the City and Rural District through an IGA. In addition, as part of the presentation, models were reviewed to indicate how fire rescue related services needed to be improved to provide adequate levels of citizen service. Direction was received by the fire chief from Council to move forward with the development and implementation details for a fire authority, including the development of the full IGA.

In July of 2011, a presentation was made to City Council at a study session. The benefits of the fire authority were reviewed, as well as several specific areas of the IGA. Council gave unanimous support to move the issue forward to a regular meeting for discussion and a vote.

CONCLUSION:

The analysis of previous committees revealed that a fire authority would be the best governance model for LFR and would be feasible. What the current committee has concluded is that the fire authority has great potential for improving the administrative and governance operations for Loveland Fire and Rescue. It is also believed that a fire authority would be the vehicle that would allow the department to solve the fire/rescue related problems that currently exist within the City and Rural District. It is further believed that both strategic and operational planning would improve significantly under this governance model. Continuing the relationship between the City and the Rural District in the form of a fire authority would allow for more efficient operations, a leveraging of citizen's tax dollars for greater overall benefit, and a vehicle for more effective future planning for fire/rescue operations.

There are compelling reasons why implementation of a fire authority, beginning in January of 2012, would be a sound decision. After nearly a year of work on this initiative, the Fire Authority Review Committee has unanimously recommended implementation at this time. The Loveland Rural Fire Protection District's Board has given their support for this implementation timeline, and the Fire Rescue Advisory Commission has also endorsed this implementation. Finally, after two and one-half years of analysis and work, the fire chief also believes the fire authority is the best governance model for Loveland Fire and Rescue and that the implementation time outlined in this recommendation is appropriate.

LIST OF ATTACHMENTS:

- A.** A Resolution Approving an Intergovernmental Agreement between the City of Loveland and the Loveland Rural Fire Protection District Creating the Loveland Fire Rescue Authority
 - B.** Exhibit A, Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity between the City and the District
-

RECOMMENDED CITY COUNCIL ACTION:
Staff recommends adoption of the Resolution.

REVIEWED BY CITY MANAGER:

RESOLUTION # R-50-2011**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LOVELAND RURAL FIRE PROTECTION DISTRICT CREATING THE LOVELAND FIRE RESCUE AUTHORITY**

WHEREAS, the City of Loveland, a Colorado home rule municipality, (the “City”) and the Loveland Rural Fire Protection District, a special district, (the “District”) are duly organized and existing in accordance with Colorado law as governmental entities; and

WHEREAS, since 1950, the District and the City (jointly, the “Parties), through the City’s Fire and Rescue Department, have provided fire and emergency services to the District through a series of agreements between the Parties, the last being the Parties’ Intergovernmental Agreement dated December 6, 2006 (the “2006 IGA”); and

WHEREAS, under the 2006 IGA and previous agreements between the Parties, the District has provided fire apparatus, equipment and supplies to the City for use by the City’s Fire and Rescue Department to provide fire and emergency services both within the boundaries of the District and the City; and

WHEREAS, in furtherance of the Parties’ efforts to improve fire and emergency services, the Parties have engaged in a two and one half year review of such services and concluded that a fire authority has great potential to enhance fire and emergency services for the community by improving administrative, strategic and operational planning for fire and rescue operations; and

WHEREAS, the City Council finds that is in the best interests of the City and of Loveland’s citizens to enter into the “Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity between the City and the District”, attached hereto as Exhibit A and incorporated by reference (the “Agreement”), to form a separate governmental entity to be known as the Loveland Fire Rescue Authority to provide fire and emergency services within the Parties’ respective jurisdictional limits beginning on January 1, 2012; and

WHEREAS, the City and the District each have the legal authority to enter into this Agreement pursuant to C.R.S. § 29-1-203(1) since each is lawfully authorized to provide fire and emergency services within their respective jurisdictions and, therefore, the Parties have the legal authority under C.R.S. § 29-1-203(4) to enter into the Agreement and establish the Loveland Fire Rescue Authority as a separate governmental entity; and

WHEREAS, on August 3, 2011, the Loveland Rural Fire Protection District Board approved the Agreement.

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

Section 1. That the Agreement is hereby approved.

Section 2. That the City Manager is hereby authorized and directed to enter into the Agreement on behalf of the City, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

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

ADOPTED this _____ day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR THE ESTABLISHMENT AND OPERATION OF THE LOVELAND FIRE RESCUE
AUTHORITY AS A SEPARATE GOVERNMENTAL ENTITY**

THIS INTERGOVERNMENTAL AGREEMENT is entered into this ____ day of _____, 2011, by and between the **CITY OF LOVELAND**, a Colorado home rule municipality, (“City”) and the **LOVELAND RURAL FIRE PROTECTION DISTRICT**, a Colorado Special District, (“District”). The City and the District shall be jointly referred to as the “Parties” and individually as “Party.”

WITNESSETH

WHEREAS, the District was formed in 1950; and

WHEREAS, since 1950, the District and the City, through the Loveland Fire and Rescue Department, have provided fire and emergency services to the District through a series of agreements between the Parties, the last being the Parties’ Intergovernmental Agreement dated December 6, 2006 (the “2006 IGA”); and

WHEREAS, under the 2006 IGA and previous agreements between the Parties, the District has provided fire apparatus, equipment and supplies to the City for use by the Loveland Fire and Rescue Department to provide fire and emergency services both within the boundaries of the District and the City; and

WHEREAS, this relationship between the Parties has been mutually beneficial in providing quality fire and emergency services to persons and property within the Parties’ respective jurisdictions; and

WHEREAS, the Parties have determined that it is in their best interests and that of their respective citizens, property owners, and visitors to form a separate governmental entity to be known as the Loveland Fire Rescue Authority to provide fire and emergency services within the Parties’ respective jurisdictional limits beginning on January 1, 2012, as provided in this Agreement; and

WHEREAS, the City and the District each have the legal authority to enter into this Agreement pursuant to C.R.S. § 29-1-203(1) since each is lawfully authorized to provide fire and emergency services within their respective jurisdictions and, therefore, the Parties have the legal authority under C.R.S. § 29-1-203(4) to establish in this Agreement the Loveland Fire Rescue Authority as a separate governmental entity.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION,

**THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED,
THE PARTIES AGREE AS FOLLOWS:**

ARTICLE I: CREATION AND GOVERNANCE OF THE AUTHORITY

Section 1.1 Creation of the Authority and Termination of the 2006 IGA

- (a) The City and the District by this Agreement and pursuant to C.R.S. § 29-1-203(4) hereby establish as a separate governmental entity the Loveland Fire Rescue Authority (the "Authority"). The Authority shall be a legal entity separate and distinct from the City and the District.
- (b) The City and the District agree that effective at 12:01 a.m. on January 1, 2012, the 2006 IGA shall terminate and this Agreement shall replace and supersede the 2006 IGA in all respects.

Section 1.2 Governing Board

The governing body of the Authority shall be a board of directors consisting of five (5) members (the "Board"). All of the legislative and administrative powers of the Authority shall be vested in the Board except as otherwise provided in this Agreement. The Loveland City Council (the "City Council") shall appoint three (3) members and the District's board shall appoint two (2) members to the Board. The City Council shall appoint two (2) members of the City Council and the City Manager. In lieu of the City Manager, the City Council may appoint another City employee. The District's board shall appoint two (2) members of the District's board. In the event that any member is no longer an elected or appointed official of either of the Parties, that appointed member shall no longer be a member of the Board, and the member's seat on the Board shall be vacant. All vacancies on the Board shall be filled by the governing body of the appointing Party.

Section 1.3 Quorum

A quorum for the transaction of business at all meetings of the Board shall be three (3) members provided that one of the members is a District member.

Section 1.4 Meetings of the Board

- (a) Regular meetings. The Board shall hold regular monthly meetings at a time and place fixed by resolution of the Board.
- (b) Special meetings. The Board may conduct special meetings when necessary. Special meetings shall be called as provided in the By-laws adopted by the Board. At a minimum, special meetings shall be preceded by twenty-four (24) hours prior written notice to all members of the Board. A special meeting of the Board may be called by the chairperson of the Board or upon the request of two Board members.

- (c) Colorado Open Meetings Law and Open Records Act. The Board shall be subject to the terms and provisions of the Colorado Open Meetings Law, C.R.S. Section 24-6-401 et seq., and of the Colorado Open Records Act, C.R.S. Section 24-72-200.1 et seq.

Section 1.5 By-laws and Policies

The Board shall adopt By-laws and/or any necessary policies governing the responsibilities and duties of the Board consistent with the terms and conditions of the Agreement. The By-laws and any amendments thereto shall be approved by the City Council and the District's board before going into effect.

Section 1.6 Voting

Each member of the Board shall have one vote. The affirmative vote of a majority of the Board members present and constituting a quorum shall be required for any action of the Board.

Section 1.7 Actions Requiring a Vote of More Than a Majority of the Board

The following actions shall require an affirmative vote of at least four members of the Board:

- (a) The location of any new fire station; and
- (b) The approval of the Authority's annual budget.

Section 1.8 Officers

The Board shall elect a chairperson and vice chairperson from its members, and shall appoint a secretary who may, but need not, be a member of the Board. Said officers shall perform the duties customary for said offices including the following:

- (a) the chairperson shall sign all contracts on behalf of the Authority, except contracts or agreements that may be signed by the Fire Chief as authorized by the Board and shall perform such other duties as may be imposed by the Board;
- (b) the vice chairperson shall perform all of the chairperson's duties in the absence of the chairperson;
- (c) the secretary shall attest to all contracts signed on behalf of the Authority and perform such other duties as may be imposed by the Board.

Section 1.9 Powers of the Authority

The Authority shall have and may exercise all the powers of the City and/or the District regarding fire and emergency services to the full extent permitted by law. The Authority shall also have the following specific powers:

- (a) To make and enter into contracts;
- (b) To employ agents and employees;
- (c) To acquire, construct, manage, maintain, fund, plan and operate fire and emergency facilities, works, or improvements, or any interest therein;
- (d) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized for the purposes of providing fire and emergency services or for related or accessory purposes;
- (e) To sue and be sued in its own name;
- (f) To fix, maintain, and revise fees, rates, and charges for functions, services or facilities provided by the Authority to the full extent permitted by law. All such fees, rates and charges shall be approved by the City Council and the District board prior to becoming effective;
- (g) To adopt policies respecting the exercise of its powers and the carrying out of its purpose consistent with the terms of this Agreement and the By-laws of the Authority;
- (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;
- (i) To enter into lease purchase agreements for the acquisition of real and personal property;
- (j) To incur debts, liabilities or obligations provided that no such debts, liabilities or obligations shall constitute a debt, liability or obligation of either the City or the District;
- (k) To apply for, accept, receive and disburse gifts, grants, loans and any other aid from any governmental entity, political subdivision, other entity, or any person;
- (l) To invest any unexpended funds that are not required for the immediate operation of the Authority, as the Authority determines is advisable, in accordance with state law;

- (m) To administer and enforce the fire codes adopted by the City and the District;
- (n) To have and use a corporate seal; and
- (o) To exercise any and all other powers which are essential to the provisions of functions, services, or facilities by the Authority under this Agreement, any other Authority contract, or any applicable law.

The Authority shall not have the power of taxation or the power of eminent domain.

ARTICLE II: SERVICE AREA

The “Service Area” of the Authority shall be all lands and property within the jurisdictional boundaries of the City and the District.

ARTICLE III: ORGANIZATIONAL PROCEDURE

Section 3.1 Organization of the Authority

As soon as practicable after the date of this Agreement, the City and the District shall appoint the members of the Board as provided herein. As soon as practicable after appointment, the Board members shall schedule, notice and conduct an organizational meeting at which time the Board shall provide for its regular meetings, adopt By-laws, necessary policies, and elect officers.

Section 3.2 Delegation of Powers

The Parties each delegate to the Authority the power, duty and responsibility to provide fire and emergency services to each of the respective entities within the Service Area of the Authority including, without limitation, all fire suppression, prevention, emergency and rescue services, and related emergency management services. The Parties each agree, as more fully set forth in Article VI and VII of this Agreement, to provide personnel, fire stations, apparatus and equipment to the Authority. The Parties each agree to cooperate with the Authority in order to assist the Authority in carrying out its duties and responsibilities pursuant to the terms and conditions of this Agreement. The powers delegated to the Authority pursuant to this Agreement include any and all of the powers necessary or desirable to provided continued, efficient and economical fire protection, suppression, and emergency services to all persons and property within the Service Area.

Section 3.3 Personnel

The Authority may employ personnel necessary to carry out its powers, duties and responsibilities. Said employment shall be on the terms and conditions established by the Board.

ARTICLE IV: BUDGET AND AUDIT

Section 4.1 Annual Budget

The Board shall adopt an annual budget for maintenance and operation costs, capital costs, costs of services, and personnel costs, which shall include the costs related to the City's employees assigned under this Agreement. The Board shall submit the budget to the Parties' respective governing bodies for their approval . The Authority's proposed budget shall become effective only after approval by the Parties' respective governing bodies. Any supplemental appropriation by the Authority shall also be approved by the Parties' respective governing bodies before becoming effective. The Authority shall also comply with all applicable requirements of the Local Government Budget Law of Colorado.

Section 4.2 Accounts and Audits

The Authority shall provide for the keeping of accurate and correct books of account, showing in detail the capital costs, cost of services, and maintenance and operation costs of the Authority's facilities in accordance with all applicable laws and generally accepted accounting principles. Said books and records shall be open to inspection at all times during normal business hours by any authorized representative of the Parties. The Board shall provide for the auditing of all the Authority's books and accounts and other financial records pursuant to the applicable requirements of the Colorado Local Government Audit Law and the Colorado Local Government Uniform Accounting Law. The results of said audit shall be presented to the City and the District not later than thirty (30) days after acceptance by the Board.

ARTICLE V: FUNDING OF THE AUTHORITY

Section 5.1 Payment of Costs

Beginning on January 1, 2012, and monthly in advance thereafter for each calendar year during the term of this Agreement, the City and the District shall each pay to the Authority its respective allocated monthly share of all of the total estimated monthly costs and expenses of the Authority as set forth in its annual budget. The allocation is set forth on **Exhibit A** attached hereto and incorporated by reference.

Section 5.2 Budgeted Expenditures

The requirement for funding either the City's or the District's obligation pursuant to this Agreement is subject to each of the Parties' annual budgeting process. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Article X, Section 20 of the Colorado Constitution, or any other constitutional or statutory requirement of the State of Colorado. Notwithstanding any other provisions of this Agreement, the City and/or the District's obligations under this Agreement are subject to annual appropriation by the Parties' respective governing bodies. The Parties shall each give prompt written notice to the other Party and the

Authority of an individual Party's failure to appropriate adequate monies to meet its annual obligations pursuant to the terms and conditions of this Agreement.

Section 5.3 Authority Revenues

The Authority shall be entitled to keep all revenues of the Authority derived from fees, gifts, grants, interest on invested funds, sale of assets of the Authority, and other miscellaneous revenues. All anticipated Authority revenues for each fiscal year shall be reflected in the Authority's annual budget. The Authority shall be entitled to use all of its revenues in furtherance of its responsibilities set forth herein in accordance with the Authority's approved budget and any approved supplementals to that budget.

Section 5.4 Authority Fund

The Parties agree that there shall be established an Authority Fund with the City to account for all financial transactions of the Authority in accordance with generally accepted accounting principles and any applicable state law.

ARTICLE VI: CITY'S RESPONSIBILITIES

Section 6.1 Lease of Real Property

The City hereby leases all of its existing fire stations and all of the portions of any City building and/or real property directly and currently used for fire and emergency services (collectively the "Real Property") to the Authority at no cost to the Authority. This lease of the Real Property shall be for an initial one-year period with automatic renewals for additional successive one-year periods subject to termination upon the termination of this Agreement. The District agrees that in the event this Agreement is terminated as provided in this Agreement, that this lease of the Real Property shall automatically terminate and the City shall be entitled to retake and retain sole and exclusive possession and control of all of the Real Property without the need for any judicial process to evict the Authority or the District from the Real Property or in any other manner to take exclusive possession and control of the Real Property from the Authority or the District.

Section 6.2 Lease of Personal Property

The City hereby leases all of its existing fire equipment and apparatus and other existing personal property directly used by it for fire and emergency services (collectively the "Personal Property") to the Authority at no cost to the Authority. This lease of the Personal Property shall be for an initial one-year period with automatic renewals for additional successive one-year periods subject to termination upon the termination of this Agreement. The District agrees that in the event this Agreement is terminated as provided in this Agreement, this lease of Personal Property shall automatically terminate and the City shall be entitled to retake and retain sole and exclusive possession and control of all of the Personal Property without the need for any judicial process to replevin the Personal Property from the Authority or the District or in any other

manner to take exclusive possession and control of the Personal Property from the Authority or the District.

Section 6.3 Fire Department Personnel

- (a) The City agrees to assign all personnel of the Loveland Fire and Rescue Department, including the Fire Chief, to the Authority for use by the Authority in the provisions of fire and emergency services within the Service Area under this Agreement. Said personnel shall remain employees of the City and shall remain subject to all of the City's and the Fire and Rescue Department's personnel policies, rules and regulations, now existing and as hereinafter amended or added, including but not limited to, job positions/descriptions, promotion and ranking systems; pay and benefits; employment status; and all other City personnel policies, rules and regulations.
- (b) The Parties agree that notwithstanding the assignment of the City's Loveland Fire and Rescue Department personnel to the Authority under this Agreement and notwithstanding any state law providing otherwise including, without limitation, C.R.S. § 29-5-108, any liability accruing to such personnel for their negligent or other tortious conduct occurring while assigned to the Authority under this Agreement shall continue to be the City's responsibility and obligation for providing a defense and indemnification in accordance with the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*
- (c) The Parties also agree that notwithstanding any state law to the contrary, and consistent with the provisions of C.R.S. §§ 29-5-109 and 29-5-110, if any City employee is injured, disabled, suffers an occupational disease, or dies while providing services to the Authority under this Agreement, that employee shall remain covered by and eligible for the workers' compensation and firefighters' pension benefits that the City employee would have otherwise been entitled to receive from the City if the injury, disability, occupational disease or death occurred without any assignment of that employee to the Authority under this Agreement.

Section 6.4 City Provision of Services

- (a) The City shall provide the services set forth on **Exhibit B** attached hereto and incorporated by reference to the Authority. These services shall be provided by the City for the cost as set forth on **Exhibit B**.
- (b) The Authority shall have the authority to obtain the services provided by the City to the Authority as listed in **Exhibit B** from third parties. The Authority shall give the City prior written notice of its intention to provide individual areas of service by third parties and not use City services. The notice shall be given before June 1 of any calendar year for any service to be terminated during the next calendar year.

ARTICLE VII: DISTRICT'S RESPONSIBILITIES

Section 7.1 Existing Equipment and Apparatus

The District hereby leases all of its fire equipment and apparatus (collectively the "Equipment") to the Authority at no cost to the Authority except the Equipment leased shall not include the fire equipment and apparatus now used by the Big Thompson Canyon Volunteer Fire Department (the "Canyon Department") which is described on **Exhibit C** attached hereto and incorporated by reference. This lease of the Equipment shall be for an initial one-year period with automatic renewals for additional successive one-year periods subject to termination upon the termination of this Agreement. The City agrees that in the event this Agreement is terminated as provided under this Agreement, that this lease of the Equipment shall automatically terminate and the District shall be entitled to retake and retain sole and exclusive possession and control of all of the Equipment without the need for any judicial process to replevin the Equipment from the Authority or the City or in any other manner to take exclusive possession and control of the Equipment from the Authority or the City.

Section 7.2 Mill Levy Election

The District shall seek voter approval in May of 2012 for a mill levy increase sufficient to fund the District's obligations pursuant to this Agreement.

ARTICLE VIII: BIG THOMPSON CANYON VOLUNTEER FIRE DEPARTMENT

The District shall continue to maintain and fund the Canyon Department. Set forth on **Exhibit C** attached hereto and incorporated by reference, is the organizational chart for the Authority which shows the Canyon Department Chief under the operational control of the City's Fire Chief. As provided in Section 7.1 above, **Exhibit C** also contains a list of the Canyon Department's apparatus and equipment that shall not be leased by the District to the Authority and shall be maintained by the District for use by the Canyon Department. The District shall continue to maintain the Big Thompson Canyon Volunteer Firefighters Pension Fund as a separate pension fund. The Authority and the City shall have no responsibility for funding of this pension fund or for funding any other costs related to the Canyon Department.

ARTICLE IX: TERMINATION

Section 9.1 Termination

Each of the Parties may terminate this Agreement by giving written notice to the other Party. Such notice shall be delivered to the other Party on or before January 1 of any year with the effective date of the termination of this Agreement being December 31 of said calendar year. Notwithstanding the foregoing, in the event the governing body of either of the Parties fails to appropriate in any year during the term of the Agreement its allocation payment required to be

paid to the Authority under this Agreement, this Agreement shall terminate as of the date such allocation payment not appropriated was due and payable. As provided in Section 5.2, the Party that has failed to appropriate the needed allocation payment shall give the other Party prompt written notice of such failure to appropriate.

Section 9.2 Disposition of Assets

Upon termination of this Agreement, the Real Property, the Personal Property and the Equipment shall be disposed of as provided above in Sections 6.1, 6.2 and 7.1. All other assets subsequently acquired by the Authority under this Agreement as the result of a special monetary contribution or direct conveyance received from one of the Parties, shall be returned to that contributing Party if said assets are still owned by the Authority. All remaining assets of the Authority, including any funds, shall be distributed to the Parties in proportion to the percent of allocation of funding of the Parties set forth on **Exhibit A**. The Parties understand and agree that said distribution shall be accomplished in a manner taking into consideration the service requirements for fire and emergency services within the respective jurisdictions of the individual Parties following termination of this Agreement.

ARTICLE X: CONSOLIDATED PENSION

The City and the District formed the Consolidated Firemen's Pension Fund of Loveland and Rural District (the "Consolidated Pension Fund") to meet the City's and the District's pension obligations to volunteer firefighters. After January 1, 2012, the Authority shall be responsible for funding the City's and District's shares of the Consolidated Pension Fund. The Parties agree to consider appropriate amendments to the Consolidated Pension Fund Agreement to reflect the Authority's responsibility under this Article X.

ARTICLE XI: ANNEXATIONS OR EXCLUSIONS FROM THE DISTRICT

The District agrees not to annex property into the District without prior written approval of the City. The District shall not exclude property from the District without prior written approval of the City except for property located east of I-25 and south of County Road 18E which is annexed to the Town of Johnstown and included within the Johnstown Fire Protection District and properties located south of County Road 14 which are annexed to the Town of Berthoud and included within the Berthoud Fire Protection District.

ARTICLE XII: PINWOOD LAKE FIRE PROTECTION DISTRICT

The District currently is a party to an intergovernmental agreement with the Pinewood Lake Fire Protection District. That agreement provides for certain fire and emergency services to be provided by the District to the Pinewood Lake Fire Protection District for payment as set forth in said agreement. The Parties agree that the Authority shall be responsible for providing those services required under the intergovernmental agreement between the District and

Pinewood Lake Fire Protection District. However, the District shall continue to receive the payments it is paid under the said intergovernmental agreement.

ARTICLE XIII: INSURANCE

The Authority, the District, and the City shall each maintain the insurance coverages as set forth on **Exhibit D** attached hereto and incorporated by reference.

ARTICLE XIV: TRANSITION

The Parties understand and agree that this Agreement is for a transitional period of five (5) years during which the Parties shall continue to evaluate the benefits, effectiveness, governance and operational efficiency of the Authority (the "Transition Period"). During its first six (6) months of its existence, the Authority shall develop a strategic plan for the Transition Period, but the plan may extend beyond the Transition Period, which addresses the provision of services by the Authority to the Service Area. The strategic plan shall be reviewed and updated yearly so that the Authority shall have in place at a minimum a continual five (5) year planning period. The strategic plan shall be submitted to the governing bodies of the District and the City for their approval.

ARTICLE XV: TERM

The term of this Agreement shall be for a period of five (5) years beginning on January 1, 2012, through December 31, 2016, and thereafter shall automatically renew on January 1 of the following year unless terminated as provided in this Agreement.

ARTICLE XVI: APPROPRIATION

To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the City and/or of the District, it shall be subject to annual appropriation pursuant to the City Charter Section 11-6, any applicable District rule or regulation, and Article X, Section 20 of the Colorado Constitution. Neither Party shall have any obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

ARTICLE XVII: ANNUAL REPORT

The Authority shall provide an Annual Report to the District and the City on or before May 1 of each year reporting financial and operational activities of the Authority during the previous year. The Authority shall also provide any periodic reports to the District and the City which the Authority deems necessary and provide any information or reports requested by either or both of the Parties.

ARTICLE XVIII: MISCELLANEOUS PROVISIONS

Section 18.1 Notices

Any notice required hereunder shall be in writing and shall be deemed sufficient and properly given if delivered in person or sent by United States certified mail, postage prepaid and return receipt requested, to:

CITY: City of Loveland
 Attention: City Manager
 500 East 3rd Street
 Loveland, CO 80537

DISTRICT: Loveland Rural Fire Protection District
 Attention: President
 1423 West 29th Street
 Loveland, CO 80538

Section 18.2 Consent

Whenever any provision of this Agreement requires consent or approval of the Parties, the same shall not be unreasonably withheld.

Section 18.3 Construction

This Agreement shall be construed according to its fair meaning and as if it was prepared by both Parties and shall be deemed to be and contain the entire agreement between the Parties. 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 both of the Parties. Paragraph headings in this Agreement are for convenience of reference only and shall in no way define, limit or prescribe the scope or intent of any provision of this Agreement.

Section 18.4 Severability

In the event any provision of this Agreement is determined to be illegal or invalid for any reason, all other provisions of this Agreement shall remain in full force and effect unless and until otherwise determined. The illegality of any provision of this Agreement shall in no way affect the legality and enforceability of any other provision of this Agreement.

Section 18.5 Time of the Essence

Time shall be of the essence for each and every term and condition of this Agreement.

Section 18.6 Assignment and Delegation

The Parties shall neither assign any of their respective rights created nor delegate any of their respective duties imposed by this Agreement without the prior written consent of the other Party. Any such assignment of rights or delegation of duties without such prior written consent shall be deemed null and void.

Section 18.7 Governmental Immunity

Notwithstanding any other provision of this Agreement to the contrary, the Parties agree that no term or condition of this Agreement shall be construed or interpreted as a waiver, expressed or implied, of any of the Parties' immunities, rights, benefits, protections, limitations of liability, or any other provisions under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* or under any other law.

Section 18.8 Indemnification

The Parties agree that the Authority shall indemnify and hold harmless the City and/or the District, and its officers, insurers, volunteers, representatives, agents, employees, and other assigns from and against all claims, liability, damages, losses, expenses, and demands, including attorney's fees on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, which arise out of the negligent act, omission, error, professional error, mistake, negligence, or other negligent fault of Authority, any subcontractor of Authority, or any officer, employee, representative, or agent of Authority, or which arise out of any workmen's compensation claim of any employee of Authority or of any employee of any subcontractor of Authority. In any and all claims against the City and/or the District or any of its officers, insurers, volunteers, representatives, agents, employees or assigns, by any employee for whose act any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Authority or any subcontractor under worker's compensation actions, disability benefit acts or other employee benefit acts. In the event it becomes necessary for the City and/or the District to bring any action to enforce any provision of this Indemnity or to recover any damages the City and/or District may incur as a result of the breach of this Indemnity, and the City and/or District prevails in such litigation, the Authority shall pay the City and/or District its reasonable attorney's fees as determined by the court.

Section 18.9 Third Party Beneficiary

This Agreement is made for the sole and exclusive benefit of the City, the District and the Authority, and is not made for the benefit of any third party.

Section 18.10 Governing Law and Venue

This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the District Court for the County of Larimer, State of Colorado. In addition, the Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States, imposed upon the City by its Charter and Municipal Code, and imposed upon the District by its rules and regulations, and subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, in no event shall either of the Parties exercise any power or take any action which shall be prohibited by applicable law.

Section 18.11 Waiver

No waiver by either of the Parties of any of the terms and conditions of this Agreement shall be deemed to be or shall be construed as a waiver of any other term or condition, nor shall such a waiver of any breach of this Agreement be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.

Section 18.12 Default and Remedy

Each and every term and condition of this Agreement shall be deemed to be a material element of the Agreement. In the event that either of the Parties shall fail to perform according to any term or condition of this Agreement, such Party may be declared in default by the other Party. In the event that a Party has been declared in default hereof, such defaulting Party shall be given written notice by the non-defaulting Party specifying such default and shall be allowed a period of ten (10) days in which to cure said default. In the event the default remains uncorrected within such notice period, the Party declaring the default's sole remedy shall be to terminate this Agreement and seek damages. The non-defaulting Party shall not be entitled to any right of specific performance or any other remedy at law or in equity.

Section 18.13 Successors

This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties.

This Agreement is entered into as of the date and year first above written.

CITY OF LOVELAND

By: _____

~~Mayor~~ City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

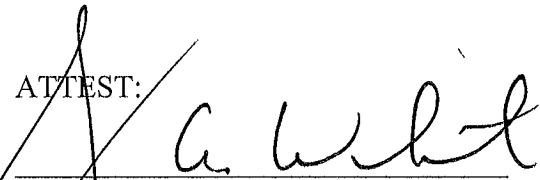
City Attorney

LOVELAND RURAL FIRE PROTECTION DISTRICT

By:  _____

David Legits
President

ATTEST:



Gregory A. White
Secretary

CITY OF LOVELAND

By: _____
William D. Cahill, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

LOVELAND RURAL FIRE PROTECTION
DISTRICT

By: _____

ATTEST:

EXHIBIT A

The allocation of payment of the cost and expenses of the Authority are as follows:

City of Loveland	82%
Loveland Rural Fire Protection District	18%

EXHIBIT B

2011 Indirect Costs for Fire Authority Model

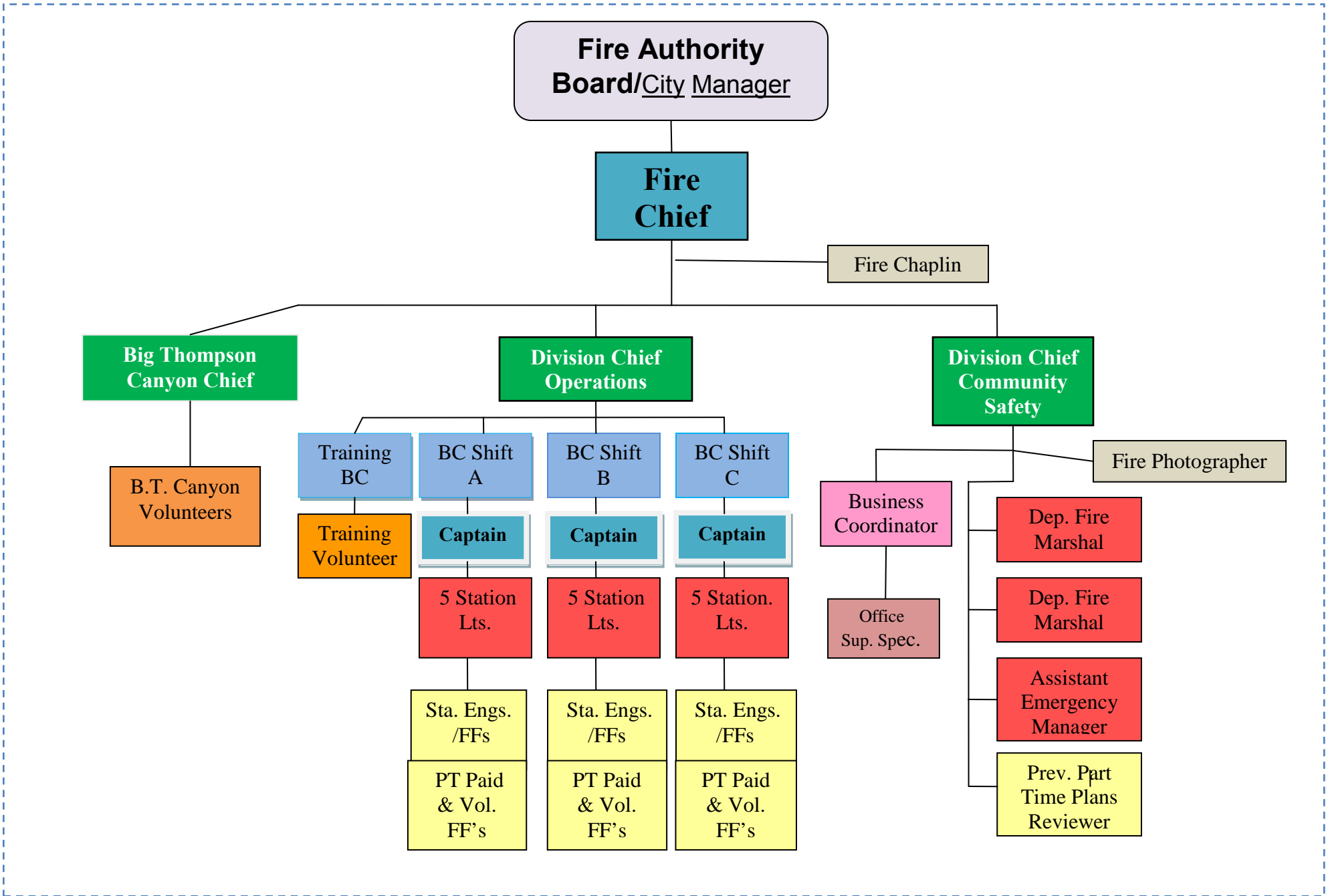
Cost to be Allocated	2011 Original Adopted Budget	Basis of Allocation		Calculation
City Manager's Office	448,680	30% addressing council other 70% split evenly between 14 departments (70/14 depts.=5)	5% of 70%	15,704
City Attorney	848,010	Estimated % of Time	14 hours a month M.G. & J. D. or 168 hrs./4160=4%	33,920
Budget	148,000	% Fire of Total Budget excluding transfers	4%	5,920
Accounting/Purchasing	807,810	% Fire of Total Budget excluding transfers	4%	32,312
Human Resources	1,004,320	Number of benefited full and part time fire department employees to total employees (does not include benefits allocation because that is directly charged to the depts..)	61 of 692 or 8.8%	88,380
IT Programming & Networks	1,151,630	Estimated Time for Programmer (could be an unusual occurrence since there was a software installation in 2007)	40% of K.S.	36,493
IT Support Services	1,487,500	Number of peripherals (laptops, printers, PC's)	14 printers and 44 PC's out of total 915 in the city for 6%	89,250
Facilities		Total square feet for all stations (includes cap replacement)	59,710 sq. ft. at 5.45/sq. ft.	325,420
Dispatch	1,612,270	Call volume	10%	161,227
		Total Cost of Administrative Services to the Fire Department		788,626

\$7,837,730 Total 2011 Fire Department Budget including Capital indirect costs as a percentage of total Fire Department Budget w/Capital 10.1%

\$7,590,470 Total 2011 Fire Department Budget w/o Capital indirect costs As a percentage of total Fire Department Budget w/o Capital 10.4%

EXHIBIT C
(see following page)

Loveland Fire Rescue Authority Organization Chart



Inventory Summary Report

Loveland Rural Fire Protection District

EXHIBIT C

Stn/Loc	Item #	Description	Serial Number	Cost	Engine	Truck No.	urchase Date
Cedar Cove	0000137	2002 Ford F550	1FDAP57E62EA73207	\$70,000.00	E-276	448	2002
Cedar Cove	0000125	800 MHz Radio	494AZG0261	\$4,000.00	E-276	448	1998
		Total Truck Value		\$74,000.00			
Cedar Cove	0000048	1983 CJ 5 Jeep	1JCM85E6DT013505	\$8,000.00	E-277	457	1983
Cedar Cove	0000127	800 MHz Radio Main	494AZ0262	\$4,000.00	E-277	457	1998
		Total Truck Value		\$12,000.00			
		[REDACTED]					
Cedar Cove	0000138	Pump Unit (incl tank & flatbed)		\$4,459.00	E-276	448	2001
Cedar Cove	0000139	Waterous Floo Pump		\$1,306.00	E-276	448	2001
Cedar Cove	0000140	Water Tank		\$3,000.00	E-276	448	2001
		Total Portable Equip.		\$8,765.00			

Stn/Loc	Item #	Description	Serial Number	Cost	Engine	Truck No.	Purchase Date
Cedar Park	0000114	1968 CSFS/Kaiser Military Tanker	679690322100084	\$1,000.00	E-294	553	1998
Cedar Park	0000114	800 MHz Radio Main	494AZG0256	\$4,000.00	E-294	553	1998
		Total Truck Value		\$5,000.00			
Cedar Park	0000249	2005 Ford H550 Mini Pumper	1FDABW57P65ED24594	\$110,000.00	E-296	159	2008
Cedar Park	0000103	800 MHz Radio Main	494AZG0264	\$4,000.00	E-296	159	1998
		Total Truck Value		\$114,000.00			
		[REDACTED]					
Cedar Park	0000143	Flotopump	10811	\$1,300.00	E-296	159	2000
Cedar Park	0000146	Winch	1043426	\$2,500.00	E-296	159	2002
Cedar Park	0000144	Flotopump	11006	\$1,300.00	E-294	553	2002
Cedar Park	0000232	Old AFD		\$2,300.00	E-294	553	
		Total Portable Equip.		\$7,400.00			

Stn/Loc	Item #	Description	Serial Number	Cost	Engine	Truck No.	Purchase Date
Drake	0000050	1996 General Freightliner Tanker	1FV6JLCB8VL796769	\$225,000.00	WT-8	554	1996
Drake	0000053	800 MHz Radio Main	494AZG0258	\$4,000.00	WT-8	554	1998
		Total Truck Value		\$229,000.00			
Drake	0000105	1992 International Pumper	1H1SEPB6NH399586	\$135,000.00	E-88	157	1992
Drake	0000107	800 MHz Radio Main Front	494AZG0217	\$4,000.00	E-88	157	1998
Drake	0000108	800 MHz Radio Main Rear	494AZG0263	\$4,000.00	E-88	157	1998
		Total Truck Value		\$143,000.00			
Drake	0000248	2001 Chevrolet K2500 - Rescue 88	1GBHK24G51E342388	\$21,138.00	R-88	610	2008
		Total Truck Value		\$21,138.00			
Drake	0000023	1983 Jeep CJ-5	1JCCM8E4D1T013504	\$8,000.00	E-287	458	1983
Drake	0000120	800 MHz Radio Main	494AZG0257	\$4,000.00	E-287	458	1998
		Total Truck Value		\$12,000.00			
Drake	0000109	Holmatro Rescue Tool	315000619	\$4,300.00	E-88	157	1999
Drake	0000111	Holmatro Power Unit	9900561	\$3,200.00	E-88	157	1999
Drake	0000112	Holmatro Spreader Tool	335000212	\$2,500.00	E-88	157	1999
Drake	0000116	800 MHz Radio	326AZG0337	\$4,000.00	Canyon 1		1998
Drake	0000118	800 MHz Radio	326AZG0332	\$4,000.00	Canyon 2		1998
Drake	0000100	800 MHz Radio	326AZG0333	\$4,000.00	Canyon 3		1998
Drake	0000115	800 MHz Radio	326AZG0339	\$4,000.00	Canyon 4		1998
Drake	0000117	800 MHz Radio	326AZG0331	\$4,000.00	Canyon 5		1998
Drake	0000106	800 MHz Radio	326AZG0336	\$4,000.00	LF CVN 818		1998
Drake	0000011	Scott Airpack	5850171	\$2,300.00	WT-8	554	1985
Drake	0000012	Scott Airpack	4849327	\$2,300.00	WT-8	554	1984
Drake	0000047	Pump Unit	713310002	\$2,146.00	E-287	458	1982
Drake	0000166	800 MHz Radio	761CES0021	\$4,000.00	LF CSTA 8		2008
Drake	0000230	4 Bottle Cascade System	No serial number	\$4,500.00	Station 8		2009
Drake	0000231	New AED		\$2,300.00	R-88	610	2011
Drake	0000237	Stand-by Generator	A860 781464	\$1,500.00	Station 8		2011
		Total Portable Equip.		\$53,046.00			

EXHIBIT D

The Authority, the District and the City (collectively the “Insureds” and individually “Insured”) shall each provide and maintain the following insurance coverages during the term of this Agreement:

a. Comprehensive General Liability Insurance. Each Insured shall procure and keep in force during the duration of this Agreement a policy of comprehensive general liability insurance insuring the Insured and naming the other two Insureds as additional insureds against any liability for personal injury, bodily injury, or death with at least Two Million Dollars (\$2,000,000) each occurrence.

b. Comprehensive Automobile Liability Insurance. Each Insured shall procure and keep in force during the duration of this Agreement a policy of comprehensive automobile liability insurance insuring the Insured and naming the other two Insureds as additional insureds against any liability for personal injury, bodily injury, or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by the Insured which are used in connection with its operations under this Agreement, whether the motor vehicles are owned, non-owned, or hired, with a combined single limit of at least Two Million Dollars (\$2,000,000).

c. Terms of Insurance.

(i) Insurance required by this Agreement shall be with companies qualified to do business in the State of Colorado with a general policyholder’s financial rating of not less than A+3A as set forth in the most current edition of “Best’s Insurance Reports” and may provide for deductible amounts as the Insureds deem reasonable. No such policies shall be cancelable or subject to reduction in coverage limits or other modification except after thirty (30) days prior written notice to the other Insureds named as additional insureds. Each Insured shall identify whether the type of its coverage is “occurrence” or “claims made.” If the type of coverage is “claims made,” which at renewal changes to “occurrence,” the Insured shall carry a six (6)-month tail. Each Insured shall not do or permit to be done anything that would invalidate their respective policies.

(ii) The policies described in subparagraphs a. and b. above shall be for the mutual and joint benefit and protection of the Insureds. Each of the Insured’s policies shall provide that the other two Insureds named as additional insureds shall be entitled to recovery under said policies for any loss occasioned to it, its officers, employees, and agents by reason of negligence of the Insured, its officers, employees, agents, subcontractors, or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage each of the Insureds may carry.

(iii) The Insureds may each provide for the insurance coverages partially or wholly by means of a self insurance pool.

d. Workers' Compensation and Other Insurance. During the term of this Agreement, each Insured shall procure and keep in force workers' compensation insurance and all other insurance required by any applicable law.

e. Evidence of Coverage. Each Insured shall furnish to the other two Insureds certificates of insurance policies evidencing the insurance coverage required by this Agreement.



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: 11
MEETING DATE: 8/16/2011
TO: City Council
FROM: Renee Wheeler, Finance
PRESENTER: John Hartman

TITLE:

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF LOVELAND AT THE CITY'S REGULAR ELECTION TO BE HELD ON NOVEMBER 1, 2011, THE BALLOT ISSUE OF WHETHER, WITHOUT CREATING ANY NEW TAX OR INCREASING THE RATE OF ANY EXISTING TAX, THE CITY OF LOVELAND SHALL BE PERMITTED, BEGINNING IN 2013 AND EACH YEAR THEREAFTER, TO COLLECT, RETAIN AND SPEND ALL CITY REVENUES IN EXCESS OF THE SPENDING, REVENUE AND OTHER LIMITATIONS IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION TO BE USED FOR POLICE AND FIRE, STREET CONSTRUCTION AND MAINTENANCE, AND PARKS CONSTRUCTION AND MAINTENANCE.

DESCRIPTION:

This is an administrative action to refer a ballot measure to allow the City to retain revenue in excess of the TABOR (State Constitutional Amendment) revenue limits beginning January 2013.

BUDGET IMPACT:

● Yes

Impacts future years' ability to invest in capital

SUMMARY:

Background

In 1992, Colorado passed a State Constitutional Amendment, known as TABOR, which imposed tax and spending limitations on governmental entities. Since the passage of TABOR, Loveland citizens have approved three ballot issues allowing the City to keep and spend for certain purposes, thus waiving the limits of TABOR. In 1994 the voters authorized the City to receive and expend all revenues generated from 1993 through 1997. In 1999, the voters again authorized the City to receive and expend all revenues generated from 1998 through 2002. The

1999 ballot issue stipulated that these monies be spent on street construction and youth services.

In 2002, voters once again authorized the City to receive and expend all revenues generated from 2003 through 2012. This ballot issue stipulated that these monies be spent on police and fire, street maintenance and construction, and park maintenance and construction.

Revenues in excess of the TABOR revenue limit have provided the General Fund contribution to the 2030 Transportation Plan, allowed for increased maintenance of existing streets, provided a portion of the funding to construct the new Fairgrounds Park, and provided funds for the replacement of fire apparatus and other large equipment purchases. It has been the philosophy to use the money on one-time expenditures, as opposed to recurring expenditures, because of the variability of the money based on the formula calculation. The following chart summarizes uses that are listed on page 4-45 of the City of Loveland 2011 Adopted Budget.

Excess Revenue Uses	Amount Committed in the Budgets from 2004 - 2011
Street Construction and Maintenance	\$19,234,047
Parks Construction and Maintenance	3,596,500
Fire	687,390
Police	433,230
Total 2004 - 2011	\$23,951,167

September 2, 2011 is the last day to certify content with Larimer County for the coordinated election. The attorney's office would prefer to process TABOR related ballot measures using an ordinance. First reading would come to City Council August 2 and the second reading would be on August 16.

During the July 12, 2011 study session there was considerable discussion regarding the ballot issue sunset provision. The Budget Officer presented information from the Colorado Municipal League database on TABOR election results indicating that a majority of the taxing jurisdictions in the State had been allowed by their electorate to retain revenue in excess of the cap and that around 70% of the jurisdictions that retained the revenue in excess of the revenue cap did so without a sunset provision, allowing them to retain the revenue indefinitely. The City Council was also interested in minimizing the cost of elections. The discussion resulted in the direction to bring an ordinance for consideration at the next regular City Council meeting to refer a ballot issue to retain revenue in excess of the TABOR revenue cap, excluding a sunset provision, limiting the use of that revenue to the current restricted uses (fire, police, streets construction and maintenance and parks construction and maintenance).

Council approved the ordinance on first reading on August 2, 2011 by a vote of five to three. The discussion centered on the issue of a ten-year sunset versus a measure without a specific sunset.

LIST OF ATTACHMENTS:

Second Reading Ordinance

RECOMMENDED CITY COUNCIL ACTION:

Recommend approval of the ordinance to submit to the registered electors of the City of Loveland at the regular election to be held on November 1, 2011, the ballot issue of whether, without creating a new tax or increasing the rate of any existing tax, the City of Loveland shall be permitted to collect, retain, and spend all city revenues in excess of the spending and revenue limitation in Article X, Section 20 of the Colorado Constitution to be used for police, fire, street construction and maintenance, and parks construction and maintenance.

REVIEWED BY CITY MANAGER:

FIRST READING: August 2, 2011

SECOND READING: August 16, 2011

ORDINANCE NO. _____

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF LOVELAND AT THE CITY'S REGULAR ELECTION TO BE HELD ON NOVEMBER 1, 2011, THE BALLOT ISSUE OF WHETHER, WITHOUT CREATING ANY NEW TAX OR INCREASING THE RATE OF ANY EXISTING TAX, THE CITY OF LOVELAND SHALL BE PERMITTED, BEGINNING IN 2013 AND EACH YEAR THEREAFTER, TO COLLECT, RETAIN AND SPEND ALL CITY REVENUES IN EXCESS OF THE SPENDING, REVENUE AND OTHER LIMITATIONS IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION TO BE USED FOR POLICE AND FIRE, STREET CONSTRUCTION AND MAINTENANCE, AND PARKS CONSTRUCTION AND MAINTENANCE.

WHEREAS, the City of Loveland has received in the past, and will likely receive in the future, revenues in excess of the spending and revenue limits imposed by Article X, Section 20 of the Colorado Constitution; and

WHEREAS, such excess revenues are not the result of any new tax or increase in existing tax rates but are the result of the increased growth and economic activity occurring within the City; and

WHEREAS, in 2002, the City Council submitted to Loveland voters a ballot issue seeking the voters' approval to remove for ten (10) years beginning in 2003 the revenue and spending limits imposed by Article X, Section 20 of the Colorado Constitution to allow the City to use excess revenues for police and fire, street construction and maintenance, and parks construction and maintenance, which ballot issue the citizens approved; and

WHEREAS, since 2003 the City has been able to use such excess revenues productively to respond to and meet the needs and demands of its citizens in the areas of police and fire services, street construction and maintenance, and parks construction and maintenance; and

WHEREAS, because the voters' approval in 2002 will expire at the end of 2012, the Council has determined that it is in the best interest of the City to protect the past and future investment in police and fire, street construction and maintenance, and parks construction and maintenance by seeking again the voters' approval to continue to use such excess revenues for these purposes; and

WHEREAS, the Council has therefore determined that the most productive use of such revenues is to commit them for use by the City to fund police and fire, street construction and maintenance, and parks construction and maintenance; and

WHEREAS, the Council has further confirmed that the exclusion of such revenues from the Constitutional Revenue and Spending Limitations shall not result in the creation and imposition of any new tax or the change of any existing City tax rate upon passage or in the future, and any such future proposed new tax or increase in existing tax rate change shall remain subject to voter approval under Article X, Section 20; and

WHEREAS, Article X, Section 20 of the Colorado Constitution authorizes cities to seek and obtain voter-approved revenue changes in order to remove certain revenues from the spending and revenue limits imposed by Section 20; and

WHEREAS, on July 5, 2011, Council adopted Resolution #R-44-2011 authorizing the City Clerk to notify the Larimer County Clerk and Recorder that the City would participate in a coordinated election with Larimer County on November 1, 2011; and

WHEREAS, pursuant to C.R.S. § 31-11-111(2), the City Council is authorized to submit ballot issues to the City's registered electors and in so doing is required to fix a ballot title for the referred issue.

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

Section 1. That pursuant to Article X, Section 20 of the Colorado Constitution and C.R.S. § 31-11-111(2), there shall be submitted to a vote of the registered electors of the City of Loveland on the ballot at the City's regular election to be held on November 1, 2011, to be conducted as a coordinated mail ballot election with Larimer County, the ballot issue of whether, without creating or imposing any new tax or increasing the rate of any existing tax, the City of Loveland shall be permitted, in 2013 and each year thereafter, to collect, retain and spend all City revenues in excess of the spending and revenue limitations in Article X, Section 20 of the Colorado Constitution for police and fire, street construction and maintenance, and parks construction and maintenance.

Section 2. That the ballot for the City's regular municipal election on November 1, 2011, to be conducted as part of a coordinated mail ballot election with Larimer County, shall include the following ballot title for this ballot issue, in addition to those for any other City ballot issue and question which may be approved by the City Council:

ISSUE NO. _____: AUTHORIZING THE CITY OF LOVELAND TO COLLECT, RETAIN AND SPEND FOR THE PURPOSES OF POLICE AND FIRE, STREET CONSTRUCTION AND MAINTENANCE, AND PARKS CONSTRUCTION AND MAINTENANCE, ALL CITY REVENUES IN EXCESS OF THE SPENDING, REVENUE AND OTHER LIMITATIONS IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION.

“WITHOUT CREATING OR IMPOSING ANY NEW TAX OR INCREASING THE RATE OF ANY EXISTING TAX, SHALL THE CITY OF LOVELAND, COLORADO BE PERMITTED, IN 2013 AND EACH YEAR THEREAFTER, TO COLLECT, RETAIN AND SPEND ALL CITY REVENUES IN EXCESS OF THE SPENDING, REVENUE AND OTHER LIMITATIONS IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, WITH SUCH EXCESS REVENUES TO BE USED FOR POLICE AND FIRE, STREET CONSTRUCTION AND MAINTENANCE, AND PARKS CONSTRUCTION AND MAINTENANCE?”

Yes___

No___

Section 3. That the City Clerk is hereby directed to certify no later than September 2, 2011, to the Larimer County Clerk and Recorder the above ballot issue for the Larimer County Coordinated Mail Ballot Election to be held on November 1, 2011.

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


ADOPTED this ____ day of August, 2011.

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:



City Attorney



CITY OF LOVELAND
POLICE DEPARTMENT

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

AGENDA ITEM: 12
MEETING DATE: 8/16/2011
TO: City Council
FROM: Captain Rob McDaniel
PRESENTER: Chief Luke Hecker

TITLE:

A Resolution approving an Intergovernmental Agreement for the shared use of a Weld County stand-alone facility that will act as a host facility for the Northern Regional Lab Group

DESCRIPTION:

This is an administrative action to consider adoption of an intergovernmental agreement by City Council to share equally with other members of the Northern Regional Lab Group (NRLG) in the payment of the operation and maintenance costs of the planned facility (to be constructed or purchased) that will house various forensic services provided by NRLG members and the Colorado Bureau of Investigation. The annual costs for operation and maintenance of the facility are estimated to be approximately fifty- five to seventy thousand (\$55,000.00 - \$70,000.00) per NRLG member.

BUDGET IMPACT:

● Yes

More precise annual operating and maintenance costs for the host facility shall be determined once a building is purchased or constructed. Portions of some federal grants that Weld County has received may be available to apply to operation and maintenance costs on behalf of all NRLG members, thereby reducing their annual contributions.

SUMMARY:

Weld County is ready to move forward with its commitment to purchase a building or to purchase land and by pooling resources, information, expertise, equipment and money among the members construct a building that will serve as a crime laboratory facility. The facility will house in one location all NRLG members' staff of forensic examiners.

The NRLG is comprised of Loveland, Greeley, Fort Collins, Weld County on behalf of its Sheriff's Office and the 8th Judicial District Attorney's Office, and Larimer County on behalf of its

Sheriff's Office and the 19th Judicial District Attorney's Office, and was created to promote improved identification, collection, timeliness, quality, accuracy, consistency, court delivery and cost effectiveness of forensic services to the northern region of Colorado by pooling resources, information, expertise, equipment and money among the members.

In approximately November of 2008 the Parties entered in to an intergovernmental agreement, entitled "Intergovernmental Agreement Regarding Shared Facilities and Forensic Operating Guidelines of the Northern Regional Lab Group" to formally establish the forensic work group. Since then, Weld County in cooperation with the other NRLG members has sought to purchase or build a stand-alone facility that would act as a host facility for the NRLG and allow the NRLG to bring together in one location the various forensic disciplines among the Parties that currently are spread throughout various northern Colorado law enforcement agencies; and

On August 17, 2010, in anticipation of a potential purchase by Weld County of a building or of land and the construction of a building for a regional forensics lab, the City Council adopted Resolution #R-41-2010, that expressed the City's intent to share equally with other NRLG members in the payment of annual costs for the operation and maintenance of a host facility for the NRLG. As Weld County moves forward with its commitment to purchase a building or to purchase land and construct a building to host the NRLG forensic disciplines, the NRLG members seek to more fully commit to participation in the NRLG and the sharing of operation and maintenance costs.

LIST OF ATTACHMENTS:

1. A Resolution Approving an Intergovernmental Agreement for the Shared Use of a Weld County Stand-Alone Facility that Will act as a Host Facility for the Northern Regional Lab Group
2. Exhibit A, Intergovernmental Agreement Regarding a Stand-Alone Facility for Forensic Disciplines for the Northern Regional Lab Group

RECOMMENDED CITY COUNCIL ACTION:

Staff recommends adoption of the Resolution

REVIEWED BY CITY MANAGER:

RESOLUTION # R-51-2011**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE SHARED USE OF A WELD COUNTY STAND-ALONE FACILITY THAT WILL ACT AS A HOST FACILITY FOR THE NORTHERN REGIONAL LAB GROUP**

WHEREAS, the City of Loveland, a home rule municipality (the “City”), the City of Greeley, a home rule municipality, the City of Fort Collins, a home rule municipality, the Board of County Commissioners of Larimer County, on behalf of the Larimer County Sheriff’s Office and the 8th Judicial District Attorney’s Office, and the Board of County Commissioners of Weld County on behalf of the Weld County Sheriff’s Office and the 19th Judicial District Attorney’s Office (collectively referred to herein as the “Parties” or the “Northern Regional Lab Group”) are political subdivisions of the State of Colorado duly organized and existing in accordance with Colorado law; and

WHEREAS, in approximately November of 2008 the Parties entered in to an intergovernmental agreement, entitled “Intergovernmental Agreement Regarding Shared Facilities and Forensic Operating Guidelines of the Northern Regional Lab Group” to work cooperatively to promote improved identification, collection, timeliness, quality, accuracy, consistency, court delivery and cost effectiveness of forensic services to the northern region of Colorado by pooling resources, information, expertise, equipment and money among the Parties; and

WHEREAS, since that time the Board of County Commissioners of Weld County (“Weld County”) in cooperation with the other members of the Northern Regional Lab Group (the “NRLG”) has sought to purchase or build a stand-alone facility that would act as a host facility for the NRLG and allow the NRLG to bring together in one location the various forensic disciplines among the Parties that currently are spread throughout various northern Colorado law enforcement agencies; and

WHEREAS, on August 17, 2010, in anticipation of a potential purchase by Weld County of a building or of land and the construction of a building for a regional forensics lab, the City Council adopted Resolution #R-41-2010, that expressed the City’s intent to share equally with other NRLG members in the payment of annual costs for the operation and maintenance of a host facility for the NRLG; and

WHEREAS, the City Council finds the City’s participation in the NRLG and sharing of operation and maintenance costs of a stand-alone facility for the NRLG’s forensic services is a worthy endeavor and in the best interests of the City and its citizens; and

WHEREAS, the City Council further finds that it is in the best interests of the City and its citizens to enter into the “Intergovernmental Agreement Regarding a Stand-Alone Facility for Forensic Disciplines for the Northern Regional Lab Group,” attached hereto as Exhibit A and incorporated by reference (the “Agreement”) in anticipation of Weld County moving forward with its commitment to purchase or construct a facility to host the NRLG’s forensic services; and

WHEREAS, pursuant to C.R.S. § 29-1-203(1), the Parties are authorized to cooperate with one another to provide any function or service lawfully authorized to each and are therefore each authorized under C.R.S. § 29-1-203(1) to enter into the Agreement.

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

Section 1. That the Agreement is hereby approved.

Section 2. That the City Manager is hereby authorized and directed to enter into the Agreement on behalf of the City, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

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

ADOPTED this _____ day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT REGARDING A STAND-ALONE FACILITY
FOR FORENSIC DISCIPLINES FOR THE NORTHERN REGIONAL LAB GROUP

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter referred to herein as “IGA”) is made and entered into this ____ day of _____, 2011, by and between the City of Greeley, a municipal corporation on behalf of the City of Greeley Police Department, whose address is 1000 10th Street, Greeley, Colorado 80631; the City of Loveland, a municipal corporation on behalf of the City of Loveland Police Department, whose address is 500 East 3rd Street, Loveland, Colorado 80537; the City of Fort Collins, a municipal corporation on behalf of Fort Collins Police Services, whose address is 300 LaPorte Avenue, Fort Collins, Colorado 80521; the Board of County Commissioners of Larimer County, on behalf of the Larimer County Sheriff’s Office and the 8th Judicial District Attorney’s Office, whose address is P.O. Box 1190, Fort Collins, Colorado 80522-1190; and the Board of County Commissioners of Weld County on behalf of the 19th Judicial District Attorney’s Office and the Weld County Sheriff’s Office (hereinafter collectively referred to as “Weld County”), whose address is P.O. Box 758, 915 10th Street, Greeley, Colorado 80632; with all such entities being referred to collectively as “the Participating Agencies,” and each individually as a “Participating Agency.”

WITNESSETH:

WHEREAS, the Participating Agencies are political subdivisions of the State of Colorado duly organized and existing in accordance with Colorado law; and

WHEREAS, pursuant to C.R.S. Section 29-1-203(1), the Participating Agencies are authorized to cooperate with one another to provide any function or service lawfully authorized to each and are therefore each authorized under C.R.S. Section 29-1-203(1) to enter into this Agreement; and

WHEREAS, the Participating Agencies have joined together to form the “Northern Regional Lab Group” (hereinafter referred to as “NRLG”); and

WHEREAS, on or about November 2008, the Participating Agencies entered into an intergovernmental agreement, entitled, “INTERGOVERNMENTAL AGREEMENT REGARDING SHARED FACILITIES AND FORENSIC OPERATING GUIDELINES OF THE NORTHERN REGIONAL LAB GROUP,” (hereinafter referred to as the “Original IGA”), which refers to a “Host Agency” and a “Host Facility,” for the purpose of housing a regional laboratory facility for forensic disciplines (hereinafter referred to as the “Crime Lab”); and

WHEREAS, Weld County has agreed to act as the Host Agency, and has identified a Host Facility to be owned and operated by Weld County that will house the Crime Lab; and

WHEREAS, the Participating Agencies may utilize the Crime Lab and the Host Facility according to the terms of this IGA; and

WHEREAS, the Participating Agencies desire to agree to equal sharing among them of building maintenance, repair, inspections, service, and utility costs, to be billed to the

Participating Agencies by Weld County quarterly, paid within sixty (60) days of the date of billing (date the bill is sent to the Participating Agency), with the lack of payment constituting sufficient reason for termination of the non-paying Participating Agency's right to use the Crime Lab; and

WHEREAS, the Participating Agencies agree that this IGA is necessary to ensure equality and fairness among them, and to ensure the health, safety and welfare of the citizens who reside within their jurisdictional boundaries.

NOW, THEREFORE, in consideration of the mutual promises and agreements of the Participating Agencies contained herein, and other good and valuable consideration, the receipt of which are hereby acknowledged, the Participating Agencies hereto agree to the following:

I. PRIOR INTERGOVERNMENTAL AGREEMENTS.

- A. The Original IGA by its terms terminates upon the NRLG finding a primary facility to house the Crime Lab. Therefore, this Agreement shall replace and supersede the Original IGA only with regards to the provision of the Host Facility and the parties' agreement as to its operation and maintenance. The existing constitution, by laws and forensic-specific guidelines shall survive and shall remain as the operative documents for this Agreement.
- B. This Agreement may be supplemented in the future as provided in paragraph VII.G.

II. DEFINITIONS.

- A. "Building maintenance" shall mean building upkeep (both interior and exterior), janitorial for common areas, and grounds maintenance including but not limited to snow removal, debris removal, parking lot maintenance and necessary landscaping.
- B. "Crime Lab" shall mean a regional laboratory facility for forensic disciplines.
- C. "Equal share basis" means that all agencies participating in the crime lab shall share equally in the costs. In the event the Participating Agencies amend this Agreement to include any additional law enforcement agencies, the cost structure shall be modified so that the costs shall always be shared equally between all Participating agencies that are parties to this Agreement. Likewise, if any Participating Agency wishes to terminate its participation in this Agreement, the costs associated for that agency shall also be terminated and reallocated to the remaining agencies. The remaining Participating Agencies shall restructure the costs so that they are divided equally. The reallocation of costs among the Participating Agencies related to an increase or decrease in membership shall be effective beginning the quarter following such membership change. No Participating Agency that terminates its participation in this Agreement shall be entitled to reimbursement of amounts it has already paid.

- D. "Host Facility" shall mean the facility used to house the Crime Lab, excluding portions of the building used for housing Weld County operations.
- E. "Utilities" shall include telephone, internet, gas, power, water, sewer, and trash collection.

III. PROVISION OF HOST FACILITY FOR CRIME LAB. Weld County agrees to be the "Host Agency" and to thereby provide the Host Facility and allow each Participating Agency the use thereof, according to the terms of this IGA.

- A. Host Facility Maintenance. Weld County shall either provide for or arrange for the provision of all building maintenance for the Host Facility, paying the cost thereof. Weld County shall have complete discretion as to the level of and elements included in the Crime Lab Maintenance and Operations.
- B. Availability of Grant Funds. The Participating Agencies acknowledge and agree that if any grant funds are available to pay for any construction and annual operation and maintenance costs which are the subject of this Agreement, such funds shall be applied prior to any contribution requirements from any of the Participating Agencies.
- C. Utilities. Utility costs for the Crime Lab area of the Host Facility shall be paid by all of the Participating Agencies on an "equal share" basis.
- D. Information Technology Resources. All fiber connectivity to the Crime Lab must be previously approved by and installation coordinated with Weld County Information Technology. No computer services, including internet connections, shall be provided by Weld County. Crime Lab computer systems and their maintenance shall be the responsibility of the Participating Agency that owns the computer system. Technical support for computer systems shall be the responsibility of the owning Participating Agency. However, any technical support and/or any computer systems shall meet the standards set forth by Weld County.
- E. Requests for Special Interior Finish, Furnishings and Utilities/Settings at the Crime Lab. Participating Agencies may request to Weld County that specific interior finish, furnishings, or utilities/settings be included in the Crime Lab. Requests that are granted and specific interior finish, furnishings, or utilities/settings constructed shall be paid for by all of the Participating Agencies on an "equal share" basis.
- F. Improvements to Crime Lab Building. Improvements to the Host Facility that are deemed necessary by the NRLG for the proper functioning of the Crime Lab shall be submitted to Weld County for approval. Upon approval of such improvements by Weld County, they shall be constructed and the costs paid for by all of the Participating Agencies on an "equal share" basis.

G. Insurance. Weld County shall provide insurance on the Host Facility and its contents. Each Participating Agency shall insure any equipment or computer systems it stores or uses at the Crime Lab.

H. Divestment of Ownership of Crime Lab or Determination of Change of Use by Weld County. Weld County shall have complete discretion regarding its divestment of ownership of the Crime Lab, or of Weld County's determination to change the use of the Host Facility and Crime Lab. Upon divestment or change of use, Weld County shall not then be obligated to provide a replacement Crime Lab, and shall have no obligation to the Participating Agencies for expenses they may incur as the result of having to vacate the Crime Lab upon such divestment or change of use.

IV. SHARING OF COSTS AND BILLING: Each Participating Agency agrees to pay the amounts set forth below for its use of the Host Facility and Crime Lab.

A. Cost of Host Facility Maintenance and Operations. Participating Agencies shall pay equal shares of the Host Facility Maintenance and Operations monthly costs. The costs attributable to the NRLG for Crime Lab maintenance and operations shall be the total cost for the Host Facility Maintenance and Operations less an amount attributable to that portion of the building used by Weld County and less any grant proceeds which are available for Maintenance and Operation of the Crime Lab. Weld County shall, on an annual basis, meet with each Participating Agency to review their equal share of the Host Facility Maintenance and Operations.

B. Cost of Constructing Approved Requests for Specific Interior Finish, Furnishings, or Utilities/Settings, and Necessary Improvements. Participating Agencies shall pay equal shares of the costs of constructing approved requests for specific interior finish, furnishings, or utilities/settings, and necessary improvements. "Equal shares" shall mean the total costs of said construction, less an amount attributable to that portion of the building used exclusively by the Weld County Coroner and Weld County Paramedic Service, divided equally among the Participating Agencies.

C. Billing of Participating Agencies. Weld County shall bill the Participating Agencies quarterly for the equal shares of costs as set forth above of Crime Lab Maintenance and Operations and of constructing approved requests for specific interior finish, furnishings, or utilities/settings, and necessary improvements. All such bills shall be paid by the Participating Agencies within sixty (60) days of the date of billing (date the bill is sent to the Participating Agency). If Weld County does not receive a Participating Agency's payment within sixty (60) days of the date of billing, the non-paying Participating Agency's right to access the Host Facility and utilize the Crime Lab shall be immediately terminated, which may be enforced by injunction ordered by the Weld District Court.

V. USE OF CRIME LAB: Use of the Crime Lab by the Participating Agencies shall be in accordance with the reasonable rules and regulations established by the NRLG, and by reasonable rules of usage of the Host Facility established by Weld County.

VI. TERMINATION:

- A. Termination Due to Non-Payment. The right of a Participating Agency to access the Host Facility and utilize the Crime Lab shall be immediately terminated upon non-payment of its equal share of Host Facility Maintenance and Operations costs within sixty (60) days of the date of billing, as provided for in Section IV. C., above, or upon violation of rules and regulations established by the NRLG or Weld County, as mentioned in Section V., above. Said termination of rights may be enforced by injunction ordered by the Weld District Court.
- B. Termination of Use by Participating Agency. Any Participating Agency may terminate its right to access the Host Facility and utilize the Crime Lab upon providing notice of such termination and withdrawal from this IGA to all other Participating Agencies received at least twelve (12) months prior to the intended date of termination. The terminating Participating Agency shall be obligated to pay its equal share as defined above to Weld County through the intended date of termination. Any Participating Entity that has terminated and then desires to re-enter this Agreement and thereby resume using the Crime Lab shall, prior to resuming such use, be required to pay to Weld County the equal share of the Crime Lab Maintenance and Operations that it would have paid during the time of its absence from the Agreement.
- C. Termination by Weld County. Weld County may terminate this IGA at any time upon providing notice of such termination to all other Participating Agencies at least eighteen (18) months prior to the intended date of termination.
- D. Division of Assets.
 - 1. Termination of Use by Participating Agency. Upon termination by a Participating Agency, the Participating Agency shall be entitled to remove all furnishings and equipment which were wholly purchased by that Participating Agency. The Participating Agency shall not be entitled to recovery of any costs that were directed towards jointly purchased equipment, furnishings, interior finishes, or their share of Host Facility maintenance costs.
 - 2. Termination by Weld County. Upon termination by Weld County, the NRLG shall be entitled to remove all furnishings and equipment which were purchased jointly by the NRLG. The NRLG shall either relocate the furnishings and equipment to another agreed upon Crime Lab facility or the NRLG shall determine an equitable division of these assets among the Participating Agencies.

VII. MISCELLANEOUS PROVISIONS:

- A. Independent Participating Agencies. Participating Agencies agree that they are independent of one another, and that each Participating Agency's agents or employees are not, nor shall they be deemed to be, agents or employees of the other

- Participating Agencies for any purpose. The Participating Agencies shall have no authorization, express or implied, to bind each other to any agreement, liability, or understanding with respect to the Host Facility or the Crime Lab.
- B. Insurance and Indemnification. Each Participating Agency shall provide Weld County with proof of insurance or evidence of self-insurance covering its equipment and furnishings located at the Crime Lab. Each Participating Agency shall defend and indemnify the other Participating Agencies, their officers and agents, from and against loss or liability arising from its acts, errors or omissions arising from its use of the Crime Lab. Each Participating Agency shall carry necessary workers' compensation insurance to cover its employees who use the Crime Lab and provide proof of such workers' compensation insurance to Weld County.
- C. Non-Assignment. No Participating Agency may assign or transfer its right to access the Host Facility or use the Crime Lab to another person or entity.
- D. Interruptions. No Participating Agency shall be liable to the other for delays or inability to use the Crime Lab caused by acts, errors or omissions of the Participating Agency arising from its use of the Crime Lab, or arising by acts of God, fires, strikes, war, flood, earthquakes or governmental actions.
- E. Notices. Any notice required to be given under this IGA shall be in writing and shall be mailed or delivered to the other party at that party's address as stated above.
- F. Compliance. This IGA and the provision of services hereunder shall be subject to the laws of Colorado.
- G. Entire Agreement/Modifications. This IGA contains the entire agreement between the Participating Agencies with respect to the subject matter contained in this IGA. This instrument supersedes all prior negotiation, representation, and understanding or agreements with respect to the subject matter contained in this IGA. This IGA may be changed or supplemented only by a written instrument signed by the Participating Agencies.
- H. Funding Contingency. No portion of this IGA shall be deemed to create an obligation on the part of any participating agencies to expend funds not otherwise appropriated or budgeted for.
- I. Severability. If any term or condition of this IGA shall be held to be invalid, illegal, or unenforceable, this IGA shall be construed and enforced without such provision, to the extent that this IGA is then capable of execution within the original intent of the Participating Agencies.

- J. Governmental Immunity. No portion of this IGA shall be deemed to constitute a waiver of any immunities the Participating Agencies or their officers or employees may possess.
- K. No Third Party Beneficiary. It is expressly understood and agreed that the enforcement of the terms and conditions of this IGA, and all rights of action relating to such enforcement, shall be strictly reserved to the Participating Agencies and nothing in this IGA shall give or allow any claim or right of action whatsoever by any other person not included in this IGA. It is the express intention of the Participating Agencies that any entity other than the Participating Agencies receiving services or benefits under this IGA shall be an incidental beneficiary only.

(Appropriate signatures of each Participating Agency.)

(End of text on page.)

SIGNATURE PAGE

Dated this ____ day of _____, 2011

CITY OF LOVELAND

William D. Cahill, City Manager

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney



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: 13
MEETING DATE: 8/16/2011
TO: Mayor and City Councilors
FROM: Rod Wensing, Assistant City Manager
PRESENTER: Mike Scholl, Senior Planner – Strategic Planning Division

TITLE:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE PURCHASE AND REMEDIATION OF THE LESLIE-THE-CLEANER PROPERTY LOCATED AT 301 N. LINCOLN AVENUE

DESCRIPTION:

A public hearing to consider an administrative action to adopt an ordinance on first reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for the purchase and remediation of the Leslie-the-Cleaner property located at 301 N. Lincoln Avenue.

BUDGET IMPACT:

● Yes

Total funding for the purchase, clean-up and demolition of said property is \$555,800. \$242,800 would be from the Council Capital Reserve and \$313,000 is from a State CDPHE grant.

SUMMARY:

In 2008, based on recommendations from the Downtown Parking Study, the Loveland City Council approved a plan to acquire property around 3rd Street between Lincoln and Cleveland Avenue, for the purposes of constructing a parking deck. Staff engaged a broker and began negotiations with property owners.

In 2009, the City obtained purchase contracts on four parcels including the Leslie-the-Cleaner Site (see the attached map). Initially, the City had negotiated a purchase price of \$205,000. As part of the standard due diligence and “all appropriate inquiry” process, the City also conducted Phase I environmental analysis on the four parcels.

The Phase I on the Leslie-the-Cleaner determined that further investigation and sampling would be required. This led to additional testing and the discovery of ongoing environmental

contamination from the dry cleaning operation. As a result, the City chose not to close on the property.

Over the course of the next eighteen months, the City conducted ongoing negotiations with the property owner, while continuing to review the environmental conditions and develop estimates of the cleanup cost. During this time, City staff, with the consent of the owner, was in discussion with the Colorado Department of Public Health and the Environment (CDPHE) regarding the availability of state and federal grants to support cleanup of the property.

In July 2011, the proposed Voluntary Clean-up Plan was approved by CDPHE and the City was awarded a \$313,000 grant conditioned upon the City taking ownership of the property. Total property remediation costs are estimated to be approximately \$500,000.

The acquisition, cleanup and demolition will assist in the ongoing discussions with developers on a south catalyst project for downtown.

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for the purchase and remediation of property located at 301 N. Lincoln Avenue.
2. Staff report providing a history of the City's interest in the property.

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and approve the attached ordinance on first reading.

REVIEWED BY CITY MANAGER:

FIRST READING August 16, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE PURCHASE AND REMEDIATION OF THE LESLIE-THE-CLEANER PROPERTY LOCATED AT 301 N. LINCOLN AVENUE

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$242,800 from the Council Capital Reserve in the General Fund 01 and \$313,000 from a State grant in the Capital Projects Fund 02 are available for appropriation. Revenues in the total amount of \$555,800 are hereby appropriated for the purchase and remediation of property on 3rd Street and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund - 3rd Street Property Purchase and Remediation**

Revenues

Fund Balance

Total Revenue **242,800**

Appropriations

001-5502-473-07-02-LESLIE Transfer to Capital Projects Fund 242,800

Total Appropriations **242,800**

**Supplemental Budget
Capital Projects Fund - 3rd Street Property Purchase and Remediation**

Revenues

002-0000-334-02-00-LESLIE State Grant	313,000
002-0000-373-01-00-LESLIE Transfer From General Fund	242,800

Fund Balance

Total Revenue 555,800

Appropriations

002-2321-409-09-10-LESLIE Land	55,800
002-2321-409-09-60-LESLIE Construction	500,000

Total Appropriations 555,800

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

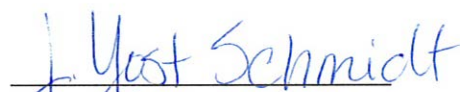
ADOPTED this ___ day of August, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

Community & Strategic Planning

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2607 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

Memorandum

To: Loveland City Council
Through: Rod Wensing, Assistant City Manager
From: Mike Scholl, Senior Planner
Date: August 16, 2011
RE: City Acquisition and Clean-up of the Leslie-the-Cleaner Property

The purpose of the staff report is to provide a brief history and narrative of the City's interest in purchasing the Leslie the Cleaner property.

Summary:

In 2008, based on recommendations from the Downtown Parking Study, the Loveland City Council approved a plan to acquire property around 3rd Street between Lincoln and Cleveland Avenue, for the purposes of constructing a parking deck. Staff engaged a broker and began negotiations with property owners.

In 2009, the City obtained purchase contracts on four parcels including the Leslie the Cleaner Site (see the attached map). Initially, the City had negotiated a purchase price of \$205,000. As part of the standard due diligence and "all appropriate inquiry" process, the City conducted Phase I environmental analysis on the four parcels.

The Phase I on the Leslie the Cleaner determined that further investigation and sampling would be required. This led to additional testing and the discovery of environmental contamination from the dry cleaning operation. As a result, the City did not close on the property and withdrew the offer.

Over the course of the next eighteen months, the City conducted ongoing negotiations with the property owner, while continuing to review the environmental conditions and develop estimates of the cleanup cost. During this time, City staff, with the consent of the owner, was in discussion with the Colorado Department of Public Health and the Environment (CDPHE) regarding the availability of state and federal grants to support cleanup of the property.

In July 2011, the City was awarded a \$313,000 cleanup grant pending the City acquisition of the property conditioned the City taking ownership of the property.

Downtown Revitalization:

In 2009, the City Council approved the Downtown Strategic Plan, and engaged a consultant to complete a visioning process. As a result, the 3rd Street site moved away from a parking structure, which was the original intent, to a mixed use project that would increase residential density and become a catalyst for redevelopment of Downtown Loveland. The site was included in the Downtown RFP and continues to be marketed as a development opportunity in Loveland. See the pages from the Vision book below:



The site is comprised of six parcels that include a City owned surface parking lot. Three of the parcels were recently purchased by the City to support the revitalization effort. In addition, 3rd Street between Lincoln and Cleveland is available for inclusion in any development project.



South Catalyst Project: 3rd Street Site
Mixed Uses: Residential, Commercial, Office, Retail

Site is ~1.85 acres

Planned Development: Mixed Use, Multi-Story (4-5 floors: possibly articulated)

Estimated Project Size:

160,000 SF Mixed-use Structure + 360 to 365 structured parking spaces (contained interior)

60,000 to 65,000 SF of Office/Employment

95,000 to 100,000 SF of Residential

29

Aerial view looking southeast @ 3rd Street and Cleveland Ave. (South Site)

Create multi-story buildings and internal parking structures. Partial closing of 3rd Street creates an attractive, welcoming "cove" and improves density opportunities.



Cleanup Grant:

Last month, CDPHE awarded the City \$313,000 for the cleanup conditioned upon the City taking ownership of the property. The total cost including the estimated cost of cleanup and the acquisition is \$555,800. Given the nature of the contamination, the building would need to be remediated of asbestos and demolished. In addition, the soil underneath the lot would need to be excavated and hauled to a licensed disposal facility for treatment. There would also be ongoing monitoring to ensure the levels of contamination are decreasing.



Leslie the Cleaner

3rd Street



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: 14
MEETING DATE: 8/16/2011
TO: City Council
FROM: Greg George, Director Development Services
PRESENTER: Mike Scholl, Development Services

TITLE:

Motion to direct staff to take the necessary actions to amend the Urban Renewal Authority to facilitate the North Catalyst Project including securing a blight study and developing the necessary financing for the public improvements and to repay the Museum CEFs.

DESCRIPTION:

This is an administrative action. To facilitate the North Catalyst Project public/private partnership with the Brinkman Partners, staff is will be requesting some amendments to the Downtown Urban Renewal Authority project area and the Finley's Block (Lincoln Place URA) project area. Specifically, staff is requesting that three parcels be added to the Lincoln Place URA including the North Catalyst project site, the existing museum and the proposed museum expansion site.

BUDGET IMPACT:

Yes

Staff will be required to conduct a blight study, URA plan amendment and an appraisal for less than \$10,000. The funding would come from existing Downtown URA Tax Increment, not general fund dollars.

SUMMARY:

Brinkman Partners, in response to the City's public RFP, proposed to build a 70,000 square foot mixed-use building at a total development cost of roughly \$12 million dollars. Brinkman's will need to acquire the City-owned Sequel building (Old Home State Bank site), which will require the repayment of the CEF's that were used to purchase the building. In addition, Brinkman's are asked for some additional funding for public improvements to support the project.

Staff is proposing to finance part of the acquisition cost and the public improvements through the Tax Increment gained through the development and the excess Tax Increment from the Lincoln Place project.

LIST OF ATTACHMENTS:

1. Staff Report
 2. Area Map
-

RECOMMENDED CITY COUNCIL ACTION:

Move to direct staff to take the necessary steps to amend the Urban Renewal Authority to facilitate the North Catalyst Project

REVIEWED BY CITY MANAGER:

Community & Strategic Planning

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Memorandum

To: Loveland City Council
Through: Bill Cahill, City Manager
From: Mike Scholl, Senior Planner
 Alan Krcmarik, Executive Fiscal Advisor
Date: August 16, 2011
RE: North Catalyst Project/Urban Renewal Authority

Summary/Request:

Staff is requesting a motion to direct staff to take the necessary steps to amend the Urban Renewal Authority to facilitate the North Catalyst Project.

Based on the discussion at the June 28, 2011 Study Session, where Council directed staff to move forward with negotiations with the Brinkman Partners on the North Catalyst project, staff is requesting a motion from Council to achieve the following:

1. Amend the Urban Renewal Authority, shown in the County records as Block 41- Finley's Addition. The City refers to it as the Lincoln Place URA (Lincoln Place) to include three adjacent parcels.
 - The parcels include the North Catalyst Project site, the existing museum and the proposed museum expansion site. (see map)
 - The amendment would allow the City to direct the unencumbered tax increment from Lincoln Place to the Brinkman Project and to repay the Cultural Services/Museum CEF's used to purchase the Home State bank site. The agreement to use TIF for the Lincoln Place project improvements will be paid off in mid-2013.
 - It would also allow the City to directly apply the Tax Increment from the North Catalyst Project back into the project and the museum expansion.
2. Leverage Tax Increment to repay the Cultural Services/Museum CEFs and pay for public improvements to support the North Catalyst Project.

The discussion will provide direction for staff regarding the short-term need to support the catalyst project. Staff also acknowledges the need to review the long-term issues surrounding the Downtown URA project area.

The amendments to the URA and the financing plan would be subject to Council approval.

URA Issue/Study Session:

At the June 28, Study Session Council had a lengthy discussion on the need to review the Downtown Urban Renewal Authority project area and provide options for moving forward and supporting the revitalization effort.

While staff is reviewing the broader issues related to the URA, the motion is intended to assist with the short-term need to support the North Catalyst project. Specifically, with the proposed amendments, the project could pay for itself through the existing tax increment and thus minimize any public support through the general fund.

To amend the URA, staff would need to prepare a blight study and a major URA amendment to add the parcels to the Lincoln Place URA; it may also require a minor amendment to remove them from the Downtown URA.

Prior to engaging in a blight study and drafting an amendment, staff is requesting a motion from Council.

Financing Issue:

To support the North Catalyst Project, the City will need roughly \$2.1 million. The cost breakdown is as follows:

Repay the Cultural Services/Museum CEFs	\$1,100,000 (\$200,000 donations)
Public Improvements	<u>\$1,000,000</u>
Total	\$2,100,000

The combined Tax Increment from the Lincoln Place along with the anticipated Tax Increment from the Brinkman Project provides the opportunity to finance the front end cost, thus minimizing the impact to the general fund.

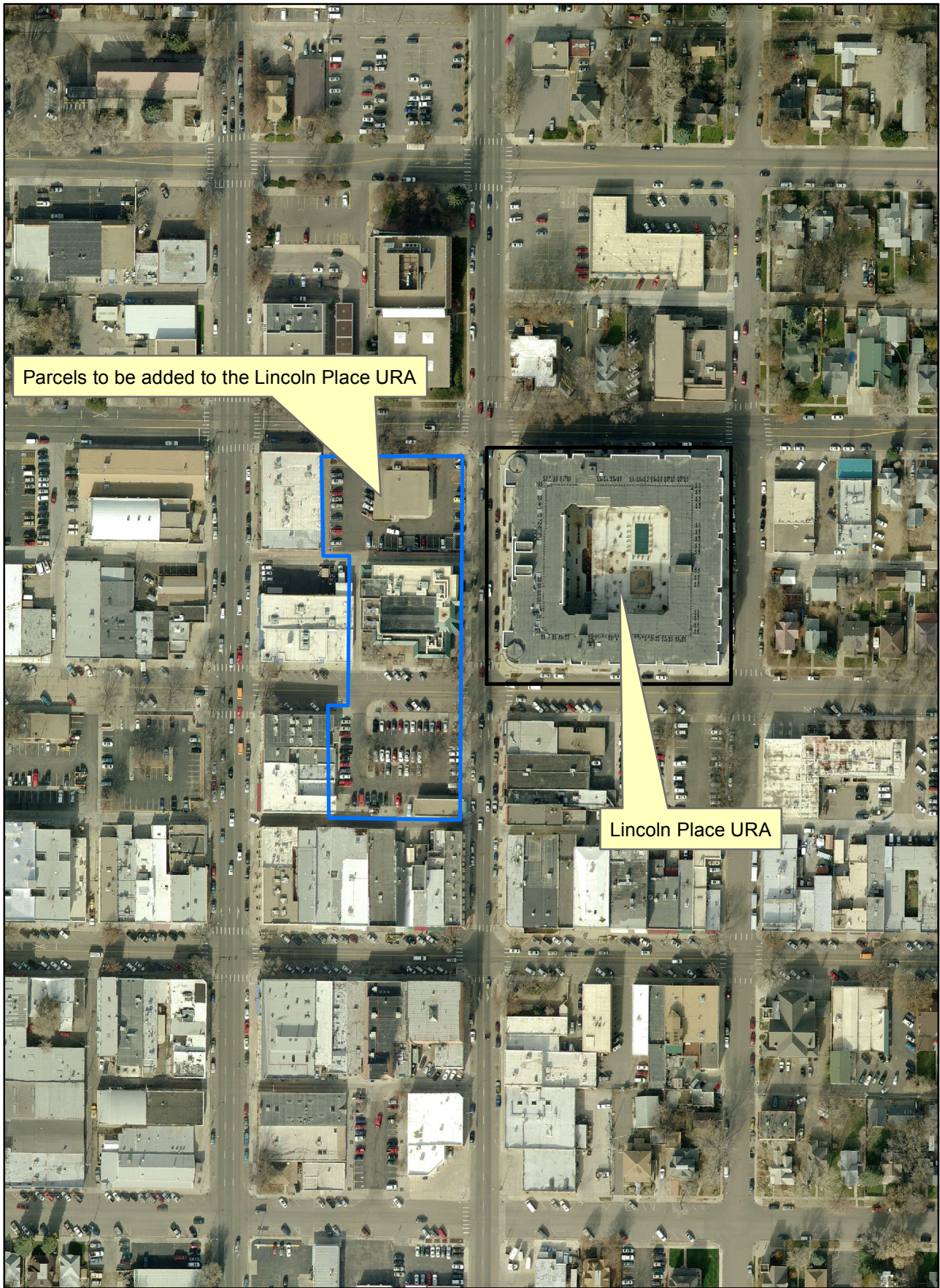
For this type of deal, staff would expect or require the developer to verify the property valuation with the County Assessor and also require the developer to agree to not contest the property valuation through the term of the obligation.

Capital Expansion Fees:

Because the project site was purchased with Cultural Services/Museum CEFs, the City has a legal obligation to repay that fund as well as the two charitable contributions that were used to purchase the site.

Since the museum will be moving to the south site, the equity in the parking lot at 5th and Lincoln can be used to offset the CEFs. An appraisal will be ordered to determine the fair market price for the property.

In addition, by adding the museum site to the Finley's Block URA, any excess TIF funds, can directed to public improvements at the future museum project.



Parcels to be added to the Lincoln Place URA

Lincoln Place URA