City Council

Tuesday, September 1, 2015
City Hall, Council Chambers
749 Main Street

6:00 pm
SPECIAL MEETING – EXECUTIVE SESSION

1. CALL TO ORDER

2. EXECUTIVE SESSION

REAL PROPERTY DISPOSITION

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

City Manager is Requesting the City Council Convene an Executive Session for the Purpose of Consideration of Potential Real Property Disposition Concerning Property in Louisville

PENDING LITIGATION

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b))

City Manager and City Attorney are Requesting the City Council Convene an Executive Session for the Purpose of Consultation with Respect to Pending Litigation

- **Requests for Executive Session**
- **City Clerk Statement**
- **City Attorney Statement of Authority**
- **City Council Action on Motions for Executive Session**
- **Council Convenes Executive Session**
- **Council Reconvene in Open Meeting**

Citizen Information

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.

3. **REPORT – DISCUSSION/DIRECTION/ACTION – REAL PROPERTY DISPOSITION and PENDING LITIGATION**

4. **ADJOURN TO REGULAR MEETING**

Regular Meeting Agenda

7:00 PM

Note: The time frames assigned to agenda items are estimates for guidance only. Agenda items may be heard earlier or later than the listed time slot.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Council requests that public comments be limited to 3 minutes. When several people wish to speak on the same position on a given item, Council requests they select a spokesperson to state that position.

5. CONSENT AGENDA

The following items on the City Council Agenda are considered routine by the City Manager and shall be approved, adopted, accepted, etc., by motion of the City Council and roll call vote unless the Mayor or a City Council person specifically requests that such item be considered under "Regular Business." In such an event the item shall be removed from the "Consent Agenda" and Council action taken separately on said item in the order appearing on the Agenda. Those items so approved under the heading "Consent Agenda" will appear in the Council Minutes in their proper order.

A. Approval of Bills
B. Approval of Minutes: August 18, 2015
C. Approval of Resolution No. 60, Series 2015 – A Resolution Approving the Open Space Advisory Board's Recommendation to Boulder County Parks and Open Space Regarding 2016 Property and Trails Request
D. Approval of September 21, 2015 as a Special Meeting

6. COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA (Council general comments are scheduled at the end of the Agenda.)

7. CITY MANAGER'S REPORT

8. REGULAR BUSINESS

7:15 – 7:45 pm

A. RESOLUTION NO. 61, SERIES 2015 – A RESOLUTION ESTABLISHING A RECREATION/SENIOR CENTER AND AQUATICS EXPANSION TASK FORCE

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

7:45 pm

B. A SPECIAL REVIEW USE (SRU) TO ALLOW FOR AN AGRICULTURAL LAND USE IN THE RESIDENTIAL LOW DENSITY (RL) ZONE DISTRICT IN ORDER TO DEVELOP A COMMUNITY GARDEN WITH 45 PLOTS AND TWO 80SF TOOL SHEDS ON THE NORTHEAST AND NORTHWEST CORNERS OF GRIFFITH STREET AND LINCOLN AVENUE

APPLICANT REQUESTS CONTINUANCE TO OCTOBER 6, 2015

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

7:45 – 9:00 pm

C. PUBLIC HEARING – 550 SOUTH MCCASLIN URBAN RENEWAL PLAN – *Continued from 08/18/2015*

1. RESOLUTION NO. 58, SERIES 2015 – A RESOLUTION APPROVING THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS PURSUANT TO THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF LOUISVILLE (PUBLIC HEARING NOTICE PUBLISHED DAILY CAMERA JULY 14, 2015)

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

2. RESOLUTION NO. 59, SERIES 2015 – A RESOLUTION APPROVING AN AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND THE LOUISVILLE REVITALIZATION COMMISSION

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

9:00 – 9:30 pm

D. DISCUSSION/DIRECTION – BOARD AND COMMISSION ORGANIZATION

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

9:30 – 9:45 pm

E. PURCHASING POLICY UPDATE

1. RESOLUTION NO. 62, SERIES 2015 – A RESOLUTION AMENDING CITY OF LOUISVILLE PURCHASING POLICIES

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

2. ORDINANCE NO. 1701, SERIES 2015 – AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 3.08 OF THE LOUISVILLE MUNICIPAL CODE PERTAINING TO THE PROCUREMENT OF GOODS, SERVICES AND CONTRACTS FOR PUBLIC WORKS – 1ST READING – SET PUBLIC HEARING 09/15/15

- City Attorney Introduction
- Action

9:45 – 10:00 pm

F. DISCUSSION/DIRECTION/ACTION – EIGHTH AMENDED EMPLOYMENT AGREEMENT (CITY MANAGER MALCOLM FLEMING

- Mayor Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Additional Public Comments
- Action

10:00 – 10:05 pm

G. ORDINANCE NO. 1702, SERIES 2015 – AN ORDINANCE AMENDING SECTION 17.08.205 OF THE LOUISVILLE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF GRADE 1ST Reading – Set Public Hearing 10/06/2015

- City Attorney Introduction
- Action

9. CITY ATTORNEY'S REPORT

10. COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

11. ADJOURNMENT

City of Louisville
Cash Disbursement Edit List

Batch: 91399 Period: 08/13/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	FOR BANK ACCOUNT:	4 FIRST NATIONAL BANK OF COLORAD			Control Disbursement Account	
1115-1	COLONIAL INSURANCE					
	0801365	#9711888 AUG 15 EMPLOYEE PREM	08/03/15	09/02/15	400.04	400.04
4	GAIAM AMERICAS INC					
	072815	REFUND ESTIMATED USE TAX	07/28/15	08/27/15	4,199.95	4,199.95
11365-1	NATIONAL METER & AUTOMATION INC					
	060415CM	CREDIT BALANCE	06/04/15	07/04/15	151.16-	
	S1062181.002	BADGER METERS & ITRON ERTS	06/26/15	07/26/15	1,703.33	
	S1062181.004	BADGER METERS & ITRON ERTS	07/07/15	08/06/15	1,230.36	2,782.53
6009-20	UNIVERSITY OF COLORADO					
	080715	RECRUITING TABLE CU-UMC	08/07/15	09/06/15	200.00	200.00
55	ELINOR MILLER					
	U!00000992	1456/145052401: UTILITY REFUND	08/13/15	08/13/15	72.99	72.99
55	LAND TITLE					
	U!00000993	1503/145057911: 545 GRANT AVE	08/13/15	08/13/15	53.00	53.00
55	CHERYL MICHELI					
	U!00000994	15270/254039103: UTILITY REFUN	08/13/15	08/13/15	91.97	91.97
55	8Z TITLE					
	U!00000995	10282/273041711: 469 MUIRFIELD	08/13/15	08/13/15	52.28	52.28
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	BANK TOTAL PAYMENTS				7,852.76	7,852.76
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	GRAND TOTAL PAYMENTS				7,852.76	7,852.76

City of Louisville
Cash Disbursement Edit List

Batch: 91475 Period: 08/20/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	FOR BANK ACCOUNT:	4 FIRST NATIONAL BANK OF COLORAD			Control Disbursement Account	
11298-1	DELTA DENTAL OF COLORADO					
	DELTA0915	#007562-0000 SEP 15 EMPL PREM	08/19/15	09/18/15	12,280.30	12,280.30
5255-1	FAMILY SUPPORT REGISTRY					
	081415	EMPLOYEE GARNISHMENT PP#17	08/14/15	09/13/15	211.50	211.50
6455-1	KAISER PERMANENTE					
	0017636184	05920-01-16 SEP 15 EMPL PREM	08/07/15	09/06/15	135,941.90	135,941.90
14002-1	KANSAS PAYMENT CENTER					
	081415	EMPLOYEE GARNISHMENT PP#17	08/14/15	09/13/15	270.46	270.46
7735-1	LINCOLN FINANCIAL GROUP					
	LIFE0915	000010008469 SEP 15 LIFE/AD&D	09/01/15	10/01/15	5,924.43	
	LTD0915	000010008470 SEP 15 LTD PREM	09/01/15	10/01/15	3,092.55	9,016.98
11094-1	WESTERN DISPOSAL SERVICES					
	080115RES	JUL 15 RESIDENTIAL TRASH SERV	08/01/15	08/31/15	117,948.99	117,948.99
3875-1	XCEL ENERGY					
	467281504	JUL 15 GROUP ENERGY	08/10/15	09/09/15	30,005.15	
	467281504	JUL 15 GROUP ENERGY	08/10/15	09/09/15	1,831.80	
	467281504	JUL 15 GROUP ENERGY	08/10/15	09/09/15	4,456.42	
	467281504	JUL 15 GROUP ENERGY	08/10/15	09/09/15	913.17	
	467281504	JUL 15 GROUP ENERGY	08/10/15	09/09/15	5,909.50	
	467493240	JUL 15 NWTP ENERGY	08/10/15	09/09/15	12,383.91	55,499.95
11371-1	XCEL ENERGY					
	466359596	JUL 15 TRAFFIC LIGHTS	08/03/15	09/02/15	1,240.39	
	466364383	JUL 15 STREET LIGHTS	08/03/15	09/02/15	34,446.92	
	466371338	JUL 15 FLASHERS	08/03/15	09/02/15	5.89	35,693.20
	BANK TOTAL PAYMENTS				366,863.28	366,863.28
	GRAND TOTAL PAYMENTS				366,863.28	366,863.28

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	FOR BANK ACCOUNT:	4 FIRST NATIONAL BANK OF COLORAD			Control Disbursement Account	
13547-1	A G WASSENAAR INC					
	253082	GEOTECH TESTING SERVICES	07/27/15	08/26/15	5,872.50	
	253572	GEOTECH TESTING SERVICES	07/31/15	08/30/15	2,383.00	
	253573	GEOTECH TESTING SERVICES	07/31/15	08/30/15	1,306.00	
	253928	GEOTECH TESTING SERVICES	08/13/15	09/12/15	725.00	10,286.50
5369-1	ACCUTEST MOUNTAIN STATES INC					
	D7-65045	LAB ANALYSIS FEES WWTP	07/21/15	08/20/15	248.00	
	D7-65171	LAB ANALYSIS FEES WWTP	07/23/15	08/22/15	250.00	
	D7-65249	LAB ANALYSIS FEES WWTP	07/24/15	08/23/15	125.00	623.00
14121-1	ACUSHNET COMPANY					
	900849198	GOLF SOCKS/GLOVES	05/30/15	06/29/15	2,882.18	
	901146970	GOLF BALLS	07/28/15	08/27/15	3,184.57	
	901147089	GOLF BALLS	07/28/15	08/27/15	234.28	
	901164308	OUTERWEAR GOLF APPAREL	07/31/15	08/30/15	615.35	
	901212224	CUSTOM WEDGES	08/11/15	09/10/15	318.00	7,234.38
14150-1	ADAM CHISZAR					
	081015	DUMPSTER ENCLOSURE CCGC	08/10/15	09/09/15	1,531.02	1,531.02
1006-1	ALL CURRENT ELECTRIC INC					
	3273	SALES TAX OFFICE REMODEL	08/04/15	09/03/15	1,200.00	
	3275	RTU REPAIR RSC	08/06/15	09/05/15	97.50	1,297.50
9891-1	AMBIANCE					
	10176	AUG 15 PLANT MAINT	08/10/15	09/09/15	195.00	195.00
14151-1	AMERICAN GEOSERVICES LLC					
	285	COYOTE RUN OS EVALUATION	08/07/15	09/06/15	2,280.00	2,280.00
13579-1	ASSA ABLOY ENTRANCE SYSTEMS US INC					
	SCI/00038846	AUTOMATIC DOOR CONT LIB	08/13/15	09/12/15	418.95	418.95
14132-1	ATLAS COPCO COMPRESSORS LLC					
	523694	AIR FILTERS WWTP	08/04/15	09/03/15	1,361.88	1,361.88
14142-1	ATS					
	141617	STREET FAIRE SHUTTLE SERVICE	08/03/15	09/02/15	4,332.00	4,332.00
13786-15	AVANT DATACOMM SOLUTIONS INC					
	15-3067-01	SURVEILLANCE CAMERA REPAIR CH	08/11/15	09/10/15	1,079.21	1,079.21
11286-1	B A LAWRENCE LLC					
	BA81715	CENTRIFUGAL MAINT WWTP	08/18/15	09/17/15	510.00	510.00
7739-1	BOULDER COUNTY					
	11441	AUG DRUG TASK FORCE FEES	08/01/15	08/31/15	257.00	257.00
8588-1	BOULDER COUNTY					
	11328	2ND QTR 2015 HMM PROGRAM	08/12/15	09/11/15	12,505.00	
	11373	WASTE DISPOSAL FEE WWTP	08/12/15	09/11/15	87.78	12,592.78

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
8371-1	BOULDER VALLEY SCHOOL DISTRICT					
	2015-7206	SUMMER CAMP BUS SERVICE	06/26/15	07/26/15	298.24	
	2015-7218	SUMMER CAMP BUS SERVICE	07/01/15	07/31/15	311.04	
	2015-7226A	SUMMER CAMP BUS SERVICE	07/06/15	08/05/15	353.07	
	2015-7251	SUMMER CAMP BUS SERVICE	07/23/15	08/22/15	294.53	
	2015-7263	SUMMER CAMP BUS SERVICE	08/07/15	09/06/15	510.94	
	2015-7277	SUMMER CAMP BUS SERVICE	08/20/15	09/19/15	725.68	2,493.50
7706-1	BRANNAN SAND & GRAVEL CO LLC					
	146183	ASPHALT	08/03/15	09/02/15	173.00	
	146241	ASPHALT	08/04/15	09/03/15	214.05	
	146252	ASPHALT	08/05/15	09/04/15	145.12	
	146368	ASPHALT	08/06/15	09/05/15	185.03	
	146812	ASPHALT	08/11/15	09/10/15	116.10	
	147140	ASPHALT	08/13/15	09/12/15	87.00	
	147349	ASPHALT	08/17/15	09/16/15	188.21	1,108.51
12931-1	BRONZE SERVICES OF LOVELAND INC					
	21978	HOT WAX BRONZE SCULPTURES	08/03/15	09/02/15	310.00	310.00
13344-1	BROWN HILL ENGINEERING & CONTROLS LLC					
	10054	CTC LIFT PROXIMITY SWITCHES	07/31/15	08/30/15	1,018.00	
	10149	CTC LIFT STATION PUMPS	08/14/15	09/13/15	795.50	1,813.50
13994-1	BRYAN CONSTRUCTION INC					
	PP10073115	CITY SERVICES FACILITY	07/31/15	08/30/15	262,190.33	
	PP10073115	CITY SERVICES FACILITY	07/31/15	08/30/15	262,190.33	
	PP10073115	CITY SERVICES FACILITY	07/31/15	08/30/15	262,190.32	
	PP10073115	CITY SERVICES FACILITY	07/31/15	08/30/15	262,190.33	1,048,761.31
13995-1	C+B DESIGN LLC					
	CB601-03	OPEN SPACE/TRAILS WAYFINDING	07/30/15	08/29/15	9,490.00	9,490.00
10900-1	CAROL CREECH					
	080515	REIMBURSE NON-RES EXPAND FEES	08/05/15	09/04/15	150.00	150.00
248-1	CDW GOVERNMENT					
	VV69727	RACK MOUNT GEAR CS	06/03/15	07/03/15	749.79	
	WV07512	SAMSUNG CONF TV/STAND ERP TRNG	07/20/15	08/19/15	850.38	
	WV07512	SAMSUNG CONF TV/STAND ERP TRNG	07/20/15	08/19/15	182.23	
	WV07512	SAMSUNG CONF TV/STAND ERP TRNG	07/20/15	08/19/15	182.23	
	WV24322	HP PRINTER/TONER ERP TRNG	07/20/15	08/19/15	552.74	
	WV24322	HP PRINTER/TONER ERP TRNG	07/20/15	08/19/15	118.45	
	WV24322	HP PRINTER/TONER ERP TRNG	07/20/15	08/19/15	118.45	
	WW24510	TELEPHONE UPGRADE UPS UNITS	07/22/15	08/21/15	816.26	
	WW24510	TELEPHONE UPGRADE UPS UNITS	07/22/15	08/21/15	272.09	
	WW45769	UPS CS IT ROOM	07/22/15	08/21/15	1,815.00	

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	WW50407	SWITCH FIBER CABLES	07/22/15	08/21/15	179.50	
	WX24361	RACK ENCLOSURE NWTP	07/24/15	08/23/15	144.63	
	WX84190	HEATED VEHICLE STORAGE RACK CS	07/27/15	08/26/15	302.67	
	WZ03556	SWITCH FIBER CABLES	07/27/15	08/26/15	57.84	
	XD39969	CREDIT TAX	08/04/15	09/03/15	158.71-	
	XG05443	PHONE PATCH CABLES	08/06/15	09/05/15	694.50	
	XG37542	RACK NWTP	08/07/15	09/06/15	302.67	
	XK58632	RETURN RACK ENCLOSURE NWTP	08/14/15	09/13/15	144.63-	7,036.09
935-1	CENTENNIAL PRINTING CO					
	57817	COURTESY NOTICES PD	07/28/15	08/27/15	88.91	88.91
14036-1	CENTER COPY BOULDER INC					
	42852	COURTESY NOTICES/COLOR CARDS	08/10/15	09/09/15	136.50	136.50
670-1	CENTER FOR RESOURCE CONSERVATION					
	3772	SLOW THE FLOW AUDIT PROGRAM	07/31/15	08/30/15	3,684.00	3,684.00
7959-1	CHASE					
	2015BOX605	SAFE DEP BOX 10/2/15-10/1/16	08/06/15	09/05/15	76.00	
	2015BOX640	SAFE DEP BOX 9/29/15-9/28/16	08/06/15	09/05/15	56.00	
	2015BOX732	SAFE DEP BOX 10/2/15-10/1/16	08/06/15	09/05/15	76.00	208.00
4785-1	CINTAS CORPORATION #66					
	66339823	UNIFORM RENTAL WWTP	06/29/15	07/29/15	103.02	
	66343328	UNIFORM RENTAL WWTP	07/06/15	08/05/15	292.63	
	66346795	UNIFORM RENTAL WWTP	07/13/15	08/12/15	230.53	
	66350350	UNIFORM RENTAL WWTP	07/20/15	08/19/15	108.32	
	66353906	UNIFORM RENTAL WWTP	07/27/15	08/26/15	90.56	
	66353907	UNIFORM RENTAL WTP	07/27/15	08/26/15	141.27	966.33
11508-1	CITRON WORK SPACES					
	13478	COMPUTER DESK IT	07/31/15	08/30/15	1,753.00	1,753.00
11467-1	CLEAR CREEK CONSULTANTS INC					
	1704	TELEMETRY GAUGE	08/04/15	09/03/15	2,328.61	2,328.61
13260-1	CLIFTON LARSON ALLEN LLP					
	1097627	UTILITY BILLING SERVICES	08/11/15	09/10/15	4,060.36	
	1097627	UTILITY BILLING SERVICES	08/11/15	09/10/15	2,605.37	
	1097627	UTILITY BILLING SERVICES	08/11/15	09/10/15	582.00	
	1097627	UTILITY BILLING SERVICES	08/11/15	09/10/15	873.00	8,120.73
10916-1	COLORADO CODE CONSULTING LLC					
	6959	PLAN REVIEW	08/12/15	09/11/15	6,250.00	6,250.00
11264-1	COLORADO DEPT OF PUBLIC HEALTH & ENVIRONMENT					
	WU161012480	IPP PERMIT CO0023078	07/20/15	08/19/15	94.00	94.00
1245-1	COLORADO MOSQUITO CONTROL INC					
	15-4619	AUG 15 MOSQUITO CONTROL SERV	08/14/15	09/13/15	1,280.56	

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	15-4619	AUG 15 MOSQUITO CONTROL SERV	08/14/15	09/13/15	236.69	1,517.25
14152-1	COLORADO TIRE RECYCLING LLC					
	8629	TIRE RECYCLING	08/07/15	09/06/15	278.43	
	8629	TIRE RECYCLING	08/07/15	09/06/15	62.76	
	8629	TIRE RECYCLING	08/07/15	09/06/15	56.64	
	8629	TIRE RECYCLING	08/07/15	09/06/15	21.42	419.25
310-1	COLORADO WASH SYSTEMS LLC					
	080615	CAR WASH CODES PD	08/06/15	09/05/15	150.00	150.00
10842-1	COZY CORNER TOWING					
	69781	RELOCATE VEHICLE	07/10/15	08/09/15	80.00	
	69973	TOW UNIT 5316	08/17/15	09/16/15	118.00	198.00
13370-1	CRIBARI LAW FIRM, PC					
	081515	PROSECUTING ATTORNEY	08/15/15	09/14/15	2,509.50	2,509.50
13392-1	DESIGN MECHANICAL INC					
	4061858	HVAC SERVICE RSC	08/10/15	09/09/15	1,159.21	
	4061859	HVAC SERVICE RSC	08/10/15	09/09/15	1,252.80	2,412.01
1505-1	DPC INDUSTRIES INC					
	737003403-15	CHLORINE WWTP	08/05/15	09/04/15	225.00	225.00
13790-1	EAGLE-NET ALLIANCE					
	160035	AUG 15 INTERNET SERVICE	08/03/15	09/02/15	870.20	870.20
14146-1	EDWARD W WILEY					
	081415	701 LINCOLN LANDMARK INCENTIVE	08/14/15	09/13/15	1,000.00	1,000.00
13963-1	ENSCICON CORPORATION					
	88389A	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	284.60	
	88389B	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	56.92	
	88389C	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	56.92	
	88389D	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	284.60	
	88389E	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	170.76	
	88389F	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	56.92	
	88389G	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	1,195.32	
	88389H	ENGINEERING SERV TOWNSEND	08/11/15	09/10/15	113.84	
	88436	ENGINEERING SERV TOWNSEND	08/16/15	09/15/15	113.84	
	88436A	ENGINEERING SERV TOWNSEND	08/16/15	09/15/15	227.68	
	88436B	ENGINEERING SERV TOWNSEND	08/16/15	09/15/15	256.14	
	88436C	ENGINEERING SERV TOWNSEND	08/16/15	09/15/15	1,622.22	4,439.76
1915-1	EXQUISITE ENTERPRISES INC					
	522442	FALL FESTIVAL TROPHIES	08/12/15	09/11/15	533.35	533.35
1970-1	FEDEX					
	5-111-41011	OVERNIGHT SHIPMENTS PW	07/30/15	08/29/15	33.90	
	5-111-41011	OVERNIGHT SHIPMENTS PW	07/30/15	08/29/15	39.57	73.47

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
13916-1	FERGUSON WATERWORKS					
	828446	METER SETTERS	06/24/15	07/24/15	935.60	
	828871	METER SETTERS	06/24/15	07/24/15	4,210.22	
	831206	BALL CORP STOPS	07/06/15	08/05/15	433.39	
	831206-1	BALL CORP STOPS	07/07/15	08/06/15	920.96	
	833680	METER PITS/BONNETS	07/29/15	08/28/15	1,870.00	8,370.17
14070-1	FORENSIC TRUTH GROUP LLC					
	080315	PRE-EMPLOYMENT POLYGRAPH	08/13/15	09/12/15	140.00	140.00
12819-1	FRANCOTYP-POSTALIA INC					
	RI102517080	POSTAGE METER RESETS RSC	08/05/15	09/04/15	95.85	95.85
13098-1	G4S SECURE SOLUTIONS INC					
	7458416	BAILIFF SERVICES 8/3/15	08/09/15	09/08/15	110.00	110.00
12948-1	GARRETT MUNDELEIN					
	062015	PARBOIS LANDSCAPE CLEANUP	06/20/15	07/20/15	696.00	696.00
6847-1	GENERAL AIR SERVICE & SUPPLY					
	91565832-1	CYLINDER RENTAL SHOPS	07/31/15	08/30/15	73.80	
	91565834-1	CYLINDER RENTAL WWTP	07/31/15	08/30/15	54.18	127.98
14147-1	GJMCMILLAN LLC					
	3	PLANNING COVERAGE	08/07/15	09/06/15	1,178.75	1,178.75
246-1	GREEN MILL SPORTSMAN CLUB					
	103	RANGE USE 7/21/15 & 7/30/15	08/04/15	09/03/15	200.00	200.00
11361-1	HARMONY K LARKE					
	1522194-4	CONTRACTOR FEES CASTLE QUEST	08/12/15	09/11/15	336.00	336.00
13565-1	HATCH MOTT MACDONALD LLC					
	IV216701	SLUDGE TREATMENT DESIGN	08/12/15	09/11/15	11,836.56	11,836.56
14138-1	HORIZON WEST BUILDERS					
	Q06172015	CART STORAGE DRYWALL REPAIR	06/17/15	07/17/15	1,913.00	
	Q061720151	SEWER LINE REPAIR CCGC	06/25/15	07/25/15	926.00	
	Q061720152	PAINT DINING ROOM CEILING	06/25/15	07/25/15	1,228.00	
	Q061720154	GREASE TRAP EQUIPMENT	06/07/15	07/07/15	1,207.00	5,274.00
645-1	HUMANE SOCIETY OF BOULDER VALLEY					
	061505	2ND QTR ANIMAL IMPOUND FEES	07/20/15	08/19/15	1,800.00	1,800.00
14089-1	INDIGO WATER GROUP LLC					
	1558	CONSULTING SERVICES WWTP	07/29/15	08/28/15	5,945.63	5,945.63
10772-1	INTEGRATED SAFETY SERVICES LLC					
	15-1962	FIRE SYSTEM INSPECTION PC	07/12/15	08/11/15	552.00	552.00
11693-1	JAMES GILBERT					
	072815	YOUTH SPORTS TRAVEL TENNIS	07/28/15	08/27/15	189.47	189.47
10821-1	JAMMCATTS DJ ENTERTAINMENT LLC					
	081815	FALL FESTIVAL DJ	08/18/15	09/17/15	425.00	425.00

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
2815-1	KENZ & LESLIE DISTRIBUTING CO					
	64807	VEHICLE FLUIDS	08/19/15	09/18/15	135.07	
	64807	VEHICLE FLUIDS	08/19/15	09/18/15	30.45	
	64807	VEHICLE FLUIDS	08/19/15	09/18/15	27.48	
	64807	VEHICLE FLUIDS	08/19/15	09/18/15	10.40	203.40
12084-1	KEY RITE SECURITY LOCK & SAFE					
	602120	DOOR ACCESS IP CH	07/27/15	08/26/15	160.00	160.00
12861-1	KIRSTEN BEEMER					
	1522121-4	CONTRACTOR FEES TODDLING TWOS	08/12/15	09/11/15	89.60	
	1522123-2	CONTRACTOR FEES CREATIVE MOVE	08/12/15	09/11/15	168.00	
	1522123-4	CONTRACTOR FEES CREATIVE MOVE	08/10/15	09/09/15	140.00	
	1522124-2	CONTRACTOR FEES BEG BALLET	08/10/15	09/09/15	235.20	
	1522125-4	CONTRACTOR FEES HIP HOP	08/11/15	09/10/15	268.80	901.60
11337-1	KISSINGER AND FELLMAN PC					
	21555	COMCAST/XCEL TAX AUDIT	07/20/15	08/19/15	184.50	184.50
13828-1	LANDSCAPES UNLIMITED LLC					
	1406-007	REGRADE AREAS CCGC	06/29/15	07/29/15	9,954.00	9,954.00
3005-1	LEWAN & ASSOCIATES INC					
	752297	LASERJET PRINTER RC FRONT DESK	07/31/15	08/30/15	295.00	295.00
13823-1	MACKENZIE PHILLIPS					
	081815	YOUTH SPORTS TRAVEL TENNIS	08/18/15	09/17/15	242.19	242.19
13525-1	MICHAEL BAKER JR INC					
	913496	9TH ST BRIDGE DESIGN	07/28/15	08/27/15	75,802.23	75,802.23
14045-1	MINUTEMAN PRESS BOULDER					
	114681	FALL NEWSLETTER PRINTING	08/19/15	09/18/15	6,960.00	6,960.00
11061-1	MOUNTAIN PEAK CONTROLS INC					
	7599	TROUBLESHOOT PLC WWTP	06/18/15	07/18/15	1,030.00	
	7668	PROGRAM DRUM THICKENER WWTP	07/31/15	08/30/15	575.00	1,605.00
226-1	MOUNTAIN STATES EMPLOYERS COUNCIL					
	308344	BENEFIT UPDATE CONFERENCE	08/03/15	09/02/15	398.00	398.00
13597-1	NORTH LINE GIS LLC					
	1176	PREPARE ENERGOV DATA	08/07/15	09/06/15	7,700.00	7,700.00
14090-1	OCX NETWORK CONSULTANTS LLC					
	7091-3	CITY WIDE TELEPHONE SYSTEM	08/20/15	09/19/15	12,000.00	12,000.00
13086-1	PETERSON PREDICTIVE MAINTENANCE					
	1409	PREVENTIVE MAINT NWTP	07/10/15	08/09/15	600.00	600.00
14144-1	PING INC					
	12886268	RENTAL IRON SETS	07/01/15	07/31/15	812.20	
	12888618	RENTAL WEDGES	07/02/15	08/01/15	128.03	
	12891102	ASSORTED DEMO CLUBS	07/06/15	08/05/15	1,399.51	

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	12895007	WEDGES	07/08/15	08/07/15	431.06	
	12897390	PUTTERS/WEDGES	07/09/15	08/08/15	584.37	3,355.17
11329-1	POLYDYNE INC					
	986469	CE-879 POLYMER	08/05/15	09/04/15	5,290.00	5,290.00
3840-1	PREMIER TIRE TERMINAL					
	1707968	TRAILER TIRES UNIT 3241	08/18/15	09/17/15	278.68	
	1707969	MOWER TIRES UNIT 5334	08/18/15	09/17/15	51.44	330.12
14060-1	PRIME COMMUNICATIONS INC					
	34395	DATA NETWORK SWITCH	08/07/15	09/06/15	4,500.00	4,500.00
14027-1	PROFORCE LAW ENFORCEMENT					
	244757	RETURN TASER RH HOLSTERS	07/31/15	08/30/15	30.85	30.85
14135-1	QUADNA A DXP COMPANY					
	8046390	CLARIFIER PUMP	07/27/15	08/26/15	3,764.16	
	8046393	CLARIFIER PUMP	07/27/15	08/26/15	190.00	3,954.16
13893-1	REBECCA TSUI					
	815	CONTRACTOR FEES TAI CHI	08/22/15	09/21/15	313.60	313.60
99	SARAH AUCHINCLOSS					
	904806	ACTIVITY REFUND	08/17/15	09/16/15	59.00	59.00
6500-1	RECORDED BOOKS LLC					
	75190440	CHILDRENS BOOKS AND MEDIA	08/12/15	09/11/15	27.67	27.67
13737-1	RNL DESIGN INC					
	52517	CONSTRUCTION ADMIN SERVICES CS	05/10/15	06/09/15	7,874.55	
	52517	CONSTRUCTION ADMIN SERVICES CS	05/10/15	06/09/15	7,874.54	
	52517	CONSTRUCTION ADMIN SERVICES CS	05/10/15	06/09/15	7,874.54	
	52517	CONSTRUCTION ADMIN SERVICES CS	05/10/15	06/09/15	7,874.54	
	52703	CITY SERVICES FACILITY DESIGN	07/07/15	08/06/15	2,894.99	
	52703	CITY SERVICES FACILITY DESIGN	07/07/15	08/06/15	2,894.99	
	52703	CITY SERVICES FACILITY DESIGN	07/07/15	08/06/15	2,895.01	
	52703	CITY SERVICES FACILITY DESIGN	07/07/15	08/06/15	2,895.01	
	52703A	CONSTRUCTION ADMIN SERVICES CS	07/25/15	08/24/15	5,105.00	
	52703A	CONSTRUCTION ADMIN SERVICES CS	07/25/15	08/24/15	5,105.00	
	52703A	CONSTRUCTION ADMIN SERVICES CS	07/25/15	08/24/15	5,105.00	
	52703A	CONSTRUCTION ADMIN SERVICES CS	07/25/15	08/24/15	5,105.00	63,498.17
12447-1	ROCKY MOUNTAIN ACCESS CONTROLS INC					
	2015020A-06	RV DUMP ACCESS CARDS	07/31/15	08/30/15	2,295.00	2,295.00
4160-1	SAFE SYSTEMS INC					
	390041	ALARM SYSTEM LIB	08/03/15	09/02/15	213.78	213.78
11306-1	SAFEWARE INC					
	3473920	GAS DETECTOR CALIBRATION WWTP	07/17/15	08/16/15	275.00	275.00
13644-1	SCHULTZ INDUSTRIES INC					

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	81717	MAY 15 LANDSCAPE MAINT SERV	05/31/15	06/30/15	9,875.14	
	82420	JUL 15 LANDSCAPE MAINT SERV	07/31/15	08/30/15	14,733.53	24,608.67
12843-1	SCL HEALTH SYSTEM					
	25403	SCREENING	08/10/15	09/09/15	31.50	31.50
4230-1	SEACREST GROUP					
	315409.A	LAB ANALYSIS FEES WWTP	07/15/15	08/14/15	39.00	
	315469.B	BIOMONITORING WWTP	08/11/15	09/10/15	1,650.00	1,689.00
5491-1	SHERWIN WILLIAMS CO					
	0528-4	CREDIT TAX	08/12/15	09/11/15	136.32-	
	9681-2	PAINT	08/12/15	09/11/15	1,419.16	
	9681-2	PAINT	08/12/15	09/11/15	258.39	1,541.23
13673-1	STERLING INFOSYSTEMS INC					
	438213	BACKGROUND CHECKS	07/31/15	08/30/15	370.44	370.44
14148-1	STORY ARTS MEDIA					
	080415	CCGC MARKETING VIDEO	08/04/15	09/03/15	5,000.00	5,000.00
14139-1	SUN MOUNTAIN SPORTS INC					
	270747	RENTAL PULL CARTS	07/24/15	08/23/15	1,750.00	
	271696	RENTAL PULL CARTS	07/29/15	08/28/15	1,750.00	3,500.00
1201-1	SUPPLYWORKS					
	343826038	JANITORIAL SUPPLIES CS	08/10/15	09/09/15	357.91	357.91
13399-1	SUSTAINABLE TRAFFIC SOLUTIONS INC					
	080115	PASCHAL/PINE ST SIGNAL DESIGN	08/01/15	08/31/15	2,166.30	2,166.30
4685-1	TOTAL PLUMBING INC					
	152044	INSTALL BALL VALVES RSC	08/02/15	09/01/15	703.80	703.80
6609-1	TRAVELERS					
	487055	WORKERS COMP DEDUCTIBLES	07/31/15	08/30/15	565.43	565.43
11442-1	TRAVIS PAINT & RESTORATION INC					
	1701	SALES TAX OFFICE REMODEL	08/11/15	09/10/15	2,170.00	2,170.00
14065-1	TYLER TECHNOLOGIES INC					
	045-140503	TYLER SOFTWARE	07/29/15	08/28/15	4,142.24	
	045-140503	TYLER SOFTWARE	07/29/15	08/28/15	887.62	
	045-140503	TYLER SOFTWARE	07/29/15	08/28/15	887.62	
	045-140848	TYLER SOFTWARE	08/05/15	09/04/15	3,273.70	
	045-140848	TYLER SOFTWARE	08/05/15	09/04/15	701.51	
	045-140848	TYLER SOFTWARE	08/05/15	09/04/15	701.51	10,594.20
13426-1	UNIQUE MANAGEMENT SERVICES INC					
	307394	COLLECTION SERVICES	06/01/15	07/01/15	80.55	80.55
13241-1	UNITED REPROGRAPHIC SUPPLY INC					
	CM3455	COPY USAGE CORRECTION	09/17/14	10/17/14	318.36-	
	IN57771	JUL-DEC OCE PRINTER MAINT	07/06/15	08/05/15	625.57	

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
	IN61649	OCE PRINTER PAPER	08/14/15	09/13/15	85.25	392.46
11087-1	UNITED SITE SERVICES					
	114-3169767	TOILET RENTAL MINERS FIELD	07/31/15	08/30/15	193.60	
	114-3169768	TOILET RENTAL CENTENNIAL PARK	07/31/15	08/30/15	193.60	
	114-3169769	TOILET RENTAL CLEO MUDROCK	07/31/15	08/30/15	193.60	
	114-3169770	TOILET RENTAL HERITAGE PARK	07/31/15	08/30/15	193.60	
	114-3169771	TOILET RENTAL LES FIELD	07/31/15	08/30/15	166.02	
	114-3169772	TOILET RENTAL COTTONWOOD PARK	07/31/15	08/30/15	166.02	
	114-3169774	TOILET RENTAL ENRIETTO FIELD	07/31/15	08/30/15	166.02	
	114-3195192	TOILET RENTAL SKATE PARK	08/10/15	09/09/15	188.65	
	114-3202464	TOILET RENTAL MEMORY SQUARE	08/12/15	09/11/15	193.60	
	114-3202466	TOILET RENTAL STEINBAUGH	08/12/15	09/11/15	193.60	
	114-3202468	TOILET RENTAL PIRATES PARK	08/12/15	09/11/15	193.60	
	114-3202470	TOILET RENTAL ANNETTE BRAND	08/12/15	09/11/15	193.60	2,235.51
7532-1	URBAN DRAINAGE & FLOOD CONTROL					
	072915	DRAINAGEWAY A-2 IMPROVEMENTS	07/29/15	08/28/15	205,000.00	205,000.00
6509-1	USA BLUEBOOK					
	693896	TSS STANDARD WWTP	07/10/15	08/09/15	166.53	
	693936	ROYCE SS METERS WWTP	07/10/15	08/09/15	3,952.71	
	696829	LAB EQUIPMENT WWTP	07/15/15	08/14/15	634.71	
	700068	TSS STANDARD WWTP	07/17/15	08/16/15	146.95	
	705524	RETURN ROYCE METER WWTP	07/24/15	08/23/15	1,962.30-	
	711151	GOGGLES WWTP	07/30/15	08/29/15	84.91	
	715957	VARIABLE PIPET WWTP	08/05/15	09/04/15	551.81	3,575.32
13891-1	VERIS ENVIRONMENTAL LLC					
	J001659	BIOSOLIDS HAULING	07/12/15	08/11/15	1,250.43	
	J001717	BIOSOLIDS HAULING	07/22/15	08/21/15	1,117.72	
	J001754	BIOSOLIDS HAULING	07/30/15	08/29/15	1,123.37	
	J001795	BIOSOLIDS HAULING	07/31/15	08/30/15	1,230.78	
	J001843	BIOSOLIDS HAULING	08/13/15	09/12/15	1,174.79	5,897.09
6210-1	W BRUCE JOSS					
	082415	AUG 15 MUNICIPAL JUDGE SALARY	08/24/15	09/23/15	2,000.00	2,000.00
5115-1	WL CONTRACTORS INC					
	25636	TRAFFIC SIGNAL UPGRADES SBR	06/10/15	07/10/15	6,465.00	
	25948	JUL 15 FIBER MAINTENANCE	08/10/15	09/09/15	100.00	
	25949	JUL 15 TRAFFIC SIGNAL MAINT	08/10/15	09/09/15	1,851.26	8,416.26
10884-1	WORD OF MOUTH CATERING INC					
	2015-19	SR MEAL PROGRAM 8/10-8/18/15	08/21/15	09/20/15	1,714.00	1,714.00
11586-1	XCELIGENT INC					
	220871	REAL ESTATE DATABASE	09/01/15	10/01/15	999.99	999.99

Batch: 91537 Period: 09/01/15

Vendor/ Remit#	Invoice Number	Description	Invoice Date	Due Date	Invoice Amount	Check Amount
13555-1	YOUNG REMBRANDTS - NW DENVER & BOULDER					
	2116466	CONTRACTOR FEES FASHION RUNWAY	08/01/15	08/31/15	373.80	
	2116477	CONTRACTOR FEES ANIMAL CARTOON	08/01/15	08/31/15	311.50	
	2116481	CONTRACTOR FEES MEDIEVAL CASTL	08/01/15	08/31/15	186.90	
	2170840	CONTRACTOR FEES UNDERWATER	08/23/15	09/22/15	373.80	1,246.00
13558-1	ZIONS CREDIT CORP					
	602341	AUG 15 SOLAR POWER EQUIP LEASE	08/21/15	09/20/15	1,767.62	
	602341	AUG 15 SOLAR POWER EQUIP LEASE	08/21/15	09/20/15	883.81	2,651.43
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	BANK TOTAL PAYMENTS				1,679,072.94	1,679,072.94
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	GRAND TOTAL PAYMENTS				1,679,072.94	1,679,072.94

City of Louisville
COLORADO • SINCE 1878

City Council

Meeting Minutes

August 18, 2015
City Hall, Council Chambers
749 Main Street
7:05 PM

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council:	***Mayor Robert Muckle, Mayor Pro Tem Hank Dalton City Council members: Sue Loo, Ashley Stolzmann, Chris Leh, Jay Keany and Council member Lipton (arrived at 8:12 p.m.)***
Staff Present:	***Malcolm Fleming, City Manager*** ***Heather Balser, Deputy City Manager*** ***Kevin Watson, Finance Director*** ***Dave Hayes, Police Chief*** ***Kurt Kowar, Public Works Director*** ***Aaron DeJong, Economic Development Director*** ***Troy Russ, Planning & Building Safety Director*** ***Scott Robinson, Planner II*** ***Lauren Trice, Planner I*** ***Nancy Varra, City Clerk***
Others Present:	***Sam Light, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Council member Stolzmann. All were in favor. Absent: Council member Lipton.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

John Wilson, Fire Chief, Louisville Fire Protection District, 895 Via Appia, Louisville, CO reported on the insurance rating for the Fire Protection District. A third party company evaluates the Fire Department; the City's Water Department and the Communication Center. This evaluation occurs every ten years and is based on a scale of 1 – 10, with 1 being the highest rating. The scores are shared with insurance companies, who set insurance rates based on those scores. The Louisville Fire Protection District rating went up (better rating) from 4 to 3. He thanked the City's Water Department for their assistance and the Louisville Fire Protection District Board for their work on this project. The next evaluation will be in 5 years.

City Manager Fleming reported the new score could result in a 20% decrease in insurance premiums.

APPROVAL OF THE CONSENT AGENDA

Council member Leh disclosed he provided legal counsel for Eide Bailly, LLC and recused himself from the vote on Consent Agenda Item 5F. Mayor Muckle moved Agenda Item 5F (Eide Bailly LLC Engagement Letter) to the Business Agenda.

MOTION: Mayor Muckle moved to approve the consent agenda items, seconded by Council member Loo. All were in favor**.** Absent: Council member Lipton.

A. Approval of Bills
B. Approval of Minutes – July 28, 2015; August 4, 2015
C. Approve Resolution No. 53, Series 2015 – A Resolution Approving an Intergovernmental Agreement with the Boulder County Clerk and Recorder for the Conduct and Administration of the 2015 Coordinated Election to be held November 3, 2015
D. Approve Resolution No. 54, Series 2015 – A Resolution Approving a Request for a Preliminary Subdivision Plat of Approximately 33.12 Acres into one 30.11 Acre Lot (Lot 1) and One 3.01 Acre Tract (Tract A)
E. Approve Resolution No. 55, Series 2015 – A Resolution Approving an Intergovernmental Agreement with Boulder County Concerning the City's Use of the Boulder County Sheriff's Communication Center
F. Approve Rescheduling of the September 22, 2015 Study Session

MOTION: Mayor Muckle moved to approve the Engagement Letter for Auditing Services with Eide Bailly, LLC, seconded by Council member Stolzmann. All were in favor. Council member Leh recused himself from voting. Absent: Council member Lipton.

A. Authorize Execution of Engagement Letter for Auditing Services with Eide Bailly, LLC

COUNCIL INFORMATIONAL ITEMS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle reported on Money Magazine, who evaluates cities and the best place to live. This year Money Magazine ranked Louisville as 4th in the municipalities of 50,000 and under. This is the 6th time over the past ten years that Louisville has been rated in the top 5. He congratulated the staff and the citizens for making Louisville such a great place to live.

City Manager Fleming congratulated the Council and past Councils for creating the framework and the leadership in concert with the citizens, the advisory boards and staff.

CITY MANAGER'S REPORT

City Manager Fleming expressed this thanks to the Downtown Business Association (DBA) for their sponsorship of the Street Faire over the past 13 years. The DBA Board of Directors voted to not sponsor the Street Faire in 2016. He thanked the DBA and stated they are a tireless volunteer board, which has done an amazing job of sponsoring and coordinating the Street Faire. It has been a great event for Louisville families and for those living outside the City. It has also helped the downtown businesses to thrive.

REGULAR BUSINESS

RESOLUTION No. 56, SERIES 2015 – A RESOLUTION APPROVING A PRESERVATION AND RESTORATION GRANT FOR THE CARANCI HOUSE LOCATED AT 1145 MAIN STREET

Mayor Muckle requested a staff presentation.

Planner I Trice explained the request is for a $10,134 grant from the Historic Preservation Fund for 1145 Main Street, in Louisville, known as the Caranci House. The home was built in 1908 and has maintained its architectural integrity. The home also has a long social significance associated with the Caranci family.

The preservation and restoration grant is to restore metal casement windows; sill paint removal; repair and paint the front porch, and repair the ceiling stress fracture at the Caranci House, 1145 Main Street. In 2011 the property owners received a $5,000 focused grant, and are eligible for a $15,000 flexible grant, with the exception of the paint on the front porch.

Staff recommended a grant request of $8,445, with an application match of $8,445 and a contingency of $1,689 (20%), for a total grant request of $10,134. The Historic

Preservation Commission held a public hearing on the application on July 20, 2015 and voted 6-0 to recommend the City Council approve the grant application.

Staff Recommendation: Staff recommended approval of Resolution No. 56, Series 2015, approving a Historic Preservation Fund grant of $10,134 for 1145 Main Street.

COUNCIL COMMENTS

Council member Stolzmann commented this is the first time a new owner of a landmarked property has asked for a grant from the Historic Preservation Fund. She recommended the Council approve Resolution No. 56, Series 2015. She felt it would be consistent with the spirit and intent of the Historic Preservation program.

Council member Keany thanked staff for a very detailed report in the City Council packet and a concise presentation.

Mayor Muckle agreed with Council member Stolzmann, the new owner is planning on doing more work to preserve her historic property.

MOTION: Council member Stolzmann moved to approve Resolution No. 56, Series 2015, seconded by Council member Keany. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Council member Lipton.

RESOLUTION No. 57, SERIES 2015 – A RESOLUTION APPROVING A REPLAT TO SUBDIVIDE A SINGLE 12,452 SF LOT INTO TWO SEPARATE LOTS IN THE RESIDENTIAL MEDIUM (RM) ZONE DISTRICT, LOCATED AT 1240 LAFARGE AVENUE, LOTS 21-24, BLOCK 1 NICOLA DIGIACOMO ADDITION

Mayor Muckle requested a staff presentation.

Planner II Robinson explained this is a request to subdivide a single lot into two separate lots in the Residential Medium (RM) Zone District, located on the southeast corner of LaFarge and Lafayette. It is a 12,452 SF lot composed of 4 25’ X 125’ lots. The existing lot contains a 950 SF house and two detached garages totaling 1,000 SF. The replat would retain all structures on Lot 2 and none on Lot 1. The request received the Board of Adjustment approval for lot width and lot area variance, however such approval is not a guarantee on the replat. The City Council must decide whether the request complies with the criteria in Title 16 of the Louisville Municipal Code.

This 12,452 SF property under the Old Town zoning, would allow three units with coverage of about 3,736 SF coverage and 4,358 SF floor area. Under the proposal, Lot 2 would allow 2 units with a lot coverage of 2,450 SF and a total floor area of 2,800 SF. Lot 1 would allow coverage of just over 2,000 SF, 1 unit and approximately 2,400 SF of floor area. The total amount of development would go up in terms of square footage

because of the subdivision of the property however the total of number of units would not change. Lot 2 would total 7,004 SF and Lot 1 would have 5,448 SF. The neighboring lots average approximately 6,848 SF. The new lots would be compatible with the neighborhood. There is no increase in allowed dwelling units. The request complies with the 2013 Comprehensive Plan for this area.

Section 16.15.050 of the Louisville Municipal Code requires 50 foot frontage and a maximum length/width ratio of 2.5. Lot 1 would be 44 feet with a 2.84 ratio. The modifications are allowed for hardship and public good. The Planning Commission unanimously recommended approval of the minor subdivision request.

Staff Recommendation: Staff recommended approval of Resolution No. 57, Series 2015, with no conditions.

APPLICANT PRESENTATION

Andy Johnson, DAJ Design, 922 A Main Street, Louisville, CO stated they have worked with the Planning staff over the past few months. He felt the Planning staff did a great report and presentation. He pointed out the subdivision line was set at 5' south of the existing historic house currently on the property. The applicant wishes the house to remain and although landmarking is not off the table, it is not a part of the plan. He felt it is appropriate for the corner lot to be lower than 7,000 SF as this is one of the largest properties on the block. There was discussion in the two prior board meetings about diversity of lot sizes in Old Town. He noted a four lot property is extremely large for Old Town. If one home was built, it would be a departure from the urban fabric in the neighborhood and in Old Town.

Karla Dakin, 1240 LaFarge Avenue, Louisville, explained she has lived on the property since 1998 and raised her son there. She is a landscape architect and also has a home office on the property. By subdividing the property she could remain in the house and design and build her own garden. She asked Council to consider her proposal favorably.

COUNCIL COMMENTS

Council member Stolzmann asked staff about the floor ratio and the consistency with the Comprehensive Plan. Although she was not opposed to subdividing the property, she did not understand how that could increase the floor ratio. She felt it would take away from the small town feel. Planner II Robinson explained it was a function of the Old Town Overlay District Standards. It has different allowable lot coverages and floor areas based on lot size. The ratios go up as the lots get smaller.

Council member Stolzmann asked if subdividing is increasing the density of the corner. Planner II Robinson stated it is not increasing the density in the sense of number of units, but it is allowing more floor area.

Council member Stolzmann was uncomfortable with the floor area. She stated the applicant is trying to preserve the home and that is why the lot line was drawn further to the south. She questioned why the applicant is not landmarking the property, which would allow the additional coverage. She was hesitant to increase the floor area ratio and questioned the approach.

Mayor Muckle inquired whether three units could be built on the lot. Planner I Robinson confirmed three units could be built.

Mayor Muckle supported landmarking the property, which would control the scale of the two lots. Planner II Robinson explained landmarking would allow them to build bigger houses. Without landmarking they are limited to the standards for Old Town.

MOTION: Mayor Pro Tem Dalton moved to approve Resolution No. 57, Series 2015, seconded by Council member Loo.

Mayor Muckle stated without the landmarking, he would vote against the resolution.

Council member Stolzmann did not see how the increase in the floor area is consistent with the Comprehensive Plan. She supported the existing floor area ratio for the existing home and a 1,515 SF floor area for the second lot. She was not supportive of the resolution as written.

Council member Loo stated her understanding that the applicant does not want to landmark her property and desires to leave the property as is. She understood, by right, the applicant could build more on the property.

Mayor Pro Tem Dalton felt the proposal was consistent with the City's zoning. Council member Stolzmann stated the proposal was not consistent with the zoning.

Council member Keany inquired whether there were any variances on the lots. Planner II Robinson stated the variances received by the Board of Adjustment were for lot width of Lot 1 and lot area on both Lots 1 and 2.

Council member Keany inquired about setback variances. Planner II Robinson stated there were no setback variances.

Council member Leh voiced his support for the resolution.

VOTE: Roll call vote was taken. The motion carried by a vote of 4-2. Mayor Muckle and Council member Stolzmann voted no. Absent: Council member Lipton.

APPROVE CONSTRUCTION SERVICES AGREEMENT WITH CONCRETE EXPRESS, INC. FOR THE LAFAYETTE-LOUISVILLE BOUNDARY AREA DRAINAGE IMPROVEMENTS PHASE 1 CONSTRUCTION

Mayor Muckle requested a staff presentation.

Public Works Director Kowar explained before the Council is a contract with Concrete Express, Inc., in the amount of $3,569,145.87 and a $400,000.00 staff controlled contingency fund. This contract is with the Urban Drainage and Flood Control District and the City of Lafayette for drainage improvements, which will ultimately perform flood plain mitigation for downtown Louisville and areas along the Lafayette – Louisville Boundary. This is the first phase of the Project, which will build a large channel east of Highway 42 through the open space to the Coal Creek Area. The channel and associated drop structures include trail replacement and three bridges and urban flood control and drainage in the future. The second phase of the project is in the process of working through easements with property owners. The second phase is only Louisville improvements from Highway 42 west into the downtown area.

Staff Recommendation: Award the construction agreement to Concrete Express, Inc., in the amount of $3,569,145.87 and authorize staff to contract addenda up to $400,000.00 for additional work and project contingency, as well as authorize the Mayor and City Clerk to sign and execute contract documents on behalf of the City.

Council member Keany asked if the trails would be hard or soft surface. Public Works Director Kowar stated they would remain soft surface. He noted the Open Space Division had reviewed and approved this phase of the plan.

MOTION: Council member Keany moved to approve the Construction Services Agreement with Concrete Express, Inc., in the amount of $3,569.145.87, seconded by Council member Loo. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Council member Lipton.

PUBLIC HEARING – 550 SOUTH MCASLIN URBAN RENEWAL PLAN

1. **RESOLUTION No. 58, SERIES 2015 – A RESOLUTION APPROVING THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS PURSUANT TO THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE**

INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF LOUISVILLE

2. **RESOLUTION No. 59, SERIES 2015 – A RESOLUTION APPROVING AN AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND THE LOUISVILLE REVITALIZATION COMMISSION**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light reviewed the two action items: 1) Resolution No. 58, Series 2015, which approves an Urban Renewal Plan (UR Plan) for 550 S. McCaslin Blvd, the former Sam's Club Property. He stated the UR Plan for 550 South McCaslin Boulevard, designates such area as appropriate for urban renewal projects and finds the acquisition, clearance, rehabilitation, conservation, development, redevelopment or a combination thereof of such area is necessary in the interest of the public health, safety, morals, and welfare of the citizens of the City of Louisville. 2) Resolution No. 59, Series 2015, which approves amendments to the Cooperation Agreement between the City of Louisville and the Louisville Revitalization Commission (LRC).

Mayor Muckle opened the public hearing and requested a staff presentation.

Economic Development Director DeJong reviewed the actions to date as follows:
The City Council directed a Conditions Survey in May 2014. The Conditions Survey was completed in July of 2014. The Council determined the property blighted in October 2014 through Resolution 60, Series 2014. In January of 2015, the City Council directed staff to prepare a UR Plan.

The LRC reviewed the draft UR Plan June 2015 and the City conducted a Public Q & A meeting on July 6, 2015. The Planning Commission reviewed draft UR Plan July 9, 2015 and approved Resolution 23, Series 2015 finding the UR Plan in conformity with the Comprehensive Plan. Notices were sent to Property Owner and businesses, Boulder County, Boulder Valley School District (BVSD) and were published in the Daily Camera on July 14, 2015.

The proposed UR Plan is intended to reduce, eliminate and prevent the spread of blight within the urban renewal area at 550 S. McCaslin, the former Sam's Club. The objectives for the Plan include: To create a retail rich environment where area businesses and residents can be successful; re-tenant or redevelop the property and increase retail activity by encouraging occupancy of the property.

UR Plan: Conformity with the Comprehensive Plan. The Comprehensive Plan states the McCaslin Urban Center shall: 1) Serve as the focal point for a regionally significant commercial activity center. 2) Remain the City's primary retailing center supported by a mix of land uses including retail, office and residential. The Planning Commission reviewed the UR Plan and found it to be in conformity with the Comp Plan.

Mr. DeJong stated Sam's Club closed January 2010. It is a 13 acre property containing a 128,000 sf vacant building. A new owner purchased the property in January 2014. Several concerns arise from the vacancy: Reduces the viability of adjacent properties that could contribute to neighborhood decline and weaken the McCaslin Corridor.

Mr. DeJong reviewed the conditions survey finding the following blight factors are present: 1) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements. 2) Defective or unusual conditions of title rendering the title non-marketable. 3) Faulty Lot Layout 4) Deterioration of site or other improvements.

Blight Factor 1): Substantial Physical Underutilization or Vacancy of Buildings or Sites: Underutilized property; parking lot sits mostly empty during normal business hours; community church uses property during only a small portion of the week; high profile location at gateway into Louisville from US 36 and one of the main anchor retail properties in the shopping area.

Blight Factor 2): Defective or unusual conditions of title rendering the title non-marketable: Developed in 1990s as part of a retail center; restrictive covenants put in place at time of development to limit competition between tenants and sharply limit entertainment uses and limits several other uses.

Restrictive Covenants: No general merchandise discount department store other than on Lot 2; No supermarkets other than on Lot 1; Other lots can have less than 5,000 sf devoted to retail sale of food for off-premise consumption; Only Lot 2 may have an optical center; Pharmacy only on Lots 1 and 2; No more than 2 banks, unless banking is incidental to the primary use; Only one fuel station and only one drive-thru restaurant selling hamburgers or ground beef products. More broad restrictions were put in place during sale from Sam's Club to current owners after the store closed (owner can buy out restriction): No stores selling a range of merchandise "at a discount" allowed, the use for which the site was originally developed thus viable tenants who would fully utilize the property would likely be prevented from doing so.

Blight Factor 3) Faulty Lot Layout: Lot configuration results in former Sam's Club building being narrow and deep with respect to the front entrance, rather than shallow and wide; The building orientation makes it difficult to partition effectively; resulting spaces would be too narrow and deep for adequate retail layout and other non-retail uses that might be compatible with a deep, narrow layout are prohibited.

Blight Factor 4): Deterioration of Site and Other Improvements: Facility is 127,000 square feet with a 600+ car parking lot, requiring significant upkeep expenses; currently only used during a small portion of the time by a community church, which does not

generate the revenue needed for full maintenance (Potholes, cracked parking curbs, and other signs of lower maintenance levels are evident).

Blighting factors continue to limit potential for redevelopment or re-tenanting the building. The Urban Renewal Plan outlines the tools available to address the blighting factors. Approving a plan must follow rules in state statute. The Planning Commission reviewed the conformity with the Comprehensive Plan.
Mr. DeJong reviewed various provisions of the UR Plan.

Power of Eminent Domain: The UR Plan authorizes LRC to use eminent domain only as authorized by the Urban Renewal Law to alleviate qualifying conditions; only for property within the Urban Renewal Area and only after affirmative 2/3rds vote by the City Council.

Redevelopment Agreements: The LRC is authorized to negotiate and enter into redevelopment and cooperation agreements. The LRC will develop a process to evaluate redevelopment agreements.

UR Plan Tools for LRC: Develop and approve a project description; Issue RFP to solicit proposals for redevelopment (such proposals could come from any interested parties including the property owner, interested retailers and/or developers); negotiate a proposed redevelopment agreement and submit the proposed redevelopment agreement to City Council for approval and if approved by City Council, execute the redevelopment agreement.

Elements of an RFP: An RFP would ask for proposals specifying: Improvements planned for the site; proposed uses and activities; time frames for completing the proposed redevelopment actions; requested City financial assistance, if any, such as sales tax rebates; how costs (including potential legal costs) would be financed.

The UR Plan Does Not: Authorize use of tax increment financing pursuant to Section 31-25-107(9), C.R.S. and the use of tax increment financing within the Plan Area can only be authorized by amendment to this Plan. This Plan does not change the allowed uses of the property or approve any redevelopment plans. Change of use and redevelopments must go through the City's approval processes.

He outlined options to address continued vacancy at 550 S. McCaslin:
1) Continue to encourage property owners to resolve issues; expect private parties to identify a use for the existing building that complies with existing zoning and satisfies the private restrictive covenants, either in their current form or though covenant changes agreed on by the private owners.

2) Consider rezoning the property to allow for a wider range of uses beyond what is currently allowed. Rezoning may be initiated by the Owner, Planning Commission, or City Council. Rezonings are subject to separate public hearing procedures and would

be a quasi-judicial action; Council should not discuss the substance or merits of a rezoning as part of this agenda item.

3) Encourage a retail use by addressing the blighting factors through an Urban Renewal Plan. The LRC would develop and approve a project description; issue RFP to solicit proposals for redevelopment, such proposals could come from any interested parties including the property owner, interested retailers and/or developers. Negotiate a proposed redevelopment agreement. Submit the proposed redevelopment agreement to City Council for approval and if approved, execute the redevelopment agreement.

Cooperation Agreement: City and LRC have an agreement first approved in 2006 and amended in 2011. The proposed changes to reflect multiple UR Plan areas in the City are as follows;

1) Section 5.c and 5.d to confirm City Council approval of redevelopment agreements. 2). Section 10 to clarify any UR Plan Area is covered by the Agreement. 3) Section 16 to reflect LRC's bylaws have been revised. 4) Section 4.a revised to update Costs and Expenses balance (Small amount of expenses not paid at end of 2014 were paid in early 2015).

Staff Recommendation: Staff recommended Council approve Resolution No. 58, Series 2015, which approves the 550 S. McCaslin Urban Renewal Area and Resolution No. 59, Series 2015, the approval of the Amended and Restated Cooperation Agreement between the City of Louisville and the Louisville Revitalization Commission.

COUNCL COMMENTS

Council member Leh expressed his thanks to the City staff for their work and the presentation. He inquired about a reference in the 550 South McCaslin Urban Renewal Plan relative to the small area plan and asked if it was staff's intent to include the urban renewal plan in the McCaslin Small Area Plan. Economic Development Director DeJong confirmed it was staff's intention to include in the urban renewal plan reference to the small area plan. Staff wants the ability for the urban renewal plan to adjust to the results of the small area plan and to encourage the desired redevelopment in the area, should the small area plan encourage such redevelopment.

Council member Leh inquired about 2.7.2 of the plan, which states "It is the intent of this Plan that LRC "shall" exercise all such powers as may now be possessed or hereafter granted to LRC for the elimination of qualifying conditions within the Plan Area". He was concerned about the mandatory language of "shall" to exercise their powers. He inquired about the purpose for requiring mandatory language.

City Attorney Light noted he and Special Counsel Malcolm Murray were available to respond to Council's questions. He explained the word "shall" expresses the intent of

the plan the City Council is adopting is to authorize powers and that the implementation of the plan will require a number of discretionary decisions by both the City Council and the LRC. There will be decisions on what projects look like, the RFP process and cooperation agreements. Any agreement must be approved by the City Council in addition to the LRC. The "shall" language allows the LRC to accomplish various items but the UR Plan is not a mandate. He suggested the language could be revised to clarify that intent.

Council member Leh addressed Section 12 of the cooperation agreement, and asked for clarification that the Mayor is a member of the LRC. It was clarified Mayor Muckle is a member of the LRC. Council member Leh asked City Attorney Light for the capacity in which the Mayor serves on the LRC. City Attorney Light explained the Mayor is serving as a member of the Louisville Revitalization Commission. The organizing documents of the LRC, as stipulated by the state statues, require the Mayor or a member of the Council shall be a member of the LRC. In 2006 the documents did not stipulate the Mayor or member of Council be a member of the urban renewal board so that provision was included in the original cooperation agreement and that change has since been implemented.

Mayor Muckle stated this building has remained vacant for a number of years and it has blighted the area. There are a number of options for changing this area and a lot of effort has been expended to try to utilize the building. Previous brokers, the current owner and staff members have all tried to market the property. One option would be to create an urban renewal plan. Council is looking at this option.

PUBLIC COMMENTS

R.C. Hanisch, 4643 S.Ulster, Suite 1300, Denver, CO, representing McDonald's, requested his letter objecting to the urban renewal plan be included in the public record. It was confirmed the McDonald's letter was included in the public record.

Jonathan Bergman, Davis, Graham and Stubbs, LLP, 1550 17th Street, Suite 500, Denver, CO, explained his firm represents Albertsons. They also submitted a letter, on behalf of Albertsons, noting various objections to the plan. Albertsons objects to the urban renewal plan because, in its view, it constitutes an improper and unlawful taking of property rights, which he said is Albertsons valuable use restriction on the former Sam's Club site. Their concerns included a blight study, without notice provided to Albertsons or the neighboring businesses. He addressed their public records request, which obtained information provided by the City staff. He noted before the Sam's Club property was sold to the current owner, there were discussions about offers to assist in removing the use restrictions on the property. He stated they have concerns about the process and some of the intentions of what may happen. He reported attending a meeting where a citizen asked the identity of the tenant for the site. Mr. DeJong's response was the tenant wanted to remain confidential. He questioned why the information had to be confidential. Albertsons concern is a competitor is intended for

the property. He noted Albertsons had planned to renovate the store earlier this summer, but in light of the proposed urban renewal plan, they have put the renovation on hold. If the Urban Renewal Plan does not go forward, Albertsons will go forward with the renovation. Albertsons wants a solution that could be a potential win/win for the community. Albertsons has been a partner in Louisville for 20 years and wants to continue in that role. They hope the resolution is rejected.

Council member Lipton arrived to the meeting at 8:12 p.m.

Richard Hill, Owner and Operator of McDonald's, 939 Dillon Road, Louisville, CO, stated he started as a crew person at McDonald's 44 years ago. His wife does all the office work, and his daughter is the supervisor. He bought the Louisville McDonald's restaurant in 2009 and noted restrictions on the property that there would be no other direct competitors. He stated any other competitors would be detrimental to his business and requested the City Council to keep the exclusion in place.

COUNCIL COMMENTS

Mayor Muckle emphasized this plan does not make any decisions on what will happen on the property. There may be different decisions on what might or might not change with respect to the covenants. There are different outcomes of what the urban renewal authority might do, once Council gives them the authority to work on the project. He stated it is about the tool and not the outcome.

Mayor Pro Tem Dalton stated he would be consistent in this process. He voted no on the finding of blight, because he disagreed there was blight. He stated nothing has changed since last October to change his point of view. He did not agree with the use of eminent domain and because it is part of the urban renewal plan, he would vote no.

Council member Stolzmann stated the old Sam's Club site has blighted the City for many years. This has been a long process for present and past Councils. She did not feel the Council was rushing into a decision. This has been concerning to the citizens. The blight of the property has hurt other property owners and businesses to have a large vacant building and it also hurts morale. People want the Council to do something so this is a case where they want the City to intervene in the private sector. It does not have to be done in a negative or argumentative way. The City has letters from the tenants and owners of the property saying they have no objection to the use of urban renewal to remove the blight. She felt the urban renewal tool is appropriate to use in this case. She noted there were some concerns raised and requested more information on the following: 1) a reference made by Mr. Bergman, Albertsons attorney, stating Albertsons did not receive any offers to remove the restricted covenants on their property. 2) Open communication about a prospective tenant. 3) The open records request relative to staff making offers to the potential buyer about removing the

covenants before they purchase of the property. She felt urban renewal was an appropriate tool for this property and the community is interested in filling the space.

Council member Leh asked Mr. Bergman about the statement in his letter, which states Albertsons is prepared to institute a civil action, pursuant to Colorado Civil procedures to challenge the legality of the proposed plan, should it be adopted and will vigorously oppose the unconstitutional exercise of eminent domain powers to transfer properties from one private owner to another at the cost of Albertsons property interests and the restrictions. He asked if Albertsons position is that the mere adoption of the plan is a significant legal predicate to bring forward a civil action. Mr. Bergman stated it is certainly Albertsons position it is within their legal rights to challenge the adoption of the plan and referred to the Cooperation Agreement where the mandatory language of "shall" was used. He stated he is authorized to say Albertson's is prepared to challenge the plan if it is adopted. He stated Albertsons prefers to reach a mutually beneficial resolution that does not require taking Albertsons property rights and the installation of a competitor immediately next door.

Council member Leh asked Mr. Bergman if he agreed the adoption of the plan is not the exercise of eminent domain power. Mr. Bergman stated he was not prepared to concede that point as it takes away Albertsons ability to file a lawsuit.

Council member Leh voiced his concern over the intentions and the suggestion of a potential plan on the part of the City. He stated it is important to know the City Council has not made any decisions and the only thing on the table is the adoption of the urban renewal plan and the cooperation agreement.

Mr. Bergman stated Albertsons agrees and referred to Council member Stolzmann's question. He explained Centennial Investments was one of the purchasers of the former Sam's Club site, which closed in January or March of 2014. A letter, dated January 6, 2014, from City Manager Fleming, stated "the City is exploring all options to allow the purchase of the property without the use restrictions". Mr. Bergman stated it is likely the use restrictions were placed by Sam's Club for the sale of the property and noted those use restrictions can be removed by the new owner for a payment. Albertsons feels this is being sidestepped by the new owner. The letter also states "the City staff and I are willing to recommend to the City Council, actions to alleviate these factors (he felt it was a reference to other restrictive use covenants favoring neighboring properties) if it would result in appropriate new tenants for the property". He noted Albertsons has concerns about what has transpired between the City and the owner of the property.

City Attorney Light requested Mr. Bergman provide a copy of the letter to the City Clerk so it could be made part of the record.

Council member Stolzmann asked Economic Development Director DeJong if the urban renewal plan, which includes requests for proposals to purchase or buy out the use

restrictions and negotiating the restrictive covenants, would preclude the current owner from buying out the use restrictions from Sam's Club. Economic Development Director DeJong explained the property owner could still buy out the use restrictions or negotiate the restrictive covenants with Sam's Club. It would be part of the proposal for the property.

City Manager Fleming asked Mr. Bergman to confirm Albertsons has plans for renovations. He explained the staff met with Albertsons on July 10th and City Manager Fleming specifically asked if there were any plans for the property and Lynn Miller, the Senior Real Estate Manager for Albertson's, stated they might consider a facelift for the property. He asked if Council should be interested in adopting the urban renewal plan, and if the LRC exercises the options to request proposals, would Albertson's submit a proposal in response to the RFP, which would give specific details on what Albertson's is proposing. Mr. Bergman asked if City Manager Fleming was inquiring about a renovation or whether Albertsons is prepared to make an offer to purchase the Sam's Club property.

City Manager Fleming asked if Albertsons is interested in submitting a proposal on the proposed renovation of the Albertsons store in the context of an RFP so the LRC and ultimately the City Council can evaluate their proposals against potentially other proposals, which might come forward through the RFP. Mr. Bergman stated he did not believe the two sites were joined. His statements were designed to identify the uncertainty in the business community that this type of resolution is creating. Albertsons was willing to go forward with a renovation of its store. There is uncertainty as to the status of the store, in light of potential actions that may be taken, as a result of the urban renewal plan. In light of the potential actions, Albertsons is not prepared to go forward with renovations to its store.

Council member Loo asked Mr. Bergman if there are renovations plans for Albertsons. Mr. Bergman stated Albertson recognizes the need for renovation and was prepared to go forward, but in light of the uncertainty created by the urban renewal plan, they are not prepared to go forward with renovations at this time.

Council member Loo was concerned Albertsons would not show any renovation plans if the City Council passes the urban renewal plan. Mr. Bergman stated if Albertsons had some assurance the use restriction for a grocery store on the adjacent property would be preserved and not taken away, Albertsons would undertake the renovations. They are prepared to engage in meaningful discussion to reach an agreement.

City Attorney Light explained the action on the plan does not require or initiate any condemnation of property. He stated future steps include if the LRC decides to develop a project description for an RFP to obtain proposals from persons who might be interested, or have some level of interest, in participating in the project. He stated the adoption of the plan neither initiates nor requires the use of eminent domain. He

stated the issues of whether Albertsons has a right to challenge the UR Plan will not be resolved this evening.

City Attorney Light entered the following into the record: The plan does not require or initiate condemnation proceedings. Prior to the consideration of Resolution No. 60, Series 2014, making the blight finding, the City provided public notice, including publication and mailings to the property owners and tenants. Notice was provided twice; which is more than required by the statute. He pointed out in the condition survey and the resolution of approval; there were four conditions of blight found within the property. The Urban Renewal law provides if there is no objection by the property owners or tenants or owners of businesses concerned within the proposed urban renewal area, to the inclusion of the property within a blighted area and a plan, the plan can be adopted when only one factor exists. He noted the property owners provided consent letters to the property being included in a blighted area.

Council member Leh suggested a motion to continue the public hearing to the September 1st, 2015 City Council meeting. Council member Lipton apologized for being late. He agreed with Council member Leh's suggestion to continue the public hearing. In light of Albertsons attorney's contention the City may be subject to some form of litigation by adopting the urban renewal plan, he requested legal advice on the risks prior to the next meeting.

Council member Keany was not opposed to continuing this matter. If continued he requested the Council conduct an executive session before the next Council meeting and include the City Attorney and Special Counsel.

Council member Loo stated Council member Stolzmann's questions and comments were good, and requested they be addressed before the next meeting.

Mayor Muckle stated his intention was to take public comment this evening and continue the public hearing to the next meeting. He agreed an executive session would be time well spent. He supported a motion for continuance and executive session.

Council member Stolzmann supported a win/win/win solution of private property owners winning together and also the members of the public not having a blighted building. She encouraged private property owners to get together and discuss this matter.

Council member Leh voiced his appreciation to the representatives from Albertsons and McDonalds and for this evenings' discussion. He did not feel the Council was in a position to concede the adoption of the plan creates a condemnation tool. Urban renewal puts a plan in place to revitalize the area. He had no doubt the actions taken were appropriate. He felt as public officials, they have a duty to explore different alternatives and make sure they have the right information. He felt gathering public comment and additional information is worth keeping the public hearing open and would not prejudice the process. He supported an executive session.

MOTION: Council member Leh moved to continue the public hearing on Resolution No. 58 and No. 59, Series 2015 to the September 1st City Council meeting, seconded by Mayor Muckle. All were in favor.

Council member Keany requested a special meeting be called to conduct an executive session prior to the September 1st meeting or an executive session be called before the regular City Council meeting on September 1st. City Attorney Light wanted to ensure special counsel would be available for a special meeting. Special Counsel Malcolm Murray stated he would be unavailable until September 1st.

City Attorney Light recommended a motion to approve a special meeting on September 1st at 6:00 p.m. for an executive session for the purpose of consulting with attorneys representing the City.

Council member Stolzmann asked the City Attorney and Special Counsel to contemplate any pending litigation before the next meeting and advise the Council.

MOTION: Mayor Pro Tem Dalton moved the City Council call a special meeting on September 1st, 2015, at 6:00 p.m. for an executive session, to consult with attorneys representing the City, seconded by Mayor Muckle, All were in favor.

CITY ATTORNEY'S REPORT

No items to report.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Council member Loo was not clear on the Coyote Run report and asked what the next steps would be. Council member Stolzmann suggested this be discussed at a future study session. City Manager Fleming requested the City Attorney outline the next steps. City Attorney Light explained he is examining the questions relative to the various duties and risks the City has as the property owner of the open space.

Council member Stolzmann addressed an email from Mark Persichetti, from RCAB, on recycling and what role the City would take. She requested this be a future agenda item. Deputy City Manager Balser asked if this could be discussed at a study session with the Sustainability Board. Council member Stolzmann stated Mr. Persichetti asked for direction, so it would have to be at a regular meeting. City Manager Fleming stated it has been scheduled for the February 23, 2016 City Council Study Session.

Mayor Muckle reminded the public of the Chamber of Commerce Pints in the Park event which will be held Saturday, August 29th. Tickets can be purchased at the Chamber's office.

Council member Leh commented on the DBA decision to no longer sponsor the Street Faire. He felt the event provided tremendous economic opportunities for the City. He stated there were issues around the Street Faire, but a lot of people want it to continue. He was interested in putting all the facts on the table and getting a plan in place for next year. Mayor Muckle agreed and felt there should be a community discussion.

ADJOURN

MOTION: Mayor Muckle moved for adjournment, seconded by Mayor Pro Tem Dalton. All were in favor. The meeting adjourned at 8:58 p.m.

_____
Robert P. Muckle, Mayor

_____
Nancy Varra, City Clerk

SUBJECT: **RESOLUTION NO. 60, SERIES 2015 – A RESOLUTION APPROVING THE OPEN SPACE ADVISORY BOARD'S RECOMMENDATION TO BOULDER COUNTY PARKS AND OPEN SPACE REGARDING 2016 PROPERTY AND TRAIL REQUESTS**

DATE: **SEPTEMBER 1 2015**

PRESENTED BY: **JOE STEVENS, PARKS AND RECREATION**

SUMMARY:

Annually, Boulder County invites municipalities within the County to submit requests for open space acquisition and trail projects, per Resolution 93-174, paragraph 10:

> *That the Board of County Commissioners will annually consult the City Councils and Town Boards of the municipalities within Boulder County to assure that open space preservation and trail projects identified by municipalities are considered in setting county open space acquisition and trail development priorities for the following year.*

Information requested is as follows:

A. *Open Space Requests: Through the efforts of all of our open space programs, we have preserved a lot of open space in Boulder County. What significant parcels remain in your area in order to consider the job done? Please list properties numbered in order of priority, even if you have submitted them in a previous year.*

B. *Trail Requests: Boulder County gives stronger consideration to trail projects that connect to existing community trails on county open space properties and regional trails, and trails that are recommended in management plans. Trails that serve primarily a local population are not likely to be considered for funding through the Boulder County Parks and Open Space CIP. Please list projects numbered in order of priority, even if you have submitted them in a previous year.*

Attached, please find City of Louisville Open Space Advisory Board recommendations for City Council consideration and submittal to Boulder County regarding future property acquisition and trails projects.

FISCAL IMPACT:
Not applicable at this time. However, the intent of this exercise is to gauge support for cost sharing of specific opportunities as they become available in the future.

RECOMMENDATION:
Staff recommends that the Louisville City Council approve Resolution No. 60, Series 2015 approving the Open Space Advisory Board's recommendation to Boulder County Parks and Open Space regarding 2016 property and trail requests.

ATTACHMENT(S):
1. Resolution No. 60, Series 2015
2. City of Louisville's Property and Trail Requests for 2016

RESOLUTION NO. 60
SERIES 2015

A RESOLUTION APPROVING THE OPEN SPACE ADVISORY BOARD'S RECOMMENDATION TO BOULDER COUNTY PARKS AND OPEN SPACE REGARDING 2016 PROPERTY AND TRAIL REQUESTS

WHEREAS, Boulder County Parks and Open Space invited the City of Louisville Open Space Advisory Board and the Louisville City Council to submit property and trail requests for potential partnership opportunities.

WHEREAS, on August 12th 2015, the Open Space Advisory Board made recommendations regarding the 2016 property and trail requests.

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

1. Approve the recommendations of the Open Space Advisory Board to Boulder County Parks and Open Space regarding 2016 property and trail requests.

2. In forwarding these recommendations, City Council affirms its intent that open space acquisitions are upon condition of a mutually acceptable purchase agreement being reached between willing buyers and willing sellers, and City Council does not intend any acquisition be made through eminent domain.

APPROVED AND ADOPTED this 1st day of September, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

CITY OF LOUISVILLE PROPERTY & TRAIL REQUESTS FOR 2015

Property Request

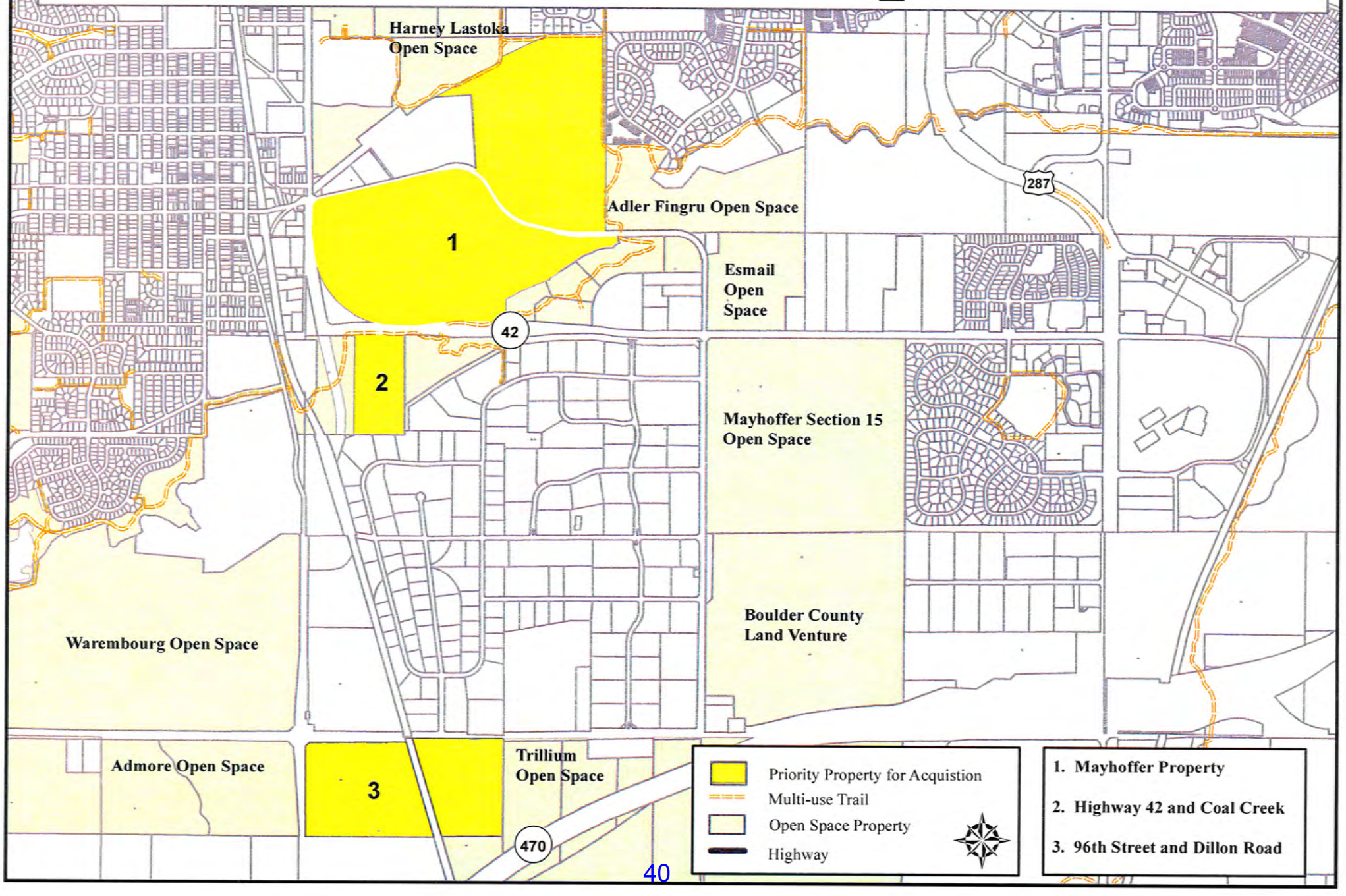
Reviewed and approved by the City of Louisville Open Space Advisory Board and the City Council.

1. **Mayhoffer Property**. The Mayhoffer Property is approximately 200 acres in size and is designated as 'Rural Preservation' in the Super IGA and agricultural 'Lands of National Importance' in the Boulder County Comprehensive Plan. The Louisville Open Space Advisory Board has ranked this property as Louisville's number one open space priority. Benefits of acquiring this property include: protection of the Coal Creek riparian corridor, buffering between Louisville and Lafayette and preservation of agricultural use. This acquisition is also a priority for Lafayette (Area C and D).

2. **Highway 42 and Coal Creek.** This area is approximately 18 acres in size and is located south of Highway 42 between two existing Louisville Open Space properties. The property is also adjacent to the regional Coal Creek trail, is within the Coal Creek riparian corridor and was designated as a 'Significant Riparian Corridor' in the Boulder County Comprehensive Plan. Benefits of acquiring this property include: protection of the Coal Creek riparian corridor and creation of a larger contiguous 47 acre open space property.

3. **96th Street and Dillon Road.** This area is approximately 76 acres in size and is located south of Dillon road between the jointly owned Admor and Trillium Open Space properties. This parcel was designated as agricultural "Lands of National Importance" in the Boulder County Comprehensive Plan. Additionally, this is the last parcel needed to complete the buffer zone between Louisville and Broomfield.

Louisville Parcel Requests 2016



Trail Request

Reviewed and approved by the City of Louisville Open Space Advisory Board and the City Council.

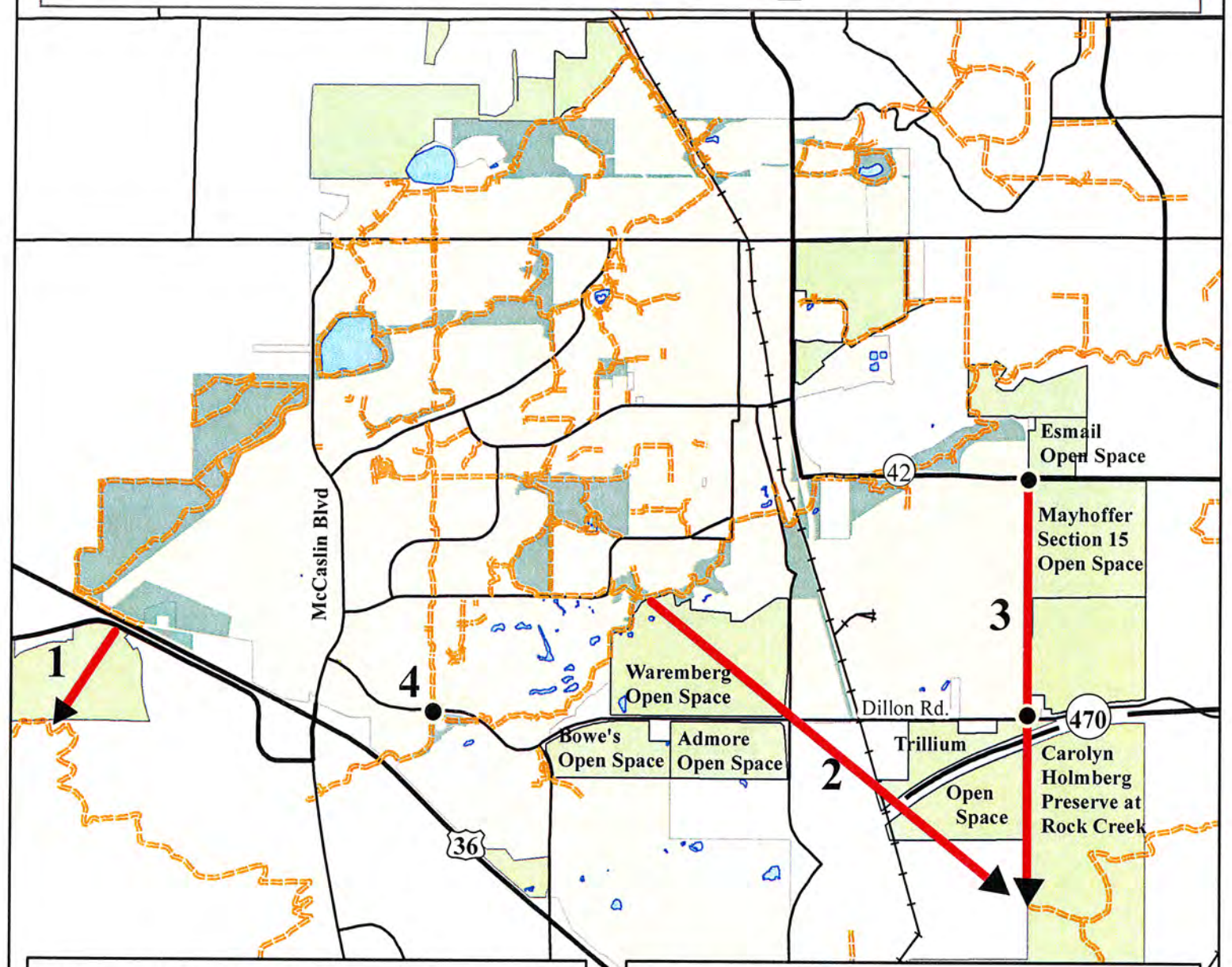
1. **Overlook Underpass Trail- Connecting Davidson Mesa to the Mayhoffer-Singletree Trail:** The underpass at this location is currently under construction and is likely to be complete this fall (2015). The underpass will enable citizen's safe access across Highway 36 which will make a connection possible from the Davidson Mesa trail system to the Mayhoffer-Singletree trail. This connection would allow citizens to access the Cowdrey Draw, Marshall-Mesa, Community Ditch and Doudy Draw trails along with other City of Boulder trails in the Foothills. Louisville would like to continue to work with Boulder County and Superior on this trail alignment and potential future trail construction. Currently, Louisville staff prefers the following three alignments options: West side of the community Ditch, East side of the Community Ditch and Ridgetop.

2. **Warembourg Trail- Connecting Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm:** This trail would provide a second connection between the regional Coal Creek and Rock Creek trails. This segment would be a more direct connection for Louisville residents as it departs from a more central location within the community. This connection would also provide a nice loop experience by connecting into the proposed 104th Street trail. Although this concept is identified as a conceptual trail corridor in the Boulder County Comprehensive Plan additional discussions is needed to determine trail alignment in regards to agricultural areas and privately owned parcels. This Boulder Valley Comprehensive Plan has this recorded as a conceptual trail corridor.

3. **104th Street Trail- Connecting Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm:** The total trail length would be approximately two miles. This trail would connect the regional Coal Creek trail to the Carolyn Holmberg Preserve at Rock Creek Farm, the regional Rock Creek trail and the Sterns Lake trailhead.

4. **Dillon Road Crossing and Trail Segment- Connecting Coal Creek Trail to the City of Louisville Power Line Trail:** Subject to approval by the City of Louisville Public Works Department, this trail and road crossing would link the regional Coal Creek trail to Louisville's most direct North/South primary trail. This connection would link commuters/trail users to Fireside Elementary, Coal Creek Elementary, the Recreation & Senior Center and South Boulder Road.

Louisville Trail Requests 2016



This map is for planning purposes only. Trail alignments are conceptual and do not reflect final positions.

- Crossing Recommendations
- Priority Trail Recommendations
- Multi-use Trails
- City Owned Open Space Properties
- Jointly Owned Open Space Properties
- City Limits

Priority Trail Requests:

#1 Overlook Underpass Trail Connecting Davidson Mesa to the Mayhoffer-Singletree Trail

#2 Warembourg Trail Connecting Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm

#3 104th Street Trail Connecting Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm

#4 Dillon Road Crossing Connecting Trail Corridor to Coal Creek Trail

CITY COUNCIL COMMUNICATION
AGENDA ITEM 5D

SUBJECT: **APPROVAL OF SEPTEMBER 21, 2015 7:00 PM AS A SPECIAL MEETING FOR DISCUSSION OF 2016 BUDGET**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **CITY MANAGER'S OFFICE**

SUMMARY:
At the August 18 City Council meeting the Council rescheduled the September 22 Study Session to Monday, September 21. Staff seeks approval to make the September 21 meeting a Special Meeting, rather than a Study Session, to discuss the 2016 Budget. This meeting will be held in Council Chambers.

FISCAL IMPACT:
None

RECOMMENDATION:
Approve September 21, 2015 as a Special Meeting

ATTACHMENT(S):
None

SUBJECT: **RESOLUTION NO. 61, SERIES 2015 – A RESOLUTION ESTABLISHING A RECREATION/SENIOR CENTER AND AQUATICS EXPANSION TASK FORCE**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **JOE STEVENS, PARKS AND RECREATION DEPARTMENT**

SUMMARY:

At the August 11, 2015 City Council study session, staff suggested the creation of a Task Force to advise and assist City Council and staff in evaluating a possible Recreation and Senior Center expansion and possible improvements to aquatic facilities along with a public involvement process for this. The Louisville City Charter, Article 10-2 (f) states: "The Council may establish, by resolution, task forces or committees to provide advisory recommendations on special or short term issues. The resolution establishing the task force or committee shall set forth the goals and responsibilities of the task force or committee. The appointment or removal of each task force or committee member shall require the affirmative vote of a majority of the entire Council."

The attached resolution creates a Recreation/Senior Center and Aquatics Expansion Task Force with the following goals:

a. Work with staff and City officials to evaluate current facilities;
b. Assist and participate in hosting open houses and/or charrettes to collect and evaluate data and obtain comments from the community;
c. Compare and contrast what the City of Louisville facilities offer compared and relative to other neighboring communities or communities of similar size;
d. Propose a facility design and program that will then move forward towards a possible bond referendum in November 2016.

Staff suggests the Task Force be composed of 9-11 members: two from the City Council; one from the Senior Advisory Board; one from the Youth Advisory Board; and the remainder at-large representatives. If Council has other specific areas you would like represented, please identify them at the meeting.

Staff will advertise for persons interested in serving on the Task Force and ask them to submit a letter of interest. Staff requests two members of the City Council be appointed to review the applications with staff and make a recommendation on October 6 regarding appointments.

FISCAL IMPACT:
Staff is requesting $25,000 in the revised budget for 2015 and $60,000 2016 to provide professional services to work with City staff, the Task Force and City Council for the work outlined above.

RECOMMENDATION:
Approve Resolution No. 61, Series 2015 creating a Recreation/Senior Center Expansion Task Force.

ATTACHMENT(S):
1. Resolution No. 61, Series 2015

RESOLUTION NO. 61
SERIES 2015

A RESOLUTION ESTABLISHING A RECREATION/SENIOR CENTER AND AQUATICS CENTER EXPANSION TASK FORCE TO PROVIDE ADVISORY RECOMMENDATIONS ON THE PROPOSED EXPANSION CONCEPTS AND PROCESSES

WHEREAS, the City strives to be both effective and efficient with public outreach, public involvement and notification for city projects, general information and special events; and

WHEREAS, the City Council and City staff wants, and encourages and requires citizen input on the design of a possible expansion to the Recreation/Senior Center and possible aquatics expansion; and

WHEREAS, pursuant to Charter Section 10-2(f), the City Council desires to establish a Recreation/Senior Center Task force to provide advisory recommendations on the design of an expansion to the Recreation/Senior Center and possible aquatics expansion.

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

1. There is hereby created a Recreation/Senior Center and Aquatics Center expansion Task Force.

2. The goals of the Task Force shall be to:
    a. Work with staff and City officials to facilitate and evaluate current facilities.
    b. Assist and participate in hosting open houses and/or charrettes to collect and evaluate data and obtain comments from the community.
    c. Compare and contrast what the City of Louisville facilities offer compared and relative to other neighboring communities or communities of similar size.
    d. Propose a facility design and program that will then move forward towards a possible bond election in November 2016.

3. The Task Force will consist of 7-10 members of the community recommended by the Mayor and appointed by the City Council with an interest in and knowledge of the topic.

4. The Director of Parks and Recreation shall designate appropriate City staff to facilitate, assist and advise the Task Force as it works to achieve the goals specified above.

5. The Task Force shall conclude its work and present its recommendations with a consultant to the City Council no later than April 2016.

6. The Task Force shall sunset on April 30, 2016.

PASSED AND ADOPTED this 1st day of September, 2015.

By _____
Robert P. Muckle, Mayor

Attest:_____
Nancy Varra, City Clerk

City of Louisville
COLORADO • SINCE 1878

CITY COUNCIL COMMUNICATION
AGENDA ITEM 8B

SUBJECT: **A SPECIAL REVIEW USE (SRU) TO ALLOW FOR AN AGRICULTURAL LAND USE IN THE RESIDENTIAL LOW DENSITY (RL) ZONE DISTRICT IN ORDER TO DEVELOP A COMMUNITY GARDEN WITH 45 PLOTS AND TWO 80SF TOOL SHEDS ON THE NORTHEAST AND NORTHWEST CORNERS OF GRIFFITH STREET AND LINCOLN AVENUE.**

APPLICANT REQUESTS CONTINUANCE TO OCTOBER 6, 2015

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **TROY RUSS, PLANNING AND BUILDING SAFETY**

SUMMARY:
The applicant, the Louisville Sustainability Advisory Board (LSAB), has requested this item be continued to October 6, 2015. The applicant requests additional time to finalize its contract with the proposed 501C3 Community Garden manager and subsequent licensing agreement with the City.

RECOMMENDATION:
Staff recommends City Council continue the public hearing to October 6'.

SUBJECT: **PUBLIC HEARING – 550 SOUTH MCCASLIN URBAN RENEWAL PLAN**

1. **RESOLUTION NO. 58, SERIES 2015 – A RESOLUTION APPROVING THE 550 SOUTH McCASLIN URBAN RENEWAL PLAN, DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS PURSUANT TO THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF LOUISVILLE *(Public hearing notice published Daily Camera July 14, 2015)***

2. **RESOLUTION NO. 59, SERIES 2015 – A RESOLUTION APPROVING AN AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND THE LOUISVILLE REVITALIZATION COMMISSION**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **AARON DEJONG, ECONOMIC DEVELOPMENT**

SUMMARY

This matter is a continuation of the Public Hearing held on August 18, 2015 regarding the proposed 550 South McCaslin Urban Renewal Plan. **In addition to the information contained in the Council Communication for that meeting (which is included starting on page 4 of this Communication) staff has included the following new information and/or made the following changes to the materials:**

The intent of the Urban Renewal Plan adoption is not to *require* condemnation, but instead to make eminent domain authority available to the LRC, subject to applicable provisions of the Urban Renewal Law and the provisions of the proposed Urban Renewal Plan and Cooperation Agreement. To clarify this intent, staff has revised certain sections of the Urban Renewal Plan as follows:

> Last sentence of Section 1.1 amended to say, "The administration of this project and the enforcement and execution of this Plan are activities performed by the Louisville Revitalization Commission ("LRC")."

> Section 2.7.2 is amended to say, "…it is the intent of the City Council in adopting this Plan that LRC shall have the authority to exercise powers herein authorized to be exercised by LRC under the Urban Renewal Law and which are necessary, convenient or appropriate to accomplish the objectives of this Plan. It is the intent of this Plan that LRC shall have the authority to exercise all such powers as may now be possessed or hereafter granted to LRC for the elimination of qualifying conditions within the Plan Area. Any exercise of such powers shall be in accordance with the Urban Renewal Law and the provisions of this Plan and applicable Cooperation Agreements."

Council asked for information regarding Albertsons Counsel's statement that Albertsons has received no offers to remove the restrictive covenants. Regarding this issue, Centennial Valley Investments has told staff that they have not made offers to Albertsons to remove their restrictive covenant. However, they have made three different offers to Albertsons to purchase the property outright from Albertsons. The most recent offer was during a July 16, 2015 meeting attended by Albertsons/Safeway Senior Real Estate Manager Lynn Miller, Centennial Valley Investments representative Rick Dunn, and City staff Aaron DeJong and Malcolm Fleming. Rick Dunn has told staff that Albertsons has not responded to any of the three offers. Centennial Valley Investments and Albertsons may have further information on this topic.

Council also asked about prospective tenants for the property. Staff is aware of entities that have expressed interest in the property but are precluded from operating there because of the restrictive covenants. If Council approves the Urban Renewal Plan it would facilitate the LRC issuing a request for proposals and responses to that RFP from specific parties, which would outline the terms, conditions and timeline for occupying the property and the specific tenants involved.

Finally, Council asked about staff's offers to the potential buyer before they purchased the property regarding actions to remove restrictive covenants. To address this issue, staff has attached a copy of the January 6, 2014 letter from City Manager Fleming to Centennial Valley Investments, as well as an August 24, 2012 letter from City Manager Fleming to Walmart Realty, which was referenced in the January 6, 2014 letter. Both letters note the negative impact of use restrictions on the property as well as other significant issues contributing to the difficulty of attracting new tenants. The August 24, 2012 letter to Walmart Realty states, "…the City is exploring all options to allow for a new owner to purchase the property without the use restrictions". The January 6, 2014 letter to Centennial Valley Investments lists several factors, including restrictive use covenants, contributing to the difficulty of attracting new tenants or new ownership for the property and states, "City staff and I are willing to recommend to the Louisville City Council actions to alleviate these factors if it would result in appropriate new tenants for the property. Of course, any decision to approve, decline, or request changes to any proposed economic development agreement is at the discretion of City Council."

Staff's willingness to recommending action is clearly conditioned on exploring options and determining whether an action would likely result in appropriate new tenants. Among the options staff has been exploring is encouraging private parties to independently identify a use for the existing building that meets the zoning and private restrictive covenants, either in their current form or though covenant changes agreed on by the private owners. Centennial Valley Investments' three different offers to Albertsons, noted above, and staff's attending the meeting between Albertsons' and Centennial Valley Investments' representatives reflect this effort. Another option staff has been exploring is the work that has culminated in staff recommending for Council's consideration the proposed Urban Renewal Plan. As noted above, adoption of the Plan does not require condemnation, and any use of that power could not occur without further actions and approvals by both the LRC and City Council, in their discretion. Further, adoption of the Plan does not preclude any economic development agreements or other City actions.

Albertsons August 27, 2015 Letter

Albertsons attorney Jonathon Bergman submitted another letter on August 27, 2015 listing the following concerns:

"Interactions Between the City Staff and Current Property Owners"

Bergman asserts that "City Staff has inappropriately aligned itself with Centennial Valley Investments, whose interests are adverse to those of longstanding members of the Louisville Community." To support this assertion he cites the January 6, 2014 letter from City Manager Fleming to Centennial Valley Investments. As noted above regarding that letter, staff has not "aligned itself with Centennial Valley Investments", but has helped facilitate meetings between Albertsons and Centennial Valley Investments so those parties might explore and negotiate an agreement.

Bergman also infers there is something inappropriate with Director DeJong's assisting Centennial Valley to draft a March 17, 2014 letter to the City. Centennial Valley was unsure about the manner in which to request this action, so DeJong created a draft to assist in the request. Such assistance is commonplace in DeJong's work and reflects his proactive approach in working with all members of the Louisville business community.

"Lack of Transparency"

Bergman asserts there has been a lack of transparency regarding the Urban Renewal Plan and suggests that emails from Michael Menaker to members of City Council support this assertion. Bergman also asserts the City failed to notice property owners in the community to commission a blight study of the Property. The notice for commissioning the blight study was given in the manner required by State law. The public information meeting (which is not required by State law) on the Conditions Survey on July 7, 2014 was publicized in the same way as all boards and commission meetings are published; 1) on the City's website, and 2) at the public posting locations in the City.

The City Council meeting to consider a determination of blight followed State law Section 31-25-107(b)(1) requiring notice to any owner of private property located in the area that is the subject of the study. Public notice for the October 7, 2014 meeting deciding whether blighting factors exist on the property was published in the Daily Camera on September 6, 2014. The Daily Camera ran an article about the action on July 24, 2014. Public notice of the July 6, 2015 public informational meeting on the Plan (which is not required by State law) was mailed and posted at the property, as well as noticed in the same manner as all board and commission meetings. Notice of the City Council public hearing on the Plan followed State law.

"Deficiencies in the Blight Findings"
Bergman further asserts that the "City's actions (to find blight) leave the impression that the blight determination was a pretext to eliminate the use restrictions on the Property in order to benefit one private party at the expense of others." The Conditions Survey was performed by a third party with experience in such matters (Urban Revitalization Consulting) using an objective approach to identify blighting factors in accord with all provisions of State law.

Regarding Bergman's other assertions, staff agrees with his stated preference to "resolve these issues in a mutually beneficial fashion without resorting to litigation." Staff does want to continue to facilitate discussions with Albertson's and Centennial Valley with or without an approved Urban Renewal Plan to address the community's largest and most impactful vacancy.

SUMMARY (From August 18th Council Packet):
Staff is asking Council to take two actions. First, adopt a Resolution approving an Urban Renewal Plan for 550 S. McCaslin Blvd, the former Sam's Club Property. Second, adopt a Resolution approving amendments to the Cooperation Agreement between the City and the Louisville Revitalization Commission (LRC).

The proposed Urban Renewal Plan is intended to reduce, eliminate and prevent the spread of blight within the urban renewal area at 550 S. McCaslin, the former Sam's Club. The objectives of the Plan include the following:

- Create a retail rich environment where area businesses and residents can be successful
- Re-tenant or redevelop the property
- Increase retail activity by encouraging occupancy of the property

Approving the Plan would give the Louisville Revitalization Commission (LRC) certain abilities to address the blighting factors preventing redevelopment of the former Sam's Club building on the property. Those abilities include:

- **Develop and approve a project description**

- **Issue an RFP to solicit proposals for redevelopment** Such proposals could come from any interested parties including the property owner, interested retailers and/or developers. An RFP would ask for proposals specifying:
  - Improvements planned for the site
  - Proposed uses and activities
  - Time frames for completing the proposed redevelopment actions
  - Requested City financial assistance, if any, such as sales tax rebates
  - How costs (including potential legal costs) would be financed

- **Negotiate a proposed redevelopment agreement and submit the proposed redevelopment agreement to City Council for approval**
- **Use the power to acquire property by purchase through eminent domain as authorized by the Urban Renewal Law to alleviate the qualifying conditions.**

The Plan specifies in section 4.2.1 that any proposal to acquire property under the power of eminent domain must first be approved by the affirmative vote of two-thirds of the entire Louisville City Council. These abilities would be further subject to the terms of a Cooperation Agreement (including proposed amendments to that Agreement) between the City and the LRC. Section 5.d of that Agreement requires City Council approval of any redevelopment agreement or other contract to carry out the purposes of the Plan.

BACKGROUND:
The property located at 550 South McCaslin Boulevard encompasses approximately 13.16 acres in the McCaslin Boulevard area of Louisville and was formerly occupied by a Sam's Club facility, but has remained vacant since the store's closing in early 2010. The store's closing has caused significant declines to the retail activity in and around the area. The building is 127,000 square feet in size and cannot be divided into smaller spaces without significant expense. Private restrictive covenants placed on the property prevent many of the most viable potential reuses of the current building. The property has a lack of full maintenance creating an impression the area is deteriorating. The McCaslin Boulevard area is the main retail sales tax generating area in Louisville and the minimal use of the property is lessening the retail viability of the area.

Wal-Mart actively marketed the property for over 3 years with brokerage firms CBRE and SRS Realty. They were unsuccessful in finding a new owner for the building for a retail purpose. Centennial Valley Investment, LLC (Centennial Valley) and Seminole Land Holdings, LLC purchased the property in January 2014.

The City Council on May 6, 2014, directed staff to commission a Conditions Survey. The Conditions Survey identified 4 blighting factors on the property. They are:

1) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness:

   a. Lot configuration results in former Sam's Club building being narrow and deep with respect to the front entrance, rather than shallow and wide
   b. Building orientation makes it difficult to partition effectively; resulting spaces would be too narrow and deep for adequate retail layout
   c. Other non-retail uses that might be compatible with a deep, narrow layout are prohibited

2) Deterioration of site or other improvements:
   a. Facility is 127,000 square feet with a 600+ car parking lot, requiring significant upkeep expenses
   b. Currently only used during a small portion of the time by a community church, which does not generate the revenue needed for full maintenance
   c. Potholes, cracked parking curbs, and other signs of lower maintenance levels are evident
3) Defective or unusual conditions of title rendering the title nonmarketable:
   a. Restrictive covenants put in place at time of development to limit competition between tenants and sharply limit entertainment uses
   b. Most notable restriction is that no competing grocer to Albertsons is allowed
   c. More broad restrictions put in place during sale from Sam's Club to current owners after the store closed; this includes no stores selling a range of merchandise "at a discount" allowed, which is the use the site was originally developed for, and additional restrictions on entertainment uses
   d. Viable tenants who would fully utilize the property would likely be prevented from doing so
4) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.
   a. Underutilized property
   b. Parking lot sits mostly empty during normal business hours
   c. Community Church uses a small portion of the property during only a small portion of the week

These blighting conditions limit the ability to re-tenant or redevelop the building for retail purposes.

The City Council made a blight determination by approving Resolution No. 60, Series 2014 on October 7, 2014. Council did not give direction at that time to begin preparation of an Urban Renewal Plan to address the blighting factors. The property owner, Centennial Valley and the tenants, Low Cost Furniture and Ascent Church, consented to the blight determination.

The City Council directed staff to prepare an Urban Renewal plan for the property on January 20, 2015.

A public meeting was held on July 6, 2015 to summarize the Urban Renewal Plan and answer questions from businesses and residents. Approximately 40 people attended. Staff gave a presentation of the Urban Renewal Plan and the reasons for it. Most of the questions from the audience related to what uses are currently allowed on the property, what uses would be allowed on the property, and the processes required to change the use of the property.

One step in the adoption of an Urban Renewal Plan is that the proposed plan must be submitted the City's Planning Commission for its review and recommendation as to its conformity to the City's Comprehensive Plan. The Planning Commission reviewed the Plan at its July 9, 2015 and approved its Resolution 23, Series 2015 finding the Urban Renewal Plan to be in conformity to the Comprehensive Plan.

In accordance with State of Colorado Statutes, the Urban Renewal Plan has also been sent to the Boulder County Commissioners and Boulder Valley School District, notices mailed to the property owners and businesses within the Plan area, and published in the Boulder Daily Camera on July 14, 2015.

DISCUSSION:

The blighting factors identified on the property continue to limit potential for redevelopment or re-tenanting the building. Staff has developed the attached Urban Renewal Plan to provide tools to address the blighting factors on the property.

The Urban Renewal Plan Boundary map is included in the attached Urban Renewal Plan as Figure 1. The boundaries of the Urban Renewal Area are the property lines for 550 South McCaslin Boulevard, the vacant Sam's Club property.

Per state law, an urban renewal plan is subject to City Council approval and must be in place for the Louisville Revitalization Commission to undertake any projects.

<u>Proposed 550 S. McCaslin Urban Renewal Plan</u>

The proposed Urban Renewal Plan is general in nature and supported by a conditions survey prepared in July 2014 (included as an attachment). Elements of the Plan include descriptions of the area, qualifying conditions of blight, redevelopment actions, and project financing.

If approved, the LRC, as an urban renewal authority whose members are approved by City Council, will implement Urban Renewal Plan.

Some specifics of this Urban Renewal Plan include the following:

1) Section 2.1, Qualifying Conditions – The Plan reiterates the 4 blighting factors found and adopted in City Council Resolution 60, Series 2014. Those factors have been described above. The property owner and tenants of 550 S. McCaslin have consented to the determination of blight on the property and to inclusion of the property in an urban renewal area and plan.

2) Section 2.3, Planning Commission Approval – The Plan has been reviewed by the Planning Commission as to its conformity with the Comprehensive Plan.

3) Section 2.4, Consultation – The Plan has been submitted to the County and the Boulder Valley School District. Such submittal was mailed by July 14, 2015.

4) Section 2.7.1 – One or more of the projects may require the use of eminent domain to acquire Property within the Plan Area as provided in this Plan. Such actions may be necessary to eliminate defective or unusual conditions of title rendering the title nonmarketable to prevent the spread of blight.

5) Section 3.1, The Plan as a Tool – The objectives for the Plan include the following:
    - Create a retail rich environment where area businesses and residents can be successful.
    - Re-tenant or redevelop the property.
    - Increase retail activity by encouraging occupancy of the property.

6) Section 3.2, Plan Conforms to the City of Louisville Comprehensive Plan - This Plan is intended to not only comply with the State statute, but also to conform to the desires of the Louisville community as embodied in the Louisville Comprehensive Plan ("Comprehensive Plan"). The Comprehensive Plan defines the area as the focal point for a regionally significant commercial activity center and shall remain the City's primary retail center that is supported by a mix of land uses including retail, office and residential.

7) Section 4.1, Redevelopment and Rehabilitation Actions – LRC is authorized to negotiate and enter into Redevelopment Agreements and Cooperation Agreements with landowners, developers, the City of Louisville, and investors regarding appropriate projects throughout the Plan Area which will generate increased sales and property tax revenues, and to enter into any other agreements authorized or permitted under the Urban Renewal Law or other law.

8) Section 4.2, Property Acquisition – The power of eminent domain as authorized by the Urban Renewal Law may be used to alleviate the qualifying conditions. Eminent domain authority is limited only to property within the Urban Renewal Area. Prior to use of eminent domain authority, the City Council must approve such use by a two-thirds affirmative vote.

9) Section 5.1, Tax Increment Financing – This Plan does **not** authorize use of tax increment financing pursuant to Section 31-25-107(9), C.R.S. The use of tax increment financing within the Plan Area can only be authorized by amendment to this Plan.

The Urban Renewal Plan does not include any proposed changes to existing zoning, development standards or review procedures, density, design guidelines or other land use plans or regulations. Rather, the proposed Urban Renewal Plan provides that it will follow and seek to implement the Comprehensive Plan and small area plans developed and adopted by Planning Commission and City Council.

The current zoning for 550 S. McCaslin Blvd. is PCZD – Commercial/Residential under the Centennial Valley Zoning. The Commercial component to the zoning applies to this property. The uses outlined in City Code for PCZD-Commercial are:

1. Any retail trade or service business;
2. Professional, business and administrative offices;
3. Motels and hotels;
4. Cultural facilities, such as museums, theaters, art galleries and churches;
5. Pedestrian plazas and pedestrian ways, including such amenities as outdoor art exhibit facilities, statuary, fountains and landscaping features;
6. Outdoor specialty uses, including sidewalk cafes and outdoor marketplaces to provide unique congregating places for sales and shopper interests;
7. Recreational facilities, both indoors and outdoors, such as ice skating and roller skating rinks which may be designed as integral parts of a center;
8. Restaurants, both indoor and drive-in types, food-to-go facilities, sidewalk cafes;
9. Hospitals and medical clinics;
10. Transportation terminals, parking lots and parking buildings;
11. Animal hospitals and clinics;
12. Automobile service stations, subject to prescribed performance and development standards;
13. Nursing and rest homes;
14. Small and large child care centers;
15. Financial offices, including banks and savings and loans;
16. Accessory structures and uses necessary and customarily incidental to the uses listed in this section;
17. Governmental and public facilities;
18. Research/office and corporate uses, and facilities for the manufacturing, fabrication, processing, or assembly of scientific or technical products, or other

products, if such uses are compatible with surrounding areas. In addition, such facilities shall be completely enclosed and any noise, smoke, dust, odor, or other environmental contamination produced by such facilities, confined to the lot upon which such facilities are located and controlled in accordance with all applicable city, state, or federal regulations;

19. Other uses as established by the city council as found to be specifically compatible for commercial and office planning areas.
20. Limited wholesale sales as defined in section 17.08.262 of this title are allowed as a special review use.
21. Retail marijuana stores and retail marijuana testing facilities.
22. Mobile retail food establishments, mobile food vehicles and mobile vending carts subject to prescribed performance and development standards outlined in section 17.16.310.

While the above describes the general menu of PCZD – Commercial uses under the zoning code, uses are further limited by the PCZD General Development Plan, which provides for a Commercial / Retail designation for the property. The uses on the property are also limited by private restrictive covenants among the commercial property owners bounded by McCaslin, Dillon, Cherry, and Dahlia streets. Those restrictions include:

- No general merchandise discount department store other than on Lot 2 (Sam's Club)
- No supermarkets other than on Lot 1.
  - Other lots can have less than 5,000 sf devoted to retail sale of food for off-premise consumption
- Only Lot 2 may have an optical center
- Pharmacy only on Lots 1 and 2
- No more than 2 banks, unless banking is incidental to the primary use
- Only one fuel station
- Only one drive-thru restaurant selling hamburgers or ground beef products
- Limited entertainment uses

At the time Centennial Valley purchased the property, the previous owner, Walmart, required an additional restriction limiting uses further to no stores selling a range of merchandise "at a discount" allowed, which is the use the site was originally developed.

Steps for Plan Implementation

Under the Urban Renewal Law, the City Council decides whether to approve an urban renewal plan for a proposed urban renewal area. If a plan is approved, the Urban Renewal Authority is then authorized to undertake projects to carry out the plan consistent with the Urban Renewal Law, the plan and any related agreement, including

in this case the City-LRC Cooperation Agreement. For a redevelopment project, the Authority, as an initial step, will develop and approve a project description.

Within the redevelopment context, among the powers authorized to the LRC are the powers to negotiate and enter into redevelopment agreements, acquire and dispose of property, provide for improvements to carry out the plan, and undertake other activities. Redevelopment agreements may include contractual provisions intended to carry out the community's objectives in adopting the plan. For example, a redevelopment agreement can establish land use restrictions and covenants; set timelines and deadlines for the commencement or completion of a project or project improvements; establish operating requirements for uses; establish arrangements for acquisition and disposition of property in the area, and detail financial agreements for project costs.

If the LRC decides to acquire and then dispose of property, either through eminent domain or voluntary agreement, City Council approval would be needed under the terms of the Urban Renewal Plan.

Under the Urban Renewal Law, an urban renewal authority is authorized to dispose of real property in an area to private persons only under reasonable competitive bidding procedures determined by the authority. Under these provisions, a request for proposals (RFP), for which public notice by publication is required, is used to solicit proposals for redevelopment from interested persons. The urban renewal authority then considers the redevelopment proposals received and may negotiate with any person for a redevelopment agreement that includes provisions for acquisition and transfer of property. Under these and related provisions, urban renewal authorities have the power to condemn property to remove blighting title conditions and then transfer the property subject to covenants, conditions and restrictions as are in the public interest or necessary to carry out the plan. As noted above, any redevelopment agreement of the LRC is subject to City Council approval.

In sum, if the LRC chooses to pursue a project under which it would acquire and then re-convey the property, typical steps would include development and approval of a project description, issuance of an RFP to solicit proposals for redevelopment, negotiations for a redevelopment agreement, submission of the proposed redevelopment agreement to City Council, and thereafter steps to carry out the redevelopment agreement. Any exercise of eminent domain would require City Council consent; if the LRC is to acquire property and then transfer it to a private party, it must have the fee owner's consent or follow other detailed requirements.

<u>City / LRC Cooperation Agreement</u>
The City and LRC are parties to a Cooperation Agreement which provides for City Council oversight and cooperation among the parties concerning activities of the LRC. The City and LRC first entered into a Cooperation Agreement in 2006. A copy of the current Cooperation Agreement is attached. The Cooperation Agreement applies to

activities of the LRC generally, but was first entered into in conjunction with the adoption of the Highway 42 Urban Renewal Plan and some provisions are tied to provisions of that plan. Therefore, staff proposes amendments to the current Cooperation Agreement, as follows:

1) Section 5.c and 5.d would be revised to confirm City Council approval is required for any redevelopment agreement or for any sales tax TIF under any urban renewal plan. The current language is tied to the Highway 42 Plan.

2) Section 10 would be revised to clarify that provisions of the section—regarding continuing cooperation— apply to any urban renewal plan approved by City Council.

3) Section 16 would be amended to reflect that organizational documents (LRC Bylaws) have been revised; the Mayor is a member of the LRC.

4) Section 4.a would be revised to update the Costs and Expenses balance.

Attached is a revised Cooperation Agreement proposed for Council approval. The attachment shows changes to the current Cooperation Agreement in redline format.

Options

The following are options/actions/routes that City Council has available to address the continued vacancy at 550 S. McCaslin.

1) Encourage a retail use by addressing the blighting factors present on the property through the Urban Renewal Plan.
2) Consider a rezoning of the property to allow for a wider range of uses beyond what is currently allowed. Under the City Code, rezonings can be initiated by the owner or the Planning Commission or City Council. While a rezoning is identified here as an option for the site, rezonings are subject to separate public hearing procedures and City Council should not discuss the substance or merits of a rezoning as part of this urban renewal plan agenda item.
3) Continue to encourage private parties to independently identify a use for the existing building that meets the zoning and private restrictive covenants, either in their current form or though covenant changes agreed on by the private owners.

RECOMMENDATION:

City Council conduct a public hearing on the proposed 550 South McCaslin Urban Renewal Plan. Staff recommends Resolution No. 58, Series 2015, approving the Urban Renewal Plan. Staff recommends Resolution No. 59, Series 2015 approving an Amended and Restated City-LRC Cooperation Agreement.

ATTACHMENT(S):

1. Presentation
2. Planning Commission Resolution
3. Resolution Approving 550 South McCaslin Urban Renewal Plan
4. 550 South McCaslin Urban Renewal Plan
5. 550 South McCaslin Conditions Survey
6. Resolution Approving Amended and Restated Cooperation Agreement
7. Amended and Restated Cooperation Agreement between City and LRC
8. Public Notices, Referral Letters, Corporate Letters
9. January 6, 2014 Letter to Centennial Valley Investments
10. August 24, 2012 Letter to Walmart Realty
11. August 27, 2015 Letter from Jon Bergman to Sam Light

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550 S. McCaslin Urban Renewal Plan and Cooperation Agreement Amendment

Aaron DeJong

September 1, 2015

Two Action Items

- Resolution approving an Urban Renewal Plan for 550 S. McCaslin Blvd, the former Sam's Club Property
- Resolution approving amendments to the Cooperation Agreement between the City and the Louisville Revitalization Commission (LRC)

Supplemental Information

Council Questions from August 18, 2015

- Changes made to UR Plan to clarify intent of the Plan
  - Changes to Section 1.1 and 2.7.2
- Centennial Valley has not asked Albertson's to remove their restriction
  - Offers have been made for the property
  - Latest offer has not received a response

Supplemental Information

- January 6, 2014 to Centennial Valley Inv.
  - States worked with Walmart to set a realistic price and reconsider restrictions.
  - Highlights the issues upon the property, including restrictive covenants
  - Staff willing to recommend actions to alleviate the issues on the property
  - States "any decision to approve, decline, or request changes to any proposed economic development agreement is at the discretion of City Council."

Actions To Date

- Council directed a Conditions Survey in May 2014
- Conditions Survey completed in July 2014
- Council determined the property blighted October 2014
  - Resolution 60 Series 2014
- Council directed UR Plan preparation January 2015

Actions To Date

- LRC reviewed draft UR Plan June 2015
- Public Q & A meeting July 6, 2015
- Planning Commission reviewed draft UR Plan July 9, 2015
  - Approved Resolution 23, Series 2015 finding the UR Plan in conformity to the Comp. Plan
- Notices sent to Property Owner and businesses, County, BVSD and posted in Daily Camera July 14, 2015

UR Plan Objectives

The objectives for the Plan include:

- Create a retail rich environment where area businesses and residents can be successful
- Re-tenant or redevelop the Property
- Increase retail activity by encouraging occupancy of the Property

UR Plan: Conformity with Comp Plan

The Comprehensive Plan states the McCaslin Urban Center shall:

- Serve as the focal point for a regionally significant commercial activity center
- Remain the City's primary retailing center that is supported by a mix of land uses including retail, office and residential

Planning Commission reviewed UR Plan and found it to be in conformity with the Comp Plan

550 S. McCaslin UR Plan

- Sam's Club closed January 2010
  - 13 acre property
  - 128,000 sf building sitting mostly vacant
- New owner as of January 2014
- Several concerns arise from the vacancy:
  - Reduces the viability of adjacent properties
  - Could contribute to neighborhood decline
  - Weakens the McCaslin Corridor

Plan Area

Blight Factors

- Blight finding identified the following factors present:
  1. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements
  2. Defective or unusual conditions of title rendering the title non-marketable
  3. Faulty Lot Layout
  4. Deterioration of site or other improvements

Blight Factors

1. Substantial Physical Underutilization or Vacancy of Buildings or Sites
   - Underutilized property
   - Parking lot sits mostly empty during normal business hours
   - Community Church uses property during only a small portion of the week
   - High profile location at gateway into Louisville from US 36
   - One of the main anchor retail properties in shopping area

Blight Factors

2. Defective or unusual conditions of title rendering the title non-marketable
   - Developed in 1990s as part of a retail center
   - Restrictive covenants put in place at time of development to limit competition between tenants and sharply limit entertainment uses
   - Limits several uses

Blight Factors

- Restrictive Covenants
  - No general merchandise discount department store other than on Lot 2
  - No supermarkets other than on Lot 1.
    - Other lots can have less than 5,000 sf devoted to retail sale of food for off-premise consumption
  - Only Lot 2 may have an optical center
  - Pharmacy only on Lots 1 and 2
  - No more than 2 banks, unless banking is incidental to the primary use
  - Only one fuel station
  - Only one drive-thru restaurant selling hamburgers or ground beef products

Blight Factors

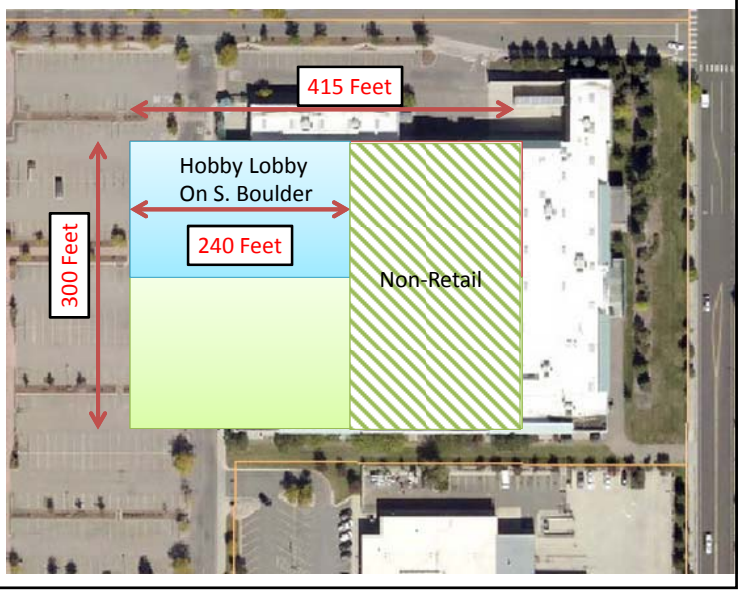
- Restrictive Covenants
  - More broad restrictions put in place during sale from Sam's Club to current owners after the store closed (owner can buy out restriction)
  - No stores selling a range of merchandise "at a discount" allowed, the use for which the site was originally developed
  - Viable tenants who would fully utilize the property would likely be prevented from doing so

Blight Factors

3. Faulty Lot Layout
   - Lot configuration results in former Sam's Club building being narrow and deep with respect to the front entrance, rather than shallow and wide
   - Building orientation makes it difficult to partition effectively; resulting spaces would be too narrow and deep for adequate retail layout
   - Other non-retail uses that might be compatible with a deep, narrow layout are prohibited

Blight Factors

Faulty Lot Layout



Blight Factors

4. Deterioration of Site and Other Improvements
   - Facility is 127,000 square feet with a 600+ car parking lot, requiring significant upkeep expenses
   - Currently only used during a small portion of the time by a community church, which does not generate the revenue needed for full maintenance
   - Potholes, cracked parking curbs, and other signs of lower maintenance levels are evident

Blight Factors

- Blighting factors continue to limit potential for redevelopment or re-tenanting the building
- The Urban Renewal Plan outlines the tools available to address the blighting factors
- Approving a plan must follow rules in State Statute
  - Planning Commission review as to its conformity with the Comp Plan

Power of Eminent Domain

Plan Authorizes LRC to use eminent domain…

- Only as authorized by the Urban Renewal Law to alleviate qualifying conditions
- Only for property within the Urban Renewal Area
- Only after affirmative 2/3rds vote by City Council

Redevelopment Agreements

- LRC is authorized to negotiate and enter into Redevelopment Agreements and Cooperation Agreements
  - LRC to develop a process to evaluate Redevelopment Agreements

UR Plan Tools for LRC

- **Develop and approve a project description**
- **Issue RFP to solicit proposals for redevelopment** Such proposals could come from any interested parties including the property owner, interested retailers and/or developers
- **Negotiate a proposed redevelopment agreement and submit the proposed redevelopment agreement to City Council for approval**
- **If approved by City Council, execute the redevelopment agreement**

Elements of an RFP

An RFP would ask for proposals specifying:

- Improvements planned for the site
- Proposed uses and activities
- Time frames for completing the proposed redevelopment actions
- Requested City financial assistance, if any, such as sales tax rebates
- How costs (including potential legal costs) would be financed

UR Plan Does Not…

- This Plan does **not** authorize use of tax increment financing pursuant to Section 31-25-107(9), C.R.S.
  - The use of tax increment financing within the Plan Area can only be authorized by amendment to this Plan.
- This Plan does **not** change the allowed uses of the property or approve any redevelopment plans.
  - Change of use and redevelopments must go through the City's approval processes.

Options to address continued vacancy at 550 S. McCaslin

1. Continue to encourage property owners to resolve issues

- Expect private parties to identify a use for the existing building that:
  - Complies with existing zoning
  - Satisfies the private restrictive covenants, either in their current form or though covenant changes agreed on by the private owners

2. Consider rezoning the property to allow for a wider range of uses beyond what is currently allowed
   - Rezonings may be initiated by the Owner, Planning Commission, or City Council
   - Rezonings are subject to separate public hearing procedures and would be a quasi-judicial action; Council should not discuss the substance or merits of a rezoning as part of this agenda item

Options to address continued vacancy at 550 S. McCaslin

3. Encourage a retail use by addressing the blighting factors through an Urban Renewal Plan
   - **LRC would develop and approve a project description**
   - **Issue RFP to solicit proposals for redevelopment** Such proposals could come from any interested parties including the property owner, interested retailers and/or developers
   - **Negotiate a proposed redevelopment agreement. Submit the proposed redevelopment agreement to City Council for approval**
   - **If approved by City Council, execute the redevelopment agreement**

Cooperation Agreement

- City and LRC have an agreement first approved in 2006.
  - Amended in 2011
- Proposed changes to reflect multiple UR Plan areas in the City
  1. Section 5.c and 5.d to confirm City Council approval of redevelopment agreements
  2. Section 10 to clarify any UR Plan Area is covered by the Agreement
  3. Section 16 to reflect LRC's bylaws have been revised
  4. Section 4.a revised to update Costs and Expenses balance
     - Small amount of expenses not paid at end of 2014. Paid in early 2015.

550 S. McCaslin UR Plan

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Actions Requested

RESOLUTION Approving the 550 S. McCaslin Urban Renewal Area

AND

RESOLUTION Approving an Amended And Restated Cooperation Agreement between the City and LRC

RESOLUTION NO. 26
SERIES 2015

A RESOLUTION FINDING THE 550 S. MCCASLIN URBAN RENEWAL PLAN TO BE IN CONFORMITY WITH THE COMPREHENSIVE PLAN AND RECOMMENDING APPROVAL OF SAID URBAN RENEWAL PLAN

WHEREAS, pursuant to Colorado Revised Statutes Section 31-25-107(2), there has been submitted to the Louisville Planning Commission the proposed 550 S. McCaslin Urban Renewal Plan, dated August 2015 (the Plan), for the Commission's review and recommendations as to the Plan's conformity with the City Comprehensive Plan; and

WHEREAS, the Louisville Planning Commission has held a public meeting to discuss the conformity of the Plan with the City Comprehensive Plan, has provided public notice of such meeting by posting and publication, and has received public comment on the Plan; and

WHEREAS, based on its review of the Plan and the other documents and comments presented to it at said meeting, the Louisville Planning Commission hereby finds:

(a) That the Plan is in conformity with the City of Louisville Comprehensive Plan;

(b) That, in particular, the Plan does not seek to amend or alter the Comprehensive Plan, but rather supports, implements, and will further the Comprehensive Plan; and

(c) That, in particular, the Plan is in conformance with the goals, principles and policies of the Comprehensive Plan;

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Louisville, Colorado, that based on the foregoing findings, and pursuant to C.R.S. Section 31-25-107(2), the Planning Commission of the City of Louisville, Colorado does hereby find that the proposed 550 S. McCaslin Urban Renewal Plan, dated August 2006 (the Plan), is in conformity with the City of Louisville Comprehensive Plan and does hereby recommend City Council approve such Plan.

PASSED AND ADOPTED this 9th day of July 2015.

By: Chris Pritchard
Chris Pritchard, Chair
Planning Commission

ATTEST:

Ann O'Connell

Ann O'Connell, Secretary
Planning Commission

RESOLUTION NO. 58
SERIES 2015

A RESOLUTION APPROVING THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS PURSUANT TO THE 550 SOUTH MCCASLIN URBAN RENEWAL PLAN, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF LOUISVILLE

WHEREAS, the Louisville Revitalization Commission (the "LRC") is a public body corporate and politic, and has been duly created, organized, established and authorized by the City of Louisville, Colorado (the "City") to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting part 1 of article 25 of title 31, Colorado Revised Statutes, as amended (the "Law"); and

WHEREAS, the City of Louisville (the "City") previously contracted with Urban Revitalization Consulting to survey and document whether conditions that constitute a blighted area, as defined in the Law, exist in the City of Louisville; and

WHEREAS, said consultants prepared a Conditions Survey, entitled 550 South McCaslin Boulevard Conditions Survey (the "Conditions Survey") dated July 2014 consisting of 31 pages, a map of the area provided on page 15, and including a description of existing conditions and photographs; and

WHEREAS, the City Council on October 7, 2014 held a public hearing for the purpose of review and consideration of the Conditions Survey, at which time the Conditions Survey and other evidence and testimony were presented to City Council; and

WHEREAS, upon consideration of the Conditions Survey and the other evidence and testimony presented to City Council, the City Council on October 7, 2014 adopted its Resolution No. 60, Series 2014 finding that the following area qualifies as a blighted area as defined in the Law: Lot 2, Centennial Valley Parcel 0, Filing No. 7, County of Boulder, State of Colorado, with an address of 550 South McCaslin Boulevard, Louisville, Colorado; and

WHEREAS, by its Resolution No. 60, Series 2015, the City Council found such described area to be a blighted area as defined in the Law and appropriate for inclusion in an urban renewal project pursuant to the Law; and

WHEREAS, there has been prepared for such area a proposed 550 South McCaslin Urban Renewal Plan; and

WHEREAS, a legal description of the 550 South McCaslin Urban Renewal Plan Area which is subject to the 550 South McCaslin Urban Renewal Plan is attached as Exhibit A to this Resolution and as Exhibit A to the proposed 550 South McCaslin Urban Renewal Plan; and

WHEREAS, the City Council of the City of Louisville has adopted the 2013 Louisville Comprehensive Plan, which is the general plan for the development of the City of Louisville; and

WHEREAS, the 550 South McCaslin Urban Renewal Plan has previously been submitted to the Louisville Planning Commission for its review and recommendations as to conformity with the 2013 Louisville Comprehensive Plan pursuant to C.R.S. §31-25-107(2); and

WHEREAS, the Louisville Planning Commission has determined that the 550 South McCaslin Urban Renewal Plan does conform to the 2013 Louisville Comprehensive Plan and recommended approval of the 550 South McCaslin Urban Renewal Plan by adoption of its Resolution No. 23, Series 2015; and

WHEREAS, no property in the 550 South McCaslin Urban Renewal Plan has been included in an urban renewal plan previously submitted to the City Council of the City of Louisville; and

WHEREAS, the City Clerk of the City of Louisville has published the notice of the time, place, and purpose of the public hearing to consider the adopting of the 550 South McCaslin Urban Renewal Plan in the Daily Camera in conformance with C.R.S. §31-25-107(3); and

WHEREAS, the City of Louisville has provided written notice of the public hearing to consider the adoption of this 550 South McCaslin Urban Renewal Plan to all property owners, residents, and business owners within the 550 South McCaslin Urban Renewal Plan Area at their last known addresses in conformance with C.R.S. §31-25-107(4)(c); and

WHEREAS, the Boulder County Commissioners were provided notification of and a copy of the 550 South McCaslin Urban Renewal Plan as required by C.R.S. §31-25-107(3.5)(a); and

WHEREAS, the Boulder Valley School District was provided notification of and a copy of the 550 South McCaslin Urban Renewal Plan, notwithstanding that the 550 South McCaslin Urban Renewal Plan Area includes no single- or multi-family residences; and

WHEREAS, the City Council of the City of Louisville has conducted a public hearing and considered the public testimony received.

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

1. The foregoing recitals are incorporated in and made a part of this Resolution.

2. As found and declared by City Council Resolution No. 60, Series 2014, blight, as defined by C.R.S. §31-25-103(2), is present in the 550 South McCaslin Urban Renewal Plan Area. The following blight factors are present said Area: Faulty lot layout in relation to size, adequacy, accessibility, or usefulness; deterioration of site or other improvements; defective or unusual conditions of title rendering the title nonmarketable: and the existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

3. As found and declared by City Council Resolution No. 60, Series 2014, the 550 South McCaslin Urban Renewal Plan Area is a blighted area and is appropriate for an urban renewal project pursuant to Part 1 of Article 25 of Title 31, C.R.S.

4. The 550 South McCaslin Urban Renewal Plan satisfies applicable requirements of C.R.S. §31-25-105.5.

5. The principal purpose for the adoption of the 550 South McCaslin Urban Renewal Plan is to facilitate redevelopment in order to eliminate or prevent the spread of blight.

6. The boundaries of the 550 South McCaslin Urban Renewal Plan Area have been drawn as narrowly as feasible to accomplish the planning and development objectives for the 550 South McCaslin Urban Renewal Plan.

7. To the extent that the 550 South McCaslin Urban Renewal Area includes open land within the meaning of Section 31-25-107(6) of the Act, and to the extent such Section is otherwise applicable, it is found and determined that the nonresidential uses under the 550 South McCaslin Urban Renewal Plan are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives and to carry out the 550 South McCaslin Urban Renewal Plan. The acquisition of property within the 550 South McCaslin Urban Renewal Area may require the exercise of governmental action, as provided in the Act, because of the presence of conditions of blight.

8. The 550 South McCaslin Urban Renewal Plan conforms to the 2013 Louisville Comprehensive Plan, which is the general plan for the development of the City of Louisville.

9. Written notice of the public hearing to consider the adoption of this 550 South McCaslin Urban Renewal Plan has been provided to all property owners, residents, and business owners within the 550 South McCaslin Urban Renewal Plan Area at their last known addresses in conformance with C.R.S. §31-25-107(4)(c).

10. The public hearing to consider the approval of the 550 South McCaslin Urban Renewal Plan was commenced on August 18, 2015. No more than one hundred twenty days have passed since the commencement of the public hearing on the Plan.

11. The 550 South McCaslin Urban Renewal Plan does not include any area previously considered for inclusion in an urban renewal area in the previous twenty-four months.

12. There exist feasible methods for the relocation of individuals, families and business concerns in accommodations or areas suitable for their relocation as provided by C.R.S. §31-25-107(4)(a) & (b).

13. The 550 South McCaslin Urban Renewal Plan will afford maximum opportunity, consistent with the sound needs of the City of Louisville as a whole for the rehabilitation or redevelopment of the 550 South McCaslin Urban Renewal Plan Area by private enterprise.

14. The acquisition, clearance, rehabilitation, conservation, development or redevelopment of a combination thereof of the 550 South McCaslin Urban Renewal Plan Area pursuant to the 550 South McCaslin Urban Renewal Plan is necessary in the best interests of the public health, safety, morals, and welfare of the citizens of the City of Louisville.

15. The acquisition of any property by the exercise of the power of eminent domain shall be subject to approval of the City Council pursuant to the provision of the Plan.

16. The Plan does not contain any agricultural land.

17. The 500 South McCaslin Urban Renewal Plan satisfies applicable requirement of the Law.

18. The 550 South McCaslin Urban Renewal Plan is hereby approved.

PASSED AND ADOPTED this ____ day of _____, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra
City Clerk

EXHIBIT A

LEGAL DESCRIPTION
550 SOUTH MCCASLIN URBAN RENEWAL PLAN AREA

Lot 2, Centennial Valley Parcel O, Filing No. 7, County of Boulder, State of Colorado with an address of 550 South McCaslin Boulevard, Louisville, Colorado.

550 SOUTH MCCASLIN
URBAN RENEWAL PLAN

AUGUST 2015

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550 SOUTH MCCASLIN URBAN RENEWAL PLAN

AUGUST 2015

I. INTRODUCTION

1.1 Preface

This 550 South McCaslin Urban Renewal Plan ("Plan") has been prepared for adoption by the City Council of the City of Louisville pursuant to provisions of the Urban Renewal Law of the State of Colorado, Article 25 of Title 31, Colorado Revised Statutes ("Urban Renewal Law"). This Plan is prepared and adopted to satisfy the requirements of § 31-25-107(1), C.R.S. that an urban renewal plan must be adopted by the governing body of the municipality before an urban renewal authority undertakes an urban renewal project. The administration of this project and the enforcement and execution of this Plan are activities performed by the Louisville Revitalization Commission ("LRC").

1.2 Background

The property located at 550 South McCaslin Boulevard ("Property") encompasses approximately 13.16 acres in the McCaslin Boulevard area of Louisville and was formerly occupied by a Sam's Club facility, but has remained vacant since the store's closing in early 2010. The closing has caused significant declines to the retail activity in and around the area. The building is 127,000 square feet in size and cannot be divided into smaller spaces without significant expense. Private restrictive covenants placed on the Property prevent many of the most viable potential reuses of the current building. The Property has a lack of full maintenance creating an impression the area is deteriorating. The McCaslin Boulevard area is the main retail sales tax generating area within Louisville and the minimal use of the Property is lessening the retail viability of the area.

The City of Louisville Comprehensive Plan ("Comprehensive Plan"), adopted by the City Council on May 7, 2013, specifically describes the goals and policies for development within the City. The Comprehensive Plan defines the area as the focal point for a regionally significant commercial activity center and shall remain the City's primary retail center that is supported by a mix of land uses including office and residential.

The City is undertaking a small area planning process that will identify desired uses and development objectives which will encourage new private redevelopment. This Urban Renewal Plan is intended to provide additional tools to support the re-tenanting or redevelopment of the Property and advance the goals for the McCaslin Boulevard area in the Comprehensive Plan and small area plan.

1.3 Definitions

Cooperation Agreement: Any agreement between LRC and the City of Louisville or any other public body regarding action taken pursuant to any of the powers set forth in the Urban Renewal Law, or in any other provision of Colorado law, for the purpose of facilitating public undertakings deemed necessary or appropriate by LRC under this Plan.

Plan: This Urban Renewal Plan as it may be modified from time to time.

Plan Area: The area described in Section 2.6 of this Plan, and depicted on Figure 1, which has been found to be blighted by the Louisville City Council by Resolution No. 60, Series 2014 and for which the undertaking of urban renewal projects is declared to be necessary.

Redevelopment Agreement: An agreement between LRC and a developer or developers regarding the re-tenanting, redevelopment or rehabilitation of property within the Plan Area.

2. LEGISLATIVE FINDINGS

2.1 Qualifying Conditions

Based on the 550 South McCaslin Boulevard Conditions Survey prepared by Urban Revitalization Consulting, dated July, 2014, and evidence presented at the public hearing, the City Council on October 7, 2014 adopted its Resolution No. 60, Series 2014 finding that there exists blight, as defined by § 31-25-103(2), C.R.S., in the Plan Area.

The 550 South McCaslin Boulevard Conditions Survey found blight conditions are prevalent throughout the area. The conditions found to exist include:

a) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

b) Deterioration of site or other improvements;

c) Defective or unusual conditions of title rendering the title nonmarketable;

d) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

By letters dated September 24, 2014, the property owner and tenants of such owner have stated that they do not object to the inclusion of the Property in an urban renewal area or adesignation of blight.

The City Council finds that the presence of these factors substantially impairs or arrests the sound growth of the City of Louisville, constitutes an economic and social liability, and is a menace to the public health, safety, morals and welfare of the City of Louisville.

2.2 Projects

The Plan Area is appropriate for one or more urban renewal projects and other undertakings of the LRC as authorized by the Urban Renewal Law.

2.3 Planning Approval

A general plan for the City of Louisville, known as the City of Louisville Comprehensive Plan ("Comprehensive Plan"), has been adopted by the City Council. This Urban Renewal Plan has been submitted to the Planning Commission of the City of Louisville for review and recommendations as to its conformity with the Comprehensive Plan. The City Planning Commission met on July 9, 2015, and has submitted its written recommendations regarding the conformity of this Plan to the City of Louisville Comprehensive Plan to the City Council.

2.4 Consultation

As required by C.R.S. 31-25-107(3.5), this Plan has been submitted to the Board of County Commissioners of Boulder County. The Boulder Valley School District RE-2 has been advised of this Plan and has been given an opportunity to provide comments.

2.5 Public Hearing

The City Council of the City of Louisville has held a public hearing to consider this Plan after public notice thereof published in compliance with the Urban Renewal Law in the ***Daily Camera***, describing the time, date, and purpose of the public hearing, identifying the Plan Area and outlining the general scope of the projects being considered for implementation pursuant to this Plan. Notice of the public hearing was provided to owners, residents, and business owners in the Plan Area at their last known address at least 30 days before the date of the public hearing.

2.6 Boundaries of the Plan Area

The boundaries of the Plan Area shall be as set forth in Figure 1 attached hereto, with a legal description as follows:

Lot 2, Centennial Valley Parcel O, Filing No. 7, County of Boulder, State of Colorado with an address of 550 South McCaslin Boulevard, Louisville, Colorado.

The City Council finds that the boundaries of the Plan Area have been drawn as narrowly as feasible to accomplish the planning and development objectives of this Plan.

2.7 Other Findings

2.7.1 One or more of the projects may require the use of eminent domain to acquire Property within the Plan Area as provided in this Plan. Such actions may be necessary to eliminate defective or unusual conditions of title rendering the title nonmarketable to prevent the spread of deterioration.

2.7.2 In order to eliminate or reduce the qualifying conditions currently existing within the Plan Area, as well as those qualifying conditions which may be reasonably anticipated to develop within the Plan Area in the absence of public action, it is the intent of the City Council in adopting this Plan that LRC shall have the authority to exercise powers herein authorized to be exercised by LRC under the Urban Renewal Law and which are necessary, convenient or appropriate to accomplish the objectives of this Plan. It is the intent of this Plan that LRC shall have the authority to exercise all such powers as may now be possessed or hereafter granted to LRC for the elimination of qualifying conditions within the Plan Area. Any exercise of such powers shall be in accordance with the Urban Renewal Law and the provisions of this Plan and applicable Cooperation Agreements.

2.7.3 If it becomes necessary for individuals, families or businesses to relocate as a result of the implementation of this Plan, a feasible method exists for the relocation of individuals, families, and business concerns that may be displaced, insuring that decent, safe and sanitary dwelling accommodations and business locations can be made.

2.7.4 The powers conferred by the Urban Renewal Law are for public uses and purposes for which public money may be expended and the police powers exercised, and this Plan is in the public interest and necessity, such finding being a matter of legislative determination by the City Council.

The owner and tenants within the Property have consented to the inclusion of the Property within this Plan.

3. DESCRIPTION OF PLAN OBJECTIVES

3.1 The Plan as a Tool.

This Plan is an important tool to address the problems confronting the Property. The objectives for the Plan include the following:

- Create a retail rich environment where area businesses and residents can be successful.
- Re-tenant or redevelop the Property.
- Increase retail activity by encouraging occupancy of the Property.

3.2 Plan Conforms to the City of Louisville Comprehensive Plan.

This Plan is intended to not only comply with the state statute, but also to conform to the desires of the citizens of the Louisville community as embodied in the City of Louisville Comprehensive Plan ("Comprehensive Plan"). The Comprehensive Plan defines the area as the focal point for a regionally significant commercial activity center and shall remain

the City's primary retail center that is supported by a mix of land uses including office and residential.

3.3 Plan to Alleviate Conditions of Blight Through Private Redevelopment.

The objective of this Plan is to alleviate the conditions of blight by encouraging private redevelopment that will in turn encourage the development and redevelopment and avoid underutilization of other properties in the vicinity.

4. PLAN IMPLEMENTATION

In order to accomplish the objectives of this Plan and to fully implement this Plan, LRC shall be authorized to undertake the following activities:

4.1 Redevelopment and Rehabilitation Actions

Redevelopment and rehabilitation actions within the Plan Area may include such undertakings and activities as are in accordance with this Plan and the Urban Renewal Law, including without limitation: demolition and removal of buildings and improvements as set forth herein; installation, construction and reconstruction of public improvements as set forth herein; elimination of unhealthful, unsanitary or unsafe conditions; taking actions to remove restrictive covenants that might otherwise contribute to the property remaining vacant and/or underutilized; elimination of obsolete or other uses detrimental to the public welfare; and other actions to remove or to prevent the spread of deterioration. LRC is authorized to negotiate and enter into Redevelopment Agreements and Cooperation Agreements with landowners, developers, the City of Louisville, and investors regarding appropriate projects throughout the Plan Area which will generate increased sales and property tax revenues, and to enter into any other agreements authorized or permitted under the Urban Renewal Law or other law. Notwithstanding any language that could be construed to the contrary in § 31-25-107(8), all development in the Plan Area shall be processed in accordance with the ordinances and rules and regulations in place at the time of the application for said project, including, without limitation, the provisions of the Louisville Municipal Code.

4.2 Property Acquisition

The principal purpose of this Plan is the re-tenanting or redevelopment of the Property within the Plan Area. The power of eminent domain as authorized by the Urban Renewal Law may be utilized to alleviate the qualifying conditions specified in Section 2 of this Plan as provided in the Urban Renewal Law.

4.2.1 The LRC through purchase or eminent domain or by any method authorized by the Act and the Urban Renewal Plan may acquire property. Any proposal to acquire property under the power of eminent domain must first be approved by the affirmative vote of two-thirds of the entire Louisville City Council. The LRC may temporarily operate, manage and maintain property acquired in the Urban Renewal Area. Any such property acquired shall be

under the management and control of the LRC and may be rented or leased pending its disposition for redevelopment.

4.3 Relocation Assistance and Payments

In the event it is necessary to relocate or displace any business or other commercial establishments as a result of any property acquisition, LRC may adopt relocation policies for payment of relocation expenses. Such expenses may include moving expenses, actual direct losses of property for business concerns, and goodwill and lost profits that are reasonably related to relocation of the business, resulting from its displacement for which reimbursement or compensation is not otherwise made.

4.4 Public Improvements and Facilities

LRC may undertake certain actions which would make the Plan Area more attractive for private investment by providing public improvements consistent with the Comprehensive Plan or McCaslin small area plan. These improvements could include, without limitation, street and traffic improvements, streetscape improvements, a transportation center, landscaping, park and recreation facilities, utility improvements, open space acquisition, stormwater improvements, public art projects, and other similar improvements necessary to carry out the objectives of the Comprehensive Plan or McCaslin small area plan.

4.5 Redevelopment Agreements

LRC is authorized to enter into one or more Redevelopment Agreements with developer(s) and such other entities as are determined by LRC to be necessary or desirable by LRC to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by LRC for the purpose of undertaking the activities contemplated by this Plan or the Urban Renewal Law, and may further provide for such undertakings by LRC, as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Urban Renewal Law.

4.6 Interagency Cooperation

LRC may enter into one or more Cooperation Agreements with the City of Louisville or other public bodies pursuant to the Urban Renewal Law. Cooperation Agreements may provide, without limitation, for financing, for construction of public improvements, for administration, for technical assistance and for other purposes.

5. PROJECT FINANCING

5.1 No Tax Increment Financing

This Plan does not authorize use of tax increment financing pursuant to Section 31-25-107(9), C.R.S. The use of tax increment financing within the Plan Area can only be authorized by amendment to this Plan.

5.2 Participating Interest in Projects

In the event a project derives particular and unique benefits from public improvements financed by the LRC, the public should share in the success of the project. The terms of the participating interest will be specified in the Redevelopment Agreement at a level and on terms appropriate for each project.

6. MODIFICATIONS TO THIS PLAN

6.1 Plan May Be Amended or Modified

This Plan may be amended or modified pursuant to provision of the Urban Renewal Law as provided in § 31-25-107, C.R.S. Major modifications to this Plan will require appropriate notification in accordance with the Urban Renewal Law, including submission to the Board of County Commissioners of Boulder County and written notice provided to all property owners, residents, and owners of businesses in the Plan Area not less than 30 days prior to the consideration of an substantial modification.

FIGURE 1
MAP OF PLAN AREA

550 South McCaslin Boulevard Conditions Survey

July 2014

City of Louisville, Colorado

Urban Revitalization Consulting

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Section 1: Survey Overview

Purpose

In order to maximize the potential for remedying conditions of blight and encourage reinvestment, the City of Louisville, Colorado has commissioned an independent conditions survey for a large commercial property located at 550 S McCaslin Boulevard, Louisville, Colorado, 80027.

This property was formerly occupied by a Sam's Club facility, but has remained vacant since the store's closing early in 2010, despite ongoing efforts to market the property to another tenant.

This survey will determine if the geographic area chosen for this project qualifies as "blighted" within the meaning of the Colorado Urban Renewal Law, and consequently, if there is a sufficient basis to adopt a new urban renewal plan that can more effectively stimulate focused redevelopment in this area.

Methodology

The defined geographic area ("Survey Area") examined in this conditions inventory was determined by the City of Louisville, and lies entirely within Louisville's municipal boundaries. A map depicting the boundaries of the Survey Area is presented in **Section 4** of this report as **Exhibit 2: Survey Area Map**.

Data collection for conditions of blight (see **Sections 2** and **3** for what constitutes conditions of blight) was accomplished through several means. For those blight conditions that could be identified by visual observation and by the use of maps and aerial photography, the consultant conducted a field survey in June 2014. For those blight conditions that are not observable in the field (such as traffic data, crime statistics, etc.), blight condition data was obtained from specific City of Louisville departments during the same time period.

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Section 2: Colorado Urban Renewal Statutes and Blighted Areas

In the Colorado Urban Renewal Law, Colo. Rev. Stat. § 31-25-101 et seq. (the "Urban Renewal Law"), the legislature has declared that an area of blight "constitutes a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state in general and municipalities thereof; that the existence of such areas contributes substantially to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of public policy and statewide concern…."

Under the Urban Renewal Law, the term "blighted area" describes an area with an array of urban problems, including health and social deficiencies, and physical deterioration. See Colo. Rev. Stat. § 31-25-103(2). Before remedial action can be taken, however, the Urban Renewal Law requires a finding by the appropriate governing body that an area such as the Survey Area constitutes a blighted area. Colo. Rev. Stat. §31-25-107(1).

The blight finding is a legislative determination by the municipality's governing body that, as a result of the presence of factors enumerated in the definition of "blighted area," the area is a detriment to the health and vitality of the community requiring the use of the municipality's urban renewal powers to correct those conditions or prevent their spread. In some cases, the factors enumerated in the definition are symptoms of decay, and in some instances, these factors are the cause of the problems. The definition requires the governing body to examine the factors and determine whether these factors indicate a deterioration that threatens the community as a whole.

For purposes of the Survey, the definition of a blighted area is articulated in the Colorado Urban Renewal statute as follows:

*"'Blighted area'" means an area that, in its present condition and use and, by reason of the presence of at least **four** of the following factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare:*

a. Slum, deteriorated, or deteriorating structures;
b. Predominance of defective or inadequate street layout;
c. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
d. Unsanitary or unsafe conditions;
e. Deterioration of site or other improvements;
f. Unusual topography or inadequate public improvements or utilities;
g. Defective or unusual conditions of title rendering the title non-marketable;
h. The existence of conditions that endanger life or property by fire or other causes;
i. Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;
j. Environmental contamination of buildings or property; or
k.5. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements"

In addition, paragraph (l.) states, *"if there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, 'blighted area' also means an area that, in its present condition and use and, by reason of the presence of any **one** of the factors specified in paragraphs (a) to (k.5) of this subsection…."*

The statute also states a separate requirement for the number of blight factors that must be present if private property is to be acquired by eminent domain. At § 31-25-105.5(5), paragraph (a.) states, *"'Blighted area' shall have the same meaning as set forth in section 31-25-103 (2); except that, for purposes of this section only, 'blighted area' means an area that, in its present condition and use and, by reason of the presence of at least **five** of the factors specified in section 31-25-103 (2)(a) to (2)(l)…."*

Thus, the state statutes require, depending on the circumstances, that a minimum of either ***one, four,*** or ***five*** blight factors be present for an area to be considered a "blighted area."

A couple principles have been developed by Colorado courts to guide the determination of whether an area constitutes a blighted area under the Urban Renewal Law. First, the absence of widespread violation of building and health codes does not, by itself, preclude a finding of blight. According to the courts, "the definition of 'blighted area' contained in [the Urban Renewal Law] is broad and encompasses not only those areas containing properties so dilapidated as to justify condemnation as nuisances, but also envisions the prevention of deterioration."

Second, the presence of one well-maintained building does not defeat a determination that an area constitutes a blighted area. Normally, a determination of blight is based upon an area "taken as a whole," and not on a building-by-building, parcel-by-parcel, or block-by-block basis.

Based upon the conditions identified in the Survey Area, this report makes a recommendation as to whether the Survey Area still qualifies as a blighted area, given the time that has passed since such a determination was first made. The actual determination itself remains the responsibility of the Louisville City Council.

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Section 3: Conditions Indicative of the Presence of Blight

As discussed in **Section 2**, the Colorado Urban Renewal statute provides a list of 11 factors that, through their presence, may allow an area to be declared as blighted. This section elaborates on those 11 factors by describing some of the conditions that might be found within a Survey Area that would indicate the presence of those factors.

Slum, Deteriorated, or Deteriorating Structures:

During the field reconnaissance of the Survey Area, the general condition and level of deterioration of a building is evaluated. This examination is limited to a visual inspection of the building's exterior condition and is not a detailed engineering or architectural analysis, nor does it include the building's interior. The intent is to document obvious indications of disrepair and deterioration to the exterior of a structure found within the Survey Area. Some of the exterior elements observed for signs of deterioration include:

- Primary elements (exterior walls, visible foundation, roof)
- Secondary elements (fascia/soffits, gutters/downspouts, windows/doors, façade finishes, loading docks, etc.)
- Ancillary structures (detached garages, storage buildings, etc.)

Predominance of Defective or Inadequate Street Layout:

The presence of this factor is determined through a combination of both field observation as well as an analysis of the existing transportation network and vehicular and pedestrian circulation patterns in the Survey Area by persons with expertise in transportation planning and/or traffic engineering. These conditions include:

- Inadequate street or alley widths, cross-sections, or geometries
- Poor provisions or unsafe conditions for the flow of vehicular traffic
- Poor provisions or unsafe conditions for the flow of pedestrians
- Insufficient roadway capacity leading to unusual congestion of traffic
- Inadequate emergency vehicle access
- Poor vehicular/pedestrian access to buildings or sites

- Poor internal vehicular/pedestrian circulation
- Excessive curb cuts/driveways in commercial areas

These conditions can affect the adequacy or performance of the transportation system within the Survey Area, creating a street layout that is defective or inadequate.

Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness:

This factor requires an analysis of the parcels within the Survey Area as to their potential and usefulness as developable sites. Conditions indicative of the presence of this factor include:

- Lots that are long, narrow, or irregularly shaped
- Lots that are inadequate in size
- Lots with configurations that result in stagnant, misused, or unused land
- Lots with billboards that have active leases, making redevelopment more difficult

This analysis considers the shape, orientation, and size of undeveloped parcels within the Survey Area and if these attributes would negatively impact the potential for development of the parcel. This evaluation is performed both through observation in the field and through an analysis of parcel boundary maps of the Survey Area.

Unsanitary or Unsafe Conditions:

Conditions observed within the Survey Area that qualify under this blight factor include:

- Floodplains or flood prone areas
- Inadequate storm drainage systems/evidence of standing water
- Poor fire protection facilities
- Above average incidences of public safety responses
- Inadequate sanitation or water systems

- Existence of contaminants or hazardous conditions or materials
- High or unusual crime statistics
- Open trash dumpsters
- Severely cracked, sloped, or uneven surfaces for pedestrians
- Illegal dumping
- Vagrants/vandalism/graffiti/gang activity
- Open ditches, holes, or trenches in pedestrian areas

These represent situations in which the safety of individuals, especially pedestrians and children, may be compromised due to environmental and physical conditions considered to be unsanitary or unsafe.

Deterioration of Site or Other Improvements:

The conditions that apply to this blight factor reflect the deterioration of various improvements made on a site other than building structures. These conditions may represent a lack of general maintenance at a site, the physical degradation of specific improvements, or an improvement that was poorly planned or constructed. Overall, the presence of these conditions can reduce a site's usefulness and desirability and negatively affect nearby properties.

- Neglected properties or evidence of general site maintenance problems
- Deteriorated signage or lighting
- Deteriorated fences, walls, or gates
- Deterioration of on-site parking surfaces, curb & gutter, or sidewalks
- Poorly maintained landscaping or overgrown vegetation
- Poor parking lot/driveway layout
- Unpaved parking lot on commercial properties

Unusual Topography or Inadequate Public Improvements or Utilities:

The focus of this factor is on the presence of unusual topographical conditions that could make development prohibitive, such as steep slopes or poor load-bearing soils, as well as deficiencies in the public infrastructure system within the Survey Area that could include:

- Steep slopes / rock outcroppings / poor load-bearing soils
- Deteriorated public infrastructure (street/alley pavement, curb, gutter, sidewalks, street lighting, storm drainage systems)
- Lack of public infrastructure (same as above)
- Presence of overhead utilities or billboards
- Inadequate fire protection facilities/hydrants
- Inadequate sanitation or water systems

Defective or Unusual Conditions of Title Rendering the Title Non-Marketable:

Certain properties can be difficult to market or redevelop if they have overly restrictive or prohibitive clauses in their deeds or titles, or if they involve an unusually complex or highly divided ownership arrangement. Examples include:

- Properties with covenants or other limiting clauses that significantly impair their ability to redevelop
- Properties with disputed or defective title
- Multiplicity of ownership making assemblages of land difficult or impossible

Existence of Conditions that Endanger Life or Property by Fire and Other Causes:

A finding of blight within this factor can result from the presence of the following conditions, which include both the deterioration of physical improvements that can lead to dangerous situations as well as the inability for emergency personnel or equipment to provide services to a site:

- Buildings or sites inaccessible to fire and emergency vehicles
- Blocked/poorly maintained fire and emergency access routes/ frontages
- Insufficient fire and emergency vehicle turning radii
- Buildings or properties not in compliance with fire codes, building codes, or environmental regulations

Buildings that are Unsafe or Unhealthy for Persons to Live or Work In:

Some of the conditions that can contribute to this blight factor include:

- Buildings or properties not in compliance with fire codes, building codes, or environmental regulations
- Buildings with deteriorated elements that create unsafe conditions
- Buildings with inadequate or improperly installed utility components

Environmental Contamination of Buildings or Property:

This factor represents the presence of contamination in the soils, structures, water sources, or other locations within the Survey Area.

- Presence of hazardous substances, liquids, or gasses

Existence of Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements:

The physical conditions that would contribute to this blight factor include:

- Sites with a high incidence of fire, police, or emergency responses
- Sites adjacent to streets/alleys with a high incidence of traffic accidents
- Sites with a high incidence of code enforcement responses
- An undeveloped parcel in a generally urbanized area
- A parcel with a disproportionately small percentage of its total land area developed
- Vacant structures or vacant units in multi-unit structures

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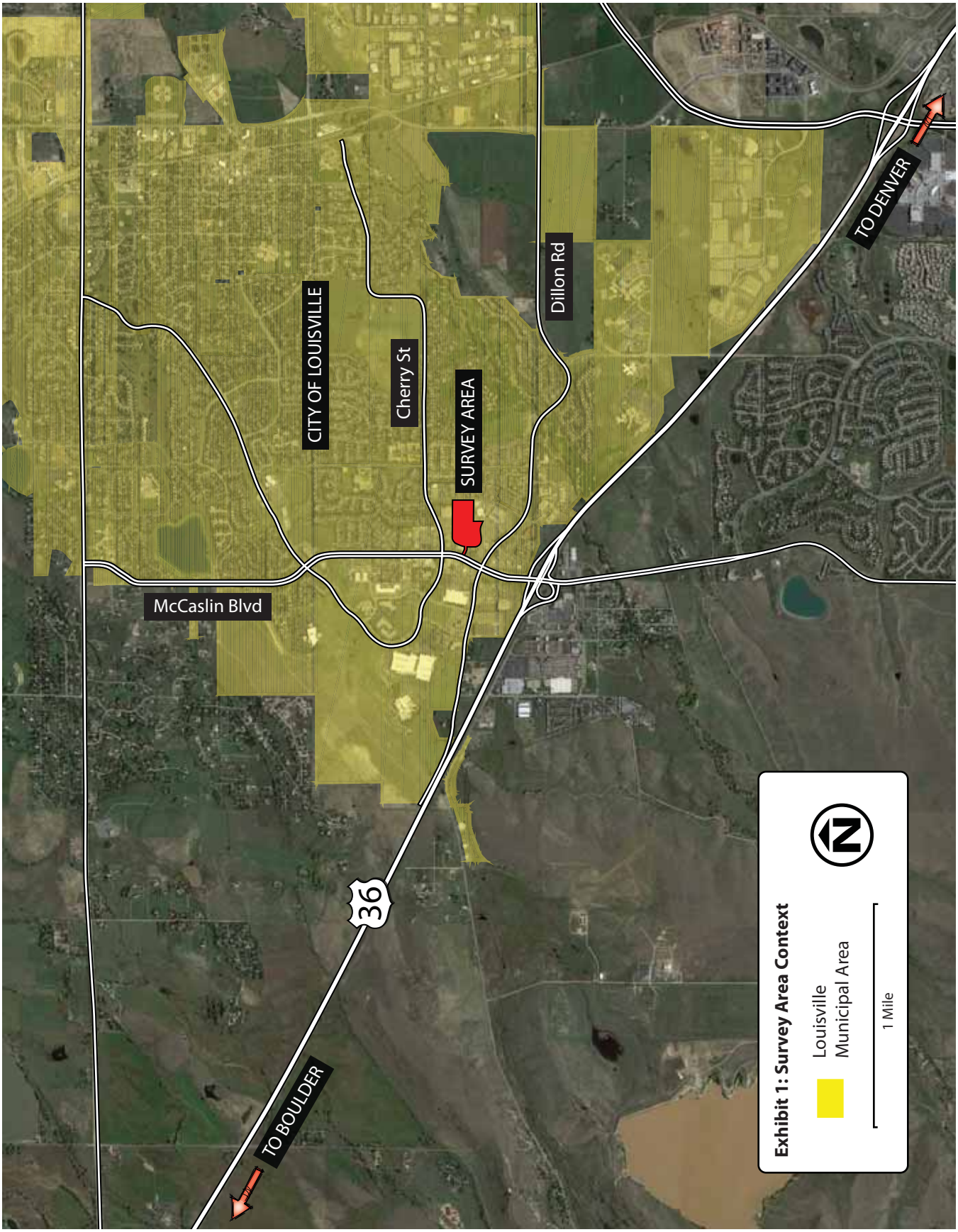
Section 4: Survey Area Location, Definition, and Description

The 550 S McCaslin Boulevard Conditions Survey focuses on a single large parcel located in a retail center that is primarily accessed from McCaslin Boulevard, a major arterial street that links the City of Louisville with the Denver-Boulder Turnpike. This focused area is 13.16 acres and is defined by a single real property parcel comprising a largely vacant retail building as well as its associated parking lot. The building is 127,000 square feet, making it one of the largest retail structures in the area.

Exhibit 1: Survey Area Context, shows the location of the Survey Area within the context of the City of Louisville and the surrounding area.

Exhibit 2: Survey Area Map visually depicts the physical boundaries of the Survey Area.


TO BOULDER
36
McCaslin Blvd
CITY OF LOUISVILLE
Cherry St
SURVEY AREA
Dillon Rd
TO DENVER
Exhibit 1: Survey Area Context
Louisville Municipal Area
1 Mile

W Dahlia Street
S McCaslin Boulevard
Exhibit 2: Survey Area Map
Survey Area Boundary
200 ft

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Section 5: Survey Findings

The overall findings of the 550 S McCaslin Boulevard Conditions Survey are presented below in a format that mirrors the list of factors and conditions of blight discussed in **Section 3**.

Slum, Deteriorated, or Deteriorating Structures

The retail structure, developed in the mid 1990s, was examined during the field survey, and remains in good condition. A few minor problems were visible on the facade of the building, such as cracked brick and mortar due to soil settling in select places, but these issues did not rise to the level necessary to make a finding of *deteriorated structures*.

This blight factor is therefore considered **not** to be present in the Survey Area.

Predominance of Defective or Inadequate Street Layout

The parcel comprising the Survey Area is large—over 13 acres according to the Boulder County Assessor—and relies on internal private roads for adequate access and service, as do the surrounding retail parcels and pad sites.

Traffic count data from the Louisville Engineering Division covering the surrounding public rights of way revealed no major issues with daily traffic volumes given the design capacity of the roads.

Emergency vehicle access is well provided for: there are no portions of the building that cannot be accessed using the internal streets, and the streets are configured correctly to allow for sufficient vehicle turning radii.

No finding of *Inadequate Street Layout* has been made.

Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

The real property parcel covering the Survey Area is the result of an initial subdivision that precisely corresponds to the parcel's originally intended use containing a large discount membership warehouse and associated internal roads and parking facilities. The size of the retail structure—127,000 square feet—is considerable, even for large format retail. A typical supermarket is less than half that size; even a modern, full-featured home improvement store is usually 20% smaller.

This severely shortens the list of possible tenants for property that could fully utilize it. Adaptive reuse options including subdividing the retail building in order to create a more appropriately-sized retail spaces for potential future tenants are not feasible due to the orientation of the building. As the building stands, it is narrow and deep with respect to the front entrance, rather than shallow and wide, so any resulting spaces after partitioning the building are too narrow and deep to be suitable for efficient store layout. The cost of dividing and partitioning the building is also considerable, and would require higher rents to future tenants to offset these costs.

Finally, it is important to note that the property carries restrictive covenants that prevent many of the most viable potential reuses as it is currently configured (see the **defective title** section for more details).

Because the current layout of the property is suited to a very narrow range of uses which are either prohibited or infeasible, there is a finding of *Faulty Lot Layout* in the Survey Area.

Unsanitary or Unsafe Conditions

Floodplain maps from the Federal Emergency Management Agency (FEMA) indicate that the Survey Area is outside any areas that have a >.02% annual chance of flooding. For the purposes of this Survey, there is considered to be no physical danger to visitors from flooding.

Fire protection facilities are adequate; hydrants serve the property, the road system adequately serves emergency vehicle access to the retail structure in the event of a fire.

Finally, crime levels in the area do not rise to the levels necessary to be considered unsafe.

No finding of *Unsanitary or Unsafe Conditions* has been made.

Deterioration of Site or Other Improvements

The 550 S McCaslin property is designed for heavy-volume retail: it is a 127,000 square foot retail facility with over 600 parking spaces, located on a major arterial near a highway interchange. It is currently used only sporadically for tenants far smaller than it was designed for; consequently, it is not currently generating revenue proportional to necessary maintenance expenses. This has been the case since the property was abandoned over 4 years ago.

A lack of full maintenance of the property was evident during the field survey; the parking lot had a few potholes, including one very large one at its primary entrance with McCaslin Boulevard, and the curb and gutter in some places was cracked and deteriorated. The striping on the parking lot was found to be badly worn. The building itself was cracked in a few places in its facade, and needs minor work such as mortar repair in certain areas.

This is not to say that maintenance is completely lacking, but only that it gives the impression of being minimal. While the property is not badly deteriorated by virtue of being largely vacant for only 4 years and receiving landscaping maintenance, it is clear that it is indeed slowly deteriorating. Combined with its general underutilization (see the **underutilization or vacancy of sites** section), this is causing a general blight that affects the surrounding area.

A finding of *Deterioration of Site or Other Improvements* has been made in the Survey Area.

The parking had cracks and potholes in places

Various portions of damaged curb and gutter were found

Unusual Topography or Inadequate Public Improvements or Utilities

The 550 S McCaslin property was developed in conjunction with many surrounding commercial properties less than 2 decades ago, along with adequate utility systems to serve the properties.

Additionally, curb and gutter are present along all roadways except loading areas within the Survey Area, including private roads.

This factor is **not** considered present in the Survey Area.

Defective or Unusual Conditions of Title Rendering the Title Non-marketable

The property at 550 S McCaslin Boulevard is subject to numerous restrictions that have the combined effect of rendering the parcel non-marketable to prospective buyers and tenants. This issue is expressed by the current co-owners, Centennial Valley Investment, LLC, and Seminole Land Holdings, LLC in a letter dated March 17, 2014 to the City of Louisville, and is confirmed by an examination of the original covenants put in place during the initial development of the property in the 1990s as well as additional restrictions applied to the property during the sale of the property from Sam's Real Estate Business Trust to its current owners in January 2014.

The original covenants dating from the 1990s, (including multiple amendments made during subsequent years), generally prohibit new uses at 550 S McCaslin Blvd that would compete with existing retailers in the same commercial center, the most notable of which is the prohibition of a grocer on the property as long as the nearby Albertsons remains in business. Other uses that do not directly compete with other tenants in the commercial center but could otherwise provide opportunities for adaptive reuse are also prohibited, including bowling alleys, billiard parlors, night clubs, recreational facilities, theaters, skating rinks, health spas, gyms, and video game parlors.

The warranty deed made between the current property owners and Sam's Real Estate Business Trust on January 30, 2014 was obtained from Boulder County Public Records, and places additional restrictions on the property over the next 25 years. These restrictions explicitly prohibit any wholesale clubs and discount department stores, which are precisely the type of use that formerly existed on the property. Pharmacies, liquor stores, bars, and grocery stores are also prohibited.

The combined effect of the various restrictions in place on the property is that the most viable uses for the property are not allowed. Any prospective tenant that could potentially utilize the 127,000 square foot facility on the property would almost certainly be prevented from doing so; the restrictions are broad enough to mandate a commercial retail use, but simultaneously prohibit the sale of almost anything "at a discount in a retail operation" and also any

entertainment venue. Even a large home improvement store or electronics could easily be interpreted as being prohibited under the broad language of the warranty deed.

Because of the lack of marketability of the 550 S McCaslin property, this factor is considered present.

Existence of Conditions that Endanger Life or Property by Fire or Other Causes

Access to the building, emergency vehicle turning radii, and fire protection facilities such as hydrants were found to be adequate.

This blight factor is considered **not** to be present in the Survey Area.

Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities

No structural analysis was performed on the retail structure, and there was no evidence to suggest it was deteriorated enough to present a danger to occupants.

Therefore, this factor is **not** present in the Survey Area.

Environmental Contamination of Buildings or Property

A Phase I Environmental Site Analysis (ESA) conducted in March 2010 by Environmental Restoration, LLC found no evidence of material environmental contamination in the Survey Area, and no additional testing or research was performed for the purposes of this Conditions Survey.

Therefore, there is **no** finding of *environmental contamination of buildings or property*.

The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

The Survey Area is 13 acres, located in an urbanized area, surrounded by commercial and residential development, on a busy arterial street near a highway interchange, but is currently vastly underutilized.

Since early 2010, the site has been largely vacant, excepting a few transitional uses that do not approach the full potential of the property. Currently, the signage on the 127,000 square foot retail facility reveals that it is being used for a community church, leaving the property unused except for half a day per week.

During the field survey, conducted during regular business hours in June 2014, over four years since the closing of the former Sam's Club, the over 600 parking spaces on the property were empty, except for a few miscellaneous vehicles parked along the periphery.

This represents a substantial underutilization of the property, which contributes to a general blight in the area and a reduction in retail traffic for the surrounding area that an anchor tenant of the sort the property was designed for would provide.

This blight factor is considered present in the Survey Area.

The vast parking area and the building lie largely vacant

Section 6: Survey Summary and Recommendation

Within the entire Survey Area, 4 of the 11 blight factors were identified as being present. The blight factors identified within the Survey Area are:

- Faulty Lot Layout
- Deterioration of Site or Other Improvements
- Defective or Unusual Conditions of Title Rendering the Title Non-marketable
- High Levels of Municipal Services or Underutilization or Vacancy of Sites, Buildings, or Other Improvements

Blight Survey Recommendation

As discussed in **Section 2**, in order for an area to be declared blighted, a certain number of the 11 blight factors must be found within the Survey Area. ***Four*** of the 11 factors is the required minimum, unless none of the property owners or tenants object to being included within an urban renewal area; then, the required minimum is only ***one*** of the 11 factors. In the event, however, that eminent domain is to be used to acquire property within the urban renewal area, the required minimum is ***five*** of the 11 factors. Since ***four*** blight factors were identified within the Survey Area, a sufficient number of blight factors exist for the area to be declared blighted; however, the Louisville Revitalization Commission may not exercise eminent domain to acquire any property in the Survey Area without the written consent of the property owners.

It is the recommendation of this blight Survey report to the City of Louisville, the Louisville Revitalization Commission, and the Louisville City Council that the Survey Area, in its present condition, exhibits a sufficient level of blight to be considered a "blighted area" under the standards set forth in State Statute. Whether the blighted area *"substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare"* is a determination that must be made by the Louisville City Council.

RESOLUTION NO. 59
SERIES 2015

A RESOLUTION APPROVING AN AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND THE LOUISVILLE REVITALIZATION COMMISSION

WHEREAS, the City of Louisville (the "City") is a home-rule city and municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and Charter of the City; and

WHEREAS, the Louisville Revitalization Commission (the "LRC") is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the Act); and

WHEREAS, the Act and Section 18, Article XIV of the Colorado Constitution authorize the City and the LRC to enter into cooperation agreements, and the Act specifically authorizes the City and the LRC to enter into agreements respecting action to be taken pursuant to any of the powers set forth in the Act; and

WHEREAS, in 2006, the City and the LRC entered into a Cooperation Agreement respecting operating funds, support services, general oversight of the LRC to be provided by the City to the LRC, and related matters, which such Agreement was approved by Resolution No. 49, Series 2006; and

WHEREAS, on April 5, 2011, the City and the LRC entered into an Amended and Restated Cooperation Agreement respecting the same matters; and

WHEREAS, the City desires to update and revise certain provisions of the Agreement and for such purpose there is proposed another Amended and Restated Cooperation Agreement between the City and the LRC;

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

Section 1. The proposed Amended and Restated Cooperation Agreement between the City of Louisville and the Louisville Revitalization Commission (the "Agreement"), a copy of which is attached hereto and incorporated herein by this reference, is hereby approved.

Section 2. The Mayor is authorized to execute the Agreement on behalf of the City, except that the Mayor is hereby further granted authority to negotiate and approve such revisions to said Agreement as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

Section 3. The Mayor, City Manager and City Staff are further authorized to do all things necessary on behalf of the City to perform the obligations of the City under the Agreement, and are further authorized to execute and deliver any and all documents necessary to accomplish the terms, conditions and provisions of the Agreement.

PASSED AND ADOPTED this _____ day of _____, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

AMENDED AND RESTATED COOPERATION AGREEMENT

This Amended and Restated Cooperation Agreement (the Cooperation Agreement) is made as of _____, ~~2011~~2015, by and between the CITY OF LOUISVILLE, COLORADO (the City) and the LOUISVILLE REVITALIZATION COMMISSION (the LRC). The City and the LRC are sometimes referred to herein individually as a Party and collectively as the Parties.

RECITALS

A. The City is a home-rule city and municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and Charter of the City (the Charter).

B. The LRC is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the Act).

C. The Act and Section 18, Article XIV of the Colorado Constitution authorize the Parties to enter into cooperation agreements, and the Parties desire to enter into this Cooperation Agreement respecting operating funds, support services, and general oversight of the LRC to be provided by the City to the LRC and related matters.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the following terms and conditions, the Parties agree as follows:

1. Advance of Operating Funds by the City. The City may annually advance to the LRC an amount of operating funds (Operating Funds) to be determined by appropriation by the City Council of the City. Operating Funds shall be used by the LRC for operating, administrative, consulting and other costs incurred by the LRC in accordance with the Act, including, without limitation, the costs and expenses of Support Services described in Section 2, below. Operating Funds shall be paid directly to the LRC to be used in accordance with the Act, this Cooperation Agreement and the City-approved LRC budget.

2. Support Services. The City agrees to provide administrative and legal support services (Support Services) to the LRC in connection with its operations. The City Manager shall serve as Director of the LRC as provided in the Act and shall have discretion to employ those City staff members as may be required to carry out the duties and operations of the LRC. Support Services may include, without limitation, planning, financing and accounting, engineering, legal, and administrative and outside consulting services.

3. LRC Budget. By December 31 of each year, the LRC shall adopt a budget (the LRC Budget) for the ensuing fiscal year (which shall be the calendar year), which LRC Budget shall be submitted to the City for review and approval prior to LRC adoption. The LRC Budget shall contain a statement of sources and uses of all funds that are available or that the LRC reasonably expects to become available to LRC to finance its activities, undertakings, and obligations for each budget year. It is the intention of the Parties that the LRC shall use its reasonable best efforts to use other sources of revenue available under the Act as the primary source of its Operating Funds and payment for Support Services as such revenue becomes available to the LRC. Such revenue shall include, without limitation, tax allocation or tax increment revenues that may become available pursuant to any urban renewal plan approved by the City Council of the City.

4. Reimbursement for Operating Funds and Support Services. The Parties shall establish a procedure for documenting the reasonable costs and expenses (the Costs and Expenses) related to the Operating Funds and Support Services provided by the City. The Costs and Expenses shall constitute an indebtedness of the LRC to be repaid to the City from sources of revenue available under the Act as such revenue becomes available to the LRC. Such revenue shall include, without limitation, tax allocation or tax increment revenues that may become available pursuant to an urban renewal plan approved by the City Council of the City.

a. It is agreed that the Costs and Expenses incurred by the City up to and including expenses on December 31, 2014~~0~~ total $9,894.00 ~~77,849~~. At the election of the City, such amount may be evidenced by a note approved by the Parties and executed by LRC.

b. Upon request of the LRC, the City agrees to give reasonable consideration to subordinating its right to repayment of Costs and Expenses to any bonds, loans, advances, indebtedness, or other obligation of the LRC.

5. Approval of Certain Contracts; Bonds and Other Obligations of the LRC. The Parties agree that the City Council of the City shall provide direction to LRC and oversight of LRC activities as follows:

a. Any proposed expenditure by the LRC which has not been previously approved as part of the LRC budget shall be subject to the prior review and approval of the City Council.

b. Prior to issuing bonds or any other capital financial obligations or financial obligations extending beyond the end of the current fiscal year of the LRC, the LRC shall notify the City Council in writing of its intention to do so, and shall promptly furnish to the City Council such information and documents relating to such bonds or other capital or long-term financial obligations as the City Council may request. The LRC shall not commit to or proceed with any such bonds or other capital or long-term financial obligations unless a majority of the

City Council has adopted a resolution determining that the City's interests in connection with such bonds or other obligations are adequately protected.

c. ~~As provided in the urban renewal plan, a~~Allocation of any municipal sales tax increment shall occur only upon City Council approval. For any such requested approval, the LRC shall submit a financing plan outlining the proposed amounts and purpose for which the municipal sales tax increments are proposed to be used. City Council may approve or deny such request in its discretion.

d. ~~As provided in the urban renewal plan, t~~The LRC shall provide to the City Council for review and approval any redevelopment agreement or other contract contemplated ~~under Section 5.6 of the plan~~to carry to out the purposes of any urban renewal plan or to apply to property in any urban renewal area, prior to the LRC's~~Commission's~~ final approval thereof. Any such approval shall be by City Council resolution.

e. The LRC shall comply with applicable City codes, rules, and regulations related to any other urban renewal activities of the LRC. The City Council shall be informed of the activities, functions, operations, and financial condition of the LRC in the form of reports to the City Council not less than quarterly, and at any other time as requested by the City Council.

f. The City agrees that it will make reasonable efforts to act within thirty days of a request for review of any document, agreement, obligation, or action required by this Cooperation Agreement. Unless otherwise required by law or provided herein, any approval or other action of the City Council shall be by motion or resolution.

6. Continuing Cooperation; Additional Agreements. The Parties shall cooperate to carry out and complete the urban renewal plans approved by the City Council. It is contemplated that additional agreements may be required to plan and carry out urban renewal projects in accordance with the provisions of any such urban renewal plan and the Act. The Parties agree to cooperate and give timely consideration to any additional agreements or amendments to this Cooperation Agreement that may be necessary or convenient in connection with such activities and undertakings; provided, however, nothing in this Cooperation Agreement shall preclude or require the commitment of additional revenue, financing, or services by either Party in connection with such activities and undertakings.

7. Obligations Subject to Act, Charter, and Constitution. The covenants, duties and actions required of the Parties under this Cooperation Agreement shall be subject to and performed in accordance with the provisions and procedures required and permitted by the Charter, the Act, any other applicable provision of law, and the Colorado Constitution.

8. Enforced Delay. Neither Party shall be considered in breach of, or in default in, its obligations with respect to this Cooperation Agreement in the event of delay in the

performance of such obligations due to causes beyond its control and without its fault, it being the purpose and intent of this provision that if such delay occurs, the time or times for performance by either Party affected by such delay shall be extended for the period of the delay.

9. No Third Party Beneficiaries. Neither the City nor the LRC shall be obligated or liable under the terms of this Cooperation Agreement to any person or entity not a party hereto.

10. Severability. In case any one or more of the provisions contained in this Cooperation Agreement or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Cooperation Agreement, or any other application thereof, shall not in any way be affected or impaired thereby.

11. Binding Effect. Subject to compliance with Section 13, below, this Cooperation Agreement shall be binding upon and inure to the benefit of the Parties, their successors, legal representatives, and assigns.

12. City and LRC~~Commission~~ Separate. Nothing in this Cooperation Agreement shall be interpreted in any manner as constituting the City or its officials, representatives, consultants, or employees as the agents of the LRC, or the LRC or its officials, representatives, consultants, or employees as the agents of the City. Each entity shall remain a separate legal entity pursuant to applicable law. Neither of the Parties hereto shall be deemed to hereby assume the debts, obligations, or liabilities of the other. The LRC shall be responsible for carrying out its duties and functions in accordance with the Act and other applicable laws and regulations, and nothing herein shall be construed to compel either Party to take any action in violation of law.

13. Assignment. This Cooperation Agreement shall not be assigned in whole or in part by either Party without the prior written approval of the other Party.

14. Governing Law. This Cooperation Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado.

15. Headings. Section headings in this Cooperation Agreement are for convenience of reference only and shall not constitute a part of this Cooperation Agreement for any other purpose.

16. Additional or Supplemental Agreements; Organizational Matters. The Parties mutually covenant and agree that they will execute, deliver and furnish such other instruments, documents, materials, and information as may be reasonably required to carry out the Cooperation Agreement. The LRC's~~City and Commission shall cooperate in effecting amendments to the Commission's~~ organizational documents shall~~to~~ provide, as permitted by C.R.S. § 31-25-104, that one City Councilmember shall be a member of the LRC~~Commission~~.

The LRC~~Commission~~ as an entity will not formally or legally oppose or object to any measure that may be proposed pursuant to C.R.S. § 31-25-115 to transfer the existing authority to the City Council.

17. Entire Agreement; Amendment. This Cooperation Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof. No addition to or modification of the Cooperation Agreement shall be effective, except by written agreement authorized and executed by the Parties.

IN WITNESS WHEREOF, the Parties have caused this Cooperation Agreement to be duly executed and delivered by their respective officers as of the date first above written.

THE CITY OF LOUISVILLE,
a Colorado municipal corporation

Attest:

_____
Mayor

_____
City Clerk

LOUISVILLE REVITALIZATION COMMISSION

Attest:

_____
Chairman

_____
Secretary

CITY OF LOUISVILLE CITY COUNCIL
NOTICE OF PUBLIC HEARING
550 SOUTH MCCASLIN BOULEVARD URBAN RENEWAL PLAN

Pursuant to C.R.S. 31-25-107(3)(a), notice is hereby given that the City Council of the City of the City of Louisville will hold a public hearing commencing at 7:00 p.m., Tuesday, August 18, 2015, at the Louisville City Hall, 749 Main Street, Louisville, Colorado 80027. The purpose of the public hearing will be to consider the proposed **550 South McCaslin Boulevard Urban Renewal Plan** pursuant to the provisions of the Colorado Urban Renewal Law. At the public hearing, the City Council will receive evidence and testimony on the proposed Urban Renewal Plan. Based on the evidence presented at the hearing, the City Council may adopt the proposed 550 South McCaslin Boulevard Urban Renewal Plan as an urban renewal plan for the property. The proposed urban renewal area covered by the proposed 550 South McCaslin Boulevard Urban Renewal Plan is legally described in Exhibit A and is generally described as the property addressed as 550 South McCaslin Blvd., Louisville, Colorado, which property is the site of the former Sam's Club in Louisville.

The City Council has previously determined, by the adoption of Resolution No. 60, Series 2014 after a public hearing held October 7, 2014, that the proposed urban renewal area is a blighted area as defined by the Colorado Urban Renewal Law, appropriate for an urban renewal plan. Qualifying blighting conditions found to exist for the area include faulty lot layout in relation to size, adequacy, accessibility, or usefulness; deterioration of site or other improvements; defective or unusual conditions of title rendering the title nonmarketable; and the existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

The purpose of the 550 South McCaslin Boulevard Urban Renewal Plan is to reduce, eliminate and prevent the spread of blight within the urban renewal area The Plan provides that the power of eminent domain as authorized by the Urban Renewal Law may be utilized by the Louisville Revitalization Commission (LRC) to alleviate the qualifying conditions of blight as provided in the Urban Renewal Law. The Plan further provides that the LRC may exercise all powers authorized by the Urban Renewal Law including undertaking actions which would make the Plan area more attractive for private investment by providing public improvements consistent with the Louisville Comprehensive Plan. These improvements could include, without limitation, street and traffic improvements, streetscape improvements, a transportation center, landscaping, park and recreation facilities, utility improvements, open space acquisition, stormwater improvements, public art projects, and other similar improvements necessary to carry out the objectives of the Comprehensive Plan.

Any interested person may appear at the public hearing and provide testimony or other evidence regarding the proposed 550 South McCaslin Urban Renewal Plan, the use of eminent domain under the Plan, and related matters under consideration. Copies of the 550 South McCaslin Boulevard Conditions Survey, Resolution 60, Series 2014, the proposed 550 South McCaslin Boulevard Urban Renewal Plan and related material are available for inspection at the Office of the City Manager, 749 Main Street, Louisville, Colorado, 80027. Questions regarding the public hearing

may be directed to the Offices of the Planning Department, (303) 335-4592 and the City Manager (303) 335-4533.

Dated the 10th day of July, 2015.

CITY OF LOUISVILLE

Nancy Varra, City Clerk

Published July 14, 2015 in the Daily Camera.

EXHIBIT A
DESCRIPTION OF PLAN AREA –
550 SOUTH MCCASLIN BOULEVARD URBAN RENEWAL PLAN

Lot 2, Centennial Valley Parcel O, Filing No. 7, County of Boulder, State of Colorado; having an address of 550 South McCaslin Boulevard, Louisville, Colorado.

AFFIDAVIT OF PUBLICATION

CAMERA

State of Colorado
County of Boulder

I, the undersigned agent, do solemnly swear that the CAMERA is a daily newspaper printed, in whole or in part, and published in the City of Boulder, County of Boulder, State of Colorado, and which has general circulation therein and in parts of Boulder and Broomfield counties; that said newspaper has been continuously and uninterruptedly published for a period of more than six months next prior to the first publication of the annexed legal notice of advertisement, that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any, amendments thereof, and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado; that a copy of each number of said newspaper, in which said notice of advertisement was published, was transmitted by mail or carrier to each of the subscribers of said newspaper, according to the accustomed mode of business in this office.

The annexed legal notice or advertisement was published in the regular and entire edition of said daily newspaper once; and that one publication of said notice was in the issue of said newspaper dated **July 14, 2015.**

Agent

Subscribed and sworn to before me this 17th day of **July, 2015** in the County of Boulder, State of Colorado.

Notary Public

ACCOUNT #: 101121
AD #5650970
FEE: $114.84

MELISSA L NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064049936
MY COMMISSION EXPIRES DEC. 11, 2018

CITY OF LOUISVILLE CITY COUNCIL
NOTICE OF PUBLIC HEARING
550 SOUTH MCCASLIN BOULEVARD URBAN RENEWAL PLAN

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Dated the 10th day of July, 2015.

CITY OF LOUISVILLE

Nancy Varra, City Clerk

Published: July 14, 2015 in the Daily Camera. - 5650970

EXHIBIT A
DESCRIPTION OF PLAN AREA -
550 SOUTH MCCASLIN BOULEVARD URBAN RENEWAL PLAN

Lot 2, Centennial Valley Parcel O, Filing No. 7, County of Boulder, State of Colorado; having an address of 550 South McCaslin Boulevard, Louisville, Colorado.

Published: Daily Camera July 14, 2015 - 5650970

City of Louisville
COLORADO • SINCE 1878

Office of the City Manager

July 13, 2015

Board of County Commissioners
County of Boulder
Boulder County Courthouse
Third Floor
1325 Pearl Street
Boulder, CO 80302

Re: Transmittal Letter for Proposed 550 S. McCaslin Urban Renewal Plan in Louisville

Dear Commissioners:

In accordance with State Statutes, I am transmitting the draft 550 S. McCaslin Boulevard Urban Renewal Plan. The Louisville City Council will be considering this Plan at 7:00 p.m., Tuesday, August 18, 2015, at the Louisville City Hall, 749 Main Street, Louisville, Colorado 80027. Also enclosed is a copy of the public notice for the City Council hearing on the Plan.

The purpose of the Plan is to reduce, eliminate and prevent the spread of blight within the urban renewal area. The objectives for the Plan include the following:

- Create a retail rich environment where area businesses and residents can be successful.
- Re-tenant or redevelop the Property.
- Increase retail activity by encouraging occupancy of the Property.

The Plan authorizes the Louisville Revitalization Commission (LRC) to negotiate and enter into Redevelopment Agreements and Cooperation Agreements with landowners, developers, the City of Louisville, and investors regarding appropriate projects throughout the Plan Area.

The power of eminent domain as authorized by the Urban Renewal Law may be utilized to alleviate the qualifying conditions of blight. Eminent domain authority is limited only to property within the Urban Renewal Area.

This Plan does **not** authorize use of tax increment financing pursuant to Section 31-25-107(9), C.R.S. The use of tax increment financing within the Plan Area can only be authorized by amendment to this Plan.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Aaron M. DeJong
Economic Development Director

749 Main Street | Louisville CO 80027
303.335.4533 (phone) | 303.335.4550 (fax)
www.LouisvilleCO.gov

City of Louisville
COLORADO • SINCE 1878

Office of the City Manager

July 13, 2015

Boulder Valley School District
Attn: Bruce Messinger
6500 East Arapahoe Road
Boulder, CO 80303

Re: Transmittal Letter for Proposed 550 S. McCaslin Urban Renewal Plan in Louisville

Dear Board Members:

In accordance with State Statutes, I am transmitting the draft 550 S. McCaslin Boulevard Urban Renewal Plan. The Louisville City Council will be considering this Plan at 7:00 p.m., Tuesday, August 18, 2015, at the Louisville City Hall, 749 Main Street, Louisville, Colorado 80027. Also enclosed is a copy of the public notice for the City Council hearing on the Plan.

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Should you have any questions, please do not hesitate to contact me.

Sincerely,

Aaron M. DeJong
Economic Development Director

749 Main Street | Louisville CO 80027
303.335.4533 (phone) | 303.335.4550 (fax)
www.LouisvilleCO.gov

CENTENNIAL VALLEY INVESTMENT, LLC
SEMINOLE LAND HOLDINGS, LLC
8758 W. PHILLIPS RD. BOULDER, CO 80301

September 24, 2014

City of Louisville
Attn: Malcolm Fleming
749 Main Street
Louisville, CO 80027

Re: 550 S. McCaslin Blvd, Former Sam's Club Building

Dear Mr. Fleming:

The City is considering making a blight determination on the property located at 550 S. McCaslin Boulevard in Louisville at their October 7, 2014 meeting.

Section 31-25-103(2)(l) of the Colorado Revised Statutes states;

> "If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection (2), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation."

As the managing partner and authorized representative of Centennial Valley Investment, LLC and Seminole Land Holdings, LLC, this is to advise you that these property owners do not object to the City including 550 S. McCaslin Blvd. in an urban renewal area or determining the property is within a blighted area.

Sincerely,

Tom Garvin
Managing Member
Centennial Valley Investment, LLC
Seminole Land Holdings, LLC

Low Cost
Office Furniture

September 24, 2014

City of Louisville
Attn: Malcolm Fleming
749 Main Street
Louisville, CO 80027

Re: 550 S. McCaslin Blvd, Former Sam's Club Building

Dear Mr. Fleming:

The City is considering making a blight determination on the property located at 550 S. McCaslin Boulevard in Louisville at their October 7, 2014 meeting.

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> "If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection (2), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation."

As the authorized representative of Low Cost Office Furniture, Inc. and tenant on the property, this is to advise you the business does not object to the City including 550 S. McCaslin Blvd. in an urban renewal area or determining the property is within a blighted area.

Sincerely,

Travis Garvin
Low Cost Office Furniture, LLC.

QUALITY USED OFFICE FURNITURE & SYSTEMS
TELEPHONE: 303.817.6901 - E-MAIL: TRAVIS@lcof.com
www.lcof.com

September 24, 2014

City of Louisville
Attn: Malcolm Fleming
749 Main Street
Louisville, CO 80027

Re: 550 S. McCaslin Blvd, Former Sam's Club Building

Dear Mr. Fleming:

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As the authorized representative of Ascent Community Church and tenant on the property, this is to advise you the Church does not object to the City including 550 S. McCaslin Blvd. in an urban renewal area or determining the property is within a blighted area.

Sincerely,

Jim Candy
Ascent Community Church

McDonald's Corporation
One McDonald's Plaza
Oak Brook, Illinois 60523
(630) 623-3065
Michael.Vanpoucke@us.mcd.com

VIA OVERNIGHT MAIL

August 10, 2015

City of Louisville
City Hall Building
749 Main Street
Louisville CO 80027
Attn: Aaron DeJong, Director of Economic Development

RE: Letter of Objection regarding 550 S. McCaslin Urban Renewal Plan
L/C: 005-0294

Dear Mr. DeJong,

In advance of the Public Hearing scheduled August 18, 2015 regarding the above-referenced renewal plan, McDonald's desires to express its objection to the potential removal or buyout of certain restrictive covenants.

While McDonald's shares the Planning Commission's concerns over the declines to the retail activity around the area since the Sam's Club facility closed its doors in 2010, and does not desire for the lot to remain vacant and underutilized, McDonald's invested in its restaurant operations in reliance on the restrictive covenants in place, specifically, the restriction in Section 3(g) of the Declaration dated December 16, 1993, by HD Delaware Properties, Inc., stating that:

> "there shall be no more than one Lot at any time used for a drive-in or drive-through restaurant whose primary business is the sale of hamburgers or other type of ground beef products served in sandwich form;..." (the "hamburger restriction").

McDonald's objects to Section 2.7.1 and Section 4.2 of the Urban Renewal Plan, which states the project may require the use of eminent domain to address the restrictive covenants upon the Property and authorizes the use of eminent domain. In particular, McDonald's does not believe the hamburger restriction renders the title nonmarketable and that with this hamburger restriction in place, the Planning Commission can still create a successful and desirable retail environment.

Please contact me at the number listed above with any questions.

Thank you for your cooperation.

Very Truly Yours,
McDONALD'S CORPORATION

Michael VanPoucke
Senior Counsel
U.S. Legal Department

cc: Victoria Seward (via email)
Aaron DeJong (via email at aaronD@louisvilleco.gov)

Davis Graham & Stubbs LLP

Jon Bergman
303 892 7421
Jon.bergman@dgslaw.com

August 13, 2015

Via Email: slight@lightkelly.com

Samuel J. Light
Light Kelly, P.C.
101 University Blvd., Suite 210
Denver, Colorado 80206

Re: The Proposed Urban Renewal Plan for 550 South McCaslin Boulevard, Louisville, Colorado 80027

Dear Mr. Light:

This law firm represents Albertson's LLC ("Albertson's"), which owns and operates a grocery store at 910 West Cherry Avenue, Louisville, CO 80027 (the "Albertson's Site"), and has served as a vital corporate citizen of the City of Louisville for many years. The Louisville City Council ("Council") is considering empowering the Louisville Revitalization Commission ("Commission") to take certain actions regarding the property located at 550 S. McCaslin Blvd. (the "Property"), which is directly adjacent to the Albertson's Site. The Albertson's Site and the Property are subject to a recorded agreement which provides for certain rights and obligations concerning easements, covenants, conditions, and restrictions. In their current form, the Council's proposed actions, which include seeking to eliminate certain use restrictions, would constitute an unlawful taking of Albertson's property rights. Such actions would have a harsh impact on both Albertson's and the broader Louisville community. We hope the Council will earnestly consider Albertson's objections before reaching a final decision regarding the Proposed Urban Renewal Plan ("Proposed Plan").

I. Factual Background

A. The Declaration

Since 1993, the Property and the surrounding area have been subject to an agreement which provides for certain rights and obligations concerning easements, covenants, conditions, and restrictions. That agreement includes the following: the Declaration of Covenants, Conditions and Restrictions and Grant of Easements, recorded December 23, 1993 under Reception No. 1376228, as amended by the Amended and Restated First Amendment to Declaration of Covenants, Conditions and Restrictions and Grant of Easements, recorded April 5, 1994 under Reception No. 1412746; Albertson's Consent to Second Amendment under Declaration of Covenants, recorded December 6, 1996 under Reception No. 16662560; and the

CC&R Agreement, recorded August 27, 1998 under Reception No. 1841017 (collectively, the "Declaration").

Collectively, the Declaration, which was voluntarily agreed to by the various property owners in the McCaslin Boulevard community, provides for, *inter alia*, cross-easements, and governs maintenance of the properties, signage, and architectural building improvements. The Declaration will expire in just over 30 years, in 2058.

The Declaration also governs the permissible uses of the various properties (the "Restrictions"). Some of the restrictions address what sometimes is referred to as noxious uses, such as strip clubs and other adult-themed businesses. Other restrictions ensure that the subject properties are occupied by retail establishments rather than service operators. And other restrictions provide protection to the property owners by placing restrictions on competing businesses. One of these restrictions provides that a supermarket or pharmacy may not be developed on the Property (with certain exceptions). This use limitation is a critical property interest of Albertson's.

The Declaration, including the Restrictions, has been instrumental to the success of the McCaslin Boulevard community for over twenty years. The Restrictions have allowed Albertson's to make informed investment decisions concerning its presence in Louisville and the greater-Colorado area based upon the reasonable expectation that the property interest represented by the Restrictions would remain in force. Albertson's is not unique in this regard, considering that such use limitations are regularly utilized to obtain optimal development of retail projects nationwide.

Albertson's has long been a proponent of sensible, beneficial real estate development in the McCaslin Boulevard community. Moreover, it has not historically taken an unyielding approach to the Restrictions. In 1998, for example, to further the interests of the McCaslin Boulevard community, Albertson's and the surrounding property owners reached an agreement to amend the Restrictions to allow for the operation of a Sam's Club store on the Property.

The Restrictions are not the only use limitations that apply to the Property. On January 30, 2014, when Sam's Real Estate Business Trust sold the Property for $3,650,000, the current owners, Centennial Valley Investment, LLC and Seminole Land Holding, Inc. (together, the "Property Owners"), voluntarily agreed to take title to the Property subject to the additional use restrictions set forth in that certain Special Warranty Deed recorded February 3, 2014 under Reception No. 3364534 (the "Sam's Club Restrictions"). The Sam's Club Restrictions generally provide that the Property may not be developed as a discount store. As part of this transaction, the Property Owners negotiated for the right to remove the Sam's Club Restrictions in exchange for a one-time payment of $500,000 to the seller. The Property Owners decided not to make this one-time payment, and the Sam's Club Restrictions remain in force.

Please note that the Property Owners, despite claiming that the Property is nonmarketable on account of the Restrictions, have never once asked Albertson's to waive any of the Restrictions.

B. The Conditions Survey and Proposed Plan

On March 17, 2014, only a month and a half after they acquired the Property for $3,650,000, the Property Owners asked for Louisville's assistance in eliminating the Restrictions and the Sam's Club Restrictions. Despite the incredibly short amount of time the Property Owners had owned the Property, and notwithstanding the fact that the Property Owners had acquired the Property with full knowledge of the Restrictions and the Sam's Club Restrictions (which they could have removed by simply paying the one-time fee), the Council acted upon their request.

On May 6, 2014, the Council directed the commissioning of a Conditions Survey concerning the Property. The purpose of the Conditions Survey was to determine if the Property could be deemed to be "blighted" under Colorado's Urban Renewal Law, C.R.S. §§ 31-25-101, *et seq.* Absent the required finding of "blight," the Commission and Council would be powerless to remove the Restrictions and the Sam's Club Restrictions.

The Conditions Survey, issued in July 2014, concluded that the Property qualified as "blighted" within the meaning of the Colorado Urban Renewal Law, identifying four blight factors:

1. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
2. Deterioration of site or other improvements;
3. Defective or unusual conditions of title rendering the title nonmarketable; and
4. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

On January 20, 2015, the Council directed the Commission's staff to prepare a draft Urban Renewal Plan for the Property. On June 8, 2015, the Commission's staff, along with attorney Malcolm Murray, issued the draft 550 South McCaslin Urban Renewal Plan, which is currently under consideration by the Commission and the Council. The Proposed Plan includes the exercise of eminent domain by Louisville to remove the Restrictions and the Sam's Club Restrictions from the Property. A summary of the Proposed Plan issued by the Commission's Staff states that the "[m]ost notable" restriction on the use of the Property "is that no competing grocer to Albertson's is allowed." The same summary describes the Sam's Club Restrictions to include a prohibition of "stores selling a range of merchandise 'at a discount' and additional restrictions on entertainment uses."

Before purchasing the Property, the Property Owners had the opportunity to seek the removal of any or all of the Restrictions through negotiations with the prior owner and other members of the McCaslin Boulevard community, including Albertson's, or to choose not to purchase the Property due to the existence of the Restrictions. Instead, the Property Owners chose to proceed with the transaction (1) with full knowledge and understanding of the Restrictions and (2) to further burden the Property with the additional Sam's Club Restrictions.

After acquiring the Property, the Property Owners had options for development other than seeking a blight determination from Louisville. For example, the Property Owners could have contacted Albertson's to discuss the possibility of waiving certain of the Restrictions (as was done in 1998 with respect to the Sam's Club development of the Property), or removed the Sam's Club Restrictions by making the one-time payment to the sellers. Instead, the Property Owners contacted Louisville ***less than two months after acquiring the Property*** for assistance in eliminating the Restrictions and the Sam's Club Restrictions via eminent domain.

II. Solutions Other Than the Exercise of Eminent Domain Power Exist

Although Albertson's strongly opposes the attempt to remove the Restrictions as currently contemplated by the Proposed Plan—an action which could possibly void the Declaration—Albertson's recognizes the need for, and is in favor of, redevelopment of the Property. As has occurred in the past, Albertson's is willing to discuss redevelopment plans for the Property with the Commission, the Council, the Property Owners, and other interested stakeholders. The previous collaboration between Albertson's and Sam's Club in its development of the Property, through the revision of the Declaration and Restrictions, demonstrates the good faith and willingness of Albertson's to find viable redevelopment options that will benefit the community as a whole. There are a myriad of available options that do not require the exercise of eminent domain powers.

For example, the Property Owners could pay money to remove the Sam's Club Restrictions. Doing so would permit a discount retail or entertainment project to move forward. Considering that the Property Owners agreed to the Sam's Club Restrictions in an arm's-length transaction only two months before seeking the blight determination, it is unclear why the Council would exercise its eminent domain powers to relieve the Property Owners from these restrictions when the Property Owners could easily eliminate them themselves by paying the agreed-upon price. With regard to the Restrictions, the Property certainly could be used for a purpose other than a supermarket or pharmacy. Doing so would increase the diversity of the retail options in an area already crowded with grocers including Albertson's, Whole Foods, and Costco—all of which are adjacent to or nearby the Property.

It should be noted that the concerted effort by Louisville and the Property Owners in seeking to eliminate the supermarket restriction can have no purpose other than to support the Property Owner's development of the Property for a supermarket that would be located *immediately adjacent to the Albertson's supermarket*. An exercise of eminent domain powers in

this way would benefit one private party over another in direct violation of the Colorado Constitution. Moreover, it is unrealistic to expect that the McCaslin location could support both a new supermarket and the existing Albertson's supermarket next door. Therefore, if the Council approves the Proposed Plan, it would essentially be seeking to put the Albertson's supermarket on McCaslin Boulevard out of business.

If an alternative solution cannot be reached and the Proposed Plan is adopted, the Council should consider the broader ramifications of exercising its eminent domain powers in addition to the likely closure of the Albertson's store, such as creating uncertainty for developers, investors, and businesses within Louisville. If use restrictions that are voluntarily entered into are arbitrarily eliminated by the Council, future private development within Louisville will become uncertain, and development may be chilled. When property owners cannot rely on such restrictions being enforced, they may simply choose to take their business to other communities.

III. The Proposed Plan Is Unlawful

Although Albertson's greatly prefers a negotiated resolution, it is prepared to litigate to defend its property interest with the Declaration.

In order for a municipality to find "blight" under Colorado law, it must determine that the property contains at least four of a list of factors set forth in C.R.S. § 31-25-103(2). Those factors must not merely be present, but must exist to such a degree that they "substantially impair[] or arrest[] the sound growth of the municipality, retard[] the provision of housing accommodations, or constitute[] an economic or social liability, <u>and</u> [are] a menace to the public health, safety, morals, or welfare . . . ." *Id.* (emphasis added). The Conditions Survey relies exclusively on the four factors listed above, and expressly notes that none of the other blight factors set forth in the Urban Renewal Law exist with respect to the Property. However, there are serious flaws with the findings made in the Conditions Survey with regard to those four factors.

First, the finding that the title to the Property is nonmarketable is fundamentally implausible considering that the Property was marketed and sold in January 2014 to purchasers possessing full knowledge and understanding of the Restrictions. *See Seeger's Estate v. Puckett*, 171 P.2d 415, 416-17 (Colo. 1946) (a purchaser of real property who purchases with knowledge of restrictive covenants in place on the property is bound by them). The purchase price was $3,650,000. It strains credulity to assert that a property *is not marketable* when, just a few months earlier, it was purchased for $3,650,000 by a developer with full knowledge of the applicable title restrictions in an arm's-length transaction. The sale of the Property to the Property Owners conclusively refutes any argument that the Property is nonmarketable.

Second, while the Restrictions and the Sam's Club Restrictions limit certain uses of the Property, they are not "unusual" as required by the statute, and they do not significantly impair the ability of the Property Owners to redevelop the Property. Use restrictions such as those at

issue here are commonplace in commercial retail developments and do not, by and large, impede use of commercial real estate to the point of it becoming "nonmarketable." The fact that Sam's Club was originally developed with the Restrictions in place (though modified by agreement with Albertson's) establishes that the Restrictions do not render the Property nonmarketable.

Third, as to the alleged deterioration of the Property, the Conditions Survey notes only that the Property requires maintenance, that its current tenant uses it only at specified times (unsurprising, given that the current tenant is a church), and that the parking lot contains "potholes [and] cracked parking curbs." While these may be true, they are hardly indicative of conditions that "substantially impair" Louisville's economic development or constitute "a menace to the public health, safety, morals, or welfare," as required by C.R.S. § 31-25-103(2). The Conditions Survey essentially concedes this point by stating:

- The Property lacks only "*full* maintenance";
- The parking lot had a "*few* potholes . . .";
- The "curb and gutter *in some places* was cracked and deteriorated";
- "The building itself was cracked in *a few places* in its façade, and needs *minor work* such as mortar repair in certain areas";
- "This is not to say that maintenance is completely lacking, but only that it gives the impression of being minimal"; and
- The Property "is *not badly deteriorated* . . . ."

(Emphasis added.) If the Council opts to exercise eminent domain power based upon these so-called findings of "deterioration," then vast numbers of businesses and property owners in Louisville face the risk that the City will seek to take their property rights. In fact, many parking lots in Louisville have pot holes and cracked curbs, and many buildings have mortar in the façade in need of repair. Will the Council consider all such properties to be blighted as well?

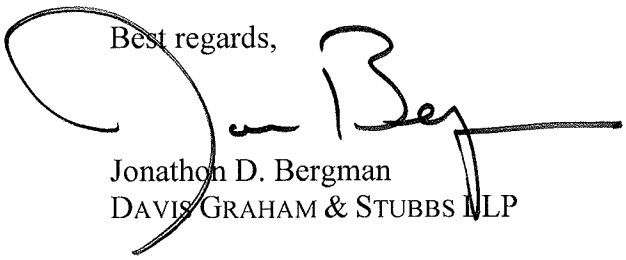
For these and other reasons, the Conditions Survey does not sufficiently establish that the blight factors of C.R.S. § 13-25-103 are met, and Louisville is thus not permitted under Colorado law to exercise eminent domain power to remove the Restrictions and the Sam's Club Restrictions from the Property. Albertson's is prepared to institute a civil action pursuant to C.R.C.P. 106(a)(4) to challenge the legality of the Proposed Plan should it be adopted, and will vigorously oppose the unconstitutional exercise of eminent domain powers to transfer property from one private owner to another at the cost of Albertson's property interest in the Restrictions. *See City & Cnty. of Denver v. Block 173 Assocs.*, 814 P.2d 824, 830 (Colo. 1991) ("[U]nder the plain wording of the Urban Renewal Law, if the actual purpose behind a particular urban renewal plan is not the elimination or prevention of blight or slums, the urban renewal authority does not

have the power to condemn land in furtherance of that plan because the determination of necessity is not supported by the record."); *see also Kelo v. City of New London, Conn.*, 545 U.S. 469, 486-87 (2005) (a transfer of "citizen *A*'s property to citizen *B* for the sole reason that citizen *B* will put the property to a more productive use and thus pay more taxes . . . would certainly raise a suspicion that a private purpose was afoot."); *Denver West Metro. Dist. v. Geudner,* 786 P.2d 434, 436 (Colo. App. 1989) ("If the primary purpose underlying a condemnation decision is to advance private interests, the existence of an incidental public benefit does not prevent a court from finding 'bad faith.'").

Albertson's looks forward to working with the Property Owners, Louisville, and the Commission to find a workable alternative for the Property that encourages redevelopment and re-tenanting in a manner that preserves existing private property rights, and that does not have a deleterious effect on the business and real estate development community.

If you have any questions concerning the above, please feel free to contact me.

Best regards,



Jonathon D. Bergman
DAVIS GRAHAM & STUBBS LLP

cc: Michael M. Dingel, Senior Attorney, Albertson's

City of Louisville

COLORADO • SINCE 1878

Office *of* the City Manager

January 6, 2014

Centennial Valley Investments
Attn: Tom Garvin
8758 W Phillips Road
Boulder, CO 80301

Re: 550 S. McCaslin Blvd

Dear Mr. Garvin:

I appreciate your interest in acquiring and revitalizing the vacant Sam's Club property in Louisville. As you know, Walmart closed the Louisville Sam's Club on January 20, 2010. This event was a significant loss to the community because it closed a primary shopping outlet for residents, eliminated at least 125 jobs for area residents, reduced the positive traffic that benefited other retailers in the vicinity of the store, and had a large negative impact on the City's sales tax revenue.

As my enclosed August 24, 2012 letter to Nick Goodner from Walmart indicates, we have been pushing Walmart for more than a year to set a realistic asking price for the property and to lift Walmart's use restrictions on this property. As noted in the letter, the City is exploring all options to allow a new owner to purchase the property without the use restrictions. We are very encouraged that you have a purchase contract with Walmart for the property. Closing on that contract would allow new opportunities to re-tenant and/or redevelop the property.

In City staff's opinion, there are several factors contributing to the difficulty of attracting new tenants or new ownership for the property. These factors include:

- Walmart's asking price and purchase terms for the property
- Restrictive use covenants in favor of neighboring properties
- The building being deeper than it is wide, which reduces the feasibility of redeveloping it for multiple retail tenants
- The general trend in large scale retail away from spaces larger than 100,000 square feet
- Poor visibility of the site from McCaslin caused by the development surrounding the building.

749 Main Street | Louisville CO 80027
303.335.4533 (phone) | 303.335.4550 (fax)
www.LouisvilleCO.gov

City staff and I are willing to recommend to the Louisville City Council actions to alleviate these factors if it would result in appropriate new tenants for the property. Of course, any decision of whether to approve, decline or request changes to any proposed economic development agreement is at the discretion of City Council.

Again, thank you for your interest in investing in the Louisville community. If you have questions, please contact our Economic Development Director, Aaron DeJong, at 303.335.4531 or email at aarond@louisvilleco.gov.

Sincerely,

Malcolm Fleming
City Manager

Enclosure

City of Louisville

COLORADO · SINCE 1878

Office of the City Manager

August 24, 2012

Walmart Realty
Attn: Nick Goodner
2001 SE 10th Street
Bentonville, AR 72716-5535

Re: Vacant Louisville Sam's Club

Dear Mr. Goodner,

The former Sam's Club property at 550 South McCaslin in Louisville has been vacant for over two years. Louisville citizens frequently inquire why the property has not been put back in to productive use. The vacant building and poorly maintained site has a serious blighting influence on the adjacent businesses and surrounding neighborhood. We understand this is a strategic asset for Walmart, and divesting of it needs to work best for your organization. However, your inability to sell the property for more than two years makes it clear a change in approach is needed.

As you know, there are few entities that can viably use a large big box building like this. We believe the use restrictions Walmart imposes on the property severely limit the pool of potential buyers, benefit no Walmart property in Louisville or the trade area, and are simply anticompetitive. Also, the asking price for the property does not reflect comparable real estate in the area, compounding the difficulty of finding a buyer and returning the property to productive use.

We ask you to revise the asking price to reflect current market realities and consider not imposing use restrictions on this property prior to new ownership. These restrictions ultimately prevent this major retail corridor from being a viable place to do business and contributing to the vitality of our community. Because of this, we would like to discuss with you options for the site, including whether Walmart has any plans other than sale.

We would be happy to discuss this matter in a conference call, or if better, a visit to Bentonville. This property is very important to the economic and fiscal health of the City of Louisville and consequently the City is exploring all options to allow for a new owner to purchase the property without the use restrictions.

Sincerely,

Malcolm Fleming

Malcolm Fleming
Louisville City Manager

749 Main Street | Louisville CO 80027
303.335.4533 (phone) | 303.335.4550 (fax)
www.LouisvilleCO.gov

Davis Graham & Stubbs LLP

Jon Bergman
303 892 7421
Jon.bergman@dgslaw.com

August 27, 2015

Via Email: slight@lightkelly.com

Samuel J. Light
Light Kelly, P.C.
101 University Blvd., Suite 210
Denver, Colorado 80206

Re: Follow-Up to August 18, 2015 Louisville City Council Meeting Concerning the Proposed Urban Renewal Plan for 550 South McCaslin Boulevard

Dear Mr. Light:

I write on behalf of Albertson's LLC ("Albertson's"), which owns and operates a grocery store at 910 West Cherry Avenue in Louisville, Colorado. This letter supplements my August 13, 2015 letter concerning the proposed Urban Renewal Plan (the "Proposed Plan") relating to the former Sam's Club property located at 550 South McCaslin Boulevard (the "Property"), which was purchased by Centennial Valley Investments and SEMINOLE (together, "Centennial") for nearly four million dollars in 2014. During the August 18, 2015 meeting before the Louisville City Council ("Council"), some questions were raised regarding Albertson's objections to the Proposed Plan. This letter provides additional information about Albertson's position concerning the Proposed Plan.

I. Issues Raised During the August 18, 2015 Council Meeting

As previously explained, Albertson's has a number of concerns relating to the Proposed Plan and the urban renewal process in general. A few of these concerns are addressed in more detail below.

A. Interactions Between the City Staff and Current Property Owners

Albertson's issued a Colorado Open Records Act request to the City of Louisville on July 22, 2015, requesting documents relating to the Property and the Proposed Plan. The City responded on August 7, 2015. Certain of the documents provided demonstrate that the City staff has been in communication with the current owners of the Property about eliminating the restrictive use covenants that benefit Albertson's and other neighboring property owners. Some of these communications took place before the property was even purchased. For example, in a January 6, 2014 letter from City Manager Malcolm Fleming to Tom Garvin of Centennial, Mr. Fleming stated that "there are several factors contributing to the difficulty of attracting new tenants or new ownership for the property … include[ing] … [r]estrictive use covenants in favor of neighboring properties." He added that "City staff and I are willing to recommend to the

Louisville City Council actions to alleviate these factors if it would result in appropriate new tenants for the property."

In addition, just two months after Centennial purchased the Property, Aaron DeJong, the City's Economic Development Director, drafted a letter for Centennial to send to the Council complaining about the use restrictions and requesting the Council's assistance in taking "any actions" necessary to remove them.

The documents provided by the City also indicate that, for over a year, the City staff and Centennial have been communicating and working together to recruit one of Albertson's chief competitors as their "1st priority" for the Property, despite the fact that this would expressly violate Albertson's use restriction.

In short, the City staff has inappropriately aligned itself with Centennial, whose interests are adverse to those of longstanding members of the Louisville community.

B. Lack of Transparency

Albertson's has voiced concerns about the lack of transparency regarding the Proposed Plan and the process to date. Again, documents produced by the City confirm these concerns. For example, Michael Menaker, a member of the Louisville Revitalization Commission, has repeatedly expressed reservations about the City's lack of transparency. In a January 21, 2015 email to Councilmember Ashley Stolzmann, Mr. Menaker stated, "I think [Councilmember Lipton] was mistaken in his conclusion that no opposition from neighboring property owners means no objections. *I don't believe most of the property owners have any idea what we are contemplating.*" (Emphasis added.) He went on to explain, "I don't feel that the public process so far has been offered much transparency into the real discussions that have taken place so far in executive session."

In a separate email to Councilmember Christopher Leh on May 2, 2015, Mr. Menaker expressed similar sentiments: "There is zero transparency on the state of the 'negotiations' and staff is still charged with creating an urban renewal plan .... All of this, for the most part, has taken place behind closed doors. Time for sunshine, brother."

A prime example of this lack of transparency was the City's failure to provide notice to property owners in the community regarding its decision to commission a blight study of the Property. Albertson's was not informed about the "Conditions Survey"—or of the City's ultimate blight determination based on that survey—until long after the fact. Given the potential impact of the blight determination on Alberton's property interests, this oversight can only be viewed as deliberate.

According to the documents produced by the City, only four individuals from the community attended the public meeting on July 7, 2014 where the findings of the Conditions

Survey were presented—and several individuals expressed their "concern[s] [that] the restrictive covenants placed on the property did not constitute a condition of blight."[1] The day after this meeting, Councilmember Susan Loo sent an email to Councilmember Ashley Stolzmann stating:

> Did you go to the "blight" meeting last night? ... Evidently, "stakeholders" were not personally notified; a situation I took issue with. I think it lays us open to accusations of being "sneaky" about this whole process.

More importantly than the appearance of impropriety cited by Councilmember Loo, the lack of notification deprived Albertson's and other interested members of the community of the opportunity to be involved with the decision-making process and to verbalize their concerns and objections before a decision was made.

C. Deficiencies in the Blight Findings

As previously stated, even a cursory review of the "blight factors" identified in the Conditions Survey reveals that they cannot be supported. Others hold this same view. Criticism of the Conditions Survey has come from concerned citizens,[2] members of the Louisville Revitalization Committee,[3] and City councilmembers,[4] undoubtedly because many of the purported "blight factors" are clearly indefensible. For example, the Conditions Survey relies heavily on the fact that the Property has been (mostly) vacant for some time. But vacancy is not blight. And given the communications and efforts between Centennial and the City staff to remove the use restrictions encumbering the Property, there is no current incentive for Centennial to utilize the Property in a productive manner that is consistent with the use restrictions.

Ultimately, the City's actions leave the impression that the blight determination was a pretext to eliminate the use restrictions on the Property in order to benefit one private party at the expense of others. This is not a legitimate use of the City's urban renewal powers. Moreover, the City's actions appear particularly troublesome given that Centennial purchased the Property with full knowledge of all of the relevant covenants and restrictions, could have negotiated for the removal of those restrictions on their own, and currently have the ability to eliminate many of those restrictions by simply paying a fee. As Councilmember Hank Dalton has explained,

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[1] *See* July 15, 2014 City Council Communication.

[2] *See, e.g.,* July 15, 2014 email from unidentified concerned citizen to Hank Dalton ("While the blighting conditions found are subject to interpretation, they are not convincing.").

[3] *See, e.g.,* June 30, 2014 Louisville Revitalization Commission Meeting Minutes ("Commissioner Lathrop said he feels some of the blight factors found are a stretch ....").

[4] *See, e.g.,* January 6, 2015 City Council Meeting Minutes ("Mayor Pro Tem Dalton stated despite the Council's finding of blight, there is no blight on this property.").

"[c]ondemnation of property for civic improvements is a proper use of the process. Condemnation to benefit a commercial development is just plain wrong."[5]

II. The Proposed Plan Faces a Difficult Path Forward

Of course, Albertson's prefers to resolve these issues in a mutually beneficial fashion without resorting to litigation. However, if the City follows through with its threatened taking of Albertson's use restriction, Albertson's must defend its property rights. Even if the City believes that any lawsuit that Albertson's may file to challenge the Proposed Plan would be infirm (which it would not be), a reasoned review of the forward path for the Proposed Plan strongly weighs against approving it. Malcolm Murray, the attorney for the Louisville Revitalization Commission, has explained the substantial legal challenges a municipality faces in eminent domain actions as follows:

> [T]he General Assembly has afforded a landowner at least three opportunities to challenge a taking for urban renewal purposes. First, the landowner can challenge the blight determination by filing a C.R.C.P. 106(a)(4) action .... [I]f condemnation is proposed, the landowner can appear at the governing body's public hearing and the governing body can approve the condemnation only if the condemnation is for the eradication of blight and not because of the economic performance of the property. Finally, when a condemnation action is filed, the urban renewal authority must establish that the taking is necessary for the eradication of blight and not for the purpose of economic development or enhancement of tax revenues.[6]

In regard to this final challenge, "the burden of proof is on the [City] to demonstrate, by **clear and convincing evidence**, that the taking of the property is necessary for the eradication of blight." C.R.S. § 38-1-101(2)(b) (emphasis added). The fact that the City made a blight determination, by itself, does not satisfy this burden. *See* Colo. Const. art II § 15 ("[W]henever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such *without regard to any legislative assertion* that the use is public." (emphasis added)); *City & Cnty. of Denver v. Block 173 Assocs.*, 814 P.2d 824, 830 (Colo. 1991) ("[T]he fact that [blight] conditions were found to exist is not dispositive if the purpose in designating a large study area and in targeting [the property] as part of that area was, as alleged, to acquire [the property] for private purposes. The claims of the landowner may be supported by evidence demonstrating that ... the project was undertaken in bad faith or fraud as a subterfuge to achieve an improper purpose rather than the authorized purpose of urban renewal.").

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[5] January 22, 2015 email to unidentified constituent.

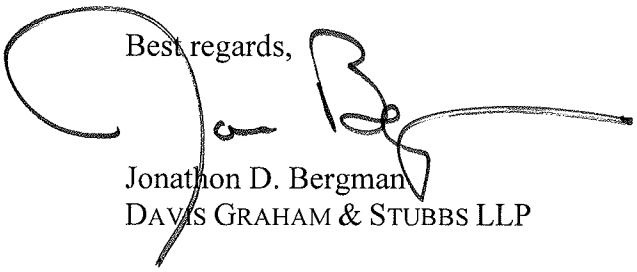
[6] Reply Br. in Supp. of Def.'s Mot. to Dismiss, *Westminster Mall Co. v. City of Westminster*, Case No. 2010CV3231, at 9-10 (Jefferson Cnty. Dist. Ct. Oct. 18, 2010).

From Albertson's perspective, it is clear that the primary purpose of the Proposed Plan is to promote economic development and increased tax revenue for the City rather than to eliminate actual blight. The documents provided to Albertson's by the City support this position. While promoting economic development and increasing tax revenue are laudable goals—and are shared by Albertson's—the City's Proposed Plan is defective as it will not substantially increase tax revenue as it so claims in justification for approval of the plan. As I stated in my August 13 letter, it is unrealistic to expect the McCaslin location to be able to support a new supermarket and the existing Albertson's supermarket next door. Thus, any tax gain with the new supermarket will be substantially offset by the tax loss from the closure of the Albertson's supermarket. If the City desires true economic development and *incremental* tax revenue at this location, the City needs to support complimentary uses of the Property.

If the City ultimately decides to bring an eminent domain action in order to remove the use restrictions on the Property and is successful in court, it will still have to compensate Albertson's for the taking[7]—something that could have been avoided through good faith and transparent negotiations without incurring the unnecessary burden and expense of litigation. If the City brings an eminent domain action against Albertson's and is *not* successful, the City will be liable for Albertson's costs and attorneys' fees incurred in protecting its property rights, and will be no closer to redeveloping the Property than it is now. Neither situation is a true "win" for the City or the community or Louisville. With this in mind, Albertson's implores the City to set aside the heavy-handed tactics described in the Proposed Plan, and to work with, not against, neighboring property owners and longstanding citizens of the community to develop a plan of action that will include a use of the Property that benefits the City and community without unfairly depriving neighboring property owners of their rights.

If you have any questions concerning the above, please feel free to contact me.

Best regards,



Jonathon D. Bergman
DAVIS GRAHAM & STUBBS LLP

[7] *See* Colo. Const. art. II, § 15; C.R.S. § 38-1-101(1)(a).

CITY COUNCIL COMMUNICATION
AGENDA ITEM 8D

SUBJECT: **DISCUSSION/DIRECTION – BOARD AND COMMISSION ORGANIZATION**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **MEREDYTH MUTH, CITY MANAGER'S OFFICE**

SUMMARY:
Council Members have expressed interest in reviewing the missions of the City's Boards and Commissions prior to the annual call for volunteers to fill vacancies on Boards and Commissions. The intent of this review is to ensure the existing mission of each board is clear, relevant service areas are covered, and any areas of overlap among boards or areas of ambiguity are resolved.

The City currently has fifteen Boards and Commissions as follows:

Quasi-Judicial	*Advisory*
Board of Adjustment*	Business Retention & Development
Building Code Board of Appeals*	Cultural Council
Historic Preservation Commission*	Golf Course Advisory Board
Local Licensing Authority	Historical Commission
Planning Commission*	Horticultural and Forestry Advisory Board
	Library Board of Trustees
	Open Space Advisory Board*
	Revitalization Commission
	Sustainability Advisory Board
	Youth Advisory Board

The starred boards listed above are required by the City Charter. All of the other boards were created by resolution or ordinance by the City Council to serve a specific purpose or mission. Duties and structural information for each board are attached.

It is within the City Council's discretion to change or amend the duties and mission of any advisory board with the exception of duties specified in the City Charter for the Open Space Advisory Board. Changes to boards could include adding additional duties to a board, combining boards or other actions Council deems appropriate.

Outside of the board process, the City Council can create Task Forces at any time to address a short term issue or project.

FISCAL IMPACT:
Each of the City's 15 Boards and Commissions has a staff liaison and all of the Advisory Boards have a City Council liaison as well. Boards and Commissions must adhere to the Open Meetings and other applicable requirements. Should the Council wish to create a new advisory board, it would require additional staff support and Council time and could increase meeting materials, training and other related expenses.

RECOMMENDATION:
Discussion

ATTACHMENT(S):
1. Board Duties and Information
2. City Charter, Article 10, Boards & Commissions
3. City Charter, Article 15, Open Space

Boards and Commissions
Descriptions & Job Duties

Board of Adjustment

A quasi-judicial board that hears and decides requests for variances from the City's zoning ordinances.

- Job Duties
  - Attends monthly meetings of the board
  - Hears and decides applications for variances from the Louisville Municipal Code
  - Hears and decides floodplain development permit requests for compatibility with the Louisville Municipal Code
  - Hears and decides requests to determine if a particular land use is allowed under the Louisville Municipal Code
  - Hears and decides appeals from administrative decisions of the Director of Planning and Building Safety
- Board Information
  - Seven (7) members, one is an alternate
  - Three-year terms
  - Staff liaison: Scott Robinson (ScottR@LouisvilleCO.gov, 303.335.4596)
  - Meets the third Wednesday of each month at City Hall, 749 Main Street, at 6:30 PM, only as needed

Building Code Board of Appeals

A quasi-judicial board that hears and decides appeals of orders, decisions, or determinations made by building officials relative to the application of the building code.

- Job Duties
  - Attends monthly meetings of the board
  - Reviews appeals to the Chief Building Officials determinations regarding building codes.
  - Reviews Building Codes and makes recommendations to the City Council for adoption
  - Reviews suggested changes to the Louisville Municipal Code and makes recommendations to the City Council for adoption
- Board Information
  - Six (6) members, one is an alternate
  - Members must be qualified by experience and training to understand matters pertaining to building construction
  - Three-year terms
  - Staff liaison: Ken Swanson (KenS@LouisvilleCO.gov, 303.335.4580)
  - Meets the third Thursday of each month at the City Hall, 749 Main Street, at 7:00 PM, only as needed

Cultural Council

Advises the City Council on matters related to culture and the arts, brings cultural activities to Louisville, and advocates to advance and preserve the arts, sciences, and humanities in Louisville.

- Job Duties
  - Attends monthly meetings of the board with additional subcommittee assignments as needed
  - Advises the City Council on arts and cultural related matters
  - Produces, organizes and promotes various cultural events
  - Applies for grants and funding opportunities to support the arts and other cultural activities

    A working board with a time commitment of 3-10 hours per month
- Board Information
  - Ten (10) members
  - Three-year terms
  - Staff liaison: Suzanne Janssen (SuzanneJ@LouisvilleCO.gov, 303.335.4581)
  - Meets the third Thursday of each month at City Hall, 749 Main Street, at 6:30 PM

Golf Course Advisory Board

Advises the City Council on matters related to the Coal Creek Golf Course and its management.

- Job Duties
  - Attends monthly meetings of the board
  - Reviews and makes recommendations to the City Council regarding operations and capital improvements for the golf course
  - Makes recommendations regarding programs, activities and promotions regarding the golf course
  - Provides feedback to City Council and staff of what the community would like to see the City consider implementing at the golf course
  - Makes recommendations on ways Coal Creek might improve upon fiscal sustainability (revenues and expenses) while staying competitive within the golf course market
  - Periodically participates in the review of a master plan for the operation and maintenance of Coal Creek Golf Course as requested by City staff and City Council
- Board Information
  - Seven (7) members
  - Three-year terms
  - Staff liaison: Joe Stevens (JoeS@LouisvilleCO.gov, 303.335.4731)
  - Meets the third Monday of each month at the Library Meeting Room, 951 Spruce Street, at 6:30 PM

Historic Preservation Commission

A quasi-judicial board that makes recommendations to the City Council regarding historic landmarking of local properties and advises the City Council on preservation issues and spending of the Historic Preservation Fund.

- Job Duties
  - Attends monthly meetings of the board
  - Makes recommendations to City Council on landmarking of historic structures
  - Makes recommendations to City Council on the utilization of the Historic Preservation Fund
  - Advises City Council on incentives for historic preservation
  - Provides outreach and education on historic preservation issues
  - Makes decisions regarding alterations to and demolition of historic buildings
- Board Information
  - Seven (7) members (three must be preservation professionals, one must live in the Old Town Overlay District)
  - Three-year terms
  - Staff liaison: Lauren Trice (LaurenT@LouisvilleCO.gov, 303.335.4594)
  - Meets the third Monday of each month at City Hall, 749 Main Street, at 6:30 PM

Historical Commission

Advises the City Council on matters related to the Louisville Historical Museum and promotes public awareness of the history of Louisville with an emphasis on the coal mining era.

- Job Duties
  - Attends monthly meetings of the board
  - Advises the City Council on matters relating to the development and use of the Louisville Historical Museum
  - Promotes public awareness of the history of Louisville and its surrounding community
  - Establishes criteria for the collection, preservation and display of historical artifacts, documents and structures by the Museum
  - Works with Museum staff on such issues as deciding which items to accept into the Museum's permanent collection and establishing the Museum mission statement and Master Plan
  - Works with directors of the Louisville History Foundation, a private fundraising organization, on issues of common interest
  - Serves as a sounding board for City departments and local organizations on matters relating to local history
- Board Information
  - Ten (10) members
  - Four-year terms
  - Staff liaison: Bridget Bacon (BridgetB@LouisvilleCO.gov, 303.665.9048)
  - Meets the first Wednesday of odd-numbered months at the Library Meeting Room, 951 Spruce Street, at 6:30 PM

Horticulture & Forestry Advisory Board

Advises the City Council on public landscape projects and the development of the Louisville Arboretum.

- Job Duties
  - Attends monthly meetings of the board
  - Reviews and gives comments on public landscape projects to staff and the City Council
  - Reviews and gives comments on city landscape master plans, landscape ordinances and other appropriate landscape documents
  - Hears appeals of decisions of the City Forester concerning licensing of arborists and removal of trees as provided in the Louisville Municipal Code
  - Advises the City on the adoption of regulations for the care and planting of trees
  - Promotes landscape practices protective of environmental resources
  - Promotes healthy horticultural practices in public and private landscapes
  - Educates the public regarding horticultural practices appropriate to Louisville's climate and soils
  - Makes recommendations to the City Council regarding budget priorities for horticulture projects
- Board Information
  - Seven (7) members
  - Two-year terms
  - Staff liaison: Chris Lichty (ChrisL@LouisvilleCO.gov, 303.335.4733)
  - Meets the first Thursday of each month at the Recreation Center, Paramount Room, 900 West Via Appia, at 7:00 PM

Library Board of Trustees

The Louisville Public Library's mission is to inform, involve, and inspire the communities we serve. Advises the City Council on matters related to the library and library policy.

- Job Duties
  - Attends monthly meetings of the board
  - Serves as advisors in the review and development of policies for the Louisville Public Library
  - Develops, reviews, and updates the Library's Strategic Plan
  - Liaises with City Council on matters relating to the Library
  - Promotes use of the Library within the community
  - Develops and performs outreach activities (Little Libraries, Back-to-School nights, connecting with nonusers, etc.)
  - Collaborates as needed with the Louisville Library Foundation (promoting 'On The Same Page, Library Makerspace, etc.)
  - Has a Louisville Public Library card!
- Board Information
  - Seven (7) members, one representative appointed by Superior Board of Trustees
  - Five-year terms
  - Staff liaison: Beth Barrett (BethB@LouisvilleCO.gov, 303.335.4800)
  - Meets the second Thursday of odd-numbered months at the Library Meeting Room, 951 Spruce Street, at 6:30 PM

Local Licensing Authority

A quasi-judicial board that reviews applications for liquor licenses and retail and medical marijuana licenses and reviews alleged violations of local liquor and marijuana codes.

- Job Duties
  - Attends monthly meetings of the board
  - Reviews Liquor and Marijuana applications as well as other changes to licenses
  - Reviews Police Department reports for possible violations
  - Participates in hearings to determine if licensees should be sanctioned
- Board Information
  - Six (6) members, one is an alternate
  - Four-year terms
  - Staff liaison: Carol Hanson (CarolH@LouisvilleCO.gov, 303.335.4574)
  - Meets the fourth Monday of each month at City Hall, 749 Main Street, at 7:00 PM

Open Space Advisory Board

Advises City Council on the conservation, restoration, management, and acquisition of Open Space properties.

- Job Duties:
  - Attends monthly meetings of the board
  - Reviews and updates an inventory of City Open Space. This shall include existing Open Space as well as other undeveloped lands owned by the City that may be eligible for Open Space designation in the future
  - Provides recommendations for natural resource management, environmental education, and trails
  - Reviews and recommends revisions to the Open Space Master Plan as necessary
  - Provides comments to City Council and/or the Planning Commission on development proposals affecting Open Space and trails
  - Periodically reviews and make recommendations on Capital Improvement priorities
- Board Information
  - Eight (8) members
  - Three-year terms
  - Staff liaison: Ember Brignull (EmberB@LouisvilleCO.gov, 303.335.4729)
  - Meets the second Wednesday of each month at the Library Meeting Room, 951 Spruce Street, at 7:00 PM

Planning Commission

A quasi-judicial board that evaluates land use proposals against municipal zoning regulations and makes recommendations to the City Council.

- Job Duties
  - Attends monthly meetings
  - Reviews land use applications, development applications, and annexation requests against zoning regulations
  - Suggests Municipal Code amendments to the City Council
  - Advises the City Council on long-range planning and items such as design standards and small area plans.
- Board Information
  - Seven (7) members
  - Two 2-year terms, two 4-year terms, three 6-year terms
  - Staff liaison: Troy Russ (TroyR@LouisvilleCO.gov, 303.335.4590)
  - Meets the second Thursday of each month at City Hall, 749 Main Street, at 6:30 PM

Revitalization Commission

Responsible for carrying out the Highway 42 Area Urban Renewal Plan adopted in 2006.

- Job Duties
  - Reviews and considers assistance for projects that address blight conditions within the Urban Renewal Area
  - Works to stimulate growth and reinvestment in the Urban Renewal Area and surrounding blocks and to reduce, eliminate and prevent the spread of blight in the Urban Renewal Area
- Board Information
  - Seven (7) members (one must live in urban renewal area, one from City Council)
  - Five-year terms
  - Staff liaison: Aaron DeJong (AaronD@LouisvilleCO.gov, 303.335.4531)
  - Meets the second Monday of each month at the Library Meeting Room, 951 Spruce Street, at 7:30 AM

Sustainability Advisory Board

Promotes sustainability through energy efficiency, resource conservation, and localization to better the environment, social well-being, and economic vitality of the City. Advises City Council on approaches to conservation and sustainability.

- Job Duties
  - Attends monthly meetings
  - Advises the City Council and staff on sustainability programs
  - Establishes targets and indicators with baseline values to measure progress towards sustainability targets
  - Identifies roles, responsibilities and resources needed to implement sustainability programs
- Board Information
  - Seven (7) members
  - Four-year terms
  - Staff liaison: Dave Szabados (DaveS@LouisvilleCO.gov, 303.335.4601)
  - Meets the third Wednesday of each month at City Hall, 749 Main Street, at 6:30 PM

Youth Advisory Board

Advises City Council on issues affecting the youth of Louisville

- Job Duties
  - Attends monthly meetings October – May
  - Participates in the board selected monthly volunteer event, October – May
  - Makes recommendations to the City Council regarding issues related to Louisville youth.
- Board Information
  - Thirteen (13) members
  - Two-year terms
  - Staff liaison: Mandy Perera (MandyP@LouisvilleCO.gov, 303.335.4902)
  - Meets the first Thursday of each month during the school year at the Library Meeting Room, 951 Spruce Street, at 6:30 PM

City Council Committees

- Business Retention & Development Committee
  Three (3) City Council members
  One (1) appointee from each of the following:
  - Planning Commission
  - Revitalization Commission
  - Chamber of Commerce
  - Downtown Business Association
  - Colorado Tech Center

  Meets the first Monday of each month at the Library Meeting Room, 951 Spruce Street, at 8:00 AM

- Finance Committee
  Three (3) City Council members
  Meets the third Monday of each month at City Hall, 749 Main Street, at 7:30 AM

- Water Committee
  Three (3) City Council members
  Meets as needed

- Legal Review Committee
  Three (3) City Council members
  Meets as needed

City of Louisville

Updated August 2015

ARTICLE 10

BOARDS AND COMMISSIONS

Section 10-1. Establishment of Boards and Commissions.

(a) Except as provided in Subsection (b), the City Council may, by ordinance, establish, consolidate or abolish any board or commission.

(b) The following boards and commissions shall not be abolished:

(1) Board of Adjustment;

(2) Building Code Board of Appeals;

(3) Historic Preservation Commission;

(4) Open Space Advisory Board; and

(5) Planning Commission.

Section 10-2. Boards and Commissions - General.

(a) Except as otherwise provided by this Charter or by ordinance, each board and commission shall be advisory in character. The term, responsibilities, policies, and other matters concerning each board and commission shall be as established by resolution.

(b) The appointment or removal of each board and commission member shall require the affirmative vote of a majority of the entire Council. During the term of office, a member shall be removed only for cause as defined in the resolution described in Subsection (a).

(c) Except as provided in Subsection (d), each member of a board or commission shall be a resident of the City at the time of appointment and throughout the member's term.

(d) If the board or commission is one in which specialized technical expertise is necessary or desirable, the Council may provide, in the resolution described in Subsection (a), for the appointment of one (1) or more members who are not residents of the City, but who have such expertise.

(e) The members of each board and commission shall serve without

compensation, but may be paid authorized expenses actually incurred in the performance of the duties of office.

(f) The Council may establish, by resolution, task forces or committees to provide advisory recommendations on special or short-term issues. The resolution establishing the task force or committee shall set forth the goals and responsibilities of the task force or committee. The appointment or removal of each task force or committee member shall require the affirmative vote of a majority of the entire Council.

(g) No board or commission, or task force or committee, shall hold any executive session except in accordance with procedures which shall be consistent with those established in Section 5-3, and only for pending litigation, as described in Section 5-2(d).

ARTICLE 15

OPEN SPACE

Section 15-1. Open Space Article - Purpose.

The purpose of this article is to establish management standards for City-owned open space lands that:

(a) Are consistent with good stewardship and sound ecological principles;

(b) Preserve and promote native plants, native wildlife, and their habitats; and

(c) Preserve and promote cultural resources, agriculture, scenic vistas, and appropriate passive recreation activities.

Section 15-2. Open Space Article - Definitions.

As used in this article, the following terms shall have the following meanings:

(a) "Agricultural uses" means the use of land for grazing and for growing and cultivation of crops and plants.

(b) "Native plants" means plant species that occur naturally in Louisville habitats without direct or indirect human actions.

(c) "Native wildlife" means animal species that occur naturally in Louisville habitats without direct or indirect human actions.

(d) "Open space" or "open space land" means land that is included in the open space zone district pursuant to Section 15-3.

(e) "Passive recreation activities" means recreational activities that are determined by the City Council, after consideration of the recommendations of the Open Space Advisory Board, to have minimal harmful effects on native plants and native wildlife.

Section 15-3. Open Space Zone District.

(a) The City Council, after considering the recommendations of the Open Space Advisory Board, shall establish and from time to time update an inventory of each parcel of vacant land owned in whole or in part by the City, and determine whether the parcel shall be designated as open space land.

(b) The City's ordinances shall provide for an open space zone district into which shall be placed all land which is located wholly within the City and which has been designated as open space in accordance with Subsection (a). With respect to any such land that is owned by the City jointly with another governmental entity, the City shall endeavor in good faith to obtain the consent of such governmental entity to place the land into the open space zone district.

(c) The use of land in the open space zone district shall be in accordance with the classification and management requirements of Section 15-4. Subject to such requirements, the City Council may regulate specific activities on land in the open space zone district, after considering the recommendations of the Open Space Advisory Board.

(d) No land which has been placed in the open space zone district shall be rezoned or placed into any other zone district without the approval of the registered electors.

Section 15-4. Classification and Management of Open Space Land.

(a) It is intended that the various classifications of open space provided for in this section will require management policies specifically designed to provide an appropriate level of protection for each classification.

(b) The City shall place open space in and manage open space according to the following classifications, as further delineated by ordinance:

(1) Open Space-Preserve Land.

(A) Land under this classification shall be characterized by a moderate to high level of relative ecological importance with lower levels of habitat fragmentation. Where Open Space-Preserve land is adjacent to other open space or other City-owned land, the adjacent land shall include, where possible, a sufficient buffer area to permit the successful management of the Open Space-Preserve land.

(B) This land shall be managed in a manner that preserves and promotes the long-term viability of native plants and native wildlife, restoration, restoration potential, and ecologically sound agricultural use. Management of City-owned lands surrounding Open Space-Preserve lands shall, to the extent possible under and consistent with the management criteria for the classification of such surrounding land, not be in conflict with the management required under this section.

(C) Visitation for research purposes and formal supervised educational visitation may be permitted in this classification. No or very low levels of passive recreational activities shall be permitted.

(D) When there is a real conflict between human use and any area or item of ecological importance in this classification, preference shall be given to sustaining the area or item of ecological importance.

(2) Open Space-Protected Land.

(A) Land under this classification shall be characterized by a moderate to high level of relative ecological importance with higher levels of habitat fragmentation.

(B) This land shall be managed in the same manner as Open Space-Preserve Land, except that management may permit passive recreation activities so long as:

(i) The passive recreation activities are designed to encourage resource protection, long-term ecological viability of native plants and native wildlife, restoration, ecologically sensitive agricultural use, research, and education; and

(ii) The recreational impacts are contained in order to prevent any adverse effect on Open Space-Preserve land.

(C) Moderate to moderately high visitation levels may be permitted in this classification.

(D) When there is a real conflict between human use and any area or item of ecological importance in this classification, preference shall be given to sustaining the area or item of ecological importance.

(3) Open Space-Visitor Land.

(A) Land under this classification shall be characterized by a lower level of relative ecological importance with higher levels of habitat fragmentation.

(B) Open Space-Visitor Land shall be managed so that recreational opportunities are designed to encourage resource protection with minimal landscaping using native plants and limited irrigation.

(C) Moderate to high levels of visitation may be permitted in this classification.

(4) Open Space-Other Lands.

(A) Open Space-Other Lands shall be managed to include construction of entryway features and trail rests, planting of trees, and other buffer plantings. Reasonable attempts shall be made to minimize the impact of entryway features and trail rests on the land, and to use native trees and plants.

(B) High levels of visitation and passive recreation activities consistent with existing patterns may be permitted in this classification.

(c) Once placed into one of the classifications described in Subsection (b), no open space shall be placed into a less protected classification except by an ordinance approved by at least two-thirds (2/3) of the entire City Council. Before approving any such ordinance, the Council shall consider any recommendations of the Open Space Advisory Board provided within thirty (30) days after the Council=s request for such recommendations. Such an ordinance shall be subject to the rights of initiative and referendum in the manner set forth in Article 7 of this Charter, whether or not the ordinance is legislative in character.

(d) The City shall not use any lethal method to control or manage native wildlife on any open space land unless the City has first made good faith efforts to use non-lethal methods. In addition, the City shall not use relocation or lethal methods against any species of native wildlife on any open space land if that action would result in the elimination of that species from all open space.

(e) Nothing in Subsection (d) shall prohibit the use of relocation or lethal methods on any open space land to control or manage native wildlife for the immediate protection of human health and safety.

(f) The City shall not use pesticides, herbicides and other similar chemicals on open space land unless:

(1) The City reasonably determines that other non-toxic remedies will have little opportunity for success; or

(2) They are required by state law or federal law.

(g) In representing the City's position for the management of any open space land which is located outside the City, or is owned by the City jointly with another governmental entity, the City shall endeavor in good faith to manage such lands consistent with the standards for management of City open space set forth in this section. No substantive change in the use of such land shall be approved by the City unless it has been referred to the Open Space Advisory Board for review and recommendations.

Section 15-5. Open Space - Effect of Article.

Nothing in this article shall be construed to:

(a) Affect or limit the safe and efficient operation, construction and maintenance of the City's water, sewer, drainage, and flood control systems and infrastructure; except that the City shall make reasonable efforts to mitigate the impact of such operation, construction, and maintenance on open space;

(b) Prohibit the use of wheelchairs and similar devices on open space by persons with disabilities;

(c) Affect or limit the City's authority to approve the reasonable use of motorized vehicles on open space for maintenance activities or emergency services, or for purposes of compliance with legal access agreements;

(d) With respect to open space lands which are jointly owned by the City with another governmental entity and which are the subject of an intergovernmental agreement or a conservation easement, affect or limit the management of such lands in accordance with the terms of such agreement or easement;

(e) Affect or limit the City's authority to obtain and follow the recommendations of the Colorado Division of Wildlife with respect to the management and control of large game animals and large non-game animals that are occasionally found on City open space; or

(f) Require any level of budgetary appropriations with regard to the matters addressed in this article.

Section 15-6. Open Space -- Transfer of Interest.

(a) Except as provided in Subsection (b), the approval of the registered electors shall be required for:

(1) The sale, lease, trade, or other transfer or conveyance of any open space land; or

(2) The grant of a license or easement to use any open space land.

(b) No approval of the registered electors shall be required for:

(1) The grant of a lease for agricultural uses on open space land, but only to permit the continuation of agricultural uses that existed prior to the City's acquisition of the land;

(2) The grant of a non-exclusive license, easement, or permit for the undergrounding of utilities on open space land. The grantee of the license or easement shall restore all disturbances to the land resulting from the grantee's activities; or

(3) The transfer of any property interest in or relating to open space land that substantially and directly advances the open space goals set forth in Section 15-1, by an ordinance approved by at least two-thirds (2/3) of the entire City Council following favorable recommendation by the Open Space Advisory Board. Such an ordinance shall be subject to the rights of initiative and referendum in the manner set forth in Article 7 of this Charter, whether or not the ordinance is legislative in character.

SUBJECT: **PURCHASING POLICY UPDATE**

1. **RESOLUTION NO. 62, SERIES 2015 – A RESOLUTION AMENDING CITY OF LOUISVILLE PURCHASING POLICIES**

2. **ORDINANCE NO. 1701, SERIES 2015 – AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 3.08 OF THE LOUISVILLE MUNICIPAL CODE PERTAINING TO THE PROCUREMENT OF GOODS, SERVICES AND CONTRACTS FOR PUBLIC WORKS – 1ST READING – SET PUBLIC HEARING 09/15/15**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **MEREDYTH MUTH, CITY MANAGER'S OFFICE**

SUMMARY:
The City Council asked staff to review the current purchasing policy limits, specifically the level at which a purchase requires City Council approval. The attached resolution and ordinance would approve a change in the purchasing policy allowing the City Manager to approve purchases up to $99,999.99 as long as the purchase is already approved in the annual budget.

During the annual budget process the City Council reviews in detail the Five-Year Capital Improvement requests and the budget for every fund, the culmination of which is the annual budget approved by the City Council. The budget authorizes expenditures for specified purposes and projects. The Purchasing Policies establish the process whereby staff makes purchases or contracts for services already funded in the annual budget approved by the City Council. The following table shows the existing purchasing levels and a recommended change for purchases over $50,000:

	CURRENT	PROPOSED CHANGES
	Cash purchases under $50	
Bid/Forms Required	• Petty Cash Requisition	
Approvals Required	Manager	
	$50.01 - $2,499.99	
Bid/Forms Required	• Check Request Form	
Approvals Required	Department Director or Designee	

	$2,500.00 - $9,999.99	
Bid/Forms Required	• Minimum 3 phone quotes/bids/proposals • Contract as appropriate • Purchase Requisition • Check Request	
Approvals Required	Department Director Finance Director	
	$10,000.00 - $24,999.99	
Bid/Forms Required	• Written bid process with a minimum of 3 bids/ quotes/ proposals • Contract as appropriate • Purchase Requisition • Check Request	
Approvals Required	Department Director Finance Director City Manager	
	$25,000 -$49,999.99	***$25,000 -$99,999.99***
Bid/Forms Required	• Competitive Bid Process • Contract approved by City Manager • Purchase Requisition • Check Request	• Competitive Bid Process • Contract approved by City Manager • Purchase Requisition • Check Request
Approvals Required	Department Director Finance Director City Manager City Manager notifies City Council of contract approval *NOTE: Any project/purchase in this price range not approved in the annual budget process requires City Council approval.*	Department Director Finance Director City Manager City Manager notifies City Council of contract approval *NOTE: Any project/purchase in this price range not approved in the annual budget process requires City Council approval.*
	$50,000 and above	***$100,000 and above***
Bid/Forms Required	• Competitive Bid Process • Contract approved by City Council • Purchase Requisition • Check Request	• Competitive Bid Process • Contract approved by City Council • Purchase Requisition • Check Request
Approvals Required	Department Director Finance Director City Manager City Council	Department Director Finance Director City Manager City Council

The proposed new level would give the City Manager the authority to approve contracts and purchases up to $99,999 *only if the project was previously approved by the City Council in the annual budget process*. Currently all projects over $49,999 require City Council approval. Given the amount of detail and time put into the annual budget process, including the capital projects prioritization and budgeting, it can be redundant and time consuming to bring projects back to Council for contract/purchase approval. To ensure that the City Council stays informed of expenditures in the $25,000 to $49,999 range (or the $99,999 range if approved), the City Manager includes a report in the second City Council packet of each month listing all such expenditures that he has approved.

Projects that come to Council for contract or bid approval are generally put on the consent agenda. However, even consent items require a significant amount of staff time to write a council communication, have it reviewed by a department director, reviewed by the City Manager, included in the Council packet, and then approved by Council. All of these steps can add two to four weeks to a project that has already been approved in the budget process. The increase in expenditure approval levels would avoid this effort and still keep the City Council informed of significant expenditures.

Some examples of projects or purchases the City Council approved in 2014 and 2015 via the consent agenda that could have been approved by the City Manager if purchasing levels were changed as proposed include:

- Agreement with CliftonLarsonAllen for Contract Utility Billing Services: $69,840
- Consulting Agreement for Storm Sewer Detention Pond Maintenance: $65,000
- Contract for Aquatic Chemical Solutions: $51,460
- Design Contract for Eldorado Intake Repairs: $65,795
- 2014 Street Striping Contract: $69,465
- Purchase of Deck Mower: $56,907
- Purchase of a Toro Groundmaster Mower: $63,076
- Purchase of Ice Slicer: $55,000
- Purchase of Data Network Switch: $72,688

Staff would continue to secure Council approval of all expenditures over $100,000 AND any project or purchase over $25,000 not already approved in the annual budget. Additionally, the City Manager has the discretion to bring to the City Council any purchase/project he determines should have the Council's explicit approval because it may be of special interest.

Regardless of the approval level, all projects over $2,500 will continue to require a minimum of three quotes or bids. As the price of the purchase increases so do the bidding requirements with full competitive bid procedures required for purchases over $25,000. Additionally, a manager, director, or the City Manager can require a

competitive bid process for any project if he/she determines it will get the best price for the project/purchase.

There are multiple steps in the purchase process including checks for both the proper approvals and to assure that there are sufficient funds budgeted prior to releasing a purchase requisition.

FISCAL IMPACT:
None, all purchases must still be budgeted and approved through the purchasing process.

RECOMMENDATION:
Approve Resolution No. 62, Series 2015 and approve Ordinance No. 1701, Series 2015 on 1st reading, and set the 2nd reading and public hearing for September 15, 2015.

ATTACHMENT(S):
1. Resolution Amending 2012 Purchasing Policies
2. Ordinance Amending the Municipal Code to reflect the changes in the Purchasing Policies
3. Existing Purchasing Policies Adopted in 2012

RESOLUTION NO. 62
SERIES 2015

A RESOLUTION AMENDING CITY OF LOUISVILLE PURCHASING POLICIES

WHEREAS, the City Council previously adopted the City of Louisville Purchasing Policy & Purchasing Card Program Requirements, dated August 7, 2012 (the "2012 Purchasing Policies"); and

WHEREAS, the City desires to update the purchasing policy; and

WHEREAS, the City has prepared the City of Louisville Purchasing Policies, attached hereto as ***Exhibit 1***; and

WHEREAS, City Council wishes to amend the 2012 Purchasing Policies, to be effective October 15, 2015.

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

Section 1. The City Council hereby amends the City of Louisville Purchasing Policies, attached hereto as *Exhibit 1*, to be effective October 15, 2015.

PASSED AND ADOPTED this 1st day of September, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

ORDINANCE NO. 1701
SERIES 2015

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 3.08 OF THE LOUISVILLE MUNICIPAL CODE PERTAINING TO THE PROCUREMENT OF GOODS, SERVICES AND CONTRACTS FOR PUBLIC WORKS

WHEREAS, the City Council by Resolution No. 62, Series 2015 has amended the City of Louisville Purchasing Policies, to be effective October 15, 2015; and

WHEREAS, in connection with the adoption of the updated Purchasing Policies, the City Council desires to amend certain provisions of Chapters 3.08 of the Louisville Municipal Code pertaining to the procurement of goods, services and contracts for public works;

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

Section 1. Section 3.08.010 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 3.08.010. Public improvement construction by contract.

All work done by the city in the construction of works of public improvement shall be done by contract let to the lowest, best and responsive, responsible bidder at determined by the city, pursuant to purchasing procedures and requirements adopted by resolution of the city council, using the following purchasing levels:

Cost of Project	*Bid Procedure*
0 to $2,499.99	Bids or quotes not required
$2,500 to $9,999.99	Minimum of three telephone bids/quotes/proposals
$10,000 to $24,999.99	Minimum of three written bids/quotes/proposals
$25,000 to $99,999.99~~49,999.99~~	Competitive bid process - approval by City Manager
Over $99,999.99~~50,000.00~~	Competitive bid process - approval by City Council

The city shall not be required to advertise for and receive bids for such technical, professional, or incidental assistance as it deems wise to

employ in guarding the interests of the city against the neglect of contractors in the performance of such work.

Section 2. This amendment to the Louisville Municipal Code set forth herein shall take effect October 15, 2015.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 1st day of September, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light Kelly P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 15th day of September, 2015.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

City of Louisville

COLORADO ▪ SINCE 1878

PURCHASING POLICIES

Adopted August 7, 2012

Effective October 1, 2012

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OBJECTIVE

The City of Louisville is funded by tax dollars. As such, the City's purchasing policies and procedures have been established to ensure that tax dollars are spent in the most economical way. The City uses competitive means for the purchase of all products and services whenever possible and believes in open, fair competition. The purchasing levels in this policy are subject to periodic review and may be changed with City Council approval based on inflation and other factors.

USE OF POLICY

This policy and the award of bid provisions herein are solely for the fiscal responsibility and benefit of the City of Louisville, and confer no rights, duties or entitlements to any bidders or proposers.

SECTION I – DEFINITIONS

Capital Asset - Property, including durable goods, equipment, buildings, installations, and land valued at $5,000 or more, and having a useful life greater than one year.

Capital Improvement Projects – Any project to build, alter, repair, maintain or replace necessary public buildings, streets and alleys, public parks and facilities, municipal utilities, sidewalks, highways, parks or public grounds. Capital Improvement Projects are included in the City's five-year capital improvement plan.

Capital Outlay – Expenditures which result in the acquisition of or addition to capital assets ($5,000 or more).

Competitive Bid Process – Term used to encompass bidding, request for proposals, or request for qualifications when trying to get the best price or contractor for a project, including bidding the project to any and all interested vendors.

Cost of Operations – Expenditures categorized as wages, benefits, supplies or contractual services; non-capital.

Emergency conditions - A situation in which any department's operations may be severely hampered or a situation in which the preservation of life, health, safety or property may be at risk as determined by the Department Director and the City Manager.

Encumbrances – An amount of money committed by purchase order but not yet expended for the purchase of a specific good or service.

Expenditures – Decreases in net financial resources. Expenditures include current operating expenses which require the current or future use of net current assets, debt service, and capital outlays.

Independent Contractor – any person having a contract with the City for specific work as defined in the contract's scope of work.

Invitation to Bid – A bidding process requesting bids submitted based on specifications for certain work included in the invitation.

Over Budget Expenditures - Expenditures which have exceeded the total amount of budget by line item, department, or fund.

Professional Services – Those services within the scope of the practice of architecture, engineering, professional land surveying, industrial hygiene, legal counsel, financial advisers, accountants/auditors, business consultants, recruiters, lobbyists, and banks.

Purchase Order – A document which authorizes the delivery of specified merchandise or the rendering of services at an authorized cost.

Request for Proposals – An invitation for suppliers, companies, or individuals, through a competitive process, to submit a proposal on a specific commodity or service.

Request for Qualifications – An invitation for suppliers, companies, or individuals to identify and delineate their qualifications for a specific project.

Retainage – A portion or percentage of payments due for work completed on a contract that is held back until the entire job (or some lesser defined portion thereof) is completed satisfactorily.

Services – The furnishing of a contractor's labor, time or effort not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. The term does not include professional services as previously defined.

Sole Source Purchase – A procurement of goods or services that can only be obtained from a single supplier capable of meeting all specifications and purchase requirements or when it is in the City's best interests.

Surplus Property – Materials and equipment which are no longer necessary to City operations, are obsolete, or are excessively expensive to maintain.

Unbudgeted expenditures – Expenditures for which no funds have been budgeted.

Written Bid Process – Term used to encompass bidding, request for proposals, or request for qualifications when trying to get the best price or contractor for a project. Does not require publication of notice on the City's web site if three valid bids can be obtained.

SECTION II – PURCHASING LEVELS

	< $50.00	$50.01 - $2,499.99	$2,500 - $9,999.99	$10,000 - $24,999.99	$25,000 - $49,999.99	$50,000 & > all purchases
Bid/ Proposals & Forms	Petty Cash Requisition Form	Check Request	1. A minimum of three (3) telephone bids/quotes/ proposals 2. Contract as appropriate 3. Purchase Requisition 4. Check Request	1. Written Bid Process with a minimum of three (3) written bids/quotes/ proposals 2. Contract as appropriate 3. Purchase Requisition 4. Check Request	1. Competitive Bid Process 2. Contract approved by City Manager Purchase Requisition 3. Check Request 4. City Manager notifies City Council of expenditure approval.	1. Competitive Bid Process 2. Contract approved by the City Council 3. Purchase Requisition 4. Check Request
				City Council approval required if project not in the annual budget.		
Approvals	Manager	Department Director or Designee	Department Director & Finance Director	Department Director, Finance Director, & City Manager	Department Director, Finance Director, & City Manager	Department Director, Finance Director, City Manager & City Council
Amendments & Change Orders			Increases greater than 5% or $2,500 (excluding any contingency) require additional approval			
Any purchase that the City Manager deems to be questionable or that has policy implications shall require City Council approval.						

- ***All bids/quotes/proposals are public information and can be released to the public following bid award. The City may determine to not release trade secrets or other confidential commercial, financial or personal information.***
- ***Retain all bids/quotes/proposals for a minimum of three years as required by retention schedule.***
- ***One original signed contract must be submitted to Central Files with the completed project file.***

SECTION III – PURCHASE REQUISITIONS

A purchase requisition serves to inform the Finance Department of the needs of the departments, correctly identifies a material or service requested for the department's operations, and identifies the expenditure account number to which the purchase is to be charged.

TYPES OF PURCHASE REQUISITIONS

PETTY CASH REQUISITIONS

The petty cash fund shall be used to pay for small obligations which do not exceed $50.00. Petty cash requisitions (Appendix A) are submitted to the City's cashier and will be honored only if the requisition is properly completed and bears the appropriate departmental manager approval. Petty cash requisitions will be granted under the following circumstances:

- An employee is requesting a cash advance for expenditures relating to City business (sales receipt must be returned to cashier within one business day);
- An employee is requesting a reimbursement for expenditures relating to City business (sales receipts must be attached to the requisition).

It is the responsibility of the employee using the petty cash fund to obtain the City's tax-exempt number and present it at the time of purchase. Sales tax on purchases will not be reimbursed.

Purchases for less than $2,500, which are not paid out of petty cash, are processed using a check request form that has been approved by the Department Director (or his designee).

PURCHASE REQUISITIONS

Purchase requisitions shall be used to initiate the purchase of materials or services of $2,500 or more and for which a purchase order will be issued. Purchase requisitions will be granted under the following circumstances:

- The requesting department shall be responsible for ensuring budget availability, obtaining prices, designating vendors, and preparing purchase requisition far enough in advance of the required date;
- All requisitions must be approved by the Department Director and the Finance Director and, if over $10,000, approved by the City Manager;
- A purchase order number must be obtained <u>prior</u> to placing orders with vendors.

SECTION IV – PURCHASE ORDERS

A purchase order (P.O.) authorizes a vendor to release goods or services to the City and informs them that funds have been encumbered to pay for the goods or services. A purchase order becomes a binding contract when the order is completed and signed by an authorized representative of the City and the vendor demonstrates his acceptance of the purchase order through the initiation of some action to fill the order.

The Finance Department shall be responsible for the completion and issuance of all purchase orders following the approval of the purchase requisition. The Finance Department shall email the completed purchase order to the requisition initiator.

A standard purchase order is to be used for all purchases of $2,500 or more excluding the following areas. *Capital improvement projects cannot be exempt.*

EXEMPT ITEMS

- Council Approved Service Contracts;
- Debt Service;
- Ditch Assessment Charges;
- Dues & Subscriptions;
- Education Expenses;
- Grants, Contributions, and Intergovernmental Agreement Obligations;
- Insurance;
- Investment Transactions;
- Land Acquisition;
- Lease Payments;
- Maintenance and Support Licensing Agreements (associated with an approved contract);
- Payroll (checks, taxes, and deductions);
- Professional Services as defined;
- Travel Expenses;
- Utilities

PURCHASE ORDER AMENDMENTS

The Finance Department has the authority to pay an invoice that exceeds the purchase order by less than 5% or $2,500 (whichever is less).

When the actual expenditure exceeds the purchase order amount by 5% or $2,500 (whichever is less), a second and complete approval process must be obtained via purchase requisition (for overages of $2,500 or more) or by manual approval on the check request (for overages of less than $2,500).

SECTION V – BIDDING

Bidding procedures are used to provide vendors the opportunity to bid, to elicit greater vendor response, to meet City Charter and City Code requirements, to meet Colorado statutory requirements applicable to the City, and to promote competitive prices from vendors for the purchase of capital equipment and other items of significant monetary value. The City Manager and Department Directors reserve the right to call for competitive bids without regard to amount. As used herein, "bidding" shall include requests for bids, requests for proposals, requests for qualifications, and/or statements of qualifications. The responsible Department Director shall determine when bidding procedures shall utilize a request for bids, request for proposals, or request for qualifications, as appropriate.

All purchases of goods or acquisition of services above $25,000 and all purchases of cars, trucks, and heavy equipment shall require competitive bidding procedures unless otherwise required by the City Charter, City Code or state statute applicable to the City. Exemptions to this policy are bids obtained through the specific processes listed below in "State and Other Allowed Bids" and "Sole Source Purchases."

TYPES OF BIDS

INFORMAL BIDS/QUOTES/PROPOSALS FOR PROJECTS UNDER $25,000

All purchases within the financial parameters of $2,500 to $24,999 shall require informal bidding procedures.

- For purchases between $2,500 and $9,999 the requesting department shall obtain and document a minimum of three (3) verbal quotations. If three (3) quotations are not obtained, valid justification must be provided with the purchase requisition and approved by the Department Director and Finance Director;
- For purchases between $10,000 and $24,999 the requesting department shall use a contract and obtain and document a minimum of three (3) written quotations. If three (3) quotations are not obtained, valid justification must be provided and approved by the City Manager;
- Notwithstanding the above requirements, Department Directors or the City Manager may require a competitive bid process for any project regardless of the amount.

STEPS TO COMPLETE AN INFORMAL BID/QUOTE/PROPOSAL: (unless otherwise stated, the responsibility for these steps falls on the requesting department)

a) Develop specifications/information. Upon finalization of the specifications, prepare any documents required by the informal bid;

b) Mail a copy of specifications to identified vendors;

c) Use the RFP process if Department Director determines it appropriate for the project;

d) Post a copy of specifications/RFP to the City's official website www.LouisvilleCO.gov and send to any other appropriate web sites;

e) Evaluate the bid/proposal results and determine which bid/proposal serves the City's best interests;

f) Use the City-approved Contract form (Appendix G);

g) Initiate a Purchase Requisition;

h) Submit the Purchase Requisition and quotes to the Finance Department. If the recommended vendor has not submitted the low bid, ensure that there is adequate justification for the higher bid;

i) The Finance Department issues the Purchase Order.

COMPETITIVE BIDS FOR PROJECTS OVER $25,000

"Competitive/formal bidding" includes invitations to bid, requests for proposals (RFP), requests for qualifications (RFQ), and statements of qualifications (SOQ).

- All requests for competitive bids shall be published at least two (2) times in a newspaper of general circulation in the City. The last publication shall not be more than twenty (20) days or fewer than fourteen (14) days prior to the date set for the opening of bids. Such notice may also be published in other publications of limited circulation or trade journals. In addition to publication, the formal bid must be posted on the City's web site at www.LouisvilleCO.gov, and may be posted on other web sites.
- Notices, general instructions, conditions and specifications are not required to be published and may be mailed or emailed to identified vendors, and may be posted on the City's web site.

STEPS TO COMPLETE A COMPETITIVE BID: (unless otherwise stated, the responsibility for completing these steps falls on the requesting department)

a) Develop specifications. Upon finalization of the specifications, determine any special requirements, such as bid, performance and payment bonds; insurance; retainage; and any special requirements the requesting department may need. See bonding and insurance requirements listed below;

b) Prepare all bid documents required by the formal bid and public notice. All bid documents become public information upon completion of the bid opening, except that the City may determine not to disclose trade secrets or other confidential commercial,

financial or personal information. Bid documents shall contain the following information:

- Where the bidder can obtain bid documents;
- Any costs of bid documents;
- Bid submittal deadline;
- Date, time and location of bid openings;
- Any bond or insurance requirements;
- Any special requirements;
- A statement to the effect that the City reserves the right to reject any and all bids, and to accept the bid deemed to be the lowest cost and a reliable and responsible bidder;
- General conditions;
- Minimum specifications;
- Bid proposal form;
- Delivery date or completion date;
- Period of bid validity;
- Bidder/proposer must sign the Prohibition Against Employing Illegal Aliens at the time of submitting the bid and verify that bidder/proposer is lawfully present in the United States, if applicable.

c) Departments will be responsible for obtaining at least three (3) bids/proposals if available. If three (3) bids/proposals are not obtained, valid justification must be provided and approved by the City Manager;

d) Conduct the public bid opening per the advertised bid opening date (if required). Any bids received after the specified time will be returned to the bidder. These bids may need to be opened in order to process a return of the bid;

e) Evaluate the bid results and determine which bid serves the City's best interests. If the recommended vendor has not submitted the low bid, provide justification for the higher bid;

f) Reports:

- If under $50,000, prepare a report for the City Manager listing the preferred vendor and justification;

- If over $50,000 (or a project that is not in the approved annual budget), advise the City Manager's Office that the item needs to go on the City Council agenda and prepare a City Council item listing the preferred vendor and justification.

g) Use City Attorney approved contracts and insurance and bond requirements;

h) Upon the City Manager's/City Council's award of bid, notify all bidders of the results;

i) Obtain signatures on all contracts;

j) Complete Purchase Requisition and forward to the Finance Department;

k) Finance Department issues a Purchase Order;

l) Notice of final payment and settlement is published by the Department two (2) times in the newspaper for all improvement projects, with the second notice to be published no later than ten (10) days before final payment is made (over $50,000).

STEPS TO COMPLETE A REQUEST FOR PROPOSAL: (unless otherwise stated, the responsibility for completing these steps falls on the requesting department)

a) Develop project information, determine any special requirements, such as performance and payment bonds; insurance; retainage; and any special requirements the requesting department may need. See bonding and insurance requirements listed below;

b) Prepare the request for proposal. All documents become public information upon completion of the proposal opening, except that the City may determine not to disclose trade secrets or other confidential commercial, financial or personal information. Request for Proposals shall contain the following information:

- Where the bidder can obtain information;
- Proposal submittal deadline;
- Date, time and location of RFP openings (only a list of the proposals will be made available until such time as all proposals can be evaluated);
- Any bond or insurance requirement;
- Any special requirements;
- A statement to the effect that the City reserves the right to reject any and all proposals, and to accept the proposal

deemed to be the lowest cost and a reliable and responsible proposal;

- General conditions;
- Minimum specifications;
- Bid proposal form (if there is one);
- Delivery date or completion date;
- Period of bid validity;
- Bidder/proposer must sign the Prohibition Against Employing Illegal Aliens at the time of submitting the bid and verify that bidder/proposer is lawfully present in the United States, if applicable.

c) Departments will be responsible for obtaining at least three (3) proposals if available. If three (3) proposals are not obtained, valid justification must be provided and approved by the City Manager.

d) The RFP may be mailed or emailed to identified vendors and shall be posted on the City's web site (www.LouisvilleCO.gov);

e) Conduct the public RFP opening per the advertised opening date. Any proposals received after the specified time will be returned to the bidder. These proposals may need to be opened in order to process the return (only a list of the proposals will be made available until such time as all proposals can be evaluated);

f) Evaluate the proposals and determine which proposal serves the City's best interests. If the recommended vendor has not submitted the low bid, provide justification for the higher bid;

g) Reports:

- If under $50,000, prepare a report for the City Manager listing the preferred vendor and justification;
- If over $50,000 (or a project that is not in the approved annual budget), advise the City manager's Office that the item needs to go on the City Council agenda and prepare a City Council item listing the preferred vendor and justification.

h) Use City Attorney approved contracts and insurance and bond requirements;

i) Upon the City Manager's/City Council's award of bid, notify all bidders of the results;

j) Obtain signatures on all contracts;

k) Complete Purchase Requisition and forward to the Finance Department;

l) Finance Department issues a Purchase Order;

m) Final payment notices are published by the Department two (2) times in the newspaper for all improvement projects (over $50,000).

STEPS TO COMPLETE A REQUEST FOR QUALIFICATIONS: (unless otherwise stated, the responsibility for completing these steps falls on the requesting department).

a) Develop minimum qualifications for project. Upon finalization of the specifications, determine any special requirements the vendor must have. See bonding and insurance requirements listed below;

b) The RFQ may be mailed or emailed to identified vendors and shall be posted on the City's web site (www.LouisvilleCO.gov);

c) Prepare the request for qualifications. All documents received in response to the RFQ become public information upon completion of the RFQ, except that the City may determine not to disclose trade secrets or other confidential commercial, financial or personal information;

d) Once all RFQ's are evaluated and the list of qualified vendors is determined, a bid request or RFP for the specific project can be prepared and the above steps shall be followed with those specific vendors.

BONDING REQUIREMENT

Bonds shall be executed on forms prescribed or approved by the City Manager based on review by the City Attorney, as to form, and State of Colorado law. Normally, bonding should be used only on critical or complex purchasing actions. The City may declare the purchasing of any standard items of commerce and services from standard trades and professions, which are not altered or customized to unique City specifications, to be exempt from bonding requirements.

EXAMPLES OF BONDS

BID BONDS: The bid bond requirement may be satisfied by receipt of a certified bank check or a bid bond. The bid security is submitted as guarantee that the bid will be maintained in full force and effect for a period of thirty (30) calendar days after the opening of bids or as specified in the solicitation documents. If the supplier/contractor fails to provide the bid security with the bid, the bid shall be deemed non-responsive. The bid bond shall be at least 10% of the vendor's bid

price if the bid is over $150,000 and at least 5% of the vendor's bid if under $150,000.

PERFORMANCE BONDS: A performance bond, satisfactory to the City, may be required for any contract and will be used for all contracts for public buildings, works or improvements awarded in excess of $50,000 per state statute. The performance bond shall be in amount equal to one hundred percent (100%) of the price specified in the contract, or any other higher amount determined by the purchasing department to be in the best interest of the City.

PAYMENT BONDS: A payment bond for the protection of all persons supplying labor and material to the contractor or its subcontractors may be required for all contracts awarded in excess of $50,000. The payment bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract, or any other higher amount determined by the purchasing department to be in the best interest of the City.

INSURANCE REQUIREMENT

All contractors are required to provide certificates of insurance with the City named as additional insured, for the following insurance coverages and amounts (except as waived by the City Manager):

Comprehensive General Liability

$1,000,000 each occurrence

$2,000,000 general aggregate

Automobile Liability

$150,000 combined single limit – bodily injury & property damage/per person

$600,000 combined single limit – bodily injury & property damage/two or more persons in any one occurrence

$50,000 auto physical damage

Workers' Compensation

Statutory limits

Employers' Liability Insurance

$100,000/ each accident

$500,000/ disease - policy limit

$100,000/ disease - each employee

Professional Liability (for licensed professional services)

$1,000,000 each occurrence

$2,000,000 general aggregate

BIDDER LIST AND BID EVALUATION

A Bidder's List may be established and maintained by individual Departments in an effort to promote competitive bidding from qualified vendors and to establish a source of supplier.

In addition to the bid amount, additional factors will be considered as an integral part of the bid evaluation process, including, but not limited to:

- The bidder's ability, capacity and skill to perform within the specified time limits;
- The bidder's experience, reputation, efficiency, judgment, and integrity;
- The quality, availability, and adaptability of the supplies or materials bid;
- Bidder's past performance;
- Sufficiency of bidder's financial resources to fulfill the contract;
- Bidder's ability to provide future maintenance or service;
- Other applicable factors as the City determines necessary or appropriate (such as compatibility with existing facilities, equipment or hardware);
- If a bid other than low bid is recommended, the requesting department must demonstrate how the higher bid serves the best interests of the City.

STATE AND OTHER ALLOWED BIDS

City staff may use State of Colorado bids (solicited through the Bid Information and Distribution System) or bids from the Multiple Assembly of Procurement Officials (MAPO) or the General Services Administration (GSA) to get the benefit of the pricing available through those procurement systems.

These bids are permitted for any supply, equipment, or vehicle purchase on items under $500,000. These purchases, while exempt from the formal bid process, are subject to the normal approval process.

ANNUAL CONTRACTS

All service contracts must specifically state the term of the contract and the options for renewing the contract (if applicable) beyond the original term. In no case shall any service contract have an indefinite term. Contracts should begin and end within the current fiscal year. It must also be expressly stated in any multi-year service contract—which is any contract with a term extending beyond the current fiscal year—that all

financial obligations of the City beyond the current fiscal year are subject to annual appropriation. Standard language for this purpose is as follows: "Contractor acknowledges that any potential expenditure for this Agreement outside the current fiscal year is contingent upon appropriation, budgeting, and availability of specific funds for such proposed expenditure, and nothing in this Agreement constitutes a debt or direct or indirect multiple fiscal year financial obligation of the City."

INTEGRATED PROJECT DELIVERY CONTRACTING PROCESS (DESIGN-BUILD)

The City Council may award an integrated project delivery ("IPD," sometimes referred to as "design-build") contract for a City capital improvements project, or other public project as defined in C.R.S. § 31-25-1303, upon a determination by the City Council that IPD represents a timely or cost-effective alternative for the public project. Prior to awarding an IPD contract, the requesting department head, upon consultation with the City Manager, shall solicit proposals for the project by issuing a request for proposals or request for qualifications to individuals or firms that have indicated an interest in participating in the proposed project or that have displayed evidence of expertise in the proposed project. Notice of the initial solicitation for an IPD procurement shall be published at least two (2) times in a newspaper of general circulation in the City. The last publication shall not be more than twenty (20) days or fewer than fourteen (14) days prior to the date set for the opening of bids. The City may also publish notice of the solicitation in a trade journal or post notice on the City's website. The IPD procurement shall be completed in compliance with the procedures above that are applicable to the selected method of competitive/formal bidding. After reviewing the proposals, the City Council may accept the proposal that, in its estimation, represents the best value to the City. In the procurement and administration of an IPD contract, the City may utilize, without limitation, the provisions and procedures set forth in C.R.S. § 31-25-1301 et seq.

SECTION VI – SOLE SOURCE PURCHASES, LOCAL VENDOR PURCHASES AND ETHICS

SOLE SOURCE PURCHASES

It is the policy of the City of Louisville to recognize and solicit quotes. Sole source purchases may be made if it has been determined that there is only one good or service that can reasonably meet the need and there is only one vendor who can provide the good or service. These purchases should be used if it is in the best interest of the City, and the following procedures shall apply:

PURCHASE IN THE AMOUNT OF $2,500 TO $9,999

To request a sole source purchase, prepare a memorandum justifying the sole source purchase and attach it to the purchase requisition.

Finance Department will review the requisition and justification for the sole source purchase. If the sole source justification is approved by the Finance Director, a purchase order will be issued. If the purchase is not approved, two (2) more telephone quotations are required.

PURCHASE IN THE AMOUNT OF $10,000 OR MORE

To request a sole source purchase, prepare a memorandum justifying the sole source purchase and attach it to the purchase requisition.

Bidding procedures may be waived by the City Manager when it has been demonstrated that the requested goods or services are a sole source purchase. If the sole source purchase is not approved, the department shall obtain additional bids or quotes in compliance with this Policy.

LOCAL VENDOR PREFERENCE

To encourage purchasing within the City of Louisville, it is the policy of the City of Louisville to recognize and solicit quotes/bids from local vendors. Whenever such local sources exist and are competitive, purchases shall be made from local vendors; however all purchasing ordinances and policies as well as any other City award factors still apply. To be considered within this policy, local vendors must have a current valid business registration or sales tax license on file with the City of Louisville.

As deemed appropriate solely within the discretion of the City, bids may be awarded to local vendors providing the proposal or quote is within 5% or $1000 (whichever is less) of the lowest bid.

In an event where it may be prohibited as a condition of any grant, or violation of law, the local vendor preference shall not be applied.

ETHICS IN CITY CONTRACTING

The City Code of Ethics, which is set forth in Sections 5-6 through 5-17 of the City Charter, sets forth ethical standards concerning City contracting. These standards apply to City officers, employees and public body members and include, among other standards, that employees not have an interest in a contract with the City, unless certain rules are met. These rules generally require that employees may only be interested in contracts where all procurement rules have been followed and the employee has complied with the City's disclosure and recusal rules. These rules further provide that an employee interested in a contract may not attempt to influence any City employee or decision maker who has influence or decision making power over the contract.

Town officers, employees and public body members involved in the procurement process are required to comply with the Code of Ethics and all laws governing such process.

SECTION VII – PURCHASING DURING EMERGENCY OR DISASTER CONDITIONS

An emergency shall be defined as a situation in which any department's operations may be severely hampered or a situation in which the preservation of life, health, safety or property may be at risk as determined by the Department Director and City Manager. The required purchasing procedures stipulated in the Purchasing Levels Section and other areas of this policy shall be waived for emergency purchases. A summary of all emergency purchases shall be prepared by the Finance Department and submitted for review by Mayor and City Council at the earliest City Council meeting possible.

When the need for an emergency purchase occurs during normal working hours, the user department will request approval from the City Manager or his designee. If approved, the City Manager shall give verbal approval of the transaction followed by electronic approval to the requesting department and to the Finance Department, which may be required to complete the transaction for the requesting department. The user department or Finance Department will note the emergency on the check request form, sales ticket or invoice.

During a partial or full activation of the Emergency Operations Center (EOC) that requires the presence of a Finance Department representative on site, the approval authority as set forth in the Purchasing Levels Section is hereby revised to read as follows:

- Department Director – Approval of emergency purchase up to $50,000.
- Finance Director – Approval of emergency purchase up to $100,000.
- City Manager – Approval of emergency purchase over $100,000.

SECTION VIII – RECEIVING PROCEDURES AND CHECK REQUESTS

RECEIVING PROCEDURES

- It shall be the responsibility of the receiving department/division to ensure that shipped goods are received as ordered and in good condition. Upon receipt of merchandise, check quantity, quality, and any specifications such as model number, etc. to ensure that the goods have been received as indicated on the packing slip and as ordered on the Purchase Order. Receiving documents (Packing Slip or Receipt of Goods Form – Appendix C) must be signed and dated by the employee receiving the goods;
- If the goods are faulty or damaged, notify the vendor and Accounts Payable immediately. If damage is concealed or not noticed at time of delivery, retain all boxes and packing lists and notify vendor immediately;
- All invoices shall be mailed by the vendor directly to the employee who made the purchase;
- It shall be the responsibility of the receiving department/division to inform Accounts Payable of the delivery and acceptance of an order by submitting the receiving documents with the check request for payment.

CHECK REQUESTS

Check request forms (Appendix B) are used to request payment for materials or services. Check requests must adhere to the following:

- Original invoice must be attached;
- All signed and dated receiving documents must be attached;
- All requests must be signed by the department director or an assigned designee;
- P.O. must be referenced if applicable;
- Full or partial payments must be indicated.

Checks will be cut in accordance with the Accounts Payable schedule.

SECTION IX – DISPOSAL OF SURPLUS PROPERTY

The purpose of this policy is to provide guidance regarding the disposal of City assets. The guiding principles are to ensure assets to be disposed of are made available to the public on an equitable basis, to realize the maximum return on investment when disposing of assets, and to ensure that assets are removed timely and accurately from the City's accounting books and records.

POLICY

- The Department Director shall be responsible for the determination of surplus equipment and salvageable items;
- The Operating Department shall be responsible for the disposal of all surplus property, excluding real property;
- All surplus items and obsolete articles shall be disposed of in one of the following manners:
    a) Transferred to another department;
    b) Sold to the highest bidder at public auction or via other public offer;
    c) Trade-in on the same or similar item;
    d) Recycled;
    e) Donated to an approved City-sponsored charitable organization;
    f) Junked or scrapped and properly disposed of in an environmentally responsible manner.

Because one of the guiding principles in disposing of assets is to maximize the return on the investment, the above list presents the methods of disposition in the order most likely to achieve this goal. Therefore use of a method other than transferring to another department or selling in a public forum should be documented and substantiated in the "Comment" section corresponding to the method chosen on the Asset Disposal Form.

Surplus property may not be given to an officer or employee of the City even if the City is disposing of it.

The disposal of evidence is handled by the Police Department under separate rules and regulations. The disposal of City records is handled by the City Clerk's office under separate records retention rules and regulations.

PROCEDURE

- Operating Departments should review assets on an annual basis, to determine if any are surplus or obsolete, based on the following criteria:
    a) Age and functionality;
    b) Mileage (vehicles);
    c) Maintenance history;
    d) Applicability to current City operations;
    e) Obsolescence;
    f) Availability of parts;
    g) Availability of support (intangible assets such as software).
- Department Director reviews and approves assets identified for disposal;
- Operating Department determines disposal method that realizes the best available net value and is conducted in a manner open and accountable to the public;
- Within 30 days of disposing the asset, the responsible department completes an Asset Disposal Form (Appendix D). The Form must include the Department Director's signature indicating approval of the disposition as well as the method of disposal;
- Operating Department forwards the Asset Disposal Form to the Finance Department.

SECTION X – PURCHASING CARD PROGRAM

The purpose of the Purchasing Card Program is to streamline and simplify the requisitioning, purchasing and payment process for small dollar transactions. The Program is designed to shorten the approval process and reduce the paperwork of procurement procedures such as purchase orders, petty cash, check requests and expense reimbursements. The goal of the Program is to:

- Reduce the cost of processing small dollar purchases;
- Receive faster delivery of required merchandise;
- Simplify the payment process.

CARD ISSUANCE

The requesting employee's manager sends an email to the Program Administrator authorizing the issuance of a purchasing card. Upon receipt of the card, the Program Administrator reviews the card Guidelines (Appendix H) with the employee. The cardholder agrees to adhere to the Guidelines by signing the Purchasing Card User Agreement. The User Agreement is filed in the employee's personnel file. The cardholder is the only person entitled to use the card and the card is not to be used for personal use. Use of the card for personal use or any unauthorized use may result in discipline up to and including termination.

LIMITATIONS AND RESTRICTIONS

A credit limit is set on each card. There also is a single transaction limit placed on the card, which means the card will be declined if the cardholder attempts to purchase more than this set amount at one time. A purchase may not be split to avoid the single transaction limit. The card may not be used for purchases requiring a purchase requisition and purchase order.

The Purchasing Card Program also allows for Merchant Category blocking. The only Merchant Category that is blocked is "Other" which includes gambling, casinos, bowling alleys and some other entertainment. If the cardholder attempts to use the card at such a merchant, the purchase will be declined.

All requests for changes in limitations and restrictions must be made through the cardholder's manager to the Purchasing Card Administrator.

LOST OR STOLEN CARDS

The Purchasing Card should be kept in a secure location accessible only to the cardholder. **If the Purchasing Card is lost or stolen, notify the Program Administrator immediately at 303-335-4507 or the bank at 800-819-4249 during non-business hours.**

RECONCILEMENT AND PAYMENT

All transactions processed during the month will be included on a monthly statement of account for each cardholder. Monthly statements will be distributed by the Program Administrator to each department. Cardholders are responsible for reviewing the monthly statement for accuracy, providing a brief description and account number, and attaching a receipt for each transaction on the statement. The statement must be approved by the cardholder's departmental manager and submitted (with receipts) to the Program Administrator within 5 business days. The Program Administrator will audit the receipts with the statement and initiate payment.

DISPUTED OR FRAUDULENT CHARGES

If there is a discrepancy between the employee's records and the statement, the issue shall be addressed immediately. Depending on the type of discrepancy, the cardholder will need to contact either the merchant or the Program Administrator to resolve the disputed transaction.

If the cardholder believes the merchant has charged the account incorrectly or there is an outstanding quality or service issue, the first contact shall be with the merchant to try to resolve the error or problem. If the matter is resolved directly with the merchant, and the error involved an overcharge, a credit adjustment should be requested to appear on the next statement.

If the merchant disagrees that an adjustment is necessary, the cardholder should immediately contact the Program Administrator who will work with the Purchasing Card provider to resolve the dispute.

Any fraudulent charge, i.e., a charge appearing that was not authorized, must be reported immediately to the Program Administrator. Prompt reporting of any such charge will help to prevent the City from being held responsible.

SALES AND USE TAX

The City of Louisville is tax exempt. The sales tax exemption number is printed on the front of the card. If an employee happens to pay tax on a purchase, that employee will be responsible to have the sales tax reversed or reimburse the City of Louisville for the taxes paid. Under very limited, specific circumstances this policy may be waived by the Finance Director.

LOSS OF PRIVILEGES

Failure to comply with the requirements of the Purchasing Card Guidelines may result in immediate revocation of the Purchasing Card privileges. Privileges can be restored **one time only** after a six-month waiting period following the loss of privileges. The restoration of privileges must be requested by the department director and will require a new Purchasing Card User Agreement. Any subsequent loss of privileges will be permanent. The loss of purchasing card privileges shall be documented in the employee's personnel file.

SECTION XI – PURCHASING RULES FOR SPECIFIC EQUIPMENT

HARDWARE AND SOFTWARE

All hardware, software, and online services purchases must be reviewed and approved by the IT Division. Purchases will not be approved if the equipment is not compatible with the City's network or if the purchase requires the IT Division to acquire additional server space.

The IT Division determines the replacement schedule for all workstations and servers.

Servers and workstations only are paid for by the Technology Replacement Fund. All other computers and technology shall be purchased by departments out of their individual budgets.

COPIERS

Copiers must be kept for a minimum of four (4) years before they may be replaced.

SECTION XII – APPENDICES

APPENDIX A – Petty Cash Requisition Form

APPENDIX B – Check Request Form

APPENDIX C – Receipt of Goods Form

APPENDIX D – Asset Disposal Form

APPENDIX E – Sample Request for Proposals

APPENDIX F – Sample Request for Qualifications

APPENDIX G – Sample Independent Contractor Agreement

APPENDIX H – Purchasing Card Guidelines

APPENDIX A: PETTY CASH REQUISITION

Petty Cash Requisition

_____ Cash Advance _____ Purchase/Reimbursement

Date _____

Petty Cash Paid To: _____

Description: _____

Account #: _____ Amount: $_____

Requested by: _____

Department Approval: _____ Finance Approval: _____

APPENDIX B: CHECK REQUEST FORM

Check Request Form

City of Louisville

Submitted By:
Department Name

Requestor's Name

Vendor #

Vendor Name:

Vendor Address:

Vendor Contact:

Vendor Phone: **Vendor Fax:**

PO#

Check One:
New Vendor - Will Use Again
New Vendor - One-time Use Only

And Check If:
Capital Project (Need 2 Copies of Paperwork)

Check Request Requirements:
-If PO is associated with request, must include PO#
-If this is a capital item, 2 copies of invoice and Backup are required
-Request must be signed by Dept. Director and Finance

Date Requested

Full Payment / Close PO
Partial Payment / Leave PO Open
Handtype Requested

Return Check To:

Approvals:
Department Director or Designee
Finance Director or Designee
City Manager or Designee

Invoice #	Invoice Date	Description	PO Line #	G/L Account #	Invoice Amount

If you have any questions concerning this request, please contact:
Accounts Payable 303-335-4507
Thank you!

Total $0.00

APPENDIX C: RECEIPT OF GOODS FORM

City of Louisville
COLORADO ▪ SINCE 1878

RECEIPT OF GOODS

DATE:_____DEPARTMENT:_____

SIGNATURE OF RECEIVER _____

The following merchandise has been received in good condition:

PURCHASE ORDER # (if known)	QUANTITY ORDERED	QUANTITY RECEIVED	VENDOR NAME	BRIEF DESCRIPTION OF GOODS

NOTE: USE THIS FORM ONLY WHEN NO PACKING SLIP ACCOMPANIES THE DELIVERED GOODS – SOUND AUDIT PRACTICES REQUIRE ORIGINAL DOCUMENTS WHEN AVAILABLE

PLEASE FORWARD COMPLETED DOCUMENT ALONG WITH CHECK REQUEST AND ORIGINAL INVOICE TO ACCOUNTS PAYABLE.

APPENDIX D: ASSET DISPOSAL FORM

City of Louisville
COLORADO • SINCE 1878

Asset Disposal Form **Disposal Date:** _____

Description			
Manufacturer		Model	
Location		Year	
Asset Number		Serial Number	

Type of Disposition		Comments
Transferred		From: To:
Sold*		
Traded*		
Recycled*		
Junked		
Lost/Stolen		
Other		

*Include amount of proceeds in "Comments"

Name: _____ Title: _____

Department: _____ Phone: _____

Department Director: _____ Date: _____

Other Comments

Finance Use Only: Fixed Asset Y/N Asset Number _____
Cost _____ Accum Depr _____ Fund _____
Date ADG Updated _____ Date Sale Recorded in GL _____
Date Asset Removal Recorded in GL _____ By _____

APPENDIX E: SAMPLE REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS FOR

_____

The City of Louisville is accepting proposals from qualified contractors ("contractor") to _____. Please review the following pages for complete information on the request for proposal process.

Timeline of Activities and Proposal Format

- Four (4) copies of each proposal shall be submitted per the RFP and one copy in MS Word or PDF on a CD.
- The City of Louisville will receive proposals in response to this RFP until _____, "our clock" on _____-. Proposals received after that time will not be reviewed. Proposals must be in a sealed envelope plainly marked with the project name "_____", and shall be addressed as follows:

  _____
  City of Louisville
  749 Main Street
  Louisville CO 80027

- Interviews of applicants selected by City for interview – beginning the week of _____.
- Anticipate final selection approximately _____.
- Contract signed by City Council approximately _____.

REQUEST FOR PROPOSALS FOR _____

Section 1. Summary of Request

Purpose – The City of Louisville is accepting proposals from qualified contractors to _____ as defined in the scope of work.

Questions regarding the proposal can be directed to:

NAME	
City of Louisville	303.335.4___
749 Main Street	_____@LouisvilleCO.gov
Louisville CO 80027	

Section 2. Scope of Work

The Scope of Work shall include but is not limited to the following:

ADD SPECIFICATIONS

Section 3. Standard Terms and Conditions

When preparing a proposal for submission in response to this RFP, contractors should be aware of the following terms and conditions which have been established by the City of Louisville:

- This request for proposals is not an offer to contract. The provisions in this RFP and any purchasing policies or procedures of the City are solely for the fiscal responsibility of the City, and confer no rights, duties or entitlements to any party submitting proposals. The City of Louisville reserves the right to reject any and all proposals, to consider alternatives, to waive any informalities and irregularities, to abandon the project and this RFP at any time, and to re-solicit proposals.
- The City of Louisville reserves the right to conduct such investigations of and discussions with those who have submitted proposals or other entities as they deem necessary or appropriate to assist in the evaluation of any proposal or to secure maximum clarification and completeness of any proposal.
- The successful proposer shall be required to sign a contract with the City in a form provided by and acceptable to the City. The contractor shall be an independent contractor of the City.

- The City of Louisville assumes no responsibility for payment of any expenses incurred by any proponent as part of the RFP process.
- The following criteria will be used to evaluate all proposals:
    - The contractor's interest in the services which are the subject of this RFP, as well as their understanding of the scope of such services and the specific requirements of the City of Louisville.
    - The reputation, experience, and efficiency of the contractor.
    - The ability of the contractor to provide quality services within time and funding constraints.
    - The general organization of the proposal: Special consideration will be given to submittals which are appropriate, address the goals; and provide in a clear and concise format the requested information.
    - Other selection factors within this RFP or the City's purchasing policies, or that City determines are relevant to consideration of the best interests of the City.
- All responses to this RFP become the property of the City upon receipt and regardless of selection or rejection, and will not be returned, except that the City may return late responses submitted after the response deadline. Any trade secrets or confidential commercial or financial information submitted with any response is subject to potential disclosure, and submitting it constitutes proposer's waiver of any recourse against the City in respect to disclosure and proposer's agreement to indemnify the City for any costs, legal fees or expenses incurred in relation to any proceeding concerning disclosure of such information. Any trade secrets or confidential commercial or financial information submitted with a response shall be clearly segregated and marked; provided; however, that neither cost information nor the total RFP will be considered proprietary. The City will notify the vendor of any request for disclosure of information so segregated and marked that may be subject to nondisclosure, and it will be the responsibility of the vendor to object and to pursue any legal actions pursuant to Colorado law. A vendor shall notify the City within 24 hours of notification by City of request for disclosure of the vendor's objections to disclosure and the vendor's intent to pursue lawful protection under Colorado law.

Section 4. Required Submittals

- Provide the name, address, and email address of contractor. If an entity, provide the legal name of the entity and the names of the entity's principal(s) who is proposed to provide the services.
- Provide a review of your qualifications and briefly explain how you plan to complete the required tasks.

- Provide references for your work.
- Provide the completed pre-contract certification and return with your proposal.

Thank you, we look forward to reviewing your proposal.

City of Louisville Public Services Contract Addendum
Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

a. Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, City may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City.

Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Proposer:
_____

By_____
Title:_____

_____
Date

APPENDIX F: SAMPLE REQUEST FOR QUALIFICATIONS

Request for Qualifications (RFQ)

Issued
DATE

DEPARTMENT
749 Main Street
Louisville, CO 80027
(303) 335-4505

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Schedule of Events .....
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Project Scope.....
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Evaluation Criteria .....

SCHEDULE OF EVENTS

Event	Date(s)
Request for Qualifications (RFQ) Released	DATE
Deadline for Requesting RFQ Clarification	DATE
Response to Requests for RFQ Clarification	DATE
Responses to RFQ due by TIME	DATE
Qualified Vendors Selected	DATE
Request for Proposals (RFP) Distributed to Qualified Vendors	DATE
Qualified Vendors Response to RFP due by 4:00 p.m. MST	DATE
Product Demonstrations	DATE
Negotiation & Clarification	DATE
Approval of Contract	DATE
Begin Implementation	DATE

The City of Louisville reserves the right to modify this schedule at its sole discretion if it deems necessary.

INTRODUCTION & BACKGROUND

The City of Louisville, Colorado, hereinafter referred to as the City, seeks to prequalify firms to provide _____.

Add any other necessary and relevant information.

GENERAL INFORMATION & REQUIREMENTS

The first step in the City's Request for Proposal (RFP) process is this RFQ, which seeks to obtain information in order to prequalify vendors for participation and consideration in subsequent steps of the RFP. In order to be considered for prequalification, the respondent to this RFQ must be the provider of _____.

From the issuance date of this RFQ until a vendor(s) is selected and the selection is announced, vendors are not allowed to communicate with any City of Louisville staff or officials regarding this procurement, except at the direction of Malcolm Fleming, City Manager or _____, _____, the designated representatives of the City of Louisville. Any unauthorized contact may disqualify the vendor from further consideration.

Receipt of Proposals and Public Inspection
Upon receipt of qualifications, all marked trade secrets and company financial information will be removed from the responses and provided only to the evaluation committee members or persons participating in the contracting process. All remaining qualification materials will be available for public inspection after the final award process.

Claims to Keep Information Confidential
All responses to this RFQ become the property of the City upon receipt and regardless of selection or rejection, and will not be returned, except that the City may return late responses submitted after the response deadline. Any trade secrets or confidential commercial or financial information submitted with any response is subject to potential disclosure, and submitting it constitutes proposer's waiver of any recourse against the City in respect to disclosure and proposer's agreement to indemnify the City for any costs, legal fees or expenses incurred in relation to any proceeding concerning disclosure of such information. Any trade secrets or confidential commercial or financial information submitted with a response shall be clearly segregated and marked; provided; however, that neither cost information nor the total RFP will be considered proprietary. The City will notify the vendor of any request for disclosure of information so segregated and marked that may be subject to nondisclosure, and it will be the responsibility of the vendor to object and to pursue any legal actions pursuant to Colorado law. A vendor shall notify the City within 24 hours of notification by City of request for disclosure of the vendor's objections to disclosure and the vendor's intent to pursue lawful protection under Colorado law.

Initial Classification
All qualifications will be initially classified as being responsive or non-responsive based upon the requirements in Section 3.2. If a response is found to be non-responsive, it will not be considered further.

Evaluation

All responsive qualifications will be evaluated based on stated evaluation criteria. Submitted qualifications must be complete at the time of submission and may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested in the City's RFQ document.

Discussion/Negotiation
Although vendors may be prequalified without discussion, the City may initiate discussions with one or more Vendors should clarification be necessary. Vendors should be prepared to send qualified personnel to Louisville, to discuss technical and contractual aspects of their proposal.

Prequalification
Prequalification will be made to the vendors whose responsive qualifications are determined to best meet the evaluation criteria and therefore the most advantageous to the City. The City may prequalify as many software vendors as it feels serves its best interest.

Late Submissions
Regardless of cause, late qualifications will not be accepted and will automatically be disqualified from further consideration. It shall be the vendor's sole risk to assure delivery at the designated office by the designated time. Late qualifications will not be opened and may be returned to the Vendor at the expense of the Vendor or destroyed if requested.

Preparing a Response
This RFQ contains the instructions governing the qualifications to be submitted and a description of the mandatory requirements. To be eligible for consideration, a vendor must meet the intent of all mandatory requirements. Compliance with the intent of all requirements will be determined by the City's evaluation committee. Responses that do not meet the full intent of all requirements listed in this RFQ may be subject to point reductions during the evaluation process or may be deemed non-responsive.

Vendors shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of this RFQ.

Vendors requiring clarification or interpretation of any section or sections contained in this RFQ shall make a written request to the City by the deadline. All written correspondence must be addressed to:

City of Louisville
_____ RFQ
_____

749 Main Street
Louisville, CO 80027
EMAIL ADDRESS

Each Vendor submitting written questions must clearly address each question by reference to a specific section, page, and item of this RFQ. **A written answer will be provided to all questions received by TIME AND DATE.** Written questions received after the deadline may not be considered.

Any interpretation, correction, or change to this RFQ will be made by written addendum by _____. Interpretations, corrections, or changes to this RFQ made in any other manner will not be binding and vendors shall not rely upon such interpretations, corrections, or changes.

Vendors must organize qualifications into sections following the format of this RFQ.

If no exception, explanation, or clarification is required in the vendor's response to a specific subsection, the vendor shall indicate so in the point-by-point response with the following:

"(Vendor's Name)", understands and will comply.

Points may be subtracted for non-compliance with specified qualification format requests. The City may also choose to not evaluate, may deem non-responsive, or may disqualify from further consideration any qualifications that do not follow this RFQ format, are difficult to understand, are difficult to read, or are missing any requested information.

A vendor responding to a question with a response similar to, "Refer to our literature…" or "Please see www…….com" may be deemed non-responsive or receive point deductions. All materials related to a response must be submitted to the City in the RFQ response and not just referenced. Any references in an answer to another location in the RFQ materials shall have specific page numbers and sections stated in the reference. Each question is scored independently of one another and the scoring is based solely on the information provided in the response to the specific question.

Submitting Qualifications
Vendors must submit one (1) original and four (4) copies to:

City of Louisville
_____ RFQ
749 Main Street
Louisville, CO 80027

Qualifications must be received at the City of Louisville prior to TIME AND DATE. Qualifications received after this time will not be accepted for consideration. Facsimile submissions are not acceptable.

Each Vendor who submits qualifications represents that:

- The qualifications are based upon an understanding of the specifications and requirements described in this RFQ.
- Costs for developing and delivering responses to this RFQ and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the vendor. The City is not liable for any expense incurred by the vendor in the preparation and presentation of their qualifications.
- All materials submitted in response to this RFQ become the property of the City and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the City and the vendor resulting from this RFP process.

- An individual authorized to legally bind the business submitting the qualifications must sign the qualifications in ink.

Rights Reserved
While the City has every intention to award a contract as a result of the RFP, issuance of the RFP in no way constitutes a commitment by the City to award a contract. Upon a determination such actions would be in its best interests, the City in its sole discretion reserves the right to:

- waive any formality;
- cancel, terminate or abandon this RFQ or the RFP;
- reject any or all qualifications received in response to this document;
- waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any qualifications;
- not award, or if awarded, terminate any contract if the City determines adequate funds are not available.

Vendor Interview / Product Demonstration
After receipt of all qualifications and prior to the release of the next step in the RFP process, respondents may be required to make an oral presentation and product demonstration at the City Hall in Louisville, Colorado, to clarify their response or to further define their qualifications. Oral presentations and product demonstrations, if requested, shall be at the vendor's expense.

Contract Provisions and Terms
This RFQ and any addenda, the vendor's response including any amendments, any clarification question responses, and any negotiations shall be included in any resulting contract.

PROJECT SCOPE

ADD SPECIFICATIONS

VENDOR QUALIFICATIONS

The City may make such investigations as deemed necessary to determine the ability of the Vendor to supply the products and perform the services specified. The City reserves the right to reject any qualifications if the evidence submitted by, or investigation of, the vendor fails to satisfy the City that the vendor is properly qualified to carry out the obligations of the project.

ADD SPECIFICATIONS

EVALUATION CRITERIA

Evaluation Procedure
The evaluation committee will separate proposals into "responsive" and "non-responsive" proposals. Non-responsive proposals will be eliminated from further

consideration. The evaluation committee will then evaluate the remaining proposals and determine which vendors prequalify. Only prequalified vendors will be allowed to participate in subsequent steps of this RFP process.

Evaluation Criteria
The evaluation committee will review and evaluate the qualifications received according to the following criteria:

- Quality and relevance of references;
- Proven ability to deliver products in the scope of project;
- Financial stability;
- Training;
- Support;
- Other criteria within this RFQ or the City's purchasing policies, or that the City determines are relevant to consideration of the best interests of the City.

APPENDIX G: SAMPLE INDEPENDENT CONTRACTOR AGREEMENT

INDEPENDENT CONTRACTOR AGREEMENT
BY AND BETWEEN THE CITY OF LOUISVILLE
AND _____
FOR _____ SERVICES

1.0 PARTIES

The parties to this Agreement are the **City of Louisville**, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and _____, [Name of Contractor] a _____[State of Formation and Type of Entity], hereinafter referred to as the "Contractor".

2.0 RECITALS AND PURPOSE

2.1 The City desires to engage the Contractor for the purpose of providing _____ services as further set forth in the Contractor's Scope of Services (which services are hereinafter referred to as the "Services").

2.3 The Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

3.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference. Contractor shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

4.0 COMPENSATION

4.1 The City shall pay the Contractor for Services under this Agreement a total not to exceed the amounts set forth in Exhibit "B" attached hereto and incorporated herein by this reference. For Services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit B. The City shall pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.) which are deemed necessary for performance of the Services and which are pre-approved by the City Manager. The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside Contractor fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any Services which exceeds the amount payable under the terms of this Agreement.

4.2 The Contractor shall submit monthly an invoice to the City for Services rendered and a detailed expense report for pre-approved, reimbursable expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Contractor shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

4.3 Contractor acknowledges that any potential expenditure for this Agreement outside the current fiscal year is contingent upon appropriation, budgeting, and availability of specific funds for such proposed expenditure, and nothing in this Agreement constitutes a debt or direct or indirect multiple fiscal year financial obligation of the City.

5.0 PROJECT REPRESENTATION

5.1 The City designates _____ as the responsible City staff to provide direction to the Contractor during the conduct of the Services. The Contractor shall comply with the directions given by _____ and such person's designees.

5.2 The Contractor designates _____ as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly _____, and such replacement require the City or the Contractor to undertake additional reevaluations, coordination, orientations, etc., the Contractor shall be fully responsible for all such additional costs and services.

6.0 TERM

The term of this Agreement shall be _____, 20___ to _____, 20___, unless sooner terminated pursuant to Section 13, below. The Contractor's Services under this Agreement shall commence upon execution of this Agreement by the City and Contractor shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.

7.0 INSURANCE

7.1 The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Contractor shall not be

relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of Services hereunder. The required coverages are:

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.

7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence and TWO MILLION DOLLARS ($2,000,000) aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interests provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE HUNDRED AND FIFTY THOUSAND DOLLARS ($150,000) per person in any one occurrence and SIX HUNDRED THOUSAND DOLLARS ($600,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS ($50,000) per occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the Services. If the Contractor has no owned automobiles, the requirements of this paragraph shall be met by each officer or employee of the Contractor providing services to the City of Louisville under this contract.

7.1.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence and TWO MILLION DOLLARS ($2,000,000) aggregate.

7.2 The Contractor's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Contractor. Such policies shall contain a severability of interests provision. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

7.3 Certificates of insurance shall be provided by the Contractor as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

7.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

7.5 The parties understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently $150,000 per person and $600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Services hereunder, if such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Contractor shall further bear all other costs and expenses incurred by the City or Contractor and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

9.0 QUALITY OF WORK

Contractor's Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the City.

10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the City, and that:

10.1. CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSED RESPONSIBILITIES INCLUDING, BUT NOT LIMITGED TO, PAYMENT OF STATE, FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO STATE, FEDERAL OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE CITY.

10.2. CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS EXCEPT AS MAY BE PROVIDED BY THE INDEPENDENT CONTRACTOR NOR TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE INDEPENDENT CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY.

10.3. Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.

10.4. Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.

10.5. The City will not provide training or instruction to Contractor or any of its employees regarding the performance of the Services hereunder.

10.6. Neither the Contractor nor any of its officers or employees will receive benefits of any type from the City.

10.7. Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

10.8. All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.

10.9. Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

11.0 ASSIGNMENT

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the City's prior written consent.

12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13.0 TERMINATION

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed a pro-rated daily rate, for the Services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

14.0 INSPECTION AND AUDIT

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services

are and shall remain the sole and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City and in hardcopy or an electronic format acceptable to the City, or both, as the City shall determine. Contractor shall not provide copies of any such material to any other party without the prior written consent of the City. Contractor shall not use or disclose confidential information of the City for purposes unrelated to performance of this Agreement without the City's written consent.

16.0 ENFORCEMENT

16.1 In the event that suit is brought upon this Agreement to enforce its terms, the parties shall each bear and be responsible for their own attorneys' fees and court costs.

16.2 Colorado law shall apply to the construction and enforcement of this Agreement. The parties agree to the jurisdiction and venue of the courts of Boulder County and the federal district court for the District of Colorado in connection with any dispute arising out of or in any matter connected with this Agreement.

17.0 COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED

17.1 Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

17.2 Exhibit B, the "City of Louisville Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Contractor's Pre-Contract Certification which Contractor has executed and delivered to the City prior to Contractor's execution of this Agreement.

18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by facsimile transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City of Louisville
Attn: City Manager
749 Main Street
Louisville, Colorado 80027
Telephone: (303) 335-4533
Fax: (303) 335-4550

If to the Contractor:

_____
_____
_____
_____

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on facsimile transmission receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

20.0 EQUAL OPPORTUNITY EMPLOYER

20.1 Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

20.2 Contractor shall be in compliance with the applicable provisions of the American with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year of signed by the City.

CITY OF LOUISVILLE,
a Colorado home rule municipal corporation

By:_____
Charles L. Sisk, Mayor

Attest:_____
Nancy Varra, City Clerk

Date:_____

CONTRACTOR:
_____

By:_____
Title:_____
Date:_____

Exhibit A – Scope of Services

[See Following Page(s)]

Exhibit B

City of Louisville Public Services Contract Addendum
Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

a. Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, City may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City.

Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Proposer:
_____

By_____
Title:_____

_____
Date

Preparation Checklist for Completion of Sample Independent Contractor Agreement

NOTE: This Checklist Page is for the City's internal use only and should not be included as part of the final contract

Title Block:

- Insert Contactor Name
- Insert Type of Services

First Paragraph:

- Insert Contractor Name
- If Contractor is an entity, insert state of organization and entity type

Section 5:

- Insert name of City project manager in two places in Section 5.1
- Insert name of Contractor project manager in two places in Section 5.2

Section 6:

- Insert dates for term of Agreement; the commencement date generally should not be prior to the date the City intends to sign the Agreement

Section 19:

- Insert contact information for Contractor

Signature Page:

- Complete signature block for Contactor

Exhibit A:

- Add the Scope of Services; ensure the Scope of Services accurately, clearly and specifically lists all of the work to be completed by the Contractor.
- Ensure Exhibit A includes timeframes for completion of the Services. If the Services include several tasks with several completion deadlines, ensure all deadlines are included in Exhibit A.
- Ensure Exhibit A includes the not-to-exceed contract price; also, if the Services are compensated on an hourly, per-task or per-unit basis, ensure Exhibit A sets for the agreed upon rates, task or unit pricing.

APPENDIX H: PURCHASING CARD GUIDELINES

PURCHASING CARD GUIDELINES

Welcome to the City of Louisville Purchasing Card Program. The purchasing card is a credit card based system used to procure low value items and services.

PURPOSE

The purpose of the Purchasing Card Program is to streamline and simplify the requisitioning, purchasing and payment process for small dollar transactions. The program is designed to shorten the approval process and reduce the paperwork of procurement procedures such as purchase orders, petty cash, check requests and expense reimbursements. The goal of the program is to:

- Reduce the cost of processing small dollar purchases;
- Receive faster delivery of required merchandise;
- Simplify the payment process.

The Purchasing Card Program is intended for travel, maintenance, repair, operating and other low value purchases needed during the course of business.

Program Administrator:

Diane Kreager
(303) 335-4507

What limitations and restrictions are on the card?

The program is set up with the following limitations:

- Dollar limit per transaction
- Dollar limit per month
- Merchant Category – Other

The following restrictions apply to the purchasing card:

- May not be used to purchase items requiring a requisition and purchase order
- May not split or spread charges over multiple cards to avoid the single purchase transaction limit

For whom can a cardholder make purchases?

The cardholder can make City of Louisville business related purchases for any employee who reports to the same department or division.

Is personal use of the purchasing card allowed?

Use of the purchasing card for personal purchases is prohibited. Any purchases that are inadvertently used for a personal purchase must be reimbursed to the City. Personal use of the card may result in loss of privileges or other disciplinary action including termination of employment.

Can the card be shared?

The only person entitled to use a purchasing card is the person whose name appears on the face of the card. Do not lend the purchasing card to another person for use. Only the cardholder can sign for card transactions. Use by anyone other than the cardholder is prohibited.

Which suppliers may I use?

The purchasing card is a Master Card product. Any supplier or merchant who accepts Master Card can accept the purchasing card.

What are the guidelines for sales tax?

The City of Louisville is tax exempt. The sales tax exemption number is printed on the front of the card. When making a purchase, please tell the merchant that we do not pay sales tax.

What about receipts for memberships, dues and subscriptions?

For purchases in which a receipt is not normally given, use a copy of the completed application or order form as the receipt. It should clearly indicate payment was made using the purchasing card.

How are charges paid?

All transactions processed during the month will be included on a monthly statement of account for each cardholder. Monthly statements will be distributed by the Program Administrator to each department. Cardholders are responsible for reviewing the statement for accuracy, providing a brief description and account number, and attaching a receipt for each transaction on the statement. The statement must be approved by the cardholder's departmental manager and submitted (with receipts) to the Program Administrator within 5 business days. The Program Administrator will audit the receipts with the statement and initiate payment.

What if there is an incorrect charge?

Any charge that was not authorized must be reported immediately to the Program Administrator.

If there is an incorrect charge or an outstanding quality or service issue, first contact the merchant to try to resolve the error or problem. If the error involved an overcharge, a credit adjustment should be requested to appear on the next statement.

If an agreement cannot be reached with the merchant, contact the Program Administrator.

What if a receipt is lost?

If a receipt is lost, contact the vendor for a duplicate. If the vendor is unable to supply a duplicate, the cardholder is to attach a written statement describing the transaction in detail and submit it with the other receipts. This statement will need a supervisor or manager's signature to process. If the cardholder is unavailable to verify the purchase, the supervisor may sign for the cardholder.

Can it be used for telephone orders?

Orders may be made by telephone with an itemized receipt requested from the merchant. If an itemized receipt is unavailable, the cardholder is to attach a written statement describing the transaction in detail and submit it with the other receipts.

What if the purchasing card is lost?

The purchasing card should be kept in a secure location. It needs to be accessible only to the cardholder. **If the purchasing card is lost or stolen, notify the Program Administrator immediately at 303-335-4507 or the Bank at 800-819-4249 during non-business hours.**

What if the cardholder leaves the City?

The cardholder must return the purchasing card to the Program Administrator in the Finance Department. The Program Administrator will cancel the card.

How are purchases returned?

If an item needs to be returned, follow the merchant's return policy. Contact the Program Administrator if a copy of a receipt is needed.

Will use affect personal credit?

Use of the purchasing card will not have any impact on the cardholder's personal credit rating.

What may cause loss of privileges?

Failure to comply with the Purchasing Card Guidelines may result in immediate revocation of the purchasing card privileges if any of the following occur:

- Splitting charges to avoid the single purchase transaction limit
- Loaning the card to another employee for use
- Failure to notify the Program Administrator or Bank of a lost or stolen purchasing card
- Failure to submit the statement on time for payment
- Personal use of the purchasing card

Can privileges be restored?

Privileges can be restored <u>one time only</u> after a six-month waiting period following loss of privileges. The restoration of privileges must be requested by the Department Director and will require a new Purchasing Card User Agreement. Any subsequent loss of privileges will be permanent.

As with any City purchase, the card is not to be used for any product, service or with any merchant considered to be inappropriate for City funds.

PURCHASING CARD USER AGREEMENT

I agree to the following regarding the use of the Purchasing Card Program at the City of Louisville:

I understand that I am making financial commitments on behalf of the City of Louisville and will strive to obtain the best value for the City of Louisville.

I understand that under no circumstances will I use the purchasing card to make personal purchases either for others or myself.

I have been given a copy of the Purchasing Card Guidelines, received the training and understand the requirements for purchasing card use.

I will follow the established procedures for use of the purchasing card. Failure to do so may result in either loss of privileges or other disciplinary action including termination of employment.

I agree that should I violate the terms of this Agreement, I will reimburse the City of Louisville through cash, personal check or payroll deduction. If the costs incurred exceed my paycheck, I will be responsible for the remaining charges and any fees related to the collection of those charges.

I understand if the Department Director determines a purchase was inappropriate, I will reimburse the City of Louisville through cash, personal check or a payroll deduction or return the merchandise, at the discretion of the Director. If the costs incurred exceed my paycheck, I will be responsible for the remaining charges and any fees related to the collection of those charges.

I understand that failure to report a lost or stolen purchasing card may cause a liability for the City of Louisville. I will immediately notify the Program Administrator or Bank of a lost or stolen card. Failure on my part may cause me to be liable for unauthorized purchases and will result in losing purchasing card privileges.

_____
Employee Name and Number (print)

_____	_____
Employee Signature	Manager Signature
_____	_____
Date	Date

SUBJECT: **DISCUSSION/DIRECTION/ACTION – EIGHTH AMENDED EMPLOYMENT AGREEMENT (CITY MANAGER MALCOLM FLEMING)**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **OFFICE OF THE MAYOR**

SUMMARY:
Please find attached a red line copy and clean copy of the proposed Eighth Amended Employment Agreement for City Manager Malcolm Fleming. Also attached is the written City Manager Evaluation for the period of August 15, 2014 through August 14, 2015 as contemplated in the City Charter (Article 8, Section 8-1(d)). These drafts are submitted for City Council discussion, direction and action as desired.

The attached redline shows the few changes proposed for the contract term that begins effective August 15, 2015. The Eighth Amended Employment Agreement proposes a base salary increase of two percent (2%) with other compensation and benefits remaining the same. The language regarding the prior year's one-time bonus payment is removed from the Eighth Amended Employment Agreement.

FISCAL IMPACT:
As noted above, the Eighth Amended Employment Agreement proposes a base salary increase of two percent (2%) which amount can be accommodated within the existing 2015 budget.

RECOMMENDATION:
Approve the attached Eighth Amended Employment Agreement and City Manager Evaluation.

ATTACHMENT(S):
1. City Manager Evaluation
2. Redline copy of Eighth Amended Employment Agreement
3. Clean copy of Eighth Amended Employment Agreement

CITY MANAGER EVALUATION
August 15, 2014 to August 14, 2015

Key Accomplishments

- Strategic Investments – Malcolm identifies and pursues key strategic investments in the organization. Examples include the new City Services Facility and the Enterprise Resource Planning (ERP) software project. Malcolm and his staff also exceled in completing the design, grant funding, and financing for the upgrades to the City's Wastewater Treatment Plant.

- Completion of Key Projects – Malcolm and staff are commended for efforts made this past year to complete key projects. The Coal Creek Golf Course repairs, drainage improvements and re-opening were timely completed within budget. The Coal Creek Trail repairs were completed and the McCaslin Underpass project was finalized. Many of the numerous capital improvements projects (CIP) scheduled for the year were accomplished within budget.

- Progress on City Initiatives - Council appreciates the progress and efforts Malcolm has made in the past year to address parking needs and open space acquisitions.

Strengths

- Service Commitment & Approach – Malcolm and staff are hard working and committed to a high level of service. In managing the City, Malcolm works to resolve issues, is evenhanded and is willing to consider diverse views and opinions.

- Operations – Malcolm keeps the City running smoothly on a day-to-day basis. The City accomplishes a lot with limited staff, and a lot of good things are getting done. Citizen interactions with staff are positive. Proactive efforts are made to resolve concerns; enhancement of the over-the-counter permit process is an example of this.

- Budget – Malcolm and staff provide Council with a good structure and process for the annual budget cycle. Council appreciates and encourages staff's efforts to address the limitations within the process, as evidenced by the CIP adjustments made during the budget process.

- External Relations – Malcolm maintains strong relationships with the City's public entity partners. The City is a leader on intergovernmental issues.

Areas for Further Emphasis/Challenges

- Relationship with Council – The more frequent Manager meetings with individual and ward Councilmembers are appreciated. However, more focus should be placed on the Manager-Councilmember relationship and discussion of Councilmembers' perspectives and priorities. It remains important that these meetings are scheduled and held. Be timely and direct in responses to Council, and provide information that Council needs to understand issues. City Council would like to have quarterly reporting on the CIP, ERP and business assistance programs.

- Presentations - Presentations are stronger and more focused but must include more information on—and an open analysis of—the options available to Council and the pros and cons of the options. While a staff recommendation is warranted for most matters, there does not have to be one for every item. Malcolm should exercise his own judgment on whether to make, hold or defer a recommendation. If an agenda item involves purely a policy choice, the presentation should reflect both that and the options and not focus on a single or preferred outcome.

- Project Resourcing/Planning – Malcolm is encouraged to proactively resource projects if needed to get things done or avoid problems arising during the project. For example, he should use hired project engineers or place more oversight/collaboration in affected departments. The method and process for handling real estate matters should be reviewed.

EIGHTH~~SEVENTH~~ AMENDED EMPLOYMENT AGREEMENT

THIS EIGHTH~~SEVENTH~~ AMENDED EMPLOYMENT AGREEMENT ("Agreement") is made effective as of the 15TH day of August, 2015~~4~~, by and between the City of Louisville, a Colorado home rule municipal corporation, hereinafter known as "CITY" and Malcolm H. Fleming, hereinafter known as "CITY MANAGER."

WHEREAS, the City desires to employ the services of Malcolm H. Fleming for the office of City Manager of the City of Louisville, Colorado; and

WHEREAS, the City and the City Manager desire to set forth certain specifics concerning the employment of the City Manager by the City, and to establish conditions of employment and working conditions of said Manager; and

WHEREAS, the City Manager desires to accept employment as City Manager of the City of Louisville under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the following mutual covenants and conditions the parties agree as follows:

1. Duties; Residency. The City agrees to employ Malcolm H. Fleming as City Manager to perform the functions and duties specified by Colorado State Statutes, the Louisville Home Rule Charter and Municipal Code, and any other applicable laws, ordinances, or regulations of the City of Louisville. In addition, the City Manager agrees to perform any other legally permissible and proper duties and functions as the City Council of the City shall from time-to-time assign to the City Manager. The City Manager is and shall remain a resident throughout the City Manager's appointment.

2. Term. The City Manager is an employee at will. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council of the City to terminate the services of the City Manager at any time, subject to the provisions set forth in Section 4 herein. Nothing in the Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to resign at any time from his position upon thirty (30) days prior written notice, subject only to the provisions as set forth in Section 4 herein. The City Manager's first day of employment was August 15, 2007.

3. Compensation. The City agrees to pay to the City Manager for his services rendered pursuant hereto an annual base salary of $170,664.00~~167,315.20~~, commencing August 15, 2015~~4~~ and payable in biweekly installments at the same time as other employees of the City are paid. ~~In addition, the City agrees to pay a one-time lump sum bonus in the amount of~~

~~$4,000, in recognition of the City Manager's excellent service during the City's flood recovery and reconstruction effort. Such amount shall be paid, subject to applicable deductions, in the second regular pay period in September 2014.~~

The position of City Manager is an exempt position under the provision of the Fair Labor Standards Act. As such, the City Manager shall not be bound by the record keeping or overtime provisions of the Act.

4. Termination and Severance Pay. The employment of the City Manager may be terminated by the City Council at any time, with or without cause. It is understood that in the event the City Manager is terminated because of his conviction of any illegal act involving personal gain to the City Manager, or because of his conviction of any felonious act or due to any act of moral turpitude, or because of insubordination, nonfeasance, or malfeasance in the performance of duties, the City shall have no obligation to pay any severance pay.

In the event of termination of the City Manager by the City Council for any reason other than those enumerated above, including but not limited to non-appropriation of funds pursuant to Section 15, the City Manager shall be entitled to receive 6 months severance pay. Severance pay shall include all benefits under Sections 6, 8, 9 and 10 of this Agreement, but shall not include the benefits under Section 12. The benefits under Section 8 shall be for the City Manager and dependants (if the City Manager has obtained dependants coverage), with the City Manager and City to pay their respective portions of the premiums and costs thereof according to the benefits plans then in effect. This severance pay shall be paid for the months immediately following the City Manager's last working day.

In the event the City Manager resigns, the City Manager shall not be entitled to any severance pay.

5. Performance Evaluation. The City Council shall set performance goals for and review and evaluate the performance of the City Manager on an annual basis. The next such annual review shall occur in August, 2016~~5~~, except that the foregoing shall not limit the authority of the City Council to evaluate the performance of the City Manager at any lesser interval, in its sole discretion.

6. Automobile. The City shall provide the City Manager with an automobile allowance of $525.00 per month, commencing August 15, 2015~~4~~, and payable via payroll check on the first pay date of each month. The City Manager shall then provide his own transportation as necessary in the performance of his duties. The City Manager shall maintain all liability insurance as required by the State of Colorado.

7. Paid Illness Leave and Leave Time. The City Manager shall receive fifty-six (56) hours annually as Extended Illness Bank leave for personal illness or injury during the term of his employment. Illness leave time shall be accrued on a biweekly basis, coincidental with established pay dates. The City Manager may accrue up to a maximum of 480 hours of illness leave time. Upon termination of employment with the City, the City Manager shall not be paid for any accrued, unused illness leave time.

The City Manager shall also receive paid leave time. Paid leave time, which consists of vacation, holiday, and personal leave, shall be accrued on a biweekly basis, coincidental with established pay dates, at a rate in accordance with the City's personnel policies as if he had completed 181 months of service. The City Manager may accrue up to a maximum of 432 hours of paid leave time. Any amounts in excess of such accrual shall be forfeited as of each January 1. Upon termination of employment with the City, the City Manager shall be paid for all accrued, unused paid leave time.

8. Insurance. The City Manager shall be entitled to receive the same health, dental, disability, life, liability, and other insurance coverage as set forth under the terms of the group insurance coverages provided by the City to all employees. The City Manager must meet all of the terms and conditions required by the individual carriers in order to receive said coverages.

9. Retirement. The City agrees to pay an amount equal to five and one-half percent (5.5%) of the City Manager's base salary into the International City Management Association Retirement Corporation's (ICMA-RC) 401-A Money Purchase Plan, which is the current uniform percentage rate paid for all employees participating in the plan. The City Manager shall contribute at a rate in accordance with the City's personnel policies. Each payment shall be made on a biweekly basis according to the City's payroll schedule. In the event the City Council approves any change in the uniform percentage rate paid for all employees participating in the plan, the above-stated 5.5% rate shall automatically adjust to the new rate, effective as of the effective date of the change.

All of the City's contribution will be vested to the City Manager from his date of employment.

10. Deferred Compensation. The City agrees to pay an amount equal to ten percent (10%) of the City Manager's base salary into the International City Management Association Retirement Corporation's (ICMA-RC) Section 457 Deferred Compensation Plan. All of the City's contribution will be vested to the City Manager from his date of employment.

11. Other Terms and Conditions of Employment. The City Council shall fix such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the City Manager, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the Colorado State Statutes, or the Louisville Home Rule Charter or Municipal Code.

It is understood that the City Manager is not to be treated as an employee under the provisions contained in the City's Personnel Guidelines. It is further understood that the rights and obligations contained in said Guidelines are not binding upon the City with respect to the employment of the City Manager except as expressly enumerated in this Agreement.

12. Dues and Subscriptions. The City agrees to budget and pay for reasonable professional dues and subscriptions of the City Manager necessary for his participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and which are for the good of the City. The City also agrees to budget and pay for necessary travel expenses for the Manager to adequately pursue official and other functions for the City. By way of example, such functions include, but are not limited to, meetings and conferences of the International City Management Association and the Colorado Municipal League.

13. Reimbursement of General Expenses. The City recognizes that certain expenses of a non-personal and job-related nature will be incurred by the City Manager, and hereby agrees to reimburse reasonable general expenses.

14. Outside Activities. The City Manager shall not spend any time in remunerated business outside of this Agreement, nor shall he spend more than ten hours per week in non-remunerated non-City connected business, without the prior approval of the City Council. No such outside activities shall be contrary to the interests of the City.

15. Funding. Notwithstanding any other provisions contained herein, this Agreement is subject to an annual appropriation by the City Council of sufficient funds to pay the full amount due, or which may be due hereunder for the following year. A failure to appropriate such funds shall constitute a termination pursuant to Section 4 of this Agreement.

16. Constitutionality. The parties hereto do not extend this Agreement to be a multiple fiscal year financial obligation within the meaning of

Article X, Section 20 of the Colorado Constitution, and this Agreement shall be interpreted so as to avoid any such meaning.

This Agreement is held to be the entire Agreement of the parties thereto. In addition, this Agreement shall be binding upon and inure to the benefit of the heirs, representatives, and assigns of the City Manager.

If any provision or portion of this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall remain in full force and effect.

In WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth adjacent to their respective signatures, intending the same to be effective as of the 15th day of August, 20154; the parties agree that signatures obtained via fax are sufficient and binding for this Agreement.

[Signatures on Following Page]

CITY OF LOUISVILLE

_____

Robert P. Muckle, Mayor

ATTEST:

_____

Nancy Varra, City Clerk
Date:_____

APPROVED AS TO FORM:

_____

Light | Kelly, P.C.
City Attorney

CITY MANAGER

_____

Malcolm H. Fleming,
City Manager

Date:_____

EIGHTH AMENDED EMPLOYMENT AGREEMENT

THIS EIGHTH AMENDED EMPLOYMENT AGREEMENT ("Agreement") is made effective as of the 15TH day of August, 2015, by and between the City of Louisville, a Colorado home rule municipal corporation, hereinafter known as "CITY" and Malcolm H. Fleming, hereinafter known as "CITY MANAGER."

WHEREAS, the City desires to employ the services of Malcolm H. Fleming for the office of City Manager of the City of Louisville, Colorado; and

WHEREAS, the City and the City Manager desire to set forth certain specifics concerning the employment of the City Manager by the City, and to establish conditions of employment and working conditions of said Manager; and

WHEREAS, the City Manager desires to accept employment as City Manager of the City of Louisville under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the following mutual covenants and conditions the parties agree as follows:

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2. Term. The City Manager is an employee at will. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council of the City to terminate the services of the City Manager at any time, subject to the provisions set forth in Section 4 herein. Nothing in the Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to resign at any time from his position upon thirty (30) days prior written notice, subject only to the provisions as set forth in Section 4 herein. The City Manager's first day of employment was August 15, 2007.

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The position of City Manager is an exempt position under the provision of the Fair Labor Standards Act. As such, the City Manager shall not be bound by the record keeping or overtime provisions of the Act.

4. Termination and Severance Pay. The employment of the City Manager may be terminated by the City Council at any time, with or without cause. It is understood that in the event the City Manager is terminated because of his conviction of any illegal act involving personal gain to the City Manager, or because of his conviction of any felonious act or due to any act of moral turpitude, or because of insubordination, nonfeasance, or malfeasance in the performance of duties, the City shall have no obligation to pay any severance pay.

In the event of termination of the City Manager by the City Council for any reason other than those enumerated above, including but not limited to non-appropriation of funds pursuant to Section 15, the City Manager shall be entitled to receive 6 months severance pay. Severance pay shall include all benefits under Sections 6, 8, 9 and 10 of this Agreement, but shall not include the benefits under Section 12. The benefits under Section 8 shall be for the City Manager and dependants (if the City Manager has obtained dependants coverage), with the City Manager and City to pay their respective portions of the premiums and costs thereof according to the benefits plans then in effect. This severance pay shall be paid for the months immediately following the City Manager's last working day.

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8. Insurance. The City Manager shall be entitled to receive the same health, dental, disability, life, liability, and other insurance coverage as set forth under the terms of the group insurance coverages provided by the City to all employees. The City Manager must meet all of the terms and conditions required by the individual carriers in order to receive said coverages.

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such terms and conditions are not inconsistent with the provisions of this Agreement, the Colorado State Statutes, or the Louisville Home Rule Charter or Municipal Code.

It is understood that the City Manager is not to be treated as an employee under the provisions contained in the City's Personnel Guidelines. It is further understood that the rights and obligations contained in said Guidelines are not binding upon the City with respect to the employment of the City Manager except as expressly enumerated in this Agreement.

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16. Constitutionality. The parties hereto do not extend this Agreement to be a multiple fiscal year financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution, and this Agreement shall be interpreted so as to avoid any such meaning.

This Agreement is held to be the entire Agreement of the parties thereto. In addition, this Agreement shall be binding upon and inure to the benefit of the heirs, representatives, and assigns of the City Manager.

If any provision or portion of this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall remain in full force and effect.

In WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth adjacent to their respective signatures, intending the same to be effective as of the 15th day of August, 2015; the parties agree that signatures obtained via fax are sufficient and binding for this Agreement.

[Signatures on Following Page]

CITY OF LOUISVILLE

_____

Robert P. Muckle, Mayor

ATTEST:

_____

Nancy Varra, City Clerk
Date:_____

APPROVED AS TO FORM:

_____

Light | Kelly, P.C.
City Attorney

CITY MANAGER

_____

Malcolm H. Fleming,
City Manager

Date:_____

SUBJECT: **ORDINANCE NO. 1702, SERIES 2015 – AN ORDINANCE AMENDING SECTION 17.08.205 OF THE LOUISVILLE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF GRADE – 1ST READING – Set Public Hearing for October 6, 2015**

DATE: **SEPTEMBER 1, 2015**

PRESENTED BY: **SCOTT ROBINSON, AICP, PLANNING AND BUILDING SAFETY**

SUMMARY:

The Louisville Municipal Code (LMC) prescribes a maximum building height in all zone districts in the City. Section 17.08.045 of the LMC defines height as "the vertical distance measured from grade to the highest point on the roof surface." Grade is defined in Section 17.08.205 of the LMC as "the average of the finished grade surface elevation measured at the highest and lowest exterior corners of a structure."

Simply put, building height is measured as the distance between the average grade at foundation to the highest point on the roof. Generally this definition has worked well, but there have been instances where fill has been added around the foundation to raise the grade and meet the height restriction. This defeats the purpose of the height regulations as the building in question ends up higher above the street than the surrounding structures and out of context for the surrounding neighborhood.

To reduce the likelihood of this happening, staff proposes amending the definition of grade. Staff looked at how neighboring jurisdictions define grade, and there are basically two schemes (see attachment). Some jurisdictions, including the City of Boulder and Boulder County, use "natural grade," meaning the grade before work began on the site. This ensures that even if fill is added to a site, the top of the building is no higher than it would have been without the fill. However, this requires the natural grade be determined by a surveyor before work begins, and can be difficult to implement if the natural grade has already been disturbed.

The other common scheme, used by Superior among others, is to measure grade some distance away from the foundation if fill has been added. This way, raising the grade around the foundation will not allow a higher structure. This only requires surveyor verification of height after framing is complete, as is required now. However, there could be problems if it is not clear if fill has been added, or if fill has been added further out from the structure, raising the entire site level.

Staff believes there are advantages and disadvantages to each scheme, but recommends the second. Staff believes the second method will eliminate the problems with the situation described above in most cases, while being easier to implement and less burdensome on property owners.

The grade has been raised on the property on the right to meet the height restriction

REQUESTED AMENDMENTS TO TITLE 17

Staff is recommending modifications to section 17.08.205 of the LMC to redefine grade as follows (text added is <u>underlined</u>):

Grade (ground level) means the average of the finished grade surface elevation measured at the highest and lowest exterior corners of a structure. <u>If fill is added to raise the surface elevation at the structure by more than one foot, then grade is determined from the finished site grade level a distance of ten feet from the structure wall, or from the property line if the property line is closer than ten feet to the structure wall.</u>

FISCAL IMPACT

Staff does not expect any fiscal impact from the proposed change.

PLANNING COMMISSION ACTION

The Planning Commission held a public hearing August 13, 2015. There was no public comment at the hearing and Commission members made recommendations to clarify the language of the proposed ordinance. The Planning Commission voted unanimously (6-0) to recommend the amendment to Title 17 be forwarded to City Council for consideration.

RECOMMENDATIONS
Staff recommends City Council approve Ordinance 1702, Series 2015, an ordinance amending section 17.08.205 of the Louisville Municipal Code to clarify the definition of grade – 1st Reading – Set 2nd Reading and Public Hearing for October 6, 2015

ATTACHMENTS:
1. Ordinance No. 1702, Series 2015
2. Planning Commission minutes (August 13, 2015)
3. Neighboring jurisdictions analysis
4. PowerPoint

ORDINANCE NO. 1702
SERIES 2015

AN ORDINANCE AMENDING SECTION 17.08.205 OF THE LOUISVILLE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF GRADE

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, the City Council is authorized by the City Charter and state law, including without limitation C.R.S. § 31-23-301 et. seq. to adopt and enforce regulations which may be necessary for the promotion of health, safety, morals, or the general welfare and to restrict the maximum allowed height of buildings as measured from grade; and

WHEREAS, the City Council desires to amend the City's current definition of grade to better address the City's intent that building height measurements consider the effects of grading and fill activities; and

WHEREAS, a core value of the City in the 2013 Comprehensive Plan promotes: "*Unique commercial areas and distinctive neighborhoods… where the City is committed to recognizing the diversity of Louisville's commercial areas and neighborhoods by establishing customized policies and tools to ensure that each maintains its individual character"*, and;

WHEREAS, the City Council finds that it is necessary and appropriate to further amend and clarify the definition of "grade" so as to lend certainty in order to ensure each commercial area and neighborhood maintains its individual character; and

WHEREAS, after a duly noticed public hearing held August 13, 2015, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated August 13, 2015, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Louisville Municipal Code set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

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

Section 1. Section 17.08.205 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined):

Sec. 17.08.205. Grade (ground level).

Grade (ground level) means the average of the finished grade surface elevation measured at the highest and lowest exterior corners of a structure. If fill is added to raise the surface elevation at the structure by more than one foot, then grade is

determined from the finished site grade level a distance of ten feet from the structure wall, or from the property line if the property line is closer than ten feet to the structure wall.

Section 2. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ____ day of _____, 2015.

_____

Robert P. Muckle, Mayor

ATTEST:

_____

Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____

Light, Kelly, P.C.

City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2015.

_____

Robert P. Muckle, Mayor

ATTEST:

_____

Nancy Varra, City Clerk

Planning Commission

Meeting Minutes

August 13, 2015
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order: Pritchard called the meeting to order at 6:30 P.M.

Roll Call was taken and the following members were present:

Commission Members Present:	Chris Pritchard, Chairman
	Cary Tengler, Vice Chairman
	Ann O'Connell, Secretary
	Jeff Moline
	Tom Rice, arrived at 6:32 pm
	Scott Russell
Commission Members Absent:	Steve Brauneis
Staff Members Present:	Troy Russ, Director of Planning and Building Safety
	Sean McCartney, Principal Planner

- **Building Height Measurement–Code Amendment, Resolution No. 25, Series 2015,** recommending to City Council approval of the Draft Ordinance, amending Title 17 of the Louisville Municipal Code to amend the definition of grade.
  - Applicant, Owner and Representative: City of Louisville
  - Case Manager: Scott Robinson, Planner II

Conflict of Interest and Disclosure:
None.

Public Notice Certification:
Posted in City Hall, Public Library, Recreation Center, the Courts and Police Building, and City Web-Site on August 6, 2015.

Staff Report of Facts and Issues:
Russ presented from Power Point:

- Height is measured from average grade at foundation to the highest point on the roof
- This allows fill to be added to raise the foundation if a building is too tall
- Option 1 - Measure height from "natural grade"
  - Requires surveyor to establish grade before work begins
  - Still has to measure height at framing
  - Ensures height cannot be increased by adding fill
  - Difficulties if grade has been previously altered

- Option 2 - Measure grade level away from foundation
    - Only requires measuring height at framing
    - No concern about previous changes in grade
    - Could be questions about whether fill has been added
    - Could be gained by raising grade of entire site

AMENDMENTS TO TITLE 17
Staff is proposing amending Section 17.08.205 in the LMC to read as follows (words added are underlined):

- *Grade (ground level)* means the average of the finished grade surface elevation measured at the highest and lowest exterior corners of a structure. If fill is added to raise the surface elevation at the structure by more than one foot, then grade is determined from the finished site grade level a minimum distance of ten feet from the structure wall, or from the property line if the property line is closer than ten feet.

This is the same height ordinance that the Town of Superior uses and the City of Broomfield. Boulder County uses the natural grade as well as the City of Boulder, which would require an additional submittal. Staff feels this could be an unusual expense to the development community to try to gain this and gain additional height. Staff believes it would address the questions or concerns I showed in the photo.

Staff Recommendations:
Staff recommends Planning Commission move to approve Resolution No. 25, Series 2015, recommending to City Council approval of the Draft Ordinance, amending Title 17 of the Louisville Municipal Code to amend the definition of grade.

Commission Questions of Staff:
Rice says by occupational hazard, I run into problems with statutory and ordinance construction all the time in terms of how they are interpreted, and then the ways the gremlins creep into these things. When I read through this, the thing that troubled me was the use of the word "minimum". The concept here is that if somebody is going to use the finished grade that they have accomplished by virtue of adding fill as their means of meeting the height standard, then we will look at grade level a minimum distance of 10' from a structure wall. I do not understand the use of the word "minimum" there because who decides what distance you are going to measure it from?
Russ says the reason we do that is because that would require a significant amount of fill which we think is cost prohibitive.
Rice says can the City come in and say, well actually, we're going to measure at 15'. I understand it is a silly construction but I deal with silly construction of laws all the time. I am concerned that there is an ambiguity that is created by that use, and so my thought was that we should make it 10' but then there also is this condition about the property line. If you don't have 10', then you can't measure 10'. You don't have control over what your neighbor is doing with his grade. I would get rid of the "minimum".
Russ says we do have control over it. In every building CO, before the CO is issued, they have to do a grading certificate for scrapes. They have to demonstrate that the run-off from a site would follow established drainage easements, typically running between the parcels. The philosophy of them raising the site to the property edge is defeated through a drainage certificate requirement. That would not be possible from a drainage certificate for them to build the wall up. We believe this is necessary. I agree with your observation, so if we just say 10' is how we'll measure it, I think that is an excellent improvement to this ordinance.

Russell asks which wall? Is it all four walls? Is that clear.
Russ says all four walls.
Rice says you are taking the average of the highest and lowest corner, correct?

Russell asks why not take the simpler version that says, we are going to go out and establish grade before you do anything, and then that's the starting point of measuring.
Russ says we think that would be burdensome to the homeowners and building. That is yet another survey requirement and probably an additional $1500 to $3000. Just as part of the survey.

Pritchard says he has a hard time with this. I was directly impacted. I look from my house and someone brought in several hundred yards of dirt and increased their elevation by a good 12'. That should have been caught from this standpoint. To me, if it costs the homeowner $3000, I have no problem with that. That is the price you pay to build a house.

Russell asks what is the sense of magnitude of this issue? This is primarily an old town issue, probably? Ten new projects get pulled. How often does this happen?
Russ says the ordinance applies city-wide but we are seeing most impactful in Old Downtown. I think 50% of the projects are impacted.

Moline asks about a subdivision that has over-lot grading. That becomes the nature grade, correct? For example, in the last item that we just discussed, they bring in this material from the US 36 project, they spread it over the property at CTC. At this point, what is the natural grade?
Russ says yes. In the survey they provide and we agree to. You are describing a site that is exactly our concern with using the term "natural grade" because then, it is really hard to determine it when you go from natural grade. There are manipulations that are afforded to it, and you can look at the property's edge. You could measure height from property edge. On sites that are that large, it is really hard to manipulate that, especially if there is a slope to those large sites. That is why we prefer the second option.

Summary and request by Staff and Applicant:
Staff recommends approval.

Closed Public Hearing and discussion by Commission:
Russell says in my view, someone could bring in a bunch of dirt before they start, but I think that is an unlikely scenario in a residential lot. That to me is a bit of left field possibility. In my view, simpler is better. My question is, does this shift a greater burden onto the City to make a determination about what is the appropriate basis for measuring grade? On the other hand, frankly, I am not going to have to enforce this. We are going to have to deal with this if we have a plan submitted with some real variance to its established grade. I think the better path is to go with the natural grade route.
Russ says this grade involves both residential and commercial structures. On the larger sites, we measure height the same way. I would say of all the lots that are being developed, 60-70% require some sort of fill because of the slopes or the hills that you see, both residential and commercial. There is fill and grading going on in the site. What this is saying, we know there is 1' more than was established, we will measure it 10' away. That can easily be determined. I think if we go with the natural grade, we might have to start divorce residential development. I think natural grade works really well on the smaller lots. It doesn't work well on the larger lots or sloping lots.

Rice says we are taking the approach we already have and further clarifying it. To do the other would be to invent the new approach.

Motion made by Tengler to Staff recommends that the Planning Commission approve Resolution No. 25, Series 2015, recommending to City Council approval of the Draft Ordinance,

amending Title 17 of the Louisville Municipal Code to amend the definition of grade, with the following condition:

1. Delete the word “minimum” from the draft.

seconded by Rice. Roll call vote.

Name	Vote
Chris Pritchard	Yes
Jeff Moline	Yes
Ann O’Connell	Yes
Cary Tengler	Yes
Steve Brauneis	n/a
Scott Russell	Yes
Tom Rice	Yes
Motion passed/failed:	Pass

Height and Grade Regulations from Neighboring Jurisdictions

Boulder County

18-120 Building Height (Structure Height) The vertical distance from any part of the structure, excluding appurtenances, to the existing or natural grade below. In a platted subdivision for which overlot grading was permitted prior to October 18, 1994, the overlot grading shall be the existing grade.

Boulder

Height means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof. The lowest point shall be calculated using the natural grade. The tallest side shall be that side whose lowest exposed exterior point is lower in elevation than the lowest exposed exterior point of any other side of the building.

Modifications to Natural Grade: The height of a building is determined as described in the definition of "height" in chapter 9-16, "Definitions," B.R.C. 1981. (See Figure 7-3 of this section.) If there is evidence that a modification to the natural grade has occurred since the adoption of Charter section 84, "Height limit." B.R.C. 1981, on November 2, 1971, the city manager can consider the best available information to determine the natural grade. This may include, without limitation, interpolating what the existing grade may have been using the grade along property lines, topographic information on file with the City, or other information that may be presented to the city manager.

Lafayette

Height determination. The height of buildings or other structures shall not exceed the maximum permitted height shown in Table 26-B as measured from any point at the top of a flat or mansard roof or from the midpoint between the highest eave line and highest ridge line of a gable, gambrel, hip, shed or similar pitched roof to the over-lot grade elevation, which shall be based on an approved grading plan, directly below such point. It is the intent of this regulation that a building plane be established that runs parallel to the over-lot grading elevation of the lot and no higher than the maximum permitted height shown in Table 26-B. Such plane shall act as a ceiling beyond which a flat or mansard roof does not protrude and beyond which the midpoint between the eave line and ridge line of a gable, gambrel, hip, shed or similar pitched roof does not protrude.

Superior

Height means a standard of measurement defining the vertical elevation of a structure from grade to the top or highest point of the structure or accessory appurtenance. Excepted appurtenances are chimneys, spires, utility ventilation pipes and lightning rods. For sign purposes, height means the vertical distance measured from the site's grade at the middle of the sign, which is the horizontal distance between the two (2) side edges of the sign, to the uppermost point on the sign or the sign structure.

Grade means the average of the ground levels at the center of all exterior walls of a building. If earth is to be bermed against the foundation of the structure to a height greater than one (1) foot from the

finished grade, then grade is determined from the finished site grade level a minimum distance of ten (10) feet from the foundation wall or from the property line if the property line is closer than ten (10) feet.

Erie

Building Height Building height shall be measured as the vertical distance above a reference datum to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following; whichever yields a greater height of building: a. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade. b. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described above is more than 10 feet above lowest grade.

Longmont

Building height is measured from the average of finished grade at the center of all walls of the building to the top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard roof, or the average distance between the highest ridge and its eave of a gable, hip, or gambrel roof.

ii.

Structure height (not including buildings) is measured from the average of finished grade of each support of the structure to the highest point of the structure.

iii.

Finished grade shall be consistent with an approved grading and drainage plan, as applicable, and best management practices and shall be consistent and compatible with surrounding properties.

Broomfield

Building height means the vertical distance from the average of the finished ground level at the center of all walls of a building to the highest point of the roof surface, exclusive of chimneys, ventilators, pipes, and similar apparatus.

City Council – Public Hearing

Ordinance No. 1702, Series 2015 - Amendment to section 17.08.205 of the Louisville Municipal Code to clarify the definition of grade.

Prepared by:
Dept. of Planning & Building Safety

Building Height

Height is measured from average grade at foundation to the highest point on the roof

This allows fill to be added to raise the foundation if a building is too tall

Building Height

Height is measured from average grade at foundation to the highest point on the roof

This allows fill to be added to raise the foundation if a building is too tall

Building Height

Option 1

Measure height from “natural grade”

Option 2

Measure grade level away from foundation

Building Height

Option 1

Measure height from “natural grade”

- Require surveyor to establish grade before work begins
- Still have to measure height at framing
- Ensures height can’t be increased by adding fill
- Difficulties if grade has been previously altered

Building Height

Option 2

Measure grade level away from foundation

- Only requires measuring height at framing
- No concern about previous changes in grade
- Could be questions about whether fill has been added
- Could be gamed by raising grade of entire site

Building Height

AMENDMENTS TO TITLE 17
Staff is proposing amending Section 17.08.205 in the LMC to read as follows (words added are underlined):

Grade (ground level) means the average of the finished grade surface elevation measured at the highest and lowest exterior corners of a structure. If fill is added to raise the surface elevation at the structure by more than one foot, then grade is determined from the finished site grade level a minimum distance of ten feet from the structure wall, or from the property line if the property line is closer than ten feet to the structure wall.

Recommendation

Staff recommends City Council approve Ordinance No 1702, Series 2015, amending section 17.08.205 of the Louisville Municipal Code to clarify the definition of grade.