

**Mayor**  
Aaron Brackett

**Council Members**  
Matt Benjamin  
Lauren Folkerts  
Rachel Friend  
Junie Joseph  
Nicole Speer  
Mark Wallach  
Tara Winer  
Bob Yates



Council Chambers  
1777 Broadway  
Boulder, CO 80302  
November 2, 2023  
6:00 PM

**City Manager**  
Nuria Rivera-Vandermyde

**City Attorney**  
Teresa Taylor Tate

**City Clerk**  
Elesha Johnson

## **AGENDA FOR THE REGULAR MEETING OF THE BOULDER CITY COUNCIL**

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1. **Call to Order and Roll Call**
  - A. **Transgender Day of Remembrance Declaration presented by Council Member Benjamin** **5 min**
2. **Open Comment**
3. **Consent Agenda**
  - A. **Consideration of a motion to accept the August 3, 2023 Regular Council Meeting Minutes**
  - B. **Consideration of a motion to accept the August 11, 2023 Special Council Meeting Minutes**
  - C. **Consideration of a motion to accept the August 17, 2023 Regular Council Meeting Minutes**
  - D. **Consideration of a motion to accept the October 12, 2023 Study Session Summary regarding the Chautauqua Access Management Plan (CAMP) Update**
  - E. **Consideration of a motion to authorize the city manager to execute an Amendment to Protective Covenants of the Sheets Subdivision No. 2. The amendment would remove city property that is part of the city's Foothills Community Park and properties of the Shining Mountain Waldorf School from the scope of these private protective covenants. (This proposal will not affect the management or use of the city property as a park but would clean up the title to the city's property. It would also allow the Shining Mountain Waldorf School to develop its land consistent with city approvals.)**
  - F. **Consideration of the following items related to the transfer of the Boulder Public Library:**
    1. **Consideration of a motion to approve and authorize the city**

manager to enter into, execute, and negotiate minor amendments in line with council direction prior to or during the term of two separate Intergovernmental Agreements (IGA) between the City of Boulder and the Boulder Public Library District, in substantially the same form as in Attachment A, and between the City of Boulder, County of Boulder, and the Boulder Public Library District, in substantially the same form as in Attachment B, relating to the transfer and operation of the Boulder Public Library District;

**AND**

2. Consideration of a motion to approve and authorize the city manager to enter into, execute, and negotiate administrative amendments prior to or during the term of 20-year leases of the Boulder Public Library located at 1001 Arapahoe Ave., in substantially the same form as in Attachment C, the Carnegie Library located at 1125 Pine St., in substantially the same form as in Attachment D, the George Reynolds Branch Library located at 3595 Table Mesa Dr., in substantially the same form as in Attachment E, and the new North Boulder Branch Library located at 4500 13th St., in substantially the same form as in Attachment F, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

**AND**

3. Consideration of a motion to approve and authorize the city manager to Assign the lease, and execute any documents to effectuate such assignment, for the Meadows Branch Library located at 4800 Baseline Rd., in substantially the same form as in Attachment G, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

**AND**

4. Consideration of a motion to approve and authorize the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system.

- G. Introduction, first reading and consideration of a motion to order published by title only Ordinance 8590 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers, including changes to the standards for restaurants, brewpubs, and taverns within the BMS Business Main Street district and University Hill General Improvement District; and setting forth related details;



**AND**

**Introduction, first reading and consideration of a motion to order published by title only Ordinance 8605 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers; and setting forth related details**

- H. Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8608, amending sections 2.02(E) and 2.03(Q) of the City of Boulder Design and Construction Standards (DCS), originally adopted pursuant to Ordinance 5986; and setting forth related details**
  - I. Consideration of a motion to authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed against the city by Lawrence Construction Company for payment in the amount of \$200,000**
- 4. Call-Up Check-In**
- A. Concept Plan Review for a mixed-use proposal to develop 5450 Airport Blvd. with 147 attached dwelling units and 20,000 square-feet of nonresidential space in four (4) three-story buildings. 117 of the 147 units are proposed as efficiency living units (ELUs). Reviewed under case no. LUR2023-00026**
- 5. Public Hearings**
- A. Second reading and consideration of a motion to adopt Ordinance 8601 amending Chapter 9-13, "Inclusionary Housing," Section 9-2-14, "Site Review, and Section 9-16-1, "General Definitions," B.R.C. 1981, modifying affordable housing requirements and incentives and setting forth related details**
- 6. Matters from the City Manager**
- 7. Matters from the City Attorney**
- 8. Matters from the Mayor and Members of Council**
- 9. Discussion Items**
- 10. Debrief**
- 11. Adjournment**

**75 min  
– 15  
min  
presentat  
/ 60 min  
public  
hearing  
&  
council  
discussio**

**2:50 hrs**

## **Additional Materials**

### **Presentations**

### **Item Updates**

### **Information Items**

### **Boards and Commissions**

- A. 07.17.2023 WRAB Signed Minutes**
- B. 09.11.23 TAB Meeting Minutes**
- C. 09.06.2023 Boulder Library Commission Meeting Minutes**

### **Declarations**

- A. International World Freedom Day Declaration**
- B. Extra Mile Day Declaration**
- C. Diwali Declaration**
- D. Veterans Day Declaration**
- E. Declaration for “Light the World in Teal” Campaign from the Alzheimer’s Foundation**

### **Heads Up! Email**

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This meeting can be viewed at [www.bouldercolorado.gov/city-council](http://www.bouldercolorado.gov/city-council). Meetings are aired live on Municipal Channel 8 and the city's website and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

Boulder 8 TV (Comcast channels 8 and 880) is now providing closed captioning for all live meetings that are aired on the channels. The closed captioning service operates in the same manner as similar services offered by broadcast channels, allowing viewers to turn the closed captioning on or off with the television remote control. Closed captioning also is available on the live HD stream on [BoulderChannel8.com](http://BoulderChannel8.com). To activate the captioning service for the live stream, the "CC" button (which is located at the bottom of the video player) will be illuminated and available whenever the channel is providing captioning services.

The council chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado at 711 or 1-800-659-3656.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. - 5 p.m. Monday through Friday. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretacion o cualquier otra ayuda con relacion al idioma para esta junta, por favor comuniquese al (303) 441-1905 por lo menos 3 negocios dias antes de la junta.

Send electronic presentations to email address: [CityClerkStaff@bouldercolorado.gov](mailto:CityClerkStaff@bouldercolorado.gov) no later than 2 p.m. the day of the meeting.



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

Transgender Day of Remembrance Declaration presented by Council Member Benjamin

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **Transgender Day of Remembrance Declaration**

## **Transgender Day of Remembrance November 20, 2023**

Transgender people in Boulder have long been and continue to be valued and important members of our community.

Transgender people are often discriminated against in the areas of housing, employment, and healthcare. Social stigma, a lack of comprehensive protections, erasure, and inadequate welcoming spaces limits this community's ability to fully express themselves, access services, and hold equal rights under law.

On this day we honor transgender people whose lives were cut short in acts of transphobic violence. In addition to the threat of violence, transgender people often have inequitable access to income, employment, adequate medical care, housing, food, and acceptance in public life. Moreover, these disparities are compounded for our transgender community members of color. In particular, Black and Latine transgender women are murdered at disproportionate rates and face a uniquely complex system of discrimination and violence. Today, we honor transgender people in death for the fullness of their lives and identities, their joys, their contributions to the community, and their connections with their loved ones.

The City of Boulder welcomes and embraces our transgender community members and will continue uphold our shared values of belonging, inclusion, and equality by creating an inclusive community and not tolerating acts of violence or discrimination against transgender people.

The City of Boulder will continue to directly advocate for transgender cultural competency training, expanding programs to support transgender people, and providing access for equal representation of transgender people in the decision-making processes of city government.

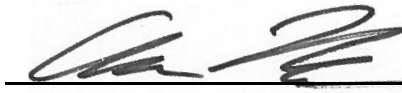
Of note, in 2022, our esteemed partners at Out Boulder County championed legislation to mandate demographic health data collection. Thanks to their work, this information can soon be used to address health disparities across spheres of sexual orientation, gender identity, disability status, race, and ethnicity. As implementation moves forward, the city will align our data practices with the state so we can better understand and respond to the unique needs of all community members.



On November 20<sup>th</sup> of each year, we honor the memory of transgender people who have been murdered because of their identity and acknowledge the level of extreme violence and fear faced by transgender people nationally and internationally.

We, the City Council of the City of Boulder, Colorado declare November 20, 2023 as

**Transgender Day of Remembrance**



Aaron Brockett, Mayor





## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to accept the August 3, 2023 Regular Council Meeting Minutes

### **PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the August 3, 2023 Regular Council Meeting Minutes

### **ATTACHMENTS:**

#### **Description**

- ▢ **Item 3A – DRAFT August 3, 2023 Council Regular Meeting Minutes**



## CITY COUNCIL MEETING

### Council Chambers

Thursday, August 3, 2023

## MINUTES

### 1. Call to Order and Roll Call:

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present: Benjamin, Brockett, Folkerts, Friend, Joseph, Speer, Winer and Yates

Virtually present: Wallach

Motion	Made By/Seconded	Vote
Motion to <b>AMEND</b> the agenda	Yates / Friend	Carried 9:0
<b>To ADD:</b> <b>Item 8A – Update on homeless services external evaluation and safe outdoor camping</b>		

A. **Declaration for Pollinator and Little Creature Appreciation: Fall Equinox Celebration** presented by Council member Yates

### 2. Open Comment:

(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:10 p.m.



➤ **In-Person (Council Chambers):**

1. Douglas Bendt spoke on homeless day services center
2. Kristen Marshall spoke on Goose Creek mitigation plan
3. Evan Ravitz spoke on various
4. Patrick ORourke spoke on civic historic district
5. Michele Rodriguez spoke on homelessness
6. Phoenix Llu spoke on whole systems integration
7. ~~Charlie Schira~~ **did not show**
8. Julie Van Domelen spoke on minimum wage

➤ **Virtual:**

1. Pete Carney spoke on bus system
2. Lynn Segal spoke on Caroline Miller
3. Tim Thomas spoke on BHP
4. Emily Reynolds spoke on intensification

Open Comment **closed** at 6:39 p.m.

3. **Consent Agenda**

- A. Consideration of a motion to **call a Special Meeting of the City Council on August 10, 2023**
- B. **Introduction**, first reading and consideration of a motion **to order published by title only Ordinance 8585**, amending **Chapter 9-8, “Intensity Standards,” B.R.C. 1981, increasing the number of persons that may occupy a dwelling unit, and setting forth related details**  
  
Brad Mueller, Director of Planning and Development Services answered questions from Council.
- C. **Introduction**, first reading, and consideration of a **motion to order published by title only Ordinance 8592** amending **Section 2-3-20, “University Hill Commercial Area Management Commission,” and Appendix 8-A in Title 8, “Parks, Opens Spaces, Streets, and Public Ways,” B.R.C. 1981, updating the referenced area of the University Hill General Improvement District and its boundary map; and setting forth related details**
- D. Consideration of a motion to **approve the updated “Intergovernmental Agreement for Implementation of the Keep it Clean Partnership Plan,” (IGA)** a regional stormwater quality protection program serving the partner communities of **Boulder, Longmont, Lafayette, Louisville, Superior and Boulder County and authorize the city manager to execute the IGA**

- E. **Second reading and consideration of a motion to adopt Ordinance 8584, amending Sections 4-2-3, “Authority to Issue City Licenses,” and 4-20-2, “Alcohol and Fermented Malt Beverage License and Application Fees,” B.R.C 1981, to update the city’s Art Gallery Permit regulations related to Colorado House Bill 23-1061; and setting forth related details; and to adopt Resolution 1335, amending the Rules of Procedure for the Beverage Licensing Authority to update the Art Gallery Permit terminology related to Colorado House Bill 23-1061; and setting forth related details**

Motion	Made By/Seconded	Vote
Motion to <b>ACCEPT</b> consent agenda items <b>A-E</b>	Benjamin / Winer	Approved 9:0  <b>Nay on 3B: Wallach, Winer and Yates</b>

4. **Call-Up Check-In**

- A. **Extension of call up period and Landmark Alteration Certificate to remove a fence at the property north of 200 Gaillardia Ln. in the Chautauqua Park Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code, 1981**

**NO ACTION**

- B. **Site Review Amendment to amend The Orchard PUD to expand the property at 1576 Hawthorn Ave. to include adjacent common area. Reviewed under case no. LUR2022-00024**

**NO ACTION**

- C. **Use Review for a 7,062 square foot patio expansion of a restaurant use with associated landscape improvements at 4910 and 4920 Nautilus Court North. Reviewed under case no. LUR2022-00028**

**NO ACTION**

5. **Public Hearings**

- A. **Second reading and consideration of a motion to adopt Ordinance 8580 designating the property at 830 14th St., City of Boulder, Colorado, to be known as the Powers House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details**

Marcy Gerwing, City Planner Principal provided Council with a presentation and answered questions from Council.

The public hearing **opened** at 6:57 p.m. and the following spoke:

➤ **Virtual:**

1. Lynn Segal

public hearing **closed** at 7:00 p.m.

Motion	Made By/Seconded	Vote
Motion to <b>ADOPT Ordinance 8580</b> designating the property at 830 14th St., City of Boulder, Colorado, to be known as the Powers House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details	Benjamin / Winer	Adopted 9:0

- B.
1. Second reading and consideration of a motion to adopt **Ordinance 8586** submitting to the qualified electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, **the question of whether or not to amend Section 8-3-21, “Prohibited Items,” B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk;** specifying the form of the ballot and other election procedures; and setting forth related details
  2. Second reading and consideration of a motion to adopt **Ordinance 8587** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, **the question of whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions, and changes to other election procedures;** specifying the form of the ballot and other election procedures; and setting forth related details
  - 3a. Second reading and consideration of a motion to adopt **Ordinance 8588** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax** approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, **to fund fire and emergency response services, public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details;

**OR**

3b. Second reading and consideration of a motion to adopt **Ordinance 8591** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax** approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, **to fund fire and emergency response services, public safety services, homelessness solutions and services, arts, cultural, and heritage programs, parks, and other general fund purposes; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details

4. Second reading and consideration of a motion to adopt **Ordinance 8589** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax** approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, **and earmark the revenue from this tax extension to fund arts, culture, and heritage; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details

Teresa Taylor Tate, City Attorney and Erin Poe, Deputy City Attorney provided a presentation and answered questions from Council.

Kara Skinner, Chief Financial Officer and Mark Wolfe, Budget Officer also answered questions from Council.

The public hearing **opened** at 7:31 p.m. and the following spoke:

➤ **In-person (Council Chambers):**

1. Daphna Rubin
2. Nick Forster

➤ **Virtual:**

1. Lynn Segal
2. Mary Horrocks
3. ~~Jan Burton~~ - **withdrew**
4. Caroline Kert
5. Fran Zankowski
6. Michael Knisely
7. ~~Doug Hamilton~~ - **withdrew**

The public hearing closed at 8:00 p.m.

Motion	Made By/Seconded	Vote
<p><b>1. Motion to adopt Ordinance 8586 submitting to the qualified electors of the city of Boulder at the General Municipal Coordinated Election</b> to be held on Tuesday, November 7, 2023, <b>the question of whether or not to amend Section 8-3-21, “Prohibited Items,” B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk; specifying the form of the ballot and other election procedures; and setting forth related details -</b> <b>CONTINUED</b></p> <p><b>2. Motion to adopt Ordinance 8587 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election</b> to be held on Tuesday, November 7, 2023, <b>the question of whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions, and changes to other election procedures; specifying the form of the ballot and other election procedures; and setting forth related details -</b> <b>CONTINUED</b></p> <p><b>3a. Motion to adopt Ordinance 8588 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election</b> to be held on Tuesday November 7, 2023, <b>the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax</b> approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, <b>to fund fire and emergency response services,</b></p>		

<p>public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth related details; - <b>CONTINUED</b></p>		
<p><b>OR</b></p>		
<p><b>3b. Motion to adopt Ordinance 8591 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election</b> to be held on Tuesday November 7, 2023, the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts, cultural, and heritage programs, parks, and other general fund purposes; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth related details</p>	<p>Benjamin / Yates</p>	<p><b>APPROVED AS AMENDED 7:2</b></p> <p><b>NAY: Speer, Wallach</b></p>
<p><b>4. Second reading and consideration of a motion to adopt Ordinance 8589 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election</b> to be held on Tuesday, November 7, 2023, the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, and earmark the revenue from this tax extension to fund arts, culture, and heritage; as a voter approved revenue change; specifying the form of the ballot</p>	<p>Friend / Speer</p>	<p><b>APPROVED AS AMENDED 9:0</b></p>

and other election procedures; and setting forth related details		
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6. **Matters from the City Manager**

A. **311 Mapleton Land Dedication Update**

Kurt Firnhaber, Director of Housing and Human Services provided a presentation and answered questions from Council.

7. **Matters from the City Attorney**

8. **Matters from the Mayor and Members of Council**

A. **Update on homeless services external evaluation and safe outdoor camping**

Kurt Firnhaber, Director of Housing and Human Services, provided an update and answered questions from Council.

9. **Discussion Items**

10. **Debrief**

11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 9:30 p.m.**

Approved this 2<sup>nd</sup> day of November 2023.

APPROVED BY:

\_\_\_\_\_  
Aaron Brockett, Mayor

ATTEST:

\_\_\_\_\_  
Elesha M. Johnson, City Clerk



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to accept the August 11, 2023 Special Council Meeting Minutes

### **PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

### **REQUESTED ACTION OR MOTION LANGUAGE**

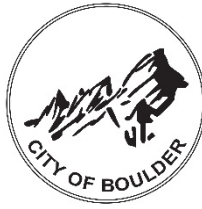
Motion to accept the August 11, 2023 Special Council Meeting Minutes

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3B – DRAFT August 10, 2023 Council SPECIAL Meeting Minutes**





## CITY COUNCIL SPECIAL MEETING

Virtual Via Zoom Webinar

Thursday, August 10, 2023

### MINUTES

1. **Call to Order and Roll Call:**

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present:

Benjamin, Brockett, Folkerts, Friend,  
Joseph, Speer, Wallach, Winer, and Yates

2. **Consent Agenda**

3. **Public Hearings**

A. **2023 Mid-Year Boards & Commissions Appointments**

Elesha Johnson, City Clerk, outlined the Boards & Commissions appointment process and answered questions from Council. She then provided a presentation that included each board and commission, the vacant seats along with their required qualifications, the eligible candidates and whether they have applied to other boards.

The public hearing **opened** at 6:06 p.m. and the following spoke:

1. —~~Lynn Segal~~ — *did not show*

The public hearing **closed** at 6:06 p.m.

John Morse, Elections Administrator provided support to the City Clerk and Council by noting the nominations and appointments in the Zoom chat.

Council proceeded through the nomination process for each Board and Commission. The following appointments were made:

Board or Commission	Name (First)	Name (Last)	Appointed Seat/Term
Environmental Advisory Board	Hannah	Davis	Seat 2 - unexpired 4-year term
Environmental Advisory Board	Greg	Hill	Seat 4 - unexpired 1-year term
Landmarks Board	Renee	Golobic	Seat 4 - unexpired 1-year term
Open Space Board of Trustees	Harmon	Zuckerman	Seat 3 - unexpired 2-year term
University Hill Commercial Area Management Commission	Tell	Jones	Seat 2 - 5-year term

4. **Discussion Items**

5. **Debrief**

6. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 6:25 p.m.**

Approved this 2<sup>nd</sup> day of November 2023.

APPROVED BY:

\_\_\_\_\_  
Aaron Brockett, Mayor

ATTEST:

\_\_\_\_\_  
Elesha Johnson, City Clerk

DRAFT



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to accept the August 17, 2023 Regular Council Meeting Minutes

### **PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the August 17, 2023 Regular Council Meeting Minutes

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3C – DRAFT August 17, 2023 Council Regular Meeting Minutes**



## CITY COUNCIL MEETING

### Council Chambers

Thursday, August 17, 2023

# MINUTES

1. **Call to Order and Roll Call:**

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present: Benjamin, Brockett, Folkerts, Friend, Joseph, Speer, Wallach, and Yates

Virtually present: Winer

A. **Presentation & Questions; Annual Comprehensive Financial Report & Auditor Selection**

Professor David Gross, City Audit Committee member provided an overview and answered questions from Council.

2. **Open Comment:**

(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:10 p.m.

➤ **In-Person (Council Chambers):**

1. Jade Kelly spoke on living wage
2. Mary Ingham spoke on the Boulder Airport
3. Travis Hugh Culley spoke on contaminated land
4. Phoenix Ilu spoke on Indigenous land
5. Michele Rodriguez spoke on Council progress

6. Ana Casa Ibarra spoke on living wage
7. ~~Tracey Jones~~ - *did not show*
8. Anne Tapp spoke on human services and art funding
9. Alejandra Beatty spoke on living wage
10. Indira Kumari spoke on living wage
11. Eric Budd spoke on living wage
12. Jonathan Signer spoke on living wage
13. ~~Steve Morgan~~ – *withdrew*
14. Carol Fries spoke on human services funding
15. Conor Hall spoke on living wage

➤ **Virtual (Council Chambers):**

1. Lynn Segal spoke on affordable housing
2. Shari Hack spoke on mental health centers
3. Margaret Bachrach spoke on unsanctioned camping

Open Comment **closed** at 6:52 p.m.

**3. Consent Agenda**

**Mayor Brockett requested a motion to vote on Consent Agenda items 3A through 3H first, and then address/vote on item 3J.**

- A. Consideration of a motion to **accept the June 1, 2023 Regular City Council Meeting Minutes**
- B. Consideration of a motion to **accept the June 15, 2023 Regular City Council Meeting Minutes**
- C. Consideration of a motion to accept the **June 22, 2023 Special City Council Meeting Minutes**
- D. Consideration of a motion to **accept the June 22, 2023, Study Session Summary regarding 2024 City of Boulder Energy Conservation Code Development Project**
- E. Consideration of a motion to **accept the July 27, 2023 Study Session Summary regarding the Use Table and Standards Update and Discussion on Neighborhood Center Changes**
- F. Consideration of a motion to **adopt Resolution 1334 accepting the City of Boulder’s 2022 Comprehensive Annual Financial Report and Independent Auditor’s Report**

- G. Consideration of a motion to **adopt Resolution 1336 appointing the firm of CliftonLarsonAllen to examine the financial accounts of the City of Boulder for the year ended December 31, 2023**
- H. Consideration of the following **items related to a petition to annex a property at 3033 3rd Street** with an initial zoning designation of Residential – Low 1 (RL-1) (LUR2021-00049):
1. Consideration of a motion to **adopt Resolution 1332 finding the annexation petition to annex approximately 0.27-acres of land in compliance with state statutes and establishing October 5, 2023 as the date for a public hearing, second reading** and consideration of the adoption of annexation Ordinance 8582.
- AND**
2. **Introduction**, first reading and consideration of a **motion to order published by title only, Ordinance 8582, annexing to the City of Boulder approximately 0.27-acres of land, with an initial zoning designation of Residential – Low 1 (RL-1)** as described in Chapter 9-5, “Modular Zone System,” B.R.C. 1981; amending the Zoning District Map forming a part of said Chapter to include said land in the above-mentioned zoning district; and setting forth related details
- I. **Second reading** and consideration of a motion to **adopt Ordinance 8592 amending Section 2-3-20, “University Hill Commercial Area Management Commission,” and Appendix 8-A in Title 8, “Parks, Opens Spaces, Streets, and Public Ways,” B.R.C. 1981, updating the referenced area of the University Hill General Improvement District and its boundary map; and setting forth related details**
- J. 1. **Second reading** and consideration of a motion to **adopt Ordinance 8586 submitting to the qualified electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of whether or not to amend Section 8- 3-21, “Prohibited Items,” B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk; specifying the form of the ballot and other election procedures; and setting forth related details**
2. **Second reading** and consideration of a motion to **adopt Ordinance 8587 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions, and changes to other election procedures; specifying the form of the ballot and other election procedures; and setting forth related details**

**3a. Second reading** and consideration of a motion to **adopt Ordinance 8588** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details;

**AND/OR**

**3b. Motion to amend and adopt as an emergency measure Ordinance 8591** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, with 50 percent of the revenue used to fund fire and emergency response services, public safety services, homelessness solutions and services, parks, and other general fund purposes and 50 percent of the revenue used to fund arts, culture, and heritage purposes including direct and grant funding for arts and culture nonprofits, professional artists, arts education, venues and workspaces, public art, and multi-cultural programs; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details

**4. Third reading** and consideration of a motion to **adopt Ordinance 8589** submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, **the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, and earmark the revenue from this tax extension to fund arts, culture, and heritage; as a voter approved revenue change;** specifying the form of the ballot and other election procedures; and setting forth related details

Motion	Made By/Seconded	Vote
Motion to <b>ACCEPT Consent Agenda Items A-I</b>	Yates / Benjamin	Approved 9:0
Erin Poe, Deputy City Attorney, and Mark Woulf, Budget Officer, provided background, input and answered questions from Council.		



Motion to <b>ACCEPT</b> Consent Agenda Item <b>J1 – Ordinance 8586</b>	Yates / Friend	Adopted 9:0
Motion to <b>ACCEPT</b> Consent Agenda Item <b>J2 – Ordinance 8587</b>	Yates / Wallach	Adopted 9:0
Motion to <b>ACCEPT</b> Consent Agenda Item <b>J3A – Ordinance 8588</b>	Speer / Wallach	<b>Defeated 4:5</b>  <b>Nay: Benjamin, Brockett, Friend, Winer, &amp; Yates</b>
Motion to <b>AMEND</b> and <b>ADOPT</b> Consent Agenda Item J3B – <b>Ordinance 8591</b>	Benjamin / Yates	<b>Amended &amp; Adopted as an Emergency 7:2</b>  <b>Nay: Speer &amp; Wallach</b>
Motion to <b>ACCEPT</b> Consent Agenda Item <b>J4 – Ordinance 8589</b>		<b>NO ACTION</b> Petition WITHDRAWN

4. **Call-Up Check-In**

- A. **Vacation of a 14-foot wide utility easement at 2950 Hawthorn Avenue** (formerly known as 3320 28th St.) (ADR2023-00109)

**NO ACTION**

5. **Public Hearings**

- A. **Second reading** and consideration of a motion to **adopt Ordinance 8585, amending Chapter 9-8, “Intensity Standards,” B.R.C. 1981, increasing the number of persons that may occupy a dwelling unit, and setting forth related details**

The public hearing **opened** at 8:21 p.m. and the following spoke:

➤ **In-Person:**

1. Paul Givens
2. Cedar Barstow

3. Kristen Hollingsworth
4. Max Hollingsworth
5. Annemarie Parsons
6. Lincoln Miller
7. Lisa Sweeney-Miran
8. Aidan Reed
9. Aaron Gabriel Neyer
10. Sarah Dawn Haynes
11. Silas Atkins
12. Krista Nordback
13. Chase Cromwell
14. Daniel Howard
15. Mark Lester
16. Jana Happel
17. Philip Ogren
18. Blake Stone
19. Shawn Rupp
20. Dave Coleman
21. Sara Campbell
22. Sean Haney
23. Savannah Kruger
24. Shawhin Roudbari
25. Sara Fleming
26. Joshua Westerman
27. Mike Homner
28. James Biard
29. Joseph Stein
30. Lucy Carlson Krakoff
31. Mikey Jacobs
32. Anna Mae Dziallo
33. Kevin McWilliams
34. Nicole Shegda
35. Becky Davies
36. Claudia Thiem
37. Nicholas Grossman
38. Jane Hummer
39. Eric Budd
40. Chelsea Castellano
41. Viktor Przebinda
42. Roxane Ruggles

43. Nathan Sweet
44. Celia Whitehead
45. Renee Rieder
46. Reynold Feldman, Ph.D.
47. Hannah George
48. Anna Ross
49. Shiv Srivastaba
50. Lisa Spalding
51. Tom Masterson
52. Joel Marks
53. Len Barron
54. Karlston Nasser

➤ **Virtual:**

55. Ryan Schuchard
56. Katie Farnan
57. Jill Grano
58. Michael Parrish
59. Charlotte Whitney
60. ~~Darren Kelly~~ - *withdrew*
61. Henry Koren
62. David Light
63. Patrick Kerrigan
64. David Pardo
65. Rosie Fivian
66. Theodore Koenig
67. Ryan Bonick
68. Lynn Segal
69. Emily Reynolds
70. Kirsten Erkfritz
71. Charles Schira
72. Shari Hack
73. Kathleen Hancock
74. Jacques Decalo
75. Michael Andregg
76. Marjorie Schmitz
77. Harvey Wellman
78. Jennifer Banyan

79. Kirsten Erkfritz
80. Ian Frasca
81. David Martus
82. ~~Katherine Bush~~ - **did not show**
83. ~~Bev Pogreba~~ - **did not show**
84. ~~Kimman Harmon~~ - **did not show**

The public hearing **closed** at 10:29 p.m.

Brad Mueller, Director of Planning and Development Services and Karl Guiler, Policy Advisor Senior provided a presentation and answered questions from council.

Motion	Made By/Seconded	Vote
Motion to <b>ADOPT Ordinance 8585, amending Chapter 9-8, “Intensity Standards,” B.R.C. 1981, increasing the number of persons that may occupy a dwelling unit, and setting forth related details</b>	Friend / Folkerts	ADOPTED 6:3  <b>Nay: Wallach, Winer, &amp; Yates</b>

6. **Matters from the City Manager**
7. **Matters from the City Attorney**
8. **Matters from the Mayor and Members of Council**
9. **Discussion Items**
10. **Debrief**
11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 11:13 p.m.**

Approved this 2nd day of November 2023.

APPROVED BY:

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Aaron Brockett, Mayor

ATTEST:

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Elesha Johnson, City Clerk

DRAFT



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to accept the October 12, 2023 Study Session Summary regarding the Chautauqua Access Management Plan (CAMP) Update

### **PRIMARY STAFF CONTACT**

Chris Hagelin, Transportation Planner Principal

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the October 12, 2023 Study Session Summary regarding the Chautauqua Access Management Plan (CAMP) Update

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3D - Study Session Summary, Chautauqua Access Management Plan (CAMP) Update**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Consideration of a motion to accept the October 12<sup>th</sup>, 2023 Study Session Summary regarding the Chautauqua Access Management Program (CAMP) Update.

**PRESENTER(S)**

Nuria Rivera-Vandermyde, City Manager  
Natalie Stiffler, Director of Transportation & Mobility  
Cris Jones, Director of Community Vitality  
Dan Burke, Director of Open Space and Mountain Parks  
Valerie Watson, Transportation Planning Manager  
Chris Hagelin, Principal Planner, Transportation & Mobility  
Devin Joslin, Principal Traffic Engineer, Transportation & Mobility  
Samantha Bromberg, Senior Project Manager, Community Vitality  
Frances Boulding, Recreation and Cultural Stewardship Senior Manager, Open Space and Mountain Parks

**EXECUTIVE SUMMARY**

The purpose of the October 12th study session and presentation on the Chautauqua Access Management Program (CAMP) Evaluation was to receive feedback from the City Council on the program's future. CAMP is a multidepartment effort under the Access Management and Parking Strategies (AMPS) program and includes staff from Community Vitality (CV), Transportation & Mobility (T&M), and Open Space and Mountain Parks (OSMP), and a wide variety of partners and stakeholders. CAMP began in 2017 to address parking, access, and livability issues at the historic park and in the surrounding residential area. After a successful pilot in 2017, CAMP was extended to

operate until the end of 2023 under BRC 2-2-21. As part of the 2023 work plan, staff conducted a formal evaluation of the CAMP program and provided recommendations to boards and council on whether to continue the program and if continued, potential changes to the program.

Based on data, questionnaire findings, and consultation with stakeholders and partners, staff recommend that the city continue CAMP with some anticipated changes and some possible modifications about which staff sought council's input on utility in evaluating further.

Anticipated changes include:

- Improved micromobility access with a permanent BCycle station installed at Chautauqua and Lime e-scooter access with geofencing technology used to manage e-scooter operation and parking at and around Chautauqua.
- Changes in vehicle parking signage to improve clarity on when and how to pay to park.
- Updating of HOP to Chautauqua routing to optimize ridership and provide access from new locations.
- Possible changes to remote lots for the Park-to-Park shuttle because of planned construction at New Vista High School.

Possible modifications to the CAMP program, on which staff sought council's input include:

- Implementation of the city's Performance-based Parking policies at Chautauqua and in the adjacent North Chautauqua Neighborhood Parking Permit (NPP) area to adjust parking rates based on utilization.
- Establishment of a commuter parking permit program in the North Chautauqua NPP for Chautauqua employees.
- Use of parking revenue to fund additional transportation demand management (TDM) benefits for Chautauqua employees, such as subsidized BCycle memberships or additional vanpool incentives.

Staff also recommend conducting additional research and analysis to assess the feasibility of moving beyond the current "park-n-ride" model -- with free shuttles operating from remote lots -- to a model that provides direct transit access to Chautauqua. Analysis of data staff has received from stakeholders, employees, nearby residents, and partners indicates a desire of continuing CAMP and a desire to see that the CAMP season (now currently operating on weekends and holidays between Memorial Day and Labor Day) be expanded to more months of the year and days of the week to continually manage parking demand. However, under the current park-n-ride model, expansion is difficult due to the need to access Boulder Valley School District (BVSD) and University of Colorado, Boulder (CU) parking lots. While the city can lease access to these parking lots during the summer and on weekends, access to these parking lots is not feasible during the school year and on weekdays. With a model based on direct transit access to Chautauqua, the city could manage parking through pricing while providing a convenient multimodal option and potentially coordinate with Boulder County to develop a more



holistic and interconnected Trailhead Access Management Program as part of the AMPS program.

At the study session on October 12, 2023, council unanimously supported the continuation of CAMP with staff's planned changes. The council also indicated support for the sunset clause being removed from the ordinance so that CAMP will continue indefinitely.

About the potential modifications, the council conducted straw polls.

- Support to investigate the use of performance-based pricing for parking rates was 6-3.
- Support for providing access to commuter permits in the North Chautauqua NPP was 7-2.
- Support for using parking revenue to provide additional TDM benefits to employees was 7-2.

All nine council members were in support of a feasibility study to assess the viability of moving beyond the park-n-ride model to provide direct transit access to the park under the Trail Access Management Program.

### **STAFF RECOMMENDATION**

#### **Suggested Motion Language:**

Motion to accept the October 12, 2023 Study Session Summary regarding the Chautauqua Access Management Program (CAMP) Update.

### **BOARD AND COMMISSION FEEDBACK**

#### **Open Space Board of Trustees (OSBT)**

The OSBT provided input on September 13, 2023, on staff's presentation and recommendations. Overall, the OSBT generally is supportive of CAMP continuing with the anticipated changes but did express concerns about some of the possible modifications. OSBT does not recommend using performance-based pricing, but the board is in favor of including commuter permits in the NPP and using parking revenue to fund additional TDM benefits for Chautauqua employees. The board also would like to see safety considerations, improvements and programs related to enhanced micromobility access to the park.

The OSBT is in favor of staff conducting further research in exploring options beyond the park-n-ride model and to provide direct transit access to the park. At this time, OSBT expressed concerns about expanding the CAMP season by month or day of week due to limited survey data and anticipating the possible impacts on different parts of the

community or under-represented groups. Staff feels that addressing these concerns would be critical components of the future study.

The full motion by the board:

The Open Space Board of Trustees (OSBT) moved to include a recommendation in the City Council packet on the Chautauqua Area Management Plan (CAMP) program. The Board understands the importance of the CAMP program and is generally supportive of renewing the program as is but has concerns about potential modifications to the program. The Board believes that more complete and inclusive information is necessary before it can provide further guidance on the fairness, utility and comprehensiveness of the current and proposed Chautauqua access program.

1. The OSBT supports the concept of allowing additional NPP permits to be made available to employees.
2. The OSBT has concerns about expanding the season, number of days per week and increasing per-hour pricing based on limited survey data and details provided about alternative modes.
3. The OSBT requests that safe routes are established that direct Boulder BCycle riders and scooters off of Baseline and instead through safer streets through the neighborhood south of Baseline.
4. The board supports the staff recommendation that the city conduct a feasibility study into providing direct transit access to Chautauqua. This study would be irrespective of a proposed expansion of the CAMP season, although it could inform the benefits and impacts of an expanded CAMP season.
5. The Board needs more detailed information to explain the basis or justification for the proposed adjustments and explanations of anticipated impacts on the various groups included in the surveys and those groups omitted or underrepresented in the surveys.

#### Transportation Advisory Board (TAB)

The TAB is in favor of staff's recommendations to continue CAMP with anticipated changes and possible modifications. TAB did not exclude any of the possible modifications. TAB is also in support of further exploration to expand CAMP beyond the current park-n-ride model to provide direct transit access to the park under future Trailhead Access Management Program efforts.

#### **PUBLIC FEEDBACK**

Summarized in October 12, 2023 council study session memorandum.

## **BACKGROUND**

CAMP is a multidepartment effort under the Access Management and Parking Strategies (AMPS) program and includes staff from Community Vitality (CV), Transportation & Mobility (T&M), and Open Space and Mountain Parks (OSMP), and a wide variety of partners and stakeholders. CAMP began in 2017 to address parking, access, and livability issues at the historic park and in the surrounding residential area. After a successful pilot program, the Council directed staff to operate the CAMP program through 2023 and then to conduct an evaluation of the program.

The purpose of the CAMP evaluation is to:

- Evaluate the effectiveness of the CAMP program compared to the original goals and objectives of the program – to manage parking demand and provide multimodal access for visitors, employees, and residents, and address livability concerns;
- Develop staff recommendations based on data analysis and stakeholder input for boards and council to consider for the future of the CAMP program;
- Inform the crafting and adoption of necessary ordinances related to Council direction;
- Inform the development of an implementation framework based on Council guidance; and
- Set a foundation for future Trail Access Management Programs and evaluation of effectiveness.

Findings of the CAMP evaluation are provided in the October 12<sup>th</sup> Study Session memo.

## **ANALYSIS**

Following the staff presentation, council members asked clarifying question before moving through the components of staff's recommendations on the future of CAMP.

Council members asked for clarification on:

- The impact of allowing dogs on the shuttle
- Support for continuing CAMP beyond the residents of the NPP.
- A description of what direct transit access would look like and how it would operate.
- Bicycle rack supply at the park.
- Whether or not CAMP was still considered a pilot or program.

Council member feedback included:

- A recommendation to create additional marketing to promote the Park-to-Park shuttle.
- Support for extending service up Flagstaff Road and to look at parking demand impacts and management needs at other trailheads like Sanitas and Shanahan Ridge.
- Installing additional bike racks at the park.

- Support of expanding micromobility access to the park while also addressing safety concerns.
- There was mixed support by council members for charging more to park at Chautauqua, but overall support for investigating the use of performance-based pricing. Concern was expressed at charging the public at large for parking to access Chautauqua while nearby residents are able to access by foot.
- General support of looking at providing more direct transit access to the park and other trailheads.
- There was mixed support of expanding the CAMP season, but strong support for conducting a feasibility study on moving beyond the park-n-ride model.

At the study session, council unanimously supported the continuation of CAMP with staff's planned changes. The council also indicated support for the sunset clause being removed from the ordinance so that CAMP will continue indefinitely.

About the potential modifications, the council conducted straw polls.

- Support to investigate the use of performance-based pricing for parking rates was 6-3.
- Support for providing access to commuter permits in the North Chautauqua NPP was 8-1.
- Support for using parking revenue to provide additional TDM benefits to employees was 7-2.

All nine council members were in support of a feasibility study to assess the viability of moving beyond the park-n-ride model to provide direct transit access to the park under the Trail Access Management Program.

### **NEXT STEPS**

Staff will design the 2024 CAMP program based on Council direction received at the October 12<sup>th</sup> Study Session and inform boards and council with that plan prior to implementation during the 2024 season.

Staff will conduct further research in the feasibility of moving CAMP beyond the park-n-ride model to improve access to the park under the Trail Access Management Program. This study is likely to start in 2024 and into 2025.

### **ATTACHMENT(S)**

None



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to authorize the city manager to execute an Amendment to Protective Covenants of the Sheets Subdivision No. 2. The amendment would remove city property that is part of the city's Foothills Community Park and properties of the Shining Mountain Waldorf School from the scope of these private protective covenants. (This proposal will not affect the management or use of the city property as a park but would clean up the title to the city's property. It would also allow the Shining Mountain Waldorf School to develop its land consistent with city approvals.)

### **PRIMARY STAFF CONTACT**

Hella Pannewig, Senior Counsel, 303.441.3020

Deryn Wagner, Senior Landscape Architect, 702.601.5048

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to authorize the city manager to execute an Amendment to Protective Covenants of the Sheets Subdivision No. 2. The amendment would remove city property that is part of the city's Foothills Community Park and properties of the Shining Mountain Waldorf School from the scope of these private protective covenants. (This proposal will not affect the management or use of the city property as a park but would clean up the title to the city's property. It would also allow the Shining Mountain Waldorf School to develop its land consistent with city approvals.)

### **ATTACHMENTS:**

#### **Description**

- **Item 3E - Motion to authorize city manager to amend protective covenants Sheets Subdivision No. 2**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Consideration of a motion to authorize the city manager to execute an Amendment to Protective Covenants of the Sheets Subdivision No. 2. The amendment would remove city property that is part of the city's Foothills Community Park and properties of the Shining Mountain Waldorf School from the scope of these private protective covenants.

(This proposal will not affect the management or use of the city property as a park but would clean up the title to the city's property. It would also allow the Shining Mountain Waldorf School to develop its land consistent with city approvals.)

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Alison Rhodes, Parks and Recreation Director  
Brad Mueller, Planning and Development Services Director  
Mark Davison, Parks and Recreation Planning Manager  
Deryn Wagner, Senior Landscape Architect  
Hella Pannewig, Senior Counsel

**EXECUTIVE SUMMARY**

The Shining Mountain Waldorf School recently obtained development approvals to redevelop and modernize its campus. The development approvals include development

of single-family homes and townhouses on Locust and Union Avenues and along Broadway.<sup>1</sup>

The residential development is helping the school finance the modernizing of its facilities on its other properties. During the process of developing a site plan for redevelopment, the school discovered some old private covenants that affect some of the school's properties as well as single family homes along Locust and Union Avenues and city property that is part of Foothills Community Park. (The Protective Covenants are **Attachment B**).

The private covenants create restrictions for Blocks 1, 2, and 3 of the Sheets Subdivision No. 2, limiting land use and building types, dwelling costs, quality, size, building location, lot area, and number of stories. The area is zoned by the city as Residential-Low 1 (RL-1). The covenants were recorded in 1960 by the then owners of the Sheets No. 2 Subdivision. Many of the lots currently within the area subject to the covenants fail to conform to them. For example, the covenants require each lot to be at least 14,000 sf in size. The vast majority of single-family home lots subject to the covenants are much smaller than 14,000 sf.<sup>2</sup> The RL-1 zoning of these properties only requires a lot to be 7,000 sf. The single-family homes approved as part of the Shining Mountain Waldorf School development approvals also anticipate smaller lots. Finally, the covenants do not list a park as an allowed use, or the use of the city property subject to the covenants.

The covenants may be amended by an instrument signed by the then owners of a majority of the real property subject to the covenants provided the instrument is recorded in the records of the Boulder County Clerk and Recorder's office. The city owns the majority of the real property (53%) subject to the covenants. Together, the city and school own 68.4% of the real property. Therefore, the city by itself or the city and school together may amend the covenants. The Shining Mountain Waldorf School has approached the city to amend or repeal the covenants hoping to develop their property consistent with city approvals and zoning. For the city, this is an opportunity to remove these restrictive covenants from the title to its property that is part of the Foothills Community Park. (The proposed amendments to Protective Covenants are **Attachment A**).

### **STAFF RECOMMENDATION**

#### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to authorize the city manager to execute an Amendment to Protective Covenants of the Sheets Subdivision No. 2, generally in the form attached to the staff

<sup>1</sup> The Planning Board memo associated with the 2021 site plan approval can be found here: <http://lfprod/WebLink/DocView.aspx?id=14158572&dbid=0&repo=LF8PROD>.

<sup>2</sup> In its capacity as regulatory zoning authority, the city does not enforce or require compliance with private restrictive covenants.

## PUBLIC FEEDBACK

In light of limited response from neighbors subject to the covenants and the expressed preference, city staff and the school prepared the proposed Amendment to Protective Covenants in **Attachment A**.

Excerpt from Sheets Subdivision No. 2 Plat.





Aerial image of the real property that is part of Sheets Subdivision No. 2. The area subject to the covenants is shown in yellow.

Most of the area has been re-subdivided. However, the covenants run with the land when it is conveyed and re-subdivided and continue to encumber the area of the three blocks of Sheets Subdivision No. 2. In the past, there have been two attempts to amend the covenants by property owners in the area, apparently in an attempt to allow some of the development that has occurred. However, it appears that the required owners of property did not sign for those amendments to be effective. The covenants include land use and design restrictions beyond those required in the Boulder Revised Code and can be privately enforced by owners of neighboring property subject to the covenants. The Private Covenants attempt to prevent redevelopment allowed at a density anticipated in the Boulder Valley Comprehensive Plan and Land Use Code of the city for this area. The covenants are also outdated in that most of the area's development is out of compliance with the covenants.

### **ANALYSIS AND STAFF RECOMMENDATION**

Staff recommends that City Council pass a motion that authorizes the city manager to execute an amendment to the restrictive covenants, generally as shown in **Attachment A**. Such amendment would remove both the city Foothills Community Park property and the school's properties from the scope of the restrictive covenants. This action would not affect the Foothills Community Parks management or ownership but would clean up its title by no longer being subject to the Protective Covenants. This action would also allow the Shining Mountain Waldorf School to develop its property south of Locust Avenue as anticipated in the development approvals.



Image of approved Shining Mountain Waldorf School redevelopment site plan.

The city property and school properties are on the edge of the area subject to the covenants. The city owns Block 3, and the school owns approximately the eastern half of Block 1. The Protective Covenants will remain in effect for the remainder for Block 2 and for, approximately, the western half of Block 1.



The City of Boulder and Shining Mountain Waldorf School Association properties are shown in green in this image.

As a alternative to staff's recommendation, city council could do the following:

- (1) Make a motion to authorize the city manager to execute an instrument to repeal the Protective Covenants in their entirety, so that the Protective Covenants are no longer effective to any property;
- (2) Make a motion to authorize the city manager to execute an instrument to amend the Protective Covenants in a different way than proposed by staff; or

- (3) Take no action, thereby not authorizing the city manager to execute an instrument to amend or repeal the Protective Covenants. If no action is taken by City Council, the Protective Covenants will remain in effect as they are today and continue to encumber the properties subject to them.

### **NEXT STEPS**

If the city council authorizes the city manager to execute an amendment to the Protective Covenants, generally as depicted in **Attachment A**, the city manager and the authorized representative of the Waldorf School Association of Boulder, Inc. will execute the Amendment to Protective Covenants removing the city and school properties from the scope of the covenants. The document would then be recorded in the Boulder County Clerk and Recorder's Office.

### **ATTACHMENTS**

Attachment A – Draft Proposed Amendment to Protective Covenants  
Attachment B – Protective Covenants

## AMENDMENT TO PROTECTIVE COVENANTS

This Amendment to Protective Covenants (this “**Amendment**”) is entered into as of November \_\_\_\_, 2023 by and between the CITY OF BOULDER, a Colorado municipal corporation (“**Boulder**”), and the WALDORF SCHOOL ASSOCIATION OF BOULDER, INC., a Colorado non-profit corporation (“**Waldorf**”) and is an agreement by the owners of a majority of the Original Property, as defined below. Boulder and Waldorf are each referred to herein as a “**Party**” and collectively, as the “**Parties**.”

### R E C I T A L S

**WHEREAS**, the real estate to be affected by this Amendment is described as Blocks 1, 2, and 3, Sheets Subdivision No. 2, located in the NE ½, Section 13, Township 1 North, Range 71 West of the 6<sup>th</sup> P.M. (the “**Original Property**”), according to the recorded plat thereof originally filed in Plat Book A-1 at Page 236 on November 10, 1954 and currently on file in Plat Book 6 at Page 12 in the office of the Clerk and Recorder of the County of Boulder, State of Colorado (the “**Records**”);

**WHEREAS**, the Original Property is subject to those certain Protective Covenants, recorded May 10, 1960, in Book 1143 at Page 121, in the Records (the “**Covenants**”);

**WHEREAS**, Section 13 of the Covenants set the initial term of the Covenants effectiveness at twenty-five (25) years, automatically renewing for successive ten (10) year periods unless otherwise modified by an instrument signed by the then owners of a majority of the real property affected by the Covenants (the “**Majority Requirement**”);

**WHEREAS**, certain owners of the Original Property executed documents to amend the Covenants, in particular, (a) that certain Amendment to Protective Covenants for Sheets Subdivision No. 2, filed into the Records on May 10, 1985, at Film 1353, Reception No. 00687612, and (b) that certain Amendment to Protective Covenants, filed into the Records on November 25, 1986, at Film 1443, Reception No. 00807824 (collectively, the “**Amendments**”), however, it is believed that such Amendments failed to meet the Majority Requirement required by the Covenants to be effective and may not be effective;

**WHEREAS**, Boulder is the owner of record of the entirety of Block 3 of Sheets Subdivision No. 2, amounting to fifty-two and nine-tenths percent (52.9%) of the total real property within the Original Property (the “**Boulder Property**”);

**WHEREAS**, Waldorf is the owner of record of the entirety of Lots 1, 2, 3, 4, and 5, Block 1, of Sheets Subdivision No. 2, and 7,205 square feet of Lot 6, Block 1, of Sheets Subdivision No. 2, amounting to fifteen and four-tenths percent (15.4%) of the total real property within the Original Property (the “**Waldorf Property**”).

**WHEREAS**, the Waldorf Property and the Boulder Property collectively amount to sixty-eight and three-tenths percent (68.3%) of the total real property within the Original Property; therefore, Boulder and Waldorf are the owners of a majority of the real property affected by the Covenants; and

**WHEREAS**, Waldorf and Boulder desire to amend the Covenants as provided for in this Amendment.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties intending to be legally bound, hereby agree as follows:

A G R E E M E N T

1. Recitals. The foregoing recitals are incorporated herein as material terms.

2. Amendments. The Covenants are hereby amended as follows:

a. The legal description in the first substantive paragraph of the Covenants shall be amended and restated as follows:

“Block 2, Lots 7 and 8 of Block 1, and Lot 6 of Block 1 excluding the portion of Lot 6 further described in Exhibit A, attached hereto and incorporated herein by reference, all in Sheets’ Subdivision No. 2, located in the NE ½, Section 13, Township 1 North, Range 71 West of the 6<sup>th</sup> P.M., according to the recorded plat thereof originally filed in Plat Book A-1 at Page 236 on November 10, 1954 and currently on file in Plat Book 6 at Page 12 in the office of the Clerk and Recorder of the County of Boulder, State of Colorado.”

b. The Covenants shall now incorporate a new Exhibit A, attached as Exhibit A hereto, and incorporated herein by reference.

For the avoidance of doubt, this Amendment shall operate to remove the Waldorf Property and the Boulder Property from the Covenants.

3. Covenants. The Covenants remain in full force and effect, as amended by this Amendment.

4. Representation. The signatories below represent that they have the authority necessary to sign this document and to bind their respective entities.

5. Execution in Counterpart. A copy of this document may be executed by each Party, separately, and when each Party has executed a copy hereof and delivered such executed copy to the other Party, such copies taken together shall be deemed to be a full and complete contract between the Parties.

6. Successors and Assigns. This Amendment is binding on and for the benefit of the parties hereto and their respective successors and permitted assigns.

7. Authorization of Amendment. This Amendment has been signed and acknowledged by Boulder and Waldorf, owners of real property located in Sheets Subdivision No. 2, County of Boulder, State of Colorado, comprising 669,605 square feet of a total 979,200 square feet or sixty-eight and three-tenths percent (68.3%) of the total real property within Sheets Subdivision No. 2, and complies with the Majority Requirement under, and otherwise is intended to be consistent with Section 13 of the Covenants.

*[Signature Pages Follow]*

**WHEREFORE**, as reflected by the signatures and acknowledgements below, the Parties agree to the terms and conditions described above as of the first date set forth above.

**WALDORF:**

WALDORF SCHOOL ASSOCIATION OF  
BOULDER, INC., a Colorado non-profit  
corporation

By: \_\_\_\_\_  
Name: Michael Oczkowski  
Title: Board of Trustees, Treasurer

STATE OF COLORADO     )  
  ) ss  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_ 2023 by Michael Oczkowski, Treasurer of the Board of Trustees of the Waldorf School Association of Boulder, Inc., a Colorado non-profit corporation.

My commission Expires: \_\_\_\_\_

Witness my hand and official seal:

\_\_\_\_\_  
Notary Public

*[Continued]*



**EXHIBIT A**

**Legal Description of A Portion of Lot 6 Not Subject to the Covenants**

**Lot 3, Northview Subdivision, A Replat of Lot 6, Block 1, Sheets Subdivision No. 2, Boulder Colorado, Final Plat.**

DRAFT

Exhibit A - 1



H. A. SHEETS  
CARRIE P. SHEETS

10:10  
151731

Attachment B - Protective Covenants

PROTECTIVE COVENANTS

on the following described property situate in  
the County of Boulder and State of Colorado, to-wit:

Blocks 1, 2 and 3, all in Sheets' Subdivision No. 2, located in the NE<sup>1</sup>  
of Section 13, T. 1 N., R. 71 W. of the 6th P.M., according to the recorded  
plat thereof on file in the office of the County Clerk and Recorder, Boulder  
County, Colorado, in Plat Book A-1, at Page 236 and Plat Book 6, at Page 12.

KNOW ALL MEN BY THESE PRESENTS, That H. A. SHEETS and CARRIE P. SHEETS,  
hereby declare, represent, agree, restrict and covenant that the use, enjoyment,  
and ownership of the above described real property shall be and the same is  
hereby restricted, limited, conditioned, and protected by the imposition of the  
following restrictions and limitations, to-wit:

1. LAND USE AND BUILDING TYPE: No part of the above described real property shall be occupied or used by any owner thereof for other than residential, church, and school purposes. No structures shall be erected, placed, altered, or permitted to remain on any part of the above described property other than single-family dwellings, churches, public and private schools, not to exceed two stories in height, and a private garage for each single-family dwelling for not more than two cars.
2. DWELLING COST, QUALITY AND SIZE: No dwelling shall be erected on any part of the above described real property at a cost of less than \$8,000 based upon cost levels prevailing on the date that these presents are recorded, it being the intention and purpose of this restriction and limitation to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date when these presents are recorded at the minimum cost stated herein for the minimum permitted dwelling size. No dwelling shall be erected, altered, or permitted to remain on any part of the above described real property unless the ground floor area thereof, exclusive of open porches and garages, shall be no less than 700 square feet. All buildings placed on any of the above described lots in said Sheets' Subdivision No. 2 shall be erected thereon from new materials of good quality.
3. BUILDING LOCATION: No dwelling shall be located on any part of the described real property nearer than thirty (30) feet to the street which it faces or nearer than 30 feet to any side street. No dwelling shall be located nearer than seven (7) feet to any side line, except for garage forty (40) feet from setback line, or nearer than twenty-five (25) feet to the rear line of the ground area provided for such dwelling. For the purpose set forth in this paragraph, eaves, steps, and open porches shall not be considered as a part of a dwelling.
4. LOT AREA AND WIDTH: No dwelling shall be erected, structurally altered, or permitted to remain on any part of the above described real property unless the ground area provided for such dwelling shall consist of at least 14,000 square feet and shall have a width of lot along the minimum building setback line of at least 100 feet.
5. SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines. The same sight line limitations shall apply on any lot within ten feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

6. NUISANCES: No noxious or offensive activities shall be carried on upon any part of the above described real property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7. TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any part of the above described real property at any time as a residence, either temporary or permanent.

8. **OUTBUILDINGS:** All outbuildings and additions to any structure on any of the above described lots in said Sheets' Subdivision No. 2 shall be constructed in conformity with the principal buildings on the lot and shall conform in quality to the principal building.

9. SIGNS: No sign of any kind shall be displayed to the public view on any part of the above described real property, except one professional sign per dwelling of not more than one square foot, one sign of not more than five square feet advertising a dwelling for sale or rent, and signs used by a builder to advertise dwellings or a dwelling during the construction and sales period.

10. **LIVESTOCK AND POULTRY:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the above described real property, except that dogs, cats or other household pets may be kept thereon if they are not raised, bred, kept or maintained for any commercial purpose.

11. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

12. **GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

13. TERM: The restrictions and limitations herein set forth are to be construed as covenants running with the land and shall be binding upon all parties and all persons claiming any part of the above described real property under said parties to these covenants for a period of 25 years from date these presents are recorded in the office of the County Clerk and Recorder of Boulder County, State of Colorado, after which time they shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of a majority of the real property hereinabove described as been recorded in the office of said County Clerk and Recorder, agreeing to change said covenants in whole or in part.

14. ENFORCEMENT: The owner or owners of any of the above described real property may enforce the restrictions and limitations herein set forth by proceedings at law or in equity against any person or persons violating or attempting to violate any of the said restrictions and limitations, either to recover damages for such violation or to restrain such violation or attempted violation, provided, however, that such action shall be commenced within one year after the date of the alleged violation, otherwise the same shall be waived.

15. **SEVERABILITY:** Invalidation of any one of the restrictions and limitations herein set forth by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

STATE OF COLORADO)  
COUNTY OF BOULDER) ss.

Carrie P. Sheets  
Halley A. Sheets  
H. A. Sheets

The foregoing was acknowledged before me this 9th day of May, 1960, by Gerrit P. Sheets and H. A. Sheets. Witness my hand and seal. My commission expires: March 1961



## COVER SHEET

### MEETING DATE

November 2, 2023

### AGENDA ITEM

Consideration of the following items related to the transfer of the Boulder Public Library:

1. Consideration of a motion to approve and authorize the city manager to enter into, execute, and negotiate minor amendments in line with council direction prior to or during the term of two separate Intergovernmental Agreements (IGA) between the City of Boulder and the Boulder Public Library District, in substantially the same form as in **Attachment A**, and between the City of Boulder, County of Boulder, and the Boulder Public Library District, in substantially the same form as in **Attachment B**, relating to the transfer and operation of the Boulder Public Library District;

AND

2. Consideration of a motion to approve and authorize the city manager to enter into, execute, and negotiate administrative amendments prior to or during the term of 20-year leases of the Boulder Public Library located at 1001 Arapahoe Ave., in substantially the same form as in **Attachment C**, the Carnegie Library located at 1125 Pine St., in substantially the same form as in **Attachment D**, the George Reynolds Branch Library located at 3595 Table Mesa Dr., in substantially the same form as in **Attachment E**, and the new North Boulder Branch Library located at 4500 13th St., in substantially the same form as in **Attachment F**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

3. Consideration of a motion to approve and authorize the city manager to Assign the lease, and execute any documents to effectuate such assignment, for the Meadows Branch Library located at 4800 Baseline Rd., in substantially the same form as in **Attachment G**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

4. Consideration of a motion to approve and authorize the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system.

#### **PRIMARY STAFF CONTACT**

Janet Michels, Senior Counsel, 303.441.3020

#### **REQUESTED ACTION OR MOTION LANGUAGE**

1. Motion to approve and authorize the city manager to enter into, execute, and negotiate minor amendments in line with council direction prior to or during the term of two separate Intergovernmental Agreements (IGA) between the City of Boulder and the Boulder Public Library District, in substantially the same form as in **Attachment A**, and between the City of Boulder, County of Boulder, and the Boulder Public Library District, in substantially the same form as in **Attachment B**, relating to the transfer and operation of the Boulder Public Library District;

AND

2. Motion to approve and authorize the city manager to enter into, execute, and negotiate administrative amendments prior to or during the term of 20-year leases of the Boulder Public Library located at 1001 Arapahoe Ave., in substantially the same form as in **Attachment C**, the Carnegie Library located at 1125 Pine St., in substantially the same form as in **Attachment D**, the George Reynolds Branch Library located at 3595 Table Mesa Dr., in substantially the same form as in **Attachment E**, and the new North Boulder Branch Library located at 4500 13th St., in substantially the same form as in **Attachment F**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

3. Motion to approve and authorize the city manager to Assign the lease, and execute any documents to effectuate such assignment, for the Meadows Branch Library located at 4800 Baseline Rd., in substantially the same form as in **Attachment G**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

4. Motion to approve and authorize the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the Boulder Public Library District in conformance with the terms of the IGA between the city and the District for the benefit of the Boulder public library system.

## **ATTACHMENTS:**

### **Description**

- ▣ **Item 3F - Library Final IGA and Leases**
- ▣ **Addendum Memo**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Consideration of the following items related to the transfer of the Boulder Public Library:

1. Consideration of a motion to approve and authorize the city manager to enter into, execute, and negotiate minor amendments in line with council direction prior to or during the term of two separate Intergovernmental Agreements (IGA) between the City of Boulder and the Boulder Public Library District, in substantially the same form as in **Attachment A**, and between the City of Boulder, County of Boulder, and the Boulder Public Library District, in substantially the same form as in **Attachment B**, relating to the transfer and operation of the Boulder Public Library District;

AND

2. Consideration of a motion to approve and authorize the city manager to enter into, execute, and negotiate administrative amendments prior to or during the term of 20-year leases of the Boulder Public Library located at 1001 Arapahoe Ave., in substantially the same form as in **Attachment C**, the Carnegie Library located at 1125 Pine St., in substantially the same form as in **Attachment D**, the George Reynolds Branch Library located at 3595 Table Mesa Dr., in substantially the same form as in **Attachment E**, and the new North Boulder Branch Library located at 4500 13<sup>th</sup> St., in substantially the same form as in **Attachment F**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

3. Consideration of a motion to approve and authorize the city manager to Assign the lease, and execute any documents to effectuate such assignment, for the Meadows Branch Library located at 4800 Baseline Rd., in substantially the same form as

in **Attachment G**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

4. Consideration of a motion to approve and authorize the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system.

### **PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Chris Meschuk, Deputy City Manager  
Teresa Taylor Tate, City Attorney  
David Gehr, Senior Counsel  
Janet Michels, Senior Counsel

### **EXECUTIVE SUMMARY**

The purpose of this agenda item is for the City Council to consider the several documents related to the final transfer and transition of the Boulder Public Library from the City of Boulder to the newly formed Boulder Public Library District (District), and address required procedures between Boulder County, the Boulder Library District, and the city. This work is the culmination of several years of work and is implementing the voter-approved direction to transition library services to a library district. This item includes:

1. Intergovernmental Agreements (IGA): one between the city and District and another between the city, county and the District.
2. Twenty-year leases of city property: Boulder Public Library located at 1001 Arapahoe Ave., the Carnegie Library for Local History located at 1125 Pine St., the George Reynolds Branch Library located at 3595 Table Mesa Dr., and the new North Boulder Branch Library located at 4500 13<sup>th</sup> St.
3. Assignment of lease: an assignment of the lease for the Meadows Branch Library located at 4800 Baseline Rd.
4. Acceptance of the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the District.

These documents also reflect the direction from City Council on two issues discussed at the September 14, 2023, study session. City Council considered and discussed options regarding appointment process to fill vacancies on the Boulder Public Library District Board of Trustees and the disposition of the city's real property assets (Main Library, Carnegie Library for Local History, the George Reynolds Branch Library, and the new North Boulder Branch Library). A majority of the council supported a hybrid approach in appointing trustees to the Library District Board of Trustees and favored leasing the city-owned library buildings to the District.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

1. Motion to approve and authorize the city manager to enter into, execute, and negotiate minor amendments in line with council direction prior to or during the term of two separate Intergovernmental Agreements (IGA) between the City of Boulder and the Boulder Public Library District, in substantially the same form as in **Attachment A**, and between the City of Boulder, County of Boulder, and the Boulder Public Library District, in substantially the same form as in **Attachment B**, relating to the transfer and operation of the Boulder Public Library District;

AND

2. Motion to approve and authorize the city manager to enter into, execute, and negotiate administrative amendments prior to or during the term of 20-year leases of the Boulder Public Library located at 1001 Arapahoe Ave., in substantially the same form as in **Attachment C**, the Carnegie Library located at 1125 Pine St., in substantially the same form as in **Attachment D**, the George Reynolds Branch Library located at 3595 Table Mesa Dr., in substantially the same form as in **Attachment E**, and the new North Boulder Branch Library located at 4500 13<sup>th</sup> St., in substantially the same form as in **Attachment F**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND

3. Motion to approve and authorize the city manager to Assign the lease, and execute any documents to effectuate such assignment, for the Meadows Branch Library located at 4800 Baseline Rd., in substantially the same form as in **Attachment G**, to the Boulder Public Library District in conformance with the terms of the IGA between the city and the Library District for the benefit of the Boulder public library system;

AND



4. Motion to approve and authorize the city manager's determination to donate or otherwise dispose of items of city property with an estimated accumulative value in excess of \$25,000 to the Boulder Public Library District in conformance with the terms of the IGA between the city and the District for the benefit of the Boulder public library system.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – Libraries are one of the top contributors to economic and community health. Public libraries provide support services and online resources for all community members. The cost of library services will be shared by more taxpayers because, in addition to the city, Boulder County properties outside of the city limits are included in the District.
- **Environmental** – The environmental impact of forming a library district is negligible. Expanding library services into unincorporated Boulder County may have a slight impact by reducing community members' car trips into the city of Boulder to get library services if the District is funded to level so it can establish new library facilities.
- **Social** – The public library system plays an important role in education, countless resources and programs that fuel economic, social, and cultural development. Public libraries connect people to others and to all types of information.

## OTHER IMPACTS

- **Staff Time** – The work required to negotiate the IGAs, leases, assignment, and support the separation of the library from the city has required hiring additional staff and reallocating time from other items on council's work plan.
- **Fiscal** – Ultimately, the formation of the District with voter-approved funding through property tax revenues will eliminate the need for the city to provide library services. Specific to the transition, all staff time for this transition is considered part of the city workplan, any direct costs of equipment or services necessary for the transition will be paid for by the District.

## BACKGROUND

On November 8, 2022, ballot measure 6C was passed by electors within the service area of the District, creating the Boulder Public Library District. The voters also approved a new property tax to support the District.

Collectively, the Board of County Commissioners of Boulder County (BOCC), on May 2, and the City Council, on May 4, ratified members to the Library Board of Trustees. Pursuant to state law, an IGA between the establishing entities (the city and the county) and the District must be executed within 90 days of the trustee ratification. An IGA will

determine the rights, obligations, and responsibilities, financial and otherwise, of the parties to the agreement.

The parties have put in place an Interim IGA in order to negotiate mutually acceptable terms for a final IGA, with a goal of transferring management and operation of the Boulder Public Library from the city to the District on January 1, 2024.

The city continues to operate the library during the transition.

## **ANALYSIS**

Per state Library Law, the parties must enter into an IGA to determine how the transfer of the city's assets and liabilities for the library will occur to the District, including all real and personal property in a manner that serves the best interests of the community members of the city and the District. The city, county and the District entered into an Interim IGA in June 2023 that is scheduled to expire on December 31, 2023. Prior to expiration, the Interim IGA will be replaced by two final IGAs that the council will be considering under this agenda item.

### **IGA between the City and District (Attachment A)**

City staff have been meeting with representatives of the District regarding the terms and conditions of a final IGA separating the municipal library from city systems and services and the disposition of city property. The final transfer, or "closing date" is proposed as January 1, 2024. The key topics of this IGA are technical in nature, such as:

- Information technology software and hardware separation – The District will provide its own IT network, with the city supporting internet service until such time the District can procure its own internet service.
- Human resources policies and practices for the hiring of city employees by the District – The District will offer employment to existing city library staff, and city employment will conclude on December 31, 2024.
- Revenue and funds transfer from dedicated revenue sources – All remaining audited and unspent balances of dedicated library funds will be transferred to the District before July 1, 2024.
- Reimbursement to the city for 2023 expenses associated with the municipal library – This includes all personnel and operating costs, including cost allocated services.
- Retention of space and assets for on-going city operations – Areas where the city continues to need the use of some of the library buildings for information technology infrastructure, the space in the Main Library that is used for the offices of the Communication and Engagement Department, and the studio for Channel 8 will be retained by the city at no charge.

The parties have been able to come to an agreement in principle regarding the terms of separation of city systems, services, assets, including city buildings, and city employees.

The substance of the final IGA between the city and the District can found in **Attachment A**.

### **IGA between the City, County and District (Attachment B)**

The city has also been meeting with representatives of the District and the county regarding a separate IGA with terms that include the appointment of future board of trustee members and to provide for the District's annual reporting and meeting requirements.

Per City Council direction, the parties have agreed to use a hybrid approach when appointing new trustees to the board. The city and county have both expressed an interest in the state law option to continue the joint committee (Selection Committee) to interview and appoint new trustees. However, a hybrid option for up to two trustees appointed by the District Board of Trustees, as non-voting members, to join the Selection Committee, was supported. This approach will still require ratification of new trustees by the two legislative bodies, the city and the county, as defined in state law.

The IGA describes the role the District will play in notifying the city and county of a vacancy and providing the support needed to administer the selection process.

The IGA also proposes that the interview process leverage the American Libraries Association Bill of Rights and Trustee Ethics Statement as threshold values criteria for future trustee selection process.

The hybrid approach allows the elected officials to have maximum oversight in the early years of the District. It also provides an opportunity for the Board of Trustees to participate in the selection and appointment process. The approach to selection may be reevaluated at a future time after all parties have had the opportunity to experience the hybrid approach.

These terms have been agreed upon in principle between the city, county, and District staff. The substance of the IGA between the city, county and the District can be found in **Attachment B**.

### **Twenty-year Leases of City Owned Property**

At the September 14, 2023, study session, City Council directed staff to proceed with leasing the city's library buildings to the District. Staff has drafted form lease agreements which outline the terms under which the city will grant the District use of city owed properties for library purposes.

The first is for the Main Library located at 1001 Arapahoe Ave., see **Attachment C**. This lease agreement has a term of 20 years but per council direction includes an option allowing the District to terminate the lease at will in three-year increments. Key items within this lease include:

- Allowance for the city to retain usage for the Communications & Engagement department and Channel 8 studios until the western city campus is completed, as well as IT network equipment housed in the building.
- This lease is unique due to the setting of the library being within the Civic Center area. As an appendix to the lease, the city and the District have drafted a license and management agreement for the Civic Area, outlining the terms of use for the land beneath the building, the parking lots, and surrounding park. This agreement also articulates the maintenance responsibilities of each party for this licensed area.
- This lease also outlines that the District is responsible for all maintenance and capital costs for the building, as well as adequate insurance coverage.

The second is a form lease agreement entered into for each of the three city-owned branch libraries: Carnegie Library for Local History located at 1125 Pine St., **Attachment D**, the George Reynolds Branch Library located at 3595 Table Mesa Dr., **Attachment E**, and the new North Boulder Branch Library located at 4500 13<sup>th</sup> St., **Attachment F**.

The branch lease agreements also have a lease term of 20 years and also include an option allowing the District to terminate the lease at will in three-year increments. These leases also outline that the District is responsible for all maintenance and capital costs for the buildings and lands within the parcel the buildings sit upon, as well as adequate insurance coverage. The new North Boulder Branch Library has additional language for the lease commencing after the building is completed and a certificate of occupancy is issued, with the lease end date matching all other library building leases.

All leases have a requirement for insurance coverage that is approved by the city manager, city attorney, and city risk manager. The city's goal regarding insurance coverage is two-fold. First, the city seeks to ensure that it has no fiscal obligations for library operations. Second, the city seeks to ensure that the District carries adequate coverage for the buildings, including a range of potential risks from vandalism to catastrophic loss and destruction.

### **Assignment of Meadows Lease (Attachment G)**

The Meadows Library Branch is a leased space within the Meadows on the Parkway shopping center. The library has been a tenant within the center since its construction in the 1980s. The current lease ends in 2029. Lessor has agreed to allow the city to assign the lease to the District and release the city from any obligation or liability under the lease. The Assignment of Lease can be found in **Attachment G**.

### **North Boulder Corner Branch Library**

The only outstanding leased premises is the North Boulder Corner Branch Library. The city is operating on a month-to-month basis as a holdover tenant until the new North

Boulder Branch Library is built. It is the city's understanding that the District and the lessor will execute a new lease, and that the city will terminate its month-to-month lease.

### **Disposition of City Personal Property**

The IGA between the city and the District calls for the personal property in the libraries to be conveyed to the District. This personal property includes collections, bookshelves and other furniture, and similar items that are necessary for the operation of and programming for the libraries. Section 2-8-3(b), "When Formal Competitive Bidding is Required," B.R.C. 1981, requires the city manager to dispose of obsolete, surplus, or unusable city property, the cumulative value of which exceeds \$25,000, via a competitive bid or auction unless the city manager determines that it is not practical and advantageous to do so. If the city manager determines it is not practical and advantageous to sell or auction this property, the city manager must notify the council of this determination. As authorized in this code section, the city manager has determined that it is not practical or advantageous to sell or auction the libraries' personal property to a third party or the District, because doing so would require taxpayers to "pay twice" for this personal property, and because council directed staff to convey the personal property within the libraries to the District. This Memorandum constitutes notice to council of the city manager's determination. The council may call this determination up for review within 14 days of receiving this notice. In this item staff is requesting council to approve and authorize the city manager's determination to convey the personal property to the District.

### **NEXT STEPS**

If the City Council approves the motions to direct the city manager to execute these documents, the city will finalize the documents and execute them with the parties. The work to be ready to transfer management and operation of the library to the District by January 1, 2024 is underway and on-schedule. If the City Council wishes to call up the manager's determination to donate the personal property in the libraries to the District, it would be best to do so before the IGA between the city and the District is executed, and staff will modify that IGA accordingly.

### **ATTACHMENTS**

- A – Intergovernmental Agreement between the City of Boulder and the Boulder Public Library District
- B – Intergovernmental Agreement between the City of Boulder, Boulder County, and the Boulder Public Library District
- C – Form lease for the Main Boulder Public Library located at 1001 Arapahoe Ave
- D – Form lease for the Carnegie Library for Local History located at 1125 Pine St.
- E – Form lease for the George Reynolds Branch Library located at 3595 Table Mesa Dr.
- F – Form lease for the new North Boulder Branch Library located at 4500 13<sup>th</sup> St.
- G – Assignment of Lease for the Meadows Branch Library

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF BOULDER,  
COLORADO AND  
THE BOULDER PUBLIC LIBRARY DISTRICT**

The Boulder City Council (“**City**”), and the Board of Trustees of the Boulder Public Library District (“**Board of Trustees**” and/or “**Library District**”) (collectively the “**Parties**”) enter into this Intergovernmental Agreement pursuant to § 24-90-107(2)(e), C.R.S. (“**Final IGA**”).

**RECITALS**

- A. The voters within the Library District’s proposed boundaries approved its formation and a levy of not more than 3.5 mills on all property within the Library District pursuant to § 24-90-107(2), C.R.S., at the general election on November 8, 2022.
- B. The “legal service area” of the Library District as defined in § 24-90-103(4.5), C.R.S., is depicted in **Exhibit A** (“**Service Area**”).
- C. The City and the Board of County Commissioners of Boulder County (the “**County**”) appointed a seven-member board of trustees to manage and control the Library District pursuant to § 24-90-108(1), C.R.S. A list of the appointed trustees and their elected officers is attached as **Exhibit B** (“**Board of Trustees**”).
- D. The legislative bodies of the County, the City, and the Library District are required to enter into intergovernmental agreements within 90 days of the appointment of the board of trustees, or within such time as otherwise agreed, pursuant to § 24-90-107(2)(e), C.R.S., to establish the rights and responsibilities of each regarding the Library District.
- E. The Parties entered into an Interim Intergovernmental Agreement effective June 16, 2023, (the “**Interim IGA**”) to extend the deadline for a final intergovernmental agreement, set forth their respective obligations and responsibilities during the interim period, and express their mutual desires to complete this Final IGA by December 31, 2023. A copy of the Interim IGA is attached as **Exhibit C**.
- F. The Parties now enter into this Final IGA between the City and the Library District to ensure that the transfer to the Library District of assets and liabilities held by the City for the benefit of the former City of Boulder Public Library (“**BPL**”), including all real and personal property, is effectuated in a manner that serves the best interests of the community, the City, and the Library District effective midnight, December 31, 2023, (“**Closing**”) and to ensure the inclusion of the Library District and its staff and programs in City sponsored community events in a manner consistent with other community partners.

- G. The County, City and Library District are entering into a separate intergovernmental agreement regarding the limited matters that affect the County and the Library District.

**NOW, THEREFORE**, the Parties enter this Final IGA, as follows:

## **AGREEMENT**

### **ARTICLE I.**

#### **PRE-CLOSING OBLIGATIONS AND RESPONSIBILITIES**

**Section 1.1 Pre-Closing Operations.** The City will continue to operate BPL until the Closing date pursuant to the terms of the Interim IGA.

##### **Section 1.1.1 Cost Reimbursements.**

- a. The Library District will reimburse the City for (i) the actual direct costs to operate the library system in 2023, and (ii) the cost allocation for 2023 in the amount of Three Million One Hundred Eighty-Four Thousand Two Hundred Ninety-Nine Dollars (\$3,184,299) as set forth in the City's cost allocation plan, attached hereto as **Exhibit D**. The costs to operate the library include the funds appropriated and spent by the City to construct, maintain, and operate BPL ("**Reimbursement Amount**").
- b. The Library District will reimburse the City for any and all actual costs necessary to effect the separation of BPL from the City, paid by the City, including by way of example but not limitation, the cost of outside consultants also identified on **Exhibit D**.

**Section 1.1.2 Reimbursement Schedule.** The reimbursement amount will be paid to the City, subject to annual appropriation:

One-half no later than July 1, 2024; and,

One-half no later than December 1, 2024

### **ARTICLE II.**

#### **CLOSING OBLIGATIONS AND RESPONSIBILITIES**

**Section 2.1 General Obligations.** The City and the Library District pledge to cooperate to timely convey or transfer all rights and responsibilities of the City for BPL employees and personnel, real property, personal property, electronic and other information, necessary or convenient for the Library District to continue the operations of the former BPL library system. The Parties further pledge to collaborate on Cross-Department Partnership programs previously developed by the City and library staff.

**Section 2.2 Employment and Personnel.** City employees and personnel responsible for

the operations of BPL will submit a letter of resignation from their positions to the City on or before November 30, 2023, and be offered employment by the Library District to commence at Closing.

**Section 2.2.1 BPL Employees.** The City and Library District established a list of employment positions deemed to be BPL employees. A copy of the list as of the date of this Final IGA, is attached as **Exhibit E (“BPL Employees Position List”)**.

**Section 2.2.2 Hiring of BPL Employees by the Library District.** The Library District will make written offers of employment to all individuals then filling a position on the BPL Employees Position List to be effective January 1, 2024, at 12:00 a.m.

- a. The Library District will strive to offer salaries, pay grades and benefits generally comparable to those provided by the City, and will take into account the high cost of living in Boulder County, subject to appropriation by the Board of Trustees.
- b. After Closing, the Library District will be responsible for the payment of employee salary and wages; its share of any retirement benefits; medical, dental, vision, and voluntary benefits; state and/or federal taxes; workers’ compensation insurance; and unemployment insurance; and shall be responsible for the defense and indemnification of such employees pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as amended.
- c. The Library District will be responsible for payment of annual vacation leave and sick leave for employees after Closing for its eligible employees and pursuant to its approved employment benefits packages.

**Section 2.2.3 Elimination of City BPL Employment Positions.** At the time of Closing, the City will eliminate all BPL employment positions, and:

- a. The City will remit BPL employees’ accrued vacation leave to employees in accordance with the City policies and Boulder Municipal Employee Association (“BMEA”) contract in effect at the time of Closing. The Library District may give employees the option to pay to the Library District all or a portion of the amount received from the City for accrued vacation leave in exchange for equivalent Library District leave. The Library District will advise the employees that receipt of vacation pay may have tax consequences even if an equal payment is made to the Library District.
- b. The Library District acknowledges that pursuant to City and BMEA policies, no BPL employees are paid sick leave accrual at the time of their separation from the City.
- c. The Library District acknowledges that Well-Being@Work dollars earned



through the City's Cigna™ policy expires on December 31, 2023, and are not carried forward into the next year.

- d. All salaries and wages, and the City's share of retirement benefits, state and/or federal taxes, workers' compensation insurance, and unemployment insurance for BPL employees accrued, earned, or accumulated during fiscal year 2023 through Closing will be repaid by the Library District in the Cost Reimbursement pursuant to Section 1.1.1, above.
- e. The City will be responsible for the defense and indemnification of BPL employees pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as amended, through Closing.

**Section 2.3 Real Property Rights.** The City owns and/or leases real property for public library purposes, as more specifically described in **Exhibit F ("City Library Facilities")**.

**Section 2.3.1 Carnegie Library for Local History, George Reynolds Branch Library.** On or before Closing, the City will enter into a lease of the Carnegie Library for Local History substantially in the form attached hereto as **Exhibit G** and the George Reynolds Branch Library substantially in the form attached hereto as **Exhibit H** to the Library District ("**Library Lease – Branches**").

**Section 2.3.2 New North Boulder Library Branch.** The City will complete the construction, tenant finish, furnishing (including equipping with Information Technology infrastructure) and the purchase of a materials collection for the new North Boulder Library Branch with funds that have been appropriated for the project. The City anticipates completion of the North Boulder Library Branch around June 1, 2024. The City will lease to the Library District the branch library, library grounds, parking and playground area in substantially the same form attached as **Exhibit I ("New North Boulder Branch Lease")**.

**Section 2.3.3 Downtown Main Library.** The Main Library is in the Civic Center Area and is an integral part of downtown Boulder. The Library District will continue providing services out of the downtown Main Library.

- a. **Building Lease.** The City will lease the Main Library building to the Library District on or before Closing on terms and conditions substantially the same or similar to those set forth in **Exhibit J ("Main Branch Lease")**.
- b. **Ownership of Land.** The City will retain ownership of the land in, under, and around the Main Library building in the Civic Center Area.
- c. **License Agreement.** On or before Closing, the City will grant the Library District a license in substantially the same form attached as **Exhibit K** (the "**Civic Area License**") to establish the rights and responsibilities of the

Parties to access and use the land under and around the Main Library, including entry plazas, gardens, building “underbelly” areas, and shared use parking lots identified in the Civic Area License.

- d. Master Plan. The Library District will manage the downtown Main Library and utilize the Civic Area License consistent with the seven guiding principles enumerated in the 2015 Civic Area Master Plan which are: the civic heart of Boulder, life and property safety; outdoor culture and nature; celebration of history and assets, enhanced access and connections, place for community activity and arts; and, sustainable and viable future.
- e. Policy 8.13. The Civic Area License and any amendments thereto will be consistent with Policy 8.13 of the Boulder Valley Comprehensive Plan: Support for Community Facilities.
- f. Redevelopment. The downtown Main Library and Civic Center Area are part of a previous development site review approval pursuant to the City of Boulder Land Use Code, Title 9, B.R.C. 1981. Amendments to the site review approval require written consent of the owners of all property to be included in the development. The City agrees to coordinate and cooperate with the Library District on any redevelopment efforts in the Civic Area License area as depicted in the attachment to **Exhibit K**.
- g. Right of First Refusal/Offer. The City will not sell or convey the Civic Center Areas as defined in the Civic Area License, or any part thereof, without first offering the same to the Library District for purchase. The right will be recorded against the property in the Civic Area License.

**Section 2.3.4 Assignment of Leases.**

- a. The Meadows Branch Library is subject to a 20-year lease in effect through 2029. On or before Closing, the Library District will assume the lease and the City’s rights and obligations under that lease.
- b. The North Boulder Corner Library is currently subject to a month-to-month lease in effect through 2023. On or before Closing, the City will terminate the lease and the Library District will enter into a lease agreement with the owners of the property. If the Owners will not lease the North Boulder Corner Library to the District, the Library District will assume the lease and all City rights and obligations under that lease, subject to approval by the owner. The Library District may close the North Boulder Corner Library once the new North Boulder Library Branch is open.
- c. Indemnification. If the lessors of the Meadows Branch Library or North

Boulder Corner Library will not release the City from the leases, the Library District shall indemnify and hold harmless the City to the extent permitted by law against any and all damages to property or injuries to or death of any person or persons arising from the Library District's use or operation of these properties, and shall indemnify and hold harmless the City from any and all claims, demands, suits, actions or proceedings of any kind or nature, of or by anyone whomsoever in any way resulting from or arising out of the Library District's operations of the properties in connection with the leases to the extent permitted by law.

**Section 2.3.5 Rights of First Refusal/Offer.** The City will not sell Carnegie Library for Local History, George Reynolds Branch Library, the new North Boulder Library or the downtown Main Library, or any part thereof, without first offering the same to Library District.

**Section 2.3.6 Insurance.** During the term of this Final IGA, the Library District, at its sole cost and expense, shall continuously maintain the types of insurance coverages as approved by the City Manager, the City Attorney, and the City Risk Manager.

**Section 2.4 Personal Property.** On or before Closing, the City will convey and/or transfer ownership of all personal property to the Library District including:

- a. All books, current periodicals, and collections of other materials;
- b. All furniture, shelving, office equipment and supplies;
- c. All art purchased by or donated to the City specifically for library use. Art in the City Library Facilities, in storage, or in other City owned or operated facilities purchased by the City, for other than library use., or where provenance is unknown, will remain the property of the City; and,
- d. All other items of personal property otherwise used or housed exclusively in City Library Facilities.

**Section 2.4.1** Any items of personal property located in the City Library Facilities stored for other City departments will remain the property of the City.

**Section 2.4.2** Following conveyance of personal property as set forth above, the Library District agrees to consult with the City before it disposes of any materials related to City of Boulder government archived or donated to Carnegie Library for Local History.

**Section 2.4.3** The City and Library District agree to cooperate to develop an intergovernmental agreement regarding retention of historic materials at Carnegie Library for Local History.

**Section 2.5 Data and Electronic Information Systems and Technology Services.** The City and the Library District believe it is in the best interest of the people of Boulder and the Library District to establish and retain their distinct technological systems where feasible. Technological systems are a cornerstone to the operation of the library; accordingly, the major network, hardware, software, and licensing transitions must be completed on or before the Closing date.

**Section 2.5.1 Meeting Technology.** Meeting room technology in all branches of BPL will remain at the branches and become the property of the Library District.

**Section 2.5.2 Separation of Systems.** The Library District has engaged consultants to determine a process for separating information systems. On or before the Closing date, the Library District and City will endeavor to complete the following:

- a. Library District will design, build, and be prepared to operate a stand-alone network for operations, without any inter-connection to the City networks.
- b. The City will serve as the Library District's ISP until the Library District has procured its own ISP. Library District agrees to pay its pro-rata share of the ISP cost to the City.
- c. City will support the technology transition in partnership with the Library District's consultants hired to implement the District's new technology platform.
- d. City will provide at no cost to the Library District the current library domain name, current in-use telephone numbers, hotspots, cell phones, and library-specific computer hardware including, by way of example and not limitation, book-sorting and check-out hardware.

**Section 2.5.3 Access to Information and Data.** The City will grant access permissions to the Library District Director and his/her designees to utilize data and information systems relevant to Library District operations, facilities and employees until such time as the separation of systems is completed.

**Section 2.5.4 Fiber Network.**

- a. The City will provide to the Library District two strands of the City's fiber network, unless otherwise agreed to by the Parties, for the sole use of the Library District for network connections between library branches at no cost to the District. In return, the Library District will provide the City secured access to the existing City and City-partner fiber network hubs located within the Main Library and George Reynolds Branch Library at no cost to the City.
- b. The City may maintain exterior public Wi-Fi and cameras on the library

buildings indefinitely, at no cost to the City as identified in the Main Branch Lease.

- c. The City will retain and operate the ConnectBoulder Wi-Fi system surrounding the City Library Facilities where they currently exist.

**Section 2.6** **Public Library Funds, Accounts and Restricted Revenue Sources.** The City maintains public library funds and accounts required by law and revenue sources designated for library purposes only.

**Section 2.6.1** **City Library Fund.** The City maintains a library fund pursuant to its Charter for the deposit of funds to be expended for BPL and various other funds described below. These funds are in lieu of the fund described in Section 24-90-112(2)(a), C.R.S. Except as otherwise provided herein, the City will transfer the audited fund balances, if any, to the Library District by July 1, 2024.

**Section 2.6.2** **Library Revenue Sources.** The City has revenue sources that are restricted to library services only. Except as otherwise provided herein, the City will provide historic schedules for and transfer the audited fund balances, if any, to the Library District by July 1, 2024. The revenue sources and funds are described below.

- a. The Boulder Library Foundation, a Colorado nonprofit organization (“**Foundation**”), provides supplemental funding for BPL events, activities, and programs through private donations. Funding from the Foundation is deposited into the Library Fund. The City will transfer balances, if any, according to this Section 2.6.
- b. The City currently collects a Capital Facility Impact Fee for City Library Facilities and collection materials pursuant to section 8-9-5, “Capital Facility Impact Fee to be Earmarked,” B.R.C. 1981 (“**Capital Facility Impact Fee**”). Starting January 1, 2024, the City will discontinue assessment of Capital Facility Impact Fees. The City intends to use the remaining funds to support the construction of the new North Boulder Library Branch. The City will transfer balances, if any, according to this Section 2.6.
- c. BPL has funds remaining from the proceeds from the sale of the Blystat-Laesar House at 1117 Pine St., which was purchased in late 1986 to supplement the archival storage needs of the Carnegie Library for Local History. After the purchase, the house was determined to be inadequate for the intended use, and when it was sold in 2002, the City’s intention was to use sale proceeds to fund other archival storage options. The City will transfer balances, if any, according to this Section 2.6.
- d. Facilities Renovation & Replacement (FR&R) Fund. The FR&R accounts for major maintenance, renovation, and replacement projects for city-

owned buildings, structures, and property. The City will transfer balances, if any, according to this Section 2.6.

- e. Old Library Fund Restricted Reserve. The balance in the Library Fund prior to the 2015 City of Boulder Charter change is held in a restricted reserve for BPL’s use for one-time expenditures. The City will transfer balances, if any, according to this Section 2.6.

### ARTICLE III. POST-CLOSING OBLIGATIONS AND RESONSIBILITIES

**Section 3.1 Library District Obligations.** After the Closing date, The Library District will operate, provide, and maintain public library services for community members residing within its Service Area at the “Service Expansion Level” identified in the 2018 Boulder Public Library Master Plan as adopted and amended by the Board of Trustees, and in a manner consistent with the Colorado Library Law, § 24-90-101, *et seq.*, C.R.S., as amended, this Final IGA, and the bylaws and policies of its Board of Trustees.

**Section 3.1.1 Statutory Obligations.** The Board of Trustees shall have all powers and duties delegated to it under § 24-90-109, C.R.S., as amended from time to time.

#### **Section 3.2 Obligations and Responsibilities of the City.**

**Section 3.2.1 Transition Support Services – North Boulder Library Branch.** After January 1, 2024, the City will diligently complete the construction and equipping of the North Boulder Library Branch, complete the subdivision of the property and the lease to the Library District and provide copies of all warranties, claims, and operating manuals for building systems. The City will continue to insure the North Boulder Library Branch until the Library District takes possession of the North Boulder Library Branch.

**Section 3.2.2 Library Contracts.** To the extent legally possible, the City will terminate all contractual rights and obligations of the City entered into solely for library purposes, as more particularly described in **Exhibit L (“Third-Party Contracts to be Re-written as Assigned”)**, effective January 1, 2024. In the event a contract cannot be terminated the City will seek to assign and delegate such contract to the Library District, and the Library District shall indemnify and hold harmless the City from any and all claims, demands, suits, actions or proceedings of any kind or nature, of or by anyone whomsoever in any way resulting from or arising out of any contract so assigned and delegated to the extent permitted by law. Following the execution of this Final IGA and until Closing, the City will continue to enter into contracts for the benefit of BPL, whether for supplies, services, capital improvements or any other purpose, that are within the ordinary course of library business. The City will not enter into any contract outside of the ordinary course of business without consent of the Board of Trustees.

ARTICLE IV.  
MUTUAL UNDERSTANDINGS

**Section 4.1 Jurisdiction and Venue.** The laws of the State of Colorado shall govern the interpretation, validity, and effect of this Final IGA. The City and the Library District agree that the venue for any disputes arising under this Final IGA shall be in Boulder County, Colorado.

**Section 4.2 Compliance with Laws.** In connection with the negotiation and performance of this Final IGA, the Parties state that they are familiar with § 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office), as amended, and that no violations of such provisions are present. The Parties agree to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) when exposed to or provided with any data or records considered to be “Protected Health Information.” The Parties agree to comply with § 24-73-101, *et seq.*, C.R.S., and any other federal or state laws concerning the confidentiality or privacy of any information contained in the records accessed under or in association with this Agreement.

**Section 4.3 Assignability.** Neither this Final IGA nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable without the prior written consent of all Parties.

**Section 4.4 Waiver.** Waiver of strict performance or the breach of any provision of this Final IGA shall not be deemed a waiver of any other provision, unless such waiver has rendered future performance impossible.

**Section 4.5 Force Majeure.** Except as otherwise provided by Colorado law, neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, riots, fires, floods, earthquakes, or other acts of God.

**Section 4.6 Notice.** Any notices given under this Final IGA are deemed to have been received and to be effective: (1) three days after the same shall have been mailed via Federal Express; (2) immediately upon hand delivery; or (3) immediately upon receipt of confirmation that an electronic mail transmission was received. For the purposes of this Final IGA, any and all notices shall be addressed to the contacts listed below:

**For the Library District:**

Board of Trustees  
Boulder Public Library District  
1001 Arapahoe Avenue  
Boulder, Colorado 80302  
Attn: David Farnan  
Phone: 303-441-3110  
dfarnan@boulderlibrary.org

Library District Attorney  
Seter & VanderWall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
Attn: Kim J. Seter & Beth Dauer  
Phone: 303-770-2700  
kseter@svwpc.com and edauer@svwpc.com

**For the City:**

City Manager  
City of Boulder  
1777 Broadway  
Boulder, CO 80302  
303-441-3090  
CMOAdmin@bouldercolorado.gov

City Attorney  
City of Boulder  
1777 Broadway  
Boulder, CO 80302  
303-441-3020  
CAOAdmin@bouldercolorado.gov

**Section 4.7 Integration.** This Final IGA contains the entire understanding of the Parties and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the Parties or their authorized representatives.

**Section 4.8 Section Headings.** Section headings are inserted for the convenience of reference only.

**Section 4.9 Intended Beneficiaries.** Nothing expressed or implied in this Final IGA is intended or shall be construed to confer upon or to give to, any person other than the Parties, any right, remedy or claim under or by reason of this Final IGA or any covenant, terms, conditions, or provisions hereof. All covenants, terms, conditions, and provisions in this Final IGA are for the sole and exclusive benefit of the City and the Library District.

**Section 4.10 Severability.** If any provision of this Final IGA is determined to be unenforceable or invalid for any reason, the remainder of the Final IGA shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.

**Section 4.11 Authorization.** Each party represents and warrants that it has the power and ability to enter into this Final IGA, to grant the rights granted herein, and to perform the duties and obligations herein described.

**Section 4.12 Conflict with Laws.** Any provision of this Final IGA that conflicts with or violates any provision of the *Constitution of the State of Colorado*, TABOR, the Colorado Library Law or the provisions of any statutes governing the operations and/or powers of the District shall be deemed excised and the remaining provisions of this Final IGA shall be interpreted in a manner that implements the manifest intent of the Parties in entering into this Final IGA.

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**IN WITNESS WHEREOF**, the City and the Library District have signed this Final IGA to be effective on the date last signed below.

**BOULDER PUBLIC LIBRARY  
DISTRICT BOARD OF TRUSTEES**

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Library District Attorney

**CITY OF BOULDER,  
a COLORADO home rule municipality**

\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

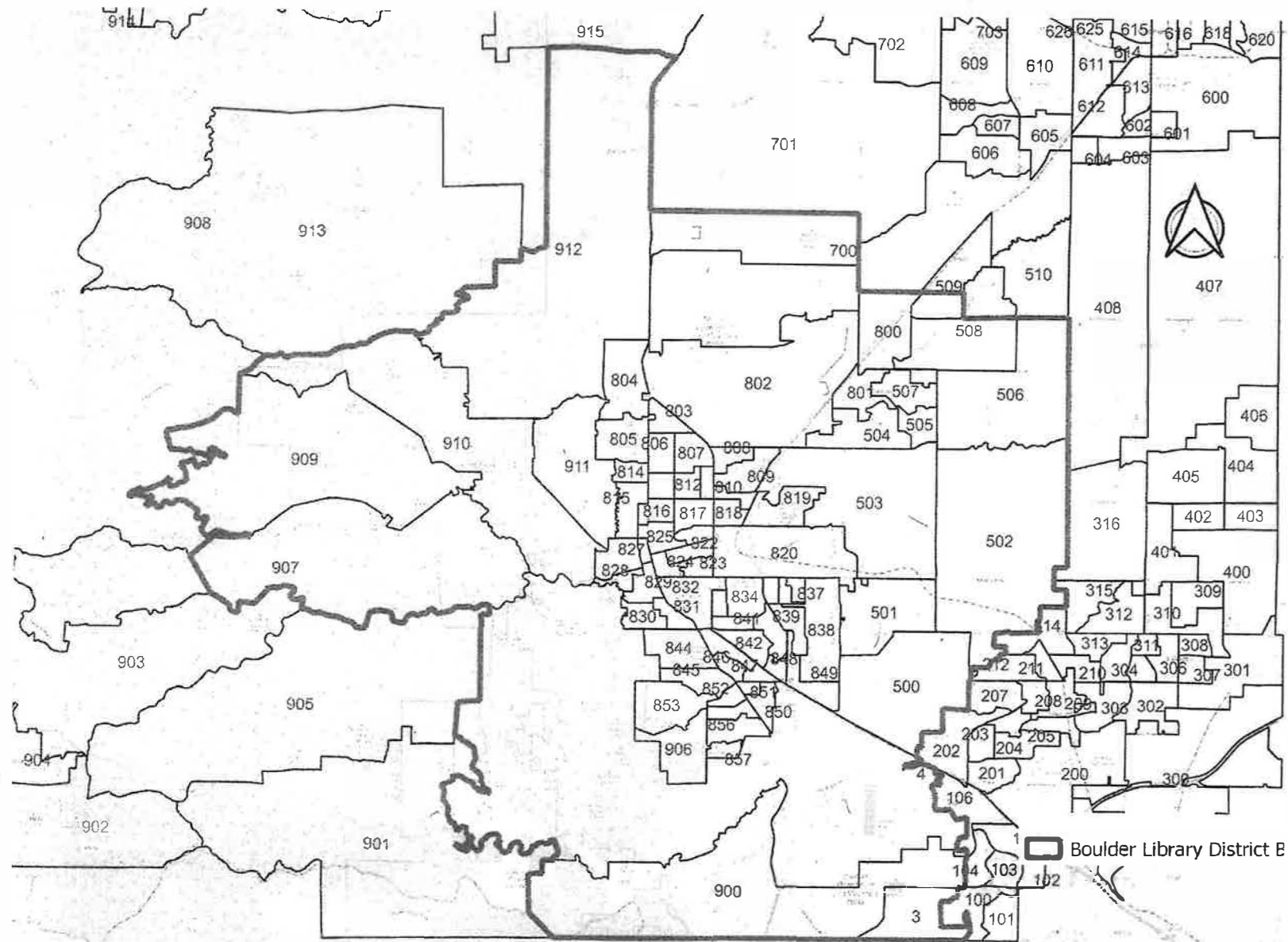
ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
City Attorney's Office

Attachment A – Intergovernmental Agreement between the  
**Exhibit A** City of Boulder and the Boulder Public Library District  
**Service Area**



Attachment A – Intergovernmental Agreement between the  
City of Boulder and the Boulder Public Library District  
Exhibit B  
Board of Trustees

<u>Seat</u>	<u>Term Length</u>	<u>Appointee</u>	<u>Jurisdiction</u>
1	5 years	Benita Duran	Boulder – Vice President
2	5 years	Jennifer Yee	Unincorporated Boulder County
3	4 years	Sylvia Wirba	Boulder – Secretary/Treasurer
4	4 years	Doug Hamilton	Boulder
5	3 years	Cara O’Brien	Unincorporated Boulder County
6	2 years	Sam Fuqua	Boulder
7	1 year	Joni Teter	Boulder – President

**INTERIM INTERGOVERNMENTAL AGREEMENT  
AMONG  
BOULDER PUBLIC LIBRARY DISTRICT  
AND  
CITY OF BOULDER, COLORADO  
AND  
BOULDER COUNTY, COLORADO  
(Pursuant to § 24-90-107(3)(h), C.R.S.)**

**RECITALS**

A. The voters approved the formation of the Boulder Public Library District and a mill levy of 3.5 mills at the general election in November, 2022 (the “**District**”).

B. The City of Boulder (“**City**”) and the Board of County Commissioners of Boulder County (the “**County**”) ratified the appointment of a seven-member board of trustees of the District on May 2, 2023 (the “**Board of Trustees**”).

C. Pursuant to § 24-90-107(3)(h), C.R.S., the City, County and District must enter into an intergovernmental agreement within ninety days of the appointment of the Board of Trustees that “shall set forth fully the rights, obligations, and responsibilities, financial and otherwise,” of the City, County and District (the “**IGA**”).

D. The parties intend the operation and management of the Boulder Public Library system (“**City Library**”) be transferred to the District in a manner that serves the best interests of the District residents, the City and the County.

E. The parties require more than the ninety-day period allowed by law to responsibly consider, deliberately negotiate and reach agreement on all necessary terms of a long-term IGA.

F. In the interim, the City will continue to operate the City Library as the District’s contractor under its existing budget while the parties work together to provide quality library services to the District residents and to consummate the permanent and final long-term IGA required by statute (the “**Final IGA**”).

**NOW, THEREFORE**, the City, County and the District enter into this Interim Intergovernmental Agreement (this “**Interim IGA**”) to set forth fully their rights, obligations, and responsibilities, financial and otherwise, through December 31, 2023 or the execution of the Final IGA, whichever comes first.

**AGREEMENT**

1. Term of Agreement. This Interim IGA is effective on the date last signed below and shall remain in effect until midnight, December 31, 2023 or as otherwise provided in the Final IGA.

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Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
Page 2 of 7

2. Obligations and Responsibilities of the City.

2.1 *Library Operations.* The City will continue to operate, maintain and provide the library services currently provided by the City Library in the same manner and at the same level as provided for in the City's 2023 fiscal year budget, on a contractual basis to the District until termination of this Interim IGA. The City will consult with the District on any major decisions affecting the City Library, but will be responsible for any final decisions regarding operations. The City will not postpone payment of any expenses or fulfillment of any obligations to a later date and shall satisfy all obligations in the ordinary course of business from previously appropriated funds.

2.2 *Library Finances.* The City shall continue to collect, account for and use for library purposes, in the manner required by law, the City's policies or library rules, all revenues historically collected and used for library purposes.

2.3 *Fines and fees.* The City shall continue to set, collect and account for overdue and lost book fines, fees and other fees for library services to be delivered to the Library District at the expiration of this Interim IGA.

2.4 *Library Director/District Director.* The City and the District believe the assistance of the existing City Library Director, David Farnan, is necessary for each to operate during the Interim IGA period, reasonably negotiate the Final IGA and complete the transition of the City Library and its services to the ownership and operating control of the Library District at the least cost and in the most effective manner.

2.4.1 *Services as Director of the City Library and Library District Director.* The City and the Board of Trustees and Mr. Farnan believe both roles can be accomplished by Mr. Farnan alone.

2.4.1.1 *Services to the City.* Mr. Farnan will continue as the City Library Director ensuring the continued operations of the City Library system until the operations are transitioned to the District or midnight, December 31, 2023, whichever occurs first.

2.4.1.2 *Services to the District.* Mr. Farnan may serve as the Director of the Boulder Public Library District under contract to convey information and knowledge to the District and begin the work of developing programs, policies, budget and employees transitions for the District. Farnan shall not share or convey any information the City deems confidential or subject to attorney-client privilege or otherwise unrelated to the library transition.

2.4.1.3 *Compensation.* The City will continue to compensate and provide benefits to Mr. Farnan as budgeted by the City subject to any reimbursement obligations approved in the Final IGA.

Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
Page 3 of 7

2.4.2 *Avoidance of Conflicts.* During the term of this Interim IGA Mr. Farnan will participate in public sessions of the City Council and the Board of Trustees. Mr. Farnan will not participate in executive sessions of the City Council and/or the Board of Trustees until the Final IGA has been approved by both entities.

2.4.3. *Approval of Employment Outside the City.* In recognition of the benefits to the taxpayers, the City, and the District to be realized from utilizing Mr. Farnan in the transition of City Library services to the District, the City Manager has affixed her signature approving Mr. Farnan's employment outside the City as Director of the District simultaneously with his employment as the City Library Director as required by Boulder Municipal Code § 2-7-5 (b).

2.4.4 *Waiver of Code of Conduct § 2-7-5 (e) and § 2-7-5-(d).* In recognition of the fact that it is in the best interest of the City and its citizens and also the Library District and its citizens to complete the transition of library services to the District in the most cost effective and efficient manner possible, which includes the City and the District utilizing Mr. Farnan's expertise and experience with the City Library system in the transition, the City Council waives the prohibition against public officials and public employees appearing before or participating in any board, commission, task force or similar body or concerning any matter on which he may have taken any official action to allow Mr. Farnan to work with and for the City and the Library District during the term of this Interim IGA.

2.4.5 *Director of the Boulder Public Library District.* The District will propose a contract to Farnan to serve as the Director of the Boulder Public Library District effective upon authorization by the City under section 2.4.3 and 2.4.4.

2.5 *Facilitation.* Farnan will serve as a communications facilitator between the District and City during the transition period. The City and the District shall be given full access to all information held or accessible to either that is relevant to the transition matters. The City will provide the Board of Trustees access to City and City Library staff "subject matter experts" through coordination with Farnan.

### 3. Obligations and Responsibilities of the District.

3.1 *Powers of Trustees.* The Board of Trustees will exercise all powers and duties delegated to it under § 24-90-109, C.R.S.; as amended.

3.2 *General Obligations.* The District shall work with the City to provide library services through this Interim IGA in a manner consistent with the City Charter and Ordinances, the Colorado Library Law, § 24-90-101, *et seq.*, C.R.S. and the bylaws and policies to be adopted by the Board of Trustees.

Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
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3.3 *Reimbursement for County Services.* The District will pay to the County the cost of the 2022 election attributable to the District as required by § 24-90-107(3)(i), C.R.S.. The District intends to pay to the County the allocated cost of the District formation and funding election questions in the amount of \$43,768.00 as required by § 24-90-107(3)(i), C.R.S. at or before the execution of the Final IGA.

3.4 *Payment for City Services.* The District will reimburse to the City, the costs to operate the library system in 2023. The costs to operate the library include the funds appropriated by the city council and spent to construct, maintain, and operate the municipal library. The amount and method of payment of any reimbursements will be determined in the Final IGA.

4. Completion of Final IGA. The parties will make best efforts to negotiate mutually acceptable terms for, approve and execute the Final IGA by October 31, 2023, with the goal of transferring management and operation of the City Library system on January 1, 2024.

5. Additional Terms.

5.1 *Compliance with Laws.* In connection with the negotiation and performance of this Interim IGA and the Final IGA the parties state that they are familiar with § 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences) and § 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office) and that no violations of such provisions are present.

5.2 *Waiver.* Waiver of strict performance of the breach of any provision of this Interim IGA shall not be deemed a waiver of any other provision, unless such waiver has rendered future performance impossible.

5.3 *Notice.* Any notices allowed or required by this Interim IGA shall be deemed given when delivered to:

For the Library District:

Boulder Public Library District  
1001 Arapahoe Avenue  
Boulder, CO 80302

With a copy to:

Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111

For the City:

City of Boulder  
City Manager's Office  
P.O. Box 791  
Boulder, Colorado 80306

Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
Page 5 of 7

5.4 *Severability.* If any provision of this Interim IGA is determined to be unenforceable or invalid for any reason, the remainder of the Interim IGA shall remain in effect and be interpreted in the manner most consistent with the parties' intent manifest herein.

5.5 *Authorization.* Each party represents and warrants that it has the power and ability to enter into this Interim IGA, to grant the rights granted herein, and to perform the duties and obligation imposed on it.

IN WITNESS WHEREOF, the City and the District have signed this Interim IGA to be effective on the date last written below.

**Boulder Public Library District**

\_\_\_\_\_  
Katherine J. Teter, President

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_

Approved as to form:

**Seter & Vander Wall, PC**

\_\_\_\_\_  
Kim J. Seter, CO Atty: 14294



Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
Page 6 of 7

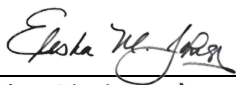
**City of Boulder,  
a Colorado home rule city**



\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

Date: 6/16/2023

ATTEST:



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

APPROVED AS TO FORM:



\_\_\_\_\_  
City Attorney's Office

Interim Intergovernmental Agreement  
Boulder Public Library District, City of Boulder and Boulder County  
Pursuant to § 24-90-107(3)(h), C.R.S.  
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For purposes of acknowledging the extension of the period in which to enter into the Final IGA under § 24-90-107(3)(h), C.R.S. and the District's obligation in § 3.3 to reimburse County election costs:

**BOULDER COUNTY**



Claire Levy, Chair  
Board of Boulder County Commissioners

Attest: Cecilia Lacey  
Clerk to the Board

# Exhibit D     Attachment A – Intergovernmental Agreement between the Reimbursement Amount     City of Boulder and the Boulder Public Library District

## Notes

### Original Library Budget - Operating Only

#### Original Sources

General Fund	\$ 9,225,580	This is the original General Fund budget for Library.
Library Fund		
		This was the original projected amount for the 0.33 mill levy. That mill levy was cancelled with voter approval of the district and is no longer a revenue source in 2023.
0.33 Mill Levy	\$ 1,399,088	
Other Sources	\$ 289,397	This includes interest, grants, and third-party revenues.
		The approved 2023 Budget anticipated a draw from fund balance to cover expenses in 2023.
Anticipated Draw From Fund Balance	\$ 926,891	

#### Original Uses

General Fund	\$ 9,225,580
Library Fund	\$ 1,841,775

#### Revised Sources

0.33 Mill Levy	\$ -	The mill levy is no longer in effect.
		Grant revenues were revised down based on Foundation support. These are revenues for the purposes of providing library services and expenses covered by these funds will not be charged back to the district.
Other Sources	\$ 170,063	The first source of funding to cover the gap is a draw from fund balance. This fund balance is from revenues collected for library purposes (mill levy, grants, etc.) and expenses that are covered by this fund balance draw will not be charged back to the district.
Draw from Fund Balance	\$ 1,241,334	
		There is a remaining gap after zeroing out Library Fund resources. This gap is covered by the General Fund and necessary to sustain normal operations. Since this is covered by general revenues, it will be charged back to the district.
Gap Funding from General Fund	\$ 350,000	
Supplemental Funding for Enhanced Security Services	\$ 238,456	As requested by library staff and Council, supplemental funding for security was provided by the General Fund. Since this is covered by general revenues, it will be charged back to the district.

**Exhibit D** Attachment A – Intergovernmental Agreement between the  
**Reimbursement Amount** City of Boulder and the Boulder Public Library District

Other General Fund	\$ 9,225,580
<b><i>Total Cost Allocation</i></b>	<b><i>\$3,184,299</i></b>
<b><u>Total Repayment</u></b>	<b><u>\$12,998,335</u></b>

This amount is the original library budget in the General Fund. These are covered by general revenues and will be charged back to the district.

Job Profile Name  
Accounting Specialist  
Archivist  
Archivist (Hourly)  
Bilingual Library Coordinator  
Board Specialist  
Branch Services Manager  
Community Scholars Intern  
Creative Technologist  
Creative Technologist (Hourly)  
Custodian  
Graphic Design Specialist  
IT Applications Administrator I  
IT Applications Administrator Senior  
IT Senior Manager  
Librarian  
Librarian (Hourly)  
Librarian Senior  
Library Acquisitions Specialist  
Library Coordinator  
Library Coordinator (TSI)  
Library Deputy Director  
Library Director  
Library Materials Handler  
Library Program Assistant  
Library Programs Specialist  
Library Resource Services Coordinator  
Library Resources Manager  
Library Senior Manager  
Library Senior Program Manager  
Literacy and Outreach Program Manager  
Literacy Manager  
Literacy Senior Program Manager  
Materials Handling Manager  
Oral History Program Manager (Hourly)  
Patron Services Manager  
Theater Administrator  
Volunteer Program Manager  
Volunteer Services Manager  
Youth Services Manager

**City Library Facilities**

1. BPL Main Library - owned and operated by the City (1001 Arapahoe Ave., Boulder, CO)
2. Carnegie Library for Local History (“Carnegie Branch”) – owned and operated by the City (1125 Pine St., Boulder, CO)
3. George Reynolds Branch Library – owned and operated by the City (3595 Table Mesa Drive, Boulder, CO)
4. Meadows Branch Library – leased and operated by the City (4800 Baseline Road, Boulder, CO)
5. NoBo Corner Library, leased and operated by the City (4600 Broadway, Boulder, CO)
6. North Boulder Branch Library – construction will begin mid-2021. Project construction is estimated to take 15 months, and the library is expected to open by the end of 2022, to be owned and operated by the City (4500 13<sup>th</sup> St., Boulder, CO)

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: CARNEGIE LIBRARY FOR LOCAL HISTORY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 1125 Pine St., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the City of Boulder-owned fiber optic cable and equipment identified on **Exhibit B** if any, free of charge.
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the fiber optic cable and equipment identified in Paragraph 1.a., above, free of charge.
2. Term and Termination. Landlord Leases the Premises to Tenant for a term of twenty (20) years, commencing at one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.
4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).



5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library ("**Utilities and Services**") in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant is familiar with the physical condition of the Premises. Tenant is leasing the Premises "as is," in its current condition, and hereby expressly disclaims all warranties.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant's facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverage and other contract requirements set forth in **Exhibit C**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder's risk manager.
10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an "**Event of Default**") and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting

party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.

- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
- e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.

17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

[The remainder of this page is intentionally blank.]

**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: GEORGE REYNOLDS BRANCH LIBRARY**

**DATED: \_\_\_\_\_**



## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 3595 Table Mesa Dr., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the City of Boulder-owned roof-mounted traffic control communication antenna; and City of Boulder-owned fiber optic cable and the IT BRAN fiber optic cable and equipment identified on **Exhibit B** if any, free of charge.
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the communications antenna and fiber optic cable and equipment identified in paragraph 1.a, above, free of charge.
2. Term and Termination. Landlord Leases the Premises to Tenant for a term of twenty (20) years, commencing at one minute after midnight on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.
4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).

5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library ("**Utilities and Services**") in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant is familiar with the physical condition of the Premises. Tenant is leasing the Premises "as is," in its current condition, and hereby expressly disclaims all warranties.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed 4 months and work with and assist Tenant's facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Unless otherwise agreed to by the Landlord, Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverage and other contract requirements set forth in **Exhibit C**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and City of Boulder's risk manager.
10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an "**Event of Default**") and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting

party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.

- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
- e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.

17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

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**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office



**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: NORTH BOULDER BRANCH LIBRARY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is under construction and will be subdivided with an area including the library building, parking lot and play area (“**Premises**”), generally as depicted on **Exhibit B**. Landlord hereby leases and demises to Tenant the Premises located at 4500 13th St., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for City of Boulder-owned fiber optic cable and equipment identified on **Exhibit C** (“**City Technology Assets**”).
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the City of Boulder-owned fiber optic network and equipment, free of charge.
2. Term and Termination. Landlord will release possession of the Premises to Tenant by notice in writing within ten (10) days of receipt of a certificate of occupancy for the library building and installation of all fixtures, personal property, and other installations described in the Final Intergovernmental Agreement between the parties dated \_\_\_\_\_. Landlord leases the Premises to Tenant for a term of approximately twenty (20) years, commencing upon release of possession, and terminating one minute after midnight on the 1st day of January 2045 (“**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.

4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).
5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library ("**Utilities and Services**") in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant will review the physical condition of the Premises prior to taking possession. All contractor, manufacturers, materialman's and laborer's warranties, guarantees, and continuing contract rights will be assigned to Tenant at the commencement of the Term, to the extent lawfully permitted in such warranties, guarantees, and continuing contract rights.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant's facilities maintenance personnel to enforce any warranties or guarantees assigned or to be assigned under the preceding paragraph. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverages and other contract requirements set forth in **Exhibit D**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder's risk manager.

10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an “**Event of Default**”) and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant’s Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called “**Laws**”). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant’s Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant’s use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant’s failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord’s

attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.

- c. Covered Property. For the purposes of this Section, the Premises include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.
  - d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
  - e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.

15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.
17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

BOULDER PUBLIC LIBRARY DISTRICT

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

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**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: MAIN LIBRARY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 1001 Arapahoe Avenue, Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the operation of Boulder 8TV described below which is identified on **Exhibit B** as the “Communications and Engagement Department Space.”
  - b. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the and City of Boulder-owned fiber optic cable and equipment identified on **Exhibit B** as the “South Side 1<sup>st</sup> Floor Network Closet.”
  - d. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the Boulder 8TV facilities and equipment, the City of Boulder-owned fiber optic network and equipment, and related facilities free of charge.
2. Term and Termination. Landlord leases the Premises to Tenant for a term of twenty (20) years, commencing one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third anniversary without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a

lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.

4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include operation of the library café and maker space, and subleases to nonprofit entities).
  - a. Boulder 8TV. Boulder 8TV, a television broadcasting station and multimedia video production facility, operates out of the Main Library. Landlord and Tenant agree that Boulder 8TV will continue to operate free of charge in the Main Library location where it exists at the execution of this Lease, until it moves to a different location, anticipated in 2028. All costs and expenses associated with operating Boulder 8TV, excluding the cost of Utilities and Services, defined below, shall be the responsibility of the Landlord.
5. License and Management Agreement. Landlord and Tenant agree to enter into a Civic Area License and Management Agreement in substantially the same form set forth in **Exhibit C** concerning maintenance and operation of the Civic Center Area outside of the Premises, including the space under the bridge between the north and south buildings on the Premises, sidewalks, public parking lots, and parks.
6. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library ("**Utilities and Services**") in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
7. Condition of Premises. Tenant is familiar with the physical condition of the Premises and the Civic Center Area. Tenant is leasing the Premises "as is," in its current condition, and hereby expressly disclaims all warranties.
8. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant's facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverages and other contract requirements set forth in **Exhibit D**.

9. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
10. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder's risk manager.
11. Default. The following will constitute a default of this Lease: (i) Tenant's failure to comply with the terms of the Civic Area License and Management Agreement; or, (ii) if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an "**Event of Default**") and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.
12. Environmental Compliance.
  - a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.

- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.
- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, "**Auditors**") may, from time to time as Landlord deems appropriate, during Tenant's usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations ("**Audits**") of the Premises to confirm and monitor Tenant's compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant's permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant's compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease Year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
- e. Liability After Termination of Lease. The covenants contained in this section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.

13. Relationship. The parties' relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
14. CGIA. Each party to this Lease is a "public entity" under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended ("CGIA"). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
15. Liens. The Tenant will not permit or allow any mechanic's, materialman's, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
16. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
17. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.
18. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
19. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.

Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
And: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
City Attorney's Office  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
And: CAOAdmin@bouldercolorado.gov

20. Integration and Entire Agreement. This Lease, read in conjunction with the Civic Area License and Management Agreement, represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
21. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
22. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF,** the parties have executed this Lease on the date set forth above.

[Signature pages follow]



**TENANT:**

BOULDER PUBLIC LIBRARY DISTRICT

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

[The remainder of this page is intentionally blank.]

**LANDLORD:**

**CITY OF BOULDER,**  
**a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

## CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT

THIS CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2023 (“**Effective Date**”), by and between the CITY OF BOULDER, a Colorado home rule municipality, (“**City**” and/or “**Licensor**”), and the BOULDER PUBLIC LIBRARY DISTRICT (“**District**” and/or “**Licensee**”). Licensor and Licensee may be referred to collectively herein as the “**Parties**,” and individually as a “**Party**.”

### RECITALS

- A. The City is a Colorado home rule municipality incorporated on November 4, 1871.
- B. The District was formed and exists as a library district pursuant to Section 24-90-101, *et seq.*, C.R.S., for the purpose of providing certain public improvements, facilities and services, to and for the use and benefit of the District, its residents, users, property owners, and the public.
- C. The District’s boundaries are located partially within the corporate limits of the city of Boulder.
- D. The City and the District have agreed to lease portions of the library buildings and surrounding land to the District and transfer ownership and operations of the City’s assets and liabilities held for the benefit of the former City of Boulder Public Library to the District subject to the terms, conditions and obligations set forth in the Final Intergovernmental Agreement dated \_\_\_\_\_, 2023, (“**IGA**”).
- E. The Boulder Public Library Main Branch building located at 1001 Arapahoe Ave., Boulder, Colorado 80302 (“**Main Library**”) will be leased from the City to the District, subject to the terms and conditions set forth in the Main Library Lease dated \_\_\_\_\_, 2023, (the “**Library Lease**”). The City will retain ownership of the land in, under, and around the Main Library building depicted on **Exhibit A** as the licensed area (the “**Licensed Area**”). The Licensed Area is outlined in yellow on **Exhibit A**. This Agreement is intended to govern the use and maintenance of the Licensed Area and is to be read together with the Library Lease.
- F. The Licensed Area is publicly owned property and subject to laws and provisions of the state and federal constitutions regarding public access, public use, and the exercise of individual First Amendment rights.
- G. In order to ensure the ability of the District and its patrons to use the Licensed Area without interference with other public users’ rights, the City and the District have entered into this Agreement.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings herein set forth, the Parties have established the following terms:

1. License. The City hereby grants the District a non-exclusive license (“**License**”) for access and use as a public entity, and for the use of its invitees and licensees (“**Library Users**”), to access and use, the Licensed Area subject to the terms and conditions described herein relating to each of the areas outlined in yellow and described in **Exhibit A**.

2. Licensee’s Use. The District and Library Users may access, use, and occupy the Licensed Area in a manner consistent with the terms of the IGA, the Library Lease, and this Agreement. The District will be responsible for all of the upkeep and maintenance within the leased area, as described in the Library Lease, including, but not limited to, the following:

- a. Main Library Building and 9th St. Loading Dock as Indicated in Red in **Exhibit A**.
  - i. The Main Library building may remain on the civic center property in its current configuration and as modified and expanded in the future with the City’s approval so long as the District is a tenant and the Main Library building remains in use for District purposes. All utility lines, service lines, underground and above ground facilities, utilities, rooms, and utility connections are included in the License and may be relocated within the Licensed Area or added by the District from time to time without amendment to the License. The District will be responsible for obtaining approvals for such work, and such work will be completed in a manner that does not adversely affect any of the areas, uses, or functions in the Licensed Area.
  - ii. The Licensee is responsible for the developed area underneath the Main Library building, except the City will maintain Boulder Creek flood control and stormwater management improvements.
  - iii. The 9th St. loading dock is available to the District for any Main Library purposes including parking, loading and unloading vehicles, and building and vehicle maintenance.
- b. Entry Plaza No. 1 and No. 2 (collectively “Entry Plaza Areas”) as Indicated in Green in **Exhibit A**. Entry Plaza Areas are available to Library Users and the District for any public owned property uses and any use approved by the District including the exercise of First Amendment rights to gather, seek redress, protest, and engage in free speech activities.
  - i. As the Licensee of all surface uses of the Entry Plaza Areas, the District shall always maintain rules and regulations to ensure individual and group First Amendment rights are properly protected and controlled as provided

by law on public spaces and, to the fullest extent of the law, will defend and indemnify the City against all claims, causes of action, fines, penalties or damages related to violations of rights on the Entry Plaza Areas.

- ii. The District will be responsible for maintenance of all sidewalks and walkways that connect Entry Plaza No. 2 to multi-use paths and the parking areas to the east of the Main Library. The District will also be responsible for maintenance of the sidewalk along Arapahoe Ave. from the eastern side of Entry Plaza No. 1 to the western property line. Further, the District will be responsible for all of the upkeep and maintenance of trash cans, flowerpots, bicycle racks, benches, and any other improvement located in the Entry Plaza Areas.
  - iii. The Licensee will provide concrete repair and replacement in the Entry Plaza Areas consistent with the City's design standards. The Licensee may contract with the City to provide these services in conjunction with the City's regular maintenance by separate agreement.
  - iv. The City will provide snow removal in the Entry Plaza Areas once per day in the morning hours. The Licensee shall be responsible for all other snow removal.
- c. Public Parking Lots No. 1 and No. 2 as Indicated in Blue in **Exhibit A**. Public Parking Lots No. 1 and No. 2 are available to the District and Library Users on the same basis as they are available to the general public.
- i. The City agrees to provide the District with an employee parking pass program for use within Public Parking Lots No. 1 and No. 2, consistent with the terms and conditions of the City of Boulder employee parking pass program.
  - ii. Main Library identification and direction signs that comply with Sections 5-4-15, "Posting Signs on Property of Another Prohibited," and 9-9-21, "Signs," B.R.C. 1981, may be erected permanently or temporarily along the perimeter or on islands providing direction to Main Library buildings or Main Library events.
  - iii. The District will utilize the City's special events permit process for use of Public Parking Lot No. 1 or No. 2 for outdoor events and/or programming for a period not to exceed 72 hours. The Library District will be added as a referral entity for special event applications by third parties in order for the District to recoup its costs incurred because of the event.
  - iv. Upon 15 days written notice and written agreement as to the terms of use, the District may purchase parking passes for attendees and users of specifically identified library events or programs for a period not to exceed 10 hours.

- v. The City will notify the District at least 15 days before any closure of either Public Parking Lot No. 1 or No. 2 and will provide alternate parking locations and/or rights for the District's employees and patrons and direction signage to assist patrons to locate appropriate parking within a reasonable walking distance of the Main Library.
  - vi. The City accepts responsibility for the management and maintenance of Public Parking Lot No. 1 and No. 2. The Licensed Area encompasses multiple users and missions, the needs and interests of many must be balanced in a manner that protects the site in keeping with the Master Plan for Boulder Civic Area (2015), as may be amended. Management decisions about surrounding uses should be made with sensitivity to potential impacts on the Main Library's leasehold area. It is anticipated that Public Parking Lots No. 1 and No. 2 will change and evolve over time. The Master Plan for Boulder's Civic Area plans for the removal of Public Parking Lot No. 1 and No. 2 and replaced by structured parking at some point in the future. Parking management decisions evolve over time. The City and the District will work cooperatively in the future to ensure realization of the vision, how the licensed Public Parking Lots No. 1 and No. 2 will be used and the guiding principles of the Master Plan for Boulder's Civic Area and that the needs of all users and functions of the Main Library and the Civic Area are met. The City will treat District employees in the same or similar manner as city employees with respect to parking. The City will also treat all visitors to the Licensed Area that need parking in the same or similar manner, except as modified by this Agreement.
- d. Additional Licensee Obligations. In accordance with the terms and conditions set forth in the IGA, the District shall manage its use of the Licensed Area and utilize the License consistent with the seven guiding principles enumerated in the Master Plan for Boulder's Civic Area (2015), which are: (1) the civic heart of Boulder; (2) life and property safety; (3) outdoor culture, and nature; (4) celebration of history and assets; (5) enhanced access and connections; (6) place for community activity and arts; and, (7) sustainable and viable future. Additionally, the District shall utilize the License in a manner that is consistent with the terms of Section 8.13 of the Boulder Valley Comprehensive Plan: Support for Community Facilities (2021).
- e. City Maintenance Responsibilities. The City will be responsible for all the upkeep and maintenance, to a City standard, within the Licensed Area (except for areas that are the responsibility of the District), including, without limitation, the children's park area, the landscaped areas around the Main Library that are not part of the Entry Plaza Areas, both Public Parking Lots, Boulder Creek flood control and stormwater management improvements, and multi-use paths. The City will also be responsible for the upkeep and maintenance of the restrooms, to a City standard, located on the northwest portion of the Licensed Area near 9th St. and Canyon Blvd.; however, the District will supply electricity to the building until such time the City can obtain a separate metered electrical supply to the restroom building.

- f. The Licensed Area is available to the Licensee for reservations, use, programming, and the like on the same basis as it is available to the general public.

3. Licensor's Retained Use. This Agreement shall not restrict or interfere with the City's access or use of the Licensed Area for the purpose of providing, operating, utilizing, managing, and maintaining the Licensed Area; however, the City shall attempt to accommodate and minimize any interference with the Licensee's use as described herein.

4. Right of First Refusal/Offer. The City will not sell or convey the land beneath the Main Library, the Entry Plaza Areas, or the Public Parking Lot No. 1 or No. 2, or any part thereof, without first offering same to the District for purchase. This right will be recorded against the property subject to the License.

5. No Additional Uses. The Licensee's use described herein shall be its sole use of the Licensed Area unless it obtains additional permissions from the City.

6. License Fee and Cost Share. Licensee's use of the License shall be of no cost to the District unless otherwise provided herein.

7. Term and Termination. The term of this Agreement commences January 1, 2024, and shall expire upon expiration or termination of the Library Lease.

8. Termination for Default. If either Party should fail to perform its obligations under this Agreement, the other Party may provide a written notice of the failure to the non-performing Party. If after 30 days from the receipt of such notice, the non-performing Party has not cured the default, or if cure is not possible within 30 days, the Party has not commenced curative measures in a timely and commercially reasonable manner, the Party that provided such notice may terminate the Library Lease and this Agreement effective upon written notice to the non-performing Party. However, under no circumstances may the License terminate as long as the Library Lease is in effect, or if the City conveys fee title in the Main Library building to the Licensee.

9. CGIA. Each Party to this Agreement is a "public entity" under the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S. ("CGIA"). The Parties acknowledge and agree that the City and the District, and each Party's respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the CGIA, § 24-10-101 to 120, C.R.S., as amended.

10. Liens. The District will not permit or allow any mechanic's, materialman's, or other lien to be placed against any of the Licensed Area in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the District. If any such lien is recorded, the District will cause the same to be released of record.

11. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the City Manager, the City Attorney, and the City Risk Manager.

12. Responsibility. Each Party will be responsible for the acts, omissions, or conduct of that Party's own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of each Party's obligations under this Agreement or with respect to each Party's respective use of the Licensed Area.

13. Compliance with Laws. The Parties shall cause all activities within the Licensed Area to be performed in compliance with all applicable laws, rules, regulations, orders, and other requirements of any public jurisdiction.

14. Appropriations. Pursuant to Section 29-1-110, C.R.S., and City of Boulder Charter Sec. 103 any financial obligations of the Parties express or implied by this Agreement are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each Party's respective governing body.

15. Conflict Resolution. If any conflict arises in connection with either Party's obligations under this Agreement, the city manager or his or her designated representative and the library director or his or her designated representative shall meet and attempt to resolve the issue. If the city manager and the library director are unable to resolve the issue, two representatives of the Boulder City Council and two representatives of the Library District Board of Trustees shall meet and attempt to resolve the issue. If these steps fail to resolve any issue under this Agreement, either Party may exercise all remedies available at law or in equity.

16. Notice of Communications. Any notice pursuant to the terms and conditions of this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices so given shall be considered effective 72 hours after deposit in the United States mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and Library Director  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com



**To the City:**

City of Boulder  
Nuria Rivera-Vandermyde  
City Manager  
City Manager's Office  
1777 Broadway  
Boulder, CO 80302  
and: CMOadmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
City Attorney  
City Attorney's Office  
1777 Broadway  
Boulder, CO 80302  
and: CAOadmin@bouldercolorado.gov

17. Integration and Entire Agreement. This Agreement, read in conjunction with the IGA and Library Lease, represents the entire agreement between the Parties with respect to the License and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Agreement, all of which are merged herein.

18. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties, each Party's respective legal representatives, successors, and heirs; provided, however, that nothing in this Paragraph 18 shall be construed to permit the assignment of this Agreement except as agreed to, in writing, by the Parties.

19. Underlying Intent and Scope. This Agreement does not confer upon the Licensee any other right, permit, license, approval, or consent other than that expressly provided for herein and this Agreement shall not be construed to waive, modify, amend, or alter the application of any other federal, state, or local laws, including laws governing zoning, land use, property maintenance, or nuisance.

20. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado and venue for any action arising under this Agreement shall be in the district court of the County of Boulder, State of Colorado.

21. Severability/Waiver. In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either Party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

22. Amendment. Any amendment to this Agreement shall be in writing and signed by both Parties.

23. No Third-Party Beneficiaries. This Agreement is entered into by and between the Licensor and the Licensee, and is solely for the benefit of the Licensor and the Licensee for the purposes set forth herein. Except as otherwise provided herein, this Agreement does not create rights or responsibilities in any third parties beyond the Licensor and the Licensee.

24. Recitals. The Recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the Parties hereto represent they are true, accurate, and correct.

25. Authority. The signatories below have been duly authorized to execute this Agreement and bind that Party to the terms and conditions herein.

26. Counterparts and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**LICENSEE:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

**LICENSOR:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

<i>Entity</i>		<i>Agreement Type</i>	<i>amount of money incoming or outgoing</i>	<i>termination/r enewal date/lease term if applicable</i>	<i>description/notes</i>	<i>start date</i>
Tonantzin Casa de Café/Cynthia Diaz	Library	contract	\$500/month to City, waived for first 12 months and will be due upon renewal net profits shared equally for joint events, 80%/20% in favor of the	9/27/2023	lease agreement	9/19/2022
Tonantzin Casa de Café/Cynthia Diaz	Library	agreement	coordinator for individual events	9/27/2023	liquor license / management agreement collection services. Tim will get updated agreement to submit when renewed in	9/20/2022
Unique Management Services	Library	MOU	\$8.95 per electronic submission \$420/year (at \$35/month equipment lease) - are they changing the	None		11/24/2003
Pure Water Dynamics, Inc. /Jim McKee	Facilities	contract	filters? 45% distribution of	automatic yearly renewal	water filter - paid by FAM	
Dream Books	Library	agreement	net sales	1-Apr-22	selling/recycling used books	4/28/2021
NeoPost	Library	contract	\$13,633.80 (monthly lease of 227.23)	5-year renewal. 2024.	postage meter	11/18/2019

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

			\$180 for the services of one security guard for a total of 4.5 hours of work outside library operating	term of election date	Voter Service and Polling Center Use Agreement	1/29/2018
Boulder County Clerk and Recorder	CMO	MOU				
Colorado Library Consortium (CLiC)	Library	Annual service PO	\$12,323.68	Oct. 2023	courier service	10/1/2019
Prairie Mountain Publishing Company	Library	MOU	n/a		permanent loan of Daily Camera materials to the Carnegie Library	2/26/2019
Safe Systems	Facilities	Facilities Dept.	\$10/month		Carnegie Library alarm system	6/5/2012
MOTUS Space Solutions / Luke Bennett	Library	Annual maintenance PO	\$648/year	6/30/2024	Carnegie Library movable shelves	1/1/2021
All Copy	Library	agreement - possibly under PO	\$239.26/month	month to month	maintenance for 7 printer scanners	1/5/2016
Growing Up Boulder, LLC.	CMO	in-kind lease	n/a	2 years, 364 days	cost for use of space "in- kind" with services provided by GUB to City	9/1/2021
Museum of Boulder	Library	MOU	n/a	5 years	updated agreement regarding stewardship of the BHS photograph collection held by the Carnegie Library	9/3/2021
Today's Business Solutions	Library	Software service agreement	\$34,542 implementation / \$4,834 ongoing, annual maintenance	Jan-24	patron reservation and print release software services	1/28/2020

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

Boulder Genealogical Society	Library	partnership agreement	n/a	12/31/2025	partnership w/ BGS to collect/preserve/disseminate genealogical info	3/2/2016
Discovery Garden	Library	contract	\$17,799	12/31/2023	hosting, support,	1/1/2022
Boulder Housing Partners	Library	contract	\$1 annually	2/28/2019	lease agreement with BHP for the NoBo building space	3/1/2014
JLF Colorado	Library	mou	n/a	Expired in 2020	non disclosure agreement	1/12/2017
Colorado Education Initiative	Library	contract	\$34,500	8/31/2023.	Vendor has not completed scope.	12/15/2022
Boulder Valley School District	Library	MOU	n/a	8/1/2023	Student One program	8/1/2022
Overdrive Cost sharing agreements	Library	cost share agreement x6	\$ 12,000 platform fee split btween 6 libraries.	1/1/2024	FRDL cost share of platform and pledge for buying Electronic information resources	2004
Clarivate Proquest	Library	Agreement	\$ 20,604.81	3/1/2024	Electronic information resources	
Newsbank	Library	Agreement	\$ 13,956.00	1/1/2024	Electronic information resources	
Gale Cengage	Library	Agreement	\$ 33,593.99	1/1/2024	Electronic information resources	
Gale-Udemy	Library	Agreement		12/20/2024	Electronic information resources	
Phillips Edison & Co. / Ashley Janszen	Facilities	Lease	\$1,397.87	8/31/2029 per 2015 sale of the property to Phillips Edison	Meadows Branch - Common Interest Area Charges for Plaza Space	1/1/2022 (May 1989 for original lease agreement)

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

				12/31/2027 after 4 renewal terms of one year each	Integrated Library System BoulderReads literacy software	Jan-23
Marmot	Library	contract	\$151,379.27 for first year			
LiteracyPro Systems	Library	account	\$1332.50 for first year			12/17/2013
Lyngsoe Systems	Library	contract	\$30,600 annual	expires end of 2023	Automated Material Handling machines (3) service agreements We will need to sign a new purchasing agreement if we replace AWE machines (we have 4)	12/31/2017, amendment made 2/28/21
AWE Learning Computers	Library	agreement	\$13,000	Expired in 2022 5-year maintenance agreement renewed	self-Check machines, RFID tags maintenance, replacements, software upgrades and maintenance agreement	2017
bibliotheca Boulder Library Foundation (BLF)	Library	contract	\$166,442.50 \$3,000 annually (in kind)	expires 2024 2 years, 364 days		3/12/2019
Faronics (Deep Freeze)	IT	contract	889.35 annually		lease office space at Main Cybersecurity software	9/1/2021
Google	Library	GAC Agreement	n/a varies annually	term up 30 day written notice	Google Arts & Culture Project	2/1/2023
Warner Charitable Trust	Library	Trust Agreement	approx. \$1300-2500 dividends	n/a	Donations for the physical library collection-lh	
When To Work	Library	Account	\$350/year	12/31/2023	Scheduling software online	
Page Proof	Library	Account		Jul-24	Pay in arears. Change billing.	

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

		Facilities		
		Dept. Service		
KleenTech - Custodial	Facilities	contract		Daily building cleaning
		Facilities		
Safe Systems - Building		Dept. Service		
security	Facilities	contract		Burglar alarm system
		Service		
Pontem Security	Library	contract	2024	Security services
Amazon	Library	Account		Purchasing
Officemax	Library	Account		Purchasing
City of Boulder Liquor				
Licens	Library	License		Liquor license
State of Colorado				
Liquor License	Library	License		Liquor license
		Service		
		agreement -		
Door Mat Cleaning		possibly under		
Service	Facilities	PO		Building cleaning
		Service		
		agreement -		
		possibly under		
Carpet cleaning	Facilities	PO		Building cleaning
		Service		
		agreement -		
		possibly under		
Window cleaning	Facilities	PO		Building cleaning
		Software		
Call Center software -		license		
Nimbus	IT	agreement		Telephone system
		Service		
		agreement -		
		possibly under		
Lewan Service Only	IT	PO	month to	
CDWG - IT equipment	IT	Account	month	Copier/Printer maintenance
				Purchasing



**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

Best buy	IT	Account Software license	Purchasing
Adobe	IT	agreement Softwares	Software
Security Cameras - Convergent	IT	license agreement Service	Security camera software
Verizon - cell phones/ hotspots	IT	agreement - possibly under PO	Telephone Internet equipm
Zoom	IT	Accounts online software	Online software
Airtable	Library	license Electronic Resource	Statistics tool for BoulderReads
Sky River	Library	Subscription Electronic Resource	Bibliographic record tool.
Ebsco	Library	Subscription Electronic Resource	Summer - Used state grant State of Colorado
Brainfuse	Library	Subscription Electronic Resource	Expiring Oct. Nov. 2023 Learning eresource
Proquest Digital NYT	Library	Subscription Electronic Resource	2024 Marmot
Dow Jones Digital WSJ	Library	Subscription	Electronic information 2024 resources
DEMCO	Library	Account	Electronic information resources

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

Hoopla	Library	Electronic Resource Subscription - Media Agreement	Downloadable and streaming electronic resource
Niche Academy	Library	Account	Learning eresource
Morningstar	Library	Electronic Resource Subscription	Electronic information resources
Valueline	Library	Electronic Resource Subscription	Electronic information resources
Creative Bug	Library	Electronic Resource Subscription	Learning eresource
Buterfly Pavilion	Library	Cultural Pass MOU	Dec. 31. 23 Cultural pass program partner
Dinosaur Ridge	Library	Cultural Pass MOU	July 6 2024 Cultural pass program partner
DMNS	Library	Cultural Pass MOU	Dec. 31. 2024 Cultural pass program partner
MOB	Library	Cultural Pass MOU	Cultural pass program partner
Museum de las Americas	Library	Cultural Pass MOU	Cultural pass program partner
WowChildren's Museum	Library	Cultural Pass MOU	Cultural pass program partner
Centrui Link for NoBo VIT	IT	Service Plan	
Lewan	IT	Service Plan	
ChromeOS	Library	account	Operating system for Chromebooks
Colorado Grants Guide	Library	account	Colorado Grants research
LibAnswers -Springshar	Library	account	Ticketing system to manage user questions

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District

LibCal -Springshare	Library	account	Manages library event calendar, meeting room reservations, location hours, resource management.
LibGuides - Springshare	Library	account	easy linking to database resources, book review blog and other webpages
Wordpress	Library	account	Domain??-boulderlibrary.org
			Online reading tracking in app & website for reading programs
Beanstack	Library	account	book recommendations;
		Electronic Resource	different platform from other Ebscohost databases
Novelist (by Ebscohost)	Library	Subscription	
		Electronic Resource	
Overdrive	Library	Subscription	ebooks, magazines, audiobooks
		Electronic Resource	research (business, healthcare and residential directory)
Reference Solutions	Library	Subscription	Website PDF embedding tool for program booklets.
Issuu	Library	Software	digital sign management
Rise Vision Digital Signs	Library	account	reporting on data from connector between google
Google Looker Studio	Library	account	looker & social media resources
			sound editing for oral history projects
Google -Power My Anal	Library	account	
Wavepad Sound Editor	Library	software	

**Exhibit L** Attachment A – Intergovernmental Agreement between the  
**Third-Party Contracts to be Re-written or Assigned** the Boulder Public Library District



**INTERGOVERNMENTAL AGREEMENT AMONG**  
**THE COUNTY OF BOULDER, COLORADO**  
**THE CITY OF BOULDER, COLORADO AND**  
**THE BOULDER PUBLIC LIBRARY DISTRICT**  
**REGARDING JOINT OBLIGATIONS**

The Board of County Commissioners of Boulder County (“**BOCC**” and/or “**County**”), the Boulder City Council (“**City**”), and the Board of Trustees of the Boulder Public Library District (“**Board of Trustees**” and/or “**Library District**”) (collectively the “**Parties**”) enter into this Intergovernmental Agreement Regarding Joint Obligations pursuant to § 24-90-107(2)(e), C.R.S. (this “**Joint Obligations IGA**”).

**RECITALS**

- A. The voters within the Library District’s proposed boundaries approved its formation pursuant to § 24-90-107(2), C.R.S., at the general election on November 8, 2022.
- B. The “legal service area” of the Library District as defined in § 24-90-103(4.5), C.R.S., is depicted in **Exhibit A** (“**Service Area**”).
- C. The City and the County formed a selection committee that appointed a seven-member board of trustees to manage and control the Library District pursuant to §§ 24-90-108(1) and (2)(c), C.R.S. A list of the appointed trustees and their terms is attached as **Exhibit B** (“**Board of Trustees**”).
- D. The legislative bodies of the County, the City, and the Library District are required to enter into an intergovernmental agreement within 90 days of the appointment of the board of trustees, or within such time as otherwise agreed, pursuant to § 24-90-107(2)(e), C.R.S., to establish provisions regarding: “(I) The transition from the library to a library district, such as ownership of the library’s real and personal property, personnel, and the provision of administrative services during the transition; (II) The method of trustee selection; and (III) Such other necessary terms and conditions as may be determined by the parties” § 24-90-107(2)(e), C.R.S.
- E. The Parties entered into an Interim Intergovernmental Agreement dated June 16, 2023, (the “**Interim IGA**”) to extend the deadline for the final intergovernmental agreements to December 31, 2023.
- F. The City and the Library District are entering into an Intergovernmental Agreement to establish provisions regarding the transition to the Library District of property, personnel and services previously provided by the City.

Attachment B – Intergovernmental Agreement between the  
City of Boulder, Boulder County, and the Boulder Public Library District

- G. The right and responsibility to appoint library district trustees is delegated by state law to the City and the County as the “**Establishing Entities**” and may be further delegated to the Board of Trustees. § 24-90-108(2)(c), C.R.S.; and, the City and County have requested annual reports and meetings with the Board of Trustees (collectively, the “**Joint Obligations**”).
- H. The Parties now enter this Joint Obligation IGA as their final intergovernmental agreement to address their Joint Obligations and responsibility to ensure that Board of Trustee appointments and removals are timely and efficiently handled in accordance with § 24-90-108, C.R.S., and to provide for the annual reporting requirements.

**NOW, THEREFORE**, the Parties enter this Joint Obligation IGA, as follows:

**AGREEMENT**

**Section 1**      **Library District Obligations.**

**Section 1.1**      **Annual Report.** No later than July 31 of each year, beginning in 2025, the Library District will provide a written annual report to the City and the County (“**Annual Report**”). The contents of the Annual Report will include, but not be limited to, the current state of the library system, goals and projections for the coming year, a summary of the current adopted budget, status of reserve accounts, and such other statistics and information as the Board of Trustees deems to be of public interest or other topics related to the Library District that may be requested by the City and/or the County. The information in the Annual Report will also be presented publicly to the City and to the BOCC at such times as each body and the Library District may agree. The Library District shall also provide to the City and the County a copy of its audited financial statements for the previous fiscal year when available and submitted to the Office of the State Auditor in compliance with § 29-1-606(3), C.R.S.

**Section 1.2**      **Annual Meeting.** The City and Board of Trustees, or subcommittees thereof, shall meet annually (or as otherwise agreed between them) to discuss issues of common interest and concern, upon the request of either party. The annual verbal report to the City in a public meeting, as required by Section 1.1, may, upon mutual agreement, be sufficient to meet this requirement. This requirement shall remain in effect until December 31, 2029, and shall be thereafter renewable, by mutual agreement, in three-year increments. The Library District shall provide notice of this meeting to the BOCC and invite the BOCC to participate.

**Section 1.3**      **Policy and Plan.** The Library District will establish an emergency reserve as required by Article X, Section 20(5) of the Colorado Constitution and may establish other financial reserves consistent with Board of Trustee-adopted policy. The Library District will report to the City and the County on the status of the reserves on an annual basis, pursuant to the annual report required below.

**Section 2      City, County and Board of Trustees Obligations.**

**Section 2.1      Appointment of Trustees.**

- a.        The City and the County have appointed initial trustees to the initial Library District Board of Trustees through a committee of up to two members of each legislative body (“**Selection Committee**”) pursuant to § 24-90-108(2)(c), C.R.S. and both legislative bodies have ratified these appointments. The Selection Committee will continue to fill vacancies to the Board of Trustees, subject to ratification by the County and the City pursuant to § 24-90-108, C.R.S., as amended. The Library District may appoint up to two members of its Board of Trustees to participate in the Selection Committee process as non-voting, *ex officio* members of the Selection Committee.
- b.        The Board of Trustees will assist in the appointment process by:
  - i.        Advising the City and County of an existing or impending vacancy and requesting a schedule for the Selection Committee work; and,
  - ii.       Including with the request, a draft application package and proposed application and interview questions for review and approval by the Selection Committee; and,
  - iii.       Suggesting a proposed schedule and plan for advertising, public outreach and notice of the opportunity; and,
  - iv.       Collecting applications, compiling information and submitting it to the Selection Committee in preparation for interviews.
- c.        The Selection Committee will build an application and search process which will seek to be inclusive of people of color in the Service Area.
  - i.        Applicants will be required to acknowledge and pledge to support and promote the principals set forth in the American Library Association Library Bill of Rights and Trustee Statement of Ethics copies of which are attached as **Exhibit C**.
- d.        The Selection Committee will recommend one nominee for each open seat on the Board of Trustees for ratification by the County and City. In the event a nominee is rejected, the Selection Committee will review existing applications or begin the search process again to recommend another nominee for ratification.
- e.        This process will remain in effect unless otherwise agree to by the Parties pursuant to Section 1.2.

**Section 2.2                      Removal of Trustees.**

- a.            A Trustee may be removed only by majority vote of the Board of Trustees and in accordance with Colorado Library Law; and by a majority vote of the appointing legislative bodies upon a showing of good cause as defined in the Trustee's Bylaws and Colorado law. Under the Board of Trustee's Bylaws, good cause includes but is not limited to, a deliberate breach of the Bylaws or rules and regulations adopted by the Board of Trustees; criminal or fraudulent activity; causing significant harm to the Library District, either materially or to its reputation; failure to perform duties outlined in the Bylaws; or failure to attend three consecutive regular monthly meetings of the Board without an excused absence. The Board may waive or authorize any unexcused absence from the attendance requirement under extenuating circumstances.
- b.            If a member of the Board of Trustees is removed as provided in Section 2.2.a., the vacancy will be filled for the remainder of the term in the manner set forth in Section 2.1.a. and 2.1.b.

**Section 2.3                      Obligations of the County.** The County will, in cooperation with the City, be responsible for timely ratification of appointment of trustees recommended by the Board of Trustees from the residents within the Service Area pursuant to § 24-90-108, C.R.S.

**Section 3                      Mutual Understandings.**

**Section 3.1                      Boulder Valley Comprehensive Plan (BVCP).** The BVCP guides decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and arts, urban design, neighborhood character and transportation. BVCP policies and sustainability principles inform decisions about the way urban services are to be provided, including library services. The Library District agrees to embrace the BVCP Sustainability Principles and commit to continuing its important role in social sustainability. The Boulder Public Library has been a leader in social sustainability by providing free library services that allow community members of all incomes, ages, and backgrounds to stand on equal footing regarding information access. The Library District should continue this legacy.

- a.            To ensure social equity is addressed and improved for community members, the City, the County, and the Library District will adhere to the BVCP social equity policy section 8.03. The Library District will uphold the [American Library Association Bill of Rights](#) and the [American Library Association Code of Ethics](#).
- b.            The City and the County agree to actively engage with and consult with the Library District during updates to the BVCP.
- c.            The Library District agrees to periodically update its Strategic Plan in



Attachment B – Intergovernmental Agreement between the  
City of Boulder, Boulder County, and the Boulder Public Library District

collaboration with the City and the County. This includes expanding the geographic purview of the 2018 Boulder Public Library Master Plan to include the Library District's areas of influence; the use of relevant economic and demographic data and projections developed by the City and the County; robust community engagement as defined in BVCP policy 10.02; referral of drafts for comment to appropriate City and County departments and boards; and review and comment by the City and the County.

**Section 3.2**      **Notice.** Any notices given under this Joint Obligation IGA are deemed to have been received and to be effective: (1) three days after the same shall have been mailed via Federal Express; (2) immediately upon hand delivery; or (3) immediately upon receipt of confirmation that an electronic mail transmission was received. For the purposes of this IGA, any and all notices shall be addressed to the contacts listed below:

**For the County:**

Board of County Commissioners  
Office Boulder County Courthouse  
Third Floor  
1325 Pearl Street  
Boulder, CO 80302  
303-441-3500

Boulder County Attorney's  
Boulder County Courthouse  
Fifth Floor  
1325 Pearl Street  
Boulder, CO 80302  
303-441-3190

**For the Library District:**

Board of Trustees  
Boulder Public Library District  
1001 Arapahoe Avenue  
Boulder, Colorado 80302  
Attn: David Farnan  
Phone: 303-441-3110  
dfarnan@boulderlibrary.org

Library District Attorney  
Seter & VanderWall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
Attn: Kim J. Seter & Beth Dauer  
Phone: 303-770-2700  
kseter@svwpc.com and edauer@svwpc.com

**For the City:**

City Manager  
City of Boulder  
1777 Broadway  
Boulder, CO 80302  
303-441-3090  
CMOAdmin@bouldercolorado.gov

City Attorney  
City of Boulder  
1777 Broadway  
Boulder, CO 80302  
303-441-3020  
CAOAdmin@bouldercolorado.gov

**Section 3.3**      **Intended Beneficiaries.** Nothing expressed or implied in this Joint Obligation IGA is intended or shall be construed to confer upon or to give to, any person other than the Parties, any right, remedy or claim under or by reason of this Joint Obligation IGA or any covenant, terms, conditions, or provisions hereof. All covenants,

Attachment B – Intergovernmental Agreement between the  
City of Boulder, Boulder County, and the Boulder Public Library District

terms, conditions, and provisions in this Joint Obligation IGA are for the sole and exclusive benefit of the City, the County and the Library District.

**Section 3.4**      **Severability.** If any provision of this Joint Obligation IGA is determined to be unenforceable or invalid for any reason, the remainder of this Joint Obligation IGA shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.

**Section 3.5**      **Authorization.** Each party represents and warrants that it has the power and ability to enter into this Joint Obligation IGA, to grant the rights granted herein, and to perform the duties and obligations herein described.

**Section 3.6**      **Conflict with Laws.** Any provision of this Joint Obligation IGA that conflicts with or violates any provision of the *Constitution of the State of Colorado*, TABOR, the Colorado Library Law or the provisions of any statutes governing the operations and/or powers of the Library District shall be deemed excised, and the remaining provisions of this Joint Obligation IGA shall be interpreted in a manner that implements the manifest intent of the Parties in entering into this Joint Obligation IGA.

**IN WITNESS WHEREOF**, the City, the County and the Library District have signed this Joint Obligation IGA to be effective on the date last signed below.

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**BOARD OF COUNTY COMMISSIONERS  
BOULDER COUNTY, COLORADO**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Approved as to form:

\_\_\_\_\_  
Boulder County Attorney

**BOULDER LIBRARY DISTRICT  
BOARD OF TRUSTEES**

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Approved as to Form:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Library District Attorney

**CITY OF BOULDER,  
a COLORADO home rule municipality**

\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

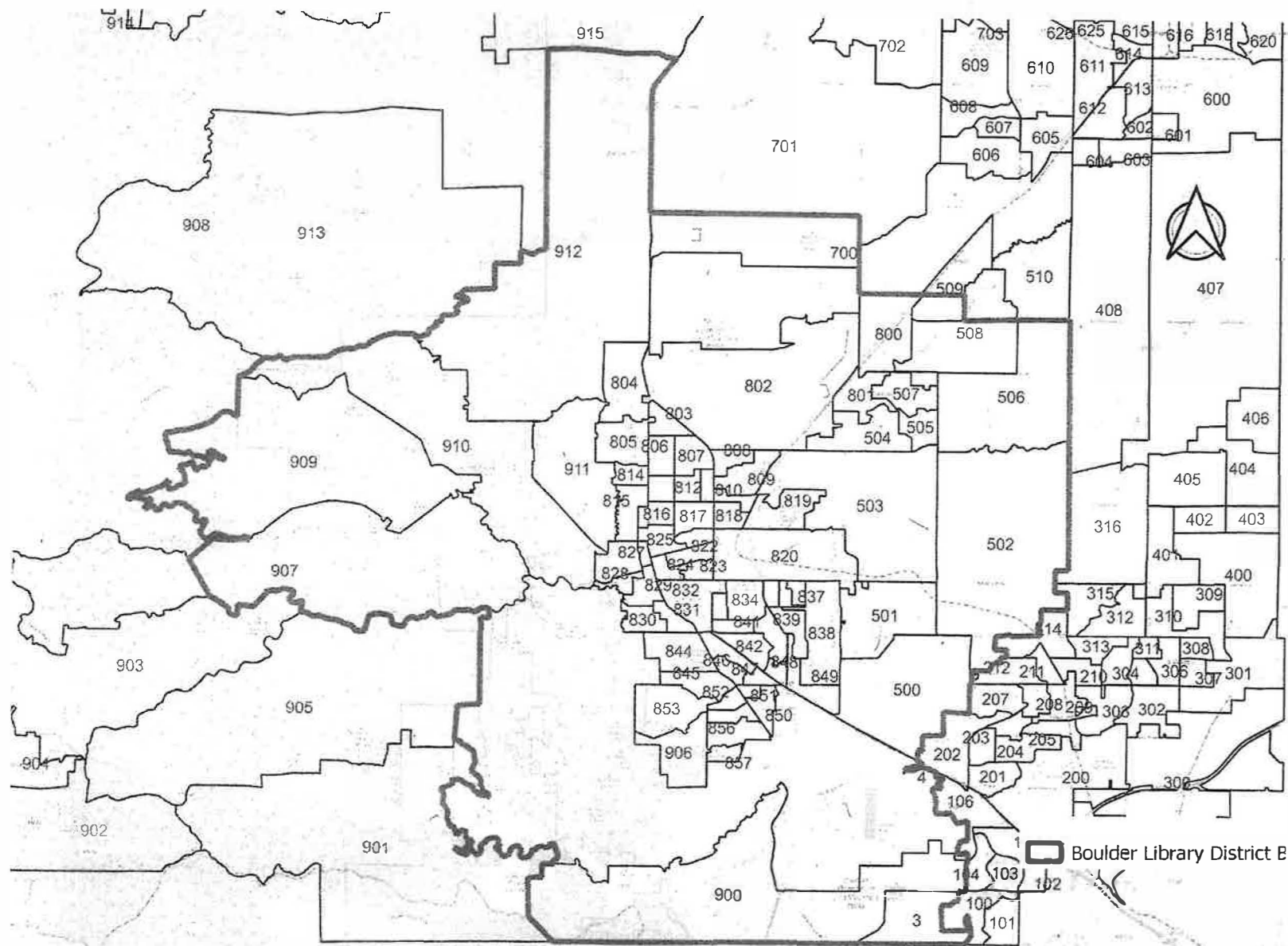
ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
City Attorney's Office

**Exhibit A** Attachment B – Intergovernmental Agreement between the  
**Service Area** City of Boulder, Boulder County, and the Boulder Public Library District



Attachment B – Intergovernmental Agreement between the  
**Exhibit B**  
City of Boulder, Boulder County, and the Boulder Public Library District  
Board of Trustees

<u>Seat</u>	<u>Term Length</u>	<u>Appointee</u>	<u>Jurisdiction</u>
1	5 years	Benita Duran	Boulder
2	5 years	Jennifer Yee	Unincorporated Boulder County
3	4 years	Sylvia Wirba	Boulder
4	4 years	Doug Hamilton	Boulder
5	3 years	Cara O'Brien	Unincorporated Boulder County
6	2 years	Sam Fuqua	Boulder
7	1 year	Joni Teter	Boulder

## Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.

Inclusion of "age" reaffirmed January 23, 1996.

Although the Articles of the *Library Bill of Rights* are unambiguous statements of basic principles that should govern the service of all libraries, questions do arise concerning application of these principles to specific library practices. See the documents designated by the Intellectual Freedom Committee as Interpretations of the Library Bill of Rights (<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations>).

# **American Library Association Library Bill of Rights and Trustee Statement of Ethics**

Attachment B – Intergovernmental Agreement between the  
City of Boulder, Boulder County, and the Boulder Public Library District

## **TRUSTEE STATEMENT OF ETHICS**

1. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
2. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
3. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
4. We respect intellectual property rights and advocate balance between the interests of information users and rights holders.
5. We treat co-workers and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.
6. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
7. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
8. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of co-workers, and by fostering the aspirations of potential members of the profession.
9. We affirm the inherent dignity and rights of every person. We work to recognize and dismantle systemic and individual biases; to confront inequity and oppression; to enhance diversity and inclusion; and to advance racial and social justice in our libraries, communities, profession, and associations through awareness, advocacy, education, collaboration, services, and allocation of resources and spaces.

{00695831}

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: MAIN LIBRARY**

**DATED:** \_\_\_\_\_



## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 1001 Arapahoe Avenue, Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the operation of Boulder 8TV described below which is identified on **Exhibit B** as the “Communications and Engagement Department Space.”
  - b. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the and City of Boulder-owned fiber optic cable and equipment identified on **Exhibit B** as the “South Side 1<sup>st</sup> Floor Network Closet.”
  - d. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the Boulder 8TV facilities and equipment, the City of Boulder-owned fiber optic network and equipment, and related facilities free of charge.
2. Term and Termination. Landlord leases the Premises to Tenant for a term of twenty (20) years, commencing one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third anniversary without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a

lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.

4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include operation of the library café and maker space, and subleases to nonprofit entities).
  - a. Boulder 8TV. Boulder 8TV, a television broadcasting station and multimedia video production facility, operates out of the Main Library. Landlord and Tenant agree that Boulder 8TV will continue to operate free of charge in the Main Library location where it exists at the execution of this Lease, until it moves to a different location, anticipated in 2028. All costs and expenses associated with operating Boulder 8TV, excluding the cost of Utilities and Services, defined below, shall be the responsibility of the Landlord.
5. License and Management Agreement. Landlord and Tenant agree to enter into a Civic Area License and Management Agreement in substantially the same form set forth in **Exhibit C** concerning maintenance and operation of the Civic Center Area outside of the Premises, including the space under the bridge between the north and south buildings on the Premises, sidewalks, public parking lots, and parks.
6. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library (“**Utilities and Services**”) in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
7. Condition of Premises. Tenant is familiar with the physical condition of the Premises and the Civic Center Area. Tenant is leasing the Premises “as is,” in its current condition, and hereby expressly disclaims all warranties.
8. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant’s facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverages and other contract requirements set forth in **Exhibit D**.

9. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
10. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder's risk manager.
11. Default. The following will constitute a default of this Lease: (i) Tenant's failure to comply with the terms of the Civic Area License and Management Agreement; or, (ii) if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an "**Event of Default**") and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.
12. Environmental Compliance.
  - a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.

- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.
- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, "**Auditors**") may, from time to time as Landlord deems appropriate, during Tenant's usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations ("**Audits**") of the Premises to confirm and monitor Tenant's compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant's permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant's compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease Year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
- e. Liability After Termination of Lease. The covenants contained in this section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.

13. Relationship. The parties' relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
14. CGIA. Each party to this Lease is a "public entity" under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended ("CGIA"). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
15. Liens. The Tenant will not permit or allow any mechanic's, materialman's, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
16. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
17. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.
18. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
19. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.

Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
And: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
City Attorney's Office  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
And: CAOAdmin@bouldercolorado.gov

20. Integration and Entire Agreement. This Lease, read in conjunction with the Civic Area License and Management Agreement, represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
21. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
22. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]



**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

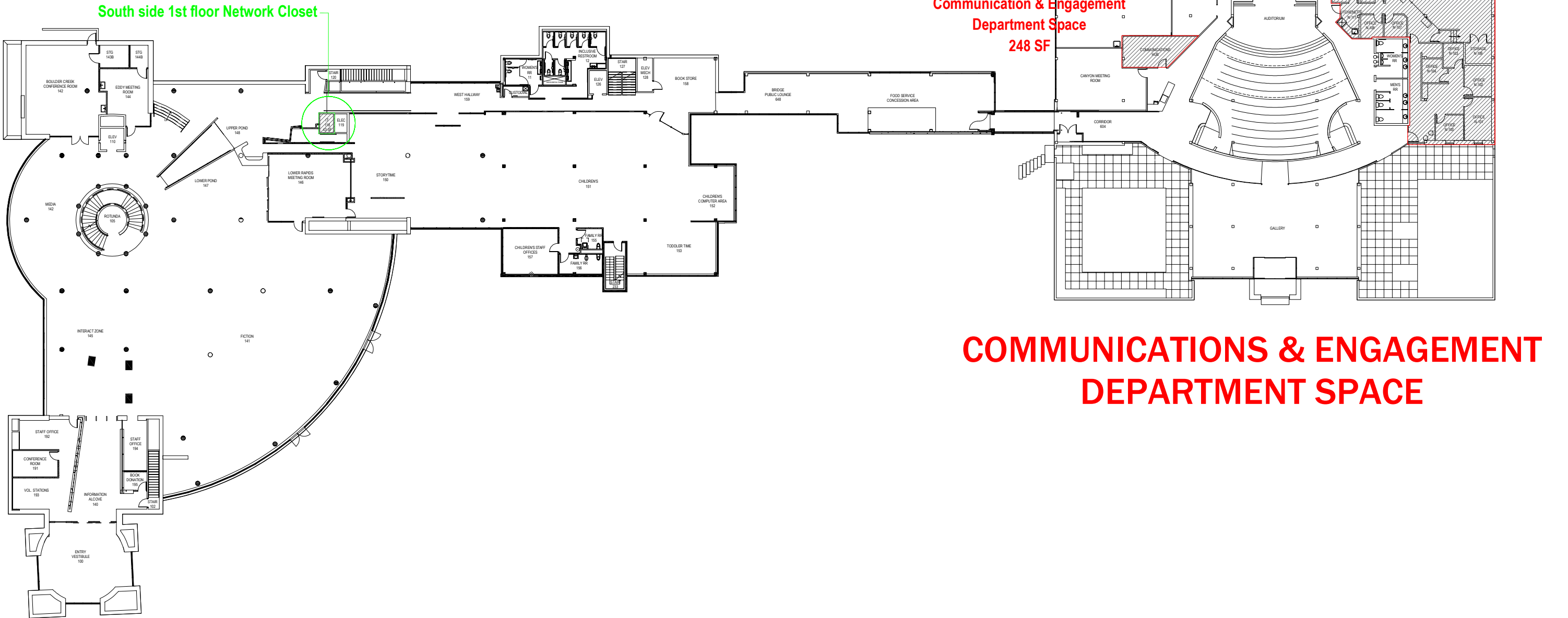
\_\_\_\_\_  
City Attorney's Office



**EXHIBIT A**  
**Legal Description**

TRACTS 57 57A 58 58A 59 & 60 31-1N-70 & SUBLOT J LOT 10  
SMITHS & PT VACATED 10TH ST & RIVERSIDE ST PER ORDINANCE

**Exhibit B**  
**Portions of the Premises Retained by**  
**Landlord For Specific Purposes**



**MAIN LIBRARY • FIRST FLOOR NETWORK CLOSET LOCATION**  
**1001 ARAPAHOE**

**Exhibit B**  
**Portions of the Premises Retained by**  
**Landlord For Specific Purposes**

**1st floor Network Closet**  
-COB assets  
-COB multimode fiber cable to West Age Well Center  
from wall-mounted BPLD fiber termination panel  
-Fiber patch cables  
  
BPLD infrastructure  
-2 strands in BPLD multimode fiber cable to north side  
2nd floor network/server room for West Age Well Center

**STAIR**  
**120**

**IT**  
**118**  
**43 SF**

**ELEC**  
**119**

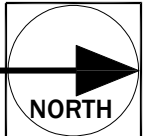
**UPPER POND**  
**148**



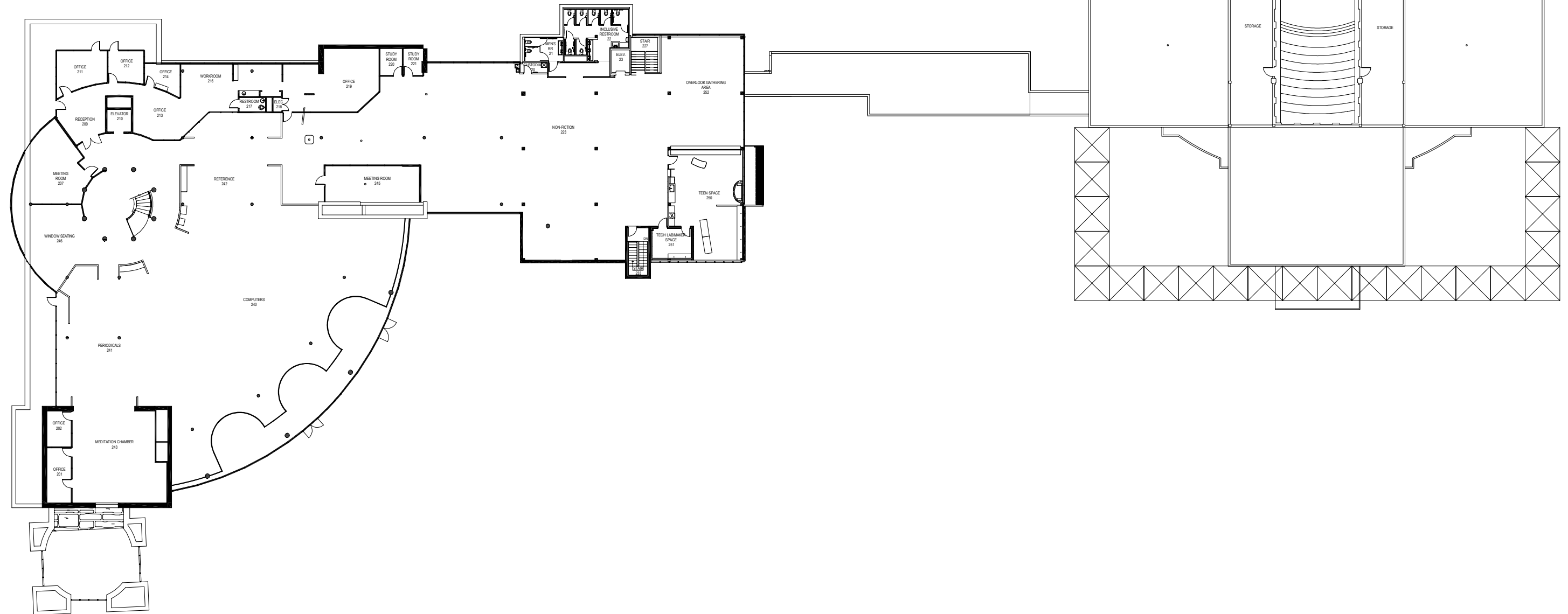
**MAIN LIBRARY • 1ST FLOOR NETWORK CLOSET**

**1001 ARAPAHOE**

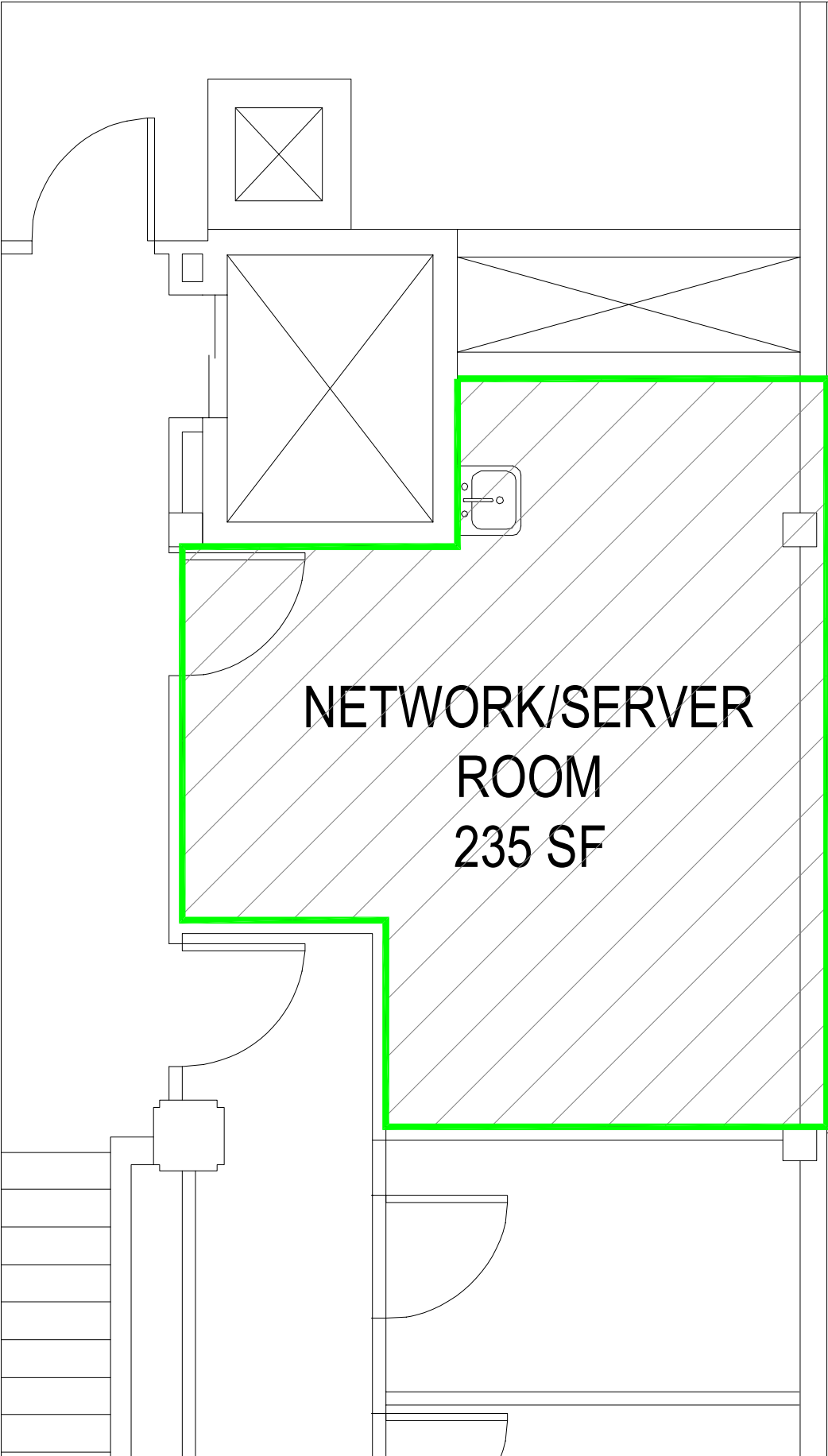
**SCALED TO FIT**



**Exhibit B**  
**Portions of the Premises Retained by**  
**Landlord For Specific Purposes**



**Exhibit B**  
**Portions of the Premises Retained by**  
**Landlord For Specific Purposes**



2nd floor Network/Server Room

COB assets

- Rack-mounted Ethernet switch, UPS, and fiber termination panels
- COB singlemode fiber cable to Channel 8 offices
- COB singlemode fiber cable to Municipal Building Fiber patch cables

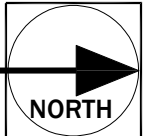
BPLD infrastructure

- 8 RU in existing 2-post 19-inch equipment rack for COB Ethernet switch, UPS, and fiber termination panels
- 120V, 20A electrical outlet for COB UPS
- 2 strands in BPLD multimode fiber cable to south side 1st floor network closet for West Age Well Center



**MAIN LIBRARY • 2ND FLOOR NETWORK/SERVER ROOM**

**1001 ARAPAHOE**



## CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT

THIS CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2023 (“**Effective Date**”), by and between the CITY OF BOULDER, a Colorado home rule municipality, (“**City**” and/or “**Licensor**”), and the BOULDER PUBLIC LIBRARY DISTRICT (“**District**” and/or “**Licensee**”). Licensor and Licensee may be referred to collectively herein as the “**Parties**,” and individually as a “**Party**.”

### RECITALS

- A. The City is a Colorado home rule municipality incorporated on November 4, 1871.
- B. The District was formed and exists as a library district pursuant to Section 24-90-101, *et seq.*, C.R.S., for the purpose of providing certain public improvements, facilities and services, to and for the use and benefit of the District, its residents, users, property owners, and the public.
- C. The District’s boundaries are located partially within the corporate limits of the city of Boulder.
- D. The City and the District have agreed to lease portions of the library buildings and surrounding land to the District and transfer ownership and operations of the City’s assets and liabilities held for the benefit of the former City of Boulder Public Library to the District subject to the terms, conditions and obligations set forth in the Final Intergovernmental Agreement dated \_\_\_\_\_, 2023, (“**IGA**”).
- E. The Boulder Public Library Main Branch building located at 1001 Arapahoe Ave., Boulder, Colorado 80302 (“**Main Library**”) will be leased from the City to the District, subject to the terms and conditions set forth in the Main Library Lease dated \_\_\_\_\_, 2023, (the “**Library Lease**”). The City will retain ownership of the land in, under, and around the Main Library building depicted on **Exhibit A** as the licensed area (the “**Licensed Area**”). The Licensed Area is outlined in yellow on **Exhibit A**. This Agreement is intended to govern the use and maintenance of the Licensed Area and is to be read together with the Library Lease.
- F. The Licensed Area is publicly owned property and subject to laws and provisions of the state and federal constitutions regarding public access, public use, and the exercise of individual First Amendment rights.
- G. In order to ensure the ability of the District and its patrons to use the Licensed Area without interference with other public users’ rights, the City and the District have entered into this Agreement.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings herein set forth, the Parties have established the following terms:

1. License. The City hereby grants the District a non-exclusive license (“**License**”) for access and use as a public entity, and for the use of its invitees and licensees (“**Library Users**”), to access and use, the Licensed Area subject to the terms and conditions described herein relating to each of the areas outlined in yellow and described in **Exhibit A**.

2. Licensee’s Use. The District and Library Users may access, use, and occupy the Licensed Area in a manner consistent with the terms of the IGA, the Library Lease, and this Agreement. The District will be responsible for all of the upkeep and maintenance within the leased area, as described in the Library Lease, including, but not limited to, the following:

a. Main Library Building and 9th St. Loading Dock as Indicated in Red in **Exhibit A**.

- i. The Main Library building may remain on the civic center property in its current configuration and as modified and expanded in the future with the City’s approval so long as the District is a tenant and the Main Library building remains in use for District purposes. All utility lines, service lines, underground and above ground facilities, utilities, rooms, and utility connections are included in the License and may be relocated within the Licensed Area or added by the District from time to time without amendment to the License. The District will be responsible for obtaining approvals for such work, and such work will be completed in a manner that does not adversely affect any of the areas, uses, or functions in the Licensed Area.
- ii. The Licensee is responsible for the developed area underneath the Main Library building, except the City will maintain Boulder Creek flood control and stormwater management improvements.
- iii. The 9th St. loading dock is available to the District for any Main Library purposes including parking, loading and unloading vehicles, and building and vehicle maintenance.

b. Entry Plaza No. 1 and No. 2 (collectively “Entry Plaza Areas”) as Indicated in Green in **Exhibit A**. Entry Plaza Areas are available to Library Users and the District for any public owned property uses and any use approved by the District including the exercise of First Amendment rights to gather, seek redress, protest, and engage in free speech activities.

- i. As the Licensee of all surface uses of the Entry Plaza Areas, the District shall always maintain rules and regulations to ensure individual and group First Amendment rights are properly protected and controlled as provided

by law on public spaces and, to the fullest extent of the law, will defend and indemnify the City against all claims, causes of action, fines, penalties or damages related to violations of rights on the Entry Plaza Areas.

- ii. The District will be responsible for maintenance of all sidewalks and walkways that connect Entry Plaza No. 2 to multi-use paths and the parking areas to the east of the Main Library. The District will also be responsible for maintenance of the sidewalk along Arapahoe Ave. from the eastern side of Entry Plaza No. 1 to the western property line. Further, the District will be responsible for all of the upkeep and maintenance of trash cans, flowerpots, bicycle racks, benches, and any other improvement located in the Entry Plaza Areas.
  - iii. The Licensee will provide concrete repair and replacement in the Entry Plaza Areas consistent with the City's design standards. The Licensee may contract with the City to provide these services in conjunction with the City's regular maintenance by separate agreement.
  - iv. The City will provide snow removal in the Entry Plaza Areas once per day in the morning hours. The Licensee shall be responsible for all other snow removal.
- c. Public Parking Lots No. 1 and No. 2 as Indicated in Blue in **Exhibit A**. Public Parking Lots No. 1 and No. 2 are available to the District and Library Users on the same basis as they are available to the general public.
- i. The City agrees to provide the District with an employee parking pass program for use within Public Parking Lots No. 1 and No. 2, consistent with the terms and conditions of the City of Boulder employee parking pass program.
  - ii. Main Library identification and direction signs that comply with Sections 5-4-15, "Posting Signs on Property of Another Prohibited," and 9-9-21, "Signs," B.R.C. 1981, may be erected permanently or temporarily along the perimeter or on islands providing direction to Main Library buildings or Main Library events.
  - iii. The District will utilize the City's special events permit process for use of Public Parking Lot No. 1 or No. 2 for outdoor events and/or programming for a period not to exceed 72 hours. The Library District will be added as a referral entity for special event applications by third parties in order for the District to recoup its costs incurred because of the event.
  - iv. Upon 15 days written notice and written agreement as to the terms of use, the District may purchase parking passes for attendees and users of specifically identified library events or programs for a period not to exceed 10 hours.



- v. The City will notify the District at least 15 days before any closure of either Public Parking Lot No. 1 or No. 2 and will provide alternate parking locations and/or rights for the District's employees and patrons and direction signage to assist patrons to locate appropriate parking within a reasonable walking distance of the Main Library.
  - vi. The City accepts responsibility for the management and maintenance of Public Parking Lot No. 1 and No. 2. The Licensed Area encompasses multiple users and missions, the needs and interests of many must be balanced in a manner that protects the site in keeping with the Master Plan for Boulder Civic Area (2015), as may be amended. Management decisions about surrounding uses should be made with sensitivity to potential impacts on the Main Library's leasehold area. It is anticipated that Public Parking Lots No. 1 and No. 2 will change and evolve over time. The Master Plan for Boulder's Civic Area plans for the removal of Public Parking Lot No. 1 and No. 2 and replaced by structured parking at some point in the future. Parking management decisions evolve over time. The City and the District will work cooperatively in the future to ensure realization of the vision, how the licensed Public Parking Lots No. 1 and No. 2 will be used and the guiding principles of the Master Plan for Boulder's Civic Area and that the needs of all users and functions of the Main Library and the Civic Area are met. The City will treat District employees in the same or similar manner as city employees with respect to parking. The City will also treat all visitors to the Licensed Area that need parking in the same or similar manner, except as modified by this Agreement.
- d. Additional Licensee Obligations. In accordance with the terms and conditions set forth in the IGA, the District shall manage its use of the Licensed Area and utilize the License consistent with the seven guiding principles enumerated in the Master Plan for Boulder's Civic Area (2015), which are: (1) the civic heart of Boulder; (2) life and property safety; (3) outdoor culture, and nature; (4) celebration of history and assets; (5) enhanced access and connections; (6) place for community activity and arts; and, (7) sustainable and viable future. Additionally, the District shall utilize the License in a manner that is consistent with the terms of Section 8.13 of the Boulder Valley Comprehensive Plan: Support for Community Facilities (2021).
- e. City Maintenance Responsibilities. The City will be responsible for all the upkeep and maintenance, to a City standard, within the Licensed Area (except for areas that are the responsibility of the District), including, without limitation, the children's park area, the landscaped areas around the Main Library that are not part of the Entry Plaza Areas, both Public Parking Lots, Boulder Creek flood control and stormwater management improvements, and multi-use paths. The City will also be responsible for the upkeep and maintenance of the restrooms, to a City standard, located on the northwest portion of the Licensed Area near 9th St. and Canyon Blvd.; however, the District will supply electricity to the building until such time the City can obtain a separate metered electrical supply to the restroom building.

- f. The Licensed Area is available to the Licensee for reservations, use, programming, and the like on the same basis as it is available to the general public.

3. Licensor's Retained Use. This Agreement shall not restrict or interfere with the City's access or use of the Licensed Area for the purpose of providing, operating, utilizing, managing, and maintaining the Licensed Area; however, the City shall attempt to accommodate and minimize any interference with the Licensee's use as described herein.

4. Right of First Refusal/Offer. The City will not sell or convey the land beneath the Main Library, the Entry Plaza Areas, or the Public Parking Lot No. 1 or No. 2, or any part thereof, without first offering same to the District for purchase. This right will be recorded against the property subject to the License.

5. No Additional Uses. The Licensee's use described herein shall be its sole use of the Licensed Area unless it obtains additional permissions from the City.

6. License Fee and Cost Share. Licensee's use of the License shall be of no cost to the District unless otherwise provided herein.

7. Term and Termination. The term of this Agreement commences January 1, 2024, and shall expire upon expiration or termination of the Library Lease.

8. Termination for Default. If either Party should fail to perform its obligations under this Agreement, the other Party may provide a written notice of the failure to the non-performing Party. If after 30 days from the receipt of such notice, the non-performing Party has not cured the default, or if cure is not possible within 30 days, the Party has not commenced curative measures in a timely and commercially reasonable manner, the Party that provided such notice may terminate the Library Lease and this Agreement effective upon written notice to the non-performing Party. However, under no circumstances may the License terminate as long as the Library Lease is in effect, or if the City conveys fee title in the Main Library building to the Licensee.

9. CGIA. Each Party to this Agreement is a "public entity" under the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S. ("CGIA"). The Parties acknowledge and agree that the City and the District, and each Party's respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the CGIA, § 24-10-101 to 120, C.R.S., as amended.

10. Liens. The District will not permit or allow any mechanic's, materialman's, or other lien to be placed against any of the Licensed Area in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the District. If any such lien is recorded, the District will cause the same to be released of record.

11. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the City Manager, the City Attorney, and the City Risk Manager.

12. Responsibility. Each Party will be responsible for the acts, omissions, or conduct of that Party's own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of each Party's obligations under this Agreement or with respect to each Party's respective use of the Licensed Area.

13. Compliance with Laws. The Parties shall cause all activities within the Licensed Area to be performed in compliance with all applicable laws, rules, regulations, orders, and other requirements of any public jurisdiction.

14. Appropriations. Pursuant to Section 29-1-110, C.R.S., and City of Boulder Charter Sec. 103 any financial obligations of the Parties express or implied by this Agreement are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each Party's respective governing body.

15. Conflict Resolution. If any conflict arises in connection with either Party's obligations under this Agreement, the city manager or his or her designated representative and the library director or his or her designated representative shall meet and attempt to resolve the issue. If the city manager and the library director are unable to resolve the issue, two representatives of the Boulder City Council and two representatives of the Library District Board of Trustees shall meet and attempt to resolve the issue. If these steps fail to resolve any issue under this Agreement, either Party may exercise all remedies available at law or in equity.

16. Notice of Communications. Any notice pursuant to the terms and conditions of this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices so given shall be considered effective 72 hours after deposit in the United States mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and Library Director  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Nuria Rivera-Vandermyde  
City Manager  
City Manager's Office  
1777 Broadway  
Boulder, CO 80302  
and: CMOadmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
City Attorney  
City Attorney's Office  
1777 Broadway  
Boulder, CO 80302  
and: CAOadmin@bouldercolorado.gov

17. Integration and Entire Agreement. This Agreement, read in conjunction with the IGA and Library Lease, represents the entire agreement between the Parties with respect to the License and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Agreement, all of which are merged herein.

18. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties, each Party's respective legal representatives, successors, and heirs; provided, however, that nothing in this Paragraph 18 shall be construed to permit the assignment of this Agreement except as agreed to, in writing, by the Parties.

19. Underlying Intent and Scope. This Agreement does not confer upon the Licensee any other right, permit, license, approval, or consent other than that expressly provided for herein and this Agreement shall not be construed to waive, modify, amend, or alter the application of any other federal, state, or local laws, including laws governing zoning, land use, property maintenance, or nuisance.

20. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado and venue for any action arising under this Agreement shall be in the district court of the County of Boulder, State of Colorado.

21. Severability/Waiver. In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either Party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

22. Amendment. Any amendment to this Agreement shall be in writing and signed by both Parties.

23. No Third-Party Beneficiaries. This Agreement is entered into by and between the Licensor and the Licensee, and is solely for the benefit of the Licensor and the Licensee for the purposes set forth herein. Except as otherwise provided herein, this Agreement does not create rights or responsibilities in any third parties beyond the Licensor and the Licensee.

24. Recitals. The Recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the Parties hereto represent they are true, accurate, and correct.

25. Authority. The signatories below have been duly authorized to execute this Agreement and bind that Party to the terms and conditions herein.

26. Counterparts and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**LICENSEE:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

**LICENSOR:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

## **Requirements for Contractors Performing Any Improvements to the Premises**

### **I. INSURANCE POLICIES**

Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Section A. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section I 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.

Contractor shall procure and maintain and, if applicable, shall cause any subcontractor of Contractor to procure and maintain the insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the City of Boulder, Colorado (“City”). All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Contractor pursuant to this Section I for the statutes of limitation and repose. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risk that may be applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and / or prudent, maintain higher limits and / or broader coverages.

#### **A. Insurance Coverages**

##### **1. *Commercial General Liability – ISO CG 00001 or equivalent.***

##### ***Coverage to include:***

- Premises and Operations
- Explosions, Collapse and Underground Hazards
- Personal / Advertising Injury
- Products / Completed Operations
- Liability assumed under an Insured Contract (including defense costs assumed under contract)
- Broad Form Property Damage
- Independent Contractors
- Designated Construction Projects(s) General Aggregate Limit, ISO CG 2503 (1997 Edition)
- Additional Insured—Owners, Lessees or Contractors Endorsement, ISO Form 2010 (2004 Edition or equivalent)
- Additional Insured—Owners, Lessees or Contractors Endorsement, Completed Operations, ISO CG 2037 (7/2004 Edition or equivalent)

**Exhibit D**  
**Attachment C – Form lease for the Main Boulder**  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises**

- The following exclusions are absolutely prohibited and shall not be included in Contractor's policy if applicable to the work:
  - No exclusion for "third-party action over suits" or any similar restriction of coverage applicable to claims brought against others by an employee of Contractor or its Subcontractors
  - No damage to Work performed by Contractor exclusion (CG 22 94 or similar)
  - No residential or habitation exclusion or coverage limitation
  - No exclusion for EIFS (Exterior Insulation Finish System) or any similar exclusion applicable to the Work
  - No exclusion for subsidence, which is specifically prohibited for any work involving excavation, soil stabilization, earth retention, concrete, structural steel, landscaping, waterproofing, fire protection and plumbing.
  - No exclusion for low-level radioactive isotopes

2. ***Automobile Liability including all:***

- Owned Vehicles
- Non-Owned Vehicles
- Hired Vehicles

Automobile Liability Coverage endorsements CA9948 and MCS-90 are required if Contractor is transporting any type of hazardous materials.

3. ***Excess/Umbrella Liability***

- Excess of Commercial General Liability, Automobile Liability, and Employers' Liability.
- Coverages should be as broad as primary.
- The City reserves the right to require higher limits.

4. ***Workers' Compensation***

- Statutory Benefits (Coverage A)
- Employers Liability (Coverage B)

5. ***Installation Floater***

- "All Risk"
- Faulty workmanship
- Labor costs to repair damaged work

6. ***Contractors Pollution Liability/Environmental Impairment Liability***

The City requires this coverage whenever work at issue under this contract involves potential pollution risk to the environment or losses caused by pollution conditions including but not limited to asbestos, building enclosure systems, plumbing, roofing, heating, ventilation, air conditioning, drywall, insulation, building foundations, or any work which includes Microbial Matter, Mold, Fungi, or Bacteria and any work which will involve the use of hazardous materials that may arise from the operations of Contractor (and its subcontractors) described in Contractor's bid and



**Exhibit D**  
**Attachment C – Form lease for the Main Boulder**  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises**

specifications. Policy shall cover Contractor's completed operations. Such coverage shall be on an occurrence basis and include:

- Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
- Property Damage including natural resource damages, physical injury to or destruction of tangible property including resulting loss of use, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- Defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- Cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.
- Coverage shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos).

**7. (If applicable) Professional Liability Policy**

For Contractor and any subcontractor of any tier that is providing any professional services, including but not limited to: design, architecture, engineering, testing, surveying, or design/build services, temporary engineering, engineered excavations and shoring systems, post-tension supply, structured steel, specialized millwork that is performance specified, roofing or waterproofing systems, curtainwall, mechanical, fire protection systems, electrical, fire alarm systems.

Contractor and/or all subcontractors providing professional services shall provide and maintain Professional Liability Insurance coverage. Coverage shall include coverage for contractual liability. Contractor and subcontractors shall maintain for the statute of repose, following completion of the project. Any erosion of insurance limits required will be reinstated to the required amounts prior to commencing the contracted work and if during the contracted period claims are made against the design professional's policy the necessary reduction of available limits will be repurchased to the contractually required amounts.

**B. Limits Required**

Contractor shall carry the following limits of liability as required below:

**1. Commercial General Liability**

General Aggregate	\$5,000,000
Products/Completed Operations	\$5,000,000
Aggregate	
Each Occurrence Limit	\$2,000,000
Personal/Advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$ 50,000

**Exhibit D**  
**Requirements for Contractors Performing Any Improvements to the Premises**

Medical Payments (Any One Person)	\$ 5,000
<b>2. <i>Excess/Umbrella Liability (as needed)</i></b>	
General Aggregate Limit	\$5,000,000
Products/Completed Operations Aggregate	\$5,000,000
<b>3. <i>Automobile Liability</i></b>	
Bodily Injury/Property Damage (Each Accident)	\$3,000,000
<b>4. <i>Workers' Compensation</i></b>	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each Accident \$	2,000,000
Disease Ea. Employee \$	2,000,000
Disease-Policy Limit \$	2,000,000

**NOTE: Independent contractors that do not carry Workers' Compensation are required to complete an independent contractor's form provided by the City.**

<b>5. <i>Installation Floater/Builder's Risk</i></b>	
For materials and equipment to be installed:	
Shall be written for 100% of the completed value (replacement cost basis)	
Deductible maximum is \$10,000.00	
Waiver of Subrogation applies on Installation Floater/Builder's Risk	
<b>6. <i>Contractors Pollution Liability/Environmental Impairment Liability (as needed)</i></b>	
Per Loss	\$1,000,000
Aggregate	\$1,000,000

If Contractor's work includes remediation of asbestos or mold, then the minimum limits required shall be:

Each Occurrence	\$ 5,000,000
Aggregate	\$ 5,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000
<b>7. <i>Professional Liability</i></b>	
Each Claim	\$ 1,000,000
Aggregate	\$ 1,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000

## II. ADDITIONAL INSURANCE REQUIREMENTS

**Exhibit D**  
**Attachment C – Form lease for the Main Boulder**  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises**

Failure of Contractor to fully comply with these requirements during the term of this Contract may be considered a material breach of contract and may be cause for immediate termination of this Contract at the option of the City.

- A. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis (excepting Professional Liability).
- B. Contractor shall name **“The City of Boulder, its elected and appointed officials, directors, officers, employees, agents and volunteers” as additional insured** (“Additional Insured”) where commercially available.
- C. All policies of insurance shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City.
- D. A Separation of Insureds Clause must be included in general liability policies.
- E. Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At its own expense, Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the City a new certificate of insurance showing such coverage is in force.
- F. Contractor’s insurance carrier shall possess a minimum A.M. Best’s Insurance Guide rating of A- VI.
- G. Commercial General Liability Completed Operations policies must be kept in effect for the statute of repose.
- H. Contractor’s Pollution Liability policies must be kept in effect for the statute of repose.
- I. Contractor, or Contractor’s insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer’s notification to that effect. Contractor shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.
- J. **The Certificate Holder shall be identified as: City of Boulder, P.O. Box 791, Boulder, CO 80306.**
- K. Contractor is responsible for any damage or loss to its own vehicles or equipment.
- L. The City and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.
- M. Contractor and its insurers shall waive subrogation in favor of Additional Insured parties.
- N. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this contract 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.

**Exhibit D**  
Attachment C – Form lease for the Main Boulder  
Requirements for Contractors Performing Any Improvements to the  
Premises

**C. INSURANCE TERM**

All required insurance in this Exhibit D, except builder's risk, shall remain in effect for the statute of repose.

**D. INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless the City, its directors, officers, employees, elected and appointed officials and agents from and against all claims, damages, losses, obligations, demands, assessments, fines, penalties (whether civil or criminal), liabilities, costs, expenses, bodily and other personal injuries, damage to tangible property, of any kind or nature suffered or incurred by the City directly or indirectly arising from or related to: (i) any act or omission by contractor its employees, agents, subcontractors or its representatives or other parties for which contractor may be legally responsible in the performance of contractor's obligations under this contract, or (ii) any material breach in a representation, warranty, covenant or obligation of contractor contained in this contract. . These shall include without limitation reasonable attorneys' fees and costs of defense. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section D.

**E. CITY SALES AND USE TAX**

Contractor is deemed to be the consumer of the materials used in all construction projects in Boulder. Therefore, all tangible personal property used in the construction project is subject to the current City sales or use tax pursuant to Section 3-2-2, B.R.C. 1981. The City sales tax is imposed on all sales, rentals, leases and taxable services used in the construction project. The City's construction use tax is imposed upon tangible personal property and taxable services purchased for construction use in the City whether purchased inside or outside of the City. Both non-residents and residents of the City engaged in a construction project in the City are liable to pay the City construction use tax. No credit will be given for taxes paid to another municipality. The general contractor is liable for the payment of the City's sales and use tax for the total project including tax due by its subcontractors.

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: CARNEGIE LIBRARY FOR LOCAL HISTORY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 1125 Pine St., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the City of Boulder-owned fiber optic cable and equipment identified on **Exhibit B** if any, free of charge.
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the fiber optic cable and equipment identified in Paragraph 1.a., above, free of charge.
2. Term and Termination. Landlord Leases the Premises to Tenant for a term of twenty (20) years, commencing at one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.
4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).

5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library (“**Utilities and Services**”) in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant is familiar with the physical condition of the Premises. Tenant is leasing the Premises “as is,” in its current condition, and hereby expressly disclaims all warranties.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant’s facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverage and other contract requirements set forth in **Exhibit C**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder’s risk manager.
10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an “**Event of Default**”) and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting

party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.



- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
  - e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.

17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

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**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**Exhibit A**  
**Legal Description**

East 40 feet of Lot 9, Block 150, in the City of Boulder, according to the recorded plat thereof.

City Owned Fiber Optic Cable and Equipment

DOWN

RAMP  
DOWN

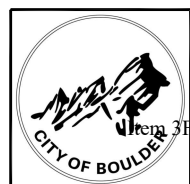
Network Equipment Room

COB Assets

-Fiber termination panel

-COB singlemode fiber cable to Pine St

**NETWORK  
EQUIPMENT  
104 SF**



# CARNEGIE LIBRARY • NETWORK EQUIPMENT ROOM

1125 PINE STREET

SCALED TO FIT



Attachment D – Form lease for the Carnegie  
Library for Local History located at 1125 Pine St.

**Exhibit C**

**Requirements for Contractors Performing Any Improvements to the  
Premises**

**I. INSURANCE POLICIES**

Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Section A. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section I 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.

Contractor shall procure and maintain and, if applicable, shall cause any subcontractor of Contractor to procure and maintain the insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the City of Boulder, Colorado (“City”). All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Contractor pursuant to this Section I for the statutes of limitation and repose. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risk that may be applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and / or prudent, maintain higher limits and / or broader coverages.

**A. Insurance Coverages**

**1. *Commercial General Liability – ISO CG 00001 or equivalent.***

***Coverage to include:***

- Premises and Operations
- Explosions, Collapse and Underground Hazards
- Personal / Advertising Injury
- Products / Completed Operations
- Liability assumed under an Insured Contract (including defense costs assumed under contract)
- Broad Form Property Damage
- Independent Contractors
- Designated Construction Projects(s) General Aggregate Limit, ISO CG 2503 (1997 Edition)
- Additional Insured—Owners, Lessees or Contractors Endorsement, ISO Form 2010 (2004 Edition or equivalent)
- Additional Insured—Owners, Lessees or Contractors Endorsement, Completed Operations, ISO CG 2037 (7/2004 Edition or equivalent)



**Exhibit C** Attachment D – Form lease for the Carnegie  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises** Library for Local History located at 1125 Pine St.

- The following exclusions are absolutely prohibited and shall not be included in Contractor's policy if applicable to the work:
  - No exclusion for "third-party action over suits" or any similar restriction of coverage applicable to claims brought against others by an employee of Contractor or its Subcontractors
  - No damage to Work performed by Contractor exclusion (CG 22 94 or similar)
  - No residential or habitation exclusion or coverage limitation
  - No exclusion for EIFS (Exterior Insulation Finish System) or any similar exclusion applicable to the Work
  - No exclusion for subsidence, which is specifically prohibited for any work involving excavation, soil stabilization, earth retention, concrete, structural steel, landscaping, waterproofing, fire protection and plumbing.
  - No exclusion for low-level radioactive isotopes

2. ***Automobile Liability including all:***

- Owned Vehicles
- Non-Owned Vehicles
- Hired Vehicles

Automobile Liability Coverage endorsements CA9948 and MCS-90 are required if Contractor is transporting any type of hazardous materials.

3. ***Excess/Umbrella Liability***

- Excess of Commercial General Liability, Automobile Liability, and Employers' Liability.
- Coverages should be as broad as primary.
- The City reserves the right to require higher limits.

4. ***Workers' Compensation***

- Statutory Benefits (Coverage A)
- Employers Liability (Coverage B)

5. ***Installation Floater***

- "All Risk"
- Faulty workmanship
- Labor costs to repair damaged work

6. ***Contractors Pollution Liability/Environmental Impairment Liability***

The City requires this coverage whenever work at issue under this contract involves potential pollution risk to the environment or losses caused by pollution conditions including but not limited to asbestos, building enclosure systems, plumbing, roofing, heating, ventilation, air conditioning, drywall, insulation, building foundations, or any work which includes Microbial Matter, Mold, Fungi, or Bacteria and any work which will involve the use of hazardous materials that may arise from the operations of Contractor (and its subcontractors) described in Contractor's bid and

**Exhibit C** Attachment D – Form lease for the Carnegie  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises** Library for Local History located at 1125 Pine St.

specifications. Policy shall cover Contractor's completed operations. Such coverage shall be on an occurrence basis and include:

- Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
- Property Damage including natural resource damages, physical injury to or destruction of tangible property including resulting loss of use, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- Defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- Cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.
- Coverage shall apply to sudden and gradual pollution conditions resulting from the escape of release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos).

**7. (If applicable) Professional Liability Policy**

For Contractor and any subcontractor of any tier that is providing any professional services, including but not limited to: design, architecture, engineering, testing, surveying, or design/build services, temporary engineering, engineered excavations and shoring systems, post-tension supply, structured steel, specialized millwork that is performance specified, roofing or waterproofing systems, curtainwall, mechanical, fire protection systems, electrical, fire alarm systems.

Contractor and/or all subcontractors providing professional services shall provide and maintain Professional Liability Insurance coverage. Coverage shall include coverage for contractual liability. Contractor and subcontractors shall maintain for the statute of repose, following completion of the project. Any erosion of insurance limits required will be reinstated to the required amounts prior to commencing the contracted work and if during the contracted period claims are made against the design professional's policy the necessary reduction of available limits will be repurchased to the contractually required amounts.

**B. Limits Required**

Contractor shall carry the following limits of liability as required below:

**1. Commercial General Liability**

General Aggregate	\$5,000,000
Products/Completed Operations	\$5,000,000
Aggregate	
Each Occurrence Limit	\$2,000,000
Personal/Advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$ 50,000

**Exhibit C** Attachment D – Form lease for the Carnegie  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises** Library for Local History located at 1125 Pine St.

Medical Payments (Any One Person)	\$ 5,000
<b>2. <i>Excess/Umbrella Liability (as needed)</i></b>	
General Aggregate	\$5,000,000
Limit	
Products/Completed Operations	\$5,000,000
Aggregate	
<b>3. <i>Automobile Liability</i></b>	
Bodily Injury/Property Damage (Each Accident)	\$3,000,000
<b>4. <i>Workers' Compensation</i></b>	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each Accident \$	2,000,000
Disease Ea. Employee	\$ 2,000,000
Disease-Policy Limit	\$ 2,000,000

**NOTE: Independent contractors that do not carry Workers' Compensation are required to complete an independent contractor's form provided by the City.**

<b>5. <i>Installation Floater/Builder's Risk</i></b>	
For materials and equipment to be installed:	
Shall be written for 100% of the completed value (replacement cost basis)	
Deductible maximum is \$10,000.00	
Waiver of Subrogation applies on Installation Floater/Builder's Risk	
<b>6. <i>Contractors Pollution Liability/Environmental Impairment Liability (as needed)</i></b>	
Per Loss	\$1,000,000
Aggregate	\$1,000,000

If Contractor's work includes remediation of asbestos or mold, then the minimum limits required shall be:

Each Occurrence	\$ 5,000,000
Aggregate	\$ 5,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000
<b>7. <i>Professional Liability</i></b>	
Each Claim	\$ 1,000,000
Aggregate	\$ 1,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000

## II. ADDITIONAL INSURANCE REQUIREMENTS

**Exhibit C** Attachment D – Form lease for the Carnegie  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises** Library for Local History located at 1125 Pine St.

Failure of Contractor to fully comply with these requirements during the term of this Contract may be considered a material breach of contract and may be cause for immediate termination of this Contract at the option of the City.

- A. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis (excepting Professional Liability).
- B. Contractor shall name **“The City of Boulder, its elected and appointed officials, directors, officers, employees, agents and volunteers” as additional insured** (“Additional Insured”) where commercially available.
- C. All policies of insurance shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City.
- D. A Separation of Insureds Clause must be included in general liability policies.
- E. Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At its own expense, Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the City a new certificate of insurance showing such coverage is in force.
- F. Contractor’s insurance carrier shall possess a minimum A.M. Best’s Insurance Guide rating of A- VI.
- G. Commercial General Liability Completed Operations policies must be kept in effect for the statute of repose.
- H. Contractor’s Pollution Liability policies must be kept in effect for the statute of repose.
- I. Contractor, or Contractor’s insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer’s notification to that effect. Contractor shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.
- J. **The Certificate Holder shall be identified as: City of Boulder, P.O. Box 791, Boulder, CO 80306.**
- K. Contractor is responsible for any damage or loss to its own vehicles or equipment.
- L. The City and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.
- M. Contractor and its insurers shall waive subrogation in favor of Additional Insured parties.
- N. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this contract 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.

**Exhibit C** Attachment D – Form lease for the Carnegie  
**Requirements for Contractors Performing Any Improvements to the**  
**Premises** Library for Local History located at 1125 Pine St.

**C. INSURANCE TERM**

All required insurance in this Exhibit C, except builder's risk, shall remain in effect for the statute of repose.

**D. INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless the City, its directors, officers, employees, elected and appointed officials and agents from and against all claims, damages, losses, obligations, demands, assessments, fines, penalties (whether civil or criminal), liabilities, costs, expenses, bodily and other personal injuries, damage to tangible property, of any kind or nature suffered or incurred by the City directly or indirectly arising from or related to: (i) any act or omission by contractor its employees, agents, subcontractors or its representatives or other parties for which contractor may be legally responsible in the performance of contractor's obligations under this contract, or (ii) any material breach in a representation, warranty, covenant or obligation of contractor contained in this contract. . These shall include without limitation reasonable attorneys' fees and costs of defense. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section D.

**E. CITY SALES AND USE TAX**

Contractor is deemed to be the consumer of the materials used in all construction projects in Boulder. Therefore, all tangible personal property used in the construction project is subject to the current City sales or use tax pursuant to Section 3-2-2, B.R.C. 1981. The City sales tax is imposed on all sales, rentals, leases and taxable services used in the construction project. The City's construction use tax is imposed upon tangible personal property and taxable services purchased for construction use in the City whether purchased inside or outside of the City. Both non-residents and residents of the City engaged in a construction project in the City are liable to pay the City construction use tax. No credit will be given for taxes paid to another municipality. The general contractor is liable for the payment of the City's sales and use tax for the total project including tax due by its subcontractors.

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: GEORGE REYNOLDS BRANCH LIBRARY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is improved with a building (“**Premises**”). Landlord hereby leases and demises to Tenant the Premises located at 3595 Table Mesa Dr., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for the City of Boulder-owned roof-mounted traffic control communication antenna; and City of Boulder-owned fiber optic cable and the IT BRAN fiber optic cable and equipment identified on **Exhibit B** if any, free of charge.
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the communications antenna and fiber optic cable and equipment identified in paragraph 1.a, above, free of charge.
2. Term and Termination. Landlord Leases the Premises to Tenant for a term of twenty (20) years, commencing at one minute after midnight on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and terminating one minute after midnight on the \_\_\_\_\_ day of \_\_\_\_\_, 2045 (the “**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.
4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).

5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library (“**Utilities and Services**”) in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant is familiar with the physical condition of the Premises. Tenant is leasing the Premises “as is,” in its current condition, and hereby expressly disclaims all warranties.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed 4 months and work with and assist Tenant’s facilities maintenance personnel. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Unless otherwise agreed to by the Landlord, Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverage and other contract requirements set forth in **Exhibit C**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and City of Boulder’s risk manager.
10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an “**Event of Default**”) and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting



party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant's Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called "**Laws**"). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant's Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant's use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.
- c. Covered Property. For the purposes of this Section, the Premises shall include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.

- d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
  - e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.
15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.

17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

[The remainder of this page is intentionally blank.]

**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

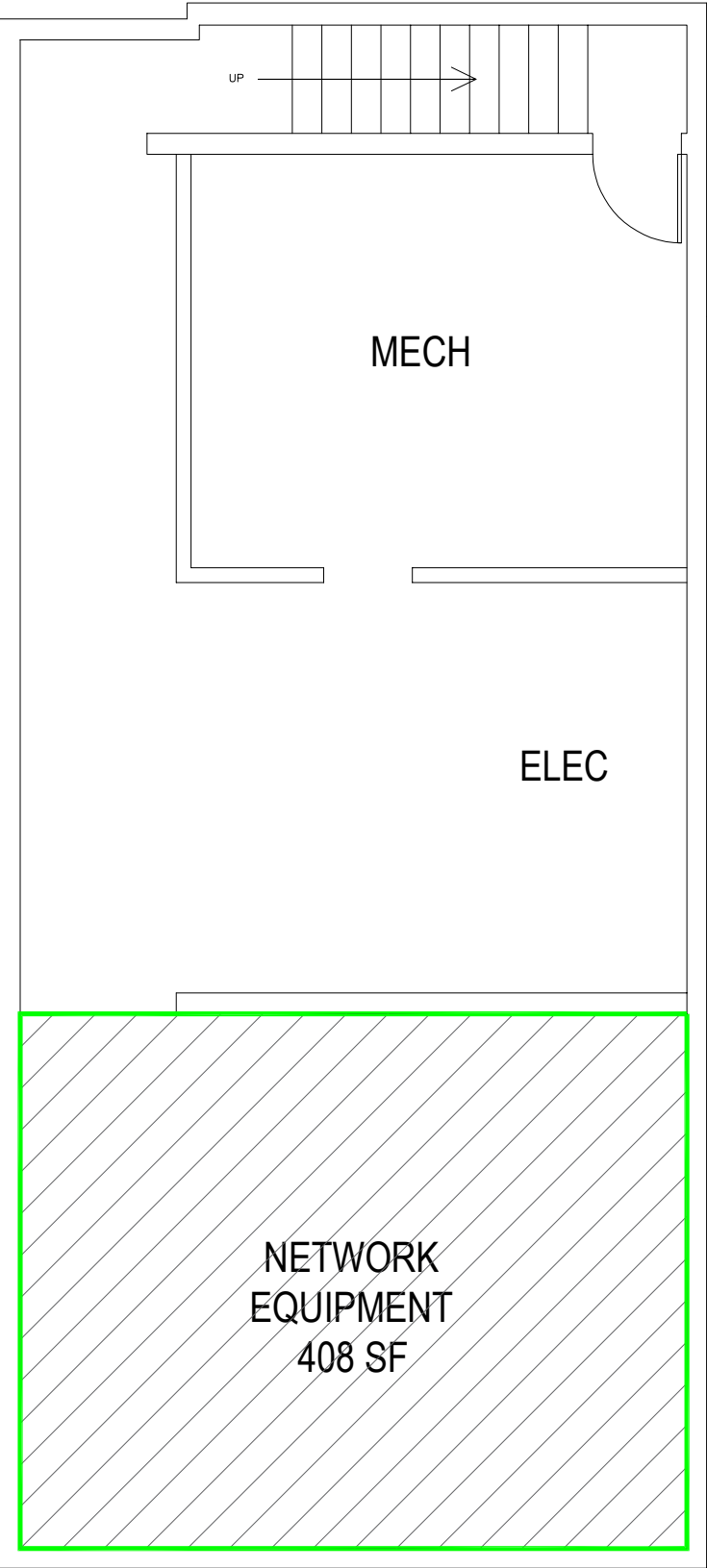
APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

Beginning at a point which is the intersection of the Northerly line of Table Mesa Drive and the Westerly line of Stanford Avenue at the most Easterly corner of Outlot "B" Table Mesa Addition, a subdivision of a part of the City of Boulder, County of Boulder, State of Colorado in the NW1/4 Section 8, T.1S, R.70W of the 6th P.M. Thence N 29°13'10" W. 133.43 feet along the Westerly line of said Stanford Avenue: Thence at right angles to said Westerly line of Stanford Avenue S 60°46'50" W 225 feet on a line parallel to the Northerly line of Table Mesa Drive: Thence S 29°13'10" E 133.43 feet on a line parallel to the Westerly line of Stanford Avenue to a point on the Northerly line of Table Mesa Drive: Thence N 60°46'50" E 225 Feet along said Northerly line of Table Mesa Drive to the point of Beginning: except that portion at the most Easterly corner of said Outlot "B" dedicated by a ten foot corner radius.

**Exhibit B**  
**Portions of the Premises Retained by Landlord for Specific Purposes**

- Basement Network Equipment Room
- COB Assets
- Rack-mounted Ethernet switch, UPS, and fiber termination panels
  - 19-inch wall mounted equipment rack
  - COB singlemode fiber cables to Table Mesa Dr:
  - Lateral cable from BRAN fiber network
  - Lateral cable from BVSD fiber network
  - Lateral cable from COB Community Broadband fiber network
  - Fiber patch cables
  - Copper cabling to roof-mounted COB video camera for Bear Creek
  - Copper cabling to Table Mesa Dr for COB traffic control systems
- BPLD infrastructure
- 8 RU in existing 2-post 19-inch floor-mounted equipment rack for COB Ethernet switch, UPS, and fiber termination panels
  - 120V, 20A electrical outlet for COB UPS





## I. INSURANCE POLICIES

Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Section A. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section I 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.

Contractor shall procure and maintain and, if applicable, shall cause any subcontractor of Contractor to procure and maintain the insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the City of Boulder, Colorado (“City”). All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Contractor pursuant to this Section I for the statutes of limitation and repose. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risk that may be applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and / or prudent, maintain higher limits and / or broader coverages.

### A. Insurance Coverages

#### 1. ***Commercial General Liability – ISO CG 00001 or equivalent.***

##### ***Coverage to include:***

- Premises and Operations
- Explosions, Collapse and Underground Hazards
- Personal / Advertising Injury
- Products / Completed Operations
- Liability assumed under an Insured Contract (including defense costs assumed under contract)
- Broad Form Property Damage
- Independent Contractors
- Designated Construction Projects(s) General Aggregate Limit, ISO CG 2503 (1997 Edition)
- Additional Insured—Owners, Lessees or Contractors Endorsement, ISO Form 2010 (2004 Edition or equivalent)
- Additional Insured—Owners, Lessees or Contractors Endorsement, Completed Operations, ISO CG 2037 (7/2004 Edition or equivalent)

- The following exclusions are absolutely prohibited and shall not be included in Contractor's policy if applicable to the work:
  - No exclusion for "third-party action over suits" or any similar restriction of coverage applicable to claims brought against others by an employee of Contractor or its Subcontractors
  - No damage to Work performed by Contractor exclusion (CG 22 94 or similar)
  - No residential or habitation exclusion or coverage limitation
  - No exclusion for EIFS (Exterior Insulation Finish System) or any similar exclusion applicable to the Work
  - No exclusion for subsidence, which is specifically prohibited for any work involving excavation, soil stabilization, earth retention, concrete, structural steel, landscaping, waterproofing, fire protection and plumbing.
  - No exclusion for low-level radioactive isotopes

2. ***Automobile Liability including all:***

- Owned Vehicles
- Non-Owned Vehicles
- Hired Vehicles

Automobile Liability Coverage endorsements CA9948 and MCS-90 are required if Contractor is transporting any type of hazardous materials.

3. ***Excess/Umbrella Liability***

- Excess of Commercial General Liability, Automobile Liability, and Employers' Liability.
- Coverages should be as broad as primary.
- The City reserves the right to require higher limits.

4. ***Workers' Compensation***

- Statutory Benefits (Coverage A)
- Employers Liability (Coverage B)

5. ***Installation Floater***

- "All Risk"
- Faulty workmanship
- Labor costs to repair damaged work

6. ***Contractors Pollution Liability/Environmental Impairment Liability***

The City requires this coverage whenever work at issue under this contract involves potential pollution risk to the environment or losses caused by pollution conditions including but not limited to asbestos, building enclosure systems, plumbing, roofing, heating, ventilation, air conditioning, drywall, insulation, building foundations, or any work which includes Microbial Matter, Mold, Fungi, or Bacteria and any work which will involve the use of hazardous materials that may arise from the operations of Contractor (and its subcontractors) described in Contractor's bid and

specifications. Policy shall cover Contractor's completed operations. Such coverage shall be on an occurrence basis and include:

- Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
- Property Damage including natural resource damages, physical injury to or destruction of tangible property including resulting loss of use, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- Defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- Cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.
- Coverage shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos).

**7. (If applicable) Professional Liability Policy**

For Contractor and any subcontractor of any tier that is providing any professional services, including but not limited to: design, architecture, engineering, testing, surveying, or design/build services, temporary engineering, engineered excavations and shoring systems, post-tension supply, structured steel, specialized millwork that is performance specified, roofing or waterproofing systems, curtainwall, mechanical, fire protection systems, electrical, fire alarm systems.

Contractor and/or all subcontractors providing professional services shall provide and maintain Professional Liability Insurance coverage. Coverage shall include coverage for contractual liability. Contractor and subcontractors shall maintain for the statute of repose, following completion of the project. Any erosion of insurance limits required will be reinstated to the required amounts prior to commencing the contracted work and if during the contracted period claims are made against the design professional's policy the necessary reduction of available limits will be repurchased to the contractually required amounts.

**B. Limits Required**

Contractor shall carry the following limits of liability as required below:

**1. Commercial General Liability**

General Aggregate	\$5,000,000
Products/Completed Operations	\$5,000,000
Aggregate	
Each Occurrence Limit	\$2,000,000
Personal/Advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$ 50,000

Medical Payments (Any One Person)	\$ 5,000
<b>2. <i>Excess/Umbrella Liability (as needed)</i></b>	
General Aggregate Limit	\$5,000,000
Products/Completed Operations Aggregate	\$5,000,000
<b>3. <i>Automobile Liability</i></b>	
Bodily Injury/Property Damage (Each Accident)	\$3,000,000
<b>4. <i>Workers' Compensation</i></b>	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each Accident \$	2,000,000
Disease Ea. Employee	\$ 2,000,000
Disease-Policy Limit \$	2,000,000

**NOTE: Independent contractors that do not carry Workers' Compensation are required to complete an independent contractor's form provided by the City.**

<b>5. <i>Installation Floater/Builder's Risk</i></b>	
For materials and equipment to be installed:	
Shall be written for 100% of the completed value (replacement cost basis)	
Deductible maximum is \$10,000.00	
Waiver of Subrogation applies on Installation Floater/Builder's Risk	
<b>6. <i>Contractors Pollution Liability/Environmental Impairment Liability (as needed)</i></b>	
Per Loss	\$1,000,000
Aggregate	\$1,000,000
If Contractor's work includes remediation of asbestos or mold, then the minimum limits required shall be:	
Each Occurrence	\$ 5,000,000
Aggregate	\$ 5,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000
<b>7. <i>Professional Liability</i></b>	
Each Claim	\$ 1,000,000
Aggregate	\$ 1,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000

## II. ADDITIONAL INSURANCE REQUIREMENTS

Failure of Contractor to fully comply with these requirements during the term of this Contract may be considered a material breach of contract and may be cause for immediate termination of this Contract at the option of the City.

- A. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis (excepting Professional Liability).
- B. Contractor shall name **“The City of Boulder, its elected and appointed officials, directors, officers, employees, agents and volunteers” as additional insured** (“Additional Insured”) where commercially available.
- C. All policies of insurance shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City.
- D. A Separation of Insureds Clause must be included in general liability policies.
- E. Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At its own expense, Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the City a new certificate of insurance showing such coverage is in force.
- F. Contractor’s insurance carrier shall possess a minimum A.M. Best’s Insurance Guide rating of A- VI.
- G. Commercial General Liability Completed Operations policies must be kept in effect for the statute of repose.
- H. Contractor’s Pollution Liability policies must be kept in effect for the statute of repose.
- I. Contractor, or Contractor’s insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer’s notification to that effect. Contractor shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.
- J. **The Certificate Holder shall be identified as: City of Boulder, P.O. Box 791, Boulder, CO 80306.**
- K. Contractor is responsible for any damage or loss to its own vehicles or equipment.
- L. The City and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.
- M. Contractor and its insurers shall waive subrogation in favor of Additional Insured parties.
- N. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this contract 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.

**C. INSURANCE TERM**

All required insurance in this Exhibit D, except builder's risk, shall remain in effect for the statute of repose.

**D. INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless the City, its directors, officers, employees, elected and appointed officials and agents from and against all claims, damages, losses, obligations, demands, assessments, fines, penalties (whether civil or criminal), liabilities, costs, expenses, bodily and other personal injuries, damage to tangible property, of any kind or nature suffered or incurred by the City directly or indirectly arising from or related to: (i) any act or omission by contractor its employees, agents, subcontractors or its representatives or other parties for which contractor may be legally responsible in the performance of contractor's obligations under this contract, or (ii) any material breach in a representation, warranty, covenant or obligation of contractor contained in this contract. . These shall include without limitation reasonable attorneys' fees and costs of defense. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section D.

**E. CITY SALES AND USE TAX**

Contractor is deemed to be the consumer of the materials used in all construction projects in Boulder. Therefore, all tangible personal property used in the construction project is subject to the current City sales or use tax pursuant to Section 3-2-2, B.R.C. 1981. The City sales tax is imposed on all sales, rentals, leases and taxable services used in the construction project. The City's construction use tax is imposed upon tangible personal property and taxable services purchased for construction use in the City whether purchased inside or outside of the City. Both non-residents and residents of the City engaged in a construction project in the City are liable to pay the City construction use tax. No credit will be given for taxes paid to another municipality. The general contractor is liable for the payment of the City's sales and use tax for the total project including tax due by its subcontractors.

**LIBRARY LEASE**

**CITY OF BOULDER**

**“LANDLORD”**

**WITH**

**BOULDER PUBLIC LIBRARY DISTRICT**

**“TENANT”**

**BUILDING: NORTH BOULDER BRANCH LIBRARY**

**DATED: \_\_\_\_\_**

## LIBRARY LEASE

THIS LIBRARY LEASE (“**Lease**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2023, (“**Effective Date**”) by and between the City of Boulder, a Colorado home rule municipality, (“**Landlord**”), and the Boulder Public Library District (“**Tenant**”). In consideration of the payment of Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to this Lease (“**Additional Rent**”); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in this Lease. Landlord and Tenant covenant and agree as follows:

1. Premises. Landlord is the owner of certain real estate legally described as set forth in **Exhibit A**, Boulder County, Colorado (“**Real Estate**”). The Real Estate is under construction and will be subdivided with an area including the library building, parking lot and play area (“**Premises**”), generally as depicted on **Exhibit B**. Landlord hereby leases and demises to Tenant the Premises located at 4500 13th St., Boulder, Colorado as of the date first provided under Paragraph 2., Term and Termination.
  - a. Landlord retains access to and excludes from the Premises that portion that is necessary and currently utilized for City of Boulder-owned fiber optic cable and equipment identified on **Exhibit C** (“**City Technology Assets**”).
  - b. Tenant will provide access cards or keys necessary for the 24-hour access to and operation of the City of Boulder-owned fiber optic network and equipment, free of charge.
2. Term and Termination. Landlord will release possession of the Premises to Tenant by notice in writing within ten (10) days of receipt of a certificate of occupancy for the library building and installation of all fixtures, personal property, and other installations described in the Final Intergovernmental Agreement between the parties dated \_\_\_\_\_. Landlord leases the Premises to Tenant for a term of approximately twenty (20) years, commencing upon release of possession, and terminating one minute after midnight on the 1st day of January 2045 (“**Term**”), unless sooner terminated in accordance with the provisions of this Lease.
  - a. Landlord and Tenant agree to meet in no less than five-year intervals to determine whether this Lease should be terminated by mutual agreement.
  - b. Tenant has the absolute right to terminate this Lease on its anniversary date every third year without consequences upon ninety (90) days written notice to Landlord.
3. Rent. Tenant shall pay to Landlord for the use and occupancy of the Premises during the Term a fixed annual rental rate of One Dollar (\$1.00) (“**Rent**”), payable by Tenant in a lump sum payment of Twenty Dollars (\$20.00) on the Effective Date hereof the receipt and sufficiency of which is hereby acknowledged.



4. Use. The Premises shall be used for the sole purpose of a public library and associated activities (which may include subleases to nonprofit entities).
5. Utility Charges. Tenant shall establish accounts for all heat, light, power, telephone, water, sewerage, janitorial services, garbage disposal, and other utilities and services it deems necessary for the operation of a public library (“**Utilities and Services**”) in its own name, and shall pay directly to the appropriate supplier, the cost of all Utilities and Services as the same become due and payable.
6. Condition of Premises. Tenant will review the physical condition of the Premises prior to taking possession. All contractor, manufacturers, materialman’s and laborer’s warranties, guarantees, and continuing contract rights will be assigned to Tenant at the commencement of the Term, to the extent lawfully permitted in such warranties, guarantees, and continuing contract rights.
7. Maintenance and Repairs. Landlord will provide routine maintenance and repair services and on-call services for a period not to exceed four (4) months and work with and assist Tenant’s facilities maintenance personnel to enforce any warranties or guarantees assigned or to be assigned under the preceding paragraph. Tenant shall reimburse Landlord for all such services at cost. Thereafter, Tenant shall have sole maintenance and repair responsibility for the interior and exterior of the Premises, including all costs and expenses relative thereto. Tenant shall promptly and diligently repair, restore, replace, or remedy all damage to or destruction of all or any part of the Premises. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises, all such matters being the sole duty and responsibility of Tenant. Tenant may also demolish, rebuild, reconfigure and/or remodel any interior spaces of the Premises without consultation with Landlord so long as Tenant deems it necessary or useful for its purposes. Exterior demolition, reconstruction or remodeling must be approved by Landlord. Tenant shall require any contractor performing work on the Premises to procure and maintain at its own cost the insurance coverages and other contract requirements set forth in **Exhibit D**.
8. Injury or Damage. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, fixtures, equipment, collections, or other effects in the Premises, nor shall the Landlord be liable for any injury or damage, either proximate or remote, occurring through or caused by any repairs, alterations, or accident occurring in or to the Premises, nor shall Landlord be liable for any injury or damage occasioned by defective electrical wiring or the breakage or stoppage of the plumbing or sewerage upon the Premises, whether such breakage or stoppage results from freezing, flood, or other casualty.
9. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the city manager, the city attorney, and the City of Boulder’s risk manager.

10. Default. Tenant shall be in default of this Lease if at any time the Premises cease to be used for public library purposes. Together with the foregoing, if either party defaults in the performance of any of its respective covenants, conditions, agreements, or undertakings contained in this Lease (each, an “**Event of Default**”) and such Event of Default continues for thirty (30) days (subject to a reasonable extension if a cure is not practical during such period and if the defaulting party has commenced cure and is diligently pursuing same) after written notice of such default from the non-defaulting party, then the non-defaulting party may cause such default to be remedied in such manner and by such means as the non-defaulting party may deem proper, and the cost and expense thereof paid or incurred, including reasonable attorney fees and costs, shall be due and payable within thirty (30) days of presentment of an invoice for such services. Notwithstanding the foregoing, the parties shall have the option to seek all and any remedy available at law or in equity.

11. Environmental Compliance.

- a. Tenant’s Responsibility. Tenant covenants and agrees that the Premises will, at all times during its use or occupancy thereof, be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Premises, pertaining to environmental matters, or regulating, prohibiting, or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended (all hereafter collectively called “**Laws**”). Tenant shall not cause or permit any hazardous material to be brought upon, kept, or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees, except any hazardous material which is necessary for the usual and customary operation of a public library.
- b. Tenant’s Liability. If Tenant breaches the obligations stated in the preceding paragraph, or if the presence of hazardous materials otherwise arises out of Tenant’s use of the Premises, Tenant shall be solely responsible for all costs incurred in connection with any investigation of site conditions and any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency. Without limiting the foregoing, any hazardous material is released on the Premises, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Premises to the condition existing prior to the introduction of such hazardous material. Except to any extent prohibited by law, Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant’s failure to comply with this Section; including, but not limited to: (i) the cost of bringing the Premises into compliance with all laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises have been brought into compliance with all Laws; and, (iii) the reasonable fees and expenses of Landlord’s

attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section.

- c. Covered Property. For the purposes of this Section, the Premises include the Real Estate covered by this Lease, all improvements placed on the Premises by Tenant, and all personal property and fixtures located on or used in connection with the Premises.
  - d. Liability After Termination or Expiration of Lease. Landlord and its engineers, technicians, and consultants (collectively, “**Auditors**”) may, from time to time as Landlord deems appropriate, during Tenant’s usual business hours and after reasonable notice to Tenant, conduct periodic tests and examinations (“**Audits**”) of the Premises to confirm and monitor Tenant’s compliance with this Section. Such Audits shall be conducted in such manner as to minimize the interference with Tenant’s permitted use; however, in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant’s compliance with this Section. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section, in which case the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per Lease year), shall be paid for by Tenant within fifteen (15) days of receipt of invoices from Landlord.
  - e. Liability After Termination of Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease and shall continue for so long as the parties hereto and their successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the Tenant has agreed to indemnify the Landlord under this Section.
12. Relationship. The parties’ relationship is not that of joint venturers or partners but is a relationship of landlord and tenant as defined in this Lease.
13. CGIA. Each party to this Lease is a “public entity” under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended (“**CGIA**”). The parties acknowledge and agree that the Landlord and the Tenant, their respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities and protections provided by the CGIA.
14. Liens. The Tenant will not permit or allow any mechanic’s, materialman’s, or other lien to be placed against any of the Premises in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the Tenant. If any such lien is recorded, the Tenant will cause the same to be released of record.

15. Responsibility. Tenant will be responsible for the acts, omissions, or conduct of its own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of its obligations under this Lease or with respect to its respective use of the Premises.
16. Compliance with Laws. Tenant shall cause all activities within the Premises to be performed in compliance with all applicable laws, rules, regulations, orders and other requirements of any public jurisdiction.
17. Appropriations. Pursuant to § 29-1-110, C.R.S., any financial obligations of the parties express or implied by this Lease are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each party's respective governing body.
18. Notice of Communications. Any notice pursuant to the terms and conditions of this Lease shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and District Manager  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

**To the City:**

City of Boulder  
Attn: City Manager  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3090  
and: CMOAdmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
Attn: City Attorney  
P. O. Box 791  
Boulder, CO 80306  
(303) 441-3020  
and: CAOAdmin@bouldercolorado.gov

19. Integration and Entire Agreement. This Lease represents the entire agreement between the parties with respect to this Lease and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Lease, all of which are merged herein.
20. Counterparts. This Lease may be executed in several counterparts, or electronic PDF, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
21. Recording. Landlord and Tenant agree that this Lease will be recorded in the Public Records of Boulder County, Colorado. All of the provisions of this Lease shall be deemed to run with the land and shall be construed to be “conditions” as well as “covenants” as though the words specifically expressing or imparting conditions and covenants were used in each separate provision.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date set forth above.

[Signature pages follow]

**TENANT:**

BOULDER PUBLIC LIBRARY DISTRICT

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Katharine (Joni) Teter as President of the Boulder Public Library District Board of Trustees.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

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**LANDLORD:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**Exhibit A**  
**Legal Description**

(To be attached once subdivision is completed and a legal description prepared)



# NORTH BOULDER BRANCH LIBRARY

PROJECT  
North Boulder Branch Library  
4550 13th Street  
Boulder, CO 80304

© 2019 WORK Architecture Company

OWNER  
City of Boulder  
1777 Broadway  
Boulder, CO 80306

ARCHITECT  
WORK Architecture Company, PLLC  
156 Ludlow Street, 3rd Floor  
New York, NY 10002  
Tel: 212-228-1353 Fax: 212-228-1674  
Email: office@work.ac

STRUCTURAL ENGINEERS  
Studio NYL  
2985 Baseline Road, Suite 314  
Boulder, CO 80303  
Tel: 303-556-3145 Fax: 303-444-8536  
Email: jlineham@studionyl.com

MEP ENGINEERS  
Integral Group  
427 13th Street  
Oakland, CA 94612  
Tel: 510-663-2070

CIVIL ENGINEERING CONSULTANT  
JVA, Incorporated  
1319 Spruce Street  
Boulder, CO 80302  
Tel: 303-444-1951 Fax: 303-444-1957  
Email: SPROCOPI@JVAJVA.COM

LIGHTING CONSULTANT  
Tillotson Design Associates  
40 Worth Street, Room 703  
New York, NY 10013  
Tel: 212-676-7760

LANDSCAPE ARCHITECTURE CONSULTANT  
JB Fieldworks  
2428 20th Street  
Boulder, CO 80304  
Tel: 734-626-5467



SEAL:

REVISIONS:

NO.	DESCRIPTION:	DATE:
01	SITE PLAN REVIEW	07/08/2019
02	SR RESUBMITTAL #1	10/21/2019
03	SR RESUBMITTAL #2	12/23/2019
04	100% DD	03/31/2020
05	SR RESUBMITTAL #3	05/11/2020
06	SR RESUBMITTAL #4	06/11/2020
07	TEC DOCS REVIEW	09/14/2020
08	TEC DOCS RESUBMITTAL #2	11/02/2020
09	TEC DOCS RESUBMITTAL #3	01/25/2021
10	ISSUED FOR TENDER SET	10/30/2020
11	TEC DOCS CORRECTIONS	02/18/2021
12	PERMIT SUBMISSION #1	02/25/2021
13	100% SD REDESIGN	11/12/2021
14	SR MINOR MOD #1	12/30/2021
15	TEC DOCS CORRECTIONS #2	04/19/2022

TECHNICAL DOCUMENT SUBMITTAL:

TEC2020-00031

APPLICATION NUMBERS:  
LUR2019-00043  
LUR2019-00048

DRAWING TITLE:

UTILITY PLAN

DRAWN BY: MGR/JIP

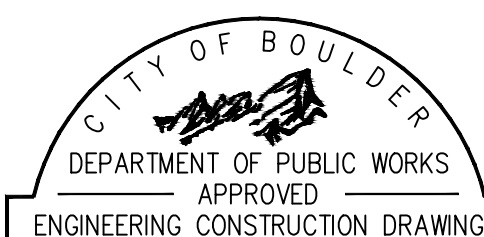
CHECK BY: SBP

SCALE: AS NOTED

DATE: 02/18/2021

DRAWING NUMBER:

C2.0



ENGINEERING REVIEW MANAGER

DATE:

APPROVAL EXPIRES ONE YEAR AFTER DATE ABOVE

CITY OF BOULDER

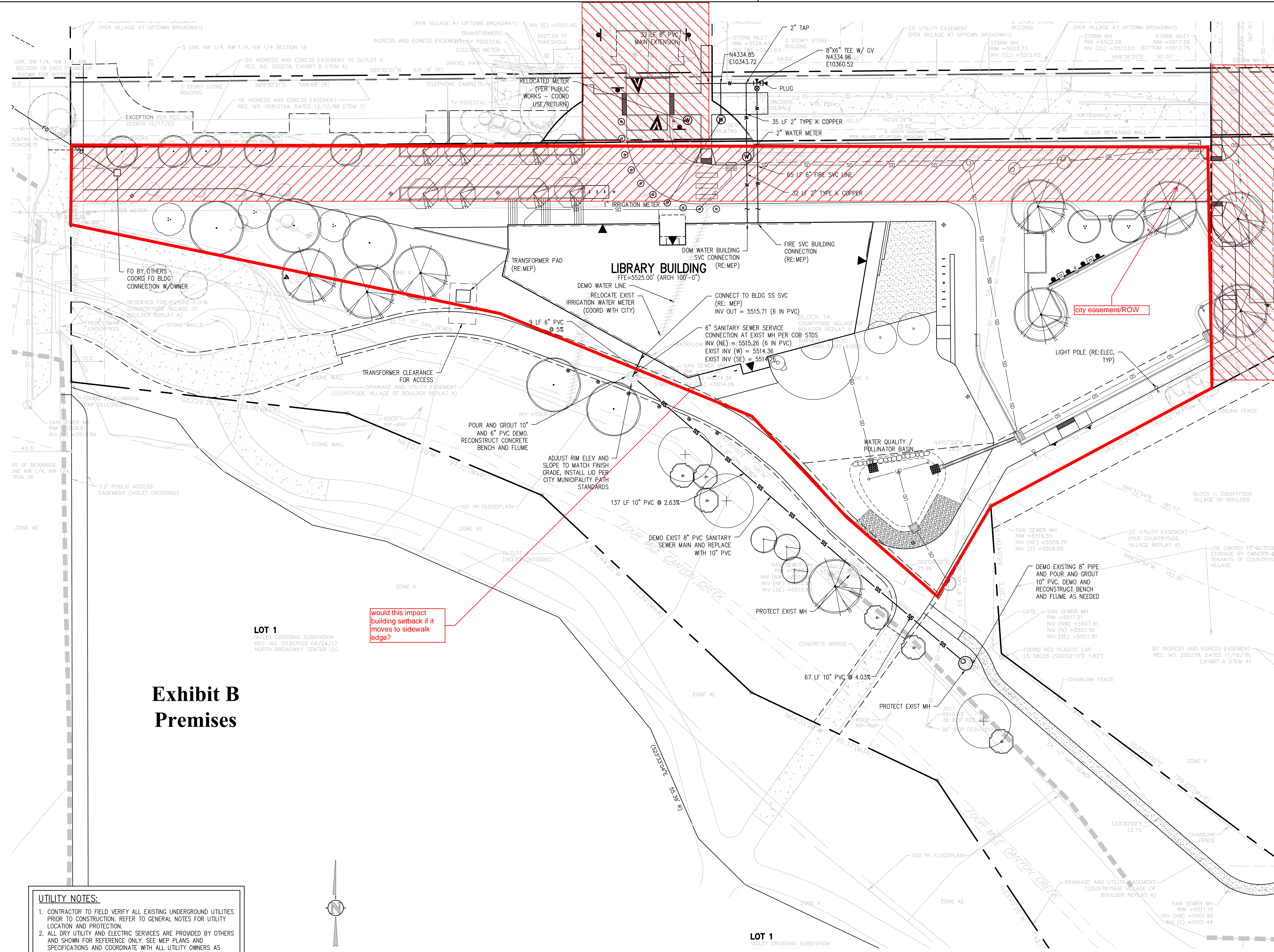
PUBLIC WORKS DEPARTMENT

RECOMMENDATION FOR APPROVAL

WATER/SEWER

TRANSPORTATION

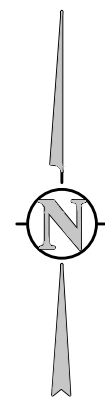
DRAINAGE



## Exhibit B Premises

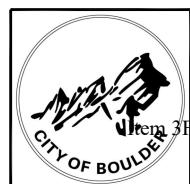
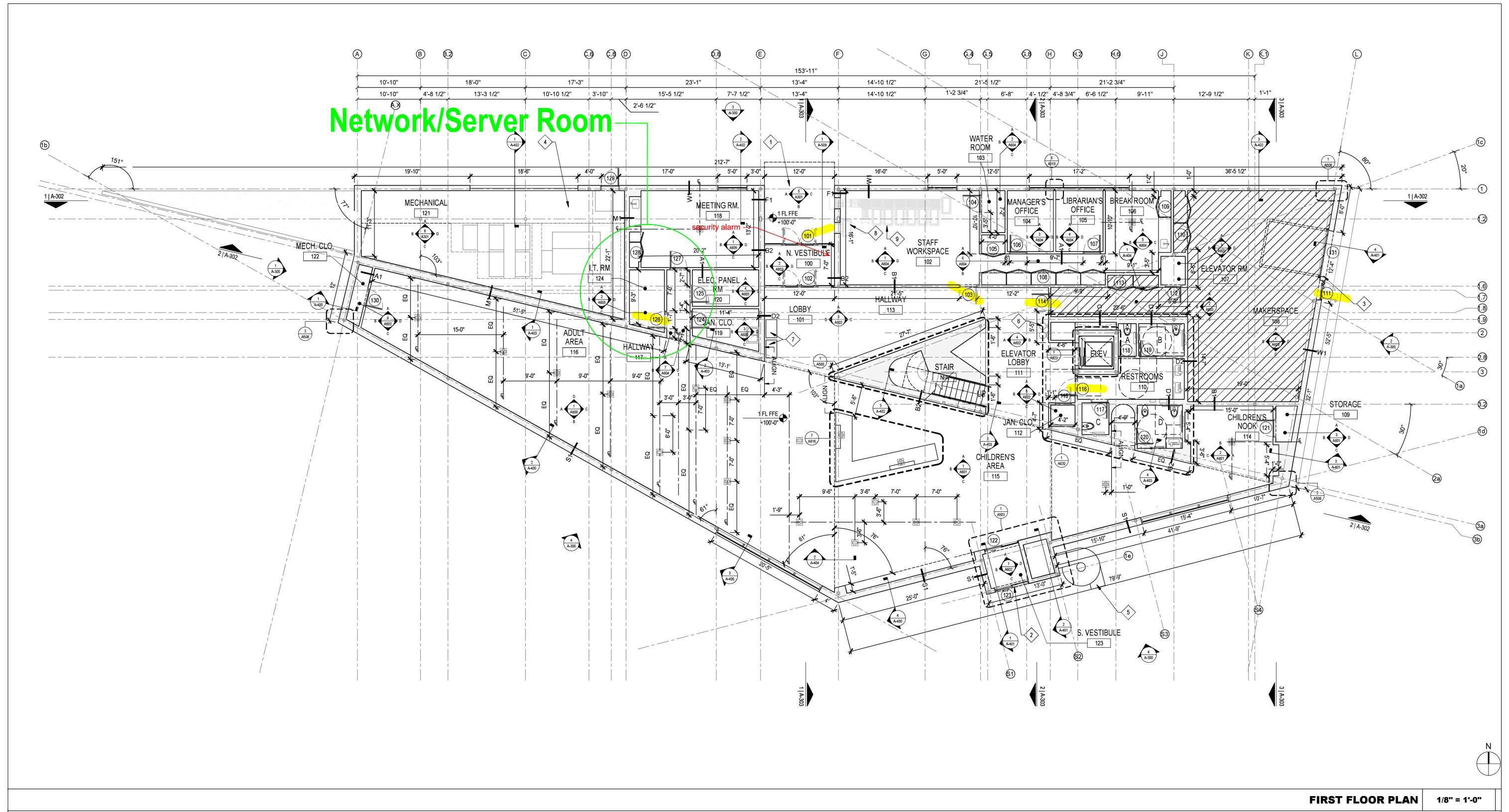
### UTILITY NOTES:

1. CONTRACTOR TO FIELD VERIFY ALL EXISTING UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. REFER TO GENERAL NOTES FOR UTILITY LOCATION AND PROTECTION.
2. ALL DRY UTILITY AND ELECTRIC SERVICES ARE PROVIDED BY OTHERS AND SHOWN FOR REFERENCE ONLY. SEE MEP PLANS AND SPECIFICATIONS AND COORDINATE WITH ALL UTILITY OWNERS AS NEEDED.
3. CONTRACTOR TO MARK ALL UTILITY STUBS WITH MARKERS.



SCALE IN FEET  
20 0 20 40



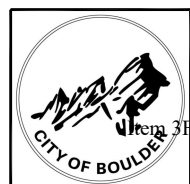
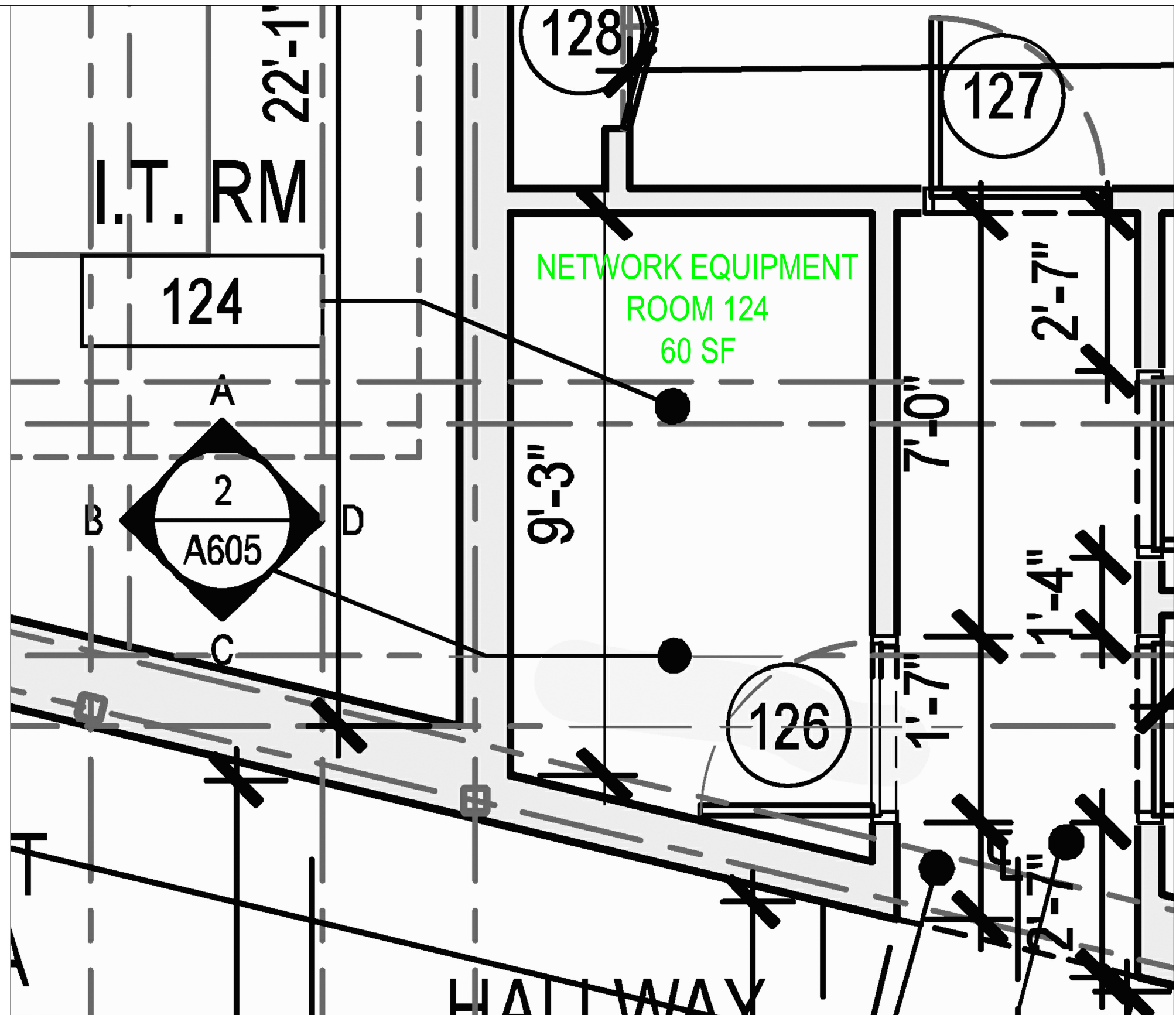


# NORTH BOULDER LIBRARY • NETWORK ROOM LOCATION

4500 13th STREET



Network Equipment Room 124  
COB Assets  
-Fiber termination panel  
-COB singlemode fiber cable to Broadway



## I. INSURANCE POLICIES

Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Section A. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section I 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.

Contractor shall procure and maintain and, if applicable, shall cause any subcontractor of Contractor to procure and maintain the insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the City of Boulder, Colorado (“City”). All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Contractor pursuant to this Section I for the statutes of limitation and repose. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risk that may be applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and / or prudent, maintain higher limits and / or broader coverages.

### A. Insurance Coverages

#### 1. ***Commercial General Liability – ISO CG 00001 or equivalent.*** ***Coverage to include:***

- Premises and Operations
- Explosions, Collapse and Underground Hazards
- Personal / Advertising Injury
- Products / Completed Operations
- Liability assumed under an Insured Contract (including defense costs assumed under contract)
- Broad Form Property Damage
- Independent Contractors
- Designated Construction Projects(s) General Aggregate Limit, ISO CG 2503 (1997 Edition)
- Additional Insured—Owners, Lessees or Contractors Endorsement, ISO Form 2010 (2004 Edition or equivalent)
- Additional Insured—Owners, Lessees or Contractors Endorsement, Completed Operations, ISO CG 2037 (7/2004 Edition or equivalent)

- The following exclusions are absolutely prohibited and shall not be included in Contractor's policy if applicable to the work:
  - No exclusion for "third-party action over suits" or any similar restriction of coverage applicable to claims brought against others by an employee of Contractor or its Subcontractors
  - No damage to Work performed by Contractor exclusion (CG 22 94 or similar)
  - No residential or habitation exclusion or coverage limitation
  - No exclusion for EIFS (Exterior Insulation Finish System) or any similar exclusion applicable to the Work
  - No exclusion for subsidence, which is specifically prohibited for any work involving excavation, soil stabilization, earth retention, concrete, structural steel, landscaping, waterproofing, fire protection and plumbing.
  - No exclusion for low-level radioactive isotopes

2. ***Automobile Liability including all:***

- Owned Vehicles
- Non-Owned Vehicles
- Hired Vehicles

Automobile Liability Coverage endorsements CA9948 and MCS-90 are required if Contractor is transporting any type of hazardous materials.

3. ***Excess/Umbrella Liability***

- Excess of Commercial General Liability, Automobile Liability, and Employers' Liability.
- Coverages should be as broad as primary.
- The City reserves the right to require higher limits.

4. ***Workers' Compensation***

- Statutory Benefits (Coverage A)
- Employers Liability (Coverage B)

5. ***Installation Floater***

- "All Risk"
- Faulty workmanship
- Labor costs to repair damaged work

6. ***Contractors Pollution Liability/Environmental Impairment Liability***

The City requires this coverage whenever work at issue under this contract involves potential pollution risk to the environment or losses caused by pollution conditions including but not limited to asbestos, building enclosure systems, plumbing, roofing, heating, ventilation, air conditioning, drywall, insulation, building foundations, or any work which includes Microbial Matter, Mold, Fungi, or Bacteria and any work which will involve the use of hazardous materials that may arise from the operations of Contractor (and its subcontractors) described in Contractor's bid and

specifications. Policy shall cover Contractor's completed operations. Such coverage shall be on an occurrence basis and include:

- Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
- Property Damage including natural resource damages, physical injury to or destruction of tangible property including resulting loss of use, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- Defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- Cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.
- Coverage shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos).

**7. (If applicable) Professional Liability Policy**

For Contractor and any subcontractor of any tier that is providing any professional services, including but not limited to: design, architecture, engineering, testing, surveying, or design/build services, temporary engineering, engineered excavations and shoring systems, post-tension supply, structured steel, specialized millwork that is performance specified, roofing or waterproofing systems, curtainwall, mechanical, fire protection systems, electrical, fire alarm systems.

Contractor and/or all subcontractors providing professional services shall provide and maintain Professional Liability Insurance coverage. Coverage shall include coverage for contractual liability. Contractor and subcontractors shall maintain for the statute of repose, following completion of the project. Any erosion of insurance limits required will be reinstated to the required amounts prior to commencing the contracted work and if during the contracted period claims are made against the design professional's policy the necessary reduction of available limits will be repurchased to the contractually required amounts.

**B. Limits Required**

Contractor shall carry the following limits of liability as required below:

**1. Commercial General Liability**

General Aggregate	\$5,000,000
Products/Completed Operations	\$5,000,000
Aggregate	
Each Occurrence Limit	\$2,000,000
Personal/Advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$ 50,000

**Exhibit D**  
Attachment F – Form lease for the new North Boulder  
**Requirements for Contractors Performing Any Improvements to the Premises**

Medical Payments (Any One Person)	\$ 5,000
<b>2. <i>Excess/Umbrella Liability (as needed)</i></b>	
General Aggregate	\$5,000,000
Limit	
Products/Completed Operations	\$5,000,000
Aggregate	
<b>3. <i>Automobile Liability</i></b>	
Bodily Injury/Property Damage (Each Accident)	\$3,000,000
<b>4. <i>Workers' Compensation</i></b>	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each Accident \$	2,000,000
Disease Ea. Employee	\$ 2,000,000
Disease-Policy Limit \$	2,000,000

**NOTE: Independent contractors that do not carry Workers' Compensation are required to complete an independent contractor's form provided by the City.**

<b>5. <i>Installation Floater/Builder's Risk</i></b>	
For materials and equipment to be installed:	
Shall be written for 100% of the completed value (replacement cost basis)	
Deductible maximum is \$10,000.00	
Waiver of Subrogation applies on Installation Floater/Builder's Risk	
<b>6. <i>Contractors Pollution Liability/Environmental Impairment Liability (as needed)</i></b>	
Per Loss	\$1,000,000
Aggregate	\$1,000,000

If Contractor's work includes remediation of asbestos or mold, then the minimum limits required shall be:

Each Occurrence	\$ 5,000,000
Aggregate	\$ 5,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000
<b>7. <i>Professional Liability</i></b>	
Each Claim	\$ 1,000,000
Aggregate	\$ 1,000,000
Maximum allowable deductible, to be paid by Contractor	\$ 25,000

## II. ADDITIONAL INSURANCE REQUIREMENTS

Failure of Contractor to fully comply with these requirements during the term of this Contract may be considered a material breach of contract and may be cause for immediate termination of this Contract at the option of the City.

- A. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis (excepting Professional Liability).
- B. Contractor shall name **“The City of Boulder, its elected and appointed officials, directors, officers, employees, agents and volunteers” as additional insured** (“Additional Insured”) where commercially available.
- C. All policies of insurance shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City.
- D. A Separation of Insureds Clause must be included in general liability policies.
- E. Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At its own expense, Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the City a new certificate of insurance showing such coverage is in force.
- F. Contractor’s insurance carrier shall possess a minimum A.M. Best’s Insurance Guide rating of A- VI.
- G. Commercial General Liability Completed Operations policies must be kept in effect for the statute of repose.
- H. Contractor’s Pollution Liability policies must be kept in effect for the statute of repose.
- I. Contractor, or Contractor’s insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer’s notification to that effect. Contractor shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.
- J. **The Certificate Holder shall be identified as: City of Boulder, P.O. Box 791, Boulder, CO 80306.**
- K. Contractor is responsible for any damage or loss to its own vehicles or equipment.
- L. The City and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.
- M. Contractor and its insurers shall waive subrogation in favor of Additional Insured parties.
- N. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this contract 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.



# Requirements for Contractors Performing Any Improvements to the Premises

## C. INSURANCE TERM

All required insurance in this Exhibit D, except builder's risk, shall remain in effect for the statute of repose.

## D. INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless the City, its directors, officers, employees, elected and appointed officials and agents from and against all claims, damages, losses, obligations, demands, assessments, fines, penalties (whether civil or criminal), liabilities, costs, expenses, bodily and other personal injuries, damage to tangible property, of any kind or nature suffered or incurred by the City directly or indirectly arising from or related to: (i) any act or omission by contractor its employees, agents, subcontractors or its representatives or other parties for which contractor may be legally responsible in the performance of contractor's obligations under this contract, or (ii) any material breach in a representation, warranty, covenant or obligation of contractor contained in this contract. . These shall include without limitation reasonable attorneys' fees and costs of defense. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section D.

## E. CITY SALES AND USE TAX

Contractor is deemed to be the consumer of the materials used in all construction projects in Boulder. Therefore, all tangible personal property used in the construction project is subject to the current City sales or use tax pursuant to Section 3-2-2, B.R.C. 1981. The City sales tax is imposed on all sales, rentals, leases and taxable services used in the construction project. The City's construction use tax is imposed upon tangible personal property and taxable services purchased for construction use in the City whether purchased inside or outside of the City. Both non-residents and residents of the City engaged in a construction project in the City are liable to pay the City construction use tax. No credit will be given for taxes paid to another municipality. The general contractor is liable for the payment of the City's sales and use tax for the total project including tax due by its subcontractors.

### ASSIGNMENT OF LEASES

THIS ASSIGNMENT OF LEASES (“**Assignment**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between the City of Boulder, a Colorado home rule municipality (“**Assignor**” or “**City**”), the Boulder Public Library District (“**Assignee**” or “**District**”), and Meadows on the Parkway Station LLC, a Phillips Edison Company (“**Landlord**”) effective 12:01 a.m., January 1, 2024.

#### WITNESSETH:

- A. Assignor is a Colorado home rule municipality incorporated on November 4, 1871.
- B. Assignee is a library district, formed and existing pursuant to § 24-90-101, *et seq.*, C.R.S., (“Colorado Library Law”), for the purpose of providing certain public improvements, facilities and library services, to and for the use and benefit of the District, its residents, users, property owners and the public.
- C. Assignor entered into a lease entitled Lease Between the City of Boulder and Foothills Associates, Inc., for Public Library Space at The Meadows on the Parkway, Boulder Colorado dated September 21, 1988, (“**September 21, 1988 Lease**”). The September 21, 1988 Lease was extended in 2009 for an additional 20-year term, through August 31, 2029, or until such time as Safeway or a comparable anchor tenant at the Shopping Center is no longer a tenant at the Shopping Center. The September 21, 1988 Lease and 2009 extension are attached hereto as **Exhibits 1** and **2** respectively, and referred to collectively as “**Leases.**” The Leases were assigned to Meadows on the Parkway Station LLC in 2015.
- D. Paragraph 15 of the September 21, 1988 Lease prohibits the City from assigning or subletting all or any part of the Premises.

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

- 1. Assignment. Assignor hereby assigns, sets over and transfers to Assignee all of Assignor’s right, title and interest in, to and under the Leases, including all extensions thereof, and all rights, liabilities and obligations of Assignor under the Leases to the extent arising or accruing from and after the date hereof. Notwithstanding the foregoing, all past due rent and other tenant payment obligations of any type whatsoever made after the date hereof shall be assigned by Assignor to Assignee. Assignee hereby accepts the foregoing assignment of the Leases.
- 2. Release. Landlord hereby releases and forever discharges the City and its elected officials, affiliates, corporations, successors, administrators, attorneys, employees, agents, servants, and insurers from all manner of debt, dues, liabilities, obligations, accounts, claims, and

demands whatsoever, in law and in equity by virtue of the Leases occurring from and after the date first set forth above.

3. Reservation of Benefits. Notwithstanding anything to the contrary in this Assignment, Assignor reserves and retains all benefits under the Leases to the extent that the same relate to any matter with respect to the premises for which Assignor may continue to have liability from and after the date hereof; provided, however, said benefits reserved and retained by Assignor pursuant to this Paragraph 3. shall exist jointly with Assignee's benefits under the Leases, and such benefits may be enforceable by each of Assignor and Assignee to the extent of each party's respective liability or damages for any matters relating thereto.
4. Landlord's Consent. Paragraph 15 of the September 21, 1988 Lease prohibits the City from assigning the lease or subletting any or all part of the premises. Notwithstanding Paragraph 15, Landlord hereby consents to Assignor's assignment of the Leases to Assignee.
5. Responsibility. Assignee assumes responsibility for its actions and omissions in the performance or failure to perform the obligations set forth in the Leases, as well as the actions and omissions of its officials, affiliates, corporations, successors, administrators, attorneys, employees, agents, servants, and insurers. Neither the Assignor nor the Assignee waives or intends to waive the limitations on liability which are provided to the parties, their officers, employees, and authorized volunteers under the Colorado Governmental Immunity Act, §§ 24-10-101 *et. seq.*, C.R.S., as amended. Assignee shall defend and hold Assignor harmless from any and all claims or damages that may arise from the Assignee's actions in connection with its performance of the obligations and responsibilities set forth in the Leases.
6. Survival. This Assignment and the obligations of the Assignor and Assignee hereunder shall survive the execution of that Intergovernmental Agreement required by Colorado Library Law and shall not be merged therein, shall be binding upon and inure to the benefit of the Assignor and Assignee, their respective legal representatives, successors, and permitted assigns.
7. Severability. If any provision of this Assignment or the application thereof to any entity, person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of its provisions to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
8. Modification. No variations, modifications or changes herein or hereof shall be binding upon any party hereto, unless set forth in a document duly executed by, or on behalf of each party.

9. Governing Law. The parties agree that the law of the State of Colorado shall govern the performance and enforcement of this Assignment. The venue shall be in the City of Boulder.
10. Counterparts. This Assignment may be executed in counterparts, or electronic PDF, each of which shall be an original and all of which counterparts taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed this Assignment on the date set forth above.

**ASSIGNEE:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

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**ASSIGNOR:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

By: \_\_\_\_\_  
Nuria Rivera-Vandermyde,  
City Manager

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney's Office

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**Landlord:**

MEADOWS ON THE PARKWAY STATION LLC,  
A Delaware Limited liability company

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

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

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

**LEASE BETWEEN THE CITY OF BOULDER  
AND FOOTHILLS ASSOCIATES, INC. FOR PUBLIC LIBRARY SPACE AT  
THE MEADOWS ON THE PARKWAY  
BOULDER, COLORADO**

**1. PARTIES**

This Lease, dated this 21st day of September, 1988, is entered into between Foothills Center Limited Partnership, a Colorado limited partnership, as landlord ("Landlord"), whose address is 4700 Walnut Street, Boulder, Colorado 80301, and the City of Boulder, Colorado, a Colorado municipal corporation, as tenant ("Tenant"), whose address is 1000 Canyon Blvd., Boulder, Colorado 80302.

**2. PREMISES**

Landlord leases to Tenant and Tenant leases from Landlord those certain premises, as shown on the floor plan attached hereto as Exhibit B (the "Premises") consisting of 7,812 useable square feet of space located at 4700 Baseline Road, Suite \_\_\_\_\_, Boulder, Colorado (the "Shopping Center") as described on Exhibit A attached hereto and incorporated herein by this reference. Tenant shall also have the right to nonexclusive use of all common areas in the Shopping Center designated by Landlord for use by tenants of the Shopping Center, in accordance with and subject to the provisions of this Lease.

**3. USE**

(a) Permitted Use. Tenant shall use the Premises for a branch of its public library and shall not use or permit the Premises to be used for any other purpose.

(b) Deliveries. Tenant shall use its best efforts to schedule regular deliveries of books to its Premises so that they occur no more than three times a day and so that each delivery will be completed within forty-five minutes.

(c) Hours of Business. Tenant shall keep the Premises open to the public in conformance with the schedule adopted by the Boulder Public Library for its branches. Tenant shall provide Landlord with a copy of that schedule and shall notify Landlord in writing of any changes to the schedule at least fourteen days before the change becomes effective.

(d) Sidewalk. Tenant shall keep the sidewalk in front of the Premises free of trash and litter which may accumulate due to the nature of Tenant's business. Tenant shall not place any cardboard boxes or other containers on the sidewalk. Tenant shall not place any advertising signs on the sidewalk, unless approved in writing by Landlord. Tenant shall not conduct any business on such sidewalk and shall not place any vending machines on such sidewalk. Tenant shall reimburse Landlord on demand for all costs of enforcing this provision.

(e) Rear Alley. Tenant shall not place any trash, litter or other objects in the rear alley behind Tenant's Premises, other than in designated trash receptacles.

(f) Compliance with Law. Tenant shall comply with all laws, statutes, ordinances, and governmental rules, regulations or requirements now in force, or which may hereafter be in force, and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such law, statute, ordinance, rule, regulation, or requirement, shall be conclusive of that fact as between Landlord and Tenant.

**4. CONSTRUCTION AND ACCEPTANCE OF PREMISES**

(a) Construction of Premises. Landlord shall proceed to complete the Premises in accordance with the work (and certain provisions relating to the construction thereof) shown on Exhibit C hereto ("Landlord's Work"). The Premises shall be deemed to be "Ready for Occupancy" when Landlord certifies in writing to Tenant that Landlord has completed Landlord's Work, except for minor or insubstantial construction, mechanical adjustment or decoration, the non-completion of which will not materially interfere with Tenant's normal use of the Premises. Landlord shall complete Landlord's Work no later than July 31, 1989. Other than for Landlord's Work, Landlord shall have no obligation for the completion of the Premises.

(b) Acceptance of Premises. After Tenant occupies the Premises, Tenant shall be deemed to have fully accepted Landlord's Work, except as to agreed "punch list" items with respect to Landlord's Work. Neither Landlord nor Landlord's agents have made any representations, warranties or promises with respect to the physical condition of the Shopping Center, the land upon which it is erected, or the Premises, or any matter or thing affecting or related to the Premises except as herein expressly set forth.

(c) Commencement Date. The "Commencement Date" of this Lease shall be the date sixty (60) days from completion of Landlord's Work, or the date on which Tenant shall open the Premises to the public, whichever shall occur first. Promptly following the Commencement Date, Landlord and Tenant shall execute an agreement acknowledging that Tenant has accepted possession, and reciting the exact Commencement Date and Termination Date of the Lease. The failure by either party, or both parties, to execute such an agreement shall not affect the rights or obligations of either party hereunder. Such agreement, when so executed and delivered, shall be deemed to be a part of this Lease.

## **5. TERM**

(a) This Lease shall have a term of twenty (20) years commencing on the Commencement Date. It is anticipated that the Commencement Date will be May, 1989, and that the Termination Date of this Lease will be April 30, 2009. Moreover, should Safeway or a comparable anchor tenant at the Shopping Center remain as a tenant of Landlord after twenty years from the Commencement Date, the Tenant shall have the option to extend the Lease upon the same conditions for an additional period of time equal to the total period of time that Safeway or the comparable anchor tenant is a Tenant at the Shopping Center.

(b) If Tenant, prior to December 31, 1988, has not received an opinion from the Boulder County Assessor that the Premises will be exempt from property taxes during the term of the Lease, it may, by giving the Landlord ten (10) days advance written notice, terminate this Lease. Upon termination, both parties shall be released from all obligations hereunder.

(c) If the City Council of the City of Boulder, Colorado has not appropriated sufficient funds to complete the Tenant's Work set forth in Exhibit C prior to February 28, 1989, Tenant may terminate this Lease by giving Landlord ten (10) days advance written notice thereof. Upon termination, both parties shall be released from all obligations hereunder.

(d) If the City Council fails to appropriate sufficient funds for the expenses and fees which the Tenant is required to pay under this Lease for any calendar year subsequent to 1989, then the Tenant may terminate this lease as of the December 31 immediately preceding that calendar year by giving the Landlord written notice thereof at least sixty (60) days before that date. Upon such termination, both parties shall be released from all obligations hereunder.

## **6. RENT AND COMMON EXPENSES**

(a) No Rent. The Tenant shall not pay rent to the Landlord, but shall pay its Pro Rata Share of various common expenses as set forth below. For purposes of any action against Tenant under Colorado's forcible entry and detainer statutes, the Pro Rata Share may be considered as rent.

(b) Taxes and Insurance. Tenant shall pay to Landlord, Tenant's Pro Rata Share of real estate taxes on the Shopping Center; but, the above notwithstanding, Tenant shall only be obligated to pay its Pro Rate Share of real estate taxes if and to the extent that the Premises are not exempt from such taxes. Landlord shall notify Tenant of its receipt of any notice of any tax assessment affecting the Premises in sufficient time so that Tenant, if it chooses, may protest or appeal any assessment which does not recognize the Premises as tax exempt. Real estate taxes shall include all real property taxes and assessments levied against the Shopping Center by any governmental or quasi-governmental authority, including any taxes, assessments, surcharges, or service or other fees of a nature not presently in effect which shall hereafter be levied on the Shopping Center as a result of the use, ownership or operation of the Shopping Center or for any other reason, whether in lieu of or in addition to any current real estate taxes and assessments; provided, however, that any taxes which shall be levied on the rental of the Shopping Center shall be determined as if the Shopping Center were Landlord's only



property and provided further, that in no event shall the terms "Taxes and Assessments," as used herein, include any federal, state or local income taxes levied or assessed on Landlord, unless such taxes are a specific substitute for real property taxes; such term shall, however, include gross taxes on rentals (all of the foregoing are collectively referred to herein as "Taxes"). "Assessments" shall include any and all so-called special assessments, license tax, business license fee, business license tax, commercial rental tax, levy, charge or tax imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, water, drainage or other improvement or special district thereof, against the Premises or the Shopping Center, or any part thereof, or against any legal or equitable interest of Landlord therein. For the purposes of this Lease, any special assessment shall be deemed payable in such number of installments as is permitted by law, whether or not actually so paid. If the Shopping Center has not been fully assessed as a completed project, for the purpose of computing any adjustment to Tenant's share required herein, Taxes and Assessments shall be increased by Landlord's Accountants, in accordance with their estimate of what the assessment will be, upon full completion of the Shopping Center, including installation of all tenant finish items. Insurance shall include fire, extended coverage, property damage, liability, and business interruption or rent loss, and any other insurance coverage on the Shopping Center. Any tax or insurance reimbursement for any partial lease year shall be apportioned on a per diem basis. Tenant shall pay prior to delinquency all personal property taxes on Tenant's personal property located on the Premises.

(c) Common Area Maintenance Expenses. Tenant shall pay to Landlord, Tenant's Pro Rata Share of the Common Area Maintenance Expenses. "Common Area Maintenance Expenses" shall mean all expenses of any kind or nature which are necessary, ordinary or customarily incurred with respect to the operation, repair and maintenance of the Shopping Center as determined in accordance with generally accepted accounting principles and shall include, but not be limited to all sums expended in connection with Common Areas for all general operation and maintenance and repairs, resurfacing, or painting, restriping, cleaning, sweeping and janitorial services; maintenance and repair of sidewalks, curbs, and Shopping Center signs, sprinkler systems, planting and landscaping; lighting and other utilities; directional signs and other markers and bumpers; maintenance and repair of any fire protection systems, lighting systems, storm drainage systems, roof patching and any other utility systems; personnel to implement such services including the salary of the manager and all on-site personnel hired by Landlord and, if Landlord deems necessary, the cost of security guards; real and personal property taxes and assessments on the improvements and land comprising said Common Areas; all costs and expense pertaining to a security alarm system for the tenants in the Shopping Center; depreciation on maintenance and operating machinery and equipment (if owned) and rental paid for such machinery and equipment (if rented, adequate public liability and property damage insurance on the Shopping Center and Common Areas under which the Tenant shall be named as an additional insured). In addition, Tenant shall pay a sum to Landlord for the accounting, bookkeeping and collection of the expenses for each calendar year. Landlord may cause any of all of said services to be provided by an independent contractor or contractors. Should Landlord acquire or make available additional land not shown as part of the Shopping Center on Exhibit A and make the same available for parking or other Common Area purposes, then said expenses in connection with Common Areas shall also include all of the aforementioned expenses incurred and paid in connection with said additional land.

Thirty days prior to the Commencement Date and also thirty days prior to the beginning of each calendar year during the term of this Lease, Landlord shall provide Tenant with a written statement specifying the standards at which each of the services included in the Common Area Maintenance Expenses will be performed (for example, how often windows will be cleaned, or how much snow must accumulate before snow is removed). As well, thirty days prior to the Commencement Date and at least thirty days prior to the beginning of each calendar year the Landlord will furnish Tenant with an estimate of the cost of each such service during the coming year.

(d) Calculation of Tenant's Pro Rata Share. Tenant's Pro Rata Share, for the purposes of this Lease, shall be a fraction, the numerator of which is the total usable square footage of the Premises (i.e., 7,812 square feet) and the denominator of which is the total square footage of the Shopping Center (i.e., 173,803 square feet). The above notwithstanding, and subject to the provisions of the following paragraph (e), Tenant's Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance shall not in any event exceed \$1.02 per useable square footage of the Premises for the first year after the Commencement Date, and thereafter it shall not increase by more than the

percentage increase, if any, during each succeeding year in the United States Department of Labor Consumer Price Index for all Urban Consumers ("CPI-U") for the Consolidated Metropolitan Statistical Area for Denver.

(e) Expenses Borne by Tenant. The Landlord and Tenant recognize the unique character of the intended use by Tenant and agree that the limitation of the amount payable for the Common Area Maintenance Expenses, Taxes and Insurance is conditioned upon the following:

(i) Landlord and Tenant are able to procure an exemption from real property taxes applicable to the space to be occupied by Tenant.

(ii) Tenant assures that the Premises and public areas designated in Exhibit E will be added to and primarily covered under the Tenant's municipal blanket insurance policy, and that the Landlord's lender and the Landlord, and as property manager, be added as additional named insureds.

(iii) All exterior lights and parking lot lights used in the 113-space parking lot shown on Exhibit E will be separately metered, billed directly to the Tenant, and paid for by the Tenant.

(iv) Tenant shall be solely responsible for removing all trash from the Premises.

(v) Tenant shall provide and be responsible for snow removal and sweeping for the above-mentioned parking lot.

(vi) Landlord shall have the right, notwithstanding the above provisions, to take steps necessary to remedy any unsafe or unsightly situation that may arise in the Shopping Center from failure by the Tenant or Tenant's contractees to provide the above-mentioned services.

(f) Payment of Common Area Charges. Tenant shall pay to the Landlord, Tenant's Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance in the following manner:

(i) Beginning with the Commencement Date, but subject to adjustment as provided herein, Tenant shall pay to Landlord on the first day of each calendar month of the term of this lease an amount estimated by Landlord to be Tenant's Pro Rata Share of such charges. Landlord may adjust the estimated monthly charge at the end of any calendar year on the basis of Landlord's experience and reasonably anticipated costs.

(ii) Within one hundred twenty (120) days following the end of each calendar year, Landlord shall furnish Tenant a statement covering the calendar year just expired (the "Statement"), certified as correct by an authorized representative of Landlord, showing the total of such charges, the amount of Tenant's Pro Rata Share thereof for such calendar year, and the payments actually paid by Tenant during such period. If Tenant's Pro Rata Share of such charges exceeds Tenant's payments made, Tenant shall pay Landlord the deficiency within ten (10) business days after receipt of such Statement. If the estimated payments made exceed Tenant's actual Pro Rata Share thereof, Landlord shall credit the excess against any amounts then owing or thereafter becoming due from Tenant to Landlord. In any Lease Year which is not a full calendar year, a proportionate reduction shall be made in Tenant's Pro Rata Share of Common Area Maintenance Expenses.

(iii) Tenant shall have the right at its own expense and at a reasonable time (after written notice to Landlord) within thirty (30) days after receipt of the Statement to audit Landlord's books relevant to the Tenant's Pro Rata Share of the Common Area Maintenance Expenses, Taxes and Insurance due hereunder. In the event Tenant does not audit Landlord's books and deliver the results thereof to Landlord within said thirty-day period, the terms and amounts set forth in the Statement from Landlord to Tenant shall be deemed conclusive and final and Tenant shall have no further right to adjustment. In the event Tenant's examination reveals that an error has been made in Landlord's determination of Tenant's Pro Rata Share of such charges, and Landlord agrees with such determination, then the amount of such adjustment shall be payable by Landlord or Tenant to the other party as the case may be in accordance with subparagraph (ii) hereof. In the event Tenant's examination reveals an error has been

made in Landlord's determination of Tenant's Pro Rata Share, and Landlord disagrees with the results thereof, Landlord shall have thirty (30) days to obtain an audit from an accountant of its choice to determine Tenant's Pro Rata Share of such charges. In the event Landlord's accountant and Tenant's accountant are unable to reconcile their audits, both accountants shall mutually agree upon a third accountant, whose determination of Tenant's Pro Rata Share of the charges shall be conclusive. In the event the amount of error by Landlord is determined to be less than five percent (5%), the reasonable costs of the third audit made pursuant to this subparagraph shall be paid by Tenant.

(iv) Landlord's failure during the Lease term to prepare and deliver any statements or bills, or Landlord's failure to make a demand under this paragraph or under any other provision of this Lease shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender, its rights to collect any items of Additional Rent which may have become due pursuant to this paragraph during the term of this Lease, except as otherwise specifically set forth in this Lease. Tenant's liability for all Additional Rent due under this Lease shall survive the expiration or earlier termination of this Lease.

(v) Regardless of any rental abatement granted to Tenant as an incentive or concession, or to which Tenant may be entitled hereunder, Tenant's obligation to pay its Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance shall not abate, but shall begin on the Commencement Date and shall continue in full force and effect for the entire term of this Lease, including any renewals or extensions hereof.

(g) Late Charge. Tenant hereby acknowledges that late payment by Tenant to Landlord of its Pro Rata Share, or other sums due hereunder will cause Landlord to incur costs the exact amount of which will be difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by terms of any mortgage or trust deed encumbering the Shopping Center. Accordingly, if any installment of Pro Rata Share or any other sum due from Tenant shall not be received by Landlord within ten (10) days after said amount is due, Tenant shall pay to Landlord on demand a late charge of five percent (5%) of such overdue amount, plus any reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay such amount. Any sums due from Tenant which are more than one (1) month delinquent shall bear interest at the rate of eighteen percent (18%) per annum ("Interest Rate") from the due date. Tenant shall pay on demand Twenty-five Dollars (\$25.00) for any check returned for insufficient funds.

## **7. SERVICES**

(a) Separately Metered Services. The Premises shall be separately metered for gas and electric utility services. Tenant shall be responsible for contracting directly with the appropriate utility supplier for all gas and electric service to the Premises. Tenant shall be responsible for payment of all fees and costs for such gas and electric service (including HVAC services) to the Premises directly to the applicable utility supplier prior to delinquency.

(b) Service Interruption. Landlord shall not be liable for failure to provide any required services so long as Landlord uses reasonable diligence to provide or restore such services. Landlord may discontinue services due to accident, repairs, strikes, acts of God, or any other event beyond the reasonable control of Landlord. In such event, Landlord shall not be liable for such failure or discontinuance, nor shall such failure or discontinuance be construed as a constructive eviction of Tenant. Landlord's obligation to furnish electricity and gas is conditioned upon the availability of adequate sources from the utility company servicing the Shopping Center, without liability, to comply with any public energy-saving program.

(c) Payment by Tenant. Tenant shall pay, prior to delinquency and directly to the applicable supplier, for all services and utilities supplied to the Premises and separately metered, together with any taxes thereon. If any services are not separately metered to Tenant, Tenant shall pay Tenant's Pro Rata Share of all charges jointly metered with other space in the Shopping Center. Tenant shall arrange and pay for its own telephone service.

## **8. TENANT REPAIRS AND ALTERATIONS**

(a) Repairs. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof including but not limited to interior surface of ceilings,

walls and floors; doors, windows, plate glass; and all plumbing pipes and apparatus, electrical fixtures, furnishings and equipment, in good condition and repair. Tenant shall immediately replace all broken glass in the Premises. Tenant shall, upon the expiration or earlier termination of this Lease, surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear excepted. Tenant shall not be obligated to make repairs necessitated by fire or other casualty unless caused in whole or in part by the act, omission or negligence of Tenant, its agents, employees and invitees. Notwithstanding the foregoing, all damage or injury to the Premises or to any other part of the Shopping Center caused by carelessness, omission, neglect, or improper conduct of Tenant, its employees, agents, subtenants, assignees or invitees shall be repaired promptly by Tenant at its sole cost and expense, to the satisfaction of Landlord reasonably exercised. All decals and signage shall be removed from windows at the termination of the Lease.

(b) Service Contract. Tenant shall enter into a regularly scheduled preventive maintenance and service contract with an experienced maintenance and service contractor for servicing the controls of all heating, ventilation, and air conditioning (HVAC) systems and equipment within the Premises. The contractor and the contract are both subject to Landlord's prior approval, which approval shall not be unreasonably withheld or delayed. The Landlord hereby approves Johnson Controls, Inc. as such a contractor (without implying by such approval disapproval of any other proposed contractor) so long as Johnson Controls maintains and repairs the controls in accordance with its contractual obligations to Tenant. The Tenant may maintain the other parts of the HVAC systems and equipment within the Premises with its own employees, who shall be qualified and experienced in such work. Such maintenance shall include, at a minimum, all services recommended by the equipment manufacturer and must be effective within thirty (30) days of the Commencement Date hereof.

(c) Alterations. Tenant shall not change any plumbing or wiring, without the prior written consent of Landlord. Plans and specifications for such work shall be submitted to Landlord in advance. Landlord shall have the right to approve Tenant's contractors as well as the general manner and method in which such work is to be performed. Tenant shall provide Landlord with insurance certificates evidencing that all contractors and subcontractors have adequate workmen's compensation insurance, and builder's risk insurance satisfactory to Landlord. At least twenty (20) days prior to the commencement of any work on the Premises, Tenant shall notify Landlord of the names and addresses of the persons supplying labor and materials so that Landlord may give notice that it shall not be subject for any lien for Tenant's work in accordance with Colorado's mechanics' lien statutes. Landlord shall have the right to keep posted on the Premises notice to such persons in accordance with such statutes.

(d) Mechanics' Liens. Tenant shall pay or cause to be paid all costs for work done by or on behalf of Tenant or caused to be done by or on behalf of Tenant on the Premises of a character which will or may result in liens against Landlord's interest in the Premises or the Shopping Center, or any part thereof and Tenant will keep the same free and clear of all mechanics' liens and other liens on account of work done for or on behalf of Tenant or persons claiming under Tenant. Should any such liens be filed or recorded against the Premises or the Shopping Center with respect to work done for or materials supplied to or on behalf of Tenant or should any action affecting the title thereto be commenced, Tenant shall cause such liens to be released of record within twenty (20) days after notice thereof. If Tenant desires to contest any such claim of lien, Tenant shall nonetheless cause such lien to be released of record by the posting of adequate security with a court of competent jurisdiction as may be provided by Colorado's mechanics' lien statutes. If Tenant shall be delinquent in paying any charge for which such a mechanics' lien or suit to foreclose such a lien has been recorded or filed and shall not have caused the lien to be released as aforesaid, Landlord may (but without being required to do so) pay such lien or claim and any costs associated therewith, and the amount so paid, together with interest thereon at the Interest Rate and reasonable attorneys' fees incurred in connection therewith, shall be immediately due from Tenant to Landlord as Additional Rent.

## **9. INDEMNITY**

Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises, the conduct of its business or any claim arising from any breach or default on Tenant's part under the terms of this Lease, or from any act, omission, or negligence of Tenant, or any officer, agent, employee, guest or invitee or Tenant, and from all costs, attorneys' fees, and liabilities incurred in or

about the defense of any such claim or any action or proceeding brought thereon. The above notwithstanding, Tenant's indemnification obligation hereunder is subject to and limited by the proceeds, if any, of Tenant's applicable insurance policies and programs. Tenant assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause other than Landlord's negligence. Tenant waives all claims with respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in the Premises. Landlord agrees to indemnify and hold Tenant harmless from any and all claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) arising from or in connection with the condition, use or control of the Common Areas during the Lease Term.

#### **10. INSURANCE**

Tenant shall procure and maintain at its own cost at all times during the term of this Lease and any extensions hereof, fire, hazard and extended coverage insurance on Tenant's property and the contents of the Premises in an amount not less than the full replacement value, plate glass insurance, comprehensive general liability insurance, including coverage for bodily injury, property damage, personal injury (employee and contractual liability exclusions deleted), products and completed operations, contractual liability, owner's protective liability, host liquor legal liability and broad form property damage with the following limits of liability: Four Hundred Thousand Dollars (\$400,000.00) for each occurrence combined single limit for bodily injury, property damage and personal injury; Four Hundred Thousand Dollars (\$400,000.00) aggregate for bodily injury and property damage for products and completed operations. All such insurance shall be procured from a responsible insurance company authorized to do business in Colorado, and shall be otherwise satisfactory to Landlord. All such policies shall name Landlord and Landlord's managing agent as an additional insured, and shall provide that the same may not be cancelled or altered except upon thirty (30) days prior written notice to Landlord. All insurance maintained by Tenant shall be primary to any insurance provided by Landlord. If Tenant obtains any general liability insurance policy on a claims-made basis, Tenant shall provide continuous liability coverage for claims arising during the entire term of this Lease, regardless of when such claims are made, either by obtaining an endorsement providing for an unlimited extended reporting period in the event such policy is cancelled or not renewed for any reason whatsoever or by obtaining new coverage with a retroactive date the same as or earlier than the expiration date of the cancelled or expired policy. Tenant shall provide certificate(s) of such insurance to Landlord upon commencement of the Lease term and at least thirty (30) days prior to any annual renewal date thereof and upon request from time to time and such certificate(s) shall disclose that such insurance names Landlord and Landlord's managing agent as an additional insured, in addition to the other requirements set forth herein. The limits of such insurance shall not, under any circumstances, limit the liability of Tenant hereunder.

#### **11. SUBROGATION**

As long as their respective insurers so permit, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss or damage to property insured by fire, extended coverage, or any other property insurance policies existing for the benefit of the respective parties. The foregoing waiver shall be in force only if both parties' insurance policies contain a clause providing that such a waiver shall not invalidate the insurance and such a policy can be obtained without additional premiums.

#### **12. LANDLORD REPAIRS**

Landlord shall maintain all portions of the Shopping Center not the obligation of Tenant or any other tenant in good order, condition and repair, and shall proceed to make all needed repairs diligently. There shall be no liability of Landlord by reason of any injury to, or interference with, Tenant's operations arising from the diligent making of any repairs, alterations or improvements.

#### **13. COMMON AREAS AND PARKING**

The parking areas in the Shopping Center shall be at all times under Landlord's exclusive control. Landlord reserves the right to change the entrances, exits, traffic lanes and the boundaries and locations of parking areas, as long as Tenant's operations are not materially disrupted. Landlord shall keep parking and common areas in clean and orderly condition. All vehicles of Tenant, its agents, and employees shall be parked in

parking areas designated by Landlord for use by the retail tenants in the Shopping Center. Tenant shall furnish Landlord, upon request, a complete list of license numbers of all automobiles operated by Tenant and its employees.

**14. LIMITED LIABILITY**

Landlord shall not be liable for any loss or damage resulting from: (a) fire, explosion, falling plaster, steam, gas, electricity, water or rain; (b) the pipes, appliances or plumbing works in the Shopping Center; (c) the roof, street, subsurface; (d) any variation or interruption of utility services; (e) theft or other criminal acts of third parties; or (f) any other cause whatsoever, unless due to the negligence of Landlord. Landlord's liability under this Lease shall be limited to Landlord's estate and interest in the Shopping Center and Tenant shall look solely to the Shopping Center for the recovery of any judgment against Landlord. Landlord and its partners shall not be personally liable for any judgment.

**15. ASSIGNMENT AND SUBLETTING**

Tenant shall not assign this Lease or sublet all or any part of the Premises.

**16. DAMAGE BY CASUALTY**

(a) Subject to Section 16(b), (c) and (d), in the event the Premises are damaged by fire or other casualty, Landlord shall repair such damage. This Lease shall remain in full force and effect.

(b) If the Shopping Center is more than fifty percent destroyed and Landlord decides to and proceeds to demolish it and not replace it with another shopping center on the site then the Landlord may elect to terminate the Lease by written notice to Tenant given ninety (90) days following such fire or other casualty.

(c) In case of any damage mentioned in this Section 16, Tenant may cancel this Lease by written notice to Landlord if Landlord has not completed the making of the required repairs within six (6) months from the date of damage, which period shall be extended by the number of days lost in the event of labor strikes, act of God, or any other similar causes beyond the control of Landlord; provided, however, that such notice be given to Landlord within thirty (30) days of the expiration of said six (6) month period and prior to substantial completion of the required repairs.

(d) In case the Shopping Center or the Premises shall be substantially damaged during the last year of the Lease term, then either Landlord or Tenant may cancel the Lease upon written notice to the other party given within forty-five (45) days after such damage.

(e) Landlord shall not be required to make any repairs or replacements of any leasehold improvements, fixtures, or other personal property of Tenant.

**17. EMINENT DOMAIN AND CONDEMNATION**

(a) Total Condemnation. If the whole of the Premises shall be taken by condemnation or eminent domain, then the term hereof shall cease as of the vesting of title or as of the day possession shall be so taken, whichever is earlier.

(b) Partial Condemnation. If only a portion of the Premises is taken by condemnation or eminent domain, Landlord shall be entitled to terminate this Lease, effective on the day of vesting of title or the day possession is taken, whichever is earlier, upon giving written notice to Tenant within ninety (90) days from the taking. If Landlord does not elect to so terminate this Lease, Landlord shall restore the Premises to the extent practicable, and Tenant's Pro Rata Share shall be abated to the extent there is any diminution in the usable area of the Premises.

(c) Damages. In the event of any taking, Landlord shall be entitled to any and all awards and/or settlements which may be given, and Tenant shall have claim against Landlord for the value of any unexpired term of this Lease. Tenant shall have the right to claim from the condemning authority a separate award for damage to Tenant's business.

**18. ENTRY BY LANDLORD**



Landlord reserves the right to enter the Premises to inspect the same, to submit the Premises to prospective purchasers, lenders or tenants, to post notices of non-responsibility, to post notices of Tenant's failure to comply with this Lease, or to repair the Premises, without abatement of Rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required; provided that the entrance to the Premises shall not be unreasonably blocked and the business of Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages to Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, without any liability to Tenant except for failure to exercise due care for Tenant's property. Any entry to the Premises by Landlord shall not be construed to be a forcible or unlawful entry into the Premises, or an eviction of Tenant from the Premises.

**19. DEFAULT BY TENANT**

(a) Event of Default Defined. The following events (herein referred to as an "Event of default") shall constitute a default by Tenant hereunder:

(i) Tenant shall default in the due and punctual payment of its Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance payable hereunder, and such default shall continue for ten (10) days after receipt of written notice from Landlord; or

(ii) Tenant shall neglect or fail to perform or observe any of the covenants herein contained on Tenant's part to be performed or observed and Tenant shall fail to remedy the same within thirty (30) days after Landlord shall have given to Tenant written notice specifying such neglect or failure (or within such additional period, if any, as may be reasonably required to cure such default if it is of such nature that it cannot be cured within said thirty (30) day period); or

(iii) This Lease or the Premises or any part thereof shall be taken upon execution or by other process of law directed against Tenant, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against Tenant, and said attachment shall not be discharged or disposed of within fifteen (15) days after the levy thereof; or

(iv) Tenant vacates or abandons the Premises or permits the same to remain vacant or unoccupied for a period of ten (10) continuous business days, then, in any such event, after written notice has been received by Tenant from Landlord, Tenant will have ten (10) days to remedy such default, otherwise Lessor shall have the right at its election, or at any time thereafter, and while such event of default shall continue, to pursue its remedies as set forth in Subsection 19(b).

(b) Remedies. In the event of any such default or breach by Tenant, Landlord may at any time thereafter, in its sole discretion, without limiting Landlord in the exercise of a right or remedy which Landlord may have by reason of such default or breach, terminate this Lease and re-enter and take possession of the Premises or any part thereof and repossess the same as Landlord's former estate without prejudice to any remedies for arrears of Tenant's Pro Rata Share or preceding breach of covenants or conditions.

**20. NON-SUBORDINATION**

This Lease shall remain in full force and effect regardless of the status of any mortgage or deed of trust now or hereafter placed on the Shopping Center and of any renewal, modification, consolidation, replacement or extension of such mortgage or deed of trust. At the request of Tenant, Landlord shall obtain a non-disturbance agreement from its lender.

**21. SIGNS AND ADVERTISING**

(a) Signs. Tenant shall not install or display any sign, picture, advertisements, notice, lettering or direction on any part of the Shopping Center outside of the Premises or otherwise visible to the public without the written consent of Landlord. Landlord shall prescribe a uniform identification sign for Tenant to be placed outside of the Premises by Tenant no later than the date Tenant opens for business. Tenant may install or display the maximum amount of signage allowed by the Boulder Revised Code, 1981,

(b) Displays. Tenant may not display or sell merchandise outside of the Premises. Tenant shall not install any exterior lighting, amplifiers or similar devices which may be heard or seen outside the Premises, such as flashing lights, searchlights, loud-speakers, phonographs or radio broadcasts.

## 22. NOTICE

All notices shall be in writing, delivered personally or mailed, postage prepaid, certified or registered mail, return receipt requested, addressed as set forth below, or to such other place as either party may designate by notice:

To Landlord at:                      The Colorado Management Group  
4700 Walnut Street  
Boulder, CO 80301

To Tenant at: City of Boulder Public Library  
P. O. Drawer H  
Boulder, CO 80306  
Attention: Library Director

### 23. ESTOPPEL STATEMENT

Tenant shall within ten (10) days of request, execute, acknowledge and deliver to Landlord a statement in writing: (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect); (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of the Landlord hereunder, or specifying such defaults, if any are claimed; (c) setting forth the date of commencement and expiration of the term hereof; and (d) such other matters reasonably requested by Landlord. Any such statement may be relied upon by Landlord and any prospective purchaser or encumbrancer of the Shopping Center. In the event that such statement is not so delivered by Tenant as required herein, Landlord shall have the right to deliver such statement on behalf of Tenant, and Tenant designates the Landlord as its Attorney-In-Fact in providing such statement.

## 24. RULES AND REGULATIONS

Tenant shall comply with such reasonable rules and regulations concerning the Shopping Center and for the general benefit of both Landlord and the Tenants in the Shopping Center that Landlord may establish from time to time.

## 25. GENERAL PROVISIONS

(a) The waiver by Landlord of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach. The acceptance of Tenant's Pro Rata Share shall not be deemed to be a waiver of any default by Tenant.

(b) The headings to the sections of this Lease shall have no effect upon the construction or interpretation of any part hereof.

(c) Time is of the essence.

(d) The covenants and conditions herein contained bind the heirs, successors, executors, administrators, and assigns of the parties hereto.

(e) Neither Landlord nor Tenant shall record this Lease, but a short form memorandum hereof may be recorded at the request of Landlord.

(f) Upon Tenant observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof, subject to all the provisions of this Lease.



(g) No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

(h) This Lease shall be governed by the laws of the State of Colorado.

(i) In the event of any action or proceeding brought by either party against the other under this Lease, the prevailing party shall be entitled to recover court costs and attorneys' fees.

(j) In the event of any sale or transfer of the Shopping Center by Landlord, Landlord shall be relieved of all liability hereunder. The purchaser or transferee shall be deemed to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease.

(k) This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

(1) Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way effect, impair, or invalidate any other provision hereof and such other provision shall remain in full force and effect.

(m) Landlord reserves the absolute right to effect such other tenancies in the Shopping Center as Landlord, in the exercise of its sole business judgment, which it determines to best promote the interest of the Shopping Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or number of tenants shall, during the term of this Lease, occupy any space in the Shopping Center.

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

LANDLORD:

FOOTHILLS CENTER LIMITED PARTNERSHIP  
A Colorado Limited Partnership

By: James R. Loftus, Managing General Partner

TENANT:

CITY OF BOULDER, COLORADO

By: James W. Piper, City Manager

ATTEST:

~~Director of Finance and Record,  
Ex-Officio City Clerk~~



STATE OF COLORADO )  
COUNTY OF BOULDER ) ss.

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of September, 1988, by James R. Loftus, as Managing General Partner of Foothills Center Limited Partnership, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: April 12, 1992

(SEAL)

*Robert J. Pennington*  
Notary Public

STATE OF )  
COUNTY OF ) ss.

The foregoing instrument was acknowledged before me this 21st day of September, 1988, by James W. Piper as City Manager of the City of Boulder, a Colorado municipal corporation.

Witness my hand and official seal.

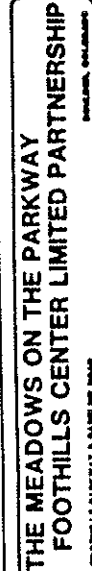
My commission expires: June 6, 1991

(SEAL)

*Judith C. Conz*  
Notary Public

LI AD EOC

## Site Plan



**Clothier-Weber  
& Associates, Inc.**

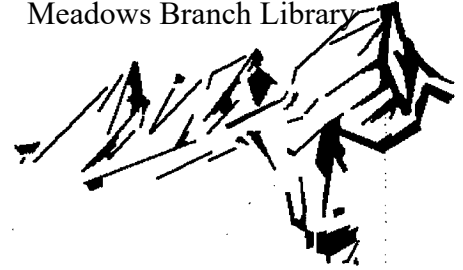
FOOTHILLS CENTER

**and Associates, Inc.**  
 1000 1st Ave. S.W., Suite 1000  
 Atlanta, GA 30334  
 (404) 525-1000

1940-1941

**CITY OF BOULDER, COLORADO**

Office of the City Attorney  
Municipal Building  
1777 Broadway  
Post Office Box 791  
Boulder, Colorado 80306  
Telephone (303) 441-3020  
Facsimile (303) 441-3859



August 7, 2009

SENT BY CERTIFIED MAIL  
COPY SENT BY REGULAR MAIL

Michael Savage  
Foothills Center Limited Partnership  
4800 Baseline Road  
Suite A-112  
Boulder, CO. 80303

Re: Lease Renewal Agreement for Meadows Library

Dear Mr. Savage:

My understanding is that you believe our letter dated August 3, 2009 represents a formal exercise of our option to renew the lease and that no other documents are necessary. However, section 25(k) of the lease requires a writing signed by both parties. Furthermore, Colorado law (the Statute of Frauds and section 38-10-106 C.R.S.) requires the same.

I have attached a renewal agreement to this email, please sign it and return via regular mail or drop it off at my office before August 31, 2009.

Once I get your signed copy back, the city manager will sign, and I will provide you with a final copy of the agreement with both signatures.

Sincerely,

Sandra M. Llanes  
Assistant City Attorney  
City of Boulder

Enclosure

cc: Tony J. Talent, Library/Arts Director  
Jim Marshall, Finance & Business Manager  
Doug Newcomb, Property Agent

**LEASE RENEWAL BETWEEN THE CITY OF BOULDER  
AND FOOTHILLS ASSOCIATES, INC.,  
FOR PUBLIC LIBRARY SPACE  
AT THE MEADOWS ON THE PARKWAY, BOULDER COLORADO**

This Lease Renewal is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between Foothills Center Limited Partnership, a Colorado limited partnership as Landlord (“Landlord”) and the City of Boulder, Colorado, a Colorado home rule city, as Tenant (“Tenant”). Hereinafter, Landlord and Tenant may be referred collectively as the Parties (“Parties”).

**RECITALS**

A. The Landlord and Tenant entered into a Lease Agreement dated September 21, 1988 as amended by the Commencement Date Agreement dated June 20, 1990 attached as Exhibit A (“Lease Agreement”) for certain premises to be used as a public library space located at 4700 Baseline Road, all as described in the Lease Agreement.

B. Tenant wishes to extend the Lease Agreement pursuant to the term stated in Paragraph 5 of the Lease Agreement.

**COVENANTS**

NOW THEREFORE, in consideration of the promises and obligations set forth below, the Parties agree as follows:

1. The Parties agree to extend the Lease Agreement pursuant to the term stated in Paragraph 5(a) of the Lease Agreement which states as follows:

(a) This Lease shall have a term of twenty (20) years commencing on the Commencement Date. It is anticipated that the Commencement Date will be May, 1989, and that the Termination Date of this lease will be April 30, 2009. Moreover, should Safeway or a comparable anchor tenant at the Shopping Center remain as a tenant of Landlord after twenty years from the Commencement Date, the Tenant shall have the option to extend the Lease upon the same conditions for an additional period of time equal to the total period of time that Safeway or the comparable anchor tenant is a Tenant at the Shopping Center.

2. It is further clarified that the actual Commencement Date, pursuant to the Commencement Date Agreement between the Parties dated June 20, 1990 sets forth the Commencement Date of the Lease as September 1, 1989 and the Termination date of the Lease as August 31, 2009 subject to Tenant’s option to extend the Lease stated in Paragraph 5.

3. The Parties agree to extend the term of the Lease Agreement through August 31, 2029 or until such time as Safeway or a comparable anchor tenant at the Shopping Center is no longer a Tenant at the Shopping Center, with all terms and conditions remaining the same as stated in the Lease Agreement.

IN WITNESS WHEREOF, the Parties have set their hands to this Lease Renewal on the day and year above first written.

*[Signature page follows]*

LANDLORD:

FOOTHILLS CENTER LIMITED PARTNERSHIP  
A Colorado Limited Partnership

\_\_\_\_\_  
By: Michael Savage  
Managing General Partner

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF BOULDER                )

Acknowledged before me, a notary public, this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by  
Michael Savage, as Managing General Partner for Foothills Center Limited Partnership.

Witness my hand and official seal.

My commission expires:

(SEAL)

\_\_\_\_\_  
Notary Public

TENANT:

CITY OF BOULDER, COLORADO

\_\_\_\_\_  
By: Jane S. Brautigam  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk on behalf of the  
Director of Finance and Record

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

COMMENCEMENT DATE AGREEMENT

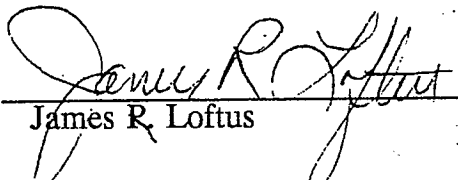
This Commencement Date Agreement pertains to the Lease dated September 21, 1988 (the "Lease") between Foothills Center Limited Partnership, as Landlord, and the City of Boulder, as Tenant, for the Premises located at 4800 Baseline Road, Suite C-112, Boulder, Colorado 80303.

Landlord and Tenant agree and acknowledge as follows:

1. All capitalized terms contained herein are used as defined in the Lease.
2. Tenant has accepted Landlord's Work.
3. The Commencement Date of the Lease is September 1, 1989.
4. The Termination Date of the Lease will be August 31, 2009, subject to the Tenant's option to extend the Lease stated in Section 5.
5. The area of the Premises is 7,812 usable square feet.
6. Tenant's share of expense pass-through items under the Lease is 4.4947%, subject to the per useable square footage limitation in Section 6.

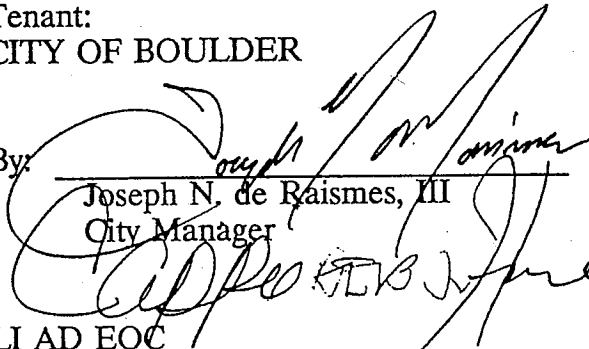
Landlord:

FOOTHILLS CENTER LIMITED PARTNERSHIP

By:   
James R. Loftus

Date: 6/20/90

Tenant:  
CITY OF BOULDER

By:   
Joseph N. de Raismes, III  
City Manager

Date: 5/17/90

LI AD EOC



**LEASE BETWEEN THE CITY OF BOULDER  
AND FOOTHILLS ASSOCIATES, INC. FOR PUBLIC LIBRARY SPACE AT  
THE MEADOWS ON THE PARKWAY  
BOULDER, COLORADO**

**1. PARTIES**

This Lease, dated this 21st day of September, 1988, is entered into between Foothills Center Limited Partnership, a Colorado limited partnership, as landlord ("Landlord"), whose address is 4700 Walnut Street, Boulder, Colorado 80301, and the City of Boulder, Colorado, a Colorado municipal corporation, as tenant ("Tenant"), whose address is 1000 Canyon Blvd., Boulder, Colorado 80302.

**2. PREMISES**

Landlord leases to Tenant and Tenant leases from Landlord those certain premises, as shown on the floor plan attached hereto as Exhibit B (the "Premises") consisting of 7,812 useable square feet of space located at 4700 Baseline Road, Suite \_\_\_\_\_, Boulder, Colorado (the "Shopping Center") as described on Exhibit A attached hereto and incorporated herein by this reference. Tenant shall also have the right to nonexclusive use of all common areas in the Shopping Center designated by Landlord for use by tenants of the Shopping Center, in accordance with and subject to the provisions of this Lease.

**3. USE**

(a) Permitted Use. Tenant shall use the Premises for a branch of its public library and shall not use or permit the Premises to be used for any other purpose.

(b) Deliveries. Tenant shall use its best efforts to schedule regular deliveries of books to its Premises so that they occur no more than three times a day and so that each delivery will be completed within forty-five minutes.

(c) Hours of Business. Tenant shall keep the Premises open to the public in conformance with the schedule adopted by the Boulder Public Library for its branches. Tenant shall provide Landlord with a copy of that schedule and shall notify Landlord in writing of any changes to the schedule at least fourteen days before the change becomes effective.

(d) Sidewalk. Tenant shall keep the sidewalk in front of the Premises free of trash and litter which may accumulate due to the nature of Tenant's business. Tenant shall not place any cardboard boxes or other containers on the sidewalk. Tenant shall not place any advertising signs on the sidewalk, unless approved in writing by Landlord. Tenant shall not conduct any business on such sidewalk and shall not place any vending machines on such sidewalk. Tenant shall reimburse Landlord on demand for all costs of enforcing this provision.

(e) Rear Alley. Tenant shall not place any trash, litter or other objects in the rear alley behind Tenant's Premises, other than in designated trash receptacles.

(f) Compliance with Law. Tenant shall comply with all laws, statutes, ordinances, and governmental rules, regulations or requirements now in force, or which may hereafter be in force, and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such law, statute, ordinance, rule, regulation, or requirement, shall be conclusive of that fact as between Landlord and Tenant.

**4. CONSTRUCTION AND ACCEPTANCE OF PREMISES**

(a) Construction of Premises. Landlord shall proceed to complete the Premises in accordance with the work (and certain provisions relating to the construction thereof) shown on Exhibit C hereto ("Landlord's Work"). The Premises shall be deemed to be "Ready for Occupancy" when Landlord certifies in writing to Tenant that Landlord has completed Landlord's Work, except for minor or insubstantial construction, mechanical adjustment or decoration, the non-completion of which will not materially interfere with Tenant's normal use of the Premises. Landlord shall complete Landlord's Work no later than July 31, 1989. Other than for Landlord's Work, Landlord shall have no obligation for the completion of the Premises.

(b) Acceptance of Premises. After Tenant occupies the Premises, Tenant shall be deemed to have fully accepted Landlord's Work, except as to agreed "punch list" items with respect to Landlord's Work. Neither Landlord nor Landlord's agents have made any representations, warranties or promises with respect to the physical condition of the Shopping Center, the land upon which it is erected, or the Premises, or any matter or thing affecting or related to the Premises except as herein expressly set forth.

(c) Commencement Date. The "Commencement Date" of this Lease shall be the date sixty (60) days from completion of Landlord's Work, or the date on which Tenant shall open the Premises to the public, whichever shall occur first. Promptly following the Commencement Date, Landlord and Tenant shall execute an agreement acknowledging that Tenant has accepted possession, and reciting the exact Commencement Date and Termination Date of the Lease. The failure by either party, or both parties, to execute such an agreement shall not affect the rights or obligations of either party hereunder. Such agreement, when so executed and delivered, shall be deemed to be a part of this Lease.

## **5. TERM**

(a) This Lease shall have a term of twenty (20) years commencing on the Commencement Date. It is anticipated that the Commencement Date will be May, 1989, and that the Termination Date of this Lease will be April 30, 2009. Moreover, should Safeway or a comparable anchor tenant at the Shopping Center remain as a tenant of Landlord after twenty years from the Commencement Date, the Tenant shall have the option to extend the Lease upon the same conditions for an additional period of time equal to the total period of time that Safeway or the comparable anchor tenant is a Tenant at the Shopping Center.

(b) If Tenant, prior to December 31, 1988, has not received an opinion from the Boulder County Assessor that the Premises will be exempt from property taxes during the term of the Lease, it may, by giving the Landlord ten (10) days advance written notice, terminate this Lease. Upon termination, both parties shall be released from all obligations hereunder.

(c) If the City Council of the City of Boulder, Colorado has not appropriated sufficient funds to complete the Tenant's Work set forth in Exhibit C prior to February 28, 1989, Tenant may terminate this Lease by giving Landlord ten (10) days advance written notice thereof. Upon termination, both parties shall be released from all obligations hereunder.

(d) If the City Council fails to appropriate sufficient funds for the expenses and fees which the Tenant is required to pay under this Lease for any calendar year subsequent to 1989, then the Tenant may terminate this lease as of the December 31 immediately preceding that calendar year by giving the Landlord written notice thereof at least sixty (60) days before that date. Upon such termination, both parties shall be released from all obligations hereunder.

## **6. RENT AND COMMON EXPENSES**

(a) No Rent. The Tenant shall not pay rent to the Landlord, but shall pay its Pro Rata Share of various common expenses as set forth below. For purposes of any action against Tenant under Colorado's forcible entry and detainer statutes, the Pro Rata Share may be considered as rent.

(b) Taxes and Insurance. Tenant shall pay to Landlord, Tenant's Pro Rata Share of real estate taxes on the Shopping Center; but, the above notwithstanding, Tenant shall only be obligated to pay its Pro Rate Share of real estate taxes if and to the extent that the Premises are not exempt from such taxes. Landlord shall notify Tenant of its receipt of any notice of any tax assessment affecting the Premises in sufficient time so that Tenant, if it chooses, may protest or appeal any assessment which does not recognize the Premises as tax exempt. Real estate taxes shall include all real property taxes and assessments levied against the Shopping Center by any governmental or quasi-governmental authority, including any taxes, assessments, surcharges, or service or other fees of a nature not presently in effect which shall hereafter be levied on the Shopping Center as a result of the use, ownership or operation of the Shopping Center or for any other reason, whether in lieu of or in addition to any current real estate taxes and assessments; provided, however, that any taxes which shall be levied on the rental of the Shopping Center shall be determined as if the Shopping Center were Landlord's only

property and provided further, that in no event shall the terms "Taxes and Assessments," as used herein, include any federal, state or local income taxes levied or assessed on Landlord, unless such taxes are a specific substitute for real property taxes; such term shall, however, include gross taxes on rentals (all of the foregoing are collectively referred to herein as "Taxes"). "Assessments" shall include any and all so-called special assessments, license tax, business license fee, business license tax, commercial rental tax, levy, charge or tax imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, water, drainage or other improvement or special district thereof, against the Premises or the Shopping Center, or any part thereof, or against any legal or equitable interest of Landlord therein. For the purposes of this Lease, any special assessment shall be deemed payable in such number of installments as is permitted by law, whether or not actually so paid. If the Shopping Center has not been fully assessed as a completed project, for the purpose of computing any adjustment to Tenant's share required herein, Taxes and Assessments shall be increased by Landlord's Accountants, in accordance with their estimate of what the assessment will be, upon full completion of the Shopping Center, including installation of all tenant finish items. Insurance shall include fire, extended coverage, property damage, liability, and business interruption or rent loss, and any other insurance coverage on the Shopping Center. Any tax or insurance reimbursement for any partial lease year shall be apportioned on a per diem basis. Tenant shall pay prior to delinquency all personal property taxes on Tenant's personal property located on the Premises.

(c) Common Area Maintenance Expenses. Tenant shall pay to Landlord, Tenant's Pro Rata Share of the Common Area Maintenance Expenses. "Common Area Maintenance Expenses" shall mean all expenses of any kind or nature which are necessary, ordinary or customarily incurred with respect to the operation, repair and maintenance of the Shopping Center as determined in accordance with generally accepted accounting principles and shall include, but not be limited to all sums expended in connection with Common Areas for all general operation and maintenance and repairs, resurfacing, or painting, restriping, cleaning, sweeping and janitorial services; maintenance and repair of sidewalks, curbs, and Shopping Center signs, sprinkler systems, planting and landscaping; lighting and other utilities; directional signs and other markers and bumpers; maintenance and repair of any fire protection systems, lighting systems, storm drainage systems, roof patching and any other utility systems; personnel to implement such services including the salary of the manager and all on-site personnel hired by Landlord and, if Landlord deems necessary, the cost of security guards; real and personal property taxes and assessments on the improvements and land comprising said Common Areas; all costs and expense pertaining to a security alarm system for the tenants in the Shopping Center; depreciation on maintenance and operating machinery and equipment (if owned) and rental paid for such machinery and equipment (if rented, adequate public liability and property damage insurance on the Shopping Center and Common Areas under which the Tenant shall be named as an additional insured). In addition, Tenant shall pay a sum to Landlord for the accounting, bookkeeping and collection of the expenses for each calendar year. Landlord may cause any of all of said services to be provided by an independent contractor or contractors. Should Landlord acquire or make available additional land not shown as part of the Shopping Center on Exhibit A and make the same available for parking or other Common Area purposes, then said expenses in connection with Common Areas shall also include all of the aforementioned expenses incurred and paid in connection with said additional land.

Thirty days prior to the Commencement Date and also thirty days prior to the beginning of each calendar year during the term of this Lease, Landlord shall provide Tenant with a written statement specifying the standards at which each of the services included in the Common Area Maintenance Expenses will be performed (for example, how often windows will be cleaned, or how much snow must accumulate before snow is removed). As well, thirty days prior to the Commencement Date and at least thirty days prior to the beginning of each calendar year the Landlord will furnish Tenant with an estimate of the cost of each such service during the coming year.

(d) Calculation of Tenant's Pro Rata Share. Tenant's Pro Rata Share, for the purposes of this Lease, shall be a fraction, the numerator of which is the total usable square footage of the Premises (i.e., 7,812 square feet) and the denominator of which is the total square footage of the Shopping Center (i.e., 173,803 square feet). The above notwithstanding, and subject to the provisions of the following paragraph (e), Tenant's Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance shall not in any event exceed \$1.02 per useable square footage of the Premises for the first year after the Commencement Date, and thereafter it shall not increase by more than the

percentage increase, if any, during each succeeding year in the United States Department of Labor Consumer Price Index for all Urban Consumers ("CPI-U") for the Consolidated Metropolitan Statistical Area for Denver.

(e) Expenses Borne by Tenant. The Landlord and Tenant recognize the unique character of the intended use by Tenant and agree that the limitation of the amount payable for the Common Area Maintenance Expenses, Taxes and Insurance is conditioned upon the following:

(i) Landlord and Tenant are able to procure an exemption from real property taxes applicable to the space to be occupied by Tenant.

(ii) Tenant assures that the Premises and public areas designated in Exhibit E will be added to and primarily covered under the Tenant's municipal blanket insurance policy, and that the Landlord's lender and the Landlord, and as property manager, be added as additional named insureds.

(iii) All exterior lights and parking lot lights used in the 113-space parking lot shown on Exhibit E will be separately metered, billed directly to the Tenant, and paid for by the Tenant.

(iv) Tenant shall be solely responsible for removing all trash from the Premises.

(v) Tenant shall provide and be responsible for snow removal and sweeping for the above-mentioned parking lot.

(vi) Landlord shall have the right, notwithstanding the above provisions, to take steps necessary to remedy any unsafe or unsightly situation that may arise in the Shopping Center from failure by the Tenant or Tenant's contractees to provide the above-mentioned services.

(f) Payment of Common Area Charges. Tenant shall pay to the Landlord, Tenant's Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance in the following manner:

(i) Beginning with the Commencement Date, but subject to adjustment as provided herein, Tenant shall pay to Landlord on the first day of each calendar month of the term of this lease an amount estimated by Landlord to be Tenant's Pro Rata Share of such charges. Landlord may adjust the estimated monthly charge at the end of any calendar year on the basis of Landlord's experience and reasonably anticipated costs.

(ii) Within one hundred twenty (120) days following the end of each calendar year, Landlord shall furnish Tenant a statement covering the calendar year just expired (the "Statement"), certified as correct by an authorized representative of Landlord, showing the total of such charges, the amount of Tenant's Pro Rata Share thereof for such calendar year, and the payments actually paid by Tenant during such period. If Tenant's Pro Rata Share of such charges exceeds Tenant's payments made, Tenant shall pay Landlord the deficiency within ten (10) business days after receipt of such Statement. If the estimated payments made exceed Tenant's actual Pro Rata Share thereof, Landlord shall credit the excess against any amounts then owing or thereafter becoming due from Tenant to Landlord. In any Lease Year which is not a full calendar year, a proportionate reduction shall be made in Tenant's Pro Rata Share of Common Area Maintenance Expenses.

(iii) Tenant shall have the right at its own expense and at a reasonable time (after written notice to Landlord) within thirty (30) days after receipt of the Statement to audit Landlord's books relevant to the Tenant's Pro Rata Share of the Common Area Maintenance Expenses, Taxes and Insurance due hereunder. In the event Tenant does not audit Landlord's books and deliver the results thereof to Landlord within said thirty-day period, the terms and amounts set forth in the Statement from Landlord to Tenant shall be deemed conclusive and final and Tenant shall have no further right to adjustment. In the event Tenant's examination reveals that an error has been made in Landlord's determination of Tenant's Pro Rata Share of such charges, and Landlord agrees with such determination, then the amount of such adjustment shall be payable by Landlord or Tenant to the other party as the case may be in accordance with subparagraph (ii) hereof. In the event Tenant's examination reveals an error has been

made in Landlord's determination of Tenant's Pro Rata Share, and Landlord disagrees with the results thereof, Landlord shall have thirty (30) days to obtain an audit from an accountant of its choice to determine Tenant's Pro Rata Share of such charges. In the event Landlord's accountant and Tenant's accountant are unable to reconcile their audits, both accountants shall mutually agree upon a third accountant, whose determination of Tenant's Pro Rata Share of the charges shall be conclusive. In the event the amount of error by Landlord is determined to be less than five percent (5%), the reasonable costs of the third audit made pursuant to this subparagraph shall be paid by Tenant.

(iv) Landlord's failure during the Lease term to prepare and deliver any statements or bills, or Landlord's failure to make a demand under this paragraph or under any other provision of this Lease shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender, its rights to collect any items of Additional Rent which may have become due pursuant to this paragraph during the term of this Lease, except as otherwise specifically set forth in this Lease. Tenant's liability for all Additional Rent due under this Lease shall survive the expiration or earlier termination of this Lease.

(v) Regardless of any rental abatement granted to Tenant as an incentive or concession, or to which Tenant may be entitled hereunder, Tenant's obligation to pay its Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance shall not abate, but shall begin on the Commencement Date and shall continue in full force and effect for the entire term of this Lease, including any renewals or extensions hereof.

(g) Late Charge. Tenant hereby acknowledges that late payment by Tenant to Landlord of its Pro Rata Share, or other sums due hereunder will cause Landlord to incur costs the exact amount of which will be difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by terms of any mortgage or trust deed encumbering the Shopping Center. Accordingly, if any installment of Pro Rata Share or any other sum due from Tenant shall not be received by Landlord within ten (10) days after said amount is due, Tenant shall pay to Landlord on demand a late charge of five percent (5%) of such overdue amount, plus any reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay such amount. Any sums due from Tenant which are more than one (1) month delinquent shall bear interest at the rate of eighteen percent (18%) per annum ("Interest Rate") from the due date. Tenant shall pay on demand Twenty-five Dollars (\$25.00) for any check returned for insufficient funds.

## **7. SERVICES**

(a) Separately Metered Services. The Premises shall be separately metered for gas and electric utility services. Tenant shall be responsible for contracting directly with the appropriate utility supplier for all gas and electric service to the Premises. Tenant shall be responsible for payment of all fees and costs for such gas and electric service (including HVAC services) to the Premises directly to the applicable utility supplier prior to delinquency.

(b) Service Interruption. Landlord shall not be liable for failure to provide any required services so long as Landlord uses reasonable diligence to provide or restore such services. Landlord may discontinue services due to accident, repairs, strikes, acts of God, or any other event beyond the reasonable control of Landlord. In such event, Landlord shall not be liable for such failure or discontinuance, nor shall such failure or discontinuance be construed as a constructive eviction of Tenant. Landlord's obligation to furnish electricity and gas is conditioned upon the availability of adequate sources from the utility company servicing the Shopping Center, without liability, to comply with any public energy-saving program.

(c) Payment by Tenant. Tenant shall pay, prior to delinquency and directly to the applicable supplier, for all services and utilities supplied to the Premises and separately metered, together with any taxes thereon. If any services are not separately metered to Tenant, Tenant shall pay Tenant's Pro Rata Share of all charges jointly metered with other space in the Shopping Center. Tenant shall arrange and pay for its own telephone service.

## **8. TENANT REPAIRS AND ALTERATIONS**

(a) Repairs. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof including but not limited to interior surface of ceilings,

walls and floors; doors, windows, plate glass; and all plumbing pipes and apparatus, electrical fixtures, furnishings and equipment, in good condition and repair. Tenant shall immediately replace all broken glass in the Premises. Tenant shall, upon the expiration or earlier termination of this Lease, surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear excepted. Tenant shall not be obligated to make repairs necessitated by fire or other casualty unless caused in whole or in part by the act, omission or negligence of Tenant, its agents, employees and invitees. Notwithstanding the foregoing, all damage or injury to the Premises or to any other part of the Shopping Center caused by carelessness, omission, neglect, or improper conduct of Tenant, its employees, agents, subtenants, assignees or invitees shall be repaired promptly by Tenant at its sole cost and expense, to the satisfaction of Landlord reasonably exercised. All decals and signage shall be removed from windows at the termination of the Lease.

(b) Service Contract. Tenant shall enter into a regularly scheduled preventive maintenance and service contract with an experienced maintenance and service contractor for servicing the controls of all heating, ventilation, and air conditioning (HVAC) systems and equipment within the Premises. The contractor and the contract are both subject to Landlord's prior approval, which approval shall not be unreasonably withheld or delayed. The Landlord hereby approves Johnson Controls, Inc. as such a contractor (without implying by such approval disapproval of any other proposed contractor) so long as Johnson Controls maintains and repairs the controls in accordance with its contractual obligations to Tenant. The Tenant may maintain the other parts of the HVAC systems and equipment within the Premises with its own employees, who shall be qualified and experienced in such work. Such maintenance shall include, at a minimum, all services recommended by the equipment manufacturer and must be effective within thirty (30) days of the Commencement Date hereof.

(c) Alterations. Tenant shall not change any plumbing or wiring, without the prior written consent of Landlord. Plans and specifications for such work shall be submitted to Landlord in advance. Landlord shall have the right to approve Tenant's contractors as well as the general manner and method in which such work is to be performed. Tenant shall provide Landlord with insurance certificates evidencing that all contractors and subcontractors have adequate workmen's compensation insurance, and builder's risk insurance satisfactory to Landlord. At least twenty (20) days prior to the commencement of any work on the Premises, Tenant shall notify Landlord of the names and addresses of the persons supplying labor and materials so that Landlord may give notice that it shall not be subject for any lien for Tenant's work in accordance with Colorado's mechanics' lien statutes. Landlord shall have the right to keep posted on the Premises notice to such persons in accordance with such statutes.

(d) Mechanics' Liens. Tenant shall pay or cause to be paid all costs for work done by or on behalf of Tenant or caused to be done by or on behalf of Tenant on the Premises of a character which will or may result in liens against Landlord's interest in the Premises or the Shopping Center, or any part thereof and Tenant will keep the same free and clear of all mechanics' liens and other liens on account of work done for or on behalf of Tenant or persons claiming under Tenant. Should any such liens be filed or recorded against the Premises or the Shopping Center with respect to work done for or materials supplied to or on behalf of Tenant or should any action affecting the title thereto be commenced, Tenant shall cause such liens to be released of record within twenty (20) days after notice thereof. If Tenant desires to contest any such claim of lien, Tenant shall nonetheless cause such lien to be released of record by the posting of adequate security with a court of competent jurisdiction as may be provided by Colorado's mechanics' lien statutes. If Tenant shall be delinquent in paying any charge for which such a mechanics' lien or suit to foreclose such a lien has been recorded or filed and shall not have caused the lien to be released as aforesaid, Landlord may (but without being required to do so) pay such lien or claim and any costs associated therewith, and the amount so paid, together with interest thereon at the Interest Rate and reasonable attorneys' fees incurred in connection therewith, shall be immediately due from Tenant to Landlord as Additional Rent.

## **9. INDEMNITY**

Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises, the conduct of its business or any claim arising from any breach or default on Tenant's part under the terms of this Lease, or from any act, omission, or negligence of Tenant, or any officer, agent, employee, guest or invitee of Tenant, and from all costs, attorneys' fees, and liabilities incurred in or



about the defense of any such claim or any action or proceeding brought thereon. The above notwithstanding, Tenant's indemnification obligation hereunder is subject to and limited by the proceeds, if any, of Tenant's applicable insurance policies and programs. Tenant assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause other than Landlord's negligence. Tenant waives all claims with respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in the Premises. Landlord agrees to indemnify and hold Tenant harmless from any and all claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) arising from or in connection with the condition, use or control of the Common Areas during the Lease Term.

#### **10. INSURANCE**

Tenant shall procure and maintain at its own cost at all times during the term of this Lease and any extensions hereof, fire, hazard and extended coverage insurance on Tenant's property and the contents of the Premises in an amount not less than the full replacement value, plate glass insurance, comprehensive general liability insurance, including coverage for bodily injury, property damage, personal injury (employee and contractual liability exclusions deleted), products and completed operations, contractual liability, owner's protective liability, host liquor legal liability and broad form property damage with the following limits of liability: Four Hundred Thousand Dollars (\$400,000.00) for each occurrence combined single limit for bodily injury, property damage and personal injury; Four Hundred Thousand Dollars (\$400,000.00) aggregate for bodily injury and property damage for products and completed operations. All such insurance shall be procured from a responsible insurance company authorized to do business in Colorado, and shall be otherwise satisfactory to Landlord. All such policies shall name Landlord and Landlord's managing agent as an additional insured, and shall provide that the same may not be cancelled or altered except upon thirty (30) days prior written notice to Landlord. All insurance maintained by Tenant shall be primary to any insurance provided by Landlord. If Tenant obtains any general liability insurance policy on a claims-made basis, Tenant shall provide continuous liability coverage for claims arising during the entire term of this Lease, regardless of when such claims are made, either by obtaining an endorsement providing for an unlimited extended reporting period in the event such policy is cancelled or not renewed for any reason whatsoever or by obtaining new coverage with a retroactive date the same as or earlier than the expiration date of the cancelled or expired policy. Tenant shall provide certificate(s) of such insurance to Landlord upon commencement of the Lease term and at least thirty (30) days prior to any annual renewal date thereof and upon request from time to time and such certificate(s) shall disclose that such insurance names Landlord and Landlord's managing agent as an additional insured, in addition to the other requirements set forth herein. The limits of such insurance shall not, under any circumstances, limit the liability of Tenant hereunder.

#### **11. SUBROGATION**

As long as their respective insurers so permit, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss or damage to property insured by fire, extended coverage, or any other property insurance policies existing for the benefit of the respective parties. The foregoing waiver shall be in force only if both parties' insurance policies contain a clause providing that such a waiver shall not invalidate the insurance and such a policy can be obtained without additional premiums.

#### **12. LANDLORD REPAIRS**

Landlord shall maintain all portions of the Shopping Center not the obligation of Tenant or any other tenant in good order, condition and repair, and shall proceed to make all needed repairs diligently. There shall be no liability of Landlord by reason of any injury to, or interference with, Tenant's operations arising from the diligent making of any repairs, alterations or improvements.

#### **13. COMMON AREAS AND PARKING**

The parking areas in the Shopping Center shall be at all times under Landlord's exclusive control. Landlord reserves the right to change the entrances, exits, traffic lanes and the boundaries and locations of parking areas, as long as Tenant's operations are not materially disrupted. Landlord shall keep parking and common areas in clean and orderly condition. All vehicles of Tenant, its agents, and employees shall be parked in

parking areas designated by Landlord for use by the retail tenants in the Shopping Center. Tenant shall furnish Landlord, upon request, a complete list of license numbers of all automobiles operated by Tenant and its employees.

**14. LIMITED LIABILITY**

Landlord shall not be liable for any loss or damage resulting from: (a) fire, explosion, falling plaster, steam, gas, electricity, water or rain; (b) the pipes, appliances or plumbing works in the Shopping Center; (c) the roof, street, subsurface; (d) any variation or interruption of utility services; (e) theft or other criminal acts of third parties; or (f) any other cause whatsoever, unless due to the negligence of Landlord. Landlord's liability under this Lease shall be limited to Landlord's estate and interest in the Shopping Center and Tenant shall look solely to the Shopping Center for the recovery of any judgment against Landlord. Landlord and its partners shall not be personally liable for any judgment.

**15. ASSIGNMENT AND SUBLETTING**

Tenant shall not assign this Lease or sublet all or any part of the Premises.

**16. DAMAGE BY CASUALTY**

(a) Subject to Section 16(b), (c) and (d), in the event the Premises are damaged by fire or other casualty, Landlord shall repair such damage. This Lease shall remain in full force and effect.

(b) If the Shopping Center is more than fifty percent destroyed and Landlord decides to and proceeds to demolish it and not replace it with another shopping center on the site then the Landlord may elect to terminate the Lease by written notice to Tenant given ninety (90) days following such fire or other casualty.

(c) In case of any damage mentioned in this Section 16, Tenant may cancel this Lease by written notice to Landlord if Landlord has not completed the making of the required repairs within six (6) months from the date of damage, which period shall be extended by the number of days lost in the event of labor strikes, act of God, or any other similar causes beyond the control of Landlord; provided, however, that such notice be given to Landlord within thirty (30) days of the expiration of said six (6) month period and prior to substantial completion of the required repairs.

(d) In case the Shopping Center or the Premises shall be substantially damaged during the last year of the Lease term, then either Landlord or Tenant may cancel the Lease upon written notice to the other party given within forty-five (45) days after such damage.

(e) Landlord shall not be required to make any repairs or replacements of any leasehold improvements, fixtures, or other personal property of Tenant.

**17. EMINENT DOMAIN AND CONDEMNATION**

(a) Total Condemnation. If the whole of the Premises shall be taken by condemnation or eminent domain, then the term hereof shall cease as of the vesting of title or as of the day possession shall be so taken, whichever is earlier.

(b) Partial Condemnation. If only a portion of the Premises is taken by condemnation or eminent domain, Landlord shall be entitled to terminate this Lease, effective on the day of vesting of title or the day possession is taken, whichever is earlier, upon giving written notice to Tenant within ninety (90) days from the taking. If Landlord does not elect to so terminate this Lease, Landlord shall restore the Premises to the extent practicable, and Tenant's Pro Rata Share shall be abated to the extent there is any diminution in the usable area of the Premises.

(c) Damages. In the event of any taking, Landlord shall be entitled to any and all awards and/or settlements which may be given, and Tenant shall have claim against Landlord for the value of any unexpired term of this Lease. Tenant shall have the right to claim from the condemning authority a separate award for damage to Tenant's business.

**18. ENTRY BY LANDLORD**



Landlord reserves the right to enter the Premises to inspect the same, to submit the Premises to prospective purchasers, lenders or tenants, to post notices of non-responsibility, to post notices of Tenant's failure to comply with this Lease, or to repair the Premises, without abatement of Rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required; provided that the entrance to the Premises shall not be unreasonably blocked and the business of Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages to Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, without any liability to Tenant except for failure to exercise due care for Tenant's property. Any entry to the Premises by Landlord shall not be construed to be a forcible or unlawful entry into the Premises, or an eviction of Tenant from the Premises.

**19. DEFAULT BY TENANT**

(a) Event of Default Defined. The following events (herein referred to as an "Event of default") shall constitute a default by Tenant hereunder:

(i) Tenant shall default in the due and punctual payment of its Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance payable hereunder, and such default shall continue for ten (10) days after receipt of written notice from Landlord; or

(ii) Tenant shall neglect or fail to perform or observe any of the covenants herein contained on Tenant's part to be performed or observed and Tenant shall fail to remedy the same within thirty (30) days after Landlord shall have given to Tenant written notice specifying such neglect or failure (or within such additional period, if any, as may be reasonably required to cure such default if it is of such nature that it cannot be cured within said thirty (30) day period); or

(iii) This Lease or the Premises or any part thereof shall be taken upon execution or by other process of law directed against Tenant, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against Tenant, and said attachment shall not be discharged or disposed of within fifteen (15) days after the levy thereof; or

(iv) Tenant vacates or abandons the Premises or permits the same to remain vacant or unoccupied for a period of ten (10) continuous business days, then, in any such event, after written notice has been received by Tenant from Landlord, Tenant will have ten (10) days to remedy such default, otherwise Lessor shall have the right at its election, or at any time thereafter, and while such event of default shall continue, to pursue its remedies as set forth in Subsection 19(b).

(b) Remedies. In the event of any such default or breach by Tenant, Landlord may at any time thereafter, in its sole discretion, without limiting Landlord in the exercise of a right or remedy which Landlord may have by reason of such default or breach, terminate this Lease and re-enter and take possession of the Premises or any part thereof and repossess the same as Landlord's former estate without prejudice to any remedies for arrears of Tenant's Pro Rata Share or preceding breach of covenants or conditions.

**20. NON-SUBORDINATION**

This Lease shall remain in full force and effect regardless of the status of any mortgage or deed of trust now or hereafter placed on the Shopping Center and of any renewal, modification, consolidation, replacement or extension of such mortgage or deed of trust. At the request of Tenant, Landlord shall obtain a non-disturbance agreement from its lender.

**21. SIGNS AND ADVERTISING**

(a) Signs. Tenant shall not install or display any sign, picture, advertisements, notice, lettering or direction on any part of the Shopping Center outside of the Premises or otherwise visible to the public without the written consent of Landlord. Landlord shall prescribe a uniform identification sign for Tenant to be placed outside of the Premises by Tenant no later than the date Tenant opens for business. Tenant may install or display the maximum amount of signage allowed by the Boulder Revised Code, 1981,

(b) Displays. Tenant may not display or sell merchandise outside of the Premises. Tenant shall not install any exterior lighting, amplifiers or similar devices which may be heard or seen outside the Premises, such as flashing lights, searchlights, loud-speakers, phonographs or radio broadcasts.

(g) No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

(h) This Lease shall be governed by the laws of the State of Colorado.

(i) In the event of any action or proceeding brought by either party against the other under this Lease, the prevailing party shall be entitled to recover court costs and attorneys' fees.

(j) In the event of any sale or transfer of the Shopping Center by Landlord, Landlord shall be relieved of all liability hereunder. The purchaser or transferee shall be deemed to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease.

(k) This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

(1) Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way effect, impair, or invalidate any other provision hereof and such other provision shall remain in full force and effect.

(m) Landlord reserves the absolute right to effect such other tenancies in the Shopping Center as Landlord, in the exercise of its sole business judgment, which it determines to best promote the interest of the Shopping Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or number of tenants shall, during the term of this Lease, occupy any space in the Shopping Center.

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

LANDLORD:

FOOTHILLS CENTER LIMITED PARTNERSHIP  
A Colorado Limited Partnership

By: James R. Loftus, Managing General Partner

TENANT:

CITY OF BOULDER, COLORADO

By: James W. Piper, City Manager

ATTEST:

~~Director of Finance and Record~~  
~~Ex-Officio City Clerk~~



STATE OF COLORADO )  
COUNTY OF BOULDER ) ss.

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of September, 19 88, by James R. Loftus, as Managing General Partner of Foothills Center Limited Partnership, a Colorado limited partnership.

Witness my hand and official seal.

2009 Extension

My commission expires: April 12, 1992

(SEAL)

*Robert L. Pennington*  
Notary Public

STATE OF )  
COUNTY OF ) ss.

The foregoing instrument was acknowledged before me this 21st day of September, 1988, by James W. Piper as City Manager of the City of Boulder, a Colorado municipal corporation.

Witness my hand and official seal.

My commission expires: June 6, 1991

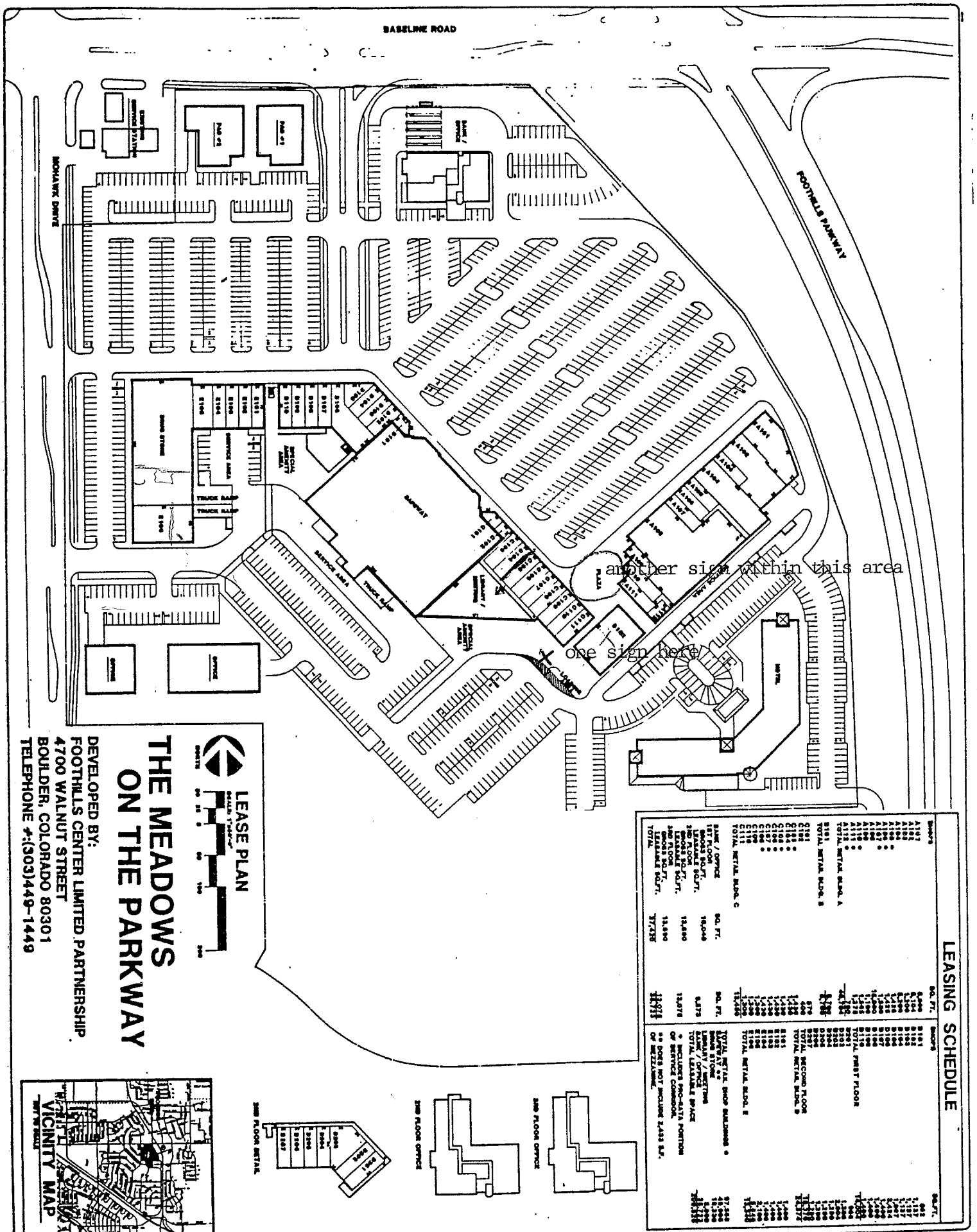
(SEAL)

*Judith C. Conyers*  
Notary Public

LI AD EOC

**EXHIBIT A**

## Site Plan



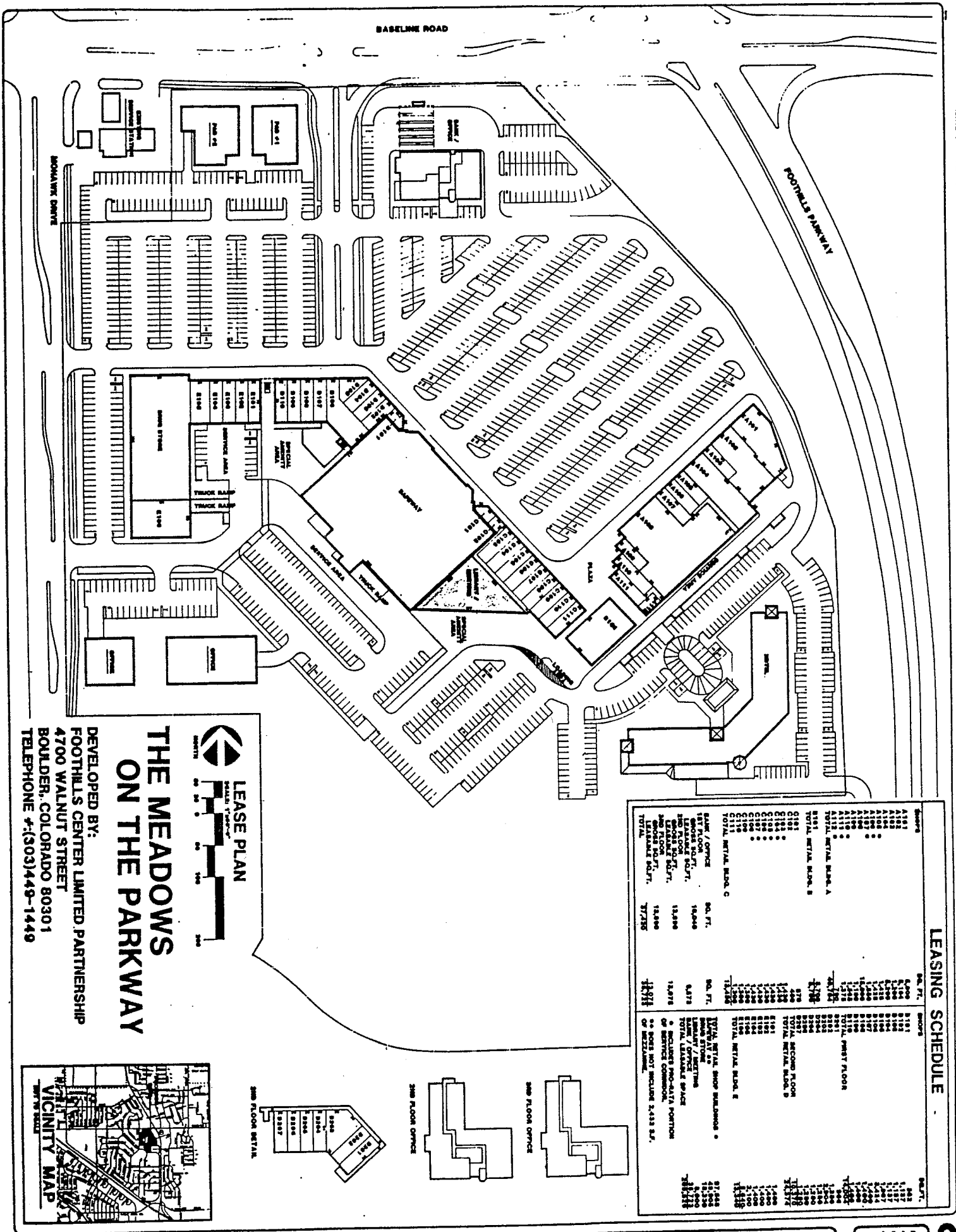
**Clothier-Weber  
& Associates, Inc.**

**THE MEADOWS ON THE PARKWAY  
FOOTHILLS CENTER LIMITED PARTNERSHIP**

INITIAL

EXHIBIT B

Plan of Premises



**Construction - General Provisions**

1. As soon as practicable, Landlord shall begin construction of the Shopping Center, unless prevented or delayed by conditions over which Landlord has no control. In the event prior to commencement of construction of the Shopping Center Landlord elects not to proceed with such construction, Landlord may terminate this Lease upon notice to Tenant.
2. Landlord will build out the shell Premises in accordance with the specifications attached hereto as Schedule 1 to this Exhibit E ("Landlord's Work").
3. Tenant shall complete construction of the Premises and tenant improvements located therein, in accordance with this Exhibit C and Schedule 2 to this Exhibit C ("Tenant's Work"). By December 21, 1988, Tenant shall submit to Landlord two sets of preliminary drawings prepared by Tenant's architect at Tenant's expense. Such drawings shall include interior partitions, trade fixture plans, lighting, electrical, plumbing, fire sprinkler, special HVAC equipment, signs, and floor and wall coverings. After approval by Landlord of such preliminary drawings, Tenant's architect shall have 15 days to prepare and submit to Landlord a set of final plans and specifications for Landlord's approval. If Landlord does not reasonably approve such final plans within 60 days from the date of Lease execution, then the Lease may be terminated by Landlord within such 60 day period.
4. Other than for Landlord's Work, the completion of the Premises shall be at Tenant's sole cost and expense.
5. Tenant shall not enter into possession of the Premises prior to Landlord's approval of Tenant's final plans and specifications.
6. If Tenant elects to commence Tenant's Work prior to the completion of Landlord's Work, Tenant shall not be deemed to have accepted the Premises, but in such event, Tenant shall hold Landlord harmless and indemnify Landlord for any loss or damage to Tenant's property and for injury to any persons, unless caused by Landlord's active negligence.
7. During the construction of Landlord's Work, Landlord shall maintain or cause its prime contractor to maintain public liability and workmen's compensation insurance adequate to protect Tenant as well as Landlord from any liability for death or injury to any person or damage to property caused by the construction of Landlord's Work. During the construction of Tenant's Work, Tenant shall maintain or cause its prime contractor to maintain public liability and workmen's compensation insurance adequate to protect Landlord as well as Tenant from any liability for death or injury to any person or damage to property caused by the construction of Tenant's Work.

SCHEDULE 1 TO EXHIBIT C

Description of Landlord's Work

Landlord agrees to complete said Premises in the following manner:

1. **STOREFRONT:** Standard storefront per plans with tinted insulated glass and single aluminum frame and 6'0" x 7'0" glass door with closer and lock to be specified by Landlord.
2. **FLOOR:** All areas to be concrete.
3. **HEATING, VENTILATING AND AIR CONDITIONING:** Roof top heating and air conditioning system to be installed on roof with vertical penetration into Tenant's space.
4. **ELECTRICAL:** Power will be provided by a 100 amp, 120V/208V 3-phase service. Electric panel to be located as designated by Landlord. Electrical rough-in will be completed.
5. **Studs** to support interior drywall and sewer and water connections, and stub-in plumbing will be provided.

Bath rough-ins, rear exit door and electrical panel location will be provided by Landlord at Tenant's request if Landlord receives Tenant's written request by December 21, 1988.



Description of Tenant's Work

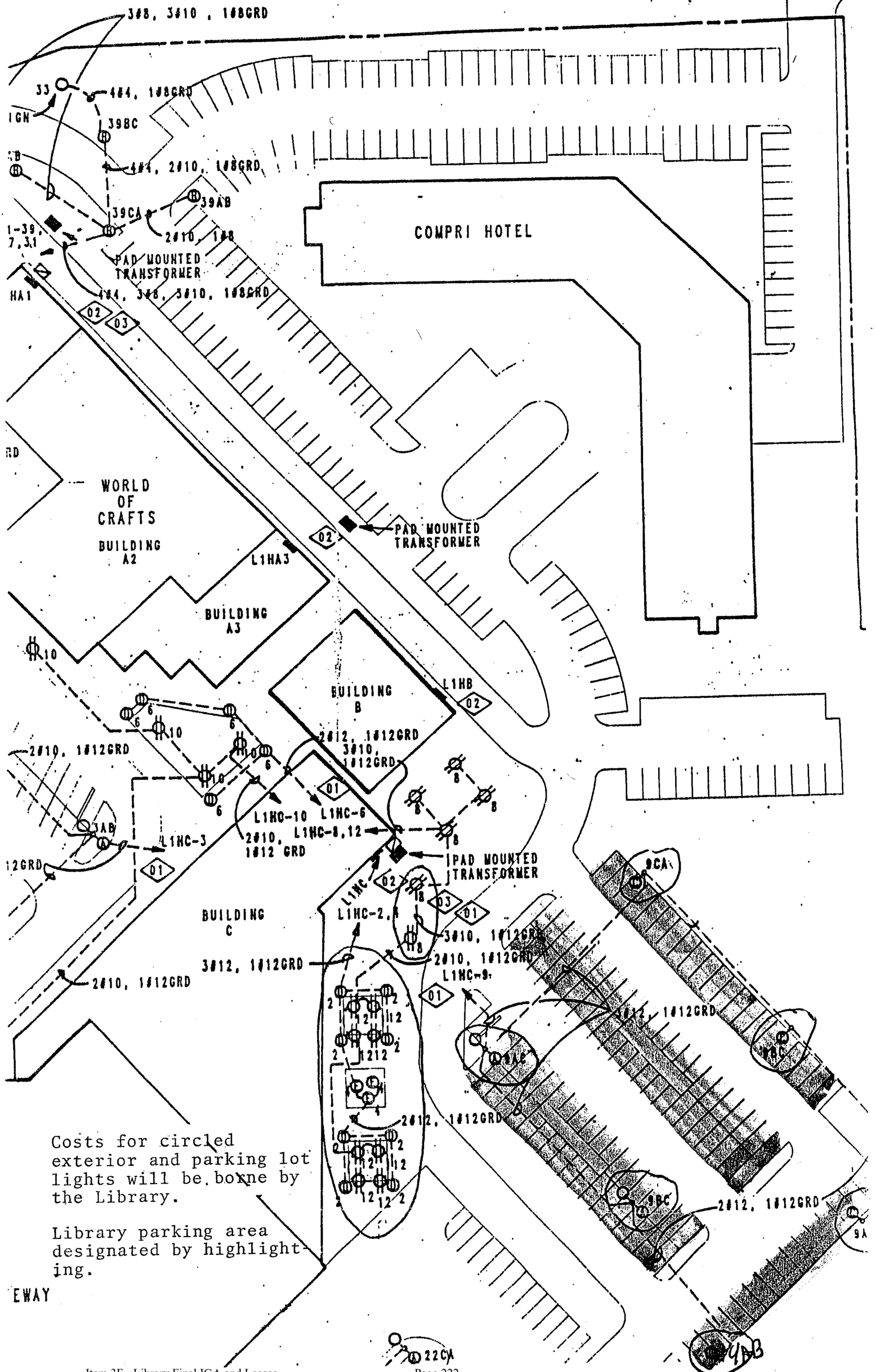
1. **Electrical fixtures and equipment:** All electrical work for the Premises not specifically stated under Landlord's Work to be performed by Tenant.
2. **Gas Connections:** Meters and all gas connections, if any, within the Premises.
3. **Telephones:** All conduits for telephone wires in the Premises. Tenant shall make all arrangements for telephone service. Equipment and installation are the responsibility of Tenant.
4. **Walls:** All interior partitions and curtain walls within the Premises.
5. **Coves and Ceilings:** All special coves and ceilings.
6. **Furniture and Fixtures:** All store fixtures, cases, wood paneling, cornices, etc.
7. **Show Window Background Floors, Etc.:** All show windows, floors, show window backgrounds, show window lighting fixtures, and show window doors.
8. **Floor coverings:** All floor coverings and floor materials other than concrete.
9. **Ornamental stairs:** All ornamental or other stairs not required by governing building codes.
10. **Alarm Systems, Etc.:** All alarm systems or other protective devices.
11. **Special Plumbing:** All extra plumbing, either rough-in or fixtures, required for Tenant's special needs.
12. **Special or Additional HVAC Equipment:** HVAC not provided by Landlord and all additional or special HVAC equipment, including show window ventilation to service and maintain the premises in acceptable condition.
13. **Storm and Screens:** All storm and screen doors or storm enclosures.
14. **Special Equipment:** All special equipment such as conveyers, elevators, dumb waiters, etc., including installation and connection.
15. A water heater shall be provided by Landlord. Said water heater shall be designed by Landlord's architect for a normal bathroom containing one lavatory.
16. Interior painting.
17. Tenant's signs, both interior and exterior, including power from Tenant's panel. All signs shall be designed, constructed and located in accordance with the project Sign Criteria, Exhibit F.
18. **Concrete Floors:** Any special reinforcing, raised areas or depressions.
19. Any changes needed, or required to the fire sprinkler protection system due to Tenant's requirements and those of any government agency.
20. All work of any kind not specifically provided by description of Landlords Work.

**Sign Criteria**

The design and location of all signs for the exterior of the demised premises shall be subject to approval by Landlord. Tenant must submit detailed sign drawings to the Landlord, and no sign shall be installed until Landlord's written approval has been obtained by the Tenant. Drawings submitted must be in duplicate and contain all vital information pertaining to dimensions, location on the building, material, color and type of illumination. Color samples of all signs shall be submitted to the Landlord for approval. The following limitations will apply:

1. All signs will be composed of individual channel type, one color letters and/or numbers and will be limited to the Tenant's trade name. The Landlord reserves the right to make exceptions to this rule for national, regional or local chains that already have an established sign criteria.
2. All individual letters, numbers or logo will be interior illuminated in one of two ways:
  - A. Dimensional letters will be constructed out of an opaque material. Letters will be stud mounted away from surface with interior illumination creating a halo effect when illuminated. This method is referred to as Reverse Pan-Channel.
  - B. Dimensional letters will be constructed with a transparent face with interior illumination.
3. The site, color and location of all signs shall be limited by the signage guidelines and meet all U.L. and City of Boulder specifications.
4. The following is not permitted and is expressly prohibited:
  - A. Signs with exposed neon or fluorescent tubing or exposed lamps.
  - B. Signs with flashing, blinking, moving, flickering, animated or audible effect or type.
  - C. Printed signs on fronts of show windows.
  - D. Paper signs, stickers, banners or flags.
  - E. Exposed sign illumination or illuminated sign cabinets or modules.
  - F. Painted signs on the exterior surface of any building.
  - G. Rooftop signs.
  - H. Exterior illumination of signs from the front of the building.

The furnishing and installation of a sign and costs incurred shall be the responsibility of the Tenant. Sign construction is to be completed in compliance with the instructions contained within this exhibit. All permits for signs and their installation shall be obtained and paid for by the Tenant or his agent.





**CITY OF BOULDER  
CITY COUNCIL ITEM ADDENDUM**

**MEETING DATE: November 2, 2023**

**AGENDA ITEM:**

Item 3F – Library Final IGA and Leases

**PAGE NUMBERS:**

Starting on page 113 of Item 3F

**DESCRIPTION**

Agenda Item 3F, starting at page 113, the Civic Area License and Management Agreement, Exhibit C to the Main Boulder Library Lease, did not include its Exhibit A. This addendum includes the Civic Area License and Management Agreement with its Exhibit A.

## CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT

THIS CIVIC AREA LICENSE AND MANAGEMENT AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2023 (“**Effective Date**”), by and between the CITY OF BOULDER, a Colorado home rule municipality, (“**City**” and/or “**Licensor**”), and the BOULDER PUBLIC LIBRARY DISTRICT (“**District**” and/or “**Licensee**”). Licensor and Licensee may be referred to collectively herein as the “**Parties**,” and individually as a “**Party**.”

### RECITALS

- A. The City is a Colorado home rule municipality incorporated on November 4, 1871.
- B. The District was formed and exists as a library district pursuant to Section 24-90-101, *et seq.*, C.R.S., for the purpose of providing certain public improvements, facilities and services, to and for the use and benefit of the District, its residents, users, property owners, and the public.
- C. The District’s boundaries are located partially within the corporate limits of the city of Boulder.
- D. The City and the District have agreed to lease portions of the library buildings and surrounding land to the District and transfer ownership and operations of the City’s assets and liabilities held for the benefit of the former City of Boulder Public Library to the District subject to the terms, conditions and obligations set forth in the Final Intergovernmental Agreement dated \_\_\_\_\_, 2023, (“**IGA**”).
- E. The Boulder Public Library Main Branch building located at 1001 Arapahoe Ave., Boulder, Colorado 80302 (“**Main Library**”) will be leased from the City to the District, subject to the terms and conditions set forth in the Main Library Lease dated \_\_\_\_\_, 2023, (the “**Library Lease**”). The City will retain ownership of the land in, under, and around the Main Library building depicted on **Exhibit A** as the licensed area (the “**Licensed Area**”). The Licensed Area is outlined in yellow on **Exhibit A**. This Agreement is intended to govern the use and maintenance of the Licensed Area and is to be read together with the Library Lease.
- F. The Licensed Area is publicly owned property and subject to laws and provisions of the state and federal constitutions regarding public access, public use, and the exercise of individual First Amendment rights.
- G. In order to ensure the ability of the District and its patrons to use the Licensed Area without interference with other public users’ rights, the City and the District have entered into this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings herein set forth, the Parties have established the following terms:

1. License. The City hereby grants the District a non-exclusive license (“**License**”) for access and use as a public entity, and for the use of its invitees and licensees (“**Library Users**”), to access and use, the Licensed Area subject to the terms and conditions described herein relating to each of the areas outlined in yellow and described in **Exhibit A**.

2. Licensee’s Use. The District and Library Users may access, use, and occupy the Licensed Area in a manner consistent with the terms of the IGA, the Library Lease, and this Agreement. The District will be responsible for all of the upkeep and maintenance within the leased area, as described in the Library Lease, including, but not limited to, the following:

- a. Main Library Building and 9th St. Loading Dock as Indicated in Red in **Exhibit A**.
  - i. The Main Library building may remain on the civic center property in its current configuration and as modified and expanded in the future with the City’s approval so long as the District is a tenant and the Main Library building remains in use for District purposes. All utility lines, service lines, underground and above ground facilities, utilities, rooms, and utility connections are included in the License and may be relocated within the Licensed Area or added by the District from time to time without amendment to the License. The District will be responsible for obtaining approvals for such work, and such work will be completed in a manner that does not adversely affect any of the areas, uses, or functions in the Licensed Area.
  - ii. The Licensee is responsible for the developed area underneath the Main Library building, except the City will maintain Boulder Creek flood control and stormwater management improvements.
  - iii. The 9th St. loading dock is available to the District for any Main Library purposes including parking, loading and unloading vehicles, and building and vehicle maintenance.
- b. Entry Plaza No. 1 and No. 2 (collectively “Entry Plaza Areas”) as Indicated in Green in **Exhibit A**. Entry Plaza Areas are available to Library Users and the District for any public owned property uses and any use approved by the District including the exercise of First Amendment rights to gather, seek redress, protest, and engage in free speech activities.
  - i. As the Licensee of all surface uses of the Entry Plaza Areas, the District shall always maintain rules and regulations to ensure individual and group First Amendment rights are properly protected and controlled as provided

Exhibit C  
Civic Area License and Mangement Agreement

by law on public spaces and, to the fullest extent of the law, will defend and indemnify the City against all claims, causes of action, fines, penalties or damages related to violations of rights on the Entry Plaza Areas.

- ii. The District will be responsible for maintenance of all sidewalks and walkways that connect Entry Plaza No. 2 to multi-use paths and the parking areas to the east of the Main Library. The District will also be responsible for maintenance of the sidewalk along Arapahoe Ave. from the eastern side of Entry Plaza No. 1 to the western property line. Further, the District will be responsible for all of the upkeep and maintenance of trash cans, flowerpots, bicycle racks, benches, and any other improvement located in the Entry Plaza Areas.
  - iii. The Licensee will provide concrete repair and replacement in the Entry Plaza Areas consistent with the City's design standards. The Licensee may contract with the City to provide these services in conjunction with the City's regular maintenance by separate agreement.
  - iv. The City will provide snow removal in the Entry Plaza Areas once per day in the morning hours. The Licensee shall be responsible for all other snow removal.
- c. Public Parking Lots No. 1 and No. 2 as Indicated in Blue in **Exhibit A**. Public Parking Lots No. 1 and No. 2 are available to the District and Library Users on the same basis as they are available to the general public.
- i. The City agrees to provide the District with an employee parking pass program for use within Public Parking Lots No. 1 and No. 2, consistent with the terms and conditions of the City of Boulder employee parking pass program.
  - ii. Main Library identification and direction signs that comply with Sections 5-4-15, "Posting Signs on Property of Another Prohibited," and 9-9-21, "Signs," B.R.C. 1981, may be erected permanently or temporarily along the perimeter or on islands providing direction to Main Library buildings or Main Library events.
  - iii. The District will utilize the City's special events permit process for use of Public Parking Lot No. 1 or No. 2 for outdoor events and/or programming for a period not to exceed 72 hours. The Library District will be added as a referral entity for special event applications by third parties in order for the District to recoup its costs incurred because of the event.
  - iv. Upon 15 days written notice and written agreement as to the terms of use, the District may purchase parking passes for attendees and users of specifically identified library events or programs for a period not to exceed 10 hours.

Exhibit C  
Civic Area License and Mangement Agreement

- v. The City will notify the District at least 15 days before any closure of either Public Parking Lot No. 1 or No. 2 and will provide alternate parking locations and/or rights for the District's employees and patrons and direction signage to assist patrons to locate appropriate parking within a reasonable walking distance of the Main Library.
  - vi. The City accepts responsibility for the management and maintenance of Public Parking Lot No. 1 and No. 2. The Licensed Area encompasses multiple users and missions, the needs and interests of many must be balanced in a manner that protects the site in keeping with the Master Plan for Boulder Civic Area (2015), as may be amended. Management decisions about surrounding uses should be made with sensitivity to potential impacts on the Main Library's leasehold area. It is anticipated that Public Parking Lots No. 1 and No. 2 will change and evolve over time. The Master Plan for Boulder's Civic Area plans for the removal of Public Parking Lot No. 1 and No. 2 and replaced by structured parking at some point in the future. Parking management decisions evolve over time. The City and the District will work cooperatively in the future to ensure realization of the vision, how the licensed Public Parking Lots No. 1 and No. 2 will be used and the guiding principles of the Master Plan for Boulder's Civic Area and that the needs of all users and functions of the Main Library and the Civic Area are met. The City will treat District employees in the same or similar manner as city employees with respect to parking. The City will also treat all visitors to the Licensed Area that need parking in the same or similar manner, except as modified by this Agreement.
- d. Additional Licensee Obligations. In accordance with the terms and conditions set forth in the IGA, the District shall manage its use of the Licensed Area and utilize the License consistent with the seven guiding principles enumerated in the Master Plan for Boulder's Civic Area (2015), which are: (1) the civic heart of Boulder; (2) life and property safety; (3) outdoor culture, and nature; (4) celebration of history and assets; (5) enhanced access and connections; (6) place for community activity and arts; and, (7) sustainable and viable future. Additionally, the District shall utilize the License in a manner that is consistent with the terms of Section 8.13 of the Boulder Valley Comprehensive Plan: Support for Community Facilities (2021).
- e. City Maintenance Responsibilities. The City will be responsible for all the upkeep and maintenance, to a City standard, within the Licensed Area (except for areas that are the responsibility of the District), including, without limitation, the children's park area, the landscaped areas around the Main Library that are not part of the Entry Plaza Areas, both Public Parking Lots, Boulder Creek flood control and stormwater management improvements, and multi-use paths. The City will also be responsible for the upkeep and maintenance of the restrooms, to a City standard, located on the northwest portion of the Licensed Area near 9th St. and Canyon Blvd.; however, the District will supply electricity to the building until such time the City can obtain a separate metered electrical supply to the restroom building.



Exhibit C  
Civic Area License and Mangement Agreement

- f. The Licensed Area is available to the Licensee for reservations, use, programming, and the like on the same basis as it is available to the general public.

3. Licensor's Retained Use. This Agreement shall not restrict or interfere with the City's access or use of the Licensed Area for the purpose of providing, operating, utilizing, managing, and maintaining the Licensed Area; however, the City shall attempt to accommodate and minimize any interference with the Licensee's use as described herein.

4. Right of First Refusal/Offer. The City will not sell or convey the land beneath the Main Library, the Entry Plaza Areas, or the Public Parking Lot No. 1 or No. 2, or any part thereof, without first offering same to the District for purchase. This right will be recorded against the property subject to the License.

5. No Additional Uses. The Licensee's use described herein shall be its sole use of the Licensed Area unless it obtains additional permissions from the City.

6. License Fee and Cost Share. Licensee's use of the License shall be of no cost to the District unless otherwise provided herein.

7. Term and Termination. The term of this Agreement commences January 1, 2024, and shall expire upon expiration or termination of the Library Lease.

8. Termination for Default. If either Party should fail to perform its obligations under this Agreement, the other Party may provide a written notice of the failure to the non-performing Party. If after 30 days from the receipt of such notice, the non-performing Party has not cured the default, or if cure is not possible within 30 days, the Party has not commenced curative measures in a timely and commercially reasonable manner, the Party that provided such notice may terminate the Library Lease and this Agreement effective upon written notice to the non-performing Party. However, under no circumstances may the License terminate as long as the Library Lease is in effect, or if the City conveys fee title in the Main Library building to the Licensee.

9. CGIA. Each Party to this Agreement is a "public entity" under the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S. ("CGIA"). The Parties acknowledge and agree that the City and the District, and each Party's respective elected and appointed officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the CGIA, § 24-10-101 to 120, C.R.S., as amended.

10. Liens. The District will not permit or allow any mechanic's, materialman's, or other lien to be placed against any of the Licensed Area in connection with work or services claimed to have been performed for, or materials claimed to have been furnished to the District. If any such lien is recorded, the District will cause the same to be released of record.

Exhibit C  
Civic Area License and Mangement Agreement

11. Insurance. During the Term of this Lease, Tenant, at its sole cost and expense, shall continuously maintain the types and amounts of insurance coverages as approved by the City Manager, the City Attorney, and the City Risk Manager.

12. Responsibility. Each Party will be responsible for the acts, omissions, or conduct of that Party's own respective officers, employees, agents, contractors, and consultants to the extent arising out of the performance of each Party's obligations under this Agreement or with respect to each Party's respective use of the Licensed Area.

13. Compliance with Laws. The Parties shall cause all activities within the Licensed Area to be performed in compliance with all applicable laws, rules, regulations, orders, and other requirements of any public jurisdiction.

14. Appropriations. Pursuant to Section 29-1-110, C.R.S., and City of Boulder Charter Sec. 103 any financial obligations of the Parties express or implied by this Agreement are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available on an annual basis by each Party's respective governing body.

15. Conflict Resolution. If any conflict arises in connection with either Party's obligations under this Agreement, the city manager or his or her designated representative and the library director or his or her designated representative shall meet and attempt to resolve the issue. If the city manager and the library director are unable to resolve the issue, two representatives of the Boulder City Council and two representatives of the Library District Board of Trustees shall meet and attempt to resolve the issue. If these steps fail to resolve any issue under this Agreement, either Party may exercise all remedies available at law or in equity.

16. Notice of Communications. Any notice pursuant to the terms and conditions of this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices so given shall be considered effective 72 hours after deposit in the United States mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

**To the District:**

Boulder Public Library District  
Attn: Board President and Library Director  
1001 Arapahoe Ave  
Boulder, CO 80302

**With a copy to:**

Kim J. Seter, Esq.  
Seter & Vander Wall, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
and: kseter@svwpc.com

Exhibit C  
Civic Area License and Mangement Agreement

**To the City:**

City of Boulder  
Nuria Rivera-Vandermyde  
City Manager  
City Manager's Office  
1777 Broadway  
Boulder, CO 80302  
and: CMOadmin@bouldercolorado.gov

**With a copy to:**

City of Boulder  
City Attorney  
City Attorney's Office  
1777 Broadway  
Boulder, CO 80302  
and: CAOadmin@bouldercolorado.gov

17. Integration and Entire Agreement. This Agreement, read in conjunction with the IGA and Library Lease, represents the entire agreement between the Parties with respect to the License and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Agreement, all of which are merged herein.

18. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties, each Party's respective legal representatives, successors, and heirs; provided, however, that nothing in this Paragraph 18 shall be construed to permit the assignment of this Agreement except as agreed to, in writing, by the Parties.

19. Underlying Intent and Scope. This Agreement does not confer upon the Licensee any other right, permit, license, approval, or consent other than that expressly provided for herein and this Agreement shall not be construed to waive, modify, amend, or alter the application of any other federal, state, or local laws, including laws governing zoning, land use, property maintenance, or nuisance.

20. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado and venue for any action arising under this Agreement shall be in the district court of the County of Boulder, State of Colorado.

21. Severability/Waiver. In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either Party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

22. Amendment. Any amendment to this Agreement shall be in writing and signed by both Parties.

Exhibit C  
Civic Area License and Mangement Agreement

23. No Third-Party Beneficiaries. This Agreement is entered into by and between the Licensor and the Licensee, and is solely for the benefit of the Licensor and the Licensee for the purposes set forth herein. Except as otherwise provided herein, this Agreement does not create rights or responsibilities in any third parties beyond the Licensor and the Licensee.

24. Recitals. The Recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the Parties hereto represent they are true, accurate, and correct.

25. Authority. The signatories below have been duly authorized to execute this Agreement and bind that Party to the terms and conditions herein.

26. Counterparts and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

**[SIGNATURES ON FOLLOWING PAGE]**

Exhibit C  
Civic Area License and Mangement Agreement

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**LICENSEE:**

**BOULDER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
Katharine (Joni) Teter, President  
Board of Trustees

Attest: \_\_\_\_\_  
Sylvia T. Wirba, Secretary

Approved as to Form:

\_\_\_\_\_  
Kim J. Seter, CO Atty No. 14294

**LICENSOR:**

**CITY OF BOULDER,  
a Colorado home rule municipality**

\_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

## Exhibit A

### Licensed Area





## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8590 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers, including changes to the standards for restaurants, brewpubs, and taverns within the BMS Business Main Street district and University Hill General Improvement District; and setting forth related details;

**AND**

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8605 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers; and setting forth related details

### **PRIMARY STAFF CONTACT**

Lisa Houde, Senior City Planner

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to introduce and order published by title only Ordinance 8590 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers, including changes to the standards for restaurants, brewpubs, and taverns within the BMS district and University Hill General Improvement District; and setting forth related details;

**AND**

Motion to introduce and order published by title only Ordinance 8605 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers; and setting forth related details

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3G - 1st Rdg Use Table Module 3**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8590 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers, including changes to the standards for restaurants, brewpubs, and taverns within the BMS Business Main Street district and University Hill General Improvement District; and setting forth related details;

AND

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8605 amending Title 9, "Land Use Code," B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers; and setting forth related details.

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning & Development Services  
Charles Ferro, Senior Planning Manager  
Karl Guiler, Senior Policy Advisor  
[Lisa Houde](#), Senior City Planner

**EXECUTIVE SUMMARY**

The purpose of this item is for City Council to consider an ordinance that would amend the Land Use Code with updates to the use table and standards to support walkable neighborhood centers. This is the final ordinance of the Use Table and Standards project.



Staff previously received feedback on this ordinance, also called Module Three of the project, from City Council at its [August 25, 2022](#) and [July 27, 2023](#) study sessions, as well as past meetings in 2020.

The Use Table and Standards project began in 2018. Phase One of the project was adopted in 2019. Phase Two has been divided into three different modules and ordinances. The first module of work focused on technical fixes and was adopted in June 2022. The second module focused on industrial areas was adopted in February 2023. Staff plans to complete the third module focused on commercial and mixed use areas and the Use Table and Standards project in Fall 2023.

Ordinance 8590 was reviewed by the Planning Board after a public hearing on August 15, 2023. Planning Board recommended approval of the ordinance 7 to 0, but recommended that the changes to use standards for restaurants in the University Hill area be removed from the ordinance.

For this reason, two ordinances are presented for Council’s consideration. Ordinance 8590 includes changes to the use standards for restaurants, brewpubs, and taverns in the University Hill General Improvement District ([Section 9-6-5\(e\)\(7\)\(B\)](#)), and Ordinance 8605 does not. There are no other differences between the two ordinances. Only one of the two ordinances is intended for final adoption; both ordinances are presented for Council to consider and choose which ordinance to finally adopt.

A summary of the proposed changes can be found in [Attachment A](#), and draft Ordinances 8590 and 8605 are provided in [Attachment B](#) and [Attachment C](#). A summary of public engagement is available in [Attachment D](#).

First reading was originally scheduled for October 19, 2023. At that meeting, City Council voted to continue the first reading to November 2.

## **STAFF RECOMMENDATION**

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only Ordinance 8590 amending Title 9, “Land Use Code,” B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers, including changes to the standards for restaurants, brewpubs, and taverns within the BMS district and University Hill General Improvement District; and setting forth related details;

AND

Motion to introduce and order published by title only Ordinance 8605 amending Title 9, “Land Use Code,” B.R.C. 1981, to update the use table and use standards related to walkable neighborhood centers; and setting forth related details

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The changes are intended to support businesses in Boulder by streamlining approval processes for uses that the community has indicated a desire to see located within a walkable distance to housing.
- **Environmental** – These updates are not anticipated to have direct environmental impacts, but locating neighborhood-serving businesses near housing is intended to promote walkability in Boulder and may limit reliance on vehicle travel.
- **Social** – The changes are intended to allow for more businesses to be located near housing to support a more diverse mix of uses and greater walkability for people of all ages, incomes, and household types.

## OTHER IMPACTS

- **Fiscal** – This project is being completed using existing resources.
- **Staff time** – This project is being completed using existing staff resources. Implementation of the ordinance is anticipated to streamline approval processes for many use types, which is expected to reduce staff time, particularly for uses that previously required discretionary review and would be allowed by-right with the proposed changes.

## BOARD AND COMMISSION FEEDBACK

**Planning Board** – Ordinances changing the Land Use Code require Planning Board recommendation to City Council. On August 15, 2023, Planning Board reviewed Ordinance 8590 and recommended approval of the ordinance, with some changes, to City Council with the following motion:

*On a motion by S. Silver and seconded by K. Nordback, the Planning Board voted 7-0 to recommend that City Council adopt Ordinance 8590, amending Title 9, “Land Use Code,” to update the use table and use standards related to walkable neighborhood centers; and to retain 9-6-5(e)(7)(B) and to recommend to council to direct staff to undertake a robust public process that specifically and solely focuses on restaurant, brewpub and tavern use standards and code enforcement in UHGID to develop a way to move forward that finds the right balance for all involved; and prohibiting detached dwelling units that are not part of a mixed use building in the MU, BT, and BC zones*

Following the Planning Board meeting, staff prepared an alternative Ordinance 8605 that retains the current standards ([Section 9-6-5\(e\)\(7\)\(B\)](#)) for restaurants, brewpubs, and taverns in the University Hill General Improvement District (UHGD), per the motion. All other language in the two ordinances is identical.

Staff also reviewed the Planning Board’s recommendation to prohibit detached dwelling units that are not part of a mixed use building in the MU, BT, and BC zones and determined that the existing standards in each of these districts, which would require Use Review in almost all circumstances to allow a detached dwelling unit that is not within a mixed use building, are sufficient to support the goals of this ordinance. There are

currently only 9 detached dwellings in the MU districts, 12 detached dwellings in the BT districts, and 6 detached dwellings in the BC districts. The limited number of detached dwellings in these areas suggest that the current regulations are working well to meet the goals by supporting other housing types.

**University Area Commercial Area Management Commission (UHCAMC)** – Staff met with UHCAMC on September 5 to provide an overview of the potential impact in the University Hill general improvement district. The commissioners provided the following feedback:

- All commissioners generally supported the proposed changes to loosen the requirements on the Hill citing a steady decline of the Hill’s economy.
- Question about whether the 2013 changes really made things better.
- Question about whether the new rules would impact the new hotels and whether the timeline of the changes on the Hill could be accelerated if they are not adopted this fall. There was some question as to whether the rules would apply to the CU property based on ownership structure.
- The commissioners asked that staff increase outreach to the business community and specifically the hotels on the changes.

## COMMUNITY FEEDBACK

The city has engaged the community several times throughout the Use Table and Standards project on topics related to this ordinance or “Module Three,” including in-person engagement in 2019, a virtual questionnaire in 2020, and both in-person and virtual engagement this summer. In addition, a public working group, Planning Board subcommittee, and Planning Board liaisons have provided significant guidance and input throughout the project. This community and stakeholder input has informed and provided direction on the changes in the ordinance.

### *General public*

Input on the project and proposed changes has been received from community members over the last several years and this summer. A summary of feedback received in 2018-2020 can be found [at this link](#) or in the project charter in **Attachment E**, and the input from engagement this summer can be found in **Attachment D**. For the 2023 engagement strategies, staff is focusing on a “consult” level of engagement. Specific feedback on the proposed ordinance changes has been briefly summarized within each main topic in the *Analysis* section of this memo. Additional written comments from the public sent to staff has been provided in **Attachment G**.

### *City Council*

Staff updated the City Council on the status of the Use Table and Standards project and discussed major focus areas related to neighborhood centers at their [July 27 study session](#). Key takeaways from the study session discussion were:

- **Streamlining approval process for restaurants:** City Council supported staff’s proposal to streamline the standards and approval process for restaurants. Several

council members encouraged staff to go further with streamlining and to simplify regulations in the University Hill General Improvement District as well.

- **Allowing duplexes and townhomes on ground floor by-right in the BT Businesses Transitional and BR Business Regional zoning districts:** Several City Council members expressed concern about this potential change and the potential impact on areas generally prioritized for retail or commercial uses.
- **Prohibiting vehicle-related uses in the Downtown zoning districts:** City Council did not view this as a necessary change as part of this project as there are not many of these uses currently.
- **Other potential changes to support walkable and accessible neighborhood centers:** Council members were generally supportive of most proposed changes, with some concerns expressed about the changes to lodges/clubs and hostels.

### *Planning Board*

The Planning Board provided initial guidance on this module of work at their September 20, 2022 meeting. This guidance helped shape the focused scope of the ordinance. A summary of the board's previous comments are listed below.

- Some concerns about non-residential uses in residential areas, should focus now on less controversial changes in neighborhood centers instead.
- Look at how to diversify the use of land in neighborhood centers.
- Ensure that the policies referenced include Housing for a Whole Range of Households and Market Rate Housing for Missing Middle.
- Look at strip malls along Arapahoe and other underutilized land for opportunities.
- This project should not relitigate the comprehensive plan goals.
- Good opportunity for more missing middle housing here.
- Should frame the project in terms of climate change, making residents less car dependent.
- Some concerns about 15-minute neighborhood concept, what it means. Needs a definition.
- It would be nice to have some small low-impact uses in residential areas, but we would need to be very careful about scale, intensity, hours.

As noted above, the Planning Board reviewed Ordinance 8590 on August 15, 2023 and provided a recommendation to City Council.

### *Use Table and Standards Public Working Group*

The public working group consists of about 20 stakeholders and interested residents, and members of the arts and business communities. This group provides input and direction on the project and helps to refine public engagement strategies. City staff met with the working group on March 13, June 27, and September 19 to discuss the scope of the Module Three changes, and to share input on potential code updates and the public engagement strategies.

On September 19, the working group reviewed a summary of the ordinance. While the working group was generally aligned in support of the majority of proposed changes,

members had a robust discussion with diverse viewpoints about the potential changes to restaurant uses in the University Hill area. A few members of the group supported the Planning Board's recommendation to remove changes to the standards on the Hill from this ordinance, citing the need for specific public input and a separate process focused on those changes. Others in the group recommended making the changes to the standards on the Hill as well, noting the need for consistency in supporting walkable neighborhood centers throughout the city. Detailed notes from the meetings can be found in [Attachment F](#).

### *Planning Board Liaison Group*

The Planning Board liaison group is composed of two Planning Board members. Staff met with the liaisons in March and June to discuss the project and to seek their guidance and direction on the Module Three scope and proposed changes.

### *Community Connectors-In-Residence*

Staff met with the Community Connectors-In-Residence on July 21 to discuss the potential changes and better understand the potential impacts on underrepresented communities. The Community Connectors-In-Residence support the voices and build power of underrepresented communities by reducing barriers to community engagement, advancing racial equity, and surfacing the ideas, concerns, and dreams of community members. A summary of the group's comments is included below.

- Walkable neighborhoods help build community and make people feel safer. You can meet your neighbors, helps psychological wellbeing.
- Tree canopy, lighting, and other design features help make areas more walkable, and should be planned comprehensively. The safe transportation piece is very important to walkability.
- Support for more duplexes and townhomes.
- Would like to see more bus routes throughout the city.
- Need smaller, more affordable restaurants.
- Commercial/retail space is too expensive.
- City needs a program to support BIPOC and women-owned businesses.
- City should not remove existing gas stations.
- There are too many banks, which provide no activity at night.
- Boulder does not need more hotels.
- Review where community services are allowed.
- Services that are missing within walking distance:
  - Sports facilities
  - Youth centers
  - Arts and culture
  - Green areas
  - Space for small local business, not chains
  - Grocery stores
  - Coffee shops

### *Story map and questionnaire*

On July 10, staff launched a [story map](#) and accompanying questionnaire to solicit feedback on the potential ordinance changes. The questionnaire closed on July 31, but staff is continuing to accept public feedback on the story map via email. A total of 246 people responded to the questionnaire.

Staff promoted the engagement opportunity through a number of methods. Several social media posts, in both English and Spanish, announced the opportunity to submit feedback throughout the month of July. The questionnaire was available in both English and Spanish. The July Planning & Development Services newsletter, which has over 5,000 subscribers, and the Transportation newsletter also promoted the story map and questionnaire. Additionally, staff sent direct emails to interested stakeholders, and has asked working group members to help spread the word about the opportunity as well. Letters were also mailed to all business and property owners within the neighborhood centers and downtown informing them of the project and opportunity to provide input through the questionnaire.

A detailed summary of the input received in the questionnaire, as well as all verbatim written comments, can be found in [Attachment D](#).

### *In-person engagement*

Throughout the month of July, staff also supplemented the virtual story map and questionnaire with in-person engagement of Boulder residents. This included participation at the Social Streets event on July 21, the Ponderosa block party on July 22, and pop-ups at several of the neighborhood centers throughout Boulder, including Basemar, Ideal Market, Meadows, and Gunbarrel. Review the input received in the engagement summary in [Attachment D](#).

### *Relevant past engagement*

A significant amount of public engagement was undertaken in 2018-2020 before the project was paused due to the COVID-19 pandemic. This past engagement is helping to inform these changes and to supplement the additional engagement this year. A full summary of past engagement is available in [Attachment E](#) in the project charter or a brief overview is available [at this link](#).

## **BACKGROUND**

### *Use Table and Standards Project*

The Use Table and Standards project began in 2018 as one of the Planning Board's priority items for land use code updates. The initial goals of the revisions included:

- Simplifying the [Use Table](#) and streamlining the regulations where possible, making the use standards and table more understandable and legible.
- Creating more predictability and certainty in [Chapter 9-6, "Use Standards,"](#) of the Land Use Code.

- Aligning the use table and permitted uses with the BVCP goals, policies, and land use designations.
- Identifying community-desired land use gaps in the use standards and table, and better enabling the desired land uses in identified neighborhoods as well as in commercial and industrial districts.

The Planning Board appointed a subcommittee comprised of Planning Board members in 2018 to guide the project and make recommendations on potential changes. The subcommittee undertook a significant amount of work to identify relevant BVCP policies, develop areas of consideration and focus areas for the project, complete a detailed analysis of the use table and standards, and guide public engagement strategies for the project. The subcommittee met over 20 times in 2019 and 2020 and the group's input and analysis from that time continues to inform and shape the project.

Phase One of the project was completed in 2019, with a focus on updating the types of uses and use standards for the zoning districts within the federally designated Opportunity Zone, though most of the changes applied citywide. More details about the Phase One work can be found in the [City Council memo](#) and in the project charter in [Attachment E](#).

Phase Two kicked off in Spring 2020 and focuses on simplification of the use standards chapter, supporting mixed-use nodes along corridors, and encouraging 15-minute neighborhoods in residential, commercial, and industrial districts. The 15-minute neighborhood concept is integral to several comprehensive plan policies related to walkable access to a range of services. A full list of relevant BVCP policies in the project charter is available in [Attachment E](#).

Community engagement efforts to inform Phase Two of the project took place in Summer 2020, and the [Planning Board](#) and [City Council](#) were briefed on the project in August 2020. The project was paused in Fall 2020 due to staffing challenges during the pandemic. However, the initial feedback received for Phase Two continues to inform the project as it is re-initiated.

In August 2022, the Planning Board and City Council again provided feedback on the project. A [summary of City Council feedback](#) at that time is provided here.

### *Module Three scope*

Staff kicked off Module Three in Spring 2023 by meeting with the Use Table and Standards Public Working Group as well as the Planning Board liaisons to refine the direction and scope for the final module. During the original planning for the project, Module Three included a broadly defined direction for potential changes. Staff narrowed the scope to focus on targeted changes that would best support the applicable direction of the BVCP as well as the input received through several years of engagement efforts on the project. The changes in Ordinances 8590 and 8605 reflect identified opportunities to reduce land use barriers to walkable neighborhoods.

Based on feedback from the working group, liaisons, and further staff analysis, the original scope of the project has been narrowed slightly to exclude any changes that would allow non-residential uses in residential zoning districts where they are currently



prohibited. Staff determined that these potential changes would be best studied in the upcoming Boulder Valley Comprehensive Plan (BVCP) update. At that time, a broader community conversation could focus on updating policies related to residential zoning districts and provide more direction on specific areas within residential districts that may be appropriate for non-residential uses, and may extend beyond use table changes.

Therefore, the scope for this final module of the Use Table and Standards project is focused on the Neighborhood Centers identified in the BVCP, and mostly focuses on changes to the use allowances in the Mixed Use, Business, and Downtown zoning districts. In addition, this module centers primarily on commercial uses and public or institutional uses in the use table. The changes are also intended to reduce regulatory barriers for businesses that the BVCP and further community engagement has indicated are desired by residents.

A main goal of the Use Table and Standards project is to implement policies of the BVCP and better align the use table with the comprehensive plan. This module is intended to implement two major policies of the BVCP related to neighborhood centers and walkable neighborhoods:

## **2.19 Neighborhood Centers**

Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.

### *Neighborhood Centers Guiding Principles*

1. Meet everyday needs of neighboring communities. Include a mix of locally serving retail (e.g., retail anchors, such as grocery stores and personal services such as hair salons or small local markets) and other activities, such as smaller-scale office uses to meet every day needs.
2. Ensure appropriate scale transitions to neighboring residential uses. Be at a scale and intensity lower than downtown and the regional centers, ensuring compatibility of buildings with adjacent residential uses decreasing intensity of activity around edges or “transition zones” near neighborhoods. These transition zones should encourage a diversity of low- and medium-density residential uses, such as attached single- family housing, row homes and a variety of flats.
3. Encourage a richness of transportation amenities. Neighborhood centers should include attractive pedestrian routes and conveniences such as sheltered seating, shared bicycles, bike cages and repair stations, among others, and have access to greenways, when practical.
4. Encourage parking management strategies. Encourage parking management strategies, such as shared parking, in neighborhood centers.
5. Ensure comfort and safety. Include human-scaled lighting, furnishings, signs and way-finding that feel welcoming, safe and comfortable for users of all ages and abilities. Provide unimpeded connections within neighborhood centers between parking, transit, retail and residential uses.



## 2.24 Commitment to a Walkable & Accessible City

The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.

## ANALYSIS

### *Summary of proposed changes in Ordinances 8590 and 8605*

The following sections provide background and summarize major topics related to the draft ordinance. All changes are intended to support the policies detailed above related to neighborhood centers and walkable neighborhoods. As noted previously, the only difference between 8590 and 8605 is the standards for restaurants, brewpubs, and taverns in the University Hill General Improvement District. A summary handout is also available in [Attachment A](#).

- **Streamlining approval processes for restaurants**
  - Increase size of restaurants allowable by-right
  - Remove patio size limit, replacing with general outdoor seating standards when located near residential uses
  - Consolidate similar standards for different districts from 12 disparate sets of rules to 4 (8590) or 5 (8605).
  - Provide by-right approval option in some districts where Conditional Use approval is currently always required (*8590 makes these changes in the University Hill district; 8605 does not*)
- **Supporting middle housing to transition Neighborhood Center intensity**
  - Allow duplexes and townhomes by-right on the ground floor in the BT Business Transitional zoning districts
- **Simplifying standards or removing prohibitions for other businesses in the Mixed Use and Business districts to support walkable (15-minute) neighborhood centers**
  - Modify use allowance and/or standards for:
    - Animal hospital or vet clinic
    - Community services
    - Governmental facility
    - Medical office
    - Museum
    - Non-vehicular repair and rental service
    - Retail sales
    - Small theater/rehearsal space

- Temporary event

### ***Streamlining approval processes for restaurants***

The use standards and allowances for *restaurants, brewpubs, and taverns* are some of the most complex in the land use code. Prior to the reorganization and functional fixes that were adopted in Module One of this project, restaurants composed eight different lines in the use table due to varying nuances in regulations in different zoning districts.

While Module One improved the organization of these regulations, it did not substantively modify the standards. Therefore, the regulations remain quite complex with twelve separate types of regulatory restrictions applying to restaurants in different districts. For the most part, however, these regulations vary regarding the overall size of the restaurant, the size of any patio, and the hours of operation. Some districts also require Good Neighbor meetings and management plans as well.

There is a significant opportunity to streamline, simplify, and comprehensively clean up the regulations related to restaurants, brewpubs, and taverns.

#### **Overall Size**

In almost all Boulder zoning districts where restaurants are allowed, the businesses are limited to either 1,000 or 1,500 square feet in size by-right. If a restaurant is any larger, in many districts a Use Review application is required. While 1,500 square feet may allow for some smaller restaurants or coffee shops by-right, it is a fairly limited size, and therefore, often leads to the need for a restaurant to obtain Use Review approval.

If a restaurant is taking over a space that previously had a Use Review approved for a restaurant, there is some flexibility as an administrative substitution of use application can be requested, but the new restaurant cannot change any of the operating characteristics of the past restaurant (hours of operation, number of seats, among others) to benefit from this.

Limiting the size of restaurants appears to be unusual compared to other similar cities, other than sometimes within residential/commercial interface areas. The cities that have size limits in select zoning districts typically restrict them to about 4,000 or 5,000 square feet, although staff found examples ranging from 2,500 to 25,000 square foot limits.

#### **Patio Size**

In Boulder, the size of any patio is also a major determining factor of whether a restaurant may be approved by-right, or whether a Use Review application is required. While limits on patio size are likely intended to prevent potential negative impacts of patios near residential uses, there are other regulatory approaches that could adequately mitigate potential impacts without requiring additional process due to patio size.

For example, rather than requiring a Use Review for patios of a certain size near residential zoning, general standards could simply be incorporated into the code for all patios within a certain distance of residential areas. These general standards could cover all the typical standards and conditions added to Use Review applications, such as noise, music, entertainment, trash, and other common concerns. This approach would be much

simpler procedurally, but result in the same outcome and protection for neighbors against potential impacts.

Other efforts led by the city support the development of additional outdoor seating in Boulder. Outdoor seating was significantly expanded in the city and was sought after by customers and business owners alike, especially since pandemic public health guidance emphasized the relative safety of outdoor gatherings.

For example, the city developed the [Outdoor Dining Pilot Program](#) originally as a response to COVID-19, but expanded the program for five more years due to the success of temporary outdoor dining expansions during the pandemic. The program allows waivers or modifications of typical requirements for outdoor seating areas, including the use standards, Site and Use Review requirements, parking, and landscaping standards. The program established design guidelines for participating businesses and provided initial grant funding opportunities and leasing support for parklet equipment from approved vendors.

Staff reviewed the land use regulations of nearly 30 comparable cities around the country and found no other cities that regulate restaurant patio size in the way that Boulder does, limiting it and using it as a determining factor in the type of review process required.

### **Hours of Operation**

In many zoning districts, a restaurant, brewpub, or tavern that is open past 11 pm requires a Use Review application. Many other cities have separate regulations for restaurants than for bars or taverns, but Boulder treats all three as one grouped use type in the use table. In Boulder, the 11 pm hours of operation limit allows restaurants to be somewhat differentiated from bars or taverns (which are often open later). Many restaurants and bars in Colorado also share the same type of liquor license, called a “Hotel - Restaurant” license, so the typical hours of operation is an important differentiating factor.

Maintaining a Use Review requirement if restaurants, brewpubs, or taverns are open past 11 pm for the zoning districts that interface most closely with (or include) residential uses would ensure that bars or taverns that are open late must seek Use Review approval and mitigate potential impacts to ensure compatibility with surrounding uses.

### **University Hill General Improvement District**

The city has had unique regulations in the University Hill area (zoned BMS Business Main Street) for restaurants since October 2013. Currently, a Conditional Use application is required for all restaurants, brewpubs, or taverns, and they must meet standards related to size, hours of operation, trash collection, and percentage of income from food. There is no discretionary option for flexibility on these requirements, as no Use Review applications may be sought.

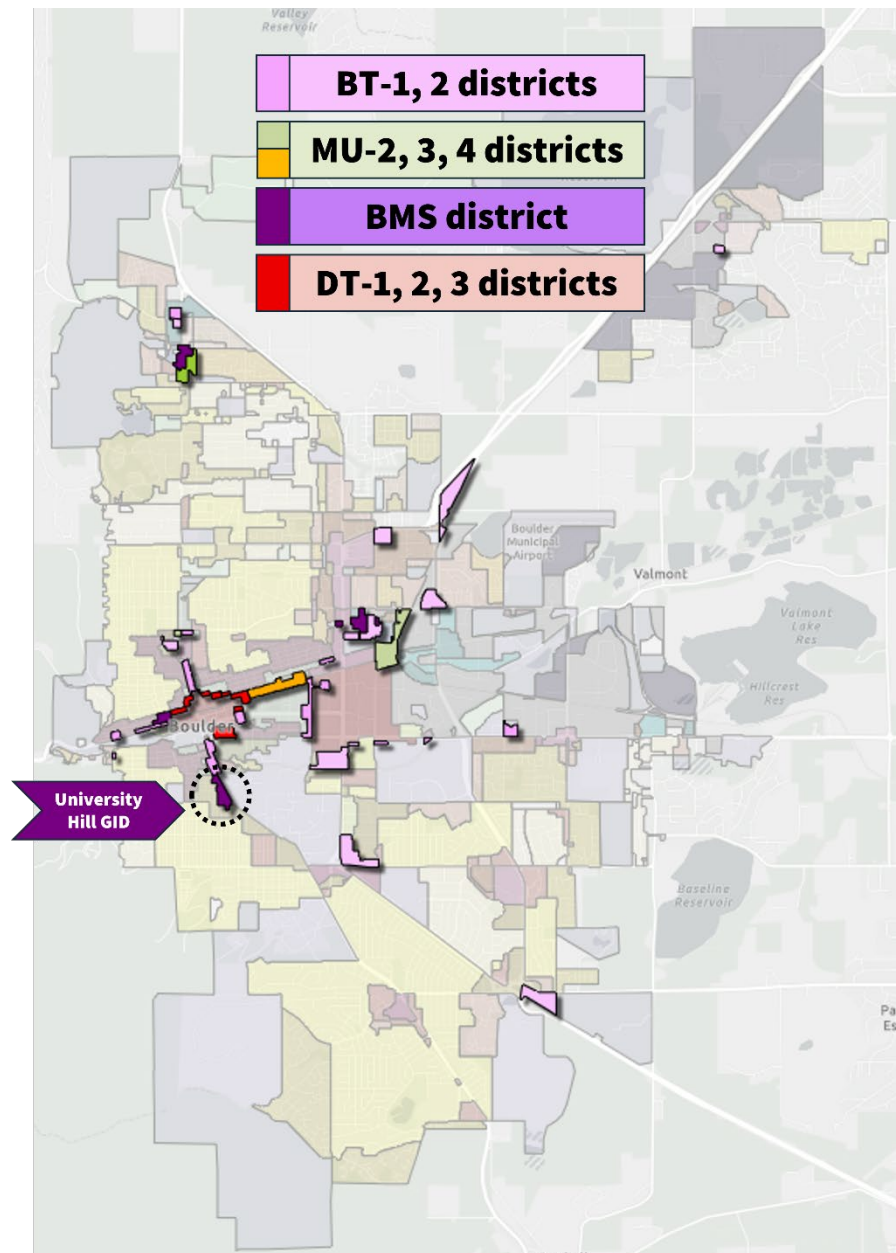
Other efforts led by the city have been exploring the potential to streamline these approval processes in the University Hill area to help with revitalization, such as this recent discussion with City Council at an [August 10, 2023 study session](#).

**Ordinance 8590** eliminates the unique standards for restaurants, brewpubs, and taverns on the Hill and instead consolidates standards for the BMS district with other similar commercial or mixed use districts that interface closely with residential areas (see map

below). These uses would be allowed by right if they are under 4,000 square feet and close by 11 pm; alternatively, larger sites and/or later operating hours could be considered and allowed through the Use Review process.

**Ordinance 8605** does not make any changes to the current standards for restaurants, brewpubs, and taverns on the Hill. This version is consistent with Planning Board's recommendation.

### **Zoning Districts – Residential/Commercial Interface Areas**



## Public Input

In the public input received during efforts in 2018-2020, restaurants were consistently indicated as one of the uses with greatest support by respondents in neighborhood centers.

In both in-person and virtual mapping exercises in 2019, people indicated wanting to have more walkable places near where they live, including restaurants, shops, retail, coffee, and lunch spots. In the 2020 online questionnaire, there was broad support from respondents for a variety of uses including restaurants and coffee shops in neighborhood centers, as well as within 15-minute walks from their home and workplace.

This summer, the in-person and virtual engagement again indicated very strong support for streamlining the approval processes for restaurants. These uses were the most commonly supported uses and support for easing approval processes was significant. A diverse mix of local restaurant options were regularly cited as businesses that people wanted to see in neighborhood centers. In addition, coffee shops and ice cream shops were also frequently mentioned as desired uses, which would fall under the restaurant definition as well.

Some members of the community also identified the regulation of food trucks, or mobile food vehicles, as a potential opportunity to update to support small local businesses. At this time, no changes to the food truck or mobile food vehicle regulations are proposed in the ordinance. While there may be opportunities to update the regulations, staff believes that because the focus of this project's public engagement was particular to neighborhood centers and brick and mortar business locations, it would be premature to draft regulations for food trucks without specific engagement focusing on that use. However, this is a project that could be undertaken in the future.

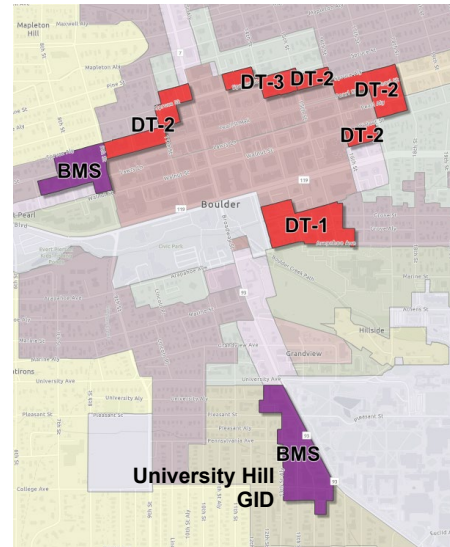
At the Planning Board meeting on [August 15](#), eight members of the public testified regarding the potential changes to restaurants on the Hill. Many were in support of the changes and a few speakers raised concerns. The University Hill Neighborhood Association also sent a letter to the Planning Board regarding concerns about the changes (see [Attachment G](#)).

*Proposed Code Change:*

**Ordinance 8590** increases the allowable size by-right in all zoning districts where restaurants are currently allowed. It also removes patio size restrictions that necessitate Use Review approvals and instead establishes general outdoor seating standards for patios near residential areas.

In the DT-1, 2, and 3 districts, and the University Hill general improvement district area of the BMS district (see map at right), these uses would be allowed by-right if they meet specific use standards such as size and hours of operation, rather than automatically requiring a Conditional Use approval. Businesses that wish to be larger or open later could pursue a Use Review approval. Standards unique to the Hill, such as percentage of food, would be removed.

**Ordinance 8605** would have all of the same changes, except no changes would be made to the current University Hill general improvement district standards.



*Supporting middle housing to transition Neighborhood Center intensity*

Currently, in the BT Business Transitional zoning district, a Use Review is required if duplexes and townhomes are located on the ground floor of buildings. To support the BVCP neighborhood center guiding principle to “ensure appropriate scale transitions to neighboring residential uses,” both staff and the Planning Board Subcommittee identified this standard as a potential barrier to middle housing in these districts that could be eliminated.

Similarly, in the BR Business Regional and BC Business Community zoning district, duplexes and townhouses in the neighborhood centers require at least a Conditional Use or Use Review approval if located on the ground floor. As the BC and BR zoning districts are some of the city’s most intense commercial centers, this standard is not proposed to be modified in the BC or BR districts. BC zoned areas were recently revised during phase one of this project to prioritize ground floors for retail and other neighborhood-serving uses due to concerns about residential uses displacing retail and raising costs.

**Public Input**

In the 2018-2020 public engagement efforts, respondents were asked about their support for different housing types in neighborhood centers. Those who supported residential housing in neighborhood centers indicated they were open to a mix of housing types, like duplexes, triplexes, townhouses, cottages, condos/apartments, and single-family houses.



In the Summer 2023 engagement efforts, staff presented this as a potential change to both the BT and BR zoning districts. There was a mix of opinions for this change, with people indicating both support and concerns about this change in both the BT and BR zoning districts.

*Proposed Code Change:*

Ordinance 8590 and Ordinance 8605 both eliminate the ground floor restriction for duplexes and townhomes in the BT zoning district only. No changes are proposed to the current standards in the BR and BC districts.

***Simplifying standards or removing prohibitions for other businesses to support walkable (15-minute) Neighborhood Centers***

The original Planning Board subcommittee completed a line-by-line assessment of the use table and identified several opportunities for improving walkable access to services in the neighborhood centers. These recommendations, along with staff analysis of the use table, have highlighted several changes, primarily in the mixed use and business zoning districts, that could better support walkability. These changes include modifying the standards and review processes required to allow the following uses to locate more easily in the zoning districts identified:

**Public and Institutional Uses**

- Community services (Allow in MU-1,2,3,4, and P)
- Governmental facility (Allow in MU-1,2,3, and P)
- Museum (Use Review in MU-1,2,3, allow in P)

**Commercial Uses**

- Animal hospital/vet clinic (Use Review in MU-1,2,3)
- Medical office (Allow with size limit in MU-1, 2)
- Outdoor recreation or entertainment (Use Review in A)
- Non-vehicular repair/rental (Allow with size limit in MU, BT, BMS)
- Retail (Allow with size limit in MU-1,2,3, BT)
- Small theater/rehearsal space (Use Review in MU-1,2,3, BT)
- Temporary event (Conditional Use in MU)

**Public Input**

76% of people who responded to the 2020 questionnaire related to 15-minute neighborhoods expressed support for a greater mix of uses in neighborhood centers, with an additional 13% indicating “maybe” support. In particular, broad support was expressed for restaurants and coffee shops, retail uses, and personal services.

The Summer 2023 engagement efforts indicated general support for all of the proposed changes, with no major concerns raised from the public. Common themes related to the proposed changes included support for post offices (governmental facilities), retail spaces, and music/theater spaces in particular. In addition, although not initially proposed in the engagement efforts, many members of the public indicated that community services were a desired use in the MU districts as well. Many comments also indicated a desire to support small, local businesses.

*Proposed Code Change:*

Ordinance 8590 and 8605 both modify the use allowances and standards as listed above. Due to public and City Council feedback, community services has been added as an allowed use in the Mixed Use districts, and the initially proposed changes for lodges/clubs and hostels have been removed from the ordinance.

***Analysis of project objectives***

Staff has identified the following key issues for the City Council's consideration:

1. Does the City Council find that either proposed ordinance implements the adopted policies of the Boulder Valley Comprehensive Plan?
2. Does the City Council suggest any modifications to the proposed ordinances?

Staff finds that both proposed ordinances implement the adopted policies of the comprehensive plan. The following analysis is provided to demonstrate how the project objective is met through the proposed ordinances.

**What is the reason for the ordinance and what public purpose will be served?**

Note: Both versions of the ordinances accomplish the objectives of the project, but only one ordinance is anticipated for adoption.

The overarching project purpose for the Use Table and Standards project is to bring the use standards chapter into greater alignment with the BVCP policies and the city's priorities, to better enable desired development outcomes throughout the city, and to support the goals and desired outcomes of the BVCP more effectively. Goals for the project include:

- Simplifying the [Use Table](#) and streamlining the regulations where possible, making the use standards and table more understandable and legible.
- Creating more predictability and certainty in [Chapter 9-6, "Use Standards,"](#) of the Land Use Code.
- Aligning the use table and permitted uses with the BVCP goals, policies, and land use designations.
- Identifying community-desired land use gaps in the use standards and table, and better enabling the desired land uses in identified neighborhoods as well as in commercial and industrial districts.

Either proposed ordinance is the third and final module of work for Phase Two of the project. Module One, which was adopted in June 2022, greatly improved the user-friendliness of an important part of the Land Use Code by restructuring Chapter 9-6 into a system of consolidated specific use standards and a simplified version of the use table. The Module Two changes adopted in February 2023 better align the use table with comprehensive plan policies related to industrial areas.

This module will further align the land use code and comprehensive plan policies related to neighborhood centers and walkable areas. The changes have been significantly informed by public engagement throughout the project and serve a public purpose by reducing land use barriers to the types of businesses the community members who have



engaged in the process have indicated they would like to see in their neighborhood centers.

**How is the ordinance consistent with the purpose of the zoning districts or code chapters being amended?**

The purpose of the use table is to establish the uses that are allowed, prohibited, and permitted as a Conditional Use or through Use Review. The use standards are intended to ensure that uses are compatible with their surrounding area through additional requirements. This ordinance is consistent with the purpose of both the use table and use standards.

The purpose of the mixed use, business, and downtown zoning districts, where most of the changes are proposed, is noted in Section 9-5-2. The mixed use zoning districts are intended to have a mix of residential and nonresidential uses in close proximity to each other. The business zoning districts are generally intended for commercial and complementary residential uses. The downtown zoning districts are intended to allow a wide range of uses of varying intensities.

The proposed changes are consistent with the purpose of these zoning districts. The changes remove barriers for many uses that will support walkability of surrounding neighborhoods while maintaining consistency with the purpose of the districts.

**Are there consequences in not passing this ordinance?**

If neither ordinance is passed, the existing use standards and allowances would continue to apply and no new standards would be adopted to better support creation and preservation of neighborhood centers. Specifically, businesses that community members have indicated over several years of public engagement that they would like to see more of in their neighborhood centers would remain prohibited or retain review processes that may act as a barrier to these businesses. The mix of uses envisioned by the BVCP may not be achieved and identified barriers to walkable and accessible areas would continue to exist.

**What adverse effects may result with the adoption of this ordinance?**

Staff does not anticipate adverse effects with the adoption of either ordinance. The changes to use type allowances and standards proposed in the ordinance will support walkable neighborhood centers while adequately mitigating potential impacts. For instance, while the process for restaurant approvals would be streamlined, standards for outdoor seating areas would still apply, as well as size limitations and hours of operation for all restaurants in close proximity to residential areas. Some uses that may need more site-specific analysis to analyze impact have been proposed to require a Use Review process. The ordinances focus on targeted changes that can best support walkability without causing adverse effects.

Some concerns have been raised by the Planning Board and members of the public about making changes to the restaurant standards in the University Hill area at this time. Staff does not anticipate adverse effects due to the changes in Ordinance 8590 for the reasons stated throughout this memorandum; however, if City Council would like to separately consider changes to the University Hill area through a separate code amendment process, staff would recommend the Ordinance 8605 option.

### **What factors are influencing the timing of the proposed ordinance? Why?**

Work on the Use Table and Standards project began in 2018, with Phase One completed in 2019. Work was paused in 2020 and 2021 due to city staffing levels during the COVID-19 pandemic. The project was reinitiated in 2022, implementing the project plan and recommendations developed through public and stakeholder engagement in previous years. The remaining work of the project has been organized into three modules. Module One focused on the restructuring and reorganization to clean up the use table and standards and was adopted in June 2022. Module Two related to industrial areas was adopted in February 2023. Staff is aiming to complete the overall project by Fall 2023.

### **How does the ordinance compare to practices in other cities?**

Staff reviewed the regulations of around 30 comparable cities around the country, particularly the typical standards for restaurants and bars. Most of the cities reviewed are also home to large state university populations. As noted in the analysis portion above, Boulder's current regulations appear to be more restrictive than those in the most comparable cities for restaurants. Most cities allow restaurants in their commercial and mixed-use zoning districts without special standards. No other cities were found to limit patio sizes in the same way that Boulder does, and it was somewhat uncommon for overall restaurant size to be limited in other cities. Restaurants are often subject to differing standards than bars in other cities. Other changes proposed in the ordinance are consistent with practices in other cities.

### **How will this ordinance implement the comprehensive plan?**

Implementation of the comprehensive plan is one of the main goals of the overall Use Table and Standards project. The proposed changes aim to implement policies related to neighborhood centers and walkable neighborhoods.

Changes in the ordinances will support a diversity of complementary land uses in the neighborhood centers, which will be pedestrian-friendly and welcoming environments with a mix of land uses. Everyday needs will be met through a range of services that are walkable for nearby neighborhoods, while continuing to mitigate any potential negative impacts. Reducing barriers to these uses will support walkability of the city. Easy and safe access by foot, bike, and transit will be better supported by these changes in neighborhoods and mixed-use business areas.

The ordinances will also support economic vitality in Boulder, particularly in the neighborhood center areas. Changes will provide additional flexibility for many uses in terms of the types of approval process they must seek and the standards applicable to the use type.

Transition zones will be provided between more intense areas of neighborhood centers and less intense residential areas. Modest changes to residential uses will help reduce an existing barrier to middle housing in some areas of the city and support a more diverse mixture of housing types.

By streamlining review processes for many types of uses, efficiency, effectiveness and customer service quality will be improved.

The proposed code changes are consistent with or further the following BVCP policies:

**Built Environment Policy 2.09: Neighborhoods as Building Blocks**

The city and county will foster the role of neighborhoods to establish community character, provide services needed on a day-to-day basis, foster community interaction and plan for urban design and amenities. All neighborhoods in the city, whether residential areas, business districts, or mixed land use areas, should offer unique physical elements of neighborhood character and identity, such as distinctive development patterns or architecture; historic or cultural resources; amenities such as views, open space, creeks, irrigation ditches and varied topography; and distinctive community facilities and commercial centers that have a range of services and that are nearby and walkable.

**Built Environment Policy 2.13: Protection of Residential Neighborhoods Adjacent to Non-Residential Zones**

The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

**Built Environment Policy 2.14: Mix of Complementary Land Uses**

The city and county will strongly encourage, consistent with other land use policies, a variety of land uses in new developments. In existing neighborhoods, a mix of land use types, housing sizes and lot sizes may be possible if properly mitigated and respectful of neighborhood character. Wherever land uses are mixed, careful design will be required to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.

**Built Environment Policy 2.15: Compatibility of Adjacent Land Uses**

To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

**Built Environment Policy 2.17: Variety of Centers**

The city and county support a variety of regional and neighborhood centers where people congregate for a variety of activities such as working, shopping, going to school or day care, accessing human services and recreating. Some centers should be located within walking distance of neighborhoods and business areas and designed to be compatible with surrounding land uses and intensity and the context and character of neighborhoods and business areas. Regional centers should serve a larger role and be located near transit. Good multimodal connections to and from centers and accessibility for people of all ages and abilities will be encouraged.

**Built Environment Policy 2.19: Neighborhood Centers**

Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.

*Neighborhood Centers Guiding Principles*

1. Meet everyday needs of neighboring communities. Include a mix of locally serving retail (e.g., retail anchors, such as grocery stores and personal services such as hair salons or small local markets) and other activities, such as smaller-scale office uses to meet every day needs.
2. Ensure appropriate scale transitions to neighboring residential uses. Be at a scale and intensity lower than downtown and the regional centers, ensuring compatibility of buildings with adjacent residential uses decreasing intensity of activity around edges or “transition zones” near neighborhoods. These transition zones should encourage a diversity of low- and medium-density residential uses, such as attached single- family housing, row homes and a variety of flats.
3. Encourage a richness of transportation amenities. Neighborhood centers should include attractive pedestrian routes and conveniences such as sheltered seating, shared bicycles, bike cages and repair stations, among others, and have access to greenways, when practical.
4. Encourage parking management strategies. Encourage parking management strategies, such as shared parking, in neighborhood centers.
5. Ensure comfort and safety. Include human-scaled lighting, furnishings, signs and way-finding that feel welcoming, safe and comfortable for users of all ages and abilities. Provide unimpeded connections within neighborhood centers between parking, transit, retail and residential uses.

**Built Environment Policy 2.24: Commitment to a Walkable & Accessible City**

The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed-use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.

**Energy, Climate & Waste Policy 4.07: Energy-Efficient Land Uses**

The city and county will encourage energy efficiency and conservation through land use policies and regulations governing placement and orientation of land uses to minimize energy use, including an increase in mixed-use development and compact, contiguous development surrounded by open space.

**Economy Policy 5.01: Revitalizing Commercial & Industrial Areas**

The city supports strategies unique to specific places for the redevelopment of commercial and industrial areas. Revitalization should support and enhance these areas, conserve their strengths, minimize displacement of users and reflect their unique characteristics and amenities and those of nearby neighborhoods. Examples of commercial and industrial areas for revitalization identified in previous planning efforts are Diagonal Plaza, University Hill commercial district, Gunbarrel and the East Boulder industrial area.

The city will use a variety of tools and strategies in area planning and in the creation of public/ private partnerships that lead to successful redevelopment and minimize displacement and loss of service and retail uses. These tools may include, but are not limited to, area planning with community input, infrastructure improvements, shared parking strategies, transit options and hubs and changes to zoning or development standards and incentives (e.g., financial incentives, development.

**Economy Policy 5.03: Diverse Mix of Uses & Business Types**

The city and county will support a diversified employment base within the Boulder Valley, reflecting labor force capabilities and recognizing the community’s quality of life and strengths

in a number of industries. The city values its industrial, service and office uses and will continue to identify and protect them. The city will evaluate areas with non-residential zoning to ensure the existing and future economic vitality of Boulder while responding to the needs of regional trends and a changing global economy.

**Economy Policy 5.06: Affordable Business Space & Diverse Employment Base**

The city and county will further explore and identify methods to better support businesses and non-profits that provide direct services to residents and local businesses by addressing rising costs of doing business in the city, including the cost of commercial space. The city will consider strategies, regulations, policies or new programs to maintain a range of options to support a diverse workforce and employment base and take into account innovations and the changing nature of the workplace.

**Economy Policy 5.13: Home Occupations**

The city and county will evaluate regulations for home-based occupations to balance potential impacts to residential neighborhoods and reflect the goal of allowing more flexibility to have home-based businesses, neighborhood services and employment opportunities. The city and county support the innovative, creative and entrepreneurial activities of residents, including those who are in the very early stages of creating startup companies or providing neighborhood services. The city and county will continue to develop policies that result in reducing the number and length of trips through working from home and revise regulations to be responsive to new uses and types of businesses and neighborhood services that may be compatible with residential areas.

**Economy Policy 5.14: Responsive to Changes in the Marketplace**

The city recognizes that development regulations and processes have an impact on the ability of businesses to respond to changes in the marketplace. The city will work with the local business community and residents to make sure the city's regulations and development review processes provide a level of flexibility to allow for creative solutions while meeting broader community goals. This could involve modifying regulations to address specific issues and make them more responsive to emerging technologies and evolving industry sectors.

**Housing Policy 7.07: Mixture of Housing Types**

The city and county, through their land use regulations and housing policies, will encourage the private sector to provide and maintain a mixture of housing types with varied prices, sizes and densities to meet the housing needs of the low-, moderate- and middle-income households of the Boulder Valley population. The city will encourage property owners to provide a mix of housing types, as appropriate. This may include support for ADUs/OAUs, alley houses, cottage courts and building multiple small units rather than one large house on a lot.

**Housing Policy 7.10: Housing for a Full Range of Households**

The city and county will encourage preservation and development of housing attractive to current and future households, persons at all stages of life and abilities, and to a variety of household incomes and configurations. This includes singles, couples, families with children and other dependents, extended families, non-traditional households and seniors.

**Housing Policy 7.11: Balancing Housing Supply with Employment Base**

The Boulder Valley housing supply should reflect, to the extent possible, employer workforce housing needs, locations and salary ranges. Key considerations include housing type, mix and affordability. The city will explore policies and programs to increase housing for Boulder workers and their families by fostering mixed-use and multi-family development in proximity

to transit, employment or services and by considering the conversion of commercial- and industrial-zoned or -designated land to allow future residential use.

**Housing Policy 7.17: Market Affordability**

The city will encourage and support efforts to provide market rate housing priced to be more affordable to middle-income households by identifying opportunities to incentivize moderately sized and priced homes.

**Culture Policy 8.21: Arts & Cultural Facilities**

The city and county recognize the ability of cultural facilities and activity to positively contribute to community members' well-being, sense of community and cultural understanding. The city and county will encourage the provision of venues and facilities for a wide range of arts and cultural expression that are available and affordable to everyone. The city supports neighborhood-serving arts and cultural amenities, including public sculptures, murals, plazas, studio space and community gathering spaces.

**Local Governance & Community Engagement Policy 10.01: High-Performing Government**

The city and county strive for continuous improvement in stewardship and sustainability of financial, human, information and physical assets. In all business, the city and county seek to enhance and facilitate transparency, accuracy, efficiency, effectiveness and quality customer service. The city and county support strategic decision-making with timely, reliable and accurate data and analysis.

**ATTACHMENTS**

- Attachment A: Ordinance 8590 Summary
- Attachment B: Draft Ordinance 8590
- Attachment C: Draft Ordinance 8605
- Attachment D: Summer 2023 Public Engagement Summary
- Attachment E: Use Table and Standards Project Charter
- Attachment F: Use Table and Standards Working Group Meeting Notes
- Attachment G: Public Comment

# Summary of Changes

## MODULE THREE – NEIGHBORHOOD CENTERS

### Background

The Use Table and Standards project began in 2018 as one of the Planning Board’s priority items for land use code updates. The goals of the revisions include:

- Simplifying the [Use Table](#) and streamlining the regulations where possible, making the use standards and table more understandable and legible.
- Creating more predictability and certainty in [Chapter 9-6, “Use Standards,”](#) of the Land Use Code.
- Aligning the use table and permitted uses with the BVCP goals, policies, and land use designations.
- Identifying community-desired land use gaps in the use standards and table, and better enabling the desired land uses in identified neighborhoods as well as in commercial and industrial districts.

### Module Three Purpose

The second phase of the Use Table and Standards project is divided into three modules. The intent of Module Three is to better align the uses allowed in the land use code with the policies in the Boulder Valley Comprehensive Plan, specifically:

#### 2.19 Neighborhood Centers

Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.

#### Neighborhood Centers Guiding Principles

1. **Meet everyday needs of neighboring communities.** Include a mix of locally serving retail (e.g., retail anchors, such as grocery stores and personal services such as hair salons or small local markets) and other activities, such as smaller-scale office uses to meet every day needs.
2. **Ensure appropriate scale transitions to neighboring residential uses.** Be at a scale and intensity lower than downtown and the regional centers, ensuring compatibility of buildings with adjacent residential uses decreasing intensity of activity around edges or “transition zones” near neighborhoods. These transition zones should encourage a diversity of low- and medium-density residential uses, such as attached single- family housing, row homes and a variety of flats.
3. **Encourage a richness of transportation amenities.** Neighborhood centers should include attractive pedestrian routes and conveniences such as sheltered seating, shared bicycles, bike cages and repair stations, among others, and have access to greenways, when practical.
4. **Encourage parking management strategies.** Encourage parking management strategies, such as shared parking, in neighborhood centers.
5. **Ensure comfort and safety. Include human-scaled lighting, furnishings, signs and way-finding that feel welcoming, safe and comfortable for users of all ages and abilities.** Provide unimpeded connections within neighborhood centers between parking, transit, retail and residential uses.

## 2.24 Commitment to a Walkable & Accessible City

The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.

## Residential Uses

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- **Duplexes and townhomes:** Allow duplexes and townhomes to be permitted by-right on the ground floor in the BT Business Transitional District. They currently require a Use Review if located on the ground floor.

## Public and Institutional Uses

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- **Community services:** Allow by-right in Mixed Use 1, 2, 3, and 4 Districts and Public District. They currently require Use Review in MU-1, 2, 3, and P, and are a Conditional Use in MU-4.
- **Governmental facilities:** Allow by-right in Mixed Use 1, 2, and 3 Districts and Public District. They are currently prohibited in MU-1, 2, and 3 and require Use Review approval in P.
- **Museums:** Allow in Mixed Use 1, 2, and 3 Districts through a Use Review process and allow by-right in the Public District. They are currently prohibited in MU-1, 2, and 3, and require Use Review approval in P.

## Restaurants, Brewpubs & Taverns

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Streamline the approval process citywide by providing more opportunities for these uses to be approved by-right by:

- Increasing the allowable size by-right
- Removing patio size restrictions that necessitate Use Review approvals and instead establishing general outdoor seating standards for patios near residential areas
- In some districts, allow by-right subject to standards such as size and hours of operation, rather than automatically requiring a Conditional Use approval.
- Two ordinance options are proposed for City Council: 8605 does not make any changes to the standards in the University Hill neighborhood center, and 8590 removes the current unique standards that apply to the Hill and instead allow by-right subject to standards such as size and hours of operation.

## Other Commercial Uses

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- **Animal hospitals/vet clinics:** Allow through a Use Review in Mixed Use 1, 2, and 3 Districts, where currently prohibited.
- **Medical offices:** Allow with size limit in Mixed Use 1 and 2 Districts, where currently require Use Review.
- **Non-vehicular repair/rental:** Allow with size limit in Mixed Use Districts, Business Transitional Districts, and Business Main Street District, where currently prohibited.
- **Outdoor recreation or entertainment:** Allow by Use Review in the Agricultural District, where currently prohibited.
- **Retail:** Allow with size limit in Mixed Use 1, 2, and 3 Districts and Business Transitional District. Currently require Use Review in MU-2 and MU-3 and are prohibited in MU-1 and BT.
- **Small theaters/rehearsal spaces:** Allow through a Use Review process in Mixed Use 1, 2, and 3 Districts and Business Transitional District, where currently prohibited.
- **Temporary events:** Allow as a Conditional Use in Mixed Use Districts and Agricultural District, where currently prohibited.



## ORDINANCE 8590

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO UPDATE THE USE TABLE AND USE STANDARDS RELATED TO WALKABLE NEIGHBORHOOD CENTERS, INCLUDING CHANGES TO THE STANDARDS FOR RESTAURANTS, BREWPUBS, AND TAVERNS WITHIN THE BMS BUSINESS MAIN STREET DISTRICT AND UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, is amended to read as follows:

**9-6-1. Schedule of Permitted Land Uses.**

The schedule in Table 6-1 shows the uses that are permitted, conditionally permitted, prohibited, or that may be permitted through use review.

...

**TABLE 6-1: USE TABLE**

A = Allowed   C = Conditional Use   U = Use Review   [ ] = Specific Use Standards Apply   - = Prohibited																												
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards
	Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	
RESIDENTIAL USES																												
Household Living																												
Duplex	-	A	A	A	[A]	A	A	-	-	[EA]	A	A	A	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (c) 9-6-2(c)
Dwelling unit, attached	-	A	A	A	[A]	A	A	[A]	-	[EA]	A	A	A	[A]	[A]	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (d) 9-6-2(c)
Dwelling unit, detached	[A]	[A]	A	A	[A]	[A]	[A]	-	-	[EA]	[A]	[A]	[A]	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	-	[U]	[U]	9-6-3(a), (b), (e) 9-6-2(c)
Efficiency living unit	-	-	-	-	[U]	[A]	A	-	-	[A]	A	A	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (f) 9-6-2(c)
Live-work unit	-	-	-	-	-	[A]	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	[C]	[C]	[C]	[C]	-	-	9-6-3(a), (b), (g)
Mobile home park	-	U	U	-	U	U	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Townhouse	-	A	A	A	[A]	A	A	A	-	[EA]	A	A	A	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (h) 9-6-2(c)
Group Living																												
Boarding house	-	-	U	U	A	A	A	-	-	U	A	A	[A]	[A]	[A]	[A]	-	[A]	-	-	A	-	[U]	[U]	-	-	-	9-6-3(i)

A = Allowed   C = Conditional Use   U = Use Review   [ ] = Specific Use Standards Apply   - = Prohibited																													
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards	
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A		
																												9-6-2(c)	
Congregate care facility	-	-	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	[U]	[U]	-	[U]	-	9-6-3(j)	
Custodial care facility	-	-	[U]	[U]	[U]	[U]	[U]	[U]	-	[U]	[U]	[U]	-	[U]	-	[U]	-	[U]	-	[U]	[U]	-	[U]	[U]	-	-	-	9-6-3(j)	
Fraternity, sorority, and dormitory	-	-	-	-	-	A	A	-	-	U	-	-	-	[A]	[A]	[A]	-	[A]	-	-	A	-	[U]	[U]	-	-	-	9-6-3(k) 9-6-2(c)	
Group home facility	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]		[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	-	-	-	-	-	9-6-3(l)	
Residential care facility	-	-	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	[U]	[U]	-	-	-	9-6-3(j)	
Transitional housing	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	9-6-3(m)	
Residential Accessory																													
Accessory dwelling unit	[A]	[A]	-	[A]	[A]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	[A]	9-6-3(n)	
Caretaker dwelling unit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	A	A		
Home occupation	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	9-6-3(o)	
PUBLIC AND INSTITUTIONAL USES																													
Community, Cultural, and Educational																													
Cemetery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A		
Club or lodge	-	-	-	-	-	-	-	-	-	-	-	-	A	U	[A]	A	A	A	A	A	A	-	-	-	-	-	U	-	9-6-4(a)
Community services	-	-	-	-	-	-	-	-	-	U	U	U	U	A	[A]	[A]	A	A	[A]	A	A	-	U	-	U	U	U	-	9-6-4(b) 9-6-2(c)
Governmental facility	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	[A]	A	A	A	A	A	A	A	A	A	A	U	-	9-6-2(c)
Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-		
Museum	-	-	-	-	-	-	-	-	-	U	U	U	A	U	A	[A]	A	A	A	A	A	U	U	U	U	U	U	-	9-6-2(c)
Open space, park, and recreation use	A	A	A	A	A	A	A	-	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Private college or university	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	A	-	A	-	U	U	-	U	U	U	U	A	-	
Private elementary, middle, or high school	U	U	U	U	U	A	U	-	U	U	U	U	A	A	A	A	A	A	U	A	U	-	U	U	U	-	-		
Public college or university	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	
Public elementary, middle, or high school	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	
Religious assembly	A	A	A	A	U	A	A	-	-	A	U	U	A	A	A	A	A	A	A	A	A	-	-	-	-	-	-	-	
Specialized instruction facility	U	U	U	-	U	U	U	-	-	U	U	U	[A]	A	[A]	[A]	A	A	U	A	U	[A]	[A]	[A]	[A]	A	-	9-6-4(c) 9-6-2(c)	
Care and Shelter																													
Daycare center	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[C]	[U]	[C]	[C]	[C]	[U]	[C]	[C]	[U]	[U]	[U]	[U]	[U]	[U]	9-6-4(d)	
Daycare, home	A	A	A	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
Day shelter	-	-	[U]	-	[U]	[C]	[C]	-	-	[U]	[C]	[U]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)
Emergency shelter	[U]	[U]	[U]	[U]	[U]	[C]	[C]	-	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)
Overnight shelter	-	-	[U]	-	[U]	[C]	[C]	-	-	[U]	[C]	[U]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)
Infrastructure																													
Airport and heliport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-		
Essential municipal and public utility service	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	[A]	A	A	A	A	A	A	A	A	A	A	U	U	9-6-2(c)
Wireless communications facility	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	9-6-4(f)	
COMMERCIAL USES																													
Food, Beverage, and Lodging																													
Bed and breakfast	-	-	-	-	-	[U]	[C]	-	-	[U]	[C]	[C]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9-6-5(a)	
Brewery, distillery, and winery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	[A]	[A]	[A]	-	-	9-6-5(b)	
Commercial kitchen and catering	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	U	U	U	U	U	A	A	A	A	-	-		
Hostel	-	-	-	-	-	U	U	-	-	U	A	U	[A]	U	[A]	-	-	A	[A]	[A]	U	-	U	U	-	-	-	9-6-5(c)	

A = Allowed   C = Conditional Use   U = Use Review   [ ] = Specific Use Standards Apply   - = Prohibited																											
Zoning District	RR-1, RR-2, RR-1, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A
Hotel or motel	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	-	-	U	A	A	U	-	-	-	-	-	-
Mobile food vehicle	[A]	-	-	-	-	-	-	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-
Restaurant, brewpub, and tavern	-	-	-	-	-	[U]	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-
<b>Recreation and Entertainment</b>																											
Art studio or workshop	-	U	U	U	U	U	U	U	-	[A]	[A]	[A]	A	A	A	A	A	A	A	A	A	A	A	A	A	U	-
Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	-	-	U
Indoor athletic facility	-	[U]	[U]	[U]	-	U	[A]	-	-	[A]	[A]	[A]	A	[A]	[A]	A	A	A	A	A	A	[A]	[A]	[A]	[A]	-	-
Indoor commercial recreation	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	U	A	U	U	U	-	-	-	-	-	-
Outdoor recreation or entertainment	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	U	U	U	U	-	-	-	-	U	-U
Small theater or rehearsal space	-	-	-	-	-	-	-	-	-	-U	-U	-U	U	-U	U	U	U	A	U	U	U	A	A	A	A	-	-
Temporary event	-	-	-	-	-	-	-	-	-	-C	-C	-C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	-C
<b>Office Uses</b>																											
Administrative office	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	-	-	-
Medical office	-	U	U	U	-	U	U	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	-	[C]	-	-	U	-
Office	-	U	U	U	U	U	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	[A]	[A]	[A]	[A]	-	-
Research and development	-	-	-	-	-	-	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	[A]	-	-	-	[A]	A	A	[A]	-	-
<b>Retail Sales Uses</b>																											
Accessory sales	-	-	-	-	-	A	A	-	-	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-
Building material sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	U	-	-	-	[A]	[A]	[A]	[A]	-	-
Convenience retail sales	-	[U]	[U]	[U]	-	U	[A]	-	-	[A]	[A]	[A]	A	A	A	A	A	A	-	A	A	A	A	-	A	-	-
Fuel sales	-	[U]	[U]	[U]	-	[U]	[U]	-	-	[U]	[U]	[U]	C	[U]	[C]	[C]	[U]	[C]	-	[U]	[U]	[C]	[C]	-	[U]	-	-
Retail sales	-	-	-	-	-	-	-	-	-	[U]	[A]	[U]	[A]	[A]	[A]	[A]	A	A	A	A	[A]	[A]	[A]	[A]	[A]	-	-
<b>Service Uses</b>																											
Animal hospital or veterinary clinic	-	-	-	-	-	-	-	-	-	-U	-U	-U	U	U	U	A	U	A	-	-	U	A	A	A	A	-	-
Animal kennel	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	A	U	-	-	-	A	A	U	A	-	-
Business support service	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	[A]	[A]	A	A	A	A	A	[A]	U	U	[A]	-	-
Financial institution	-	-	-	-	-	-	[A]	-	-	[A]	[A]	[A]	U	[A]	[A]	A	A	[A]	[A]	[A]	-	-	-	-	-	-	-
Media production	-	U	U	-	U	U	U	-	-	[A]	[A]	[A]	A	A	[A]	[A]	A	A	A	A	A	A	A	A	A	-	-
Mortuary and funeral chapel	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	U	U	U	-	-	U	-	-	-	-	-	-
Non-vehicular repair and rental service	-	-	-	-	-	-	-	-	-	-A	-A	-A	-A	-A	-A	U	A	U	U	U	U	A	U	-	A	-	-
Neighborhood business center	-	[U]	[U]	-	-	[U]	[U]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Personal service use	-	U	U	U	-	U	A	U	U	A	A	A	A	A	A	A	A	A	A	A	A	-	[A]	-	[A]	-	-
<b>Vehicle-Related</b>																											
Car wash	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	A	U	U	U	U	-	-	-	-	-	-
Drive-thru use	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	[U]	[U]	[U]	-	-	-	-	-	-
Fuel service station	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	[C]	[U]	[C]	-	[U]	[U]	[C]	[C]	-	[U]	-	-
Principal parking facility	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	[A]	U	U	-	[U]	[U]	A	A	A	U	U	-
Sales or rental of vehicles	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[A]	[U]	-	-	-	[A]	[A]	-	-	-	-
Service of vehicles	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	[U]	U	[A]	U	-	-	-	A	A	[A]	A	-	-
<b>INDUSTRIAL USES</b>																											
<i>Storage, Distribution, and Wholesaling</i>																											

A = Allowed   C = Conditional Use   U = Use Review   [] = Specific Use Standards Apply   - = Prohibited																												
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards
	Use Module	R1	R2	R3	R4	R5	R6	R7	R8	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	
Cold storage locker	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	-	-	-	A	A	A	A	-	-	
Outdoor display of merchandise	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	[A]	-	-	-	[A]	[A]	[A]	[A]	-	-	9-6-6(a)
Outdoor storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	U	A	-	-	-	
Self-service storage facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	U	-	-	-	-	
Warehouse or distributions facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	-	-	
Wholesale business	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	A	A	A	A	-	-	
Production and Processing																												
General manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	-	-	-	9-6-6(b)
Light manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	-	-	[A]	-	-	-	-	[A]	A	A	A	-	-	9-6-6(c)
Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	U	-	-	
Recycling collection facility - large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	-	-	-	[U]	[U]	[U]	[U]	[U]	-	9-6-6(d)
Recycling collection facility - small	-	-	-	-	-	-	-	-	-	-	-	-	[C]	-	[C]	[C]	[C]	[U]	[U]	[U]	[U]	[C]	[C]	[C]	[C]	[C]	-	9-6-6(e)
Recycling processing facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	-	[U]	-	9-6-6(f)
Industrial Services																												
Building and landscaping contractor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	-	A	A	A	A	-	-	
Cleaning and laundry plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	-	-	
Equipment repair and rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	A	U	U	U	U	A	A	A	A	-	-	
Lumber yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	-	-	-	-	
AGRICULTURE AND NATURAL RESOURCE USES																												
Community garden	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	9-6-7(a)
Crop production	A	A	A	A	A	A	A	A	A	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	
Firewood operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	-	-	-	
Greenhouse and plant nursery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	A	A	
Mining industries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	-	U	
Oil and gas operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	-	[U]	9-6-7(b)
Pasture	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	
ACCESSORY USES																												
Accessory building or use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

...

Section 2. Section 9-6-3, “Specific Use Standards - Residential Uses,” B.R.C. 1981, is amended to read as follows:

### 9-6-3. Specific Use Standards - Residential Uses.

...

#### (c) Duplex:

(1) — In the BT 1, BT 2, IS 1, and IS 2 Zoning Districts:

~~(A) Review Process: In the BT-1, BT-2, IS-1, and IS-2 zoning districts, a duplex is allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary ground level access. A duplex that is not allowed by right may be approved only pursuant to a use review.~~

~~(21)~~ In the BR-1 and BR-2 Zoning Districts:

(A) Review Process: In the BR-1 and BR-2 zoning districts, the following review process applies to duplexes:

(i) Allowed Use: A duplex is allowed by right if the use meets the following standards:

a. All units on the lot or parcel are permanently affordable units meeting the requirements in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981; or

b. The use is not located on the ground floor along a major street, as defined by Appendix A, "Major Streets," B.R.C. 1981, with the exception of minimum necessary ground level access. The limitation on ground floor use along a major street applies to a depth of 30 feet measured from the building's major street facing façade.

(ii) Use Review: A duplex that is not allowed by right may be approved only pursuant to a use review.

~~(32)~~ In the IMS Zoning District:

(A) Review Process: In the IMS zoning district, a duplex is allowed by right if at least fifty percent of the floor area of the building is for nonresidential use. A duplex that is not allowed by right may be approved only pursuant to a use review.

**(d) Dwelling Unit, Attached:**

(1) In the RH-6 Zoning District:

(A) In the RH-6 zoning district, attached dwelling units shall be located in a development that includes townhouse dwelling units. Attached dwelling units may only be located on a corner that has street frontage on two sides.

(2) In the BT-1, and BT-2, ~~IS-1, and IS-2~~ Zoning Districts:

(A) Review Process: In the BT-1, and BT-2, ~~IS-1, and IS-2~~ zoning districts, attached dwelling units are allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary

ground level access. Attached dwelling units that are not allowed by right may be approved only pursuant to a use review.

...

**(h) Townhouse:**

~~(1) In BT 1, BT 2, IS 1, and IS 2 Zoning Districts:~~

~~(A) Review Process: In the BT 1, BT 2, IS 1, and IS 2 zoning districts, a townhouse is allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary ground level access. A townhouse that is not allowed by right may be approved only pursuant to a use review.~~

(21) In the BR-1 and BR-2 Zoning Districts:

(A) Review Process: In the BR-1 and BR-2 zoning districts, the following review process applies to townhouses:

(i) Allowed Use: A townhouse is allowed by right if the use meets the following standards:

- a. All units on the lot or parcel are permanently affordable units meeting the requirements in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981; or
- b. The use is not located on the ground floor along a major street, as defined by Appendix A, "Major Streets," B.R.C. 1981, with the exception of minimum necessary ground level access. The limitation on ground floor use along a major street applies to a depth of 30 feet measured from the building's major street facing façade.

(ii) Use Review: A townhouse that is not allowed by right may be approved only pursuant to a use review.

(32) In the IMS Zoning Districts:

(A) Review Process: In the IMS zoning district, a townhouse is allowed by right if at least fifty percent of the floor area of the building is for nonresidential use. A townhouse that is not allowed by right may be approved only pursuant to a use review.

...

**(o) Home Occupation:**

(1) A home occupation is allowed by right if the accessory use meets the following standards:

(A) Standards:

- (i) Such use is conducted entirely within a principal or accessory building and is not carried on by any person other than the inhabitants living there.
- (ii) Such use is clearly incidental and secondary to the residential use of the dwelling and does not change the residential character thereof.
- (iii) The total area used for such purposes does not exceed one-half the first floor area of the user's dwelling unit.
- (iv) There is no change in the outside appearance of the dwelling unit or lot indicating the conduct of such home occupation, including, without limitation, advertising signs or displays.
- (v) There is no on-site sale of materials or supplies except incidental retail sales. Remote or virtual sales with no on-site consumer visits are permitted.
- (vi) There is no exterior storage of material or equipment used as a part of the home occupation.
- (vii) No equipment or process is used in such home occupation that creates any glare, fumes, odors or other objectionable condition detectable to the normal senses at the boundary of the lot if the occupation is conducted in a detached dwelling unit, or outside the dwelling unit if conducted in an attached dwelling unit.
- (viii) No traffic is generated by such home occupation in a volume that would create a need for parking greater than that which can be accommodated on the site or which is inconsistent with the normal parking usage of the district.

(B) Cottage Food and Fresh Produce Exception: A home occupation use meeting the requirements of Chapter 6-17, "Cottage Foods and Fresh Produce," B.R.C. 1981, is exempt from the requirements of Subparagraphs (1)(A)(i), (iv), (v), (vi) and (vii) above. Gardens are exempt from Subparagraph (iii) above. Such use shall be permitted as an allowed use in all zoning districts in which a home occupation is permitted ~~as a conditional use.~~

- (C) Identification and Contact Information: No person shall engage in a home occupation unless such person has ~~filed an affidavit with the city manager affirming compliance with the standards of this subsection~~ obtained a business license from the city, including identification and contact information of the person operating the home occupation. No administrative review pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981, is required.
- (D) Prohibitions: No person shall engage in a home occupation except in conformance with all of the requirements of Paragraph (n)(1)(A) of this section, except as provided in Paragraph (n)(1)(B) of this section.

Section 3. Section 9-6-4, "Specific Use Standards - Public and Institutional Uses,"

B.R.C. 1981, is amended to read as follows:

**9-6-4. Specific Use Standards - Public and Institutional Uses.**

...

**(c) Specialized Instruction Facility:**

...

**(3) In the Industrial Zoning Districts:**

- (A) In the ~~Industrial~~ industrial zoning districts, a specialized instruction facility is allowed by right for less than 20,000 square feet of floor area per use. A specialized instruction facility that is not allowed by right may be approved only pursuant to a use review.

...

Section 4. Section 9-6-5, "Specific Use Standards - Commercial Uses," B.R.C. 1981, is amended to read as follows:

**9-6-5. Specific Use Standards - Commercial Uses.**

...

**(e) Restaurant, Brewpub, and Tavern:**

- (1) Applicability: This Subsection (e) sets forth standards for restaurants, brewpubs, and taverns that are subject to specific use standards pursuant to Table 6-1, Use Table.



(2) Floor Area Measurement:

- (A) When determining whether a restaurant, brewpub, or tavern meets the maximum floor area requirements under this subsection, the applicant shall include all areas inside the use measured to the inside surface of the outside walls, except for floor area that is used exclusively for storage that is located on another floor of the building.

(3) Standards for Outdoor Seating:

- (A) Applicability: The following standards apply to any outdoor seating area that is within ~~500-300~~ feet (measured from the perimeter of the subject property) of a residential use ~~module zoning district~~. ~~Outdoor seating areas that are within the BMS, DT, and I zoning districts are also subject to the provisions of Subparagraphs (c)(3)(A)(i), (ii), or (iii) of this section, when applicable.~~

~~(i) Size Limitations: Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the restaurant or tavern.~~

~~(ii) Parking Required: Parking in compliance with Section 9-9-6, "Parking Standards," B.R.C. 1981, shall be provided for all outdoor seating areas except those located in general improvement districts.~~

~~(iii) Music: Exterior amplified sound and live music are prohibited prior to 10 a.m. and after 11 p.m. No outdoor music or entertainment shall be provided after 11 p.m.~~

~~(iv) Sound Levels: The outdoor seating area shall not generate noise exceeding the levels permitted in Chapter 5-9, "Noise," B.R.C. 1981.~~

~~(v) Trash: All trash located within the outdoor seating area, on the restaurant, brewpub, or tavern property, and on adjacent streets, sidewalks, and properties shall be picked up and properly disposed of or stored inside the building immediately after closing. No trash or recycling shall be disposed of in any outdoor dumpster or receptacle between the hours of 10 p.m. and 7 a.m. the next day.~~

(4) In the RH-3 and RH-7 Zoning Districts:

- (A) In the RH-3 and RH-7 zoning districts, restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards, and are otherwise prohibited:

(i) The use has a maximum floor area of ~~4~~2,000 square feet; and

(ii) ~~Total outdoor seating area is not more than 350 square feet; and~~

(iii) The use closes no later than 11:00 p.m.

(5) In the MU-2 ~~and~~, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, and DT-3  
Zoning Districts:

(A) Review Process: In the MU-2 ~~and~~, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, and DT-3 zoning districts, the following review process applies to restaurants, brewpubs, and taverns:

(i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:

a. The use has a maximum floor area of 14,000 square feet;  
and

b. ~~Total outdoor seating area is not more than 350 square feet;~~  
~~and~~

eb. The use closes no later than 11:00 p.m.

(ii) Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review. In the BMS, DT-1, DT-2, and DT-3 zoning districts, restaurants, brewpubs, and taverns approved pursuant to a use review are subject to the following standard:

a. Good Neighbor Meetings and Management Plans Required: Owners and operators of restaurant, brewpub, and tavern uses shall organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

~~(6) In the MU-4 Zoning District:~~

~~(A) Review Process: In the MU-4 zoning district, the following review process applies to restaurants, brewpubs, and taverns:~~

~~(i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:~~

~~a. The use has a maximum floor area of 1,500 square feet;~~

~~b. Total outdoor seating area is not more than 500 square feet;~~

e. ~~Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 square feet; and~~

d. ~~The use closes no later than 11 p.m.~~

(ii) ~~Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review.~~

~~(7) In the BMS Zoning District:~~

~~(A) Review Process Outside UHGID: In the BMS zoning district, the following review process applies to restaurants, brewpubs, and taverns located outside the University Hill general improvement district:~~

~~(i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:~~

~~a. The use has a maximum floor area of 1,500 square feet; and~~

~~b. Total outdoor seating area is not more than 500 square feet;~~

~~c. Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 feet; and~~

~~d. The use closes no later than 11 p.m.~~

~~(ii) Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review, subject to the following standard:~~

~~a. Good Neighbor Meetings and Management Plans Required: Owners and operators of restaurant, brewpub, and tavern uses shall organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.~~

~~(B) Review Process Within UHGID:~~

~~(i) Conditional Use: In the BMS zoning district, restaurants, brewpubs, and taverns located within the University Hill general improvement district may be approved only as a conditional use provided they meet following standards:~~

~~a. Meeting With Surrounding Property Owners Required: Restaurant, brewpub, and tavern owners and operators shall organize and participate in a good neighbor meeting with~~

the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

- b. ~~Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan, pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.~~
- c. ~~Size of Establishment: Restaurants, brewpubs, and taverns shall not exceed four thousand square feet in size.~~
- d. ~~Hours of Operation: Restaurants, brewpubs, and taverns shall close no later than 11 p.m. unless the establishment is operated without a liquor license.~~
- e. ~~Outdoor Seating Areas: Outdoor patio service shall cease no later than 11 p.m. and, when applicable, shall comply with the requirements of Paragraph (e)(3) of this section.~~
- f. ~~Trash, Recyclables, and Compostables: If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.~~
- g. ~~Food Service in Brewpubs and Taverns: In brewpubs and taverns, snacks shall be offered and available for consumption on the premises during all business hours.~~
- h. ~~Food Service in Restaurants: In restaurants:~~
  - 1. ~~A food preparation area shall be in operation on the premises during all business hours, and solid food, prepared in the food preparation area, shall be offered and available for consumption on the premises during all business hours; and~~
  - 2. ~~Not less than fifty percent of the gross income from sales of food and drink of the establishment over any thirty-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request.~~

(8) ~~In the BC 1, BC 2, BCS, BR 1, BR 2, DT 4, and DT 5 Zoning Districts:~~

(A) ~~Review Process: In the BC 1, BC 2, BCS, BR 1, BR 2, DT 4, and DT 5 zoning districts, restaurants, brewpubs, and taverns are allowed by right~~

~~unless any outdoor seating area that is located within 500 feet of a residential zoning district is 300 feet or more in size. A restaurant, brewpub, or tavern that is not allowed by right may be approved only pursuant to a use review.~~

(9) ~~In the DT 1, DT 2, and DT 3 Zoning Districts:~~

(A) ~~Applicability: In the DT 1, DT 2, and DT 3 zoning districts, the following applies to restaurants, brewpubs, and taverns:~~

(i) ~~Review Process:~~

a. ~~Conditional Use: Restaurants, brewpubs, and taverns may be approved as a conditional use if the use meets the following standards:~~

1. ~~The use has a maximum floor area of 1,500 square feet;~~

2. ~~Total outdoor seating area is not more than 500 square feet;~~

3. ~~Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 feet; and~~

4. ~~The use closes no later than 11 p.m.~~

b. ~~Use Review: Restaurants, brewpubs, and taverns that may not be approved as a conditional use may be approved only pursuant to a use review.~~

(ii) ~~General Standard: Owners and operators of restaurant, brewpub, and tavern uses that may be approved as a conditional use or pursuant to a use review must organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.~~

(10) In the Industrial Zoning Districts:

(A) Brewpubs and Taverns: Brewpubs and taverns are prohibited in the Industrial industrial zoning districts.

(B) Restaurants: In the industrial zoning districts, the following applies to restaurants:

- (i) Review Process: In the industrial zoning districts, restaurants are allowed by right if the use is closed between the hours of 11 p.m. and 5 a.m. and is incorporated in a building with industrial, residential, or office uses. Restaurants that are not allowed by right may be approved only pursuant to a use review.

...

**(h) Temporary Event:**

(1) Temporary events may be approved as a conditional use if the following standards are met:

- (A) Such uses are temporary and limited to ~~two consecutive weeks~~ 14 days in any three-month period, unless otherwise approved by the city manager;
- (B) Such uses conducted from movable structures or upon vacant lots shall submit a site plan, including, without limitation, the location, setback from property line, screening, sign and fence locations, if applicable, and electric meter locations or power source;
- (C) Applicants shall obtain the appropriate sales tax license and, if applicable, temporary fence permits;
- (D) All exterior areas used for such uses and the lot or parcel that such uses occur upon shall meet the bulk requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;
- (E) Such uses may not adversely affect the required parking or result in unsafe conditions or unacceptable levels of congestion;
- (F) Upon termination of the use and on days for which no event is approved pursuant to Subparagraph (h)(1)(A) of this section, the lot or parcel shall be returned substantially to its original condition unless otherwise approved by the city manager. All litter, fences, borders, tie-down materials, and other items associated with the temporary ~~sale event~~ shall be promptly removed. Unless otherwise approved by the city manager, "promptly," as used in this subparagraph, shall mean within five days;
- (G) Temporary ~~sales events~~ shall only be conducted by the owner or lessee of the property or with the permission of the owner or lessee of the property on which it is conducted and only in conjunction with the principal use of the property; and

(H) ~~In the P zoning district, temporary sales are prohibited.~~

(H) Prohibitions: No person shall sell merchandise or services from a motor vehicle, trailer, mobile home, or tent upon any public or private property, including, without limitation, lots, or portions thereof that are vacant or used for parking except as provided in this section.

...  
(j) **Medical Office:**

(1) In the MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the MU-1, MU-2, and MU-3 zoning districts, a medical office is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A medical office that is not allowed by right may be approved only pursuant to a use review.

...  
(k) **Office:**

(1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning districts, an office is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. An office that is not allowed by right may be approved only pursuant to a use review.

...  
(l) **Research and Development:**

(1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning districts, a research and development use is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A research and development use that is not allowed by right may be approved only pursuant to a use review.

1 ...

2 **(m) Building Material Sales:**

3 ...

4 (2) In the Industrial Zoning Districts:

- 5 (A) Review Process: In the ~~Industrial~~ industrial zoning districts, building  
6 material sales uses are allowed by right for 15,000 square feet or less of  
7 floor area per lot or parcel. Building material sales that are not allowed by  
right may be approved only pursuant to a use review.

8 **(n) Convenience Retail Sales:**

9 (1) In the RL-2, RM-2, RM-1, RM-3, and RMX-1 Zoning Districts:

- 10 (A) In the RL-2, RM-2, RM-1, RM-3, and RMX-1 zoning districts,  
11 convenience retail sales that may be approved pursuant to a use review  
shall not exceed 2,000 square feet in floor area per lot or parcel.  
Otherwise, the use is prohibited.

12 (2) In the RH-3, RH-7, ~~and MU-1, MU-2, and MU-3~~ Zoning Districts:

- 13 (A) Review Process: In the RH-3, RH-7, MU-1, and MU-2, and MU-3 zoning  
14 districts, convenience retail sales are allowed by right if the floor area of  
15 the use does not exceed for 2,000 square feet or less of floor area per lot or  
parcel. Convenience retail sales that are not allowed by right may be  
approved only pursuant to a use review.

16 ~~(3) In the MU-1 and MU-3 Zoning Districts:~~

- 17 ~~(A) Review Process: In the MU-1 and MU-3 zoning districts, the following~~  
18 ~~review process applies to convenience retail sales:~~

- 19 ~~(i) Allowed Use: Convenience retail sales are allowed by right if they~~  
20 ~~meet the following standards:~~

21 ~~a. The use is 2,000 square feet or less in floor area of the~~  
~~building; or~~

22 ~~b. If the use is greater than 2,000 square feet of floor area, the~~  
23 ~~cumulative floor area of nonresidential uses in the building~~  
24 ~~is less than 7,000 square feet, and at least fifty percent of~~  
25 ~~the building's floor area is for residential uses.~~

- ~~(ii) Use Review: Convenience retail sales that are not allowed by right~~  
~~may be approved only pursuant to a use review.~~



1 ...

2 **(p) Retail Sales:**

3 (1) In the MU-1, BT-1, and BT-2 Zoning Districts:

4 (A) Review Process: In the MU-1, BT-1, and BT-2 zoning districts, retail sales  
 5 are allowed by right if the floor area of the use does not exceed 2,000  
 6 square feet. Retail sales that are not allowed by right may be approved  
 7 only pursuant to a use review.

8 (42) In the MU-2 and MU-3 Zoning Districts:

9 (A) Review Process: In the MU-2 and MU-3 zoning districts, retail sales that  
 10 may be approved pursuant to a use review are allowed by right if the floor  
 11 area of the use does not shall not exceed 5,000 square feet in floor area  
 12 per individual use. Otherwise, the use is prohibited Retail sales that are not  
 13 allowed by right may be approved only pursuant to a use review.

14 ...

15 **(q) Business Support Service:**

16 (1) In the MU-4, BMS, IS-1, IS-2, and IMS Zoning Districts:

17 (A) Review Process: In the MU-4, BMS, IS-1, IS-2, and IMS zoning districts,  
 18 a business support service uses are is allowed by right if the floor area of  
 19 the use is uses are less than 10,000 square feet of floor area per lot or  
 20 parcel. A business support service that is not allowed by right may be  
 21 approved only pursuant to a use review.

22 **(r) Financial Institution:**

23 (1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:

24 (A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning  
 25 districts, a financial institution is allowed by right if the floor area of the  
 26 use does not exceed 5,000 square feet at least fifty percent of the floor area  
 27 of the building is for residential uses and the total floor area of  
 28 nonresidential uses in the building is less than 7,000 square feet. A  
 29 financial institution that is not allowed by right may be approved only  
 30 pursuant to a use review.

31 ...

32 **(s) Media Production:**

33 (1) In the MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the MU-1, MU-2, and MU-3 zoning districts, a media production use is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A media production use that is not allowed by right may be approved only pursuant to a use review.

**(t) Non-Vehicular Repair and Rental Service**

(1) In the MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, and BMS Zoning Districts:

(A) Review Process: In the MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, and BMS zoning districts, a non-vehicular repair and rental service is allowed by right if the floor area of the use does not exceed 5,000 square feet. A non-vehicular repair and rental service that is not allowed by right may be approved only pursuant to a use review.

**(tu) Neighborhood Business Center:**

**(uy) Personal Service Use:**

**(vw) Drive-Thru Use:**

**(wx) Fuel Service Station:**

**(xy) Principal Parking Facility:**

**(yz) Sales or Rental of Vehicles:**

**(zaa) Service of Vehicles:**

1        Section 5. This ordinance shall apply to any building permit, conditional use, use review,  
2 and site review applied for on or after the effective date of this ordinance; however, any project  
3 for which a complete building permit, site review, use review, or conditional use application has  
4 been submitted to the city or which has received a site review, use review, or conditional use  
5 approval prior to the effective date of this ordinance for a use inconsistent with the provisions of  
6 this ordinance will be permitted to establish the proposed use under the use standards of Chapter  
7 9-6, " Use Standards," B.R.C. 1981, in effect at the time the building permit, site review, use  
8 review, or conditional use application was submitted to the city. Such applicants shall be required  
9 to pursue such development approvals and meet all requirements deadlines set by the city manager  
10 and the Boulder Revised Code necessary to establish the proposed use. The applications for such  
11 project shall demonstrate compliance with all applicable laws. An applicant may seek extensions  
12 of a development approval granted under the use standards in effect prior to the effective date of  
13 this ordinance in accordance with the standards of Subsection 9-2-12(b), "Extensions," B.R.C.  
14 1981, and any initial review under Paragraph 9-2-12(b)(2), "Planning Board Level Extension,"  
15 B.R.C. 1981, shall not impose as an additional condition compliance with the use standards  
16 adopted in this ordinance provided that all other requirements of this Section 5 of this ordinance  
17 have been met. Any failure to meet requirements of the city manager or this section of this  
18 ordinance will result in a denial of such application. Any subsequent application shall meet the  
19 requirements in place at the time of such subsequent application.  
20

21        Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any  
22 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
23 provisions of this ordinance.  
24  
25

Section 7. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 8. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19<sup>th</sup> day of October 2023.

Aaron Brockett,  
Mayor

Attest:

Elesha Johnson,  
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 2<sup>nd</sup> day of November  
2023.

Aaron Brockett,  
Mayor

Attest:

Elesha Johnson,  
City Clerk

## ORDINANCE 8605

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO UPDATE THE USE TABLE AND USE STANDARDS RELATED TO WALKABLE NEIGHBORHOOD CENTERS; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, is amended to read as follows:

**9-6-1. Schedule of Permitted Land Uses.**

The schedule in Table 6-1 shows the uses that are permitted, conditionally permitted, prohibited, or that may be permitted through use review.

...

**TABLE 6-1: USE TABLE**

A = Allowed   C = Conditional Use   U = Use Review   [ ] = Specific Use Standards Apply   - = Prohibited																												
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards
	Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	
RESIDENTIAL USES																												
Household Living																												
Duplex	-	A	A	A	[A]	A	A	-	-	[EA] [J]	A	A	A	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (c) 9-6-2(c)
Dwelling unit, attached	-	A	A	A	[A]	A	A	[A]	-	[EA] [J]	A	A	A	[A]	[A]	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (d) 9-6-2(c)
Dwelling unit, detached	[A]	[A]	A	A	[A]	[A]	[A]	-	-	[EA] [J]	[A]	[A]	[A]	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	-	[U]	[U]	9-6-3(a), (b), (e) 9-6-2(c)
Efficiency living unit	-	-	-	-	[U]	[A]	A	-	-	[A]	A	A	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (f) 9-6-2(c)
Live-work unit	-	-	-	-	-	[A]	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	[C]	[C]	[C]	[C]	-	-	9-6-3(a), (b), (g)
Mobile home park	-	U	U	-	U	U	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Townhouse	-	A	A	A	[A]	A	A	A	-	[EA] [J]	A	A	A	[A]	-	[A]	-	[A]	A	A	A	-	[U]	[U]	[A]	U	-	9-6-3(a), (b), (h) 9-6-2(c)
Group Living																												
Boarding house	-	-	U	U	A	A	A	-	-	U	A	A	[A]	[A]	[A]	[A]	-	[A]	-	-	A	-	[U]	[U]	-	-	-	9-6-3(i) 9-6-2(c)
Congregate care facility	-	-	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	[U]	[U]	-	[U]	-	9-6-3(j)
Custodial care facility	-	-	[U]	[U]	[U]	[U]	[U]	[U]	-	[U]	[U]	[U]	-	[U]	-	[U]	-	[U]	-	[U]	[U]	-	[U]	[U]	-	-	-	9-6-3(j)
Fraternity, sorority, and dormitory	-	-	-	-	-	A	A	-	-	U	-	-	-	[A]	[A]	[A]	-	[A]	-	-	A	-	[U]	[U]	-	-	-	9-6-3(k) 9-6-2(c)

A = Allowed   C = Conditional Use   U = Use Review   [] = Specific Use Standards Apply   - = Prohibited																													
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards	
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A		
Group home facility	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	-	-	-	-	-	9-6-3(l)	
Residential care facility	-	-	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	[U]	[U]	-	-	-	9-6-3(j)	
Transitional housing	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	-	[C]	[C]	[C]	[C]	-	9-6-3(m)	
Residential Accessory																													
Accessory dwelling unit	[A]	[A]	-	[A]	[A]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	[A]	9-6-3(n)	
Caretaker dwelling unit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	A	A		
Home occupation	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	9-6-3(o)	
PUBLIC AND INSTITUTIONAL USES																													
Community, Cultural, and Educational																													
Cemetery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A		
Club or lodge	-	-	-	-	-	-	-	-	-	-	-	-	A	U	[A]	A	A	A	A	A	A	-	-	-	-	-	U	-	9-6-4(a)
Community services	-	-	-	-	-	-	-	-	-	U	U	U	U	A	[A]	[A]	A	A	A	[A]	A	A	-	U	-	U	U	U	9-6-4(b) 9-6-2(c)
Governmental facility	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	[A]	A	A	A	A	A	A	A	A	A	A	U	-	9-6-2(c)
Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-		
Museum	-	-	-	-	-	-	-	-	-	U	U	U	A	U	A	[A]	A	A	A	A	A	U	U	U	U	U	U	U	9-6-2(c)
Open space, park, and recreation use	A	A	A	A	A	A	A	-	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Private college or university	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	A	-	A	-	U	U	-	U	U	U	U	A	-	
Private elementary, middle, or high school	U	U	U	U	U	A	U	-	U	U	U	U	A	A	A	A	A	A	U	A	U	-	U	U	U	-	-		
Public college or university	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	
Public elementary, middle, or high school	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	
Religious assembly	A	A	A	A	U	A	A	-	A	U	U	U	A	A	A	A	A	A	A	A	A	-	-	-	-	-	-	-	
Specialized instruction facility	U	U	U	-	U	U	U	-	U	U	U	U	[A]	A	[A]	[A]	A	A	U	A	U	[A]	[A]	[A]	[A]	A	-	9-6-4(c) 9-6-2(c)	
Care and Shelter																													
Daycare center	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	[C]	[U]	[C]	[C]	[C]	[U]	[C]	[C]	[U]	[U]	[U]	[U]	[U]	[U]	[U]	9-6-4(d)
Daycare, home	A	A	A	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Day shelter	-	-	[U]	-	[U]	[C]	[C]	-	[U]	[C]	[U]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)	
Emergency shelter	[U]	[U]	[U]	[U]	[U]	[C]	[C]	-	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)	
Overnight shelter	-	-	[U]	-	[U]	[C]	[C]	-	[U]	[C]	[U]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[U]	-	9-6-4(e)	
Infrastructure																													
Airport and heliport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-		
Essential municipal and public utility service	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	[A]	A	A	A	A	A	A	A	A	A	U	U	9-6-2(c)	
Wireless communications facility	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	9-6-4(f)	
COMMERCIAL USES																													
Food, Beverage, and Lodging																													
Bed and breakfast	-	-	-	-	-	[U]	[C]	-	-	[U]	[C]	[C]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9-6-5(a)	
Brewery, distillery, and winery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	[A]	[A]	[A]	-	-	9-6-5(b)	
Commercial kitchen and catering	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	U	U	U	U	U	A	A	A	A	-	-		
Hostel	-	-	-	-	-	U	U	-	U	A	U	[A]	U	[A]	-	-	A	[A]	[A]	U	-	U	U	-	-	-	-	9-6-5(c)	
Hotel or motel	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	-	-	U	A	A	U	-	-	-	-	-	-		
Mobile food vehicle	[A]	-	-	-	-	-	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	9-6-5(d)	
Restaurant, brewpub, and tavern	-	-	-	-	-	[U]	[A]	-	[A]	[A]	[A]	[A]	U	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	-	9-6-5(e)	
Recreation and Entertainment																													

A = Allowed   C = Conditional Use   U = Use Review   [] = Specific Use Standards Apply   - = Prohibited																													
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards	
	Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P		A
Art studio or workshop	-	U	U	U	U	U	U	U	-	[A]	[A]	[A]	A	A	A	A	A	A	A	A	A	A	A	A	A	U	-	9-6-5(f)	
Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	-	-	U		
Indoor athletic facility	-	[U]	[U]	[U]	-	U	[A]	-	-	[A]	[A]	[A]	A	[A]	[A]	A	A	A	A	A	A	[A]	[A]	[A]	[A]	-	-	9-6-5(g)	
Indoor commercial recreation	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	U	A	U	U	U	-	-	-	-	-	-		
Outdoor recreation or entertainment	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	U	U	U	U	-	-	-	-	U	-		
Small theater or rehearsal space	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	A	U	U	U	A	A	A	A	-	-		
Temporary event	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9-6-5(h)	
Office Uses																													
Administrative office	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	-	-	-		
Medical office	-	U	U	U	-	U	U	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	-	[C]	-	-	U	-	9-6-5(i), (j) 9-6-2(c)
Office	-	U	U	U	U	U	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	[A]	[A]	[A]	[A]	-	-	9-6-5(i), (k) 9-6-2(c)
Research and development	-	-	-	-	-	-	[A]	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	[A]	-	-	-	[A]	A	A	[A]	-	-	9-6-5(i), (l) 9-6-2(c)	
Retail Sales Uses																													
Accessory sales	-	-	-	-	-	A	A	-	-	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-		
Building material sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	U	-	-	-	[A]	[A]	[A]	[A]	-	-	9-6-5(m)	
Convenience retail sales	-	[U]	[U]	[U]	-	U	[A]	-	-	[A]	[A]	[A]	A	A	A	A	A	A	-	A	A	A	A	-	A	-	-	9-6-5(n)	
Fuel sales	-	[U]	[U]	[U]	-	[U]	[U]	-	-	[U]	[U]	[U]	[C]	[U]	[C]	[C]	[U]	[C]	-	[U]	[U]	[C]	[C]	-	[U]	-	-	9-6-5(o)	
Retail sales	-	-	-	-	-	-	-	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	A	A	[A]	[A]	[A]	[A]	[A]	-	-	9-6-5(p)	
Service Uses																													
Animal hospital or veterinary clinic	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	A	U	A	-	-	U	A	A	A	A	-	-		
Animal kennel	-	-	-	-	-	-	-	-	-	-	-	-	U	-	U	U	A	U	-	-	-	A	A	U	A	-	-		
Business support service	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	[A]	[A]	A	A	A	A	A	[A]	U	U	[A]	-	-	9-6-5(q) 9-6-2(c)	
Financial institution	-	-	-	-	-	-	[A]	-	-	[A]	[A]	[A]	[A]	U	[A]	[A]	A	A	[A]	[A]	[A]	-	-	-	-	-	-	9-6-5(r) 9-6-2(c)	
Media production	-	U	U	-	U	U	U	-	-	[A]	[A]	[A]	A	A	[A]	[A]	A	A	A	A	A	A	A	A	A	-	-	9-6-5(s) 9-6-2(c)	
Mortuary and funeral chapel	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	U	U	U	-	-	U	-	-	-	-	-	-		
Non-vehicular repair and rental service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	A	U	U	U	A	U	-	A	-	-	9-6-5(t)	
Neighborhood business center	-	[U]	[U]	-	-	[U]	[U]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9-6-5(u)	
Personal service use	-	U	U	U	-	U	A	U	U	A	A	A	A	A	A	A	A	A	A	A	A	-	[A]	-	[A]	-	-	9-6-5(v)	
Vehicle-Related																													
Car wash	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	A	U	U	U	U	-	-	-	-	-	-		
Drive-thru use	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	[U]	[U]	[U]	-	-	-	-	-	-	9-6-5(w)	
Fuel service station	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	[C]	[U]	[C]	-	[U]	[U]	[C]	[C]	-	[U]	-	-	9-6-5(x)	
Principal parking facility	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	[A]	U	U	-	[U]	[U]	A	A	A	U	U	-	9-6-5(y) 9-6-2(c)	
Sales or rental of vehicles	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[A]	[U]	-	-	-	[A]	[A]	-	-	-	-	9-6-5(z)	
Service of vehicles	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	[U]	U	[A]	U	-	-	-	A	A	[A]	A	-	-	9-6-5(aa)	
INDUSTRIAL USES																													
Storage, Distribution, and Wholesaling																													
Cold storage locker	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	-	-	-	A	A	A	A	-	-		
Outdoor display of merchandise	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	[A]	-	-	-	[A]	[A]	[A]	[A]	-	-	9-6-6(a)	
Outdoor storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	U	A	-	-	-		
Self-service storage facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	U	-	-	-	-		

A = Allowed   C = Conditional Use   U = Use Review   [] = Specific Use Standards Apply   - = Prohibited																												
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	Specific Use Standards
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	
Warehouse or distributions facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	-	-	
Wholesale business	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	A	A	A	A	-	-	
Production and Processing																												
General manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	-	-	-	9-6-6(b)
Light manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	-	-	[A]	-	-	-	-	[A]	A	A	A	-	-	
Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	U	U	U	-	-	9-6-6(d)
Recycling collection facility - large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	-	-	-	[U]	[U]	[U]	[U]	[U]	-	
Recycling collection facility - small	-	-	-	-	-	-	-	-	-	-	-	-	[C]	-	[C]	[C]	[C]	[U]	[U]	[U]	[U]	[C]	[C]	[C]	[C]	[C]	-	9-6-6(e)
Recycling processing facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	[U]	[U]	-	[U]	-	9-6-6(f)
Industrial Services																												
Building and landscaping contractor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-	-	A	A	A	A	-	-	9-6-7(a)
Cleaning and laundry plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	-	-		
Equipment repair and rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	A	U	U	U	U	A	A	A	A	-	-	
Lumber yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	-	-	-	-		
AGRICULTURE AND NATURAL RESOURCE USES																												
Community garden	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	9-6-7(b)
Crop production	A	A	A	A	A	A	A	A	A	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	
Firewood operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	-	-	-	
Greenhouse and plant nursery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	A	A	
Mining industries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	U	-	-	U	
Oil and gas operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[U]	-	-	[U]	
Pasture	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	A	
ACCESSORY USES																												
Accessory building or use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

...

Section 2. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is amended to read as follows:

### 9-6-3. Specific Use Standards - Residential Uses.

...

#### (c) Duplex:

(1) In the BT 1, BT 2, IS 1, and IS 2 Zoning Districts:

(A) Review Process: In the BT 1, BT 2, IS 1, and IS 2 zoning districts, a duplex is allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary ground level



access. A duplex that is not allowed by right may be approved only pursuant to a use review.

(21) In the BR-1 and BR-2 Zoning Districts:

(A) Review Process: In the BR-1 and BR-2 zoning districts, the following review process applies to duplexes:

(i) Allowed Use: A duplex is allowed by right if the use meets the following standards:

- a. All units on the lot or parcel are permanently affordable units meeting the requirements in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981; or
- b. The use is not located on the ground floor along a major street, as defined by Appendix A, "Major Streets," B.R.C. 1981, with the exception of minimum necessary ground level access. The limitation on ground floor use along a major street applies to a depth of 30 feet measured from the building's major street facing façade.

(ii) Use Review: A duplex that is not allowed by right may be approved only pursuant to a use review.

(32) In the IMS Zoning District:

(A) Review Process: In the IMS zoning district, a duplex is allowed by right if at least fifty percent of the floor area of the building is for nonresidential use. A duplex that is not allowed by right may be approved only pursuant to a use review.

**(d) Dwelling Unit, Attached:**

(1) In the RH-6 Zoning District:

(A) In the RH-6 zoning district, attached dwelling units shall be located in a development that includes townhouse dwelling units. Attached dwelling units may only be located on a corner that has street frontage on two sides.

(2) In the BT-1, BT-2, ~~IS-1~~, and ~~IS-2~~ Zoning Districts:

(A) Review Process: In the BT-1, BT-2, ~~IS-1~~, and ~~IS-2~~ zoning districts, attached dwelling units are allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary ground level access. Attached dwelling units that are not allowed by right may be approved only pursuant to a use review.

1 ...

2 **(h) Townhouse:**

3 ~~(1) In BT 1, BT 2, IS 1, and IS 2 Zoning Districts:~~

4 ~~(A) Review Process: In the BT 1, BT 2, IS 1, and IS 2 zoning districts, a~~  
 5 ~~townhouse is allowed by right if the use is not located on the ground floor~~  
 6 ~~facing a street, with the exception of minimum necessary ground level~~  
 7 ~~access. A townhouse that is not allowed by right may be approved only~~  
 8 ~~pursuant to a use review.~~

9 ~~(21) In the BR-1 and BR-2 Zoning Districts:~~

10 (A) Review Process: In the BR-1 and BR-2 zoning districts, the following  
 11 review process applies to townhouses:

12 (i) Allowed Use: A townhouse is allowed by right if the use meets the  
 13 following standards:

- 14 a. All units on the lot or parcel are permanently affordable  
 15 units meeting the requirements in Chapter 9-13,  
 16 "Inclusionary Housing," B.R.C. 1981; or
- 17 b. The use is not located on the ground floor along a major  
 18 street, as defined by Appendix A, "Major Streets," B.R.C.  
 19 1981, with the exception of minimum necessary ground  
 20 level access. The limitation on ground floor use along a  
 21 major street applies to a depth of 30 feet measured from the  
 22 building's major street facing façade.

23 (ii) Use Review: A townhouse that is not allowed by right may be  
 24 approved only pursuant to a use review.

25 ~~(32) In the IMS Zoning Districts:~~

(A) Review Process: In the IMS zoning district, a townhouse is allowed by  
 right if at least fifty percent of the floor area of the building is for  
 nonresidential use. A townhouse that is not allowed by right may be  
 approved only pursuant to a use review.

...

**(o) Home Occupation:**

(1) A home occupation is allowed by right if the accessory use meets the following  
 standards:

(A) Standards:

- (i) Such use is conducted entirely within a principal or accessory building and is not carried on by any person other than the inhabitants living there.
- (ii) Such use is clearly incidental and secondary to the residential use of the dwelling and does not change the residential character thereof.
- (iii) The total area used for such purposes does not exceed one-half the first floor area of the user's dwelling unit.
- (iv) There is no change in the outside appearance of the dwelling unit or lot indicating the conduct of such home occupation, including, without limitation, advertising signs or displays.
- (v) There is no on-site sale of materials or supplies except incidental retail sales. Remote or virtual sales with no on-site consumer visits are permitted.
- (vi) There is no exterior storage of material or equipment used as a part of the home occupation.
- (vii) No equipment or process is used in such home occupation that creates any glare, fumes, odors or other objectionable condition detectable to the normal senses at the boundary of the lot if the occupation is conducted in a detached dwelling unit, or outside the dwelling unit if conducted in an attached dwelling unit.
- (viii) No traffic is generated by such home occupation in a volume that would create a need for parking greater than that which can be accommodated on the site or which is inconsistent with the normal parking usage of the district.

(B) Cottage Food and Fresh Produce Exception: A home occupation use meeting the requirements of Chapter 6-17, "Cottage Foods and Fresh Produce," B.R.C. 1981, is exempt from the requirements of Subparagraphs (1)(A)(i), (iv), (v), (vi) and (vii) above. Gardens are exempt from Subparagraph (iii) above. Such use shall be permitted as an allowed use in all zoning districts in which a home occupation is permitted ~~as a conditional use.~~

(C) Identification and Contact Information: No person shall engage in a home occupation unless such person has ~~filed an affidavit with the city manager affirming compliance with the standards of this subsection~~ obtained a

~~business license from the city, including identification and contact information of the person operating the home occupation.~~ No administrative review pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981, is required.

- (D) Prohibitions: No person shall engage in a home occupation except in conformance with all of the requirements of Paragraph (n)(1)(A) of this section, except as provided in Paragraph (n)(1)(B) of this section.

Section 3. Section 9-6-4, "Specific Use Standards - Public and Institutional Uses,"

B.R.C. 1981, is amended to read as follows:

**9-6-4. Specific Use Standards - Public and Institutional Uses.**

...

**(c) Specialized Instruction Facility:**

...

**(3) In the Industrial Zoning Districts:**

- (A) In the ~~Industrial~~ industrial zoning districts, a specialized instruction facility is allowed by right for less than 20,000 square feet of floor area per use. A specialized instruction facility that is not allowed by right may be approved only pursuant to a use review.

...

Section 4. Section 9-6-5, "Specific Use Standards - Commercial Uses," B.R.C. 1981, is

amended to read as follows:

**9-6-5. Specific Use Standards - Commercial Uses.**

...

**(e) Restaurant, Brewpub, and Tavern:**

- (1) Applicability: This Subsection (e) sets forth standards for restaurants, brewpubs, and taverns that are subject to specific use standards pursuant to Table 6-1, Use Table.
- (2) Floor Area Measurement:
- (A) When determining whether a restaurant, brewpub, or tavern meets the maximum floor area requirements under this subsection, the applicant

shall include all areas inside the use measured to the inside surface of the outside walls, except for floor area that is used exclusively for storage that is located on another floor of the building.

(3) Standards for Outdoor Seating:

(A) Applicability: The following standards apply to any outdoor seating area that is within ~~500-300~~ feet (measured from the perimeter of the subject property) of a residential use ~~module zoning district~~. ~~Outdoor seating areas that are within the BMS, DT, and I zoning districts are also subject to the provisions of Subparagraphs (e)(3)(A)(i), (ii), or (iii) of this section, when applicable.~~

~~(i) Size Limitations: Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the restaurant or tavern.~~

~~(ii) Parking Required: Parking in compliance with Section 9-9-6, "Parking Standards," B.R.C. 1981, shall be provided for all outdoor seating areas except those located in general improvement districts.~~

~~(iii) Music: Exterior amplified sound and live music are prohibited prior to 10 a.m. and after 11 p.m. No outdoor music or entertainment shall be provided after 11 p.m.~~

~~(iv) Sound Levels: The outdoor seating area shall not generate noise exceeding the levels permitted in Chapter 5-9, "Noise," B.R.C. 1981.~~

~~(v) Trash: All trash located within the outdoor seating area, on the restaurant, brewpub, or tavern property, and on adjacent streets, sidewalks, and properties shall be picked up and properly disposed of or stored inside the building immediately after closing. No trash or recycling shall be disposed of in any outdoor dumpster or receptacle between the hours of 10 p.m. and 7 a.m. the next day.~~

(4) In the RH-3 and RH-7 Zoning Districts:

(A) In the RH-3 and RH-7 zoning districts, restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards, and are otherwise prohibited:

(i) The use has a maximum floor area of ~~4~~2,000 square feet; and

~~(ii) Total outdoor seating area is not more than 350 square feet; and~~

~~(iii) The use closes no later than 11:00 p.m.~~

(5) In the MU-2~~and~~, MU-3, MU-4, BT-1, BT-2, DT-1, DT-2, and DT-3 Zoning Districts:

(A) Review Process: In the MU-2~~and~~, MU-3, MU-4, BT-1, BT-2, DT-1, DT-2, and DT-3 zoning districts, the following review process applies to restaurants, brewpubs, and taverns:

(i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:

a. The use has a maximum floor area of ~~44,000~~ square feet; and

b. ~~Total outdoor seating area is not more than 350 square feet; and~~

eb. The use closes no later than 11:00 p.m.

(ii) Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review. In the DT-1, DT-2, and DT-3 zoning districts, restaurants, brewpubs, and taverns approved pursuant to a use review are subject to the following standard:

a. Good Neighbor Meetings and Management Plans Required: Owners and operators of restaurant, brewpub, and tavern uses shall organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

~~(6) In the MU 4 Zoning District:~~

~~(A) Review Process: In the MU 4 zoning district, the following review process applies to restaurants, brewpubs, and taverns:~~

~~(i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:~~

~~a. The use has a maximum floor area of 1,500 square feet;~~

~~b. Total outdoor seating area is not more than 500 square feet;~~

~~c. Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 square feet; and~~

~~d. The use closes no later than 11 p.m.~~

- ~~(ii) Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review.~~

(76) In the BMS Zoning District:

(A) Review Process Outside UHGID: In the BMS zoning district, the following review process applies to restaurants, brewpubs, and taverns located outside the University Hill general improvement district:

- (i) Allowed Use: Restaurants, brewpubs, and taverns are allowed by right if the use meets the following standards:

- a. The use has a maximum floor area of ~~4,500~~4,000 square feet; and
- ~~b. Total outdoor seating area is not more than 500 square feet;~~
- ~~c. Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 feet; and~~
- ~~d.~~ The use closes no later than 11 p.m.

- (ii) Use Review: Restaurants, brewpubs, and taverns that are not allowed by right may be approved only pursuant to a use review, subject to the following standard:

- a. Good Neighbor Meetings and Management Plans Required: Owners and operators of restaurant, brewpub, and tavern uses shall organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

(B) Review Process Within UHGID:

- (i) Conditional Use: In the BMS zoning district, restaurants, brewpubs, and taverns located within the University Hill general improvement district may be approved only as a conditional use provided they meet following standards:

- a. Meeting With Surrounding Property Owners Required: Restaurant, brewpub, and tavern owners and operators shall organize and participate in a good neighbor meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

- b. Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan, pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.
- c. Size of Establishment: Restaurants, brewpubs, and taverns shall not exceed four thousand square feet in size.
- d. Hours of Operation: Restaurants, brewpubs, and taverns shall close no later than 11 p.m. unless the establishment is operated without a liquor license.
- e. Outdoor Seating Areas: Outdoor patio service shall cease no later than 11 p.m. and, when applicable, shall comply with the requirements of Paragraph (e)(3) of this section.
- f. Trash, Recyclables, and Compostables: If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.
- g. Food Service in Brewpubs and Taverns: In brewpubs and taverns, snacks shall be offered and available for consumption on the premises during all business hours.
- h. Food Service in Restaurants: In restaurants:
  1. A food preparation area shall be in operation on the premises during all business hours, and solid food, prepared in the food preparation area, shall be offered and available for consumption on the premises during all business hours; and
  2. Not less than fifty percent of the gross income from sales of food and drink of the establishment over any thirty-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request.

~~(8) — In the BC-1, BC-2, BCS, BR-1, BR-2, DT-4, and DT-5 Zoning Districts:~~



(A) ~~Review Process: In the BC 1, BC 2, BCS, BR 1, BR 2, DT 4, and DT 5 zoning districts, restaurants, brewpubs, and taverns are allowed by right unless any outdoor seating area that is located within 500 feet of a residential zoning district is 300 feet or more in size. A restaurant, brewpub, or tavern that is not allowed by right may be approved only pursuant to a use review.~~

(9) ~~In the DT 1, DT 2, and DT 3 Zoning Districts:~~

(A) ~~Applicability: In the DT 1, DT 2, and DT 3 zoning districts, the following applies to restaurants, brewpubs, and taverns:~~

(i) ~~Review Process:~~

a. ~~Conditional Use: Restaurants, brewpubs, and taverns may be approved as a conditional use if the use meets the following standards:~~

1. ~~The use has a maximum floor area of 1,500 square feet;~~

2. ~~Total outdoor seating area is not more than 500 square feet;~~

3. ~~Any outdoor seating area located within 500 feet of a residential zoning district does not exceed 300 feet; and~~

4. ~~The use closes no later than 11 p.m.~~

b. ~~Use Review: Restaurants, brewpubs, and taverns that may not be approved as a conditional use may be approved only pursuant to a use review.~~

(ii) ~~General Standard: Owners and operators of restaurant, brewpub, and tavern uses that may be approved as a conditional use or pursuant to a use review must organize and participate in a meeting with the surrounding property owners pursuant to Section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.~~

(10) ~~In the Industrial Zoning Districts:~~

(A) ~~Brewpubs and Taverns: Brewpubs and taverns are prohibited in the Industrial-industrial zoning districts.~~

(B) ~~Restaurants: In the industrial zoning districts, the following applies to restaurants:~~

- (i) Review Process: In the industrial zoning districts, restaurants are allowed by right if the use is closed between the hours of 11 p.m. and 5 a.m. and is incorporated in a building with industrial, residential, or office uses. Restaurants that are not allowed by right may be approved only pursuant to a use review.

...

**(h) Temporary Event:**

- (1) Temporary events may be approved as a conditional use if the following standards are met:
- (A) Such uses are temporary and limited to ~~two consecutive weeks~~ 14 days in any three-month period, unless otherwise approved by the city manager;
  - (B) Such uses conducted from movable structures or upon vacant lots shall submit a site plan, including, without limitation, the location, setback from property line, screening, sign and fence locations, if applicable, and electric meter locations or power source;
  - (C) Applicants shall obtain the appropriate sales tax license and, if applicable, temporary fence permits;
  - (D) All exterior areas used for such uses and the lot or parcel that such uses occur upon shall meet the bulk requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;
  - (E) Such uses may not adversely affect the required parking or result in unsafe conditions or unacceptable levels of congestion;
  - (F) Upon termination of the use and on days for which no event is approved pursuant to Subparagraph (h)(1)(A) of this section, the lot or parcel shall be returned substantially to its original condition unless otherwise approved by the city manager. All litter, fences, borders, tie-down materials, and other items associated with the temporary ~~sale event~~ shall be promptly removed. Unless otherwise approved by the city manager, "promptly," as used in this subparagraph, shall mean within five days;
  - (G) Temporary ~~sales events~~ shall only be conducted by the owner or lessee of the property or with the permission of the owner or lessee of the property on which it is conducted and only in conjunction with the principal use of the property; and
  - ~~(H) In the P zoning district, temporary sales are prohibited.~~

(H) Prohibitions: No person shall sell merchandise or services from a motor vehicle, trailer, mobile home, or tent upon any public or private property, including, without limitation, lots, or portions thereof that are vacant or used for parking except as provided in this section.

(j) **Medical Office:**

(1) In the MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the MU-1, MU-2, and MU-3 zoning districts, a medical office is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A medical office that is not allowed by right may be approved only pursuant to a use review.

(k) **Office:**

(1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning districts, an office is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. An office that is not allowed by right may be approved only pursuant to a use review.

(l) **Research and Development:**

(1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:

(A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning districts, a research and development use is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A research and development use that is not allowed by right may be approved only pursuant to a use review.

**(m) Building Material Sales:**

...

**(2) In the Industrial Zoning Districts:**

- (A) Review Process: In the ~~Industrial~~ industrial zoning districts, building material sales uses are allowed by right for 15,000 square feet or less of floor area per lot or parcel. Building material sales that are not allowed by right may be approved only pursuant to a use review.

**(n) Convenience Retail Sales:****(1) In the RL-2, RM-2, RM-1, RM-3, and RMX-1 Zoning Districts:**

- (A) In the RL-2, RM-2, RM-1, RM-3, and RMX-1 zoning districts, convenience retail sales that may be approved pursuant to a use review shall not exceed 2,000 square feet in floor area per lot or parcel. Otherwise, the use is prohibited.

**(2) In the RH-3, RH-7, ~~and MU-1~~, MU-2, and MU-3 Zoning Districts:**

- (A) Review Process: In the RH-3, RH-7, MU-1, ~~and MU-2~~, and MU-3 zoning districts, convenience retail sales are allowed by right if the floor area of the use does not exceed for 2,000 square feet or less of floor area per lot or parcel. Convenience retail sales that are not allowed by right may be approved only pursuant to a use review.

~~**(3) In the MU 1 and MU 3 Zoning Districts:**~~

- ~~(A) Review Process: In the MU 1 and MU 3 zoning districts, the following review process applies to convenience retail sales:~~

- ~~(i) Allowed Use: Convenience retail sales are allowed by right if they meet the following standards:~~

~~a. The use is 2,000 square feet or less in floor area of the building; or~~

~~b. If the use is greater than 2,000 square feet of floor area, the cumulative floor area of nonresidential uses in the building is less than 7,000 square feet, and at least fifty percent of the building's floor area is for residential uses.~~

- ~~(ii) Use Review: Convenience retail sales that are not allowed by right may be approved only pursuant to a use review.~~

...

**(p) Retail Sales:****(1) In the MU-1, BT-1, and BT-2 Zoning Districts:**

(A) Review Process: In the MU-1, BT-1, and BT-2 zoning districts, retail sales are allowed by right if the floor area of the use does not exceed 2,000 square feet. Retail sales that are not allowed by right may be approved only pursuant to a use review.

**(42) In the MU-2 and MU-3 Zoning Districts:**

(A) Review Process: In the MU-2 and MU-3 zoning districts, retail sales ~~that may be approved pursuant to a use review~~ are allowed by right if the floor area of the use does not shall not exceed 5,000 square feet in floor area per individual use. Otherwise, the use is prohibited Retail sales that are not allowed by right may be approved only pursuant to a use review.

...

**(q) Business Support Service:****(1) In the MU-4, BMS, IS-1, IS-2, and IMS Zoning Districts:**

(A) Review Process: In the MU-4, BMS, IS-1, IS-2, and IMS zoning districts, a business support service uses are is allowed by right if the floor area of the use is uses are less than 10,000 square feet of floor area per lot or parcel. A business support service that is not allowed by right may be approved only pursuant to a use review.

**(r) Financial Institution:****(1) In the RH-3, RH-7, MU-1, MU-2, and MU-3 Zoning Districts:**

(A) Review Process: In the RH-3, RH-7, MU-1, MU-2, and MU-3 zoning districts, a financial institution is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A financial institution that is not allowed by right may be approved only pursuant to a use review.

...

**(s) Media Production:****(1) In the MU-1, MU-2, and MU-3 Zoning Districts:**

- (A) Review Process: In the MU-1, MU-2, and MU-3 zoning districts, a media production use is allowed by right if the floor area of the use does not exceed 5,000 square feet at least fifty percent of the floor area of the building is for residential uses and the total floor area of nonresidential uses in the building is less than 7,000 square feet. A media production use that is not allowed by right may be approved only pursuant to a use review.

**(t) Non-Vehicular Repair and Rental Service**

- (1) In the MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, and BMS Zoning Districts:

- (A) Review Process: In the MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, and BMS zoning districts, a non-vehicular repair and rental service is allowed by right if the floor area of the use does not exceed 5,000 square feet. A non-vehicular repair and rental service that is not allowed by right may be approved only pursuant to a use review.

**(tu) Neighborhood Business Center:**

**(uv) Personal Service Use:**

**(vw) Drive-Thru Use:**

**(wx) Fuel Service Station:**

**(xy) Principal Parking Facility:**

**(yz) Sales or Rental of Vehicles:**

**(zaa) Service of Vehicles:**

1        Section 5. This ordinance shall apply to any building permit, conditional use, use review,  
2 and site review applied for on or after the effective date of this ordinance; however, any project  
3 for which a complete building permit, site review, use review, or conditional use application has  
4 been submitted to the city or which has received a site review, use review, or conditional use  
5 approval prior to the effective date of this ordinance for a use inconsistent with the provisions of  
6 this ordinance will be permitted to establish the proposed use under the use standards of Chapter  
7 9-6, " Use Standards," B.R.C. 1981, in effect at the time the building permit, site review, use  
8 review, or conditional use application was submitted to the city. Such applicants shall be required  
9 to pursue such development approvals and meet all requirements deadlines set by the city manager  
10 and the Boulder Revised Code necessary to establish the proposed use. The applications for such  
11 project shall demonstrate compliance with all applicable laws. An applicant may seek extensions  
12 of a development approval granted under the use standards in effect prior to the effective date of  
13 this ordinance in accordance with the standards of Subsection 9-2-12(b), "Extensions," B.R.C.  
14 1981, and any initial review under Paragraph 9-2-12(b)(2), "Planning Board Level Extension,"  
15 B.R.C. 1981, shall not impose as an additional condition compliance with the use standards  
16 adopted in this ordinance provided that all other requirements of this Section 5 of this ordinance  
17 have been met. Any failure to meet requirements of the city manager or this section of this  
18 ordinance will result in a denial of such application. Any subsequent application shall meet the  
19 requirements in place at the time of such subsequent application.  
20

21        Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any  
22 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
23 provisions of this ordinance.  
24  
25

Section 7. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 8. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19<sup>th</sup> day of October 2023.

Aaron Brockett,  
Mayor

Attest:

Elesha Johnson,  
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 2<sup>nd</sup> day of November  
2023.

Aaron Brockett,  
Mayor

Attest:

Elesha Johnson,  
City Clerk



# Use Table and Standards Project

## Module Three: Walkable Neighborhoods Summer 2023 Public Engagement Summary

### Background

The City of Boulder engaged residents about the Walkable Neighborhoods project in July 2023. Engagement strategies included both virtual and in-person engagement and was intended to gather input from the public to help inform the City Council's decision about the development of an ordinance to support walkable neighborhood centers in Boulder.

### In-Person Engagement

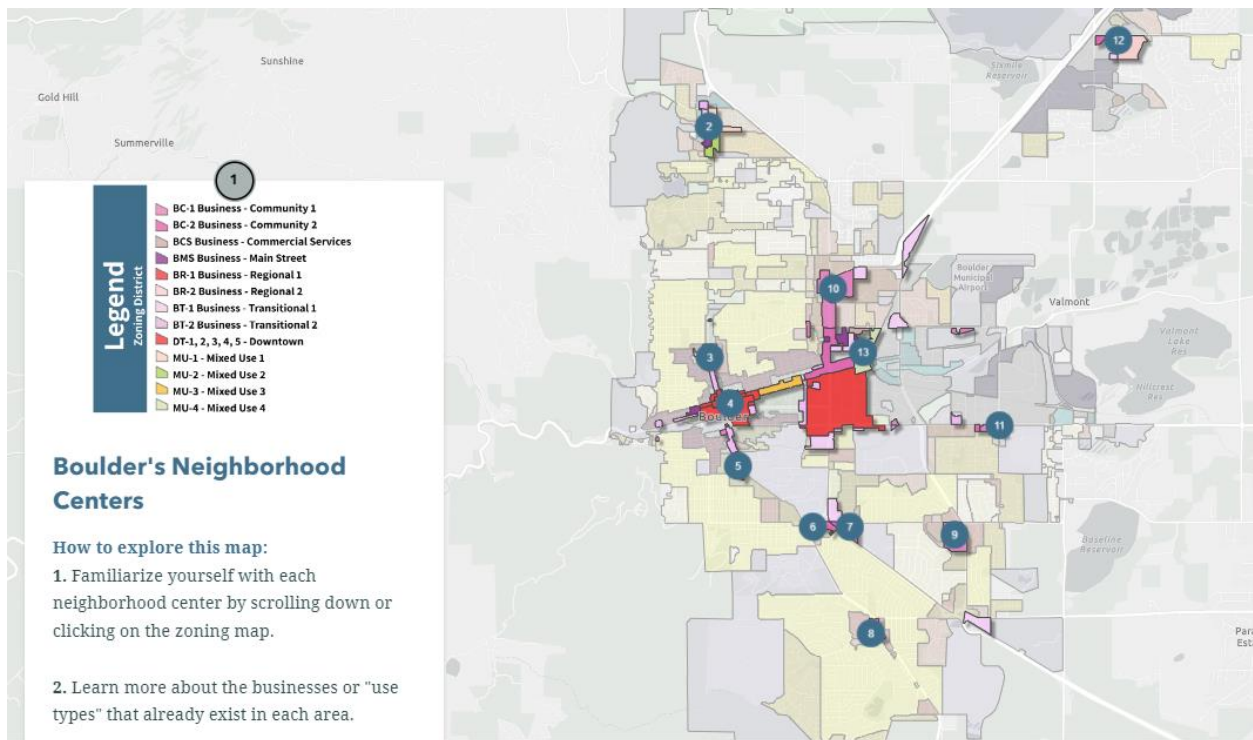
During the weeks of July 10 and July 17, staff created several “pop-up” engagement opportunities at neighborhood centers throughout the city, including Basemar & Williams Village, Ideal Market & Community Plaza, Meadows Community Center, and Gunbarrel. Staff had many conversations with walkers, bikers, transit riders, and drivers visiting each neighborhood center, asking community members what types of businesses were missing in that area, how they traveled to the center that day, and any reactions to the proposed changes to that center. Reactions and comments were collected on post-it notes and displayed on a large board with a map of each center. Staff also handed out flyers promoting the virtual story map and questionnaire.

In addition, staff attended the July 21 Social Streets event and July 22 Ponderosa Block Party to converse more with event attendees about the Downtown and North Broadway/North Boulder areas respectively. Again, reactions and comments were captured on the large display boards.

## Virtual Story Map and Questionnaire

Staff developed an online interactive story map and questionnaire gather. The story map was intended to provide helpful background information on the existing conditions of each neighborhood center as well as describe the potential changes to each area. The questionnaire was designed to better understand what types of businesses respondents support seeing more of and identify which businesses or potential changes raise concerns. Between July 10 and July 31, **246 responses** were submitted to the questionnaire. The story map is available to review here: [bldr.fyi/BoulderUseTable](https://bldr.fyi/BoulderUseTable)

**Note: The questionnaire is an engagement tool for collecting feedback from the public; it is not intended to express a scientific, statistically valid representation of all the city's residents.**



## Promotion

The questionnaire was promoted through various channels, including both the Planning and Development Services and Transportation and Mobility department newsletters, the project website, the city's main engagement page, the project's Be Heard Boulder page, the city's social media accounts (Facebook, Nextdoor and Twitter), and direct emails to interested community members and organizations. In addition, a letter was mailed to all property owners and business owners within the neighborhood centers and downtown areas. This letter notified owners of the project and opportunity to provide input.

City staff also put out a press release about the engagement opportunity. In July, the *Daily Camera* ran two stories about the [opportunity to provide input on the story map and questionnaire](#) and [the City Council study session](#).

The remainder of this report documents the results of the in-person and virtual engagement during the summer of 2023.

## Key Input Themes

The following general themes were most frequently expressed during in-person engagement and in questionnaire responses.

### Support for seeing more:

- Restaurants
- Coffee shops
- Post offices
- Grocery stores
- Small music venues
- Local businesses
- Small retail shops
- Ice cream
- Pharmacies
- Bakeries

### Concerns about:

- Gas stations
- Drive-thrus
- Big box stores
- Auto repair
- Marijuana dispensaries
- Homelessness services

## In-Person Engagement Input

### What types of businesses do you wish you could walk to in your neighborhood center?

#### Meadows Community Center

- Patios
- Parks
- Kid-oriented options
- Housing and mixed use
- Concern about lots of turnover
- Pedestrian crossings
- Cool design patios
- Outdoor lighting
- Hardware store
- Barbershop
- Boba tea
- Bike path safety
- More at Baseline
- Pub
- Gathering space
- Shoe store
- Access path on Foothills
- Services, already lots of restaurants
- More restaurant diversity



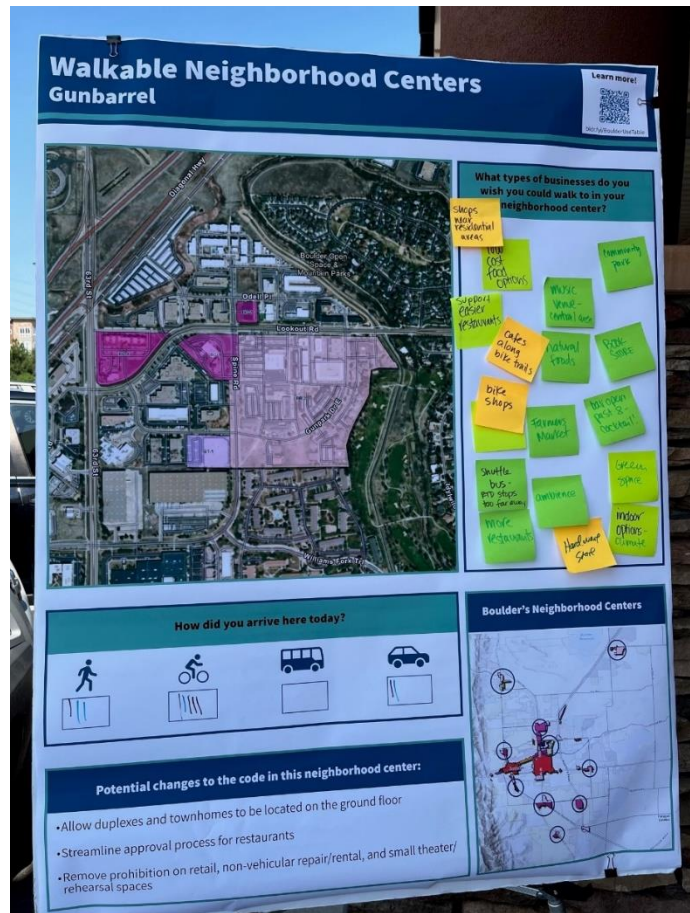






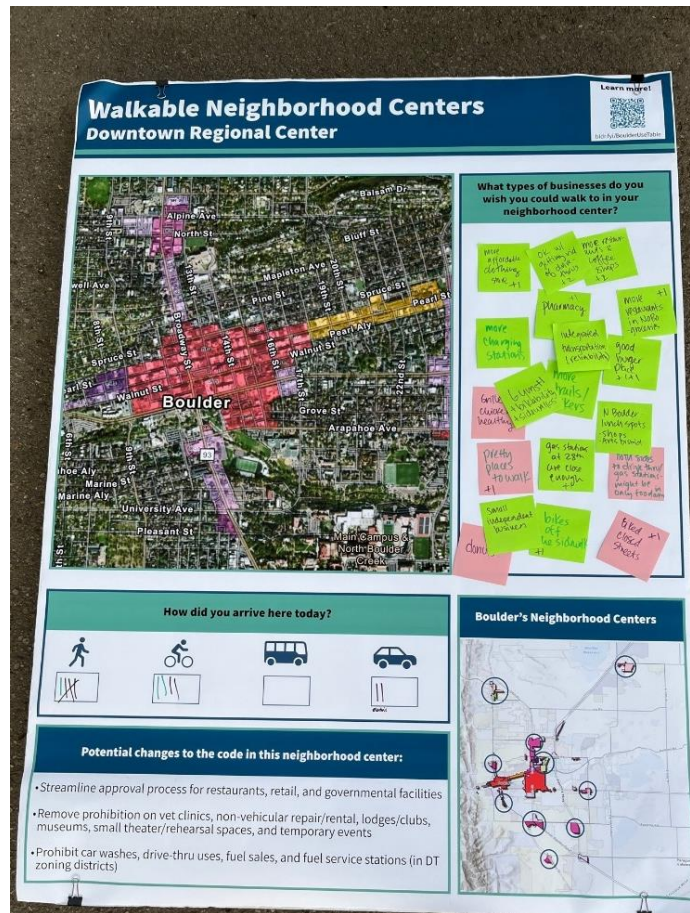
### Gunbarrel

- Shops near residential areas
- Low cost food options
- Support restaurants easier
- Cafes along bike trails
- Bike shops
- Shuttle bus (RTD too far away)
- More restaurants
- Music venue – central area
- Natural foods
- Farmers market
- Ambience
- Hardware store
- Indoor options – climate concern
- Green space
- Bars open past 8 – cocktails
- Bookstore
- Community park
- Affordability



### Downtown Regional Center

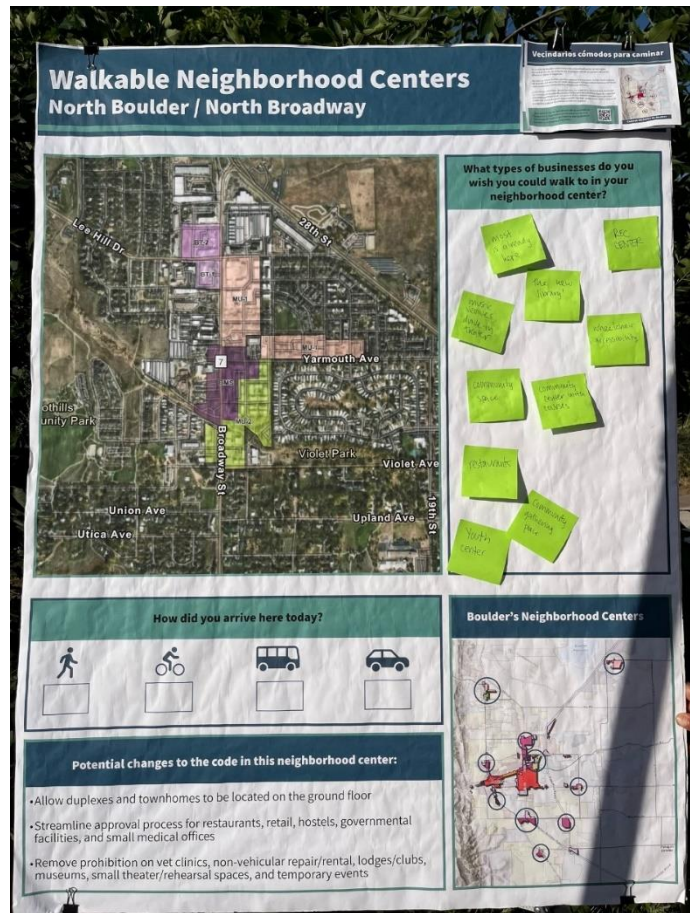
- More affordable clothing store
- More charging stations
- Grilled chicken/healthy options
- Pretty places to walk
- Small independent businesses
- Donuts
- Bikes off the sidewalk
- Like the closed streets
- More trails/bikers
- Gyms
- Bikeability
- Sidewalks
- Integrated reliable transportation
- Pharmacy
- Good burger place
- More restaurants and coffee shops
- Ok with getting rid of drive-thrus
- Gas stations on 28<sup>th</sup> are close enough
- Vehicle uses might be only food nearby





**North Boulder / North Broadway**

- Most is already here
- Music venue
- Drive-in theater
- Community space
- Restaurants
- Youth center
- Community gathering space
- Community center with courses
- The new library
- Wheelchair accessibility
- Recreation center
- Lunch spots
- More restaurants
- Groceries



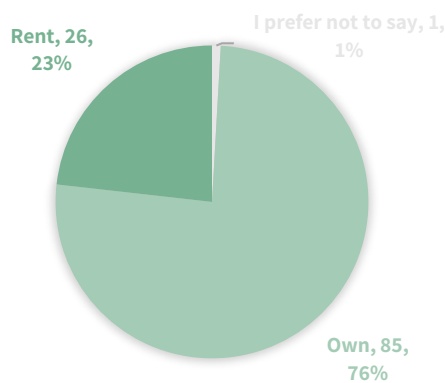


## Virtual Story Map and Questionnaire

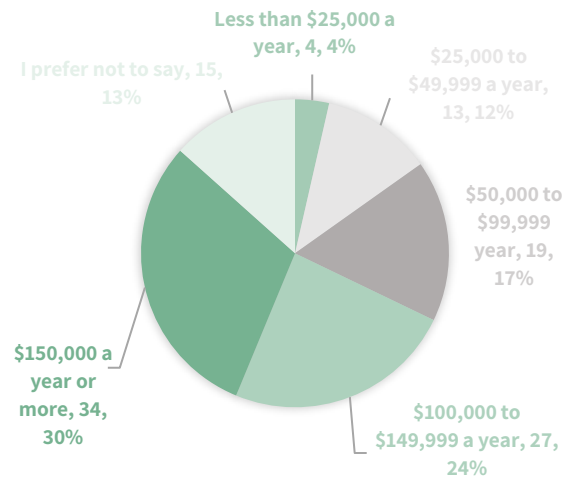
### Questionnaire Respondent Demographics

Understanding the demographics of respondents through the optional questions helps us determine whether we need to use additional methods in the future to hear from a wider range of people in the city. The questionnaire included several optional demographic questions. Of the 246 respondents, 112 people responded to the demographic questions. Note: all charts display both number of responses and percentage (#, %).

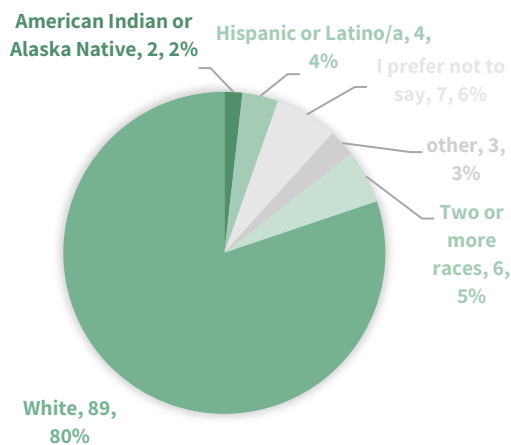
#### Do you own or rent your home?



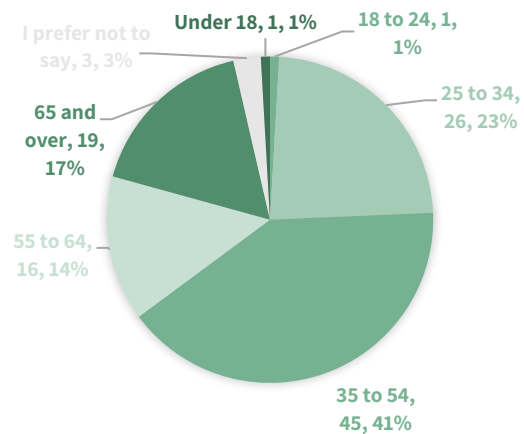
#### What is your household income range?



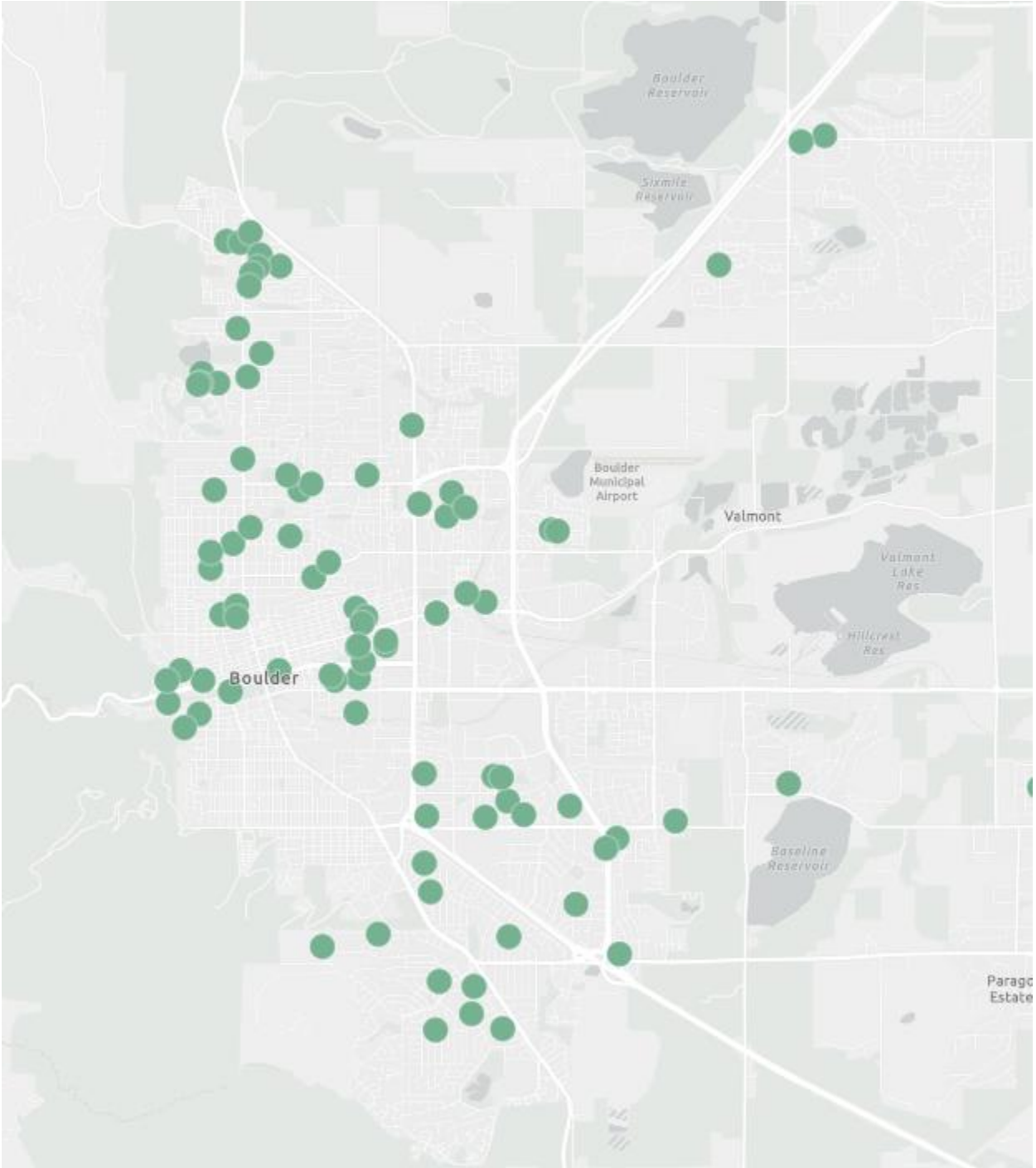
#### Which race or ethnicity do you identify with most?



#### What is your age range?

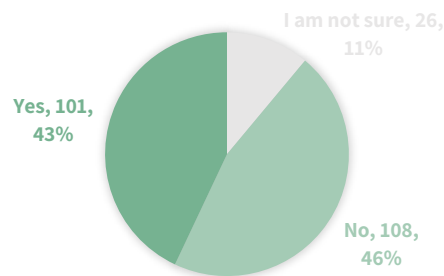


**Drop the pin in the area where you work and/or live.**





**Are there any types of businesses you are concerned about in the neighborhood centers?**



**If so, which types of businesses are you most concerned about?**

**Common themes:**

- Gas stations
- Other vehicle-related uses
- Marijuana dispensaries
- Liquor stores
- Homelessness services

**Tell us more if you would like: If you have any other comments related to this project, please share them below.**

**165** respondents provided additional thoughts and ideas in the final open-ended question.

**Common themes:**

- Transportation improvements also needed to support walkability
- Focus on biking, transit, and accessibility in addition to walking
- Location-specific improvements needed
- Other factors that impact feeling of safety while walking (crime, lighting, etc)
- Other ideas to support walkability

## All Written Responses Received:

### Which types of businesses would you most like to see?

- Any type of retail, plus small offices (lawyers, insurance agents, etc., plus co-working spaces)
- Restaurants
- I think the most critical neighborhood center businesses are, in rough order, restaurants, groceries, coffee shops, bars
- smaller restaurants, pop-ups like farmers markets, music/performance venues
- Anything that wouldn't cause high levels of noise or odor or other conflict, but I think these zones should really be opened up.
- restaurants and small retail
- Library, event space, public meeting space, outdoor dining
- Community centers and gyms
- grocery store, restaurants, bakery, convenience store
- food truck park like the rayback, yoga studio, restaurants, local small retail of art products, pharmacy, music venue, arts movie theater or performance arts spaces, visual arts classroom spaces
- Small offices, coffee shops, farmers market stands (temporary), restaurants, shops, medical offices, clubs, lodges museums, day cares, bed and breakfasts, indoor commercial recreation, hotels, brewpubs, taverns, art studios, theaters and small event centers, research and development, community services, front of house government facilities, private colleges,
- Post office, school
- Pharmacy. Pharmaca closed recently, a great loss to the neighborhood. I now go to the Boulder Medical Center pharmacy, but it does not offer many of the nonpharmaceutical items I used to buy at Pharmaca.
- small scale grocery (not Target or Sprouts but Lolita's like or corner bodegas)
- Florist
- Restaurants and coffee shops
- Ice cream, bagel store, restaurants
- grocery store, donut shop or bakery, bike mechanic, any kind of cooperative business
- Bars, restaurants, small retail businesses, outdoor patios, pocket parks, ice cream shop
- grocery stores (not expensive ones), coffee shops, ice cream shops
- Small and ethnically diverse eateries. Early morning eateries.
- Smaller, specialized grocery stores; more diverse restaurants with affordable prices
- Restaurants, grocery store
- Places that host activities like art classes
- Independent pharmacy
- Ice cream, grocery store
- Restaurants, coffee shop, grocery
- I would love to see more diverse restaurants in Table Mesa.
- Restaurants, Coffee Shops
- Grocery, Restaurants
- pet stores, ice cream shops, book stores, bakeries
- Restaurant, coffee shops, retail stores

- Bar, Food trucks, Cafes. Child-free spaces Music venues.
- Ice cream (glacier left due to high rent) and other kid friendly places
- Grocery, bodega-scale and medium format
- A wider variety of restaurants. We can walk to only 3 and 2 are not good options.
- Restaurants and cafes
- Cafe bars such as caffe sole, the goat, Trident, ect. Would love for coffee shops to have option to serve alcohol in evenings as a relaxed non-bar type place to hang out.
- Cafes with rooftops, music venues, boutiques, coffee shops with food, drug store, flower shop
- More ice cream parlors and non-religious community centers
- bike shop
- Restaurants, small grocery stores, retail boutiques
- More police stations to arrest the homeless drug addicts and clean up the illegal encampments
- Cosco, walmart
- affordable stores
- restaurants
- grocery, post office, more restaurants,
- Coffee shops, restaurants, small grocery
- Affordable eats, there are way too many expensive restaurants in Boulder, we need more hole-in-the-wall, mom and pop eats like Med Deli
- Retail & restaurants
- Small and local. Cheap rents. More tavern licenses!
- Coffee shops, bakeries, grocery stores, restaurants
- Restaurants, coffee shops, grocery stores, hair salons
- Restaurants
- I would like to see more availability of groceries
- Coffee shop, trails that CONNECT between various open spaces!
- Restaurants
- restaurants, coffee shops,
- Pharmacy, hardware store, office products store, kitchen supplies store, laundromat, toy store
- Convenience store
- restaurants/bars
- Affordable grocery store. Lucky's is too far and too expensive. Have to drive to Safeway.
- Restaurants
- Post Office, small music/gathering venue—could be accommodated in current restaurant spaces that all close early. I don't know if zoning or choice keeps them from staying open in the evenings
- Coffee shop at Table Mesa and Trader Joe's at Basemar
- grocery, restaurant options
- Functional swim pool and hot tub. South Boulder Recreation Center has been negligent in repairing the pool and hot tub for more than 2 years. Why? I have to walk 2.3 miles to EBRC or 4.2 miles each way to NBRC. Please help. Thanks.
- Bakery, small businesses

- Small local retail & locally owner grocery stores.
- coffee shop
- Grocery stores
- coffee shops, ice cream stores, bakeries, restaurants, local bike/outdoor shops, libraries/bookstores, thrift/consignment store
- Grocery stores and chain retail stores at which I shop regularly such as Michael's, Joann's, Ross, Marshall's, Hobby Lobby. I spend almost all of my Social Security either in Longmont or Lafayette but if I could walk to any of these stores from the West End, they would get a lot of my limited income.
- What land use code changes might affect this neighborhood center? I would like to see the broader range of changes shown for some centers be applied to all, to wit: Allow duplexes and townhomes to be located on ground floor - Streamline approval process for restaurants - Remove prohibition on retail, non-vehicular repair/rental, and small theater/rehearsal spaces
- More coffee shops and restaurants
- Grocery stores, pharmacies, coffee shops, restaurants, bars, retail, parks
- recycling/reuse centers, used item stores
- Coffee shops etc with workspace
- Grocery Store
- Business that serve people with disabilities, most importantly a wheelchair repair shop.
- public gathering places - coffee shops, restaurants, etc
- Restaurants, coffee shops, bookstores
- cultural institutions, industrial spaces, bars, night clubs, retail, live- work and galleries
- Community center, gym, more restaurants
- Grocery store, office supplies, convenience store, pharmacy, locally owned businesses, an art house movie theater as we were promised.
- Our neighborhood in East Boulder has an amazing diversity of small, independently owned businesses that provide retail, grocery, restaurant and other services. We have one of the densest residential neighborhoods in the city, with a mix of condo/apartment/single family and we also have the largest number of ethnic businesses (Med Deli, Ali Baba, Asian Grocery, Las 10 Americans Mercado to name a few). More of this please! More affordable retail opportunities that allow these amazing businesses.
- Bars/Breweries
- Restaurants, bars, post office (we miss Pharmaca's post office!), bookstore, pharmacy,
- Restaurants, clothing and home goods. Only choice is Target. Only other choices are geared for people who go mountain climbing, biking, heavy outdoor activities. Cannot buy a dress in this town let alone shoes. Where are the Dillards, Nordstroms, Macys, etc. We have to go to another town to buy anything.
- Bike shop, doctor's office
- service uses and small offices for local businesses
- Neighborhood bar
- Daycare; dentists;
- Grocery, mixed-use development (with coffee shops, restaurants, public spaces tied into housing)
- Ice cream shop, bookstore, produce store/small grocery
- Restaurants
- Restaurants, Hair stylists, IMAX, Clothing retail, artists

- Arts, small repair/refurbish or other services.
- book store
- notions, small hardware, small clothing, affordable (not chain) restaurants, affordable rec center & pool
- locally, minority, (and ideally cooperatively, where possible) owned pharmacy, small grocery, household supplies, bookstore, bakery, massage and other health and wellness, services for unhoused folx
- small businesses of all forms. restaurants, bars, cultural centers, theaters, performance spaces, galleries, community living rooms
- Restaurant, good bakery, bookshop
- Small scale entertainment, theater, bars, dispensaries, arcades, game stores, bowling
- In North Boulder in particular, I'd love to see a grocery store, more diversity in restaurants, and more retail.
- Variety of restaurant types, retail
- Pharmacy, post office
- Grocery stores or other healthy food stores, pharmacy
- grocery store, pharmacy
- Restaurant, grocery store, retail sales, vet, post office, ice cream
- Movie theater
- Pet supplies, smaller food outlets (e.g. bakery, butcher), general goods (e.g. hardware store, Target), evening/activity destinations (bars, nightlife, sports facility, other fun activity-based destinations like an escape room or ceramics studio)
- there are only a few restaurants in North Boulder.
- Small grocery store at Broadway and Arapahoe, previous site of Alfalfa's.
- pharmacy
- No walkable business center.
- Cooperative Artist Stores, Bakeries, Hardware Store
- Retail, personal services, restaurants, pharmacy, grocery store
- more useful services and small retail - restaurants and small bakery/coffee shops, but also hair/nail salons, bike shops, etc. Kid oriented services as well!
- "successful" restaurants- most Gunbarrel restaurants never up to par and go out of business frequently
- Bookstores, coffee shops, better restaurants
- More restaurants, more coffee shops, more cafes, more bars. The only mechanic is terrible, so competition would be good. The gym options are limited too
- Coffee shops, restaurants
- I live in Gunbarrel and in the City. The city sold out long ago on Gunbarrel. You agreed to a plan for the Gunbarrel City center and allowed developers put in apartments. So while I'd love to not have to cross the diagonal to get to a public playground, I honestly don't believe the city will do anything because we are part city/part county and no one wants to deal with us.
- Liquor Store, Coffee Shops, Neighborhood Bar/Wine Shop.
- cafes, restaurants, bookstores, bars, cultural spaces (galleries, theaters etc.)
- Grocery store, more restaurants, more personal services
- Restaurants



- I would like to see more variety (i.e. "all of the above") and better quality businesses (for example: the majority of restaurants that are within reach are fast food and pretty low quality)
- Grocery stores
- general retail - I don't want to have to bike or take the bus just to pick up essentials
- cultural and community spaces
- More diverse businesses. I do NOT want to see the city allowing the removal of businesses for "boutique" student housing.
- Grocery stores unlike Lucky's and Ideal which accept WIC but are smaller, neighborhood markets that are more affordable and accessible for low-income families than are Lucky's and Ideal.
- Restaurant
- Cafe, bakery, restaurant, lodge/club, gym
- More small local businesses
- I want more restaurants, bars, coffee shops, bakeries, small businesses, and grocery stores that do not require minimum parking. Most should go where the failed strip mall on diagonal plaza is. Tear up the abandoned parking and put some fresh life. Also gas stations should be replaced with healthy mini grocery stores.
- local artists, galleries
- Grocery stores, restaurants, ice cream, brew pubs
- everything, but if we haven't the population to support those use cases, nor the personnel to run them (cuz those folks have no place to afford live close by... what's the point).... density, and more population need to come first in this equation or you are simply dooming any business to failure cuz the population isn't there to support it
- restaurants and coffee shops
- Dentist, bike shops, liquor store, brew pub, art supply store, rec center swimming pool.
- Mexican, Thai, and Italian restaurants. Hardware store, bike mechanic, public library, liquor store, brew pub, garden center
- Bike Shop
- More live music venues, bars, breweries, corner grocery stores that aren't big supermarkets, more bike shops.
- Restaurants
- live music venues,
- Bike shop, hardware, ice cream shop
- Coffee shop, grocery store, convenience store, bakery (do you sense a food theme??), gym ,but honestly all of them are fine. I wouldn't want to see the neighborhood centers get taken over by medical offices, schools, religious institutions, and other uses with more exclusive clientele rather than general public use, but having some of that is fine.
- More local business that can AFFORD to rent on pearl street. No big box.
- The Downtown Regional Center really needs a good grocery store. There are many condos and apartments downtown, but we have to drive to a grocery store. A good downtown grocery store would serve many hundreds of downtown residents.
- restaurants (affordable, locally owned, NOT CHAINS), parks, trails, grocery stores (smaller independently owned markets), bus stops
- Local restaurants

- To be an effective resource and draw people on foot and bicycle, every neighborhood center needs some kind of grocery store and various restaurants.
- A downtown grocery to fill the gap left by Alfalfas. We also miss the bakery behind the Med where we could buy bread and pastries. It seems like new businesses have a very long wait to get through the permit process. I've given up on using the creek path and central park. Too much drug use, groups of homeless and human waste. e
- Bars, restaurants, and entertainment venues.
- Smaller local grocery shops.
- small grocery/convenience store, post office, deli
- Restaurants, a gym and small scale retail
- South boulder target, something like that.
- Coffee shop restaurant clothing store
- Hobby and art supplies.
- We need more grocery stores and more local businesses.
- A bodega selling fresh fruits and vegetables year round
- Desperately need small grocery shops, bodega style, in actual neighborhoods. For example, in my Flatirons neighborhood, it requires crossing significant parts of town to even buy a quart of milk. We are losing smaller scale businesses like crazy. Please zone and foster TRUE walkability...and that means bringing back the services we all use everyday in less than 10 minutes, ideally 5 minutes of residential areas.
- Bakery, Fruit/vegetable stands
- Casual restaurants
- Post Annex (we lost this with the closure of Pharmaca), more restaurants,
- A drugstore/pharmacy (Pharmaca and Medley really screwed up with their business plan and left the neighborhood without a great convenience). Also, I wish BCH had left an Emergency Room on this side of town. In a medical emergency, people in my neighborhood (Ideal Market) have to drive across town (or be taken by ambulance) for emergency care.
- shoe repair
- thrift/re-use store. We miss Savers; now Goodwill has moved farther away. TRU and Greenwood (local non-profits) are preferred. Also would love a Farmer's Market satellite site in South Boulder. Occasional food trucks. Maybe at the Catholic Church?
- restaurants, personal service, gallery,
- Restaurant, Brewery, Yoga
- post office and pharmacy
- BaseMar Center is dissolving. It's been almost 10 years since the Whole Foods went. Now a big empty Goodwill. A nice grocery store would be great.
- Retail
- groceries & coffee shop should be available within 15 minutes for all, whether in a center or not
- Neighborhood coffee shop
- All uses, except for Infrastructure, care and shelter, vehicle-related, industrial uses and agricultural uses
- Corner stores and small restaurants and cafes within residential neighborhoods. Why should I have to walk 15 minutes and cross a giant parking lot just to pick up some groceries or get a coffee?

- I live near Meadows, and would like to see better walkable connection to there with a less car-centric feel once you get there. Right now you struggle along Baseline and across a sea of traffic, then walk across a massive car parking space. Great businesses once you get there, but designed for car access.
- I'm not sure.
- Bakery, Bicycle Shop, Casual Restaurant
- Bars and pubs
- Post office outlet (like former Pharmacia had)

**Which types of businesses are you most concerned about?**

- Dispensaries
- marijuana dispensary
- industrial
- We don't need more storage facilities/rental in North Boulder. We have plenty already and the current storage units are a blight. The storage units create an entire section of the West side of North Boulder that disrupts the walkability/general liveability of the area. One side of the street is vibrant and walkable and the other is just ugly. It just doesn't fit up here anymore and could put to far better use.
- Storage, light industrial or services industrial, essential municipal utility services, back of house government facilities, vehicular repair shops, fuel service station (except for car charging) sales or rental vehicles (except for car share), commercial kitchen and catering, mobile food truck (temporary permits),
- Gas stations, liquor stores, big box store
- Marijuana dispensaries
- car gas/repair/service centers (due to runoff or secondary pollutants) and industrial manufacturing (due to pollution but already disallowed)
- Gas stations/ big box stores
- gas stations, anything with a drive through
- Big box stores destroy a community
- Weed sales
- Homeless shelter
- Religious institutions.
- Auto repair shops, gas stations, and other businesses with high pollution potential
- Banks
- Dispensaries close to kids and schools
- I'm most concerned about the change to the area that the Alpine Balsam project will bring, especially since it will not have enough parking.
- Business Transitional (BT-1), within the Boulder Junction area at 47th & Pearl. There has already been some displacement of several businesses throughout this warehouse area - i.e. Kettle&Spoke (bike shop/music venue), that could not afford rent/displaced by skyrocketing rent. Vision Quest Brewery and Roots Music Project are newer to the block and have brought so much community to one place.
- Businesses that create excessive noise or odors (don't want pot shops)
- Homeless shelters
- You have too many gas stations in Boulder would reduce crime. Just off the top of my head the one at end of canyon can go
- car oriented stuff

- churches - traffic, parking, noise during outdoor services
- No more Cannabis,
- Local Restaurants and locally owned businesses
- Moving Goodwill to the vacant Bed Bath store is a horrible idea. There are already too many issues with abuse from transients in that mall location. And the city needs to clear out parks of the transients and criminals near the shopping areas. Safeway at Iris has gotten much worse with harassment from the people camping out behind the store along Two-Mile.
- Concerned about neighborhoods restricting things with zoning.
- Homeless services
- Cannabis shops - a few are fine but there are so many
- Cannabis
- Drug shops
- Table Mesa cooking school not really neighborhood retail. Move it out.
- boutique student housing
- Don't want a Dispensary
- Liquor stores--typically located near grocery stores, being forced out by grocery stores selling wine in every aisle.
- Large chains
- I do NOT want to live in a "walkable neighborhood"!!!! Too much traffic. If I wanted to live in a "walkable neighborhood" I would MOVE to a walkable neighborhood. We like the quietness, the lack of noise and light pollution, and the less traffic!!! I would be very concerned about restaurants, community gathering centers (concert halls, outdoor music venues, etc.), or large retail (including car/large vehicle dealerships) ruining our already threatened peaceful way of life.
- Large corporate owned retail - especially large nationally owned grocery stores.
- gas station, auto repair, tire company,
- smoke shops, gas stations/car dealerships/mechanics, multinational corporations (Target/Walmart)
- Do not displace any existing businesses already established in these neighborhoods
- Liquor store + homeless encampment on sidewalk outside
- gas stations
- Too many bars in residential neighborhoods
- vape shops
- Too many banks and financial institutions, businesses that do not train their employees to be inclusive, and businesses that do not have adequate wheelchair access.
- Homeless Day Services Center, 1844 Folsom
- Too much office space hurts neighborhood centers-Id prefer to drive to dentist, doctor, lawyer, etc and have neighborhood centers be focused on daily enjoyment like dining, shopping, drinking, hiking, parks/playgrounds
- Too many bikes.
- Any large-area, car-centric, or otherwise pedestrian-unfriendly businesses and land uses such as car dealerships, gas stations, car washes, drive-thrus, and big box stores with large parking lots.
- gas stations; drive-thrus
- Car shops and heavy industry

- Boulder really does not need any more outdoor gear retailers
- Getting ride of the car dealerships would be nice. If they were replaced with e-bikes or alternative battery powered vehicles instead that would be good for the city and the environment.
- just want more, it's too suburban and too uniform in terms of zoning, would love small cottage industry things sprinkled through town
- Gas stations should be kept out.
- I often fear for my families safety anytime we're walking near the liquor store that is near the homeless shelter in North Boulder.
- Liquor stores
- High Tech companies, greedy development
- King Soopers parking is already beyond capacity and there are plans to build more residences in the area soon.
- I would like to walk someone to be able to get food. The celestial seasonings developers said it was 15 minutes to walk to King Soopers. It's 34.
- Gas Station, Pot Shop
- Businesses with drive thrus, large parking lots, or that generate a lot of noise
- Office space
- Among the businesses that are within walking distance as defined above, I have a whopping 3 liquor stores! That is way too many.
- Too many bars or expensive restaurants. And too many expensive gyms. To be community spaces, they need to be financially accessible to all.
- The ones that the city of Boulder is considering removing, gas station, convenience store, liquor store, auto repair,
- Church bad
- Loud clubs
- Drive-thru restaurant
- Large National companies & franchises taking over the opportunities for small local business owners
- Please no more car related businesses. They take up way too much space and create a car centric environment.
- Liquor Stores, homeless centers, pot shops
- Propose Homeless Day Center
- Shelters
- Homeless DayCare Center
- cannabis shops.
- Bars, gas stations/convenience stores, marijuana dispensaries/marijuana use sites
- The gas station at 15th and Canyon where people go to buy drugs.
- Automotive repair centers and car-centric businesses should be pushed to the outskirts of town and remain in industrial areas.
- Liquor stores
- No late night bars.
- Pimps and Drug Dealers
- Payday or loan establishment, drycleaner, liquor store, gambling, night club

- Industrial businesses
- Pot shops
- Those causing noise and pollution.
- Having local shops that are not just chain stores. What can we do to help support our local shop-keepers who are getting priced out w/ higher rent? Such as Logan's coffee shop?
- Liquor/bars/late night hour places : special events are a different situation, but I'd prefer places have a 'decent' cut off hour
- Anything operating late at night that might create disturbance of the peace that exists here (late night bars, anything that would attract drug users, gun violence).
- Gun shops, smoke shops
- repair/rental shops; restaurants
- Businesses that promote congestion (especially cars) and discourage neighborly interactions. Not sure of an example.
- Weed dispensary near park/school
- Something has changed with Hair Rage. Not able to get appts. as in past.
- gas station, convenience stores, fast food or drive through, automotive repair, theater, museum, homeless shelter further expansion of services or temporary housing in particular as North Boulder is OVERburdened!
- Liquor stores and stores that result in late night out gatherings in residents' areas
- There are too many banks on the Pearl Street Mall. These are taking up valuable real estate that could be used as restaurants and social businesses
- dispensaries
- no more banks
- Infrastructure, care and shelter, vehicle-related, industrial uses and agricultural uses
- I worry that the out-dated design of Meadows will limit businesses' ability to attract customers. Would like to see more residences closer and on site. Get rid of a lot of the parking.
- Residential real estate LLCs, AirBnBs, residential real estate REITs, private equity-owned single family houses, hotels, conference centers
- Car-centric business such as a veterinarian's office where people drive their pets
- Bars; loud noises; bad smells
- hotels

**Tell us more if you would like: If you have any other comments related to this project, please share them below.**

- I think simplifying zoning to be more consistent across the different neighborhood centers is a great idea!
- Ideal market is adjacent to Casey middle school and walking distance to 2 elementary schools and a high school. I hope no dispensary is opened in our neighborhood.
- I think the real challenge to walkability is bringing 15 minutes down to 5 minutes. We need small convenience stores in residential neighborhoods. If it's 15 minutes, I'll probably still drive to do my grocery shopping.
- small to medium scale cafe/ retail / professional services spaces seem to work well in walkable areas. For example, coffee, dessert, liquor, shipping stores. I support including townhome and duplex typology with a parking stall reduction in all these identified walkable centers.
- Allow ADUs in all of these zones as well as the mixed use zones. Townhomes, duplexes, flats should all be allowed by-right in these areas as well as in the surrounding residential zones within the 15 minute walking distance at the very least.
- I am supportive of increased approvals for duplexes, denser housing.
- Be aware that neighborhood businesses are usually made more viable by increasing the customer base within walking distance.
- 1) Zone 2 It would be really nice to have the e-cycle come up to North Boulder.  
2) zone 2 We don't need more light industrial in far north Boulder. The changes you are considering for zone 2 seem to be really vague and wouldn't make the area more "walkable." or liveable for the current residents. The current zoning leaves a large section between lee hill and Yarmouth pretty much void.
- More and better landscaping, like the Village (McGuckins shopping center), should be required. The landscaping adds so much to the vibe of these commercial areas. I like the idea of adding residential (duplexes and 2-story townhomes) to the commercial centers. The design is important and should not seem so cheap. Nice landscaping and simple and elegant design will go a long way. Please stop with the cheap and busy developments with multiple materials and dozens of different materials, colors, forms, etc. It's too much. Take some cues from the beloved places for goodness sakes!
- I live in Newlands near Idea Market and can walk or take the bus downtown in about 15 minutes, so I'm able to access most of the venues on your list, except for mechanic. It would be great to have one nearby. I'm not sure, however, that many of the neighborhood centers are equally able to provide as many daily services. Having a grocery store within walking distance is a great advantage in a car-free lifestyle, as is a pharmacy. A small hardware store would be very practical and prevent me from driving across Boulder.
- Boulder should much more strongly prioritize allowing mixed use in general in all these neighborhood centers.
- For example, Pearl St should be converted to mixed use zoning (but still requiring first floor commercial) such that vacant 2nd floor office space can be converted to residential dwelling units depending on the needs of property owners.
- Lastly, parking minimums should be eliminated (replaced with parking maximums ideally) in these walking districts and public transit plus bike/pedestrian access maintained or enhanced to promote use of alternative modes of transportation. This would also improve the safety of these districts by minimizing deadly conflicts between drivers of vehicles and pedestrians/bicyclists/etc.

- Allow more businesses to open without requiring arduous review processes. It expensive, time consuming, to go through a uncertain review process when trying to open a business in a place where the community already agrees one should be. Too many regulations ultimately discourage small businesses from locating in the city or operating to their full potential. Residents who choose to live next to business areas can expect to have a some impacts such as noise and traffic as a trade off for the the convenience of walking to a thriving neighborhood center.
- For any walkable neighborhood to be successful people must feel safe.
- For example if you want people to walk to Pearl street after hours adequate lighting must not end at 8th St. It a blackout from there on down.
- Allow for more pockets of coffee and restaurants, like Alpine Modern, to animate neighborhoods.
- As someone who doesn't own a car, I appreciate your work on making our town more walkable. I'm also a renter so would love to see more duplexes and townhomes.
- Pearl street mall is a great example of a community space where people gather. I would love to see something like this in Gunbarrel (there is nothing there to invite people to gather and relax). A small park surrounded by small retail businesses, restaurants, ice cream shop and a couple of bars would create a sense of community instead of driving to boulder, Lafayette or Longmont. Niwot has the right idea with rocking on the rails but there is nothing in Gunbarrel.
- I live in North Gunbarrel. There's no park. No library. No rec center. The Gunbarrel community center is a failure - it replaced a lovely piece of open space with empty storefronts. There nothing there. Do you know that? It's a ghost town. Also Lookout is a nightmare for walking and biking. People drive 50mph. Huge trucks travel it. It's unfriendly and dangerous. What a shame. What a mess.
- The west side of Gunbarrel near Longbow and Spine has several empty commercial buildings. It would be great to get a small restuarant or convenience store to rent out the space. Located right next to Beyond the Mountain Brewing, it would be a great location. If the Herbaria Apartments eventually get built, it would be nice to have a few shops/corner library on the ground floor.
- Make it easier to build residential in commercial areas...we need the ability to build more apartments, condos, duplexes.
- Table Mesa would do very well if there were more restaurants. For sit down, we have Under The Sun/ Southern Sun, Murphy's, Tandoori Grill, and Tsing Tao. Frankly, they are not for everyone. The only thing close for "everyone" is Under The Sun and Murphy's.
- Continue to remove restrictions on small grocery/convenience stores in all community areas, for reducing the need to drive to pick up one or two items.
- The current permitting process takes so long for new small businesses that some are dead before they open due to high rent. There needs to be protection for small businesses from landlords in some capacity that allows people who want to contribute to the community without potentially losing everything.
- the sizable encampments around 13th and College makes it unappealing to visit the Hill area, which is a sad loss to the dwindling business base. On average I'm unable to walk down the sidewalk in front of the Fox theater due to the long term gatherings.
- Safe walkable/Biking paths to get there. Secure lighted Bike racks to lock up your bikes. Lighted underpasses along multi use paths. Right now I do not feel safe to venture out in our community.
- Our problem is that we do have things we can walk to, but the layout of streets and pedestrian crossings is such that it's unpleasant and/or difficult to do so. Walking up the north Broadway hill is dirty, noisy, and unpleasant. No other streets go through unless you'd like to add 30 minutes to your 15 minute walk and use 19th or Wonderland. In the winter, you're also pelted with slush and debris from passing vehicles. There's no restriction on engine braking on north Broadway, making the noise extremely loud.



Additionally, the light at Linden and Broadway goes to flashing whenever there is a tiny bit of snow and it stays flashing for at least 24 hours after the snow has passed. No pedestrians can cross to get to their bus or to get to the other side. Again, anyone on foot has to add a ton of time to go to Iris or all the way to the top of the hill just to cross.

- Bring back SAFE walking areas- creek path, underpasses, parks. I no longer ride or walk some areas like these in Boulder.
- Lets have less Banks on the high street
- I hate to say it, but I would like to see more community policing. I am not comfortable walking to these places alone due to reported crime and witnessed crime. Not the type of presence as in Switzerland and Italy with fully armed police - just police 'on patrol. I have only lived here 6 years (1/2 time) and i have personally witnessed multiple shop lifting incidents at local shops, car ransacked, purse snatching (2), dog attacks (2 with obvious bites). And I hear similar stories from friends and neighbors.
- Please allow more housing to be built in these areas!
- This is a notable effort, but hard to implement. Isn't it all at the whims of developers who are notorious to sit on properties and do nothing?
- A trolley or train should be considered between key areas of Boulder as the buses aren't being used.
- The Eldo Shuttle should utilize Rec Center parking in the summer (when they are the least busy) so that residents actually use the shuttle. Right now, most shuttle stops require you to drive to them which defeats the purpose of the shuttle.
- I am concerned about the Alpine Balsam project based on a number of factors: 1. The Brenton Building has groundwater contamination. 2. Alpine-Balsam is located over the headwaters of Goose Creek and is only out of the floodplain due to the remapping of the floodplain. 3. Parking is inadequate and will spill into the adjacent neighborhoods. 4. The viewshed of the foothills will be replaced by the new buildings. 5. The cost of the project.
- (Continued from above^ ) - The businesses in this area tend to bring people together, whether it be Vision Quest hosting public events and hosting outdoor art vendors at their themed nights or Roots Music Project allowing for 'bluegrass open picking night' -- these things are absolutely necessary to keeping some creative free-form momentum within Boulder. The nature of this BT-1 area has thrived organically and must absolutely not go away!
- How about simply clearing the weeds along the roads and bike paths and having paved roads that are not littered with potholes and past their service life. Whoever decided this planning project is needed is not paying attention to the crumbling infrastructure in Boulder. End this project now and stop wasting money.
- Reduce the tragic. More bikes and walking
- Maybe a one lane road I believe canyon boulevard. Make a nice bike lane. Less gas stations. You could fulfill the e-bike system
- Thruout the state. Less housing. Encourage
- Less rental spaces ever where you have enough
- remove use restrictions, just go with form based code
- I would love to see continued investment in Table Mesa Shopping Center. It's a great mix of restaurants, gyms, grocery, etc. There is a large vacant space right on the SW corner of Table Mesa & Broadway that has been empty for a while, really looking forward to see what goes in there. Maybe a taco place to round out the options!
- Much more free parking needed in all boulder neighborhoods.

- I don't walk to the Safeway at Iris anymore even though I am 5-10 minutes away on foot. Why? Because I was followed by transients discussing if they could 'take me' and what I might have on me to steal. I don't ride my bike on the Two-Mile or attached bike paths coming out of Old North Boulder anymore because of all the druggies and bike chop shoppers who would harass me and chase me as I went by (slowly as a middle age woman). I don't walk to the squiggly mall at Broadway and Alpine anymore because of all the indecent exposure and sex assaults that are happening in the areas around 19th/Edgewood/Floral/Iris. Where the hell is public safety? Where the hell is enforcing the law in Boulder? It seems like everyone progressive is just letting all the transients and druggies take over the town - the city council progressives have let this happen and need to be removed from office ASAP. You have contributed to the severe decline of life in Boulder for many of us who have paid the taxes for 25+ years. I know you all demonize me as the problem and recognize none of the dogma that you force as 'the way' on everyone else is just as toxic as the right wing dogma to force people how to live, how to use energy, how to use water, how to commute, how to do frigging everything. How about some pragmatism? You want people to keep out of your bodily choices? How about you keep out of other people's choices in other domains and frigging enforce the LAW?
- Reduce zoning! Increase density! Reducing property values and rents (or at least keep them from spiraling upwards as fast). Stop single family home zoning. Allow tavern licenses easily again (gut the liquor board if we're getting crazy). Stop bulldozing student catering businesses on the hill for hotels. Build protected bike lines, real protection not plastic poles. Calm traffic by narrowing roads and adding curves and greenery, not installing stupid bumps, ugly plastic poles, signs, etc.
- Maybe I sound radical but stop this place from becoming Aspen.
- While I live close to parks and trails, other services are really more than 15 min walk away, especially during the hot and cold seasons when walking along busy roads.
- Downtown is shrinking from the edges and we are rapidly losing the historic walkable business districts around it (such as 3rd and Pearl, 22nd and Pine, and the former Alfalfa's). There are too many new developments with ground-floor residences, or conversion of retail to office (such as at 21st and Pearl).
- Boulder has forced restaurants and retail mainly onto Pearl st if they want to survive. Scattering retail hubs throughout neighborhoods (as you have in many other cities such as Washington Park and Platte Park near Denver) would allow people to safely walk and encourage a sense of community. Most people I know drive to Pearl.
- Traffic control -- to slow down speeders -- is needed to maintain our walkable neighborhoods. Streets like Pine and Spruce have become race tracks in the last year. (They park the speed control van there, but it just gives out tickets; it doesn't seem to actually stop the dangerous problem of the speeders. )
- I live near ideal, and don't own a car. I have lived in Boulder for 25 years. I feel I have less and less access to affordable groceries. I think when alfalfa's closed it took away options and perhaps competition. The ideal Whole foods is becoming more and more of a boutique grocery. I have considered moving because of the lack of access to groceries.
- They are everywhere! Would be nice to have more places to eat
- Why would anyone walk to a gas station? Yuck.
- It seems the majority of the proposals is to streamline restaurant applications. It seems odd to me that there could be an onerous process to that in the first place.
- I would like to see more opportunities for small businesses rather than chain stores. We certainly do not need more Starbucks.
- I live close to Table Mesa Shopping Center. There is Tandoori Grill, Under the Sun, Snarf's, Moe's Bagels, Southern Sun, Walnut South, Murphy's, Neptune Coffee, and Whole Foods takeout. Cafe Sole is

becoming Boxcar coffee. How many more restaurants does the City want at Table Mesa? What about the existing restaurants' business if more restaurants are built?

- I think it is ironic that our neighborhood center - "Lucky's Market" on Broadway was not listed. It has an ideal combination of uses and is very popular. One area for consideration is how to enhance the pedestrian flow while maintaining vehicular traffic particularly since there are so many families with young children in the area. An opportunity/challenge is that our center, like others listed, are privately owned as opposed to areas like downtown, the hill and North Broadway. What are those opportunities and challenges?
- My North Side neighborhood is far from being conveniently walkable for products I use frequently.
- Empty stores should not be allowed - especially anchor stores like the old Whole Foods in Basemar. Hurts nearby shops and hurts neighborhood.
- I live in Martin Acres and I am very concerned about the closing of several small businesses to provide very expensive student housing. We need more housing for sure, but closing small businesses that we all use is not acceptable. We need to help all the small independent businesses.
- I'd like discussion of reasons for current regulations and then pros and cons of relaxing those limits.
- Thinking mainly of Ideal Market neighborhood. The Post Office was lost due to poor business management, better to have that isn't dependent on that.
- I really like any updates that allow/encourage mixed use development, which incentivizes more housing and more business. I live in Park East, and I feel like we are almost a 15 min neighborhood. I am hopeful that Baseline infrastructure updates will bring us closer to the walkable/biking part of this goal. Anything you all can do to make it easier for businesses to thrive in the shopping centers near Park East will be supported by me!
- I like that I can walk to almost any of the places checked above. I also appreciate that Boulder has provided safe bike paths to help move people from homes to retail and restaurants and other services.
- I have been on 2 community member public committees set up by the city to discuss development in the East Boulder area (Arapahoe, east of 55th, and south to Baseline). And, both times the city asked us for our input and suggestions, only to COMPLETELY IGNORE literally everything we talked about and strongly suggested we did NOT want. This included "walkable neighborhoods"!!!! The city of Boulder plays a good game of making it look like they want, accept, and implement public feedback, but the reality is the city completely ignores the will of the people and does what it wants when it wants.
- The consolidation of ownership in grocery stores is harmful to consumers, and local food producers. We used to have locally owned grocery stores in Boulder. Right now Kroger and Whole Foods own just about everything.
- Strongly disagree with allowing duplexes and townhomes to be located on ground floor in all areas. Keep it retail. Just look at east Pearl at about 22nd st to see those crappy apartments where the old retail was. This reduced the walkability in this neighborhood.
- I also hope this project considers making the trip from one's neighborhood to these centers more pedestrian-friendly. This could be achieved with fewer lanes and lower speed limits on city streets, allowing zoning to introduce corner stores and coffee shops within neighborhoods, and having as many trees and plants in Boulder as we can plant (that are native and don't need a lot of water :)).
- Reduce or eliminate un-needed dense housing. Not all condo/apartment space is occupied in existing real estate. Stop building and start implementing Slow Growth and enforce height limits. Support the retention of the Boulder Dinner Theater by buying back the property and supporting the theater
- The retail stores on the mall aren't selling anything I'm interested in and their prices are too high. Boulder needs to do something to make retail space affordable for stores at which lower income residents enjoy shopping.

- Please don't limit changes to "streamlining restaurant approvals" for so many centers. You should be looking at streamlining approvals for all of the items in the "comfortable walking distance" list and allowing residential uses as well.
- I am highly supportive of dense, mixed-use, walkable neighborhoods that are accessible by public transit and bike infrastructure. I support reducing area devoted to car infrastructure (streets, parking lots) to calm traffic, increase walkability, decrease noise and danger, and encourage use of other modes of transportation.
- Worried that only residential developments will be luxury level, further pricing us out
- Must repair sidewalks so they are safe for mobility devices and provide consistent street lighting.
- Please add lighting and adjust parking spots so that pedestrians can be seen. Walking on the intersection on 14th or 15th and Pine, especially when dark it's VERY hard to see any pedestrians from a vehicle. We've now moved to 40th Street near Broadway. I see people crossing Broadway at 40th, rather than walk to the intersection at Hanover. An underpass or crosswalk here would increase interest in walking to the Table Mesa shopping center.
- zoning is too restrictive and archaic in Boulder. We need to increase building density to allow for a true 15-minute city. We need to prioritize walking, e-scooters and bikes
- The closing of Alfalfa's was devastating and has left a gaping hole in Central Boulder. The city cannot reach its alleged goals unless something is done about the ridiculously expensive commercial real estate price gouging that continues to push businesses out of Boulder. My neighborhood is less walkable than it was when I moved here. In fact, I wouldn't have moved to this neighborhood if I had known what would happen in terms of the mass exodus of locally owned businesses, even pre-pandemic. Additionally, the use of language like "walkable neighborhoods" is ableist and reinforces the perception that Boulder doesn't care about disability access. Downtown businesses should be wheelchair accessible at the front entrance and not just in the alley, which can be icy or snow-covered in the winter months. Plus, it's degrading to expect wheelchair access to involve going through restaurant kitchens or other crowded back-of-store spaces, if the business even complies at all (I have seen restaurants deny access for wheelchairs).
- More sidewalks too please!
- the negative impact (trash, loitering, drug use, assaults, being harassed) centers like this around the country have experienced. the park north of the Dairy Center currently has these issues from homeless use and encampment and it has definitely impacted where neighbors are comfortable walking. walking access the MANY businesses and CU in this area will definitely impact people's comfort level about walking along Folsom St. and likely mean that people return to their cars instead of walking to a destination that previously walked to. currently many people use this corridor to walk or bike and an increase in the number of homeless people in the area without good operating guidelines is going to impact the City's goal of increasing pedestrians and bikers in this area. neighbors in the area have been told "loitering WILL BE ALLOWED."
- We are terribly disappointed with the planning of the various areas of town. Everything is a mish mash. You can't get anywhere easily. All of the humps, bumps, narrow lanes due to the upright poles have totally disrupted the flow of travel. Traffic lights are horribly timed. Obviously, the City's goal is to keep people in "their" neighborhood to live, shop and recreate. That is and has been ridiculous from the beginning years ago. Everything in town anymore is cut up into cutesy little neighborhoods with names.... like Boulder Junction. Are you kidding me? That is not a transit center. And by the way, you have buses everywhere that are empty nearly always. Why not have smaller ones like Vail and more routes that actually go somewhere necessary.
- In general, I am in favor of a large reduction in land use dedicated to parking and auto traffic in and near these neighborhood centers, and converting much of that reclaimed land towards increasing housing

density, providing transit and micromobility services, and generally creating car-light, pedestrian-oriented spaces.

- 1. Reduce noise pollution by enforcing noise ordinance and ending gas-powered machinery; reduce air pollution - no one want to walk when there are high ozone or PM2.5 levels; finally, no one want to walk along streets with loud, diesel belching buses - they need to be electric.
- 2. Keep enhancing street art and sidewalks.
- 3. Create incentives for businesses to encourage walking beyond Walk and Bike week events.
- I'd really like to see Boulder abolish parking minimums and allow denser ""missing middle"" housing near these businesses. Also crucial/central to improving city zoning code is improving our active transportation + public transportation options so that we can move freely, easily, and safely throughout the city without a car. I am disabled and do not own a car.
- Need consistent bus access
- I realize this would cost more but being able to have more pedestrian tunnels would be nice. Crossing 28th via Valmont, Glenwood, Iris, etc. would vastly making walking, biking, running in the neighborhood safer and easier to do without having to wait for the light or be in harms way. This would improve flow of traffic for vehicles too as they'd have less traffic stops waiting for pedestrians to cross. The ability to more easily connect to the bikeways/greenways, unencumbered, would also add a lot of convenience and maybe even encourage less driving by folks.
- I dislike the "arts district" designation in N Boulder, as it's nothing more than a gentrification project for that area and pulling arts that used to be walkable (like BMoCA) from other areas of the city. I would also love some consideration of commercial real estate monopolies and the responsibility they should have to local businesses, since local retail has been largely driven out of Pearl St over the last 10 years. Table Mesa is local for me and is one of the few truly walkable commercial centers that is designed for walkability. Other local plazas like Basemar, Meadows and the Diagonal Plaza may be technically walkable from surrounding neighborhoods, the plazas themselves aren't designed for walkers, they're designed for cars, with huge swaths of parking between sidewalks & storefronts. This makes the plazas dangerous for pedestrians and pretty unpleasant for outdoor dining.
- I live in a very walkable area but the pedestrian bridge across the irrigation ditch, west of 9th and between Maxwell and Portland, was removed. When will it be replaced? This was a pleasant shortcut to Ideal grocery, the Med Center and (once upon a time) a post office.
- small grocery stores and restaurants should be within walking distance of neighborhoods PLUS frequent public transportation, eg small vans, to main commercial centers
- The city's zoning feels too suburban and too uniform, would love small cottage industry things sprinkled through town, more services for locals, and less that cater specifically to tourists. Desperately need more local pharmacies (now that Pharmaca is gone). More book stores, spaces for socialization and community building. The 12 neighborhood centers above seem insufficient. Still leaves most of city unworkable and isolated... where concentration of whiteness and wealth and NIMBYism occurs.
- Please use Diagonal plaza for HOUSING!! So much space. It has the opportunity to be a transformative affordable housing location.
- Please remove barriers for small businesses to grow and thrive. The Mall is nearly unrecognizable and incredibly inhospitable to small business. It'd be a shame to see the rest of the city follow its lead.
- I love seeing that you are considering streamlining restaurant permitting in our neighborhood! We have just a small number of restaurants and the best ones are always super busy. I'd love to have more options for going out to eat within walking/kid biking distance.
- Indoors activities for fall and Winter are severely lacking throughout Boulder.

- I strongly support making Boulder more walkable. Losing Pharmaca in Ideal Marketplace near my house was a big blow because they had a good range of over the counter options, prescriptions, and a post office — none of which are available walkable from my house. Walkability has more dimensions the city should pursue: slowing traffic, removing free parking, increasing transit frequency, and removing single-family zoning restrictions from the whole city.
- Less car parking areas , break up parking lots, add trees, shade function, more benches and large rocks to sit and stop enroute to store or shops. More places to stop and sit, to pause means elders can walk further!! Be more inclusive about walkability. Elders and children need places to pause and rest.
- Include these on bike paths as well.
- Put in a crosswalk on Poplar Ave across from the Park entry. Cars speed thru there
- If the drivers in this town don't stop at red-lights or stop signs none of these plans will matter. I walk everywhere already and it's dangerous. People won't walk if it's unsafe. I've called the city council several times and received no response.
- I'm mostly satisfied with the mix of businesses in neighborhood centers, and instead would like to see the city focus more on allowing the kinds of housing density that will support more vibrant neighborhood centers, and also on pedestrian- and bike-friendly access to these places. It would also be nice to see neighborhood centers include more public/semi-public gathering spaces and passages, rather than the current focus on car parking.
- We need a few more of these centers to make Boulder more walkable. I can walk to one of the smaller centers in about 15 min but it is not a pleasant walk.
- Meadows is my closest neighborhood center and it doesn't feel like a neighborhood center because it is a strip mall with a gigantic, half-empty parking lot. Changing the business types won't make it feel like a neighborhood center as long as it remains mostly dedicated to car storage and empty asphalt. It's also a 20+ minute walk from my apartment, so it doesn't satisfy the walkable neighborhood condition. Businesses need customers to exist, and Boulder's declining population and exorbitant housing prices ensure that we won't have get any true neighborhood centers until more housing is legalized and built.
- A bike-able city would be nice too. Please stop putting all the "traffic calming" devices in place. I've been hit by more cars because of them. The elevated bike lane in North Boulder is horrid. All the pylons on Quince have made that street unsafe to walk or bike. Cars just try to play chicken with riders and I'm not going to win if I'm on a bike and a huge SUV wants to take over the single lane you've created with pylons or curbs.
- West Central Boulder is left out. We have Library and Senior Center nearby but nearest grocery is some 3 miles away. Arapahoe and Broadway has easy access and adequate parking for hillside dwellers who can't lug heavy shopping bags up the hill. Would reduce long car trips across town.
- How far do you expect active seniors to walk? How far would you expect us to walk with our grandchildren with us. There and back. Not happening.
- Do not, I repeat do not add height to buildings in any of these centers! Using walkable neighborhoods as a way to make more money through greater density and height is wrong! You can have walkable neighborhoods without the added density and height. Look at Niwot for example or Mackinac Island in Michigan. They are walkable (Mackinac Island has no cars on the island) and they have not built a bunch of high dense box buildings!!!! All you need to do is add the needed amenities to the area such as hardware stores, bakeries, banks, etc.
- I am totally opposed to changing zoning in order to achieve the walkable neighborhoods. All these centers are already commercial and retail centers. You do not need to add more housing just more businesses and amenities that are missing in these centers.
- Would love to see more types of uses within walking distance!



- Improving the centers is great, but for real walkability we need coffee shops 5 minutes away from housing... Small units of mixed use (residential on top, retail on the bottom) or just retails should be mixed into neighborhoods, or added adjacent.
- POTHOLES everywhere - I am directly affected on NW corner of 63rd and Gunbarrel Ave and ALL of White Rock Circle.
- Maybe more money spent on fixing roads and let people use our existing libraries as most people I know order their library books online.
- I live in East Aurora near BCSIS/High Peaks/Aurora 7. We are kind of near Basemar, Table Mesa, and the 30th & Arapahoe King Soopers area but this neighborhood is absolute shit for walkability. The nearest things are student-oriented (we are near Will Vill / apartments. There's nothing we would want to walk to within walking distance, and every walk we can do to stuff has us crossing major 4-6 lane huge streets.
- Love the support of townhomes/duplexes on first floors. Would love to have the applied across all centers.
- Boulder desperately needs to allow taller buildings, especially in the city center but throughout town. And definitely needs to allow more housing units over businesses so that there is a larger customer base and more businesses withing walking distance in any given locations. The strict building limits and zoning codes are antithetical to the goal of walkable communities
- As much walkability and bike-ability as possible will be much appreciated!
- Acknowledge the issues with Gunbarrel and how the City doesn't want to deal with us. Recognize we are not a 15 minute walking community. We lack public playgrounds and community spaces. We are the drivers.
- Why is Goss/Grove and The Village (Arapahoe & Folsom) not on the list? We are the most walkable neighborhood in Boulder. Just need better mandated bike parking at shops. Eliminate a few car parking spots and add covered and secure bike parking in front of businesses.
- Having amenities within a 15 minute walk of home does not make a place walkable if the walk is loud, unpleasant, and dangerous. A 15 minute walk down Pearl Street is very different to a 15 minute walk down 28th Street, and there is a clear reason why one receives thousands of daily visitors on foot, while the other is deserted. Trees and shade, low design speeds (not just low posted speed limits), and priority for pedestrians and users of micromobility are essential aspects of the transition to a walkable Boulder. We are an active community - people want to walk, but the majority of Boulder's streets are extremely hostile to people outside of cars. This must be addressed in tandem with the process of rezoning.
- Living in South Boulder, we all heavily use the Table Mesa shopping center which has so many great local and useful businesses. The Basemar Shopping Center has been losing businesses but is our one other location we can all easily access by bike. Please DO NOT allow this zoning to be changed so that it simply becomes another housing development. If this happens, you will simply be adding density but offering less of the services that this project seeks to provide! Thanks for considering feedback!
- I have no walking access to any laundromats, clothing, shoes, hardware stores, electronics, and several other categories. And I was saddened to see that you have not even included these options in the list. While I do understand that our low-density areas will not be able to provide enough business to have all possible categories everywhere, and that many of these are disappearing from our physical reality and moving online, I think that as a city we should try do better by nudging more businesses to be withing walking distance.
- I believe that walkable neighborhoods would be a great thing for Boulder to have, economically and socially.

- I know this project is about making the city walkable, but please put some time/money into fixing the public transit around here. I have to drive everywhere because it's so unreliable or inconvenient. It takes me an hour to get to my job by bus when it's a 10 minute drive away.
- It would be nice to have all of the spaces accessible by bike paths and walking paths.
- Just say NO to the 2700 Baseline project. It does not belong here. Too big, too tall, no affordable housing, removing businesses that we need, to keep this as a walkable neighborhood.
- There are a great deal of commuters and bicycle riders (including myself) along 13th Street, from Pine Street up to Elder. While there is not too much vehicular traffic, the intersections (particularly the 4-way stop at Balsam) can get dicey. I would appreciate it if there might be more signage or the inclusion of more trees alongside the Casey Middle School sidewalk along that hill. I also often walk and that section gets very hot when going downtown.
- Idling cars make surrounding businesses undesirable locations for leisure
- Our walkable neighborhoods also need more places where people can spend time without spending too much money. I.e. welcoming outdoors seating areas, locally owned general stores, etc.
- I'd like to have a grocery store that I can walk to within five minutes without being run over by cars. Think of a convenience store without the ugly gas station that attracts unwanted attention, and has a healthier selection of basic necessities instead of poison and junk food. Additionally, I'd like to see diagonal plaza revamped. The failed strip mall does the place no service, and the abandoned parking lot is a disgraceful waste of space on both sides of the building. Imagine how many restaurants, bars, coffee shops, bakeries, and small businesses, you could shove in there if you use the space effectively. Build more pedestrian cross-lanes on 20th street to encourage walking over there from the other side of 30th street. Perhaps even build a central court plaza to host festivities, music, that you'd see in front of the court house on pearl street. If you need parking, just construct a three floored underground parking garage, so as not to distract from the beauty. Any surface parking should strictly be for Preferably people should be able to walk to this, so deemphasize cars at all costs. Otherwise it won't be walkable. Think of it as a new pearl street. It should have all sorts of cultural festivities, but this can only work if you get rid of that ugly strip mall. Just tell the businesses to relocate into the new buildings you build, and be sure to compensate them! Emphasis on compensating them so that way they can see the benefits of this plan.
- The neighborhood along Valmont between 47th and 55th is underserved with walk-in business and this area is a food desert. I don't know why this neighborhood is so frequently ignored but I would like to see the Roney historic farmhouse restored and developed into a profit-making business serving the park goers, rather than being left a falling down derelict building. I have a lot of ideas for this location and would be happy to share them with you. securabbit at gmail dot com
- Rezoning strip malls so that we can nuke the surface parking needs to be on this list... it isn't. We are shuffling deck chairs on the titantic. Stop offering up incremental changes. Brautigum is gone, do something bold. Or is the culture that tipton report revealed still present inside city staff and we are too inept to get anything meaningful done?
- San Fransisco has restaurants and coffee shops right in neighborhoods. I love that idea. Can help with loneliness and be a gathering place.
- I'd love to have a Chipotle or Illegal Pete's or some fast burrito restaurant in Table Mesa/South Boulder.
- I wish our South Boulder Rec Center pool was open.
- Crossing Broadway to head to the Table Mesa shopping Center is unpleasant, loud, and dangerous. I wish we could reduce the speed limit on Broadway in south Boulder to say 25mph. Currently cars/trucks easily go 40-50+ mph through Greenbriar and Hanover intersections.



- The Hanover Ave. ""safe routes to school"" path is so nice and wide. It's so pleasant to walk side by side with someone or in groups of 3 or 4. It makes me wish ALL of our sidewalks were wide, really wide, by default. And the car lanes were super narrow so cars went slowly. It's social to walk with someone. It's not nice to walk single file, you can't chat easily.
- I wish the pedestrian lights to cross Table Mesa between Broadway and Tantra triggered more quickly. It's unpleasant to wait so long with LOUD cars and trucks. Let's use incentives to walking, by making it easy and fast to cross the street.
- Making it pleasant to walk is a key part of the walkable neighborhoods. With wide sidewalks, places for bike riders, and streets designed to slow cars, and easy ways to cross streets, we can make it more pleasant to walk.
- Walkable neighborhoods should start with access to groceries. Luckily, there are 2 within a short walk. And there need to be wide sidewalks and/or bikepaths so that people feel safe walking; paths not next to busy streets is also a big plus! Bus stops nearby are good for longer transit needs
- I consider the Lucky's Market site to be a neighborhood center.
- I live in Horizon West, 1850 Folsom Street, within walking distance of 2 parks, 4 grocery stores, several restaurants, The Dairy Center for the Arts, and several other amenities and businesses checked above. I strongly urge the city to find a different site for the Homeless Day Center. I believe it will destroy the beauty, walkability and safety of our neighborhood in contraindication of the goals of the Walkable Neighborhoods Project. PLEASE RECONSIDER THE SITE.
- I live in BR-1 - a thriving, walk-able neighborhood. The city plans to put a homeless day center in this neighborhood with no publicly disclosed plan to protect the safety of walkers or keep the side walks clear.
- We will find walking less safe. There was an arrest made during a drug deal within 2' of our entry about a week ago. Doctors offices immediately south of proposed DayCare Center were broken into numerous times this year. City has not provided trash cans so there is constant trash accumulating in the park north of the Dairy. City has not provided port-a-potties so there is human waste going into the ditch. Homeless are camping out in that park on every day except the day they are removed. It's expensive to send out police and city people to clean up and it makes no sense to give homeless a ticket. The DayCare Center will not stop homeless from sleeping here. The beds offered to them are far away. Some are refused because of alcoholism or high on drugs.
- It seems challenging to meet the needs of wide range of demographics in most of these center - eg how is Ideal market going to fill grocery needs for low income people living in new housing built at old hospital site on Broadway?
- New breweries are currently only allowed in light industrial zones. Removing this stipulation and allowing them to be in neighborhood centers would do a lot to revitalize that industry in Boulder. Since COVID, more breweries have closed than opened in town. look to Fort Collins for a success story.
- Allowing another owner to take over Reds Liquor on Broadway when it closed was irresponsible. It is a magnet for addicts. The area was great before the new owners ip bed DDS Liquor. It should have never happened and materially impacted our neighborhood for the worse.
- no neighborhood is safely "walkable" until the camping of homeless on creek paths and parks is restricted.
- We need more medium-density housing options, such as duplexes and condominiums in many neighborhoods!
- Please put more green spaces in. There are no public green spaces in Boulder Junction other than the Steel Yards which isn't public and is getting overrun. Please spread out some public parks so we can also breathe where we live.

- There are basically no businesses or services I can walk to within 15 minutes. I am very interested in the future project to integrate more neighborhood serving uses in currently residential-only zones.
- I live downtown on east Pearl. Our biggest issue is parking. As a resident paying a LOT of taxes, we need residential/guest parking passes for 21st street Whittier east neighborhoods. We have no place to park, and new residents and businesses take our spots everyday. The 72hr parking zones are killing us. I take care of our sidewalks and trees on our street, deal with flooding at our storm drain constantly and am always watching out for our neighbors and businesses. Why can't I park my car on the street that I pay ever increasing taxes for in front of my HOUSE for more than 72 hrs. Please ensure zoning changes considers parking. It is so limited in our area and I can barely park here anymore. -Meredith (21st and Pearl)
- Boulder needs to catch up with multistory townhomes that have elevators. When we moved here, there were only a couple of condo buildings right downtown that met the need for an elevator for accessibility. Builders need to be incentivized and know there is a market for townhomes with an elevator - we would have been likely customers if any of the new on the market townhomes had an elevator. We would also like to see more places for charging plug-in vehicles. And finally, please figure out how to address the homeless situation downtown. We desperately need housing and residential mental health/substance abuse facilities for the many hundreds of unhoused people camping in public and private spaces downtown and beyond every day. Without focused planning attention on this issue, living right downtown by the Farmers Market and all that the surrounding area has to offer will become evermore less desirable.
- Please don't prioritize surface level parking. Not a business but we need more affordable housing/rent control - not just low-, moderate- and middle-income because those guidelines are unrealistic for many of us who live here, are just over those requirements but can't afford to enter the market as a homeowner. Missing middle does not equal what is defined as 'middle-income'
- I'm concerned about housing that doesn't have enough parking, like 2206 Pearl St.
- In addition to developing attractive places and services to draw people on foot and bicycle to a neighborhood center, transportation access must be considered. Enhancing the safety, comfort, and access of the paths to the neighborhood centers is the key to success. As you know, people of all ages and abilities need to be accommodated or else the automobile will continue to dominate the transportation network and the neighborhood centers will feel like islands only reachable by motorized vehicles. The vision of a walkable/bikeable city anchored by neighborhood centers is powerful and compelling, but without safe passage, it cannot be realized. It would help to integrate the tenets of the city's transportation master plan into the planning and development of neighborhood centers. You are likely already doing this. For inspiration and a model of success, you might check the 2021 book *Curbing Traffic: The Case for Fewer Cars in Our Lives* written by urban planners Chris and Melissa Bruntlett about moving their family to Delft, Netherlands and reveling in the joy of walking/bicycling as primary transportation. Thanks for considering my comments. Keep up the good work!
- Anyone who lives downtown can tell you that the encouragement of homeless encampments and gatherings is way out of hand.
- I live in the Holiday neighborhood. It is too bad there is not a grocery within walking distance. Luckily, the closest market, is a half hour walk or a bus/bike ride.
- There is also not a community gathering spot. Wild Sage has a common room for the community, but it must be rented for public use. The Armory has just been completed, featuring an activity hall, but it is unclear if this will be open for use by the general public. The planned north Boulder library will hopefully provide meeting rooms.

- I am in Gunbarrel and just out of walking distance from most things, but it is very bike-able. I wish there were more restaurants, fitness studios, and bakeries in Gunbarrel. I think Gunbarrel has a huge opportunity to have an awesome local retail scene.
- Make it much easier for small businesses to go through the permitting process. Don't worry do much about preventing "the wrong" kind of business. The market will sort it out.
- I've live next to Lucky's market for 27 years and love my neighborhood center. Allow the rest of Boulder to have the same
- Boulder junction has a lot of open space for lease that would be perfect for restaurants or small scale retail like Pearl Street. I would like to see more of this kind of activity instead of more offices or industrial building.
- A coffee shop, restaurant, and home goods store have closed in the past 1-2 years in Steel Yards and not been replaced. In all the newer developments there is only a beauty salon. There is no street life although ads for the new developments show people walking and mingling. Very disappointing
- I believe we need to enforce the speed limit and raise awareness about the importance of going the speed limit, giving bikes and pedestrians right of way and respect....
- When cars are not speeding families feel safe to walk on our sidewalks and cross streets w/ their kids. Parents feel ok to help their kids fo places by foot, get to the bus, etc.
- The citizens of Boulder should be encouraged to go the speed limit on our smaller side streets. Nobody seems to actually go 20 MPH on these streets.
- I'd love to the blend of business and houses with a really detailed policy on cut off times for evening events - but otherwise I would love to see more housing available (making sure they align with the affordable housing plan as well)
- With economic/climate crises, mental health issues and substance use on the rise, creation of healthy spaces really matters!
- I'd love to see Boulder become more of a European-like city where you can pretty find a bakery, butcher, cheese place, etc. at every corner. For that we need more flexibility in our zoning code and practices (remove zoning districts?) and cheaper rents.
- Please fix the roads before you start cramming more housing into our overcrowd, burgeoning city.
- I note that you do not ask this question as it relates to housing - only business. From my standpoint, that makes this questionnaire invalid. For the record - I disagree entirely with duplexes or townhomes in the areas that are listed.

I know the city planners and council live in the dream world where everybody wants to give up their cars, but the reality on the ground is that the majority will not. People drive to these areas, and those that might live there already walk as much as they want to. If I go to that area I expect there to be parking and that the street can support the traffic. If not, then myself and folks like me will go somewhere else.

- I live near Ideal Market (between Broadway and 9th on North Street). I LOVE it, especially as I age in place. The "shoppette" concept of the '50s (there were a couple of good things about the '50s) promotes interaction between neighbors and provides communal meeting places close to home. A small grocery, coffee/tea/ice cream shops, a bakery, a bagel shop, a pharmacy (with a post-office feature) and restaurants are good examples of businesses that provide both services and neighborhood meeting places.
- Would love to see more publicity (and enforcement) of overgrowth as people not tending to property landscape are making sidewalks to access anything less walkable.
- Enough with homeless shelter expansion, low income housing, and daytime programs for mentally ill in North Boulder. It is time the rest of the city shoulder this problem EQUALLY.

- You are making North Boulder unsafe and uninhabitable for families with children. Sex offenders and recent prisoner releases should NOT be permitted in the Boulder homeless shelter near young children and families.
- Boulder's overly liberal policies are putting the larger community at significant risk for assault and wildfire risk for the benefit of a number of high risk individuals who are not part of our tax base or community and homeless.
- These homeless and mentally unwell individuals as you may likely know are also the primary cause of the majority of foothills fires threatening our city of Boulder, due to illegal night and day camping in the foothills.
- When will Boulder City Council and the housing authority wake up to all the risk they are putting the entire larger community in for the benefit of few. We don't need or want another massive Marshall fire. We need added Boulder police, fire department, and daily Boulder Ranger foothill hiking surveillance of illegal foothill camping and removal of individuals doing so from the community and a decentralization of homeless care to multiple locations citywide.
- I live near Lolitas on pearl and have had to call the police on numerous occasions as they allow people to gather very late at night playing guitars, drums and loud music.
- You should focus on the alternate transportation that folks currently use. I bike almost everywhere.
- I am disabled & the questions about walking distance above, were as if I could walk well & easily. I cannot do that. I must drive to those locations.
- zoning to allow more opportunities for small businesses to allow for a walkable city. incentives for these businesses as well since rent is so high.
- We live near downtown Boulder (near Emma Gomez park) and many amenities/stores are nearby, well within walking distance. However, that doesn't mean it's pleasant, safe, or simply comfortable to walk many places. Crossing Canyon or 28th street provides access to a lot of retail, but both are relatively unnerving with the high volume of high speed traffic. If we want more walkable communities, we need to focus on much more than just the distance to get there. We need to \*invite\* people to walk there and not feel as if they are trespassing on the domain of cars and giant parking lots.
- I'd love to see amenities like coffee shops mixed into "neighborhoods" rather than just in retail centers. I'd also love to see more housing above existing retail. I really wish the city had more walking connections -- more and better cross walks, traffic signals that don't require the user to beg to cross, traffic signals that prioritize pedestrians, and shorter blocks. There is some redevelopment that is happening with fences that close off areas that are pedestrian cut throughs, which is unfortunately. For example, one used to be able to cut through the parking lot between 21st and 22nd between Pearl and Walnut (between Espressoria and Snarfs before they closed) but the new housing development though 2 lots with 2 buildings is fenced off so you can no longer cross from Walnut to Pearl mid-block. We should preserve walking connections and create new ones as redevelopment happens.
- Walkable centers should have maximum flexibility in zoning and really foster creativity by allowing any Use other than Infrastructure, care and shelter, vehicle-related, industrial and agricultural. a certain percentage of residential should be allowed to exist within the areas identified (50% of allowable square footage dispersed equally throughout the area) to activate the land 24/7 and make it interesting. More floor area should be allowed and creative transportation solutions incentivized (residents only allowed to have shared electric vehicles, for example). All you have to do is look at European cities, or how Denver evolved to get the answer for how walkable communities should be built. Be bold...half steps (what you're doing now) will lead to failure.
- Boulder needs to work towards mixing housing with other uses, as is common in Europe. The separation of uses is based on and reinforces car dependency. Community centers are forced by Boulder's minimum parking requirements to surround themselves with seas of asphalt, which make approaching

on foot a rather hostile experience. We need small offices, corner stores, and cafes within our residential neighborhoods. Parking minimums increase the price of everything except driving, and should be replaced with parking maximums. All neighborhood centers and businesses should have minimum bike parking requirements. We have dedicated far too much land in Boulder to the private automobile, including dangerous roads and overly generous free parking.

- With all that parking real-estate, we could repurpose for music and arts events. Would love to see more fun funky shops and services.
- We need to keep non-occupant residential real estate investors out of Boulder's established, low density-zoned neighborhoods. This "walkable neighborhood" hype is pro-growth propaganda aimed at getting rid of occupancy limits, further de-funding code enforcement, unleashing up-zoning and so-called "flex zoning" to the detriment of once-thriving, owner-occupied, low-density, single-family neighborhoods.
- These questionnaire's seem like "compliance" efforts. You're already redeveloping these areas under your own plans, asking for input AFTER re-development is underway (or in some cases completed) is a useless effort at developing compliance statistics. This is not a sincere effort at seeking input which will affect direction.
- Why isn't more housing- duplex/triplex housing recommended in all sub areas? Why is it a use change in only some areas? This seems inconsistent to the city's goals to create more housing.
- Most neighborhood centers in Boulder are very car-dominant, with large amounts of free parking. Reduce parking and charge for it; use the money to make green, pedestrian-friendly spaces and outstanding bike facilities.
- Parking for any new residential use is critical. While we can and do walk locally, 99% of us are here because we love the mountains and ALL of us have cars to get us there. It's very delusional to think that any new living unit will have .8 vehicles. What does a .8 vehicle look like anyway?
- I think it is important to have sidewalks everywhere in the neighborhood and this is not the case right now - Uni Hill. I own my home.

# Use Standards and Table

## Phases One and Two

Land Use Code Amendment  
Project Charter – *Working Draft*

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## Project Purpose & Goals

### Background

In its 2018 Annual Letter to City Council, the Planning Board identified use tables and associated code revisions as a priority item for Land Use Code updates in 2018. The goal of the revisions included:

- Simplifying the Use Table and streamlining the regulations where possible, making the Use Standards and Table more understandable and legible.
- Creating more predictability and certainty in Chapter 9-6 Use Standards of the Land Use Code.
- Aligning the Use Table and permitted uses with the Boulder Valley Comprehensive Plan (BVCP) goals, policies and land use designations.
- Identifying community-desired land use gaps in the Use Standards and Table, and better enabling the desired land uses in identified neighborhoods as well as in commercial and industrial districts.

The Planning Board appointed a subcommittee comprised of Planning Board members in 2018 to guide the project and make recommendations on potential changes. Phase One of the project was completed in Q4 2019, with a focus on updating the uses and use standards for the zoning districts within the federally designated Opportunity Zone. The current project will focus on the remaining zoning districts of the city as Phase Two.

### Problem/Issue Statement

The Land Use Code's Chapter 9-6, "Use Standards" may be out of alignment with the intent of the Boulder Valley Comprehensive Plan (BVCP) goals, policies and land use designations, and are not achieving desired development and community outcomes.

### Project Purpose Statement

Bring Chapter 9-6, "Use Standards" of the Land Use Code, into greater alignment with the BVCP policies and the city's priorities, to better enable desired development outcomes throughout the city and to more effectively support the goals and desired outcomes of the BVCP.

### Guiding BVCP Policies

The project is guided by BVCP policies, identified by the subcommittee at the beginning of the project. Please see the end of the project charter for the full list of relevant BVCP policies identified by the project subcommittee. Some key BVCP policies that guide this project include:

#### **2.14 Mix of Complementary Land Uses**

*The city and county will strongly encourage, consistent with other land use policies, a variety of land uses in new developments. In existing neighborhoods, a mix of land use types, housing sizes and lot sizes may be possible if properly mitigated and respectful of neighborhood character. Wherever land uses are mixed, careful design will be required to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.*

#### **2.15 Compatibility of Adjacent Land Uses**



*To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.*

### **2.19 Neighborhood Centers**

*Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.*

### **2.21 Light Industrial Areas**

*The city supports its light industrial areas, which contain a variety of uses, including technical offices, research and light manufacturing. The city will preserve existing industrial areas as places for industry and innovation and will pursue regulatory changes to better allow for housing and retail infill. The city will encourage redevelopment and infill to contribute to placemaking and better achieve sustainable urban form as defined in this chapter. Housing should occur in a logical pattern and in proximity to existing and planned amenities, including retail services and transit. Analysis will guide appropriate places for housing infill within areas zoned Industrial General (IG) (not those zoned for manufacturing or service uses) that minimize the potential mutual impacts of residential and industrial uses in proximity to one another*

### **2.24 Commitment to a Walkable & Accessible City**

*The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed-use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.*

## **Goals and Areas of Consideration**

The Areas of Consideration were established by the Use Table subcommittee in 2018/2019 and were reviewed by the public during community engagement efforts. In late 2019, the Planning Board subcommittee updated and confirmed these areas of consideration. The following graphic summarizes these areas.





## OVERARCHING GOALS (BROAD / HIGH-LEVEL)

1. Encourage 15-minute neighborhoods through use table changes in all types of districts (residential, commercial, industrial), acknowledging transportation barriers may exist.
2. Support a "string of pearls" consisting of mixed-use nodes along corridors, and support walkable neighborhood centers of varying scales.
3. Incorporate administrative and structural updates to the Use Table and Use Standards for clarity, legibility, and usability.

## OBJECTIVES / AREAS OF CONSIDERATION (FINER GRAINED OBJECTIVES TO HELP ACHIEVE THE GOALS)

- Update the Use Standards and Use Table to meet community needs and desired land uses (Goals 1, 2, 3)
- Identify opportunities for mixed use that can help provide services to residents and needed housing/services/uses to non-residential and industrial areas. (Goals 1, 2)
- Consider changes to the Use Review criteria that would better serve city goals (e.g., walkability, site design). (Goals 1, 2)
- Consider changes to the Use Standards & Table that would incentivize a diversity of housing types. (Goals 1, 2)

- Consider more flexibility for non-impactful retail uses for home occupations and live/work, such as selling one's art. (Goals: 1, 2)
- Consider Mobile Home Parks and their evolution to affordable fixed-foundation buildings, and how it may intersect with the Use Standards & Table. (Goals 1, 2)
- Consider allowing more retail/active uses in the Public (P) zones. (Goals: 1, 2)
- Consider allowing second floor residential in light-industrial zones. (Goals: 1, 2)
- Consider increasing the diversity of uses found in neighborhood centers, both existing and new. (Goals: 2)
- Identify community desired land uses. (Goals: 1, 2)
- Consider how the Use Table project is beneficial, complements and intersects with other planning efforts, such as Community Benefits/East Boulder Subcommunity Plan implementation. (Goals: 1, 2, 3)

### **ACTION STEPS (THE METHOD, MAY BE REPEATED FOR MULTIPLE OBJECTIVES AND GOALS)**

- Update outdated land use categories in the Use Table.
- Create new use definitions and add to appropriate zoning districts.
- Change desired use allowances to be more permissive (i.e., C, L, or A) as warranted.
- Create new limited uses (L) to encourage desired land uses with flexibility.
- Change prohibited uses to Use Reviews (U's) where certain uses may be warranted and desired (corner coffee shops for example).
- Incorporate additional development design standards into the Chapter 9-6 Conditional Use and Use Review standards, and potentially the Use Review criteria.
- Incorporate technical fixes to Chapter 9-6 as identified by planning and zoning staff.
- Update the amounts of required uses where prescribed in 9-6, "Use Standards", such as residential/non-residential floor area percentages listed under the footnotes N/M of the Use Table, accounting for the holistic impacts of uses including parking.

### **Phase One Outcomes**

Phase One of the project focused on updating the Use Table and Standards of the Land Use Code citywide for zoning districts that coincided with the federally designated Opportunity Zone. The Phase One focus was precipitated by the Opportunity Zone moratorium adopted by City Council in 2018. Phase One of the project culminated on Oct. 29, 2019, when City Council adopted Ordinance 8337 to update the Use Tables to be more consistent with the BVCP. The focus of these changes was to:

- Reduce non-residential capacity through restricting office uses.
- Incentivize residential in appropriate locations (preferably permanently affordable housing).
- Protect and create more opportunities for retail.

While the focus of Phase One was on zoning districts within the Opportunity Zone, the changes applied to the respective zones citywide. These changes also importantly created a new use designation, "Limited Use" that created a limited standard (that could be verified through building permit) and reclassified some uses as Conditional Use or Use Review uses. Most of the Limited Uses consolidated existing regulations, with others serving to implement the desired goals outlined above. The most substantive change related to office uses in the Business Zones (BT, BR and BMS), where various office uses are now limited to a combined total of 20,000 square feet of floor area per lot, with Use Review

required if exceeding 20,000 square feet. The Oct. 29, 2019 City Council memo and ordinances can be found [online here](#).

City Council also adopted Ordinance 8358 that created an Opportunity Zone overlay district prohibiting the demolition of attached dwelling units in Census Tract 122.03 (the Opportunity Zone) for the period the tract is a qualified Opportunity Zone. Visit the [Opportunity Zone program webpage](#) for additional information.

More details about the Phase One process and public input received is described in later sections.

## Phase Two Anticipated Outcomes

Staff anticipates that code changes specifically related to use regulations may include the following chapters:

- Chapter 9-5, “Modular Zone System,” if any changes are necessary to zoning districts.
- Chapter 9-6, “Use Standards,” including changes to the use table to simplify or clarify regulations or to better match the intents of the BVCP and any use standards in the chapter.
- Chapter 9-16, “Definitions,” if such change improves consistency with Chapter 9-6 and is intended to modernize the land use code.

## Work Completed and Input Received 2018-2020

A summary of engagement efforts and input received is provided below.

### Phase One

#### PLANNING STAGE | Q3/Q4 2018

- Planning Board subcommittee convened and meetings held to establish the purpose statements, and project goals defined by the subcommittee in Q2/Q3 2018
- Affected stakeholders identified
- Community Engagement Plan prepared for the project in Q3 2018
- Analysis of peer communities

#### SHARED LEARNING STAGE | Q1/Q2 2019

- Community Engagement through series of open houses that introduced the use table topic, potential impacts, and underlying BVCP policies with which the code changes would align
- Received feedback on the goals and areas of consideration for the project through open house events
- Through a mapping exercise on Be Heard Boulder, received feedback on what types of uses may be missing or too many of in neighborhoods live, work and play
- May 2019 City Council Study Session on what we’ve heard, and next steps in the project
- Opportunity Zone discussions and transition as a Phase One focus of the project

### **OPTIONS STAGE | Q3/Q4 2019**

- Transition to evaluating the federally designated Opportunity Zone as a Phase One of the project– identifying options for change based on the feedback received from the public to better align the uses to the BVCP policies. This focused on increasing residential capacity and reducing nonresidential capacity.
- Targeted outreach to stakeholders solicited feedback on possible options identified
- Options analysis and recommendations developed
- City Council check-in on options and feedback received
- Feedback received at public open house on recommendations

### **DECISION STAGE | Q4 2019**

- Planning Board recommendation for approval and public hearing
- City Council public hearing, revisions to options, recommendations
- Oct. 29, 2019 adoption of Ordinance 8337 updating the Use Tables to be more consistent with the BVCP for citywide zoning districts within the federally designated Opportunity Zone (Census Tract 122.03)
- Adoption of Ordinance 8358, creating an overlay district prohibiting demolition of attached dwelling units in federal Census Tract 122.03 for the period the tract is a qualified Opportunity Zone. Repeal of previous moratorium.

## **Phase Two**

### **PLANNING STAGE | Q1/Q2 2020**

- Reconfirmed the project goals, objectives, and Areas of Consideration established in Phase One with the Planning Board subcommittee.
- Reconfirmed the affected groups are citywide residents and stakeholders, particularly of the zoning districts that may have potential use changes.

### **SUBCOMMITTEE ANALYSIS STAGE | 2020**

- The Planning Board subcommittee met over 20 times between Fall 2019 and Fall 2020 to provide direction on the phase two overarching goals, conducting detailed discussions considering updates to use categories, and informing the engagement plan and online questionnaire. The goals, areas of consideration, and focus areas are summarized earlier in this document.

### **OPTIONS STAGE | Q2 2020**

- In the summer of 2020, the public provided input on a Be Heard Boulder questionnaire and a virtual public info session was held. A summary of the input received is below.
- Updates at Planning Board and City Council in August 2020

**Due to staffing levels, the project was paused in Fall 2020. Work has now been reinitiated to continue phase two, revisiting the planning stage.**

## Public Input Received 2018-2020

### PHASE ONE: EARLY 2019

Community engagement for the project began with a series of three open houses that introduced the use table topic, the project's potential impacts, and focused on the underlying BVCP policies the code changes were intended to align with and implement. City of Boulder staff held three code amendment open houses, which included a Use Table 101 presentation as well as large format display boards where people could provide opinions through dot voting, sticky notes, comment cards, and discussions with staff on the project's areas of consideration, and what land uses they wanted more of or less of in different areas of the city. Staff received input from over 100 people, as approximately 35 people attended each event.

Staff also had a display at the "What's Up Boulder?" event at the Jewish Community Center in East Boulder in April 2019, where about 425 community members were in attendance. Staff had detailed display boards on the project as well as handouts to educate attendees about the project. Staff also encouraged them to take the online survey detailed below.

During this period, staff has also attended four neighborhood office hours with the city's neighborhood liaison, which are publicly noticed and provide opportunities for residents to come and meet with city staff and discuss concerns and the proposed code projects. At these meetings, staff distributed handouts and encouraged people to take the online survey and discussed the project in more detail with interested members of the community.

Aside from these in-person events, a key element for Phase One feedback was the development of a project page on Be Heard Boulder with a questionnaire and mapping exercise. The questionnaire and map were promoted through an article in the Daily Camera, an article in the Community Newsletter, Nextdoor posts, Twitter posts reaching over 84,000 followers, and utility bill mailers reaching 20,000 households. Open between February and early May 2019, the questionnaire received 80 responses. In addition, respondents identified 68 places on the interactive map where they wanted to see uses introduced to support neighborhoods where daily goods, services and transit are within a 15-minute walk (about a 1/4 mile) of where people live or work.

### Summary of Community Feedback

In general, through both the in-person events and the online engagement efforts undertaken in early 2019, the public responded with the **greatest support** for the following areas of consideration for the project:

- Explore updating outdated use categories to meet community needs and desired land uses.
- Explore opportunities for mixed use that can help provide services to residents and needed housing/services/uses to non-residential and industrial areas.
- Consider changing prohibited uses to Use Reviews (U) where certain uses may be warranted and desired (corner coffee shops for example).
- Consider allowing second floor residential in light-industrial zones.
- Consider changes to the Use Review criteria that would better serve city goals (e.g., walkability, site design).

- Consider changes to the Use Standards and Table that would incentivize a diversity of housing types.

The three areas of consideration with the **least support or interest** have been:

- Study updating the amounts of required uses where prescribed in 9-6, “Use Standards”, such as residential/non-residential floor area percentages.
- Explore incorporating additional development design standards into the Chapter 9-6 specific use standards, and potentially the Use Review criteria.
- Consider Mobile Home Parks and their evolution to affordable fixed-foundation buildings, and how it may intersect with the Use Standards & Table.

Respondents also provided feedback on which uses would they like to see more of, or less of, near where they live, work, and play. This tied to a mapping exercise both in-person and online where they could identify those areas.

#### *Areas where People Live*

- More: Mixed Uses and housing, neighborhood stores, walkable places - restaurants, shops and retail
- Less: Traffic, parking, large single-family homes, banks, high density housing, car dealerships and fuel stations

#### *Areas where People Work*

- More: Mixed Uses and housing, access to transit, green space, coffee and lunch spots
- Less: Traffic, parking and asphalt lots, tall buildings, banks

#### *Areas where People Play*

- More: Mixed Use, live/work, shops and restaurants, access to transit, parking, fun and kid friendly activities
- Less: Off street parking, fast-food/drive throughs

### **PHASE TWO: SUMMER 2020**

As noted above, the project shifted to a focus on the Opportunity Zone area for the remainder of 2019, with public meetings at the Planning Board and City Council throughout the development and ultimate adoption of regulations. The Planning Board subcommittee continued to meet and provide feedback and direction for the project throughout 2019 and most of 2020. The next major round of public engagement for the overall project took place in July and August 2020. This engagement was informed by the subcommittee’s feedback as well as the public who attended subcommittee meetings.

Due to the COVID-19 pandemic, all outreach was complete virtually and utilized the city’s online engagement platform, Be Heard Boulder. An online public information session was held on July 27, consisting of a presentation by staff on the code amendment projects (including the Use Table and Standards Phase Two), with a question-and-answer session for the public to receive more information, and directing the community to provide feedback via an online questionnaire.

The online questionnaire was open for responses from early July through late August and focused on key questions and topics identified by the subcommittee. The questionnaire included background



information, key definitions, and reference maps, and presented a series of questions that were organized around the overarching goals for phase two of the project:

- Supporting mixed-use neighborhood centers (or string-of-pearls),
- Encouraging 15-minute neighborhoods, and
- Incorporating structural changes to streamline the Use Table.

The webpage on Be Heard Boulder was visited by nearly 300 people, and 82 people responded to the questionnaire.

## Summary of Community Feedback

### *Neighborhood Centers*

- 76% of respondents indicated they would be open to use standard changes that encourage a greater mix of uses in neighborhood centers, with an additional 13% indicating they were “maybe” open, and 7% indicated “no”.
  - There was broad support for a variety of uses, including restaurants and coffee shops, retail uses, and personal services.
  - Respondents who chose residential housing indicated they were open to a mix of housing types including duplexes/triplexes, townhouses, cottages, condos/apartments, and single-family houses.
- Walkable or bike access was the most important element to have in a neighborhood center, followed by human-scaled building design.

### *15-minute Neighborhoods*

- Approximately 71% of the respondents indicated they would be open to having uses and establishments like the images included in the questionnaire, within a 15- minute walking distance from their home or workplace if limited in scale and number. An additional 11% indicated they were “maybe” supportive, and 8% indicated “no”.
  - There was broad support for a variety of uses, including small restaurants and coffee shops, small grocers, small retail uses, residential housing, and personal services.
  - Respondents who chose residential housing indicated they were open to a mix of housing types, with responses most open to duplexes/triplexes, townhouses, and cottages.
- Sentiments were fairly evenly split (between yes, no, and maybe) whether additional zoning restrictions should be considered for additional 15 -minute neighborhood uses, with 38% indicating “yes,” 29% indicating “no,” and 33% indicating “maybe.”
- The additional restrictions with the most support indicated were:
  - Require additional bike parking to encourage bike access
  - Limit vehicle parking to encourage walking or bike access
  - Limit the size of establishments (ex. 500 square feet, 1,000 square feet, etc.)
  - Limit to multi-modal corridors (streets that carry traffic through a neighborhood with bike facilities and transit access)

- The majority of respondents agreed (somewhat or definitely) that the city should allow more flexibility for live / work uses, artist studios and galleries, and small-scale performance venues citywide.
- The majority of respondents indicated that the city should consider allowing additional residential, retail, and restaurant uses in the light industrial areas to foster mixed-use walkable neighborhoods, with the strongest support for additional restaurant uses, followed by retail and then residential.

### ***Streamlining the Use Standards and Table Structure***

Approximately 60% of respondents were open to simplifying the Use Table by streamlining the number of similar uses such as office use categories and restaurant use categories, with an additional 27% indicating “maybe” and 10% indicating “no.”

## **Project Timeline**

### **Phase Two – 2021 Restart**

#### **PLANNING STAGE | Q4 2021**

- Establish the Phase Two Community Engagement Plan – continuation / new phase of community engagement involving other zoning districts not covered during Phase One code changes.
- Build on the community input received through engagement efforts in 2019 and 2020.
- Citywide engagement efforts with feedback on Use Table issue identification, informing options development, subsequent feedback on options and ultimate recommendations.

#### **Deliverables**

- *Use Table subcommittee meetings and meeting summaries*
- *Updated Phase Two Community Engagement Plan*

#### **MODULE ONE: FUNCTIONAL FIXES | Q1/Q2 2022**

- First batch of use table changes – functional fixes
- Engagement for these – targeted to focus groups
- Internal staff stakeholder engagement
- Reconvene Planning Board subcommittee to discuss functional fixes, all meetings open and noticed to the public.
- Draft ordinance language for proposed code changes
- Develop and promote virtual engagement opportunities to provide feedback on draft
- Convey public feedback to the subcommittee, Planning Board and City Council
- Planning Board matters item
- Goal of Spring 2022 adoption [Adopted 6/1/22]

#### **Deliverables**

- *Use Table subcommittee meeting and meeting summaries*



- *Peer research summary for some uses*
- *Updated Be Heard Boulder site*
- *Update project website with key issues and information*
- *Continued work with stakeholders and conduct targeted outreach as needed*
- *Module One engagement summary*
- *Engagement evaluation*
- *Memorandums to Planning Board, City Council, and meeting materials*
- *Post adoption communication to public and stakeholders*

## **MODULE TWO: INDUSTRIAL/EAST BOULDER | Q2/Q3 2022 – Q1 2023**

- Second batch of use table changes focused on uses in Industrial districts, implementation of the East Boulder Subcommunity Plan
- Develop and promote virtual engagement opportunities, open houses, and other methods
- Continue subcommittee meetings to discuss changes in industrial areas
- Walking tours
- Goal to adopt in Fall 2022 [Adopted 2/16/23]

### **Deliverables**

- *Use Table subcommittee meeting and meeting summaries*
- *Updated project website with key issues*
- *Module Two engagement summary*
- *Memorandum to Planning Board, City Council, and meeting materials*
- *Engagement evaluation*
- *Post adoption communication to public and stakeholders*

## **MODULE THREE: NEIGHBORHOODS | Q2/Q3 2023**

- Third batch of use table changes focused on changes to support 15-minute neighborhoods
- Share the issues and ideas the subcommittee has identified with the public at open houses/walking tours in areas where possible changes could occur, and listen to additional issues and ideas from the public
- Continue subcommittee meetings to review options, provide feedback
- Develop and promote virtual engagement opportunities, open houses, and other methods
- Planning Board, City Council study session on preliminary options – Summer 2022 and Summer 2023
- Goal to adopt Q3 2023

### **Deliverables**

- *Use Table subcommittee meeting and meeting summaries*
- *Updated project website with key issues and information*
- *Updated Be Heard Boulder site*
- *Module Three engagement summary*
- *Memorandum to City Council, and meeting materials*
- *Engagement evaluation*

- *Post adoption communication to public and stakeholders*

### POST ADOPTION & PROCESS ASSESSMENT | Q1/Q2 2023

- Communicate with public and stakeholders about changes that occurred
- Debrief successes and challenges encountered
- Identify what worked and what didn't
- Evaluate the degree adopted changes accomplished the project's goals

## Scope of Work

### Schedule

	2022												2023										
	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV
Module 1: Functional Fixes																							
Module 2: Industrial/East Boulder Subcommunity Plan Implementation																							
Module 3: 15-Minute Neighborhoods/Neighborhood Centers																							

### Module One: Functional Fixes

During module one, work will focus on undertaking a variety of improvements to the way that land uses are identified and organized. These changes will focus on the functionality of the use table and increasing its clarity and user-friendliness for the public, applicants, and staff. While the format of the table and standards will be modified and some uses may be consolidated, regulatory changes to the allowances of uses within districts will not be considered until later modules.

Use tables are a valuable tool for municipalities. They minimize the need to repeat the same uses within separate district regulations, ensure consistent terminology, reduce document length, and also allow readers to easily compare where a particular use is permitted across various districts. They also reduce the potential for inconsistencies over time as uses are updated. However, after years of amendments, the use table is now lengthy and complex and there are many opportunities for simplification.

During this module, we plan to:

- Assess and find opportunities to simplify the administration of the new “limited uses” which have increased the perceived complexity of the table
- Review outdated or rarely implemented uses for consolidation with more general categories
- Remove all qualifying language from use titles or definitions in the use table and relocate to specific use standards section, which can then be more easily revised as planning goals evolve in the future without increasing the complexity of the table
- Review and update use definitions as needed
- Incorporate additional use categories to group related uses, expanding upon the current residential and commercial use categories in the table

- Focus on simplification of restaurant and office uses and reorganization of the multiple lines in the table into specific use standards

Boulder residents provided input on some of these functional questions, such as the consolidation of restaurants and offices, during phase one of the project. Because these are more technical and functional fixes and do not change the regulatory allowances for any uses, the focus will be more on stakeholder engagement of regular users of the code (applicants, staff, Planning Board).

#### **Target Dates:**

- Planning Board check in – March 17 meeting
- Planning Board review of ordinance – June 2, 2022
- City Council in June/July

### **Module Two: Industrial/East Boulder Subcommunity Plan Implementation**

Module two will be a comprehensive review of all uses and their allowances in the industrial districts. The primary intent will be to modify the code as necessary to implement the East Boulder Subcommunity Plan, while also identifying other necessary modifications to uses in the industrial districts. There may be related necessary implementation steps that come out of the plan that may be integrated into this work. The plan is anticipated to be adopted in Spring 2021 and zoning updates will be an important implementation step for the plan, which has had its own robust multi-year engagement process as well. Later industrial market studies may help to inform these changes as well.

During this module, we plan to:

- Identify and draft zoning amendments to implement the East Boulder Subcommunity Plan
- Undertake a comprehensive review of all uses in the industrial districts

As significant engagement has already taken place for the development of the subcommunity plan, the outreach at this phase will focus on drafting options for implementation of the plan and working with the public to find the option that best implements the values and policies of the plan. Engagement will be more targeted in module two and will in particular engage property owners in the industrial districts, developers or real estate brokers. Neighborhoods near the industrial districts should also be consulted. Further input could be solicited from participants of the subcommunity plan.

### **Module Three: 15-Minute Neighborhoods/Neighborhood Centers**

In module three, the focus will shift to implementation of the Boulder Valley Comprehensive Plan policies. In particular, work will focus on the overarching goals identified by the Planning Board subcommittee, which include encouraging 15-minute neighborhoods, supporting mixed-use nodes along corridors, and supporting walkable neighborhood centers of varying scales. Updating the zoning code is an important step of implementing the comprehensive plan, which is the product of years of engagement and meaningful conversations with the community.

During this module, we plan to:

- Assess areas where the use table and standards are in conflict with the BVCP
- Incorporate significant work already done by the Planning Board subcommittee and their recommendations and areas of focus

- Review allowances and standards for uses, including a focus on:
  - Restaurants
  - Offices
  - Personal services
  - Housing types
  - Live/work
  - Home occupations
- Introduce new uses as needed to support policies in the plan
- Assess use mixes of neighborhood centers

In phase one of the project, residents provided feedback on specific uses they would like to see in their neighborhoods. That input will continue to inform this work, but substantial public engagement is needed to supplement this module as well and further refine any proposed changes. Through a variety of different engagement tools and techniques, staff will aim to understand what changes to the use table could help to implement the BVCP, while also understanding what limitations the community wants to see on these uses to foster 15-minute neighborhoods and vibrant neighborhood centers while minimizing negative externalities.

Stakeholders will also be engaged and consulted on proposed changes, with a focus on meeting people where they already have existing events or meetings, rather than creating additional separate meetings for groups to attend. Emphasis will also be placed on reaching under-represented populations in this phase of engagement, and establishing interesting and engaging techniques for engagement.

## Engagement & Communication

### Level of Engagement

The City of Boulder has committed to considering four possible levels when designing future public engagement opportunities (see chart in the appendix). For this project, the public will be **Consulted** on any proposed changes to the use standards and table. We will work to **Involve** our working group members in providing guidance and feedback throughout the process of Modules Two and Three. Public feedback will be obtained on a variety of technical code changes intended to streamline the use standards, correct discrepancies, and better align existing use standards with relevant BVCP policies.

The BVCP policies have undergone a robust public process through the adoption of the plan, so the engagement for this project will focus on seeking input on how the use table and standard changes implement the adopted policies.

### Who Will be Impacted by Decision/Anticipated Interest Area

- **Residents and neighborhoods** who may be impacted from potential use changes in the neighborhoods where they live/work/play.
- **Development community**, who may be impacted from potential use changes in a variety of neighborhoods.

- **Under-represented groups** that may have an interest in use changes but may be unfamiliar with the methods to offer input.
- **City staff, City boards, and City Council** who will administer any amended Use Standards of the Land Use Code, and who will render development approval decisions.

## Overall Engagement Objectives

- Model the engagement framework by using the city's decision-making wheel, levels of engagement and inclusive participation.
- Involve people who are affected by or interested in the outcomes of this project.
- Be clear about how the public's input influences outcomes to inform decision-makers.
- Provide engagement options.
- Remain open to new and innovative approaches to engaging the community.
- Provide necessary background information in advance to facilitate meaningful participation.
- Be efficient with the public's time.
- Show why ideas were or were not included in the staff recommendation.
- The Planning Board subcommittee will guide and inform the project, including community engagement strategies and project recommendations.

## Engagement Strategies

Due to the ongoing COVID-19 pandemic, it is assumed that the majority of engagement will be completed virtually. Where possible, staff will reconsider strategies to include in-person engagement. This plan and its strategies will be revised to accommodate in-person activities as needed.

The following engagement tools and techniques will be implemented throughout the project.

### SUBCOMMITTEE MEETINGS

*Purpose:* The Planning Board subcommittee will be re-convened to review and provide input as Phase Two work continues. They will provide feedback on that the proposed use table and standards changes and how well they implement the BVCP and their own goals and areas of focus. All subcommittee meetings will be open to the public with notice provided, and the public will have the opportunity to learn more about how the use table and standards work and provide feedback and suggestions in this forum. Since most of the original subcommittee members are no longer on the Board, a more general focus group format and composition may be considered.

*Logistics:* Subcommittee meetings will meet virtually. It is anticipated that the subcommittee will reconvene in Spring 2022, providing input on Module One, with more intensive participation during Modules Two and Three.

*Modules:* One, Two, and Three

## VIRTUAL OPEN HOUSES

*Purpose:* Open houses will be held virtually to provide updates on the project, present options, and receive feedback. These offer a way for the public to hear summaries of the proposed changes, ask questions of staff, and suggest modifications prior to the formal adoption process.

*Logistics:* Two open houses will be held during Module Two and Module Three respectively. The open houses will be held on Teams or Zoom and will include time for presentation and questions and answers. As needed, staff may develop activities for Teams or Zoom breakout rooms where the public may join to discuss specific topics that they are interested in.

*Modules:* Two and Three

## INTERACTIVE MAPPING AND ON-DEMAND OPEN HOUSE

*Purpose:* The work in Modules Two and Three are well suited for interactive mapping engagement strategies. For Module Two, interactive comment maps may be developed to facilitate feedback on any industrial use changes.

For module three, staff will develop an interactive map that incorporates the current zoning map with proposed use changes, so that the public may easily explore changes that might affect their neighborhood or other areas of interest in the city. Survey questions will be integrated into the map for ease of input, and participants will be able to place pins on the map to show support or make suggestions for changes.

In addition, staff will adapt the Be Heard Boulder page as necessary to create an on-demand open house website with short summaries of the main topics that people can explore on their own time. The on-demand open house has been a common engagement tool used during the pandemic and is a website that displays the information that would typically be presented at an open house, such as boards and handouts, but on a webpage that people can access at any time. Opportunities to provide feedback on the site will also be developed such as short surveys.

*Logistics:* The map will be created on Be Heard Boulder and will be a featured activity on the Use Table and Standards page. Options can be explored, but it appears that the attribute table for the shapefile will need to be built accurately with the necessary details prior to placing in the Be Heard Boulder mapping program. Support from GIS staff might be necessary to create the underlying map.

*Modules:* Two and Three

## VIDEOS

*Purpose:* Short videos will be developed to display on the Be Heard Boulder site and to play during any virtual open houses. These videos will summarize the project and any proposed changes.

*Logistics:* Staff will work with Communications staff to develop storyboards and create videos.

*Modules:* Two and Three

## WHAT'S UP BOULDER

*Purpose:* What's Up Boulder is a citywide community outreach event. If the event is held in 2022, this would be a great opportunity to highlight the use table and standards work and develop ways to solicit input.

*Logistics:* The event has not been held virtually, so it is unknown whether this will be held in 2022. What's up Boulder 2023 will be held September 10, 2023.

*Modules:* Dependent on event timing.

## LOCALIZED NEIGHBORHOOD MEETINGS

*Purpose:* As needed, staff will plan to attend existing neighborhood meetings to present use changes that may affect the neighborhood and ask for feedback on the changes.

*Logistics:* Staff will work with neighborhood groups to secure time on existing meeting agendas where people will already be in attendance, rather than necessitating separate meetings which may therefore have lower attendance. As draft changes are developed, staff will determine which neighborhoods may be impacted and seek out these meetings. In module two it will likely be focused on industrial area users and in module three these will likely be residential neighborhoods or business groups. These meetings may be virtual or in-person, depending on public health recommendations at the time.

*Modules:* Two and Three

## TARGETED STAKEHOLDER OUTREACH

*Purpose:* In addition to general public outreach, it is imperative that this project focus on targeted stakeholder outreach as well. This includes interested groups such as PLAN Boulder, Better Boulder, the Boulder Chamber of Commerce, and any others.

*Logistics:* Staff will engage early and often with these groups to ensure there is awareness of the planned analysis and changes for modules two and three, as well as receive any initial feedback on the module one technical changes. Staff will need to collect contact information for leaders of these groups. P&DS staff will work with communications staff to identify the appropriate groups to target.

*Modules:* One, Two, and Three

## WEBSITE

*Purpose:* The existing project website will be maintained and updated throughout the remainder of the project to inform the public of the project, provide updates, and link to any engagement opportunities.

*Logistics:* Work with communications staff to make updates as needed to the website.

## NEWSLETTER AND EMAIL UPDATES

*Purpose:* Updates on the project will be provided to interested parties.

*Logistics:* Staff will work with communications staff to draft content for the planning newsletter during key engagement windows. Additional email updates will be provided on an as-needed basis.

*Modules:* One, Two, Three

## CHANNEL 8

*Purpose:* Channel 8 will be utilized to promote engagement opportunities and raise awareness for modules two and three of the project.

*Logistics:* Staff will work with communications staff to create and support content for Channel 8.

*Modules:* Two and Three

## NEXTDOOR

*Purpose:* Nextdoor is another method to promote opportunities to provide input about the project and raise awareness that has a wide reach that may reach people who are not otherwise involved or engaged in planning-related topics.

*Logistics:* Staff will work with communications staff to craft posts to promote engagement efforts.

*Modules:* One, Two, Three

## WALKING TOURS OR EVENTS

*Purpose:* Walking tours around neighborhood centers, industrial areas in East Boulder, and other parts of the city will be planned as another engagement method. They will allow interested residents to discuss topics related to the project on the ground with staff.

*Logistics:* Staff will plan a number of opportunities with specific geographic focus and promote the walking tours through a variety of methods, or will attend fairs or other events. Public health guidance at the time will be consulted to ensure the safety of staff and residents. Summaries of topics discussed will be compiled and inform further work on the project.

*Modules:* Two and Three

# Project Team & Roles

## Team Goals

- Follow City Council and Planning Board direction relative to changes to the code that require more strict standards or criteria be met before granting height modifications and/or requests for greater floor area or density.
- Involve the community in the formulation of new standards or criteria and incorporate relevant ideas following a Public Engagement Plan.
- Solution must be legal, directly address the purpose and issue statement, and must have application citywide.

## Critical Success Factors

- Conduct a successful public engagement process.
- Address the goals related to mix of uses, walkability and community character.



## Expectations

Each member is an active participant by committing to attend meetings; communicate the team's activities to members of the departments not included on the team; and demonstrate candor, openness, and honesty. Members will respect the process and one another by considering all ideas expressed, being thoroughly prepared for each meeting, and respecting information requests and deadlines.

## Potential Challenges/Risks

The primary challenge of this project is making sure that proposed code changes avoid land use impact on other uses, unintended consequences and over complication of the code.

## Administrative Procedures

The core team will meet regularly throughout the duration of the project. An agenda will be set prior to each meeting and will be distributed to all team members. Meeting notes will be taken and will be distributed to all team members after each meeting.

CORE TEAM		
Executive Sponsor	Charles Ferro	
Executive Team	David Gehr, Charles Ferro, Karl Guiler	
Project Leads		
Project Manager	Lisa Houde	
Comprehensive Planning	Kathleen King	
Housing	Jay Sugnet	
Working Group		
Legal	Hella Pannewig	
Communications	Julie Causa	
I.R.	Sean Metrick	Mapping analysis assistance
Community Vitality	Teresa Pinkal	
Public Outreach	Vivian Castro-Wooldridge	Engagement strategist

**Executive Sponsor:** The executive sponsor provides executive support and strategic direction. The executive sponsor and project manager coordinates and communicates with the executive team on the status of the project, and communicate and share with the core team feedback and direction from the executive team.

**Project Manager:** The project manager oversees the development of the Land Use Code amendment. The project manager coordinates the core team, manages any necessary consultant firms, and provides overall project management. The project manager will be responsible for preparing (or coordinating) agendas and notes for the core team meetings, coordinating with team members and consultants on the project, managing the project budget, and coordinating public outreach and the working group. The project manager coordinates the preparation and editing of all council/board/public outreach materials for the project, including deadlines for materials.

**Core Team Members:** Team leaders will coordinate with the project manager on the consultant work efforts and products, and will communicate with the consultants directly as needed. Core Team members will assist in the preparation and editing of all council/board/public outreach materials including code updates.

**Communications Specialist:** The communications specialist is responsible for developing and creating internal and external communications output such as press releases, major website updates and additions, talking points, etc., and will provide advice about and support of public outreach. The communications specialist works with the project managers and core team to develop a communications plan that aligns with the project's goals and larger outreach strategy. The communications specialist will be responsible for promoting events through a variety of methods. The communications specialist assists the manager and core team in advising on any public outreach methods as well as editing and producing outreach material that makes the project accessible to members of the public.

## Project Costs/Budget

No consultant costs have been identified for this project at this time. The project will be undertaken by P&DS staff.

## Decision-Makers

- **City Council:** Decision-making body.
- **Planning Board:** Will provide input throughout the process, and make a recommendation to council that will be informed by other boards and commissions.
- **City Boards and Commissions:** Will provide input throughout process and ultimately, a recommendation to council around their area of focus.

## Boards & Commissions

**City Council** – Will be kept informed about project progress and issues; periodic check-ins to receive policy guidance; invited to public events along with other boards and commissions. Will ultimately decide on the final code changes.

**Planning Board** – Provides key direction on the development of options periodically. Will make a recommendation to City Council on the final code changes.

**Advisory Boards:** Identify and resolves issues in specific areas by working with the following boards/commissions:

- Boulder Junction Access District Commissions
- Downtown Management Commission
- Environmental Advisory Board
- Arts Commission (e.g. space for arts)
- University Hill Management Commission
- Housing Advisory Board

## Appendix A: Relevant BVCP Policies List

### Section 2 Built Environment

#### *Urban Form Definition*

The city's urban form is shaped by the location and design of streets, paths and open spaces, the mix of uses and intensity of development that are allowed in each area of the city and the design of privately owned buildings and public improvements. The city's goal is to evolve toward an urban form that supports sustainability. This "sustainable urban form" is defined by the following characteristics:

Key Characteristic:

- Daily needs met within easy access from home, work, school, services or recreation without driving a car

#### **Neighborhoods**

##### ***2.09 Neighborhoods as Building Blocks***

The city and county will foster the role of neighborhoods to establish community character, provide services needed on a day-to-day basis, foster community interaction and plan for urban design and amenities. All neighborhoods in the city, whether residential areas, business districts, or mixed land use areas, should offer unique physical elements of neighborhood character and identity, such as distinctive development patterns or architecture; historic or cultural resources; amenities such as views, open space, creeks, irrigation ditches and varied topography; and distinctive community facilities and commercial centers that have a range of services and that are nearby and walkable.

##### ***2.12 Preservation of Existing Residential Uses***

The city will encourage the preservation or replacement in-kind of existing, legally established residential uses in non-residential zones. Non-residential conversions in residential zoning districts will be discouraged, except where there is a clear benefit or service to the neighborhood.

##### ***2.13 Protection of Residential Neighborhoods Adjacent to Non- Residential Zones***

The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

##### ***2.14 Mix of Complementary Land Uses***

The city and county will strongly encourage, consistent with other land use policies, a variety of land uses in new developments. In existing neighborhoods, a mix of land use types, housing sizes and lot sizes may be possible if properly mitigated and respectful of neighborhood character. Wherever land uses are mixed, careful design will be required to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.

##### ***2.15 Compatibility of Adjacent Land Uses***

To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

## **Locations of Mixed Use**

### ***2.17 Variety of Centers***

The city and county support a variety of regional and neighborhood centers where people congregate for a variety of activities such as working, shopping, going to school or day care, accessing human services and recreating. Some centers should be located within walking distance of neighborhoods and business areas and designed to be compatible with surrounding land uses and intensity and the context and character of neighborhoods and business areas. Regional centers should serve a larger role and be located near transit. Good multimodal connections to and from centers and accessibility for people of all ages and abilities will be encouraged.

### ***2.19 Neighborhood Centers***

Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.

### ***2.21 Light Industrial Areas***

The city supports its light industrial areas, which contain a variety of uses, including technical offices, research and light manufacturing. The city will preserve existing industrial areas as places for industry and innovation and will pursue regulatory changes to better allow for housing and retail infill. The city will encourage redevelopment and infill to contribute to placemaking and better achieve sustainable urban form as defined in this chapter. Housing should occur in a logical pattern and in proximity to existing and planned amenities, including retail services and transit. Analysis will guide appropriate places for housing infill within areas zoned Industrial General (IG) (not those zoned for manufacturing or service uses) that minimize the potential mutual impacts of residential and industrial uses in proximity to one another.

#### ***Light Industrial Area Guiding Principles***

1. Preserve established businesses and the opportunity for industrial businesses. The primary role of the industrial areas for research and light manufacturing should be maintained through existing standards. Housing infill should play a subordinate role and not displace established businesses or the opportunity for industrial businesses.
2. Encourage housing infill in appropriate places. Housing infill should be encouraged in appropriate places (e.g., at the intersection of collector/ arterial streets, near transit and on

underutilized surface parking lots) and along open space and/ or greenway or trail connections. Housing should be located near other residential uses or retail services.

3. Offer a mix of uses. Encourage the development of a mix of uses that is compatible with housing (e.g., coffee shops, restaurants) to serve the daily needs of employees and residents, in particular at the intersection of collector/arterial streets.

4. Encourage a richness of transportation amenities. The multimodal system in industrial areas should be improved with convenient and pleasant ways to get around on foot, by bike and with local connections to regional transit.

5. Pursue parking management strategies. Encourage parking management strategies, such as shared parking.

## **Public Realm, Urban Design, and Linkages**

### ***2.24 Commitment to a Walkable & Accessible City***

The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed-use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.

## **Design Quality**

### ***2.33 Sensitive Infill & Redevelopment***

With little vacant land remaining in the city, most new development will occur through redevelopment in mixed-use centers that tend to be the areas of greatest change. The city will gear subcommunity and area planning and other efforts toward defining the acceptable amount of infill and redevelopment and standards and performance measures for design quality to avoid or adequately mitigate negative impacts and enhance the benefits of infill and redevelopment to the community and individual neighborhoods. The city will also develop tools, such as neighborhood design guidelines, to promote sensitive infill and redevelopment.

## **Section 4 Energy, Climate & Waste**

### ***Energy-Efficient Land Use & Building Design***

#### ***4.07 Energy-Efficient Land Uses***

The city and county will encourage energy efficiency and conservation through land use policies and regulations governing placement and orientation of land uses to minimize energy use, including an increase in mixed-use development and compact, contiguous development surrounded by open space.

## **Section 5 Economy**

### ***Strategic Redevelopment & Sustainable Employment***

### ***5.01 Revitalizing Commercial & Industrial Areas***

The city supports strategies unique to specific places for the redevelopment of commercial and industrial areas. Revitalization should support and enhance these areas, conserve their strengths, minimize displacement of users and reflect their unique characteristics and amenities and those of nearby neighborhoods. Examples of commercial and industrial areas for revitalization identified in previous planning efforts are Diagonal Plaza, University Hill commercial district, Gunbarrel and the East Boulder industrial area.

The city will use a variety of tools and strategies in area planning and in the creation of public/private partnerships that lead to successful redevelopment and minimize displacement and loss of service and retail uses. These tools may include, but are not limited to, area planning with community input, infrastructure improvements, shared parking strategies, transit options and hubs and changes to zoning or development standards and incentives (e.g., financial incentives, development).

## **Diverse Economic Base**

### ***5.03 Diverse Mix of Uses & Business Types***

The city and county will support a diversified employment base within the Boulder Valley, reflecting labor force capabilities and recognizing the community's quality of life and strengths in a number of industries. The city values its industrial, service and office uses and will continue to identify and protect them. The city will evaluate areas with non-residential zoning to ensure the existing and future economic vitality of Boulder while responding to the needs of regional trends and a changing global economy.

### ***5.06 Affordable Business Space & Diverse Employment Base***

The city and county will further explore and identify methods to better support businesses and non-profits that provide direct services to residents and local businesses by addressing rising costs of doing business in the city, including the cost of commercial space. The city will consider strategies, regulations, policies or new programs to maintain a range of options to support a diverse workforce and employment base and take into account innovations and the changing nature of the workplace.

## **Sustainable & Resilient Business Practices**

### ***5.13 Home Occupations***

The city and county will evaluate regulations for home-based occupations to balance potential impacts to residential neighborhoods and reflect the goal of allowing more flexibility to have home-based businesses, neighborhood services and employment opportunities. The city and county support the innovative, creative and entrepreneurial activities of residents, including those who are in the very early stages of creating startup companies or providing neighborhood services. The city and county will continue to develop policies that result in reducing the number and length of trips through working from home and revise regulations to be responsive to new uses and types of businesses and neighborhood services that may be compatible with residential areas.

### ***5.14 Responsive to Changes in the Marketplace***

The city recognizes that development regulations and processes have an impact on the ability of businesses to respond to changes in the marketplace. The city will work with the local business community and residents to make sure the city's regulations and development review processes provide a level of flexibility to allow for creative solutions while meeting broader community goals. This could involve modifying regulations to address specific issues and make them more responsive to emerging technologies and evolving industry sectors.

## **Section 7 Housing**

### **Preserve & Enhance Housing Choices**

#### ***7.06 Mixture of Housing Types***

The city and county, through their land use regulations and housing policies, will encourage the private sector to provide and maintain a mixture of housing types with varied prices, sizes and densities to meet the housing needs of the low-, moderate- and middle-income households of the Boulder Valley population. The city will encourage property owners to provide a mix of housing types, as appropriate. This may include support for ADUs/OAUs, alley houses, cottage courts and building multiple small units rather than one large house on a lot.

#### ***7.08 Preservation & Development of Manufactured Housing***

Recognizing the importance of manufactured housing as an option for many households, the city and county will encourage the preservation of existing mobile home parks and the development of new manufactured home parks, including increasing opportunities for resident-owned parks. If an existing mobile home park is found to have health or safety issues, every reasonable effort will be made to reduce or eliminate the issues, when feasible, or to help mitigate for the loss of housing through re-housing of affected households

#### ***7.10 Housing for a Full Range of Households***

The city and county will encourage preservation and development of housing attractive to current and future households, persons at all stages of life and abilities, and to a variety of household incomes and configurations. This includes singles, couples, families with children and other dependents, extended families, non-traditional households and seniors.

#### ***7.11 Balancing Housing Supply with Employment Base***

The Boulder Valley housing supply should reflect, to the extent possible, employer workforce housing needs, locations and salary ranges. Key considerations include housing type, mix and affordability. The city will explore policies and programs to increase housing for Boulder workers and their families by fostering mixed-use and multi-family development in proximity to transit, employment or services and by considering the conversion of commercial- and industrial-zoned or -designated land to allow future residential use.

#### ***7.17 Market Affordability***

The city will encourage and support efforts to provide market rate housing priced to be more affordable to middle-income households by identifying opportunities to incentivize moderately sized and priced homes.

## **Section 8 Community Well-Being & Safety**

### **Safety & Community Health**

### ***8.10 Community Connectivity & Preparedness***

The city and county will foster social and community connectivity and communications that promote well-being, deepen a sense of community and encourage civic participation and empowerment. The city and county recognize that supporting connections in the community also enhances preparedness and improves the ability to respond and recover when emergencies happen.

## **Culture**

### ***8.21 Arts & Cultural Facilities***

The city and county recognize the ability of cultural facilities and activity to positively contribute to community members' well-being, sense of community and cultural understanding. The city and county will encourage the provision of venues and facilities for a wide range of arts and cultural expression that are available and affordable to everyone. The city supports neighborhood-serving arts and cultural amenities, including public sculptures, murals, plazas, studio space and community gathering spaces.

## **Section 10 Local Governance & Community Engagement**

### **High-Performing Government**

#### ***10.01: High-Performing Government***

The city and county strive for continuous improvement in stewardship and sustainability of financial, human, information and physical assets. In all business, the city and county seek to enhance and facilitate transparency, accuracy, efficiency, effectiveness and quality customer service. The city and county support strategic decision-making with timely, reliable and accurate data and analysis.




## Appendix B: Engagement Framework

*City of Boulder Engagement Strategic Framework*

### BOULDER'S ENGAGEMENT SPECTRUM

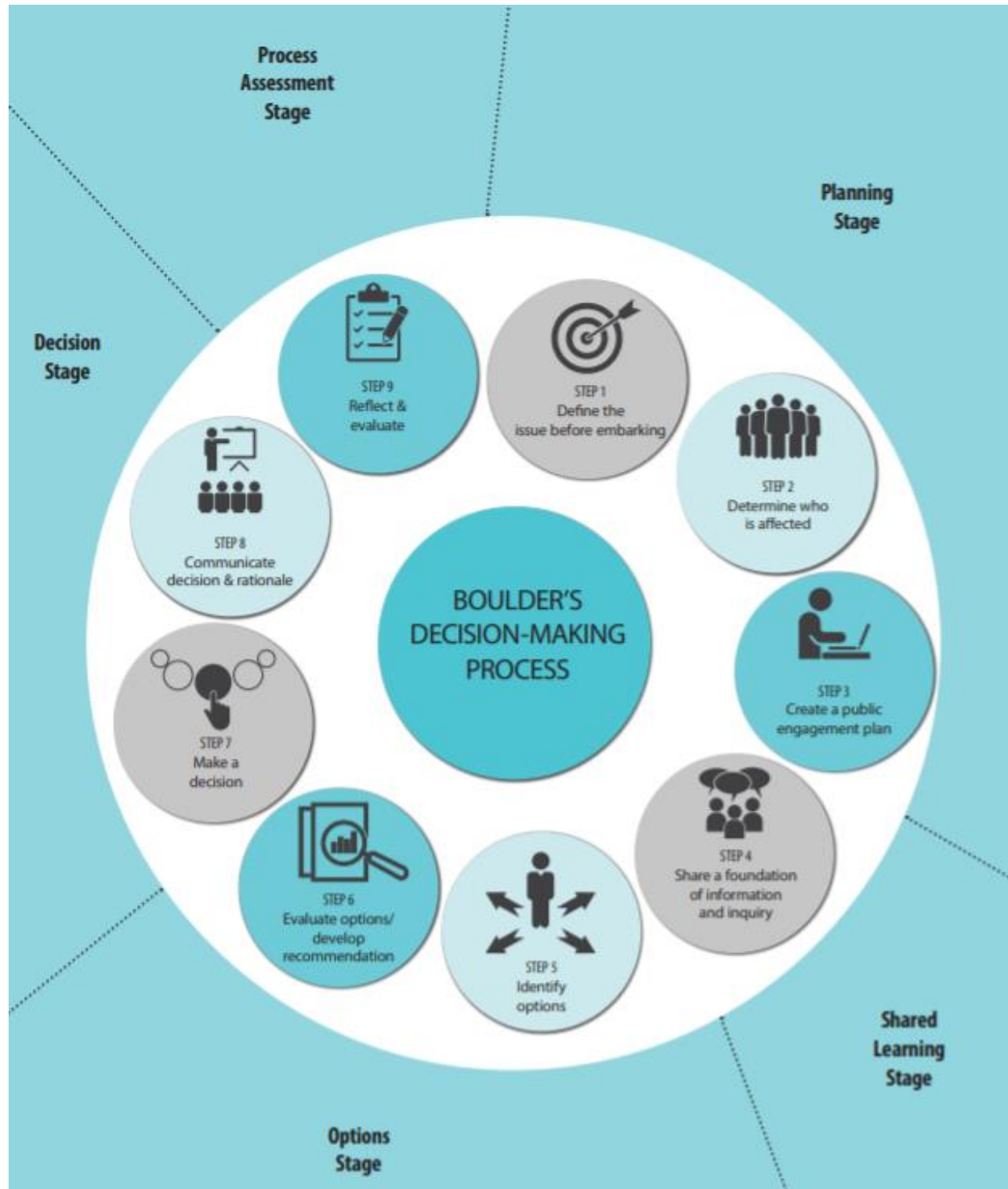
The city will follow a modified version of IAP2's engagement spectrum to help identify the role of the community in project planning and decision-making processes.

INCREASING IMPACT ON THE DECISION



	INFORM	CONSULT	INVOLVE	COLLABORATE
PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding a problem, alternatives, opportunities and/or solutions.	To obtain public feedback on public analysis, alternatives and/or decisions.	To work directly with the public throughout a process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and identification of a preferred solution.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge your concerns and aspirations, and share feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.	We will work with you to ensure that your concerns and aspirations are reflected in any alternatives and share feedback on how the public input influenced the decision.	We will work together with you to formulate solutions and to incorporate your advice and recommendations into the decisions to the maximum extent possible.

Boulder's Decision Making Process



# Use Table Public Working Group

## Meeting Notes

9/19/2023, 3:30 – 5 pm

**HYBRID – Penfield Tate II Municipal Building & Virtual on Microsoft Teams**

### Attendees

Crystal Gray

Kari Palazzari

Peter Aweida

Danica Powell

Lisa Spalding

Rosie Fivian

David Ensign

Lynn Segal

Susan Winter

### Project Background Refresher

Staff provided background information on the project goals, public engagement results, and a summary of the proposed changes in the ordinance. A few questions were asked by the working group:

- Did the Story Map ask questions on a site-specific basis or generally?
- Why does the Use Review process take so long?

### Restaurants

Staff explained the proposed changes to use standards and allowances for restaurants, brewpubs, and taverns. The working group shared the following input on the changes in different zoning districts:

#### **MU-2, MU-3, MU-4, BMS, BT, DT-1, DT-2, DT-3**

- Confirm that the hours of operation requirements are not changing (Correct, there would still be an 11 pm closing time required for uses allowed by right in these districts – if a restaurant wanted to be open later than 11 pm, a Use Review would be required.)
- What is the additional guidance for patios? Does it include noise amplification? (Yes, the general patio standards would include restrictions on amplified music, sound levels, and trash).
- What is the size of new Creature Comforts or the new Garage Sale Vintage businesses? (Staff looked into this and Creature Comforts appears to be about 1,600 sq. ft., Garage Sale Vintage is 4,800 sq. ft.)
- Supportive of these changes, Use Reviews can take 6-12 months and small businesses are typically paying double rent in that time.
- Would places like Southern Sun which is over 4,000 sf need a Use Review? (No, that is located in BC which has different proposed standards.)
- Important to have these standards for buffer areas like this.
- Confirm that closing time of 11 pm would remain for by-right restaurants in the DT-1, 2, and 3 districts. (Yes.)

### **Changes to University Hill (within BMS district)**

- Are you recommending any changes based on Planning Board decision?
- These changes should be adopted in the Hill to support 15-minute neighborhoods throughout the city, in favor of having the same standards throughout the city.
- Why is there so much concern about these changes if the liquor licensing laws wouldn't change? (The specific use standards that currently apply on the Hill, including the requirement for 50% of income to be from food, would be removed if all the interface zoning district standards are consolidated into the same standards.)
- We need more public input on the changes on the Hill before making changes. The current standards were adopted after a lot of work. There are many liquor licenses on the Hill before that time and CU had one of the highest binge drinking rates in the country.
- Has a business group on the Hill been engaged about these changes? (Yes, staff attended a University Hill Commercial Area Management Commission meeting on 9/5 to discuss the changes. UHCAMC was generally supportive of changes.)
- How do these standards apply to the new Hill hotel? (Staff looked into it and the restaurant was considered an accessory use at the time of approval.)
- 10 years of current standards have had a negative impact economically on the Hill.
- Businesses probably would have struggled without these changes too though.
- Prior to the 2013 changes, Use Review applications on the Hill were very contentious, it was miserable and there were screaming matches.
- Neighborhood meetings have been working well in Whittier.
- Nearby residents shouldn't make a choice for the rest of the city about where businesses are allowed just because you own property near there.
- The neighbor input is about impacts, that is why residents have say in liquor licenses.
- Concern about profiling college students in negative light, we need balance of uses.
- Having separate enclaves with different rules adds complexity to the code.

### **RH-3, RH-7**

- Would not want these to replace residential uses. (Staff confirmed that Use Review criteria include discouragement of conversion from residential use.)

### **BC, BR, DT-4, DT-5**

- Support expressed for these changes.

### **Duplexes and Townhomes in BT Districts**

- No concerns with these changes.
- Look into the ground floor requirements in BC and BR as well, perhaps a future project.

### **Other Proposed Changes**

- No concerns with these changes.

- Happy to see these changes – will help small businesses immensely.
- Question about outdoor heated seating & outdoor dining program. (Staff followed up directly with background on the outdoor dining program requirements.)
- Do not limit lot sizes, smaller is not necessarily less expensive for the residents.

### **Wrap-up**

Staff thanked the working group for their work on this project and provided an overview of the planned next steps for the ordinance: First reading at City Council will be on Oct. 19 and second reading and public hearing will take place on Nov. 2. Staff will provide a summary of these comments to the City Council for their review.

# Use Table Public Working Group

## Meeting Notes

6/27/2023, 3:30 – 5 pm

**HYBRID – Penfield Tate II Municipal Building & Virtual on Microsoft Teams**

### Attendees

Lisa Spalding

Rosie Fivian

Lynn Segal

Jonathan Singer

Kari Palazzari

Devin Edgley

### Project Background Refresher

Staff provided background information on the project goals, working group goals, and project schedule.

### Module Three: Neighborhoods and Neighborhood Centers

Staff reintroduced the focus areas for Module Three and explained that the project scope has been narrowed to neighborhood centers and walkable neighborhoods. The project will no longer include any changes in residential zoning districts. Future analysis and public engagement for the next comprehensive plan update is expected to focus on identifying appropriate locations for small-scale commercial uses within residential areas instead.

### Proposed Changes

Staff presented proposed changes for Module Three. The working group shared the following input:

- Are art studios allowed in the mixed use, business, and downtown zones already? (Yes) Want to be sure that definition is relatable to people in arts industry.
- Are fruit stands and farmers markets allowed as temporary events? (Yes – working on potentially modifying the number of days a temporary event can take place annually)
- Some support for potential change to prohibit vehicle-related uses like gas stations, drive-throughs from Downtown zoning districts, but would want city to monitor if they are still available on the outskirts of walkable neighborhoods – still should be in proximity.
- Some concerns about prohibiting gas stations as the convenience stores can be the only source of food in some food deserts. Unusual to have bodega without gas station included.
- City should ensure that when thinking about 15-minute neighborhoods, the employees of the businesses are also considered – need to ensure there is affordable housing for employees near where they work as well. Not moving the needle on equity at all if not.
- Where there is no retail or there is a food desert but the zoning allows those uses, what can we do to incentivize it if there is no market response?

### **Proposed restaurant updates**

- Support for changes.
- Changes with caveats sound reasonable.
- The Hill has much more complicated history with restaurants and own specific rules.
- Important that patios have clear space to walk around.

### **Story Map recommended updates**

- Very visual and user friendly, will help people understand the neighborhood center concept.
- Try to incorporate layers on map that show locations of affordable housing.
- Show the 15-minute walksheds from each neighborhood center on the map.
- Incorporate some visual icons for use types instead of all words on the sidebar.
- Would be helpful to see transportation connections (bus stops, bike trails, streets) in or near neighborhood centers to highlight their connectivity and walkability.
- Like the story map and that acronyms are clearly explained.
- Confirm that there is a mobile option and how it looks.
- Confirm that the map is optimized for screen readers.
- Could you link to more information about the zoning districts – what does BC-1 mean?
- Explore changing the basemap to show the satellite view instead for more context.
- Would be interesting to include how many parking spaces are at each location – give transportation context like parking and bike parking, how much land is used for parking.
- Add to the “what’s there now” part with the essential services provided – or show proximity to other essential services that might be outside of the neighborhood center.

### **Questionnaire**

- Ask a question about what types of uses people can walk to now.

### **Wrap-up**

Staff provided an overview of the planned next steps for public engagement and then drafting the ordinance. The group decided that it is okay to wait until late August or September for the next meeting (after Planning Board review) to review and provide final recommendations prior to City Council review in October.

# Use Table Public Working Group

## Meeting Notes

**3/13/2023, 4 – 5:30 pm**

**HYBRID – Penfield Tate II Municipal Building & Virtual on Microsoft Teams**

### **Attendees**

Lisa Spalding  
Kurt Nordback  
Lynn Segal  
David Ensign  
Crystal Gray

Jonathan Singer  
Kari Palazzari  
Devin Edgley  
Danica Powell  
Peter Aweida

### **Project Background Refresher**

Staff provided background information on the project goals, working group goals, and project schedule.

### **Module Two Adopted Ordinance Summary**

Staff provided a summary of the adopted ordinance for Module Two of the Use Table & Standards project related to industrial uses and districts.

- Clarification about changes to offices

### **Module Three: Neighborhoods and Neighborhood Centers**

Staff introduced the focus areas for Module Three.

- Does Boulder have any regulations for sexually-oriented businesses?
- Focus of project should also look at public and community services
- Clarification on which policies are applicable to project (staff will send list of full policies)

### **Neighborhood-Serving Uses**

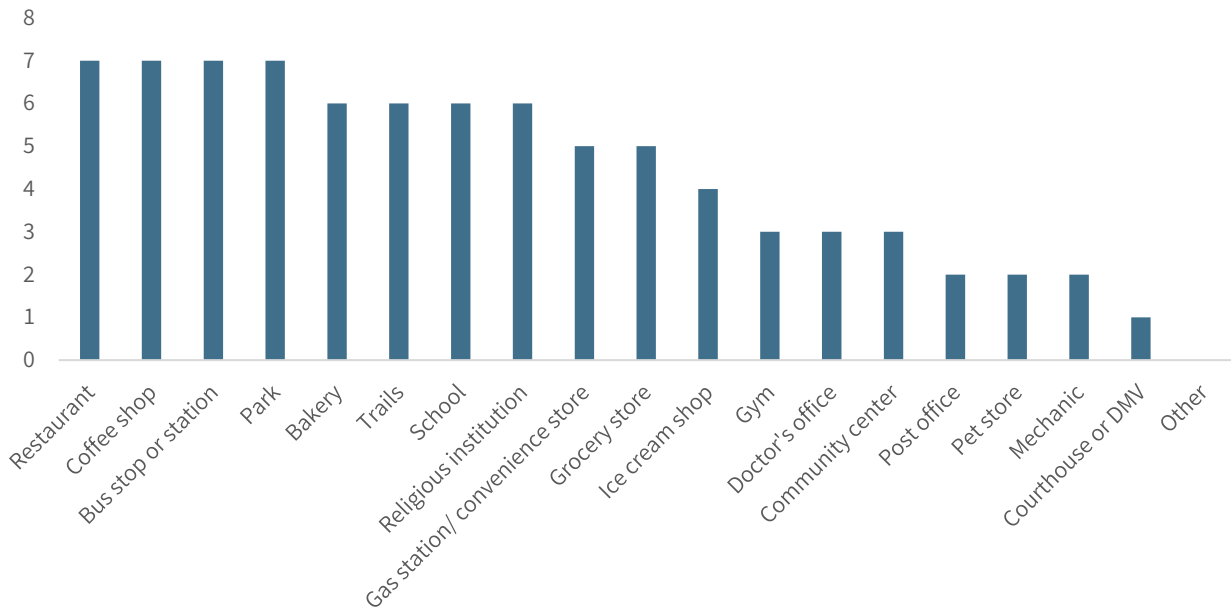
Working group members provided responses via virtual polling.

#### ***Which neighborhood do you live in?***

- Newlands
- University Hill
- North Boulder
- Park East
- Gunbarrel



***What services can you reach within a comfortable walking distance (about 15 minutes) of your house?  
Select all that apply.***

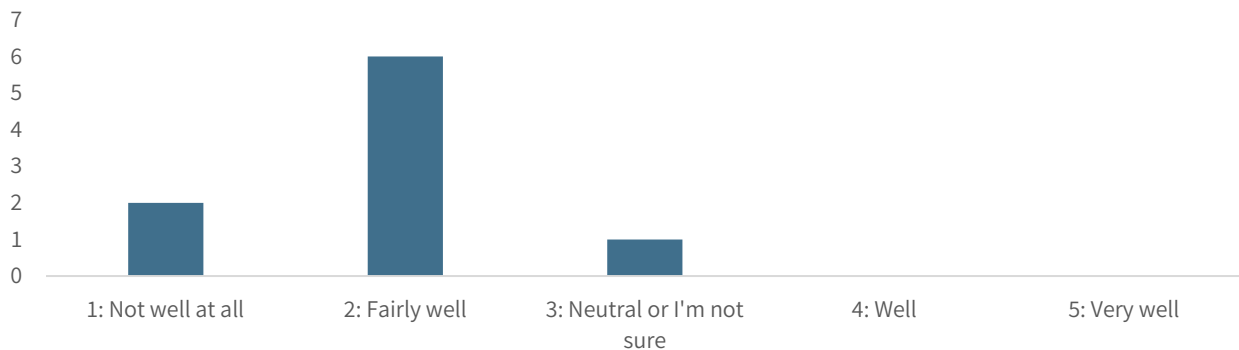


### **Comprehensive Plan**

Staff described the policies from the Boulder Valley Comprehensive Plan that are applicable to Module Three and showed a map of the identified “neighborhood centers” in the plan.

Working group members provided responses via virtual polling.

***How well do you think the current land use code supports the comprehensive plan policies for neighborhood centers and walkable neighborhoods?***



- Several group members clarified that “fairly well” should be retitled only “somewhat well” – still lots of work to do to meet the plan’s policies.

## Past Input Summary

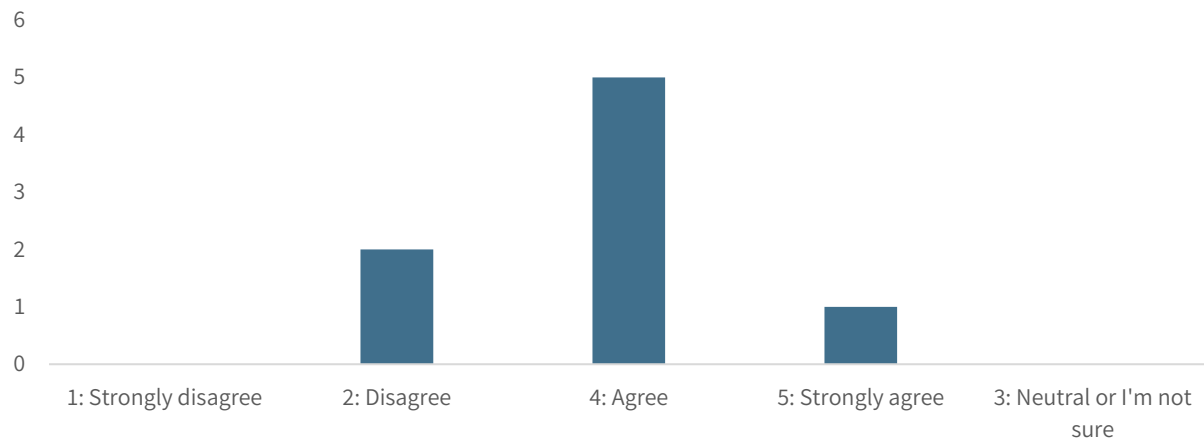
Staff provided an overview of the relevant public input received in 2019-2020 regarding Module Three topics and the City Council and Planning Board feedback thus far.

## Small Scale Retail in Residential Areas

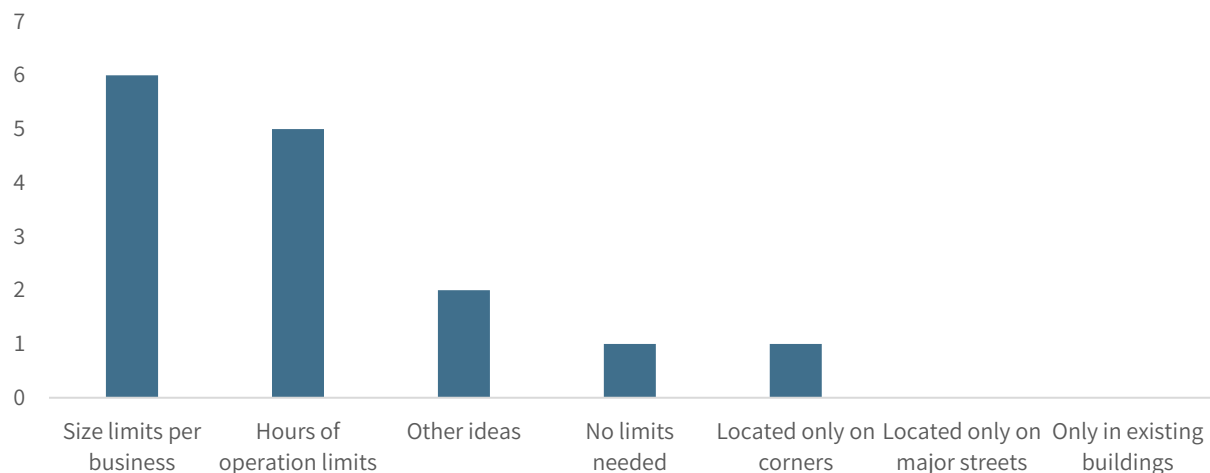
Staff provided some examples of identified gaps between the comprehensive plan and land use code. Staff raised the topic of small scale retail in residential areas as a primary area for discussion and provided background from the *2019 Boulder Low Stress Walk and Bike Network Plan* and the zoning map.

Working group members provided responses via virtual polling.

***How well do you think the current land use code supports the comprehensive plan policies for neighborhood centers and walkable neighborhoods?***



***If small scale neighborhood-serving uses are allowed in low-density residential areas, should there be extra limits on size/location? They would still need to comply with all relevant zoning requirements like parking, form, bulk, intensity. (Select all that apply)***



- In some neighborhood business centers like Dakota Ridge, there needs to be higher density to support businesses. Several hair salons but no real other uses or everyday services. Without a master planned area it is difficult for businesses to be financially feasible. Some retail integrated into primarily residential projects has not moved forward or has not been successful. These areas are often very hidden and people don't know they're there.
- That might argue for more flexibility for these business owners, if we allow them in more places, business owners can identify the good locations. We should allow it in most places and owners can identify where it could work. We should make sure the sure it is compatible. In looking at the map, especially southeast Boulder has very few services within walking distance – something as simple as a sandwich shop or coffee shop.
- Agree, but we need to ensure that neighbors are consulted and engaged.
- Difference uses have different impacts – hair salons might be very low impact others might be more impactful.
- The example of the coffee shop at 9<sup>th</sup> and College – it is along a bus route, so even though a residential area these are visible streets. Transportation should look at bus routes as visible locations.
- Other examples: Former grocery store at Dellwood/Broadway, Pine & 23<sup>rd</sup>, Goss-Grove, 6<sup>th</sup> and Maxwell, 19<sup>th</sup> & Arapahoe
- Along Baseline there is RL-1 zoning so many opportunities are lost along Baseline even though it is a major corridor because of prohibition.
- Suggested limit to “only” on corners or “only” on major streets is concerning.
- Example of North Boulder Corner Library, only 570 square feet, which has no parking and therefore is a forced neighborhood amenity.
- Having size limits but also no parking ensures that it is not destination retail, only people who are walking there. Suggested size about 1,500 or 2,000 max. Parking creates more demand.
- Agreement with limiting parking.
- Should there be a limit on the aggregate amount of commercial that is allowed in a particular area?
- Ensure that commercial isn't displacing existing housing.
- It would be helpful to understand more what the economics are for small scale retail, what demand is there?
- There is a balance of what the free market can do and what zoning can do, we often don't have data on the free market part.
- Artist studio might be limited impact, but gift shops may not be appropriate in the middle of a neighborhood or a wine bar.
- Older neighborhoods are typically nearby funky places that provide services, sometimes are converted to residential.
- Review allowances in Mixed Use zones, review RM area near Tantra Park.
- Transportation example – protected streets in Palo Alto.

- Ensure equity analysis is completed and make sure low income neighborhoods are well connected to services – overlap demographics with the walkability map.
- Tie to climate initiative work as well, more public access and housing choices.
- Ensure that existing retail and neighborhood services are not displaced by residential. More housing results in more demand for services. Many services are only available by driving across town now. CU South development may also create more service demand.

Staff provided an overview of the planned next steps, including creating an initial draft of the ordinance prior to engagement efforts for feedback over the summer. The group agreed with the proposed approach. The next working group meeting is anticipated for early summer.

**Houde, Lisa**

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**From:** plarts80@comcast.net  
**Sent:** Wednesday, August 2, 2023 11:17 AM  
**To:** Houde, Lisa  
**Subject:** Feedback on walkable neighborhoods

**External Sender**

Lisa, we're lucky to be in a walkable neighborhood already, on Glenwood Drive near Columbine Elementary. We've got all kinds of options within easy walking distance both west (Ideal and the Community Plaza) and east (Safeway, restaurants, auto repair stores, etc.)

We're very much in favor of the Diagonal Plaza remodel. However, we strenuously object to having our beloved single-family home sandwiched between duplexes and triplexes after all the years we both worked to buy and maintain our home. Our street is currently very bicycle-friendly because it isn't parked in from top to bottom. There's plenty of room for both cars and bikes here. Peter used his bike to commute across town to the Marine Street CU Housing and Dining warehouse, so we're definitely in favor of bikes being used throughout the community.

What improvements would we suggest for community centers?

--Lower rent for businesses so that mom and pop shops, not just big chains, can afford to locate in the mixed-use buildings.

--Better lighting for pedestrian crosswalks on busy streets. In Nova Scotia, we loved that the crosswalks came with super-bright lighting from the telephone poles at either end of the path across the entire walkway. Lit up, when the button is pushed, so brightly that no one could miss you, even if you were wearing dark clothes at night.

--Make bicycling safer by extending sidewalks into what are now on-street bike lanes, thereby moving the cyclists up and away from cars and making them safer. Bike riders should take responsibility for checking on right turning traffic before surging out across any intersection. Especially when making a right turn, it's critical for drivers to triple-check oncoming traffic from the left, and even though you've checked the right and didn't see anyone, a quick bicyclist can suddenly emerge on your right just as you are turning into the safe hole in the traffic. Having the cyclists higher—especially those in reclining bikes--will make them easier to spot as well.

Thanks,  
 Lynn and Pete Arts

**Houde, Lisa**

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**From:** houdel@bouldercolorado.gov  
**Subject:** FW: July 17th Memo about neighborhood ....

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**From:** Paul Baryames <pbaryames@gmail.com>  
**Sent:** Sunday, July 30, 2023 8:34 AM  
**To:** Houde, Lisa <houdel@bouldercolorado.gov>; Guiler, Karl <guilerk@bouldercolorado.gov>  
**Subject:** July 17th Memo about neighborhood ....

**External Sender**

As a commercial property owner on East Pearl and on Folsom as well I find this whole thing a total waste of time and a LOT OF MONEY to create a nice piece of nonsensical gibberish that the City Council will try and pass to show how progressive Boulder is.

First off, The zoning Laws should be as simple as possible and if said use is outside the allowable use then go in for a use review and everybody that cares can express their thoughts. This system has worked, it still works so if I ain't broke don't fix it. Now if many people are in favor of a non approved use in a certain area then you take a look at changing that area's zoning. Businesses are not going to go into an area that they will not be successful. So, if a business runs the gauntlet to get non-conforming approval and the business thrives then and only then and only if you have demand do you even need to consider changing the zoning.

What you two have here is a "wish list" of "I want this in my neighborhood, but I don't want that". REALLY, that's like the airport situation that we are now going to waste an incredible amount of money and time on. This airport has been here since 1929.....But NOW we need to get rid of it because it is noisy and it pollutes etc. But , these people MOVED INTO THAT NEIGHBORHOOD WITH THE AIRPORT ALREADY BEING THERE. Are you kidding me, there is not even an argument here. We need that airport more than we need 60 or 100 or 600 more homes. But here we go.....

The responses you are gonna get are a wish list of stupid ideas. I want no cars, I want a civic art area, I want no delivery trucks, I want this or that. Don't be surprised when that happens. Look at Spruce from Folsom East to 28th. That used to be a couple of auto repair shops, lower income housing, Toledo Glass, A Plumbing Co.. Now we are in the throes of 6 - 2mill plus townhouses on Folsom. A Development that is stalled because of interest rates to demo Spruce on the south side east of Folsom for what .....OH another big Townhouse development. These high priced buyers go to you in this type of "feedback" and say hey move that Tire shop out of here, Hey Hoshi Motors.....it's got to go, it's an eyesore. I paid 2.5 mill for this place!!! And you "The City" are like " yes we don't want cars here, get that out of here". So the zoning changes and guess what....Toledo Glass is in Lafayette or Longmont now. Hoshi probably moved and when "WE" (including you the city because most of you drive cars) need these services they are not in Boulder anymore. No Boulder sales tax dollars.....But we jack up the property taxes and even make it more unaffordable.....But then we get you two getting some "grant" to waste time and money listening to the few instead of addressing growth by saying no to the developers.

Here are your Zones:

1. Downtown Boulder - What possible needs fixing. The property taxes are forcing all local businesses out. The National guys come in for their 10 year Lease and then they leave too.....example : The Gap and Gap for Kids, Patagonia...on the mall now off the mall and we will see what happens when their lease is up. The Local businesses are slowly going away. Vecchios (triple nets too high ((property taxes))...) .There are starting to be some holes (vancancy's) and they will continue.

2. Boulder County Regional Center - WHAT A JOKE...You got run over on this one by whoever developed this area....First off, no transit worth going to that area for. No train to Denver or Longmont, why would you go there for a bus. There are 3 or 4 thousand apt's or condo's that are around there I guess but I do not know of anybody that uses that area except people that live right there. Is that what you are trying to accomplish? Enclosed work/live environments that have narrow not even streets, no parking, 5 story look alike buildings, that cater to GOOGLE? Well that has been accomplished if that was the goal. But me as a citizen of Boulder since 1978 never goes there.

3.) CU - They do what they want and basically tell you to get lost. So you're telling me that you can do something HAH. And, who approved that hideous Hotel going up on the SW corner of Broadway and University. And, approving that knowing that the University was going to "tough sh88" you and build their own across the street! Now maybe I can pick both of you up in my car on a workday at around 4:00 and we can see how long it takes us to get the Baseline and HWY36. Really this is in the comprehensive plan. I'd fire whoever approved those deals.

4.- Hill Business district. See above and just add drugged out bums that the City caters too entrenched up there. We used to walk to the hill every so often. I would not go there EVER

5. North Broadway - you spend 2 or 3 years screwing up North Broadway and the bike lane there is more dangerous than anywhere in the City. Who designed this? Plus, you have allowed it to become such a "corridor" that nobody walks along the sidewalks. Go look for yourselves. You pull into a parking area behind the buildings that are right on Broadway and go in the business you are there for and then you get in your car and drive away. You created ZERO pedestrian environment. I wouldn't put a business up here for all the tea in China. And that place is pretty empty. But hey now that it's screwed up let's talk about it!

6. Stupid neighborhood consideration....what are you going to do there? It's housing, just let it be housing. You know not every neighborhood can have 3 coffee shops, 2 bike shops, and a public place for drugged out bums to hang out at.

7. Diagonal Plaza - The city has screwed that area up 12 ways to Sunday. You had a chance years ago. That area actually should be the new area for the Toledo Glass, Hoshi Motors of the world. You force these businesses out of the City and their services just cost more for all of us citizens as we have to take our cars 12 miles to get fixed. Or I get charged "travel time" for a service to come from Erie to Boulder. So turn it into a service area and promote local ownership!!

8. - That needs no changes and just let it lay. If you don't screw up the old Hospital site that area will be fine.

9. Well you need to maintain that as a shopping area in my opinion. You need local ownership of the Plaza and you need to incentivize that local owner to get local businesses in there with low taxes. pretty simple. DO NOT LET HOUSING BE BUILT THERE. That would be a terrible use.

10 - Williams Village - The area is fine. Leave it alone. You are fighting the University and you have no parking for the businesses that are on Baseline. But if you get the right business there it will be fine. The problem there is that you have a lot of bums, you have increased traffic from all the student housing that has been built. So access to some businesses is hard which means customers will not stop. The past allowed development (in the last 12 years) has not been built correctly. That is bad planning and that's on you guys.

11. Table Mesa is fine. GO WAY

12. Meadows is fine. It is evolving as it becomes the more reasonable housing for seniors. They will support that center. Don't screw it up.

13. What are you going to do out there? Cars drive 55mph, you have a golf course, now you are going to address the neighborhood after you have allowed all those apts. to be built. Shit that road is going to be impossible and it's the main commute path to Erie and Lafayette. Wake up. Instead of getting behind these events, get in front of them. Why are you allowing all of that housing to be built? The first thing you have to realize is NOT EVERYBODY CAN LIVE IN BOULDER, once you realize that you can stop these developments that just make it harder to LIVE IN BOULDER.

14 - That really is fine

15- TOTAL SHIT SHOW . It's its own environment. I would not go there for anything. Terrible planning, terrible execution, terrible outcome. Just another Planning Dept fiasco.

You want to talk about it.....ANYTIME, Just call me up

--

Paul Baryames

303-910-1378



## Houde, Lisa

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**From:** Anne Lucke <anne.lucke@juno.com>  
**Sent:** Saturday, August 5, 2023 1:52 PM  
**To:** Houde, Lisa  
**Subject:** Use Table and Standards project

External Sender

Hello,

I'm sorry that I missed the window for the survey, but I wanted to provide some feedback on the Use Table and Standards project. I live in the Meadows Community Center neighborhood. I love living here because it is a very walkable neighborhood. I can walk to a grocery store, a number of restaurants and other businesses. I can also walk to several bus stops. What I don't love about living in this neighborhood is the noise the businesses make late at night and very early in the morning. Safeway's loading dock starts banging very early in the morning. Trash pick-up for the businesses in the Meadows shopping center start as early as 5am. One of the restaurants comes back from catering gigs very late at night and makes noise while unloading their vans. Though this neighborhood is zoned for business, there are number of people living here and also staying in the hotel. Ideally, I would like there to be quite hours -- 10pm - 7am or whatever the city usually uses -- during which the businesses cannot make noise. Quiet hours would make this neighborhood much more livable.

Thank you,  
Anne Lucke  
560 Mohawk Dr #47  
Boulder, CO 80303

**Houde, Lisa**

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**From:** Gary Sprung <garygnurps@gmail.com>  
**Sent:** Monday, August 7, 2023 3:17 PM  
**To:** Houde, Lisa  
**Subject:** Walkable Neighborhoods

External Sender

Hi Lisa,  
 Thanks for offering your email address for comments by those of us who just found out about the project.

My thoughts:

The web page at  
<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fstorymaps.arcgis.com%2Fstories%2F020827acbfa44d397bb864d42903f6e&data=05%7C01%7Cchoudel%40boulder.colorado.gov%7C21986233d1dd40e382d308db978b97b2%7C0a7f94bb40af4edcafad2c1af27bc0f3%7C0%7C0%7C638270398058968020%7CUnknown%7CTWFPbGZsb3d8eyJWljojMC4wLjAwMDAiLCJljojV2luMzliLCJBTil6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=yv95y6bNdAmhCmjjlw4arbUsLJol%2FSEuX7F6oGs0%2Bo4%3D&reserved=0>  
 has the title “Walkable Neighborhoods”, but it is really about commercial centers. It says the BVCP calls these 12 places “neighborhood centers”. But are “neighborhood” and “commercial center” synonymous? I think not. I think neighborhoods are first and foremost residential. That is certainly the way we have zoned our city. Roughly 70% of our land is single-family neighborhoods.

If you happen to live in one of those 12 commercial centers, like in a condo or apartment above a business, you do indeed have a more walkable neighborhood. But most of our typical neighborhoods are not that close to the places where we can buy food, socialize at bars and restaurants, buy clothing, vote, etc. I live in the Melody-Catalpa neighborhood, which is east of Broadway and north of Iris, west of 19th. Council member Bob Yates lives in our neighborhood and he once hypothesized that we may have the most un-walkable neighborhood in Boulder because our homes are farther from businesses than any other neighborhoods’.

The only way you can make my neighborhood “walkable” is to provide somewhere reasonably close to walk to. Such places need to be walkable in about 10 minutes by an average person. The way to really achieve that is to end the practice of altogether disallowing commercial in our residential neighborhoods. For example, it would be so great if there was a place in my neighborhood that sold some food and beverage and had chairs and tables to sit and hang out and converse. I visited a small town in Italy, Lucignano, that had such a place. Lots of neighbors congregated there, easily walking to the business on a daily basis. After seeing that, I half-heartedly dreamed, “I want run a business like that for my retirement.” Places like that not only provide the benefits of walkability, they also improve our social life, a lot. But traditional zoning prohibits such places in residential neighborhoods, without exception. My dream is impossible in Boulder.

I know it’s way beyond your scope, and “pay grade”, to get into challenging that fundamental principle. But you could at least try to make sure that idea is expressed in the process and let people react to it.

As it is, I think the idea of Walkable Neighborhoods in Boulder is greenwashing, because we don’t have them and cannot have them given the no-mixed-use proscription of our zoning laws. Our city layout depends on being able to travel to places distant from our homes to access goods and services. “Walkable neighborhoods” is a fine, progressive, idealistic goal that is quite divorced from our reality.

So many people believe in the principle that we should never have commercial in our precious single-family neighborhoods. Have they ever lived in a more mixed-use place? When my neighborhood learned that some day the county may stop using its campus at Broadway and Iris, many of them worried that it would become commercial. I would welcome commercial there, as long as it's not typical "strip-mall America". Then my neighborhood would truly become walkable.

Gary Sprung

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Gary Sprung  
3675 Aspen Court  
Boulder, CO 80304

Cell: 303-859-9331

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgnurps.com%2F&data=05%7C01%7Choudel%40boulder.colorado.gov%7C21986233d1dd40e382d308db978b97b2%7C0a7f94bb40af4edcafad2c1af27bc0f3%7C0%7C0%7C638270398059124660%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=xoXCeZbljNlxwsFB99BpMFgOdzSiy28ee%2BYVQJVajsQ%3D&reserved=0>

garysprung@gnurps.com  
garygnurps@gmail.com

"I'd shine my light through the cool Colorado rain."

## Houde, Lisa

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**From:** Jacqueline Wurn <jacquelinewurn@comcast.net>  
**Sent:** Tuesday, August 1, 2023 2:23 PM  
**To:** Houde, Lisa; parks-rec  
**Cc:** Steve Grad; Douglas Bendt; Grace Peng; Linda Cornett; Beach Hildebrandt; Mark Thompson  
**Subject:** What can be done to improve our neighborhood

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### External Sender

Dear Lisa Houde, Senior Planner for Boulder,

Thanks for asking what we'd like to see.

We live at Horizon West, Walnut and Folsom St.

I'm including City Council members and members of our HOA in this email since we're all concerned.

We need to acknowledge that homeless people in our city need our help and some solutions that will help them and lessen their impact on those of us who are housed.

Since homeless people have been camping out to the east and west of us there has been a lot more trash on the sidewalks. There have also been a lot of break-ins at nearby buildings - esp two doctors offices 2 doors south of us. Our door to the pool was opened by force this last week-end - ending up splintered and a mess.

The Homeless Daycare Center is planned between our building and the doctors' offices.

1) We'd like to see the homeless provided with a place to be that is not in such a heavily residential and retail area. We'd like not to add to their plight by simply rousting them from their camp sites each week and adding to their difficulties while compounding our difficulties with living with them.

2. a) Another great improvement would be for the city to provide trashcans at the park just north of the Dairy Center. We have personally even offered to pay for the trash cans if the city will put them in and maintain them. A port-a-potty would be good also to keep the ditch water clean. We have homeless people living there constantly except on the one day a week when the city moves them out.

b) The vacant lot on the west side of Folsom near the ditch also could use trash cans. A number of homeless live there.

I think putting in trash cans would also save money in sending crews to hand pick up the trash. I have asked this of the Boulder City Council and the mayor, Bob Yates, but it hasn't gotten any action to date tho two Council members have also advocated for it.

I know Port-a-potties are not a pretty site. I won't enjoy them. However, isn't it better than polluting the pure mountain water? **Isn't sanitation a first priority for the well-being of our citizens?**

Many thanks again for asking.

Looking forward to your response,

J. Wurn

## Houde, Lisa

---

**From:** Joan S <jestucka@gmail.com>  
**Sent:** Saturday, August 12, 2023 3:12 PM  
**To:** Houde, Lisa  
**Subject:** Walkable Neighborhoods feedback

### External Sender

Hi Lisa,

I missed the official input period, but I wanted to submit one comment. If I read the map correctly the North Boulder market area at Quince & Broadway (Lucky's, restaurants, coffee, yoga, shipping, liquor store) wasn't included in the list. This is a key center, highly used and very walkable. I just wanted to comment that I think this should be included in the list.

Thanks,  
Joan Stucka



August 15, 2023

**REFERENCE: ORDINANCE 8590 UPDATE REGARDING LIQUOR LICENCING-UNIVERSITY HILL**

Dear Members of the Boulder Planning Board,

There is a small detail in agenda item 5A related to the USE TABLE UPDATE that is of tremendous concern to the University Hill Neighborhood Association. In an attempt to streamline specific use standards for restaurants, brew pubs, and taverns under Ordinance 8590 Section 3. 9-6-5 (e) (5) (A) (i) (ii), the update **effectively removes the special guardrails devised by the City Council in 2013 to deal specifically with problems related to liquor licensing on University Hill**. The council spent a great deal of time crafting a solution that would meet the interests of students and their parents, bar owners, and neighbors.

**The issues surrounding liquor licensing around the university and specifically on the Hill are complex and the history is long and has been contentious at times.** Before 1967, only 3.2 beer was sold. In 1987, Colorado raised the drinking age from 18 to 21, eliminating sales to most college students who until then were able to drink 3.2 beer at establishments on the Hill and within one mile of the university. Almost the entire Hill business district is within 500 feet of the CU campus and subject to a state law prohibiting liquor sales (except 3.2 beer) within 500 feet of schools. In 1987, the city council voted 5 to 4 to make an exception to the 500-foot rule for the Hotel/Restaurant (H/R) license. They chose it because it was the only class of license that required a percentage of food to be sold alongside the alcohol. It is a full bar license, but at 25%, the food percentage is extremely low. It is too low to qualify for restaurant insurance and must be insured with higher priced bar insurance. **To complicate things further, in 1988, the state pushed closing hours for bars back to 2:00 a.m. from midnight.**

**Between 1990 and 2005, the number of H/R licenses on the Hill increased from 6 to 17, and the number within one mile of campus increased from 69 to 104.** The increase in liquor licenses correlated with the severity of the binge-drinking crisis at CU. Dr. William Marine, a Boulder epidemiologist who consulted on Harvard's A Matter of Degree program, wrote the document attached to this letter that includes more details. **CU Boulder was one of ten universities with extreme binge-drinking rates** studied by Harvard in an attempt to devise ways to bring the crisis under control.

CU's binge-drinking crisis resulted in: 1) the death of a student by alcohol intoxication, 2) increase in rapes, fights and public intoxication 3), a chaotic and dangerous dive bar scene on University Hill that ultimately included 17 bars. These bars operated on a low-price high volume business model. The police were so busy dealing with bar fights and assaults that they were unable to enforce over-service laws. Each new bar was required to hold a Good Neighbor meeting, **but no agreements were enforceable, and each bar was required to go through a Use Review to extend closing to 2:00 a.m., but none were denied.** The meetings resulted in screaming matches between neighbors and bar owners. The atmosphere was fraught with animosity between the two groups.

**Please vote to maintain the special liquor licensing regulations for the Hill in Ordinance 8590.** The issue should be dealt with separately and include significant public input. It has received virtually none so far. Lifting the guardrails on Hill liquor licensing will return us to the serious health and safety issue we confronted before the City Council took action in 2013. The Hill will be severely impacted if this revision to the ordinance is allowed to pass as written. The city has invested hundreds of thousands of dollars into the revitalization of the Hill over the past eight years. There are two new hotels under construction as a result of the Hill Revitalization Strategy, the work of the City Sponsored Hill Revitalization Working Group (HRWG). Please don't allow the progress we have made to have been in vain.

Thank you for your consideration.

Sincerely,

UHNA EC

Nancy Blackwood, Stephen Clark Mary Cooper-Ellis, Elise Longbottom, Lisa Spalding, Valerie Stoyva, Scott Thomas and Evan Thomas



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8608, amending sections 2.02(E) and 2.03(Q) of the City of Boulder Design and Construction Standards (DCS), originally adopted pursuant to Ordinance 5986; and setting forth related details

### **PRIMARY STAFF CONTACT**

Gerrit Slatter, Senior Engineering Manager

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to introduce and order published by title only Ordinance 8608 amending sections 2.02(E) and 2.03(Q) of the City of Boulder Design and Construction Standards (DCS), originally adopted pursuant to Ordinance 5986; and setting forth related details

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3H - Design and Construction Standards Section 2.03Q - Crash Analysis Update 1st rdg**



**CITY OF BOULDER**  
**City Council AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8608, amending sections 2.02(E) and 2.03(Q) of the City of Boulder Design and Construction Standards (DCS), originally adopted pursuant to Ordinance 5986; and setting forth related details.

Consideration of this ordinance is Transportation Standards Update (Phase 2) of the Design and Construction Standards.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Chris Meschuk, Deputy City Manager  
Brad Mueller, Director of Planning and Development Services  
Natalie Stiffler, Director of Transportation and Mobility  
Valerie Watson, Deputy Director of Transportation and Mobility  
Edward Stafford, Senior Manager – Planning and Development Services  
Gerrit Slatter, Senior Manager – Transportation and Mobility Capital Projects  
Devin Joslin, Principal Traffic Engineer

**EXECUTIVE SUMMARY**

Section 2.03Q of the Design and Construction Standards has been proposed for revision and update. This memo provides a summary of the recommended revisions to the Crash Analysis section (2.03Q) of the transportation infrastructure-related portion of the [City of Boulder Design and Construction Standards \(DCS\) Update](#). These recommended revisions to the DCS will update the transportation



design standards to reflect the City’s current Vision Zero goals to ensure no one dies or is seriously injured while traveling in the city. In 2014, the city adopted Vision Zero as a goal to eliminate fatal and serious injury crashes by 2030. To implement proven safety countermeasures more proactively in conjunction with developments, this recommendation will convert the crash analysis requirement of the Traffic Study to an assessment of potential hazards.

Under the recommended revisions, applicants seeking construction approval who are required to conduct a Traffic Study will now be required to conduct a Hazard Assessment if additional location-specific criteria are met. If the proposed project is located on a Vision Zero High-Risk Network street, the Hazard Assessment will be required. The applicant will have to assess whether the proposed project will exacerbate existing crash patterns or create new potentially hazardous conditions. The ultimate goal is to eliminate new potentially hazardous conditions or avoid worsening an existing potentially hazardous condition or identified crash patterns for people walking or using a mobility device, people with disabilities, bicycling, operating transit, or driving.

### **STAFF RECOMMENDATION**

Staff recommends City Council adoption of the updates to Section 2.03Q of the Design and Construction Standards.

#### **Suggested Motion Language**

Motion to introduce and order published by title only Ordinance 8608 amending sections 2.02(E) and 2.03(Q) of the City of Boulder Design and Construction Standards (DCS), originally adopted pursuant to Ordinance 5986; and setting forth related details.

### **BACKGROUND**

The Design and Construction Standards were originally adopted in July 1998, and last updated in January 2020, with smaller updates occurring in 2022. The DCS exist to prescribe minimum standards to be used in the design and construction of infrastructure located in public right-of-way/easements of the city of Boulder, as well as private transportation improvements that connect to or impact public infrastructure. The DCS are enacted through the Boulder Revised Code (BRC), and changes are adopted by City Council with recommendations from appropriate boards, such as TAB and Planning Board.

Currently, in Section 2.02(A) of the DCS, the Director of Public Works (“the Director”) requires applicants to submit a Traffic Assessment which assesses the impacts of the proposed development on the existing and planned transportation system. The Traffic Assessment includes a projection of the vehicle trips that will be generated from the proposed development during the peak hour. If the trips generated during the peak hour on the street adjacent to the development site are projected to exceed 100 vehicles for nonresidential developments, or 20 vehicles for residential developments, per Section 2.02(B), the Director requires an applicant to submit a Traffic Study. The Traffic Study is required to be prepared by a State of Colorado registered professional engineer, and include sections specified in the DCS, including traffic crash analysis.

The current DCS language in Section 2.03 (Q) regarding traffic crash analysis states:

The Traffic Study may need to include crash analyses at one or more locations in the study area. The Director shall specify whether such crash analyses are needed for each Traffic Study. Where required, estimates of increased or decreased crash potential shall be evaluated for the proposed project or development and appropriate safety-related mitigation measures are to be included. Traffic crash data is available through the Safe Streets Report and from the City of Boulder's Police Department or from the Director.

At the City Council meeting on December 1, 2022 in which portions of Chapter 2 were being recommended for approval, council directed staff to revisit the above language and to prepare a separate ordinance for council consideration to update Section 2.03Q- Traffic Crashes of the DCS to add criteria to the determination of when a crash analysis has to be provided and that the criteria should be consistent with Vision Zero, the Racial Equity Plan, and Transportation Master Plan goals. In response to city council's request, staff developed revisions to Section 2.03 (Q). Previous iterations of the revisions, as presented to the Transportation Advisory Board on May 8, 2023 and Planning Board on August 1, 2023 considered incorporating the City of Boulder's Racial Equity Index into the criteria for Hazard Assessment initiation. Upon further consideration, staff recognized that further analysis is needed on this methodological approach. The Racial Equity Index is no longer included in the revisions that are being advanced with this memorandum and council agenda item.

The process below summarizes the steps in the recommended Hazard Assessment to replace the current standard in Section 2.03(Q).

## **COMMUNITY ENGAGEMENT**

Community engagement has included targeted outreach to groups that regularly use the DCS and/or that have expressed an interest in the update (e.g., the development and engineering community, Community Cycles Advocacy Committee (CCAC) and Center for People with Disabilities). The team presented to CCAC and to the Center for People with Disabilities, and engineering consultants that regularly perform Traffic Studies for development projects in Boulder. The key areas of input received through the community engagement process, and how this input was subsequently addressed, include the following:

- Request for more inclusive language to be used throughout the revision to refer to the goals of the Hazard Assessment meeting the needs for people with disabilities.
  - Language was updated to include more descriptive references (see Attachment A)
- Request for the list of potentially hazardous conditions to include conditions that may impact people with disabilities and using a mobility device or scooter.
  - Potentially Hazardous Conditions table was updated to include people walking or using mobility device driving (see Table 1)
- Concern about City of Boulder staff not conducting the Hazard Assessment and the responsibility being placed on engineering consultants representing the applicants.
  - Staff response: Although the development review process involves consultants for applicants performing the analyses, city staff provide review and oversight at each step to ensure conformance to the required process.

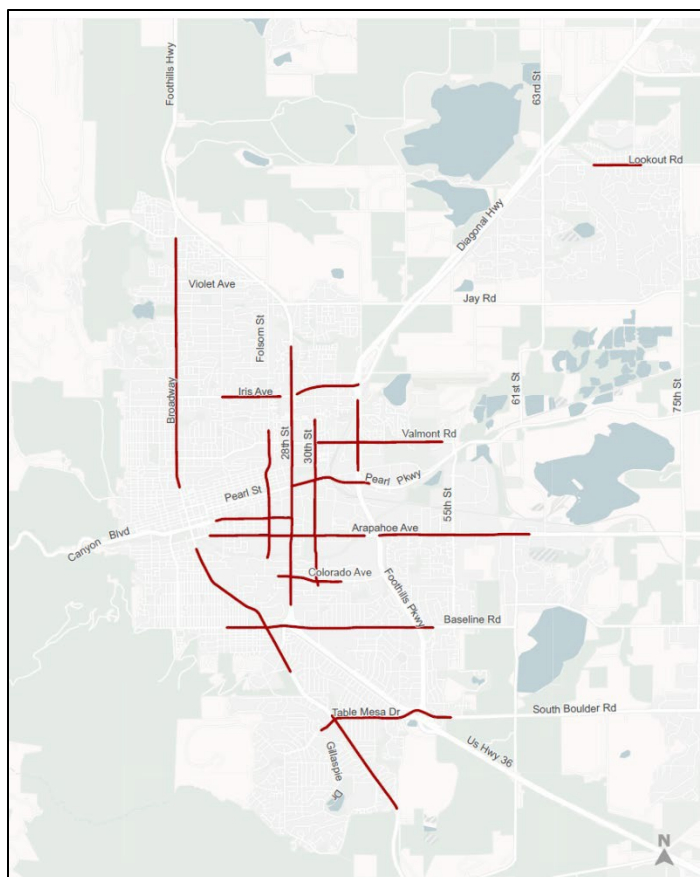
- Concern that the recommended process relies on crash history and not proactive crash risk.
  - Staff response: the High-Risk Network (“HRN”) is comprised of a variety of conditions and factors that are not necessarily based upon crash history. Staff believe that the HRN requirement will provide the forward-looking benefit that CCAC desires.
- Request that by-right projects undergo a similar level of assessment and public process.
  - Staff response: This would require a change to the Boulder Revised Code and is beyond the scope of what Council asked of staff for this work item.
- Traffic Consultant #1: “these are not big-ticket things, not telling them they need several auxiliary lanes and not expanding the transportation system, this helps developers and their consultant traffic engineers understand that if they are doing work in Boulder the focus will be on safety for ped/bike/transit; not a big tradeoff for clients”
- Traffic Consultant #2: “...some clients get upset with 3-4 rounds of comments, and this heads that off and allows it to occur earlier in conversation, eliminates rounds of revisions and back and forth before getting to hearing.”
- In general, the Traffic Consultants supported this approach -- More certainty. More defined.

## **TAB FEEDBACK**

On May 8, 2023, TAB provided feedback regarding the proposed updates.

TAB members expressed a desire for the Director to retain ability to request a hazard assessment as part of a traffic study for developments that may not meet the specific criteria outlined in this DCS update.

Some members expressed concern about the downtown area not being included on the HRN, specifically, the intersection of Broadway and Canyon. Staff response on this concern is that a significant level of crash history and data analysis went into the development of the HRN and anecdotal experience is likely to differ from the data. Staff also note that the HRN will be updated over time with future updates of the VZAP.



*Figure 1 Figure 2. Developments required to conduct a Traffic Study will need to include a Hazard Assessment if the project has immediate frontage on a High Risk Network street*

Another comment questioned why not just include all of the arterials as part of the HRN in the criteria. Staff noted that with this first update the desire is to make the DCS consistent with other citywide approaches to prioritizing the HRN consistent with the recommendations found in the VZAP.

On July 21, 2023, an informational memo was provided to Planning Board regarding this DCS update. No comments or feedback was received from Planning Board.

## **PROJECT SCOPE**

### **Recommended Hazard Assessment Summary**

**Hazard Assessment Initiation:** A Hazard Assessment will be initiated if the thresholds for a Traffic Study are met (i.e., the Traffic Assessment determines peak hour trip generation is >100 vehicles for nonresidential developments or >20 for residential developments) *and* the proposed development has immediate frontage on a High-Risk Network Street (as detailed in the most recent version of the *Boulder Vision Zero Action Plan*).

The High-Risk Network (Figure 1) represents streets with the most frequent and severe crashes, and streets where there is a high risk for crashes even if there are currently zero reported crashes. For the *2023-2027 Boulder Vision Zero Action Plan*, the City analyzed 61 contextual factors to understand what conditions have led to the most frequent and severe crashes and found six risk factors. The six risk factors that identify patterns that may not be reflected in standard crash data are:

1. Multi-use path present
2. Daily vehicle traffic between 5,000-10,000 vehicles per travel lane
3. Signalized intersections
4. Major intersection with no traffic signal
5. Businesses and a mix of land uses present
6. 85% of vehicle speeds at 30 miles per hour or faster

The High-Risk Network identifies street segments with at least five of the six risk factors.

The applicant and the engineer performing the Hazard Assessment will meet with the Director (or designee) for direction on the assessment. This will be combined with the coordination required for the Traffic Study.

**Existing Conditions and Proposed Project:** The applicant will summarize existing conditions (including the past five years of fatal and serious injury crashes at key intersections or street segments defined in the scoping meeting with the Director [or designee]) and the proposed project as defined by the Traffic Study requirements and relevant to identifying existing and new potential hazards (e.g., study area, existing and planned transportation system, multi-modal trip generation, distribution/assignment, modal split, traffic volumes, and traffic control and signals).

**Analysis:** The applicant will analyze if future conditions being proposed by the development exacerbate existing crash patterns observed in the past five years of fatal and serious injury crashes or create new potentially hazardous conditions for people walking or using a mobility device, people with disabilities,

bicycling, operating transit, or driving. The methodology for the analysis should account for the amount, movement type, sightlines, and speed of projected vehicle trips and projected changes to the public right-of-way in relation to the presence of public transit vehicles or people walking, bicycling, driving, or using a mobility device or scooter.

The applicant will check against a city-provided sample list of potentially hazardous conditions (Table 1). This is not an exhaustive list of circumstances, under which potentially hazardous conditions would occur and additional hazardous conditions may be identified at the Director's discretion.

**Table 1. Sample of Potentially Hazardous Conditions**

Potentially Hazardous Conditions
Adds a new site access or modifies an existing site access by adding new movements that were not previously permitted
Increases vehicular volumes crossing sidewalks, paths, or trails
Increases corner radius and thereby increases the speed of turns or pedestrian/bicycle crossing distance
Increases the number of travel lanes (including, but not limited to general purpose, auxiliary, transit-only, and turn lanes)
Increases crossing distances for people walking or using a mobility device
Adds unprotected left turn movement
Increases the volume of people walking or using a mobility device to cross an uncontrolled mid-block crosswalk
Adds obstructions or slopes that diminish the sightline between road users
Adds obstructions that block existing facilities for people walking or using mobility device
Increases the volume of pedestrians in an area without adequate curb ramps

**Mitigation:** If a potentially hazardous condition is identified, the applicant must identify and implement feasible mitigation measures using proven safety countermeasures to avoid or reduce the impact. The applicant will describe the location, nature, and extent of proposed mitigations to ensure compatibility with the City's transportation system and the goals of the Transportation Master Plan. Mitigations may include site design, layout and access modifications, parking reduction measures, or transportation infrastructure improvements following proven safety countermeasures.

Proven safety countermeasures are road safety strategies that offer significant and measurable impacts to improving safety. These are in addition to the preventative countermeasures already in the DCS. The applicant may reference resources such as the *Boulder Vision Zero Action Plan*, and national resources such as the *FHWA Proven Safety Countermeasures*, the *Crash Modification Factors Clearinghouse*, *Pedestrian Safety Guide and Countermeasure Selection System* (PEDSAFE), and the *Bicycle Safety Guide and Countermeasures Selection System* (BIKESAFE); and design guidance from the National Association of City Transportation Officials (NACTO) *Urban Street Design Guide*, *Urban Bikeway Design Guide*, and *Transit Street Design Guide*, and the *Proposed Rights-of-way Accessibility*

*Guidelines (PROWAG).*

**Approval:** The Hazard Assessment and proposed mitigations measures are subject to the approval of the Director.

**ATTACHMENTS**

Attachment A - Proposed Ordinance 8608  
Exhibit A to Proposed Ordinance 8608

ORDINANCE 8608

AN ORDINANCE UPDATING TRANSPORTATION DESIGN STANDARDS BY AMENDING SECTIONS 2.02(E) AND 2.03(Q) OF THE CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS (D.C.S.), ORIGINALLY ADOPTED PURSUANT TO ORDINANCE 5986; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. The city council hereby repeals and re-enacts Section 2.03Q and amends Section 2.02(E) of the *City of Boulder Design and Construction Standards*, originally adopted pursuant to Ordinance 5986 (and amended by Ordinance 7088, 7400, 7688, 8006, 8324, 8370, and 8561), to read as shown in **Exhibit A** attached to and hereby incorporated into this ordinance.

Section 2. This ordinance is prospective in nature and shall apply to all technical document review and permit applications submitted to the city on or after the effective date of this ordinance. Technical document review applications are administrative in nature and the application date shall be the date that the fee required by Section 4-20-43, "Development Application Fees," B.R.C. 1981, has been paid. Complete site review and form-based code review applications that have been submitted to the city prior to the effective date of this ordinance will be permitted to continue through the process under the standards in effect at the time such application is made. Such applicants shall be required to pursue such approvals and meet all requirements and deadlines set by the city manager and the Boulder Revised Code. Technical document review applications and permits applied for prior to the effective date of this ordinance may proceed under the standards in effect at the time of application. The city council intends that any project approved under the standards of the *City of Boulder Design and*

*Construction Standards* effective prior to the effective date of this ordinance be built and otherwise constructed and maintained in accordance with those standards.

Section 3. The city council orders and directs the city manager to make any additional citation, reference, and formatting changes to the *City of Boulder Design and Construction Standards* not included in this ordinance that are necessary to properly implement these amendments to the *City of Boulder Design and Construction Standards*.

Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 5. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 2nd day of November 2023.

Aaron Brockett,  
Mayor

Attest:

Elesha Johnson,  
City Clerk



1 READ ON SECOND READING, AMENDED, AND ADOPTED this 16th day of  
2 November 2023.

5 \_\_\_\_\_  
Aaron Brockett,  
Mayor

6 Attest:

8 \_\_\_\_\_  
9 Elesha Johnson,  
City Clerk

CITY OF BOULDER  
DESIGN AND CONSTRUCTION STANDARDS

CHAPTER 2  
TRANSPORTATION DESIGN

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Effective: 11/17/2023 ~~TBD~~

DESIGN AND CONSTRUCTION STANDARDS

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## 2.01 General

**(A) Intent**

The Transportation Design Standards are intended to provide for an integrated transportation system for all transportation modes, including pedestrian, bicycle, transit, and motor vehicle.

**(B) Transportation Master Plan**

All improvements proposed to the City's transportation system shall conform with the goals and policies in the Transportation Master Plan (TMP).

**(C) Reference Standards**

Where not specified in these Standards or the B.R.C. 1981, to protect the public health, safety, and welfare, the Director of Public Works, as used in this Chapter 2, "Director," will specify the standards to be applied to the design and construction of transportation improvements and may refer to one or more of the references listed in the References Section of these Standards.

**(D) Functional Street Classification**

Public streets shall be designed and improved to conform to the applicable functional street classification as defined on the "Street Function Class and Proposed Street Facilities" map of the TMP.

## 2.02 Traffic Study

**(A) Traffic Assessment**

The Director will require an applicant to submit a Traffic Assessment in order to adequately assess the impacts of any development proposal on the existing and planned transportation system. The Assessment shall include a peak hour trip generation study projection (Refer to 2.03(J)) and may require additional information as determined by the Director.

**(B) Traffic Study Requirements**

For any development proposal where trip generation from the development during the peak hour of the adjacent street is expected to exceed 100 vehicles for nonresidential applications, or 20 vehicles for residential applications the Director will require an applicant to submit a Traffic Study to evaluate the traffic impacts of the development proposal. The Traffic Study may include the information required in Subsections (A) through (K), of Section 2.03, "Traffic Study Format," of these Standards at the discretion of the Director.

**(C) Responsibilities for Traffic Studies**

An applicant for construction approval shall be responsible for assessing all traffic impacts associated with a proposed development, with the City serving in a review and approval capacity.

**(D) Preparation**

A Traffic Study shall be prepared by an Engineer with adequate experience and expertise in transportation engineering. The Engineer shall be identified in the Traffic Study.

**(E) Coordination with City**

Transportation consultants and Engineers preparing Traffic Studies shall discuss proposed development projects with the Director prior to initiating the study. Issues to be discussed include, without limitation, the TMP, definition of the study area, relevant subarea, area, and subcommunity plans, methods for projecting build-out volumes, background traffic conditions, trip generation, directional distribution of traffic, ~~and trip assignment~~, and assessment of potential transportation hazards. These aspects of the Traffic Study shall be approved by the Director prior to study preparation.

**(F) Submittal**

A Traffic Study shall be prepared in conformance with, and including, the information required in Section 2.03, "Traffic Study Format," of these Standards.

## **2.03 Traffic Study Format**

**(A) Study Requirements**

The information provided in the Traffic Study shall include the following sections as outlined below. The study shall be typed and bound, and clearly identify the data and information in the appropriate sections. In addition, the study shall contain a table of contents, lists of figures, and tables, and shall identify any map pockets and included drawings.

**(B) Introduction**

The Traffic Study shall provide an introduction with an overview and discussion of the project or development proposal.

**(C) Site Location and Zoning**

Include a vicinity map detailing the property location, a conceptual site plan reflecting the boundaries of the project or development, and information detailing the designated zoning district, general terrain and physical features of the site and the surrounding area.

**(D) Study Area Boundaries**

Include the Study Area Boundaries as determined based on discussions with the Director and include all roadways and transportation routes providing access to the site and the surrounding transportation system.

**(E) Existing Area Street System Description**

Describe and include roadway orientations, functional classifications and geometries, intersection geometries, and traffic controls, including without limitation signage and striping, speed limits, parking restrictions, sight distance, transit routes, the presence of bicycle and pedestrian facilities, and any other related traffic operations information and improvements approved or planned by government agencies. For identified improvements scheduled by government agencies, include the nature of the improvements, extent, implementation schedule, and the agency or funding source responsible.

**(F) Existing and Projected Roadway and Intersection Traffic Volumes**

Include diagrams that map existing traffic volumes, and each variation of projected traffic volumes, for all roadways and intersections within the study area. Also provide diagrams that

map the intersection and roadway geometries and traffic control within the study area.

**(G) Existing and Proposed Site Uses**

Include an identification of the existing land use and proposed land use or the highest potential land use based on zoning and maximum trip generation where a specific use has not been determined. If rezoning is proposed, the study shall provide a comparison between the highest trip generation uses for the existing zoning and the highest trip generation uses for the proposed zoning.

**(H) Existing and Proposed Land Uses in Vicinity of the Site**

Document any vacant land or potential redevelopment that may result in a change in traffic volume conditions within the study area during each time period studied. Perform and provide trip generation on these parcels and include the trips generated from these parcels in the trip volume diagrams and level of service analyses for each appropriate time period studied.

**(I) Transportation Demand Management Strategies**

Include an outline of transportation demand management strategies to mitigate traffic impacts created by proposed development and implementable measures for promoting alternate modes of travel, including but not limited to the following:

- (1) **Site Design:** Incorporate design features that facilitate walking, biking, and use of transit services to access a proposed development, including features such as transit shelters and benches, site amenities, site design layouts, orientations and connections to increase convenience for alternate modes and reduce multiple trips to and from the site, and direct connections to existing offsite pedestrian, bicycle, and transit systems.
- (2) **Programs and Education:** Incorporate alternate modes programs, such as providing transit passes to employees and residents, van pooling to the site by a major employer, ride-sharing, parking pricing, and planned delivery services, and educational measures such, as promoting telecommuting, distributing transit schedules and trails maps, signing alternate travel routes, and providing an onsite transportation coordinator or plan to educate and assist residents, employees, and customers in using alternate modes.

**(J) Trip Generation**

Traffic estimates for the proposed project and potential developed or redeveloped properties in the study area shall be obtained by performing trip generation using the procedures outlined in the most current edition of the *Trip Generation Manual* of the Institute of Transportation Engineers (ITE). If adequate *Trip Generation Manual* data is not available for a specific land use, the procedures used to estimate trip generation data shall be approved by the Director. Include the following specific trip generation information:

- (1) **Summary Table:** List each land use that requires trip generation analysis, including the project plus developed or redeveloped land uses within the study area. For each trip generation summary include land use type, amount, intensity, average trip generation rates for total daily traffic and peak hour traffic (a.m., noon and/or p.m. peak hour traffic generation may be required), and the resultant total trips generated for each time period and each land use.
- (2) **Calculations:** Calculation of projected trip generation for any land use, used to determine study area impacts, shall be based on the following:

- (a) Trip generation formulas (or rates, if formulas are not available) published in the most recent version of the *Trip Generation Manual*. Trip generation reports from other industry publications may be considered but are subject to the approval of the Director.
  - (b) A local trip generation study, following procedures outlined in the most recent version of the *Trip Generation Manual*, if no published rates are available and similar land uses can be studied.
  - (c) Additional data or studies from other similar jurisdictions. Trip generation obtained in this fashion is subject to the review and approval of the Director.
- (3) **Trip Generation Reductions:** Credit for any trip reductions is subject to review and approval in advance by the Director. Anticipated trip reduction assumptions should be discussed and approved by the Director prior to the preparation of the Traffic Study. Trip reductions typically fall into one of two categories: those that reassign some portion of the trip generation from the surrounding roadway network (passerby and diverted trip reductions), and those that remove trips generated from the land use trip generation (internal and modal split reductions).
  - (a) Use of passerby and diverted trip reductions may be evaluated and considered in reducing the additional estimated total trip generation of a new land use. However, passerby and diverted trip reduction factors are not to be applied directly to reduce trip generation and turning movement volumes at driveways serving the studied land use. These factors are subject to the approval of the Director.
  - (b) Internal trip reductions and modal split assumptions may reduce the total trip generation of a land use. These factors considered in the Traffic Study shall supply analytical support and detailed documentation to demonstrate how the estimates were derived and incorporated and are subject to the approval of the Director.

**(K) Trip Distribution/Assignment and Modal Split**

Trip distribution/assignment of any generated traffic estimates shall be clearly summarized and illustrated for each access route entering and exiting the generating land use, using the study area transportation system as a basis. Include the following specific trip distribution/assignment information:

- (1) **Trip Distribution:** The trip distribution for each site shall be identified and illustrated with a graphical figure detailing the percentages making each movement, at each intersection in the study area. The trip distribution shall be logically based upon factors such as the site's location within the City's existing traffic volume data in the study area, market analyses, applied census data, and/or professional engineering judgment. Trip distribution assumptions are subject to the approval of the Director.
- (2) **Trip Assignment:** Trip assignment shall be done by applying the trip generation totals for each time period studied, to the trip distribution percentages developed. The trip assignment shall develop anticipated traffic volumes for each of the movements identified by the trip distribution and each of the time periods identified in the analyses. The resulting traffic volumes shall be illustrated with graphical figures detailing the anticipated volumes making each movement, at each intersection in the study area, during



each time period studied.

**(L) Existing and Projected Traffic Volumes**

- (1) Traffic Volume Scenarios:** Five traffic volume scenarios and three separate times of the day may be required to be included in a Traffic Study analysis. The applicant shall meet with the Director to determine the scenarios and time periods to be studied, prior to the development of the Traffic Study. The number of scenarios and time periods to be studied are subject to the approval of the Director. The potential scenarios and time periods include the following:

  - (a) Scenario 1 - Existing Conditions:** An analysis of existing traffic conditions will be required in the Traffic Study. Existing Conditions analysis should attempt to model traffic conditions at the time the Traffic Study is being prepared. Traffic counts that are older than the year the study is being prepared shall be factored up or adjusted to existing year volumes.
  - (b) Scenario 2 - Anticipated Project Completion Year Without Project Volumes:** Include an analysis of the anticipated traffic conditions during the year the project is intended to be finished and traffic is generated. The analysis shall anticipate the increase in background traffic volumes and the generation of other related projects that are not present in the existing condition but would likely be completed and generating trips in this time period. The trip generation for the proposed project shall not be included in this scenario. If the project is intended to be completed the same year that the Traffic Study is being prepared, then this scenario is the same as Scenario 1 - Existing Conditions.
  - (c) Scenario 3 - Anticipated Project Completion Year With Project Volumes:** This scenario is the same as Scenario 2, except that the project volumes are assigned to the roadway network and included in the analyses.
  - (d) Scenario 4 - Future Buildout Conditions Without Project Volumes:** An analysis of the anticipated traffic conditions during buildout, using the projected buildout year defined in the City's TMP. The analysis shall anticipate the increase in background traffic volumes and the generation of other related projects that are not present in the existing condition but would likely be completed and generating trips in this time period. The trip generation for the proposed project should not be included in this scenario.
  - (e) Scenario 5 - Future Buildout Conditions With Project Volumes:** This scenario is the same as Scenario 4, except that the project volumes are assigned to the roadway network and included in the analyses.
- (2) Traffic Volume Projections:** The traffic volume projections shall identify existing and projected daily traffic counts and peak hour turning movement counts for each access point, intersection and street identified in the Traffic Study area for each of the aforementioned scenarios required in the study.
- (3) Time Periods:** Each scenario may be required to look at three different time periods (the a.m., noon and p.m. peak hour conditions). The Director will determine which time periods and scenarios are required for each Traffic Study depending upon the project's

size, location, types of land uses and other pertinent factors.

- (4) **Raw Traffic Count Data:** Include all raw traffic-count data for average daily and peak hour conditions and traffic analysis worksheets in the appendices of the Traffic Study for reference. Computer techniques and associated printouts may be used for this part of the report.

NOTE: All total daily traffic counts must be actual machine counts, not based on factored peak hour sampling. Latest available machine counts from the City, and other agencies, may be acceptable if not more than 2 years older than the year the Traffic Study is being prepared. Data older than the year the Traffic Study is being prepared shall be factored up to current year numbers, using growth rates approved by the Director.

**(M) Transportation Service Standards**

Include a discussion and analysis assessing the impacts of the project or development proposal on the existing and planned transportation system in the study area with respect to the following traffic impact and mitigation objectives:

- (1) **Transportation Master Plan Objectives:** TMP service standards' objectives include the following:
  - (a) No long-term growth in auto traffic over current levels described as a 0 percent increase in vehicle miles traveled.
  - (b) Reduction in single-occupied vehicle travel to 25 percent of total trips.
  - (c) Continuous reduction in mobile source emission of air pollutants, and no more than 20 percent of roadways congested at LOS F.
- (2) **Level of Service Design Guide:** LOS standards objectives include:
  - (a) Minimum LOS D design guide for peak hour conditions for all movements. Project impacts that maintain LOS D or better for all intersections and street segments may not be required to provide LOS-related traffic mitigation improvements.
  - (b) LOS E and lower peak hour conditions require the implementation of one or more transportation management strategies consistent with the goals and objectives of the TMP. A transportation management strategy plan required to address and mitigate these conditions may include travel demand management, land use intensity reduction, site design, layout and access modifications, parking reduction measures, or transportation infrastructure improvements.

**(N) Level of Service Analysis**

- (1) The Traffic Study shall provide LOS analyses for all study area intersections (signalized and unsignalized) and mid-block roadway segments using methodologies outlined in the current *Highway Capacity Manual*. The analyses should be performed for Scenarios 1 through 5, described in Section 2.0 3(L), "Existing and Projected Traffic Volumes," and for each time period (a.m., noon and/or p.m. peaks) that is required in the Traffic Study, unless otherwise required by the Director.

- (2) Level of service analyses shall consider the appropriate infrastructure, lane usage, traffic control and any other pertinent factors for each scenario to be studied. Intersections with planned improvements, discussed in City planning documents, may have those improvements shown in the level of service analyses.
- (3) Signalized intersection level of service analyses shall use the existing timing and phasing of the intersections for all scenarios. If the analyses are to deviate from existing timings or phasing, then a detailed signal progression analyses for the affected corridor shall also be provided.
- (4) The results of the level of service analyses for each scenario and each time period shall be summarized into one or more tables that illustrate the differences in level of service for each scenario. At a minimum, these tables shall list the level of service results for each intersection to include the level of service for each approach and the total intersection level of service, as well as the appropriate delay values for each approach and the total intersection. These tables shall highlight any locations where the addition of project traffic has caused any approach of any intersection to fall below the LOS D standard for the City.

**(O) Traffic Counts and Analyses Worksheets**

Provide capacity analysis calculations based on the planning or operational analysis techniques contained in the current *Highway Capacity Manual* or subsequent highway capacity techniques established by the Federal Highway Administration, including the following:

- (1) **Raw Traffic Count Data:** Include all raw traffic count data for average daily, hourly Average daily trip (ADT), and peak hour conditions and traffic analysis worksheets in the appendices of the Traffic Study for reference. Computer techniques and associated printouts may be used for this part of the report.
- (2) **Level of Service Analyses:** Include all level of service analyses performed for intersections and roadway links. If signal timing or phasing changes are proposed for traffic mitigation and the signal is currently part of a coordinated system, a progression analysis will be required to ensure that adequate progression is maintained or provided. All progress analysis and assumptions to be used shall be reviewed and approved by the Director.

**(P) Traffic Control and Signals**

The Traffic Study shall discuss and analyze any traffic control measures that may be necessary to serve a proposed project or development. Any traffic control measures are to be evaluated based on the requirements established in the *Manual on Uniform Traffic Control Devices* (MUTCD) and by the City and will be applied as necessary to ensure safe and efficient operation of the City's transportation system. The analysis shall demonstrate the need for traffic control measures considering the objectives and policies of the TMP and alternative site designs in order to minimize or mitigate traffic impacts from the proposed project or development. The following traffic control measures are to be addressed:

- (1) **Regulatory Signage, Markings and Islands:** These traffic control measures shall be applied as necessary in conformance with the MUTCD and City standards and policies.
- (2) **Traffic Signals:** The installation of new traffic signals is not encouraged by the City and

all possible alternatives to signalization shall be evaluated before the installation of a new traffic signal will be considered. The need for new traffic signals will be based on warrants contained in the MUTCD and on City policies. In determining the location of a new signal, safety and community traffic circulation and progression will be the primary considerations. If a traffic signal is suggested as part of a mitigation package, and the intersection lies within a series of coordinated traffic signals, then a progression analysis may be required to ensure that adequate progression may still be provided. Generally, a spacing of one-half mile between all signalized intersections is to be maintained, to achieve optimum capacity and signal progression. Pedestrian and bicycle movements shall be considered in all cases and adequate pedestrian clearance is to be provided in the signalization design.

- (3) **Intersection and Access Locations:** To provide flexibility and safety for the existing roadway system and to ensure optimum two-way signal progression, an approved traffic engineering analysis shall be made to properly locate all proposed intersections that may require signalization, and any accesses to the proposed development.

**(Q) Traffic Crashes**

~~The Traffic Study may need to include crash analyses at one or more locations in the study area. The Director shall specify whether such crash analyses are needed for each Traffic Study. Where required, estimates of increased or decreased crash potential shall be evaluated for the proposed project or development and appropriate safety related mitigation measures are to be included. Traffic crash data is available through the State Streets Report and from the City of Boulder's Police Department or from the Director.~~

**(Q) Hazard Assessment**

The Traffic Study shall include a Hazard Assessment if the development has immediate frontage on a High-Risk Network Street (as detailed in the most recent version of the Vision Zero Action Plan). The applicant must evaluate if future conditions being proposed by the development create a new potentially hazardous condition or worsen an existing potentially hazardous condition or identified crash pattern. If a potentially hazardous condition has been identified, proven safety countermeasures to mitigate the hazard are to be included. The Hazard Assessment shall include, but is not limited to, the following sub-sections:

(1) Existing Conditions and Proposed Project

- (a) Summarize existing conditions (including the past five years of fatal and serious injury crashes in the project vicinity) and the proposed project as defined by the Traffic Study requirements and relevant to identifying existing and new potential hazards (e.g., study area, existing and planned transportation system, multi-modal trip generation, distribution/assignment, modal split, traffic volumes, traffic control, and signals).

(2) Analysis

- (a) Applicant must analyze if future conditions being proposed by the development exacerbate existing or create new potentially hazardous conditions for public transit operations and for people walking, bicycling, driving, or using a mobility device or scooter. The methodology for analysis should account for the amount,

movement type, sightlines, and speed of projected vehicle trips and projected changes to the public right-of-way in relation to the presence of public transit vehicles or people walking, bicycling, driving, or using a mobility device or scooter.

(b) Analysis must:

- (i) Address the project's direct and indirect physical changes to the existing baseline conditions.
- (ii) Describe the intensity (e.g., number of vehicle trips), location (e.g., driveway, particular streets), and other project features that may be relevant to address the significance criterion. Be specific (e.g., the project would generate 120 vehicle trips into the driveway during the p.m. peak hour), do not generalize (e.g., the project would generate a modest number of vehicle trips).
- (iii) The impact analysis shall assume the project will comply with laws and regulations. The analysis shall describe how compliance would occur, what it would entail, and how it may reduce impacts.
- (iv) Table 2-1 provides a sample of the circumstances, which may result in potentially hazardous conditions for people walking, bicycling, driving, or using a mobility device or scooter. This is not an exhaustive list of circumstances, under which, potentially hazardous conditions would occur. Additional hazardous conditions may be identified at the Director's discretion.

**Table 2-1: Sample of Potentially Hazardous Conditions**

<b><u>Potentially Hazardous Condition</u></b>
<u>Adds a new site access or modifies an existing site access by adding new movements that were not previously permitted</u>
<u>Increases automobile volumes crossing sidewalks, paths, or trails</u>
<u>Increases corner radius and thereby increases the speed of turns or pedestrian/bicycle crossing distance</u>
<u>Increases the number of automobile lanes</u>
<u>Increases crossing distances</u>
<u>Adds unprotected left turn movement</u>
<u>Increases the volume of pedestrians across an uncontrolled mid-block crosswalk</u>
<u>Adds obstructions or slopes that diminish the sightline between road users</u>

**(3) Mitigation**

- (a) If a potentially hazardous condition is identified, the site development plan must identify and implement feasible mitigation measures using proven safety countermeasures to avoid or reduce the impact. The Engineer shall describe the location, nature, and extent of proposed mitigations to ensure compatibility with the City's transportation system and the goals of the TMP. Mitigations may include site design, layout and access modifications, parking reduction measures, or transportation infrastructure improvements.
- (b) Proven safety countermeasures can be found in resources including the Boulder Vision Zero Action Plan, and national guidelines such as the FHWA Proven Safety Countermeasures, the Crash Modification Factors Clearinghouse, and NACTO Publications such as the Urban Street Design Guide, Urban Bikeway Design Guide, and Transit Street Design Guide.

**(4) Hazard Assessment and proposed mitigations measures are subject to the approval of the Director.**

**(R) Noise Attenuation**

If residential development is planned adjacent to a roadway designated collector or greater, the City may require noise attenuation measures. A discussion and analysis of noise attenuation measured using the methods in the *Fundamentals and Abatement of Highway Traffic Noise Textbook* is to be included in all traffic studies for residential developments adjacent to roadways

designated collector or greater.

**(S) Recommendations**

- (1) The Traffic Study shall include a section in the report that provides any recommendations of the Engineer. These recommendations shall include the Engineer's recommended location, nature and extent of proposed transportation improvements associated with the project or development to ensure safe and efficient roadway operations and capacity, and compatibility with the City's transportation system and the goals of the TMP.
- (2) These recommendations are to be supported with appropriate documentation and discussion of the technical analyses, assumptions and evaluations used to make the determinations and findings applied in the Traffic Study. In the event that any Traffic Study analyses or recommendations indicate unsatisfactory levels of service on any study area roadways, a further description of proposed improvements or mitigation measures to remedy deficiencies shall be included.
- (3) These proposed improvements or mitigation measures may include projects by the City or the Colorado Department of Transportation for which funds have been appropriated and obligated. These proposals may also include improvements to be funded and constructed by the applicant as part of project or development construction. Assumptions regarding future roads, widths and lane usages in any analyses are subject to the approval of the Director.
- (4) In general, the recommendation section shall include:
  - (a) Proposed and Recommended Improvements: Provide a detailed description and sketch of all proposed and recommended improvements. Include basic design details showing the length, width and other pertinent geometric features of any proposed improvements. Discuss and analyze whether speed change lanes are necessary to serve a project of development adjacent to a collector or arterial street. Discuss whether these improvements are necessary because of development traffic or whether they would be necessary due to background traffic. Specify the approximate timing necessary for each improvement.
  - (b) Level of Service Analysis at Critical Points: Provide another iteration of the LOS analyses that demonstrate the anticipated results of making recommended improvements, such as movement LOS, operational and safety conditions, and conformance with the City's transportation system goals and TMP. In association with LOS analyses for recommended improvements, include a comparison of these results with the background LOS analyses without the proposed project or development. Where appropriate, this step is to be provided for both near term (year of project completion) and buildout scenarios.

**(T) Conclusion**

Include a conclusion in the report that provides a clear and concise description of the study findings and recommendations and serves as an executive summary.

**(U) Revisions to Traffic Study**

- (1) Following City review, the Director may require revisions to a Traffic Study based on the

following considerations:

- (a) Completeness of the study,
  - (b) Thoroughness of the level of service and impact analyses and evaluations,
  - (c) Compatibility of the study with the proposed access design, project or development plan and local transportation system,
  - (d) Compliance with local and state regulations and design standards, and
  - (e) An analysis of study deficiencies, errors, or conflicts.
- (2) Revisions may also be required as a result of public process with surrounding neighborhoods and land uses or review by City Council or the Planning Board. Additional details requiring Traffic Study revisions may include, but are not limited to, the following:
- (a) An enlarged study area.
  - (b) Alternative trip generation scenarios.
  - (c) Additional level of service analyses.
  - (d) Site planning and design issues.

## 2.04 Site Access

### (A) Access Requirements

All accesses and curb cuts shall be designed and constructed in compliance with these Standards and the requirements set forth in Section 9-9-5, "Site Access Control," B.R.C. 1981.

### (B) Access Permit Required

All accesses and curb cuts proposed and constructed on City streets and alleys require a permit, as set forth in Section 9-9-5, "Site Access Control," B.R.C. 1981.

### (C) Location of Access

- (1) **Spacing:** Table 2-24, "Access Spacing Requirements," shows the required spacing of access points and curb cuts. Minimum spacing from corners shall be measured from point of intersection of the street flowlines. Minimum spacing between accesses shall be measured at the property line.

**Table 2-24: Access Spacing Requirements**

Minimum Spacing (measured from edge of access)	Single Family Residential	Other Residential	Commercial	Industrial
Local Streets				
- from property line	7.5'	10'	10'	10'
- from corner	20'	50'	50'	50'
- between accesses	15'	20'	20'	20'
Collector Streets	Permitted only when no other access is available.			
- from property line		10'	10'	10'



- from corner		50'	50'	50'
- between accesses		20'	20'	20'
Arterial Streets	Permitted only when no other access is available.			
- from property line		75'	75'	75'
- from corner		150'	150'	150'
- between accesses		250'	250'	250'

- (2) **Alignment:** Accesses shall intersect City streets at a 90-degree angle. Accesses to properties on opposite sides of a collector or arterial, where turning movements are not controlled by a center median or access island, shall either be aligned, or offset by at least 150 feet on collectors, or at least 300 feet on arterials. Greater offsets may be required if left-turn storage lanes are required.
- (3) **Relocation of Existing Access Points and Curb Cuts:** Relocation, alteration, or reconstruction of any existing access points and curb cuts shall meet the requirements of these Standards.

**(D) Sight Distance**

All access points and curb cuts shall provide adequate sight distance as set forth under Section 9-9-7, "Sight Triangles," B.R.C. 1981.

**(E) Restriction of Turning Movements**

Along streets designated arterial or greater, or where necessary for the safe and efficient movement of traffic, the City will require access points and curb cuts to provide for only limited turning movements, as follows:

- (1) **Access With Barrier Island - Left-Turn Restrictions ("Pork Chop"):** Where restricted turning movements are required by the City, and where the abutting street does not have a median, a barrier island will be required:
  - (a) Islands shall have a minimum area of 150 square feet, be bounded by vertical curb, and have an appropriate concrete center surface treatment, approved by the Director.
  - (b) Barrier island lanes shall be at least 12 feet wide, have a radius of at least 20 feet, and be designed to accommodate the largest vehicle using the access on a daily basis. The island shall provide congruent curb ramps or cut through for sidewalks. The pedestrian crossing over the barrier island shall be raised. The dimensions of a raised crossing shall be designed considering standards for accessible design and site conditions, including topography, stormwater flow, and location of utilities. The minimum width of the island along the abutting roadway frontage shall be 30 feet for right-in, right-out only islands, and 15 feet for islands allowing right-in, right-out and left-turning movements.
- (2) **Access With Median Divider Barriers – Left-Turn Restrictions:** Median barriers may be permitted where a median design can improve traffic circulation and safety, or overall site access. Where permitted, medians shall be at least 4 feet wide, and shall extend at least 25 feet beyond the right-of-way.

**(F) Traffic Control**

All accesses shall be designed and constructed with appropriate traffic control and signage conforming to the MUTCD, B.R.C. 1981, and these Standards.

**(G) One-Way Access Lanes**

One-way access lanes may be permitted where restricted access is limited to one turning movement, or where the one-way access improves traffic circulation and safety. One-way access lanes shall be at least 12 feet wide, have at least radius of 20 feet, and be designed to accommodate the largest vehicle using the access on a daily basis.

**(H) Speed Change Lanes**

Speed change lanes shall be required on Colorado state highways as designated in the Colorado State Highway Access Code in accordance with the standards of Section 4.8 of the Colorado State Highway Access Code. For all collectors or arterials that are not Colorado state highways, the Traffic Study shall make recommendations on the need for speed change lanes, based on the criteria contained in the Colorado State Highway Access Code. When required by the Director based on the criteria in the Colorado State Highway Access Code, design of speed change lanes shall conform with Subsection 2.07(D), "Horizontal Alignment," of these Standards.

**(I) Access and Curb Cut Type**

- (1) **Driveway Ramp and Curb Cut:** All new accesses and curb cuts shall be designed as driveway ramps and curb cuts, using the standard ramp driveway details provided in Chapter 11, except as allowed in Subsection (2), along streets where no curb and gutter exists, or for single family lots where roll-over curbs have been provided.
- (2) **Radii Curb Returns:** Radii curb return accesses may be required or permitted by the Director under the following conditions:
  - (a) The access is located along an arterial or collector.
  - (b) Access volumes indicate a need for a radii curb return where the ADT exceeds 500 or where speed change lanes would be required.
  - (c) The access is designed to restrict turning movements, requiring the installation of an access island or center median.
  - (d) The roadway has no curb and gutter.
  - (e) The access serves an industrial property, or provides for commercial deliveries, where large truck movements are required.
  - (f) The Director determines that a radii access is necessary to ensure adequate traffic safety and operation.
  - (g) The access is for a new public street

**Table 2-32: Access Design Specifications**

	Single Family Residential	Other Residential	Commercial	Industrial
Width (in feet )				

- Minimum	10	10	15	20
- Maximum	20	35	35	35
- One-Way Lane	N/A	12-18	12-20	14-24
<b>Radii (in feet)</b>				
- Minimum	N/A	15	15	20
- Maximum	N/A	30	30	40
<b>Access Grades</b>				
Initial Grade (to a point 10 ft beyond ROW)				
- Minimum	(+) 3%	(+) 1%	(+) 1%	(+) 1%
- Maximum	(+) 8%	(+) 6%	(+) 6%	(+) 6%
<b>Final Grade (G2)</b>				
- Minimum	(+/-) 3%	(+/-) 1%	(+/-) 1%	(+/-) 1%
- Maximum	(+/-) 14%	(+/-) 8%	(+/-) 8%	(+/-) 8%
<b>Max Grade Break</b>	(+/-) 10%	(+/-) 6%	(+/-) 6%	(+/-) 6%

**(J) Access and Curb Cut Width**

Access and curb cut widths shall be consistent with Table 2-32, "Access Design Specifications," of these Standards. Access design for Colorado state highways shall conform to the Colorado State Highway Access Code. All other access widths shall be determined using turning templates, as designated by the Director, for a 10 MPH design speed for the largest vehicle expected to use the access on a daily or routine basis. The width of each access shall be the minimum width that is necessary to serve the property and use. No more than 50 percent of the street frontage shall be occupied by the access driveway, except for access to a cul-de-sac or flag lot. All access widths are measured from edge of pavement to edge of pavement (or curb to curb) at the throat of the driveway (or edge of the right-of-way) and are not inclusive of drive cut transitions or curb return radii.

**(K) Access and Curb Cut Radii**

Access and curb cut radii shall meet the specifications shown in Table 2-32, "Access Design Specifications," of these Standards. All radii are measured from the flowline (front face of the curb) or from the edge of the pavement where no flowline exists.

**(L) Access and Curb Cut Grades**

Access and curb cut grades shall be consistent with Table 2-32. The initial grade (G1) shall be a positive grade, beginning at the back of the sidewalk, the back of the driveway ramp or pan section, or the edge of the pavement (where no curb and gutter exists), and shall continue at least 10 feet beyond the right-of-way. The final grade (G2) may be positive or negative, depending on the access conditions. The maximum grade break (or change in slope) shall apply at all grade changes. Additional grade changes may occur at intervals of at least 20 feet.

**(M) Driveways**

- (1) **Vehicle Storage:** Adequate driveway storage capacity for both inbound and outbound vehicles to facilitate safe, unobstructed, and efficient traffic circulation and movements from the adjacent roadway and within the development shall be provided, except for single family or duplex residential driveways on local streets. Adequate driveway length

will be subject to approval by the Director and shall extend at least 24 feet beyond the right-of-way before accessing the first off-street parking space or parking lot aisle.

- (2) **Internal Circulation:** Developments requiring off-street parking facilities shall provide onsite vehicular circulation allowing access to all portions of the site without using the adjacent street system unless a joint access or parking easement with one or more of the adjacent property owners has been dedicated.
- (3) **Backing Into the Right-of-Way Prohibited:** Driveways shall be designed to contain all vehicle backing movements onsite, except for single family or duplex residential uses on local streets.
- (4) **Minimum Back-Up Distance for Detached Single-Family Residential Driveways Accessing Public Alleys:** Driveways shall provide for a minimum distance of 24-feet from the rear of the parking stall or face of garage to the far edge of the adjacent alley right-of-way or turn around area as required by Chapter 9-9-6, "Parking Standards," B.R.C. 1981.
- (5) **Shared Driveways (Detached Single Family Residential Only):** Shared driveways to access detached single family residential lots may be permitted pursuant to an approved site review or subdivision as set forth in Chapter 9-9-14, "Site Review," B.R.C. 1981 or Chapter 9-12, "Subdivision," B.R.C. 1981, if they meet the following criteria:
  - (a) A common parking court is provided at a ratio of 0.5 additional spaces per unit if less than two onsite parking spaces, meeting City requirements, are provided on each single-family lot served by the shared driveway.
  - (b) The shared driveway is no more than 100 feet long, except in districts zoned RL-1 (Residential-Low 1), RE (Residential-Estate), and RR1 (Residential-Rural 1) and RR 2 (Residential-Rural 2), where the shared driveway may extend up to 300 feet long if each lot accessing the shared driveway exceeds 10,000 square feet.
  - (c) The number of units served shall be no more than three lots or houses that have less than 30 feet of usable frontage on the accessing street.
  - (d) Adequate turnaround for vehicles is provided either on an individual lot or lots.
  - (e) The driveway is properly engineered and constructed to mitigate any adverse drainage conditions and is appropriately surfaced for the type of development, usage, and zoning district.
  - (f) The driveway is at least 12 feet wide.
  - (g) For units not fronting on the accessing street, addressing shall be located near the entrance to the shared driveway insuring visibility of the numbering from the street.
  - (h) A public access easement, a minimum fifteen feet in width for the benefit and use of all properties and property owners accessing the shared driveway, has been dedicated and recorded to ensure legal access rights in perpetuity for each property served.
  - (i) Driveway spacing conforms with the requirements in Table 21, "Access Spacing Requirements," of these Standards.

## 2.05 Right-of-Way Requirements

Dedication or reservation of public right-of-way required as part of any project or development proposal shall comply with the requirements set forth in Section 9-9-8, “Reservations, Dedication, and Improvement of Rights-of-Way,” B.R.C. 1981.

## 2.06 Base Street and Alley Standards

### (A) Base Street Standard

Except for residential streets approved pursuant to Chapter 9-12, “Subdivision,” B.R.C. 1981, and Section 2.09, “Residential Streets,” all new streets shall provide at a minimum the base street standard components listed in Table 2-43, “Base Street Standard Components.”

### (B) Base Alley Standard

Except for residential streets approved pursuant to Chapter 9-12, “Subdivision,” B.R.C. 1981, and Section 2.09, “Residential Streets,” all new alleys shall provide at a minimum the base alley standard components listed in Table 2-54, “Base Alley Standard Components.”

**Table 2-43: Base Street Standard Components**

Street Component	Base Standard
Right-of-Way	60' Minimum Width
Paved Street Section	36' Minimum Width, Curb Face to Curb Face
Travel Lanes	Two Travel Lanes, Two-Way Traffic
Curb and Gutter	Required Both Sides
Parking	Parking Allowed Both Sides
Sidewalks	6' Preferred Width (5' Minimum), Detached, Required Both Sides
Streetscape Planting Strips*	8' Width Required Both Sides

\*NOTE: In commercial streetside retail zones where 12foot wide attached sidewalks may be provided, streetscape planting strips may be created using street trees in planting pits with tree grates (15-foot width between back of curb and back of walk).

**Table 2-54: Base Alley Standard Components**

Alley Component	Base Standard
Right-of-Way	20' Minimum Width
Paved Street Section	18' Minimum Width, Pavement Edge to Pavement Edge
Travel Lanes	Two-Way Traffic Allowed
Parking	Parking on Alley Not Permitted

## 2.07 Street Geometric Design

### (A) Minimum Requirements

Except for State Highways and the geometric design variations allowed for residential streets approved pursuant to Chapter 9-12, “Subdivision,” B.R.C. 1981, and Section 2.09, “Residential Streets,” all city streets shall be designed in conformance with this section. The design standards

outlined in this section are minimum design standards, and all street design shall meet or exceed these standards. On streets designated collector or arterial in the TMP, the Director may specify standards to be applied to street design that may exceed the minimum standards in this section based on functional need to ensure safe and efficient operation of the street.

**(B) Right-of-Way**

The right-of-way width required for new streets shall comply with the requirements of Section 9-9-8, "Reservations, Dedication, and Improvement of Rights-of-Way," B.R.C. 1981, and shall include without limitation the following elements:

- (1) The paved roadway section including without limitation travel lanes, turning and speed change lanes, transit lanes, bicycle lanes, and parking lanes;
- (2) Curbs and gutters or drainage swales;
- (3) Roadside and median landscaping areas;
- (4) Sidewalks and multi-use paths; and
- (5) Any necessary utility corridors.

**C) Lane Width**

Street lanes shall meet the width specifications shown in Table 2-65, "Preferred Street Lane Widths," of these Standards.

**Table 2-65: Preferred Street Lane Widths**

Design Criteria		Street Characteristics		
		With Parking Lane	No Parking Lane	With Fixed-Route Bus Transit Service and No Parking Lane
		Preferred	Preferred	Preferred
General Purpose Travel Lanes*		10'	10'	11' (Outside lane)
Auxiliary Lanes*		10'	9'	10'
Conventional Bike Lanes		7'	6.5'	7'
Contra-Flow Bike Lanes (On One-Way Streets)		7'	6.5'	N/A
Buffered Bike Lanes	Bike Lane	7'	6.5'	6'
	Buffer	3'	3'	2'
Separated Bike Lanes	Bike Lane	7' (for parking protected bike lanes, a painted 3' buffer is between curbside of parking lane and bike lane)	7'	7'

	<b>Buffer</b>	3' (with vertical element)	3' (with vertical element)	3' (with vertical element)
<b>Two-Way Separated Bike Lanes</b>	<b>Bike Lane</b>	12' Two-way bike lane (for parking protected bike lanes, a painted 3' buffer is between curbside of parking lane and bike lane)	12' Two-way bike lane (buffer is between curbside of parking lane and bike lane)	N/A
	<b>Buffer</b>	3' (with vertical element)	3' (with vertical element)	N/A
<b>Parking Lanes</b>		8' (measured from curb face, including gutter pan)	N/A	8' (measured from curb face, including gutter pan)

\*NOTES: Travel, auxiliary lane and bike lane dimensions do not include gutter pan width. Auxiliary lanes include, without limitation, turning and speed change lanes.

(D) Horizontal Alignment

- (1) **Conformance to Street Plan:** Horizontal alignment shall conform to the pattern of streets in the Boulder Valley Comprehensive Plan, TMP, and adopted right-of-way plans and shall provide continuous alignment with existing, planned, or platted streets with which they will connect.
- (2) **Extension to Property Line:** All streets shall be extended to the property lines across the property to be developed, unless the street to be constructed has been approved by the City as a cul-de-sac or other no-outlet street.
- (3) **Minimum Horizontal Curve:** Street curvatures shall meet the minimum specifications shown in Table 2-76, "Minimum Horizontal Street Curve Specifications," of these Standards.

**Table 2-76: Minimum Horizontal Street Curve Specifications**

Design Criteria	Local Street	Collector Street	Arterial Street
Minimum Design Speed	20 mph	35 mph	40 mph
Minimum Centerline Radius	100 feet	300 feet	500 feet
Minimum Reverse Curve Tangent	50 feet	100 feet	200 feet
Minimum Intersection Approach Tangent	100 feet	200 feet	300 feet

**Table 2-76a: Separated Bike Lane Minimum Horizontal Curve Specifications**

Design Criteria	Flat, level terrain	Congested, urban area	Intersection approach
Minimum Design Speed	15 mph	12 mph	8 mph
Minimum Centerline Radius*	42 feet	27 feet	12 feet

\*Radius assumes a 20-deg lean angle of the bicyclist.

- (4) **Design Horizontal Curve:** The design horizontal street curvature shall meet or exceed the minimum horizontal curvature and be calculated using the following equation:

$$R = V^2 / 15 * (e-f)$$

Where: E = rate of superelevation per foot  
F = side friction factor

V = vehicle speed in MPH  
R = radius of curve in feet

Side Friction Factors	
Design Speed	Side Friction
(mph)	Factor (f)
20	0.26
25	0.23
30	0.22
35	0.20
40	0.18
45	0.16

(5) **Intersections and Street Spacing**

- (a) **Angles:** All streets shall intersect at right angles (90°).
- (b) **Minimum Street Spacing:** Spacing between streets, as measured from centerline to centerline, shall equal or exceed the minimum distances shown in Table 2-87, “Minimum Street Spacing,” of these Standards.

**Table 2-87: Minimum Street Spacing**

Street Type	Minimum Street Spacing
Local	150 feet
Collector	300 feet
Arterial	500 feet

- (c) **Street Spacing for Signalized Intersections:** Signalized intersections, where feasible, shall be spaced at half-mile intervals. Closer signal spacing may be approved by the Director based on context-sensitive design. The development shall comply with the TMP and Low-Stress Walk and Bike Network Plan when designing placement of signalized intersections to ensure signalized intersections along arterial and collector streets provide controlled crossing where existing and proposed walking and bicycling network streets cross those arterial and collector streets.
- (d) **Receiving Width:** The minimum receiving width is 20 feet. This may include both an opposing and receiving vehicle through lane and a paved shoulder and/or bicycle lane.
- (e) **Corner Radii:** The smallest feasible actual curb radii shall be selected for corner designs. Corner design shall account for the effective turning radius, the actual curve of a turning vehicle. This shall include the additional turning area provided by on-street parking, bicycle lanes, medians, and other roadway features. Figure 2-1 and Figure 2-2 demonstrate the relationship between the effective radius and

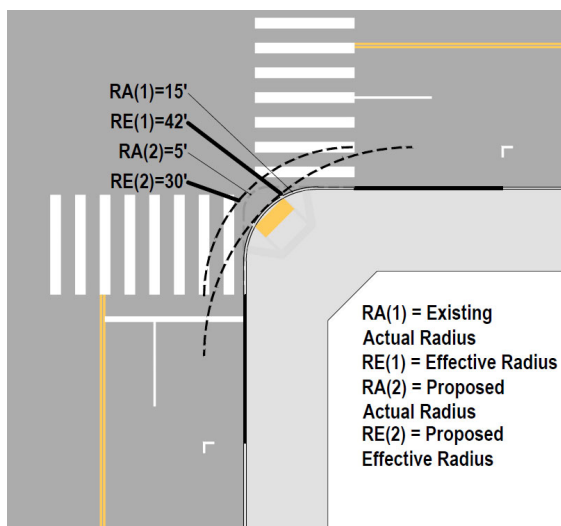


actual curb radius. Table 2-78 shall be used to determine actual versus effective turning radii for SU-30 design vehicles.

The effective radius shall be analyzed for the design vehicle; **the default design vehicle is the SU-30 for all intersections.** The Director may require a different design vehicle based on functional need to ensure safe and efficient operation of the street, for example, a bus or transit route, or a semi-tractor and trailer on streets with industrial land-uses).

The Director may require a larger effective curb radii to provide no encroachments at locations served by transit and where the transit agency operators have policies that prohibit drivers from encroaching into adjacent lanes.

The Director may require a mountable truck apron for locations where large trucks turn infrequently, but there is limited space for encroachment. The truck apron design shall provide a smaller effective radius for the design vehicle and a larger effective radius to accommodate larger vehicle turn movements. Figure 2-3 is an example of a truck apron.



**Figure 2-1. Actual and Effective Radius at a Conventional Intersection Corner**

**Table 2-98: Relationship between Effective and Actual Radius for the Default Design Vehicle (SU-30)**

			Street B				
			Parking	No	No	Yes	Yes
			Bike Lane	No	Yes	No	Yes
Street A	Parking	Bike Lane					
	No	No	RA = 30' (RE = 30')	RA = 25' (RE = 30')	RA = 25' (RE = 30')	RA < 10' (RE = 30')	
	No	Yes	RA = 25' (RE = 30')	RA = 15' (RE = 30')	RA < 10' (RE = 30')	RA < 5' (RE = 30')	
	Yes	No	RA = 25' (RE = 30')	RA < 10' (RE = 30')	RA < 5' (RE = 30')	RA < 5'' (RE = 35')	
	Yes	Yes	RA < 10' (RE = 30')	RA < 5' (RE = 30')	RA < 5' (RE = 35')	RA < 5' (RE = 45')	

Effective: ~~12/01/2022~~ 11/17/2023

- (f) **Allowable turning encroachments for curb radii design:** The following shall be used to reduce effective and actual curb radii. The SU-30 design vehicle turns may encroach into other lanes as follows:
- (i) For turns onto local streets from arterial, collector, or local streets, the design vehicle is allowed to utilize the entire width of the departing and receiving lanes, including oncoming travel lanes, to negotiate the turn.
  - (ii) At intersections where the minor leg is stop controlled and the major leg is uncontrolled, turns are allowed to use the entire width of both the minor leg departing or minor leg receiving lanes, including oncoming travel lanes, to negotiate the turn.
  - (iii) At signalized intersections that have a “No Right on Red” restriction, turning vehicles are allowed to utilize multiple lanes on the receiving street to complete their turn.
- (g) **Additional Corner Radii Design Considerations:** The following turning scenarios shall be used to reduce the effective and actual curb radii:
- (i) Emergency vehicles are allowed to utilize the entire street pavement width for departing and or receiving lanes to negotiate turns, including all adjacent and oncoming travel lanes.
  - (ii) WB-40 and larger design vehicles are allowed to utilize adjacent lanes on the departing and receiving streets at all intersections; large trucks may use the entire street pavement width on local streets.



**Figure 2-3. Example of A Mountable Truck Apron at an Intersection**

- (6) **Road Width Transition Tapers:** Where two street sections of different widths are to be connected, a transition taper is required between the outside traveled edge of the two sections. The length of the transition taper shall be calculated using the following equation:

$$L = WS$$

Where: S = Speed in MPH  
L = Length in feet  
W = Width of offset in feet

This transition is not to be used in the design of left turn storage lanes or speed change lanes.

Design of tapers for on-street bike lanes shall use a minimum length as calculated using the formula below:

$$L = \frac{WS^2}{60}$$

Where: L = Longitudinal lane shift (ft), minimum 20 ft

W = Lateral width of offset (ft)

S = Target bicyclists operating speed (mph)

If the bikeway is delineated by paint-only and the off-tracking of a bicycle pulling a trailer would not put the trailer into a motor vehicle lane, a maximum taper ratio of 2:1 (longitudinal:lateral) may be required by the Director.

(7) **Left Turn Lanes**

- (a) **Storage Length:** Left turn lane storage length for unsignalized intersections shall be determined based on traffic volumes using the Leisch nomographs provided in the ITE "Guidelines for Major Urban Street Design." The left turn storage length for an unsignalized intersection shall not be less than 25 feet. Unsignalized intersections shall only use single lane turn lanes.

For signalized intersections, left turn lane storage length shall be determined utilizing the Highway Capacity Manual. The minimum left turn lane storage length is 80 feet. Single lane left turn storage shall be maximized to the extent feasible and shall be exhausted before consideration of dual turn lanes. If storage length requirements cannot be met in a single lane the Director may, after considering the impacts to the pedestrian and bicycle crossing distance and expected left turn queuing impacts to safety and intersection operations, approve a dual or triple left turn lane configuration. In a location where dual left turn lanes are approved; the lane storage length shall be based on at least 60 percent of the single lane storage length.

- (b) **Lane Change Taper:** Left turn lane change tapers shall be calculated using the equation for bay tapers in Subsection (8).

- (8) **Speed Change Lanes:** Speed change lanes required for transitional access to turning lanes shall be designed according to the design standards provided in the ITE “Guidelines for Major Urban Street Design,” as follows:

- (a) **Bay Tapers:** Bay tapers are required for the lane transition from the travel lane into a turn lane. The bay taper length shall be calculated using the following equation:

$$L = WS / 3$$

Where: S = Speed in MPH  
L = Length in feet  
W = Width of offset in feet

- (b) **Approach Tapers:** Approach tapers are required to transition the position of travel lanes to accommodate turn lanes. The approach taper length shall be calculated using the following equation:

$$L = WS^2 / 60$$

Where: S = Speed in MPH  
L = Length in feet  
W = Width of offset in feet

- (9) **Cul-de-sacs:** Where allowed, cul-de-sacs shall have a minimum pavement diameter of 90 feet, curb face to curb face, and a minimum right-of-way diameter of 115 feet, except for residential streets approved pursuant to Chapter 9-12, “Subdivision,” B.R.C. 1981, and Section 2.09, “Residential Streets.” Cul-de-sacs are prohibited on arterial and collector streets and are strongly discouraged on local and residential streets. The Director may permit cul-de-sacs where there is no other possible street or driveway access to a property from a public right-of-way, or if a cul-de-sac would avoid direct property access to a collector or arterial.

**(E) Vertical Alignment**

- (1) **Minimum Street Grade:** All street grades shall equal or exceed the minimum street grade of 0.5 percent.
- (2) **Maximum Street Grade:** Street grades shall not exceed the maximum street grades shown in Table 2-910, “Maximum Street Grades,” of these Standards.

**Table 2-109: Maximum Street Grades**

Street Type	Maximum Street Grade
Local	8%
Collector	6%
Arterial	5%
Intersection Approach (Minimum 50')	4%
Signalized Intersection Approach (Min. 50')	2%

- (3) **Design Controls for Vertical Curves:** Design control for sag and crest vertical curves (based on a design speed of 30 mph) shall meet the specifications shown in Table 2-4011, “Vertical Curve Design Control,” of these Standards. For design speeds in excess of 30

mph, design control shall be in accordance with the current edition of “A Policy on Geometric Design of Highways and Streets,” prepared by the American Association of State Highway and Transportation Officials.

**Table 2-110: Vertical Curve Design Control**

Algebraic Difference in Grades	Sag Curve Minimum Vertical Curve Length	Crest Curve Minimum Vertical Curve Length
0.5 - 1.0 %	50 feet	100 feet
1.0 - 3.0 %	100 feet	100 feet
3.0 - 5.0 %	200 feet	150 feet
5.0 - 7.0 %	300 feet	200 feet
7.0 - 8.0 %	300 feet	300 feet
Min. Vert. Sight Distance	N/A	250 feet

- (4) **Vertical Sight Distance:** Vertical curve sight distance shall equal or exceed 250 feet. Greater vertical sight distance may be required by the Director to ensure safe travel and street crossings for all transportation modes.

**(F) Sight Distance**

All streets and alleys shall provide adequate sight distance as set forth under Section 9-9-7, “Sight Triangles,” B.R.C. 1981.

- (1) **Design Sight Distance for Separated Bike Lanes:** Departure sight triangles shall be used to provide adequate sight distance for a stopped driver on a minor roadway to depart from the intersection.
- (a) **Parking Restrictions:** Separated bike lanes and access driveways shall be designed so that parking is prohibited within 20 feet of a driveway in locations where a parking lane is designated between bike lane motor vehicle lane.
- (b) **Two Stage Crossing:** Where side streets intersect the separated bike lane, intersections shall be designed as two-stage crossings for motor vehicles.
- (c) **Departure Sight Triangle:** Use the following equation to compute the departure sight triangle between a passenger vehicle and user of the bike lane.

$ISD_{bike} = 1.47 V_{bike} t_g$		
Where:		
$ISD_{bike}$	=	intersection sight distance (length of the leg of sight triangle along the bikeway) (ft)
$V_{bike}$	=	design speed of bikeway (mph)
$t_g$	=	time gap for passenger vehicle to cross bikeway (s), use 5.5 seconds

Table 2-67a, “Separated Bike Lane Minimum Horizontal Curve Specifications,” shall be used to establish the  $V_{bike}$  value.

AASHTO *Green Book* Case B sight distance shall be used to calculate the departure sight triangle between the motorist and the intersecting motorist travel lanes.

**(G) Medians**

Raised medians are required on new arterial streets. Raised medians, where feasible, shall extend past the pedestrian crosswalk to allow for a pedestrian refuge zone.

- (1) **Median Widths:** Medians shall be at least 4 feet wide, curb face to curb face. If left turn lanes are installed in the median, the median width adjacent to the left turn storage lanes shall be 4 feet and the median width at the start of the left turn lane bay taper shall be at least 14 feet wide, curb face to curb face. Median design widths shall conform to Table 2-~~H~~12, “Median Width Design Standards,” of these Standards.

**Table 2-12: Median Width Design Standards**

Function	Minimum Width	Recommended Width
Separation of Opposing Traffic	4 feet*	10 feet*
Pedestrian Refuge or Traffic Control Device Location	6 feet*	14 feet
Medians Separating Left Turn Lanes	14 feet	20 feet

\* NOTE: Cannot accommodate left-turn lanes

- (2) **Landscaping in Medians:** Landscaping in medians shall comply with the requirements of Chapter 3, “Streetscaping,” of these Standards.

**(H) Vertical Clearance of Structures**

At least 17.5 feet of vertical clearance shall be provided for all overhead structures. Vertical clearance is measured from the crown of the street to the lowest portion of the structure on all streets and alleys.

## 2.08 Sidewalks

**(A) Required**

Sidewalks are required on both sides of all new streets, except for residential streets that were approved without required sidewalks pursuant to Chapter 9-12, “Subdivision,” B.R.C. 1981, and Section 2.09, “Residential Streets.”

**(B) Conformance with the Transportation Master Plan**

Off-street sidewalks may be required as part of any project or development proposal in conformance with the TMP.

**(C) Compliance with Americans with Disabilities Act (ADA)**

All public sidewalks shall comply with the requirements of the ADA’s “Standards for Accessible

Design,” which includes without limitation sidewalk widths, grades, locations, markings, surface treatments, and access ramps.

**(D) Minimum Widths**

Sidewalk widths shall conform to the dimensions shown in Table 2-~~12~~13, “Minimum Sidewalk Widths,” of these Standards.

**Table 2-~~12~~13: Minimum Sidewalk Widths**

Minimum Sidewalk Width			
	Adjacent Land Use		
Street Type	Commercial/Retail	Commercial/Industrial	Residential
Local	12	5	4
Collector	12	5	5
Arterial	12	8	8

Note: All off-street multi-use/bike paths designated in the Transportation Master Plan shall be 12 feet wide.

**(E) Vertical Grades**

The vertical grade of a sidewalk shall not exceed 8.33 percent, a ratio of 12 feet horizontal to 1 foot vertical (12:1).

At sidewalk locations adjacent to transit stops or transfer points, the Director may require wider sidewalk sections to provide for adequate passenger storage areas.

**(F) Vertical Clearance**

A minimum 8-foot vertical clearance shall be provided between all sidewalk and multi-use path surfaces and any overhead encroachments.

## 2.09 Residential Streets

**(A) Purpose**

(1) The residential street standards were developed to allow a variety of choices in the creation of new transportation corridors within the urban environment under conditions that will not compromise the safety and function of the city street system. Traditionally streets have provided the following:

- (a) Corridors for pedestrian, bicycle, transit, and motor vehicle movement;
- (b) Parking for vehicles;
- (c) Fire, police, and emergency access;
- (d) Locations for public utilities networks including water supply, sewage, electricity, telecommunications and gas services, and refuse disposal; and



- (e) Postal and other delivery services.
- (2) These Standards recognize that streets, if appropriately designed, may provide additional community amenities including landscape buffers, attractive public gathering spaces, opportunities for neighborhood interaction, public art, view corridors, and potential avenues for new technologies.

**(B) Scope**

**(1) Location of Streets**

- (a) These standards are intended to be used for new streets in undeveloped areas of the city.
- (b) Where infill development in the existing developed portions of the city requires the creation of new streets, these alternative standards may be used if the Director finds, after completing the review process described in Section (C) below, that the new streets will not impair the functions of the surrounding transportation system nor negatively impact the character of the surrounding existing development.
- (c) Further, the Director may determine that these standards are appropriate for redesigning and reconfiguring existing streets. Because the public cost of retrofitting, reconfiguring, or redesigning existing streets is often expensive, decisions about reconstruction of individual streets in accordance with these standards shall be made pursuant to the city's Capital Improvements Program process.

**(2) Methods of Review**

- (a) Permitted: The following street types may be developed without review:
  - (i) Residential collector street
  - (ii) Residential street
  - (iii) Residential alley
- (b) By Director Review: Residential streets listed in paragraph (B)(2)(a) and the street types listed below may be developed upon approval by the Director under the criteria outlined in Section (C) below.
  - (i) Rural residential street
  - (ii) Access street
  - (iii) Access lane
- (c) By Site Review: Those underlined criteria and specifications in the following residential street standards may be appropriate for modification under certain limited circumstances. Developments requesting such modifications shall meet all of the requirements of Section 9-2-14, "Site Review," B.R.C. 1981, in addition to the criteria outlined in Subsection (C), "Director Review," below.

- (3) **Cumulative Standards:** These street standards are intended to be used in combination with Section 2.07, “Street Geometric Design,” of these Standards. Where the standards in this section are silent, the criteria or specifications contained in Section 2.07 shall control.

**(C) Director Review**

- (1) **Application:** As part of a subdivision application, the applicant for residential street construction approval shall include plans that depict the building envelopes of all proposed structures, and the location of proposed trees, street furniture, fire hydrants, meter pits, utility cabinets, or pedestrians in the right of way.
- (2) **Criteria:** The Director will consider the following factors in determining whether an alternative street design is appropriate in a particular location:
- (a) Urban Design: The street should contribute to the creation of an attractive community and to a clearly defined sense of place. Streets shall be designed with due attention to building spacing and setbacks, green spaces, attractive materials, plantings, and landscaping. Pavement and right-of-way widths that are less than the Residential Street standard should provide a benefit to the community that includes improved safety, improved site design, the creation of street canopies through landscaping, and secondary lot access through the use of alleys. Rural Residential streets shall be consistent with the existing character of the area, or with an approved subcommunity or area plan.
  - (b) Street Function: The street should be designed according to its function. This may require a diversity of street types, each serving a role in a hierarchical system. The street pattern and any reduced pavement or right-of-way widths should provide acceptable levels of accessibility, safety and convenience for all street users, including emergency service providers. The pattern shall discourage residential streets from operating as pass through traffic routes for externally generated traffic, while minimizing the length of time local drivers need to spend in a low-speed environment.
  - (c) Connectivity: The neighborhood street pattern should be simple, and logical, with the following characteristics:
    - (i) “No outlet” streets will be highly discouraged and allowed only when street connectivity is unachievable:
    - (ii) The street pattern provides for safe and convenient movements for pedestrians, bicycles, and motor vehicles, including transit.
  - (d) Design Speed: The design of the streets will control vehicular speeds under normal driving conditions to that specified in the residential street standards, while maintaining reasonable access for emergency vehicles.
  - (e) Minimize Maintenance Costs: The street will not create additional city obligations for maintenance and repair that exceed a standard street section.

- (f) Adequate Parking: The site design provides for adequate on-street and off-street parking to serve the area.
- (g) Infill Streets: In the case of infill development, the residential street design will not impair the functioning of, and will have a compatible transition to, the surrounding street system and will not negatively impact the character of the surrounding existing development. No additional density may result from approval of the reduced rights-of-way provided for in the case of Access Streets, Access Lanes, or Residential Alleys.

**(D) Residential Street Sections**

Five residential street sections and a residential alley may be applied to the design of residential neighborhoods as part of subdivisions approved pursuant to Chapter 9-12, "Subdivision," B.R.C. 1981. Residential streets shall be designed in compliance with the standards outlined in Table 2-4314, "Residential Street Design Standards," "Technical Drawings 2.63 - 2.68," Chapter 11, of these Standards, and the requirements of this Section.

- (1) **Residential Collector Street**: The residential collector street collects and distributes neighborhood traffic from residential streets to community collector and arterial transportation systems and provides access to individual properties. The residential collector street is designed for residential streets where anticipated traffic volumes range from 1,000 to 2,500 vehicle trips per day. In addition to the requirements outlined in Table 2-4314, "Residential Street Design Standards," and "Technical Drawing 2.63," Chapter 11, the residential collector street shall be designed to meet the following minimum standards:
  - (a) Parking: On-street parking is allowed on both sides.
  - (b) Bicycle Facilities: Additional street and right-of-way width shall be provided where on-street bicycle lanes are required by a City-adopted subcommunity or area plan, the TMP, or the BVCP.
  - (c) Provision of Alleys: Where alleys are provided or required to be provided under a City adopted subcommunity or area plan, onsite parking spaces shall be accessed from the alley and not the street.
  - (d) Emergency Response: Residential collectors exceeding 500 feet in length from any intersection shall provide a secondary emergency access at 500-foot intervals.
- (2) **Residential Street**: The residential street is designed to provide access to individual properties as well as access to the higher classification street network. The residential street provides for neighborhood circulation and may carry neighborhood traffic and through movements. The residential street shall be designed to meet the minimum standards shown in Table 2-4314, "Residential Street Design Standards," and "Technical Drawing 2.64," Chapter 11, of these Standards.

**Table 2-143: Residential Street Design Standards**

Design Standards	Residential Collector	Residential Street	Rural-Type Residential Street	Access Street	Access Lane	Residential Alley
Design Speed	25 mph	25 mph	20 mph	15 mph	10 mph	10 mph
Design Traffic Volumes (Vehicle Trips Per Day)	1,000 -2,500	500 - 1,000	500 - 1,000	400	250	N/A
Minimum Right-of-Way	60'	60'	60'	40'	30'	16'
Minimum Pavement Section	<u>32'</u>	<u>30'</u>	22' plus 2' gravel shoulders	26'	20'	12'
Sidewalk	5'	<u>4'</u>	4' where required	4'	N/A	N/A
Streetscape Planting Strip	8'	<u>8'</u>	N/A	N/A	N/A	N/A
Minimum Centerline Radius	300'	150'	150'	100'	100'	100'
Minimum Curb Radius	20'	20'	20'	10'	10'	10'
Maximum Length Between Connecting Streets	<u>500'</u>	500'	500'	<u>350'</u>	<u>350'</u>	<u>N/A</u>
Maximum Street Length - No Outlet	500'	500'	500'	<u>150'</u>	<u>150'</u>	500'
Maximum Street Length - Loop or Circle Street	<u>500'</u>	<u>500'</u>	<u>500'</u>	<u>500'</u>	<u>500'</u>	<u>500'</u>
Minimum Turn-Around Area	35' Radius	35' Radius	30' Radius or "Y" or "T" Turn	30' Radius or "Y" or "T" Turn	25' Radius or "Y" or "T" Turn	25' Radius or "Y" or "T" Turn
Emergency Response Set Up Area Intervals	N/A	N/A	N/A	150'	150'	N/A
Sidewalk Placement	Detached Required	Detached Required	Adjacent to Property Line Where Required	<u>Attached</u>	N/A	N/A
Curb and Gutter	Required	Required	N/A	Required	N/A	N/A
On-Street Parking	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed
Minimum Lot Frontages	N/A	N/A	60' no alley 40' w/ alley	<u>60'</u> no alley <u>40'</u> w/alley	<u>60'</u>	N/A
Maximum Number of Units to be Accessed	N/A	N/A	N/A	<u>25 single family</u>	<u>15 single family</u>	N/A

NOTE: Residential street standards that are underlined may be varied through Section 9-2-14, "Site Review," B.R.C. 1981.

- (a) Parking: Parking is allowed on both sides or, on residential streets where parking is restricted or prohibited, off-street parking courts providing parking spaces at a ratio of 0.5 spaces per dwelling unit shall be provided.
  - (b) Bicycle Facilities: Additional street and right-of-way width shall be provided where on-street bicycle lanes are required by a City-adopted subcommunity or area plan, the TMP, or the BVCP.
  - (c) Provision of Alleys: Where alleys are provided or required to be provided under a City-adopted subcommunity or area plan, onsite parking spaces shall be accessed from the alley and not the street.
  - (d) Emergency Response: Residential streets exceeding 500 feet from any intersection shall provide a secondary emergency access at 500-foot intervals.
- (3) **Rural Residential Street**: The rural residential street is designed to provide access to individual properties as well as access to the higher classification street network. The rural residential street provides for neighborhood traffic and through movements and is designed to carry traffic volumes in the range of 500 to 1,000 vehicles per day. The rural residential street shall be provided where prescribed by a City-adopted subcommunity or area plan to maintain the rural character of an area or neighborhood. The rural residential street is a curbless paved street section, with gravel shoulders for parking and open roadside ditches for drainage. In addition to the requirements outlined in Table 2-1314, “Residential Street Design Standards,” and “Technical Drawing 2.65,” Chapter 11, the rural residential street shall be designed to meet the following standards:
- (a) Parking: Allowed on both sides of the street.
  - (b) Turnaround Standard (No Outlet Streets): If a “Y” or “T” turnaround is proposed in place of a standard cul-de-sac bulb turnaround, the “Y” or “T” turnaround shall be designed 60 feet long and 20 feet wide. The turnaround area (including sidewalks if required) shall be contained within the dedicated right-of-way.
  - (c) Provision for Future Sidewalks: If sidewalks are not required at the time of initial street construction, adequate space in the right-of-way shall be reserved for a future sidewalk and commitments from adjacent property owners to participate in assessment districts shall be obtained, so that sidewalks can be added and funded in the future when they are appropriate.
  - (d) Sidewalk Placement (Where Required): Sidewalks shall be required where vehicular traffic volumes are anticipated to exceed 1,000 trips per day, on routes to school, and as prescribed by a City-adopted subcommunity or area plan. Sidewalks shall be placed outside of the paved roadway and drainage ditch, and inside the right-of-way line.
  - (e) Roadside Drainage Ditches: Side slopes along roadside drainage ditches shall be 4:1, and driveway culverts, at least 12 inches in diameter with flared end sections or headwalls, shall be installed by owners at driveways.
  - (f) Land Use Requirements: Lot frontages shall be at least 60 feet wide, unless alley access is provided. Lot frontages with alley access shall be at least 40 feet wide. Two onsite parking spaces, meeting all City requirements, shall be provided on each single-family lot.
  - (g) Provision of Alleys: Where alleys are provided or required to be provided under a City-adopted subcommunity or area plan, onsite parking spaces shall be accessed from the alley and not the street.

- (h) Emergency Response: Rural residential streets exceeding 500 feet from any intersection shall provide a secondary emergency access at 500-foot intervals.
- (4) **Access Street**: The access street provides public access to no more than 25 single-family dwelling units, where anticipated vehicular volumes would not exceed 400 trips per day. The access street is narrow, to ensure slower speeds for vehicular travel, and provides sidewalks along both sides of the street. In addition to the requirements outlined in Table 2-1314, “Residential Street Design Standards,” and “Technical Drawing 2.66,” Chapter 11 of these Standards, the access street shall comply with the following minimum standards:
- (a) Parking: Parking is allowed on both sides of the street or, if parking is not provided on-street, a parking court at a ratio of 0.5 spaces per dwelling unit is required.
  - (b) “L” Intersections: “L” intersections may be permitted as part of subdivision, and are subject to approval by the Director. Where permitted, “L” intersections shall have at least a 150-foot-long tangent street section from the intersection to the closest curvature and a minimum corner radius of 50 feet.
  - (c) Circle or Loop Street: If a circle or loop street is proposed as part of subdivision, the street shall connect to a higher classification street, or connect to two separate perpendicular or offset higher classification streets.
  - (d) Turnaround Standard (No outlet streets): If a “Y” or “T” turnaround is proposed in place of a standard cul-de-sac bulb turnaround, the “Y” or “T” turnaround shall be designed with a 60-foot length, 20 foot width. The turnaround area (including sidewalks if required) shall be contained within dedicated right-of-way.
  - (e) Land Use Requirements: A residential access street shall connect to a higher classification street. Lot frontages shall be at least 60 feet wide, unless alley access is provided. Lot frontages with alley access shall be at least 40 feet wide. Two onsite parking spaces, meeting all cCity requirements, shall be provided on each single-family lot.
  - (f) Provision of Alleys: Where alleys are provided or required to be provided under a cCity-adopted subcommunity or area plan, onsite parking spaces shall be accessed from the alley and not the street.
  - (g) Emergency Response: Access streets exceeding 175 feet from any intersection shall provide a fire apparatus setup area at 150-foot intervals. The setup area shall provide at least 30 foot long, 25-foot-wide clear zone, and is subject to approval by the Fire Department.
- (5) **Access Lane**: The access lane provides public access to no more than 15 single family dwelling units, where anticipated vehicular traffic volumes would not exceed 250 trips per day. The access lane is a narrow “shared street” for all modes of travel (vehicular, bicycle, and pedestrian), without curb and gutter or sidewalks, and must connect with a higher classification street. In addition to the requirements outlined in Table 2-1314, “Residential Street Design Standards,” and “Technical Drawing 2.67,” Chapter 11, the access lane shall comply with the following minimum standards:
- (a) Parking: Parking is allowed.

- (b) **“L” Intersections:** “L” intersections shall have a minimum 150-foot long tangent street section from the intersection to the closest curvature and a minimum corner radius of 50 feet.
  - (c) **Circle or Loop Street:** A circle or loop street shall connect to a higher classification street or connect to two separate perpendicular or offset higher classification streets.
  - (d) **Turnaround Standard (No outlet streets):** A “Y” or “T” turnaround shall be designed with a 60-foot length, 20-foot width. The turnaround area (including sidewalks if required) shall be contained within dedicated right-of-way.
  - (e) **Land Use Requirements:** An access lane shall connect to a higher classification street. Lot frontages shall be at least 60-feet wide. Two onsite parking spaces, meeting all City requirements, shall be provided on each single-family lot. If the minimum lot frontage requirement is not met, additional parking spaces shall be provided at a ratio of 0.5 spaces per dwelling unit as a part of the subdivision. These required spaces shall be located on private property.
  - (f) **Right-of-Way Landscaping:** Landscaping other than ground cover or low shrubbery shall be placed outside of the right-of-way.
  - (g) **Emergency Response:** Access streets exceeding 175 feet from any intersection shall provide a fire apparatus setup area at 150-foot intervals. The setup area shall provide a minimum 30-foot long, 25-foot-wide clear zone, and is subject to approval by the Fire Department.
- (6) **Residential Alley:** The residential alley is to provide secondary vehicular access to the rear of lots in detached single-family dwelling subdivisions with narrow street frontages, in order to limit curb cuts from the street and increase on-street parking. Alleys are most beneficial when lot widths are narrower than 50 feet. In addition to the requirements outlined in Table 2-13~~14~~, “Residential Street Design Standards,” and “Technical Drawing 2.68,” Chapter 11 of these Standards, the residential alley shall be designed to meet the following minimum land use requirements: Backup distance for parking and garage access from the alley shall be 24 feet, including the 16-foot alley right-of-way width, and the remaining backup distance shall be provided on the lot being served.

## 2.10 Emergency Access Lanes

### (A) Emergency Access Required

All industrial, commercial, and residential developments shall provide adequate emergency vehicle access. Adequate emergency access is a minimum 20-foot-wide unobstructed fire apparatus access road with an unobstructed vertical clearance of 15 feet, and meets all applicable standards as set forth in Chapter 10-8, “Fire Prevention Code,” B.R.C. 1981.

### (B) When Emergency Access Lane is Required

When adequate emergency access is not available from a public street, an applicant for construction approval shall construct an emergency access lane. Emergency access lanes must accommodate all emergency vehicles, including fire equipment.

**(C) Secondary Emergency Access**

Secondary emergency access lanes shall be provided to structures whenever the distance to the nearest public street equals or exceeds 500 feet. Secondary access lanes shall conform to all design requirements specified for emergency access lanes.

**(D) Local Emergency Access Lane Standards**

In addition to the emergency access standards set forth in Chapter 10-8, "Fire Prevention Code," B.R.C. 1981, an emergency access lane shall equal or exceed the following standards:

- (1) **Direct Route:** Emergency access lanes shall provide the shortest practical direct access to points of concern, and be entirely contained within a minimum, continuous 20-foot-wide emergency access easement or public right-of-way.
- (2) **Distance From Structure:** Emergency access lanes shall be provided whenever a structure is located more than 150 feet from fire apparatus access.
- (3) **Surface:** An emergency access lane shall consist of either of the following:
  - (a) Two concrete strips at least 4 feet wide, with a 4-foot separation between them. Vegetation other than grass shall not be permitted in the separation area.
  - (b) A minimum continuous paved surface width of 12 feet.
- (4) **Radius:** An emergency access lane shall provide a minimum turning radius of 25 feet, or the radius needed to accommodate an SU-30 vehicle.
- (5) **Turnarounds:** If the length of the emergency access lane exceeds 150 feet (without an outlet accessible to emergency vehicles), then a turnaround with a minimum radius of 45 feet shall be provided.
- (6) **Grade:** The grade for an emergency access lane shall not exceed five percent. Exceptions may be allowed with specific approval from the City of Boulder Fire Chief where this standard cannot be met due to topographical conditions.
- (7) **Vertical Clearance:** Vertical clearance from the surface of the emergency access lane shall be at least 15 feet.

**(E) Unobstructed Access**

Emergency access lanes shall be kept free and clear of all obstructions. If the Director or Fire Chief determines that barriers are needed to prevent automobile traffic from using an emergency access lane, then the applicant for construction approval shall install traffic bollards. Traffic bollard designs shall provide for immediate access of emergency vehicles, without requiring these vehicles to stop and maneuver around, or unlock, any structures. The Director and Fire Chief shall have final approval of all bollard designs.

**(F) Access Identification**

Signs and pavement markings will be required if necessary, by the Director and Fire Chief to



delineate and identify emergency access lanes. All signage for emergency access lanes shall conform with the specifications in the MUTCD.

## **2.11 Bicycle Facilities and Multi-Use Path Design**

### **(A) Conformance with Low-Stress Walk and Bike Network Plan**

The arrangement, type, and location of all bike lane and multi-use path facilities and routes shall conform with the "Low-Stress Walk and Bike Network Plan" section in the TMP. The Director shall specify the standards for design and construction of new bike lane and multi-use path facilities consistent with these Standards and considering public health, safety, and welfare and generally accepted engineering principles. The Director may refer to the Transportation References in these Standards. These standards also apply to marked and signed contraflow bike lanes to meet bicycle connectivity goals identified in the Low-Stress Walk and Bike Network Plan where right-of-way is constrained.

### **(B) On-Street Bike Lanes - Streets Without On-Street Parking**

An on-street bike lane is separated from the motor vehicle travel lane by a single white line. On-street bike lanes on new streets without on-street parking shall be at least 5 feet wide, exclusive of the curb pan, or 6.5 feet from the face of any curb. On existing streets where on-street bike lanes are being added and available right-of-way or improvements space is restricted, the Director may approve a reduced width of the bike lane; the reduced width shall be at least 5 feet wide, inclusive of the curb pan.

### **(C) On-Street Bike Lanes - Streets With On-Street Parking**

An on-street bike lane on a street with on-street parking is separated from the motor vehicle travel lane or parking lane by a single white line. On-street bike lanes on new streets with on-street parking shall be at least 6 feet wide, exclusive of the parking lane. On existing streets where on-street bike lanes are being added and available right-of-way or improvements space is restricted, the Director may approve a reduced width of the bike lane; the reduced width shall be at least 5 feet wide, exclusive of the parking lane.

### **(D) Buffered Bike Lanes**

A buffered bike lane is separated from the motor vehicle travel lane by a painted buffer space creating a greater separation between the bike lane and adjacent travel lane. The buffer shall be marked with 2 solid white lines, and the markings shall otherwise conform with MUTCD standards. The buffered space shall be at least 2 feet wide. On streets without on-street parking the bike lane shall be at least 5 feet wide, or 6.5 feet from the face of the curb. Bike lanes on new streets with on-street parking shall be at least 5 feet wide, exclusive of the parking lane. On existing streets where buffered bike lanes are to be added and right-of-way or improvement space is limited, the Director may modify this standard considering safety concerns or approve an on-street bike lane.

**(E) Separated Bike Lanes (One-Way and Two-Way)**

A separated bike lane is physically separated from the motor vehicle travel lane through vertical or horizontal elements and is distinct from the sidewalk. Separated bike lanes have different forms but all share common elements. Where on-street parking is allowed, the separated bike lane shall be located to the curb side of the parking (in contrast to on-street and buffered bike lanes). Separated bike lanes may be one-way or two-way and may be at street level, at sidewalk level, or at an intermediate level. If located at sidewalk level, a curb or median shall separate the separated bike lane from the motor vehicle travel lane, and different pavement color or type shall separate the separated bike lane from the sidewalk. If located at sidewalk level, the separation may include a landscaped area. If located at street level, the separated bike lane shall be separated from the motor vehicle travel lane by raised medians, on-street parking, or flexible delineators. Flexible delineators shall conform with MUTCD standards. Raised medians shall conform to "Technical Drawing 2.42C," Chapter 11 of these Standards. The Director may require additional markings, signage, and other improvements to ensure safe and efficient operation of the cCity's transportation system.

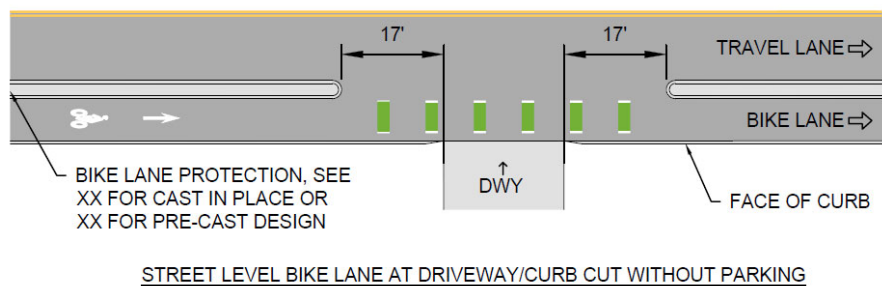
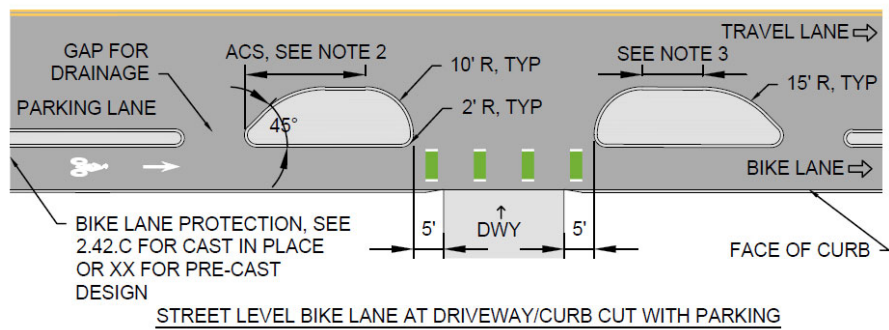
On streets without on-street parking, a vertical separation shall create a buffer between the bike lane and the travel lane that is at least 3 feet wide, and the bike lane shall be at least 5 feet wide, or 6.5 feet from the face of the curb. On streets with on-street parking, the separation shall be a 3-foot-wide horizontal buffer between the bike lane and the parking lane, and the bike lane shall be at least 5 feet wide.

On existing streets where separated bike lanes are to be added and right-of-way or improvement space is limited, the Director may modify this standard considering safety concerns and the efficient operation of the cCity's transportation system.

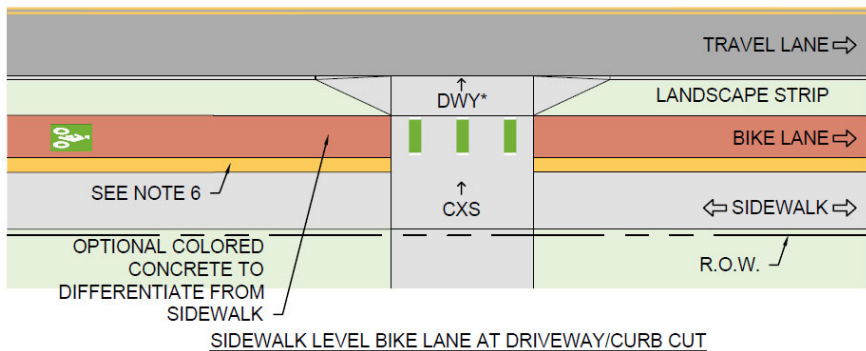
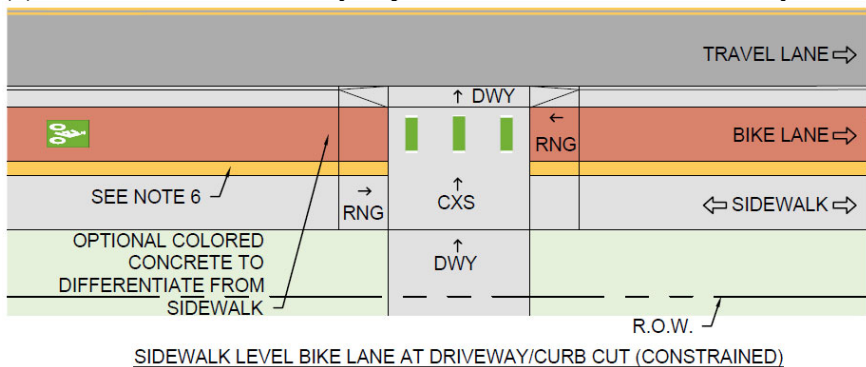
**(F) Typical Bicycle Facility Layouts**

The following provide examples of typical facility layouts and shall be used as guidance for separated bike lane facilities. The existing street context and site constraints of each location shall be taken into account when designing these facilities and engineering judgement may be used to implement the intent of these typical facility layouts.

**(1) One-way Street Level Separated Bike Lanes at Driveways**

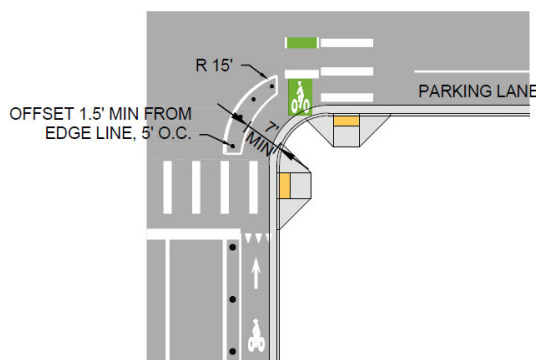


**(2) Sidewalk Level One-way Separated Bike Lanes at Driveways**

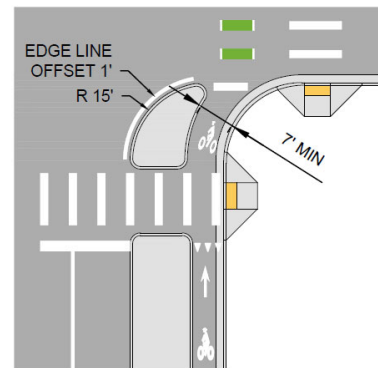


- (a) Typical approach clear space (ACS) for driveways and alleys shall be 20 feet as shown; in constrained locations the approach clear space may be measured from edge of driveway.
- (b) In constrained locations the far-side buffer tangent may be reduced to 5 feet.
- (c) See Section 2.07, Table 2-6-5 of these Standards for standard lane widths.
- (d) Bike lane tapers preferred at 7:1 shift, minimum 3:1 shift in constrained locations where speed is  $\leq 13$  mph.
- (e) For bike lanes at sidewalk elevation without buffer treatment, 1-foot minimum directional indicator strip required within the sidewalk; typically located 1 foot from the edge of the bike lane.
- (f) Accessible ramp slope (RMP) = 7.8% (8.3% max).
- (g) Accessible cross slope (CXS) = 0.5-1.5% (2% max).
- (h) Accessible running slope (RNG) = 5% max.
- (i) Driveway slope (DWY) = 12% max.

### (3) Street Level Separated Bike Lanes at Intersection in Retrofit Conditions

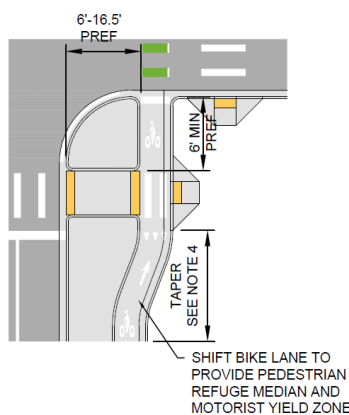


RETROFIT PROTECTED CORNER  
TREATMENT WITH PAINT AND POST

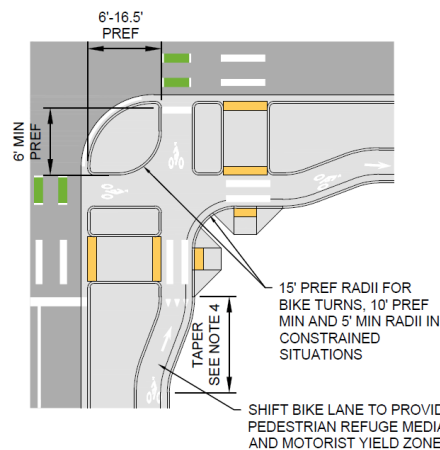


RETROFIT PROTECTED CORNER  
TREATMENT WITH CONCRETE

### (4) Street Level Separated Bike Lanes at Intersections in New or Retrofitted Conditions



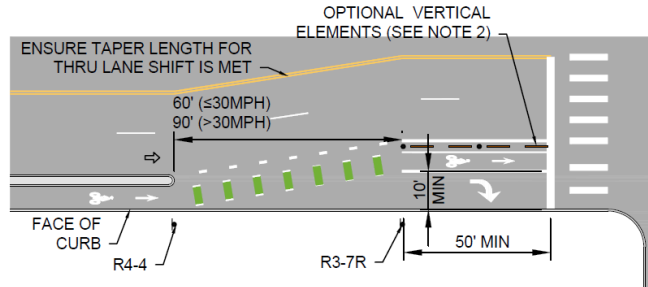
RECONSTRUCTED PROTECTED CORNER  
TREATMENT WITH CONCRETE



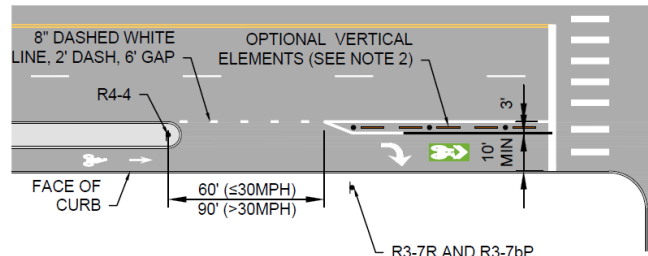
RECONSTRUCTED PROTECTED CORNER TREATMENT WITH CONCRETE  
(INTERSECTION BIKE FACILITIES)

- (a) Design plans shall be consulted for variations.
- (b) Size and shape of corner treatments are dependent on intersection characteristics.
- (c) See Section 2.07, Table 2-56 of these Standards for standard lane widths.
- (d) Bike lane tapers preferred at 7:1 shift, minimum 3:1 shift in constrained locations here speed is  $\leq 13$  mph.

### (5) One-way Separated Bike Lane and Right Turn Lane

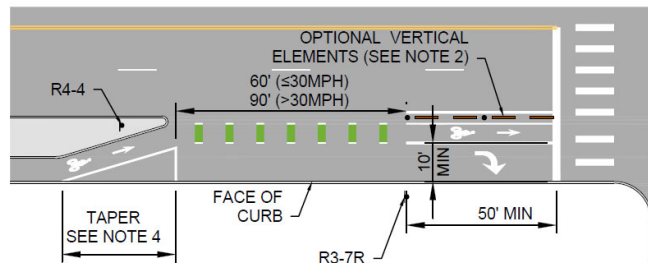


BIKE/TURN LANE - EXCLUSIVE TREATMENT (NO PARKING)

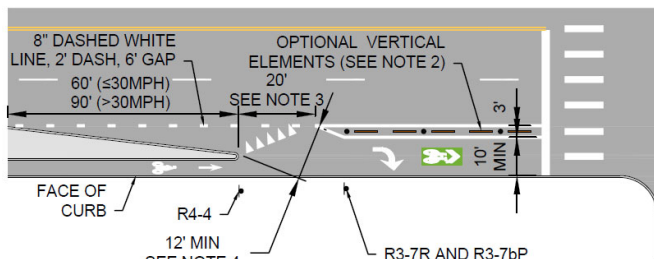


BIKE/TURN LANE - MIXING ZONE TREATMENT (NO PARKING)

### (6) One-way Separated Bike Lane and Right Turn Lane



BIKE/TURN LANE - EXCLUSIVE TREATMENT (WITH PARKING)



BIKE/TURN LANE - MIXING ZONE TREATMENT (WITH PARKING)

- (a) Design plans shall be consulted for variations.
- (b) Vertical elements may be excluded or modified as needed to accommodate truck and/or transit vehicles, with a 13-foot minimum where high bus volume is anticipated.
- (c) Bike lane tapers preferred at 7:1 shift, minimum 3:1 shift in constrained locations where speed is  $\leq 13$  mph.
- (d) See Section 2.07, Table 2-56 of these Standards for standard lane widths.
- (e) A ramp up to sidewalk may be provided for people on bicycles prior to vehicular mixing zone to provide a low stress alternative.

**(G) Off-street Multi-Use Paths**

Design for off-street multi-use paths shall conform to Chapter 5 of the AASHTO Guide for the Development of Bicycle Facilities, 4th edition. The paths shall be at least 10 feet wide with an inside edge radius of at least 15 feet and shall conform to "Technical Drawing 2.02D," Chapter 11, of these Standards.

**(H) Bicycle Parking**

Bicycle parking shall be located in a visible and prominent location that is lit at night and physically separated from automobile parking to prevent vehicles from intruding into the bike parking area. All bicycle parking constructed in the City of Boulder shall conform to the provisions in Section 9-9-6(g), "Bicycle Parking," B.R.C. 1981 or as adopted in any subcommunity or area improvement plan.

- (1) **Bicycle Parking in Sidewalk Area of Public Right-of-Way:** Bicycle parking racks located in the sidewalk area of the public right-of-way shall be designed using either the inverted "U" rack standard or the inverted "U" racks on rails standard. A minimum aisle of 5 feet shall be provided for bikes to maneuver in when accessing the rack. All racks shall be attached to a concrete base using a high security tamper proof anchor such as a mushroom head carbon steel expansion anchor "spike" #5550 as manufactured by Rawl or an equivalent theft-proof device.

- (a) Inverted "U" Rack: The inverted U rack is designed to park two bicycles, facing opposite directions, parallel to the rack. For the rack to meet its design specification of parking two bikes, it must be installed according to the specifications below, otherwise it will be considered to provide parking for one bike. The inverted "U" standard may be installed with the following conditions:
  - (i) Where the "U" rack is installed oriented parallel to a wall or curb, at least 3.0 feet shall be provided between the parallel wall or curb and the center of the rack. Where a bike rack is located near a curb with "head-in" automobile parking, a minimum distance of 5 feet from the curb to the center of the rack is required to avoid damage to bicycles or racks by automobiles extending across the curb over the sidewalk.
  - (ii) Where the "U" rack is installed oriented perpendicular to a wall or curb, a minimum distance of 4 feet from the wall or curb to the center of the rack will be provided to allow two bikes to access and use the rack.

- (iii) Where placed side-by-side, “U” racks shall be placed at least 3.5 feet apart to accommodate ease of access to the racks.
  - (iv) Where placed in a series of 2 or more and parallel to a wall, inverted “U” racks will be separated by a minimum distance of 10 feet between the centers of the racks to allow access to both sides of the rack.
  - (v) The location of a bike rack shall maintain a minimum unobstructed sidewalk width of 6 feet from any bicycle parked properly in the rack.
  - (vi) The location of a “U” rack shall maintain a minimum unobstructed distance of 3 feet from any pedestrian curb ramp to any bicycle parked properly in the rack.
- (b) Inverted “U” Racks on Rails: The inverted “U” racks on rails are designed to park four to ten bicycles, with two bikes facing opposite directions parked on either side and parallel to each inverted “U” rack. These racks allow locking of frame and wheel with a U-lock and support bikes with two points of contact. For the rack to meet its design specifications of parking bikes from both sides, it must be installed according to the conditions of the inverted “U” rack listed above; otherwise, it will be considered to provide no more than half of its designed parking capacity.
- (2) **Onsite Bicycle Parking**: Bicycle parking should generally be provided within 50 feet of the main building entrance. Racks must be installed according to the guidelines in (1) above to reach their designed parking capacity. Otherwise, they shall be credited with no more than half their design capacity. Bicycle parking racks or lockers located on development or project sites or in parking lots outside of public right-of-way shall generally be selected from the following standards:
- (a) Inverted “U” Rack: The inverted “U” rack is recommended for most bike rack installations and is one of the standards for bicycle parking in public rights-of-way as required in Subsection G(1) above. Each rack provides space for two bicycles and allows flexibility in parking by providing two supports for attaching locks. The “U” rack may be used individually where space is limited, or, in circumstances requiring a larger amount of bike parking, inverted “U” racks on rails may be used to park four to ten bikes. Inverted “U” racks and inverted “U” racks on rails shall meet the specifications for the dimensions and installation shown in Chapter 11, “Technical Drawings,” of these Standards.
- (b) Other Bike Rack Styles: Another rack style may be approved by the Director if it meets the following criteria:
- (i) Provides at least two contact points between the rack and the bike to securely support the bike;
  - (ii) Provides at least a 2 foot by 6-foot parking space for each bike without the need to lift the handlebars of one bike over those of another to park;
  - (iii) Allows the frame and one wheel to be locked to the rack with a standard high security, U-shaped shackle lock; and
  - (iv) The rack is uncomplicated and intuitively simple for the bicyclist to use.

- (c) Lockers: Bicycle lockers provide secure weatherproof storage for bike parking. Lockers are recommended for employees and longer-term parking and require adequate space, since they require more area than bicycle racks.
- (3) **On-Street Bike Parking (Bike Parking Corrals)**: The Director may approve on-street bike corrals in commercial areas where sidewalk space is limited and in locations with high pedestrian volumes. In approving the design and construction of bike corrals, the Director shall consider public safety and the efficient operation of the City's transportation system.

## 2.12 Street Lighting

### (A) Scope

The provisions of this section shall apply to public streets and are subject to the restrictions outlined in Section 9-9-16, "Lighting, Outdoor," B.R.C. 1981.

### (B) Guidelines for Street Lighting

#### (1) Street Light Requests

- (a) Public Service Company (PSC) of Colorado is responsible for providing street lighting as requested by the cCity.
- (b) Before considering new or additional local street light requests, the cCity will require unanimous consent of all affected owners of property within 100 feet of proposed street light locations and the support of at least 51 percent of the total number of owners of properties within 500 feet of proposed locations.

- (2) **Costs**: The installation costs of street light fixtures, excluding those that provide a demonstrated safety need, shall be paid by the applicant requesting the installation. The cCity will assume continued maintenance and energy costs associated with new installations.

- (3) **Priorities for Installation**: Streetlights may be provided on the basis of identified traffic need with priorities established as follows:

- (a) Reduction of an identified nighttime traffic accident problem correctable through street light installation.
- (b) Major traffic corridors with significant turning movement conflicts and nighttime pedestrian activity.
- (c) Major traffic corridors with significant night-time turning movement conflicts.
- (d) Arterial and collector intersections and/or horizontal or vertical alignment changes.
- (e) Residential street lighting.
- (f) Commercial alleys with significant night-time pedestrian activity.

- (4) **Design**: Street lights installed in public rights-of-way shall be an energy efficient lighting source (LED unless otherwise approved by the Director) with a minimum of ambient or reflected light (full cut-off fixtures). Poles shall be located so that the center



of the pole is three feet behind the face of the curb. The Director may approve a different pole location that is between three feet and six feet behind the face of the curb where necessary to accommodate the needs of other public right-of-way uses in the sidewalk area. The cCity has adopted the Illuminating Engineering Society's (IES) American National Standard Practice for Roadway Lighting as the design standard for all city streets, with the following modifications:

- (a) Expressway and Arterial: Street lighting shall be based on IES standards.
- (b) Other Streets: Street lighting may be provided at intersections and identified pedestrian crossings only. Lighting may be considered at locations with demonstrated needs based on changes in horizontal or vertical alignments. Fixtures shall have 29-watt LED lighting unless street width or other conditions justify higher wattage.
- (c) Alleys: Except for alleys in commercial areas with significant nighttime pedestrian activity, the city will not provide alley lighting.
- (d) Private Driveways: Street lighting installed at the intersection of private driveways and city streets shall be installed using cCity standards, be located outside of the public right-of-way, and all costs for installation, maintenance, and continued energy expenditures shall be the responsibility of the applicant requesting the lighting installation.

#### (C) Easements

Adequate rights-of-way or utility easements shall be dedicated to the cCity to allow PSC of Colorado to install streetlights. Facilities with detached bike paths or sidewalks may use a combined signage, utility, and pedestrian easement for placement of the streetlights between the curb and bikeway provided that the requirement for 2 feet of horizontal clearance from the sidewalk or bike path is met. Where a bike path or sidewalk is attached to the street curb and gutter, streetlights shall be placed behind the sidewalk or path within a minimum 3foot wide utility easement. Utility easements for streetlights are not exclusive and may be landscaped or used for parking subject to cCity approval. If there is an exclusive gas easement behind an attached walk or path, the streetlights shall be located beyond that easement in an additional three-foot wide easement, or the gas easement shall be relocated.

## 2.13 Transit Stop Facilities

New transit stops and enhancements to existing transit stops shall be designed in accordance with RTD's "Bus Infrastructure Standard Drawings" and with consideration of NACTO's "Transit Street Design Guide."

## 2.14 Traffic Calming Design

#### (A) Scope

This section includes guidelines for the implementation of traffic calming elements on public streets. All elements shall be designed and installed in accordance with the provisions of Chapter 2 of this document and in conformance with the MUTCD. The Vision Zero Action Plan shall be

consulted when determining if and what traffic calming measures are implemented.

Traffic calming measures are intended to slow motorized vehicles and increase safety for bicycle and pedestrian users. Measures may also prioritize the movement of bicycles and pedestrians at crossing/conflict points.

**(B) Traffic Circles**

The Director may require the installation of a traffic circle where the Director finds that the operations or safety of the intersection and/or the adjoining streets would benefit from such device.

Figure 2-~~XXX~~4 illustrates the typical layout and standard dimensions of a traffic circle and Table 2-~~XXX~~17 Offset and Opening Width Dimensions and Table 2-~~XXX~~18 Center Island Diameter Dimensions shall guide the design of the traffic circle. Final dimensions shall be approved by the Director based up site specific considerations for the safety of all users, the ability for all modes to traverse the intersection, and the efficient operation of the transportation system.

In locations where crossing streets are not the same width, curb extensions may be used on the wider street to create consistent approach widths.

In locations where the circulating width is less than 20 feet, the Director may require a mountable truck apron if the director finds that the expected truck traffic at the intersection will negatively impacts safety or intersection operations.

Any objects, including plantings and/or trees, in the traffic circle shall provide a clear zone of visibility between 36 inches high and 80 inches high from the top of the travel path surface.

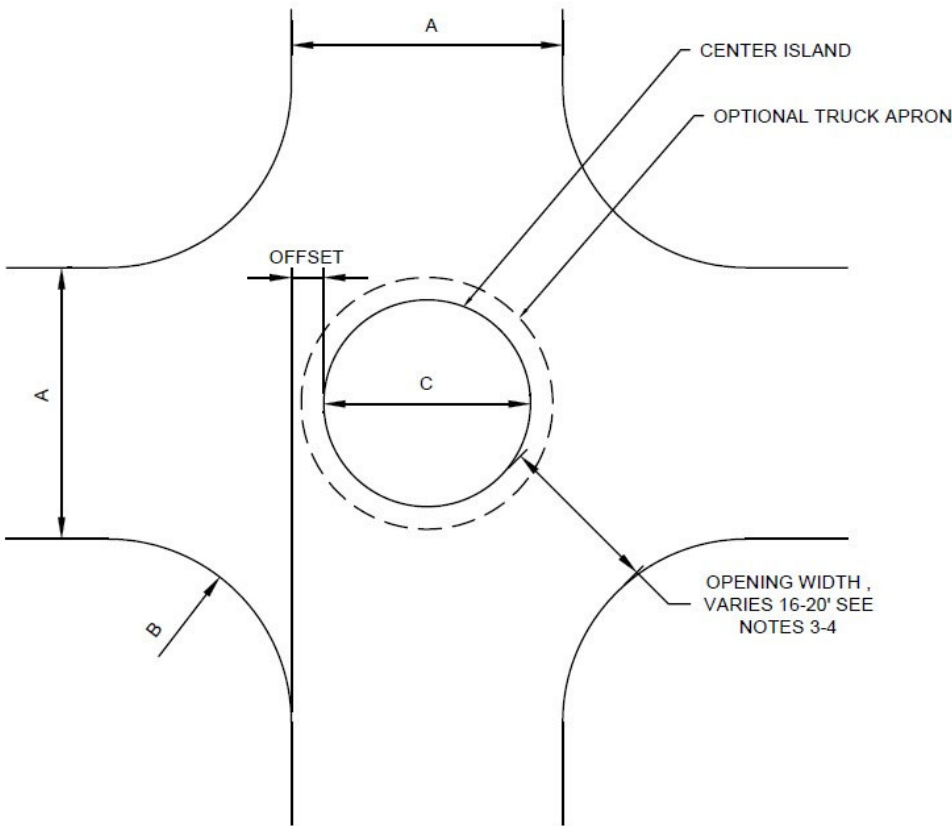


Figure 2 -~~4XX~~ – Typical Layout and Standard Dimensions of Traffic Circle

Table 2-~~15XX~~: Offset and Opening Width Dimensions

Offset	Opening Width
5.5' (Max)	16' (Min)
5.0'	17'
4.5'	18'
4.0'	19'
3.5' or less	20' (Max)

Table 2-~~16XX~~: Center Island Diameter Dimension for Different Street Widths and Curb Return Radii

A Street Width	B Curb Return Radius	C Center Island Diameter
28'	15' 20'	18' 20'

	25'	22'
30'	15'	20'
	20'	22'
	25'	24'
36'	15'	27'
	20'	29'
	25'	33'
40'	15'	32'
	20'	34'
	25'	38'

### (C) Raised Crossings

The Director may require the installation of a raised crossing where the Director finds that the crossing meets the criteria from the city's Pedestrian Crossing Treatment Installation Guidelines for additional crossing treatments.

Figure 2-~~XXX~~5 through 2-~~XXX~~8 illustrate typical layouts for raised crossings, Figure 2-~~XXX~~8 illustrates typical section of a raised crossing, and Table 2-~~XXX~~17 Dimensions of Approach Ramp Length For Various Roadway Longitudinal Slopes and Target Grade Breaks and Table 2-~~XXX~~18 Target Grade Breaks For Different Roadway Classifications shall guide the design of the raised crossing. Final dimensions and geometry shall be approved by the Director based up site specific considerations for the safety of all users, the ability for all modes to traverse the intersection, and the efficient operation of the transportation system.

The width of the top of raised crosswalks should match the width of the connecting sidewalk, shared use path, or desired crosswalk, and in no case be less than 10-feet in width.

Installation of a raised crossing shall include modifications to existing street paving, cold plane and/or overlay asphalt, or reconstruction of paving to provide a smooth transition and street crown and shall match adjacent paving materials and thickness.

In locations where positive drainage cannot be achieved the design shall include drain inlet(s) as necessary to convey stormwater drainage and meet street drainage requirements of Chapter 7.

All crosswalks shall have a minimum of 2 feet spacing from poles, hydrants, and/or other vertical obstructions.

Crosswalk cross slopes should be no greater than 2%, however, at mid-block locations the cross slope may match the existing street grade. Crosswalk cross slope may be 0% if longitudinal slope is sufficient to self-drain

Crosswalk longitudinal slopes should not exceed 5%

Grade breaks should be determined based on existing roadway speeds and desired speed

reduction and should conform with Table 2-~~XXX~~18. Generally higher-grade breaks correspond to higher speed reduction.

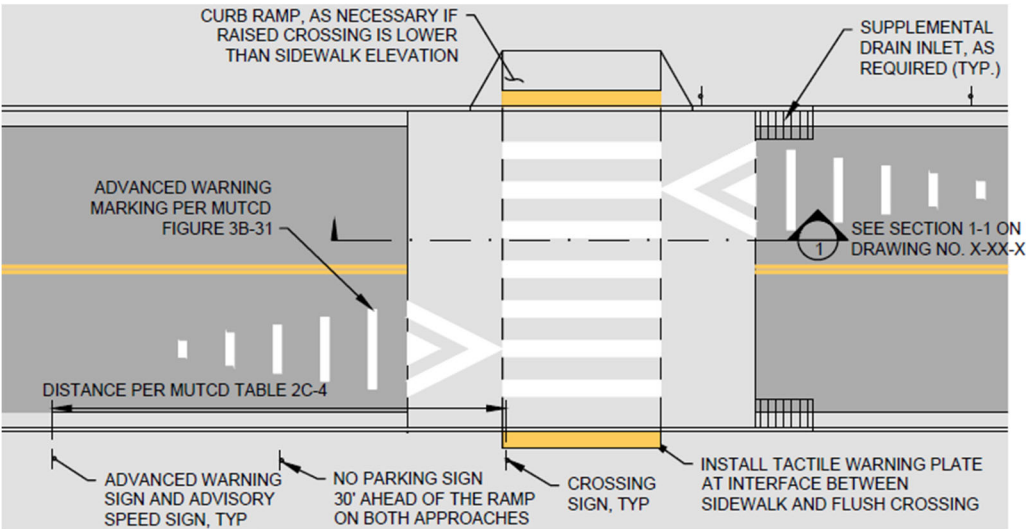


Figure 2-~~XXX~~45 – Typical Layout of Raised Crossing at Mid-Block Location

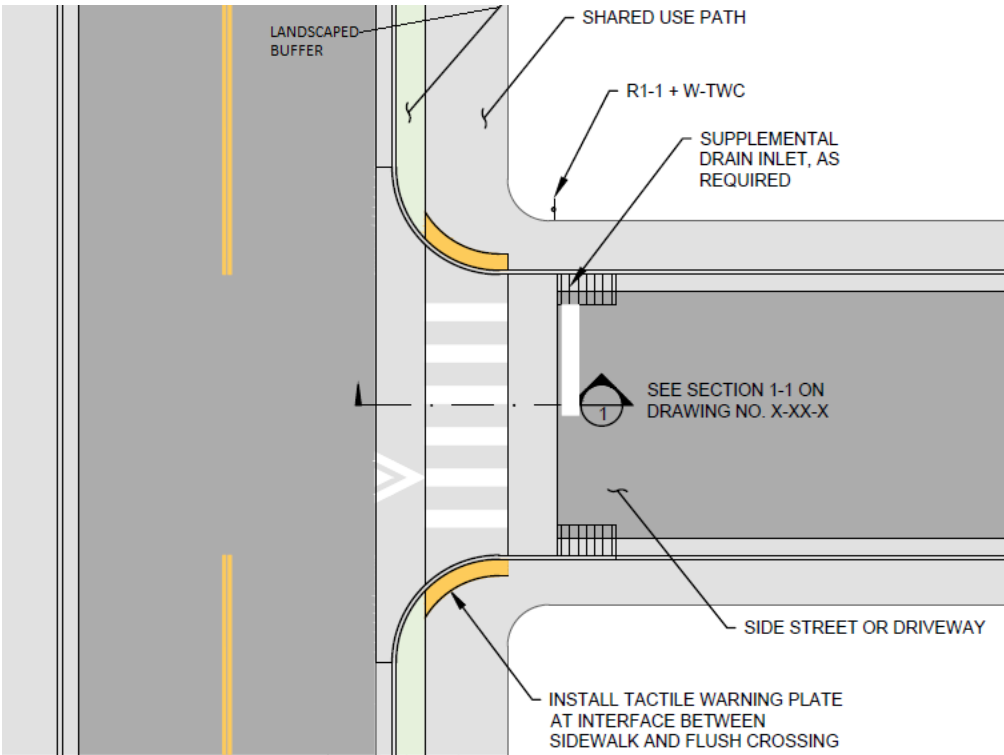


Figure 2-~~XXX~~6 – Typical Layout of Raised Crossing at Intersection Leg Location

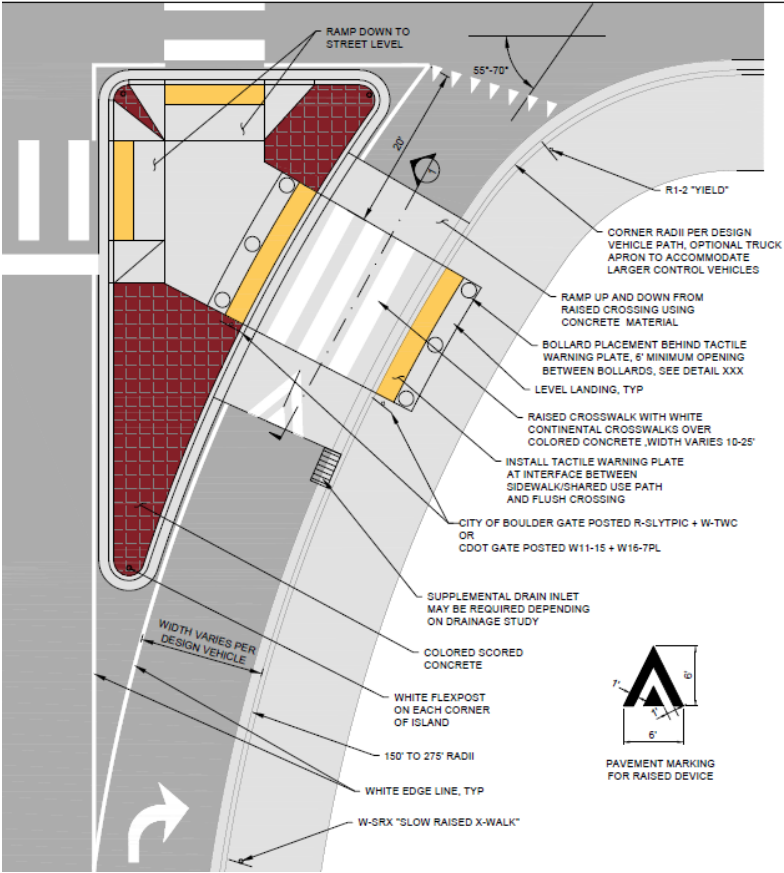


Figure 2-XXX7 – Typical Layout of Raised Crossing at Channelized Right Turn Location

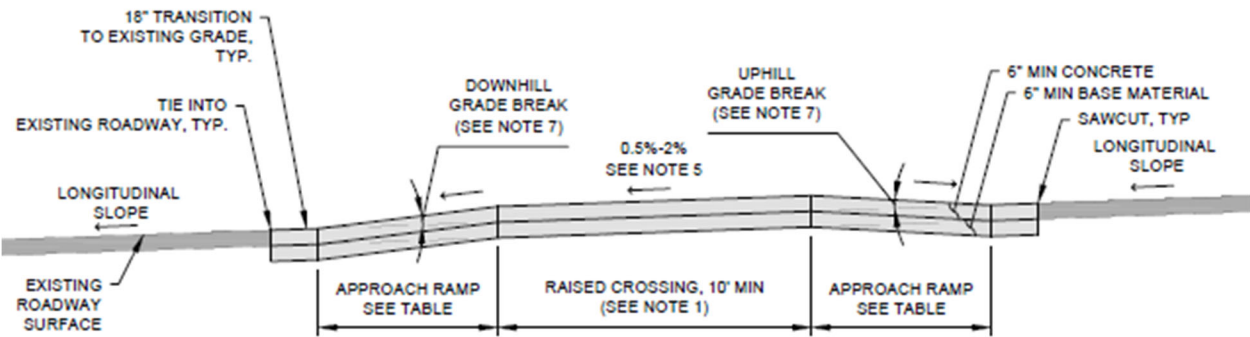


Figure 2-XXX8 - Raised Crossing Typical Section

**Table 2-17: ~~XX~~ Dimensions of Approach Ramp Length For Various Roadway Longitudinal Slopes and Target Grade Breaks**

Roadway Longitudinal Slope	Approach Ramp Length			
	5-6% Grade Break		8-10% Grade Break	
	Uphill	Downhill	Uphill	Downhill
0%	5.0-5.5' (3.0'-4.0')	5.0-5.5' (3.0'-4.0')	3.0-3.5' (2.0'-2.5')	3.0-3.5' (2.0'-2.5')
2%	5.0-5.5' (3.0'-4.0')	5.0-5.5' (3.0'-4.0')	3.0-3.5' (2.0'-2.5')	3.0-3.5' (2.0'-2.5')
4%	5.0-5.5' (3.0'-4.0')	8.0-10.0' (6.5'-7.5')	3.0-3.5' (2.0'-2.5')	5.0'-6.0' (4.0'-5.0')
6%	5.0-5.5' (3.0'-4.0')	11.0-13.5' (9.5'-11.5')	3.0-3.5' (2.0'-2.5')	6.5'-8.5' (5.5'-7.0')
<i>Note: Primary ramp lengths assume a 6-inch tall, raised crossing. Ramp lengths in parenthesis assume a 4-inch tall, raised crossing.</i>				

**Table 2-18: ~~XXX~~ Target Grade Breaks For Different Roadway Classifications**

Roadway Classification	Grade Break Range	
	Min	Max
Local	8%	10%
Collector	5%	6%
Arterial	5%	6%



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Consideration of a motion to authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed against the city by Lawrence Construction Company for payment in the amount of \$200,000

### **PRIMARY STAFF CONTACT**

Teresa Taylor Tate, City Attorney, 303.441.3020

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed against the city by Lawrence Construction Company for payment in the amount of \$200,000.

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3I - Motion to Authorize city manager to settle Lawrence Construction Lawsuit**





**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Consideration of a motion to authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed against the city by Lawrence Construction Company for payment in the amount of \$200,000.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Taylor Tate, City Attorney  
Luis Toro, Senior Counsel

**EXECUTIVE SUMMARY**

This matter arises out of a construction project known as the Wonderland Creek Floodplain and Greenways Improvement Project (the Project). The general contractor on the Project, Lawrence Construction Company (LCCO), filed suit against the city initially seeking over \$2.6 million in damages. At a mediation held October 19, 2023, the parties agreed, subject to council approval, to settle the lawsuit for payment to Lawrence by the city of \$200,000.

Because the amount of the settlement exceeds \$50,000, City Council approval of the proposed settlement is necessary pursuant to section 2-2-14(c) B.R.C., 1981, to make the settlement legally binding.

The city manager and city attorney recommend approval of the settlement.

## **STAFF RECOMMENDATION**

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed against the city by Lawrence Construction Company for payment in the amount of \$200,000.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** – The settlement will save the city from having to pay outside attorneys and experts to try the case.
- **Environmental** – N/A
- **Social** – The resolution of disputes is generally of social benefit; and the resolution of this dispute will free up staff time to work on other projects and workplan items.

## **OTHER IMPACTS**

- **Fiscal** – Payment for the proposed settlement would be made from the Utilities Department budget for the Project.
- **Staff time** – The settlement is expected to save the city considerable amounts of City Attorney and Utilities Department staff time.

## **RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

None.

## **BOARD AND COMMISSION FEEDBACK**

None.

## **PUBLIC FEEDBACK**

None.

## **BACKGROUND**

LCCO was the general contractor on the Wonderland Creek Floodplain and Greenways Improvement Project. After the Project was concluded, it filed suit against the city for

breach of contract and unjust enrichment. Its initial calculation of its claimed damages was \$2,686,278.93. After the Court partially granted the city's motion to dismiss the complaint, LCCO revised its claim to the total of \$1,257,122.56. The proposed settlement is in the amount of \$200,000.

### **ANALYSIS**

It is not possible to predict the outcome of a trial. Given the projected costs of litigation, the city attorney believes that it is unlikely that the city will be in a significantly better economic position by litigating the case as compared to approving the proposed settlement agreement.

The city manager supports the proposed settlement.

### **NEXT STEPS**

Council has the option of approving or rejecting the proposed settlement. If council rejects the settlement, the litigation will continue.

### **ATTACHMENT**

None



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Concept Plan Review for a mixed-use proposal to develop 5450 Airport Blvd. with 147 attached dwelling units and 20,000 square-feet of nonresidential space in four (4) three-story buildings. 117 of the 147 units are proposed as efficiency living units (ELUs). Reviewed under case no. LUR2023-00026

### **PRIMARY STAFF CONTACT**

Shannon Moeller, Planning Manager

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 4A - 5450 Airport Concept Plan**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE: Call-Up Item:** Call-up consideration of a Concept Plan Review for a mixed-use proposal to develop 5450 Airport Blvd. with 147 attached dwelling units and 20,000 square-feet of nonresidential space in four (4) three-story buildings. 117 of the 147 units are proposed as efficiency living units (ELUs). Reviewed under case no. LUR2023-00026.

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Planning & Development Services Director  
Charles Ferro, Senior Planning Manager  
Shannon Moeller, Planning Manager

**EXECUTIVE SUMMARY**

The purpose of this item is for the City Council to consider whether to call up the above-referenced application for review and comment at a public hearing. On **Oct. 3, 2023**, the Planning Board held a virtual meeting and reviewed and commented on the proposal. The 30-day call up period concludes on **Nov. 2, 2023**. City Council is scheduled to consider this application for call-up at its **Nov. 2, 2023** meeting.

The staff memorandum to Planning Board and the applicant's submittal materials along with other related background materials are available in the [city archives for Planning Board](#). The recorded video from the hearing can be found [here](#). The applicant's submittal package is provided in **Attachment A**.

**REVIEW PROCESS**

In a Concept Plan review, no formal action is required on behalf of City Council. Public, staff, Planning Board, and Council comments will be documented for the applicant's use in a future Site Review application.

Per [Section 9-2-14, B.R.C. 1981](#), a Concept Plan Review and Site Review are required when a proposal consists of more than 5 acres or 100,000 square-feet of floor area in the IM zoning district (Table 2-2 of Section 9-2-14, B.R.C. 1981). The site is included in a prior site review approval, so this concept plan review is voluntary.

The purpose of the Concept Plan review is to determine the general development plan for a particular site and to help identify key issues in advance of a site review submittal. This step in the development process is intended to give the applicant an opportunity to solicit comments from the Planning Board, City Council (if called up) as well as the public early in the development process as to whether a development concept is consistent with the requirements of the city as set forth in its adopted plans, ordinances, and policies (Section 9-2-13, B.R.C. 1981).

In addition to a public hearing at City Council, City Council has authority to refer Concept Plan Review proposals to the Design Advisory Board (DAB) and/or Transportation Advisory Board (TAB) for their respective opinions. The purpose of such a review by DAB is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area, or the character established by adopted design guidelines or plans for the area. TAB's opinion can be requested by council on transportation matters implicated in a Concept Plan Review proposal.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** None identified.
- **Environmental:** None identified.
- **Social:** None identified.

## OTHER IMPACTS

- Fiscal: The review of this application falls within staff's normal scope of work, and as such do not present any unusual fiscal impacts.
- Staff time: The application was completed under standard staff review time.

## BOARD AND COMMISSION FEEDBACK

At the public hearing on Oct. 3, 2023, the Planning Board heard presentations by staff and the applicant, and asked questions following each presentation. One member of the public spoke during the public comments portion of the hearing and expressed concerns regarding the affordability of the proposed dwelling units (predominantly ELUs) as workforce housing.

The Planning Board discussed three key issues at the public hearing:

1. Is the proposed concept plan compatible with the goals, objectives, and recommendations of the Boulder Valley Comprehensive Plan (BVCP)?
2. Does Planning Board have feedback for the applicant on the proposed mix of uses?
3. Does Planning Board have feedback to the applicant on the conceptual site plan and architecture?

Regarding Key Issue One, the Board generally found the proposal for predominantly housing in this location would present a design and connectivity challenge to be consistent with BVCP goals and policies, in particular Policy 2.21 Light Industrial Areas. The Planning Board did not feel that the proposal was clearly located in proximity to retail, services, or transit and lacked livability and amenities. The Board also expressed concern regarding the proposal's consistency with Policy 2.41 Enhanced Design for All Projects, as well as Policy 2.24 Commitment to a Walkable & Accessible City, and several policies in Chapter 6 Transportation, in regard to provision of adequate transportation amenities and connections and the car centric design of the proposal.

Regarding Key Issue Two, the Board was generally not supportive of the proposed mix of uses and recommended that the applicant reconsider the overall mix. While the Board was not opposed to a residential use in this location, several Board members were concerned that the mix of uses did not seem viable, did not provide an adequate mix of on-site amenities for residents, or required additional consideration in the design of the proposal.

Regarding Key Issue Three, the Planning Board discussed a number of issues related to site and building design, with key themes including:

- A need for a heavily reworked, human-centered, cohesive neighborhood rather than a car-centric design.
- An improved sense of connection with the open space and ditches to the south and improved on-site open spaces.
- Connectivity improvements such as trail connections and a high quality TDM plan.
- Consideration given to learning the outcome of the airport community conversation prior to moving forward with a subsequent application.

## **PUBLIC FEEDBACK**

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property. A sign was posted on the property a minimum of 10 days prior to the hearing. Staff did not receive any public comments on the application.

## **BACKGROUND & ANALYSIS**

The staff memorandum to Planning Board that includes staff analysis and the applicant's submittal materials are available on the [Records Archive for Planning Board](#).

## **MATRIX OF OPTIONS**

The City Council may call up a Concept Plan application within thirty days of the Planning Board's review. Any application that it calls up, the City Council will review at a public meeting within sixty days of the call-up vote, or within such other time as the city and the applicant mutually agree. The City Council is scheduled to consider this application for call-up at its **Nov. 2, 2023** meeting.

## **ATTACHMENTS**

**Attachment A:** Applicant Concept Plans, Written Statement, and Additional Materials

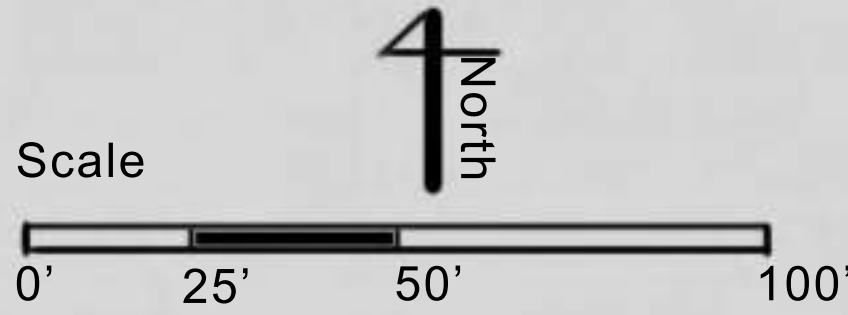


 **MarkelHomes**  
5450 Airport Blvd



	Size	
Lot Total	4.28 Acres	
Buildings	35, 778 Sf	19.1 %
Open Space	63, 608 Sf	34.2 %
Impermeable (not including Buildings)	87,051 Sf	46.7 %

	Area (sf)	Floors	Units	Accessibility		Parking	
				Type A	Type B	Required	Provided
Building A	30000	3	6				
Retail	2600					9	
Office	17400					50	
1-Bdrm.	1450	2		2		2	
2-Bdrm.	1500	4		4		6	
						66	56
Building B	30816	3	60				
Studio ELU	360		48	0	54	48	
2-Bdrm.	720		12	0	12	18	
						66	58
Building C	28440	3	54				
Studio ELU	360		42	0	48	42	
2-Bdrm.	720		12	0	12	18	
						60	53
Building D	11313	3	27				
Studio ELU	276		9	0	3	9	
1-Bdrm. ELU	321		18	0	6	18	
						27	20
Total ELU's			117				
Totals	100569		147	0	135	219	187





 **MarkelHomes**  
5450 Airport Blvd



	Size		
Lot Total	4.28 Acres		
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1-Bdrm.	1450	2	2	2		2	
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2-Bdrm.	720	12	0	12		18	
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Building C	28440	3	54				
Studio ELU	360	42	0	48		42	
2-Bdrm.	720	12	0	12		18	
						60	53
Building D	11313	3	27				
Studio ELU	276	9	0	3		9	
1-Bdrm. ELU	321	18	0	6		18	
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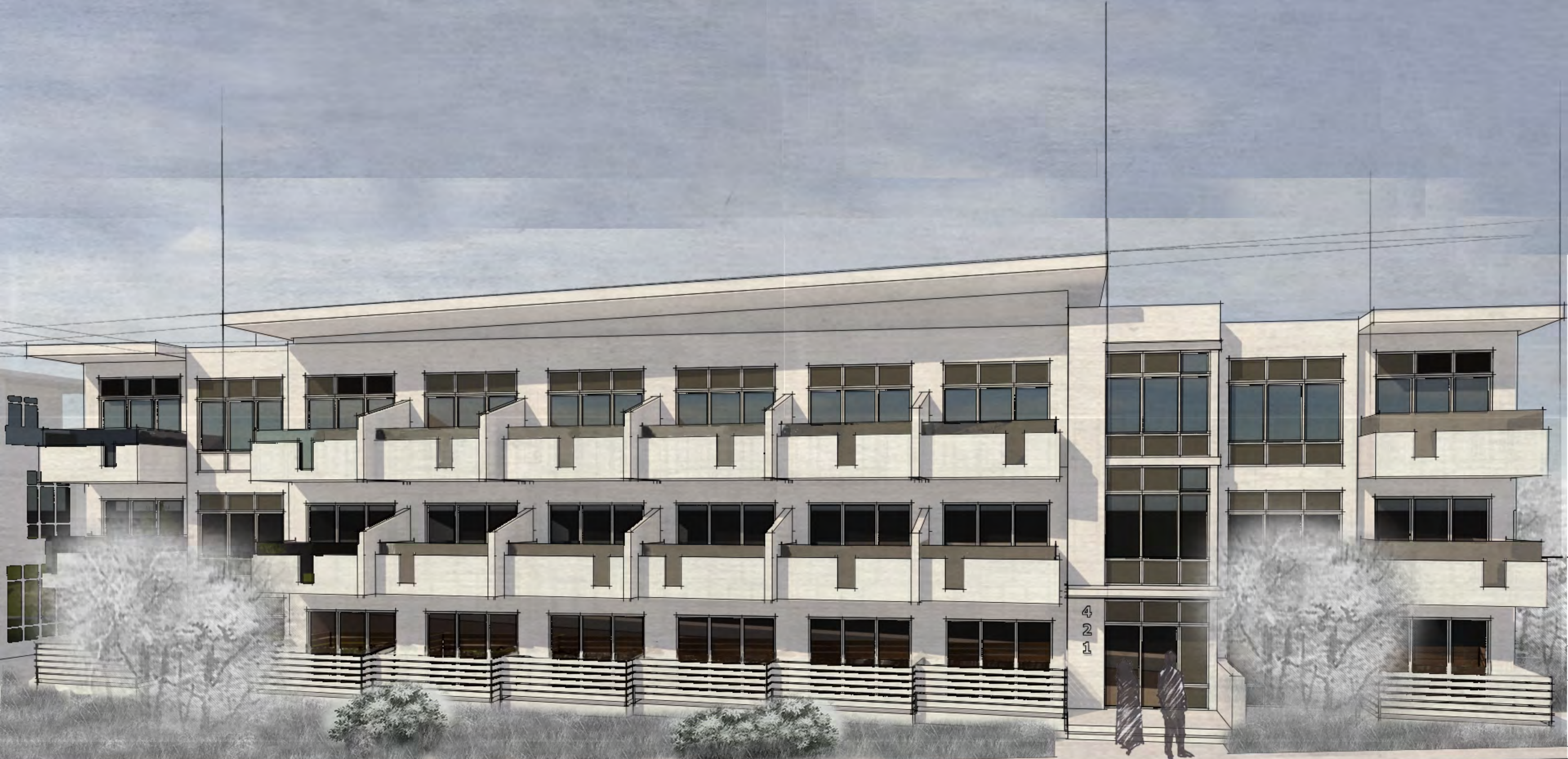


# BUILDING A





# BUILDING B & C





# BUILDING D









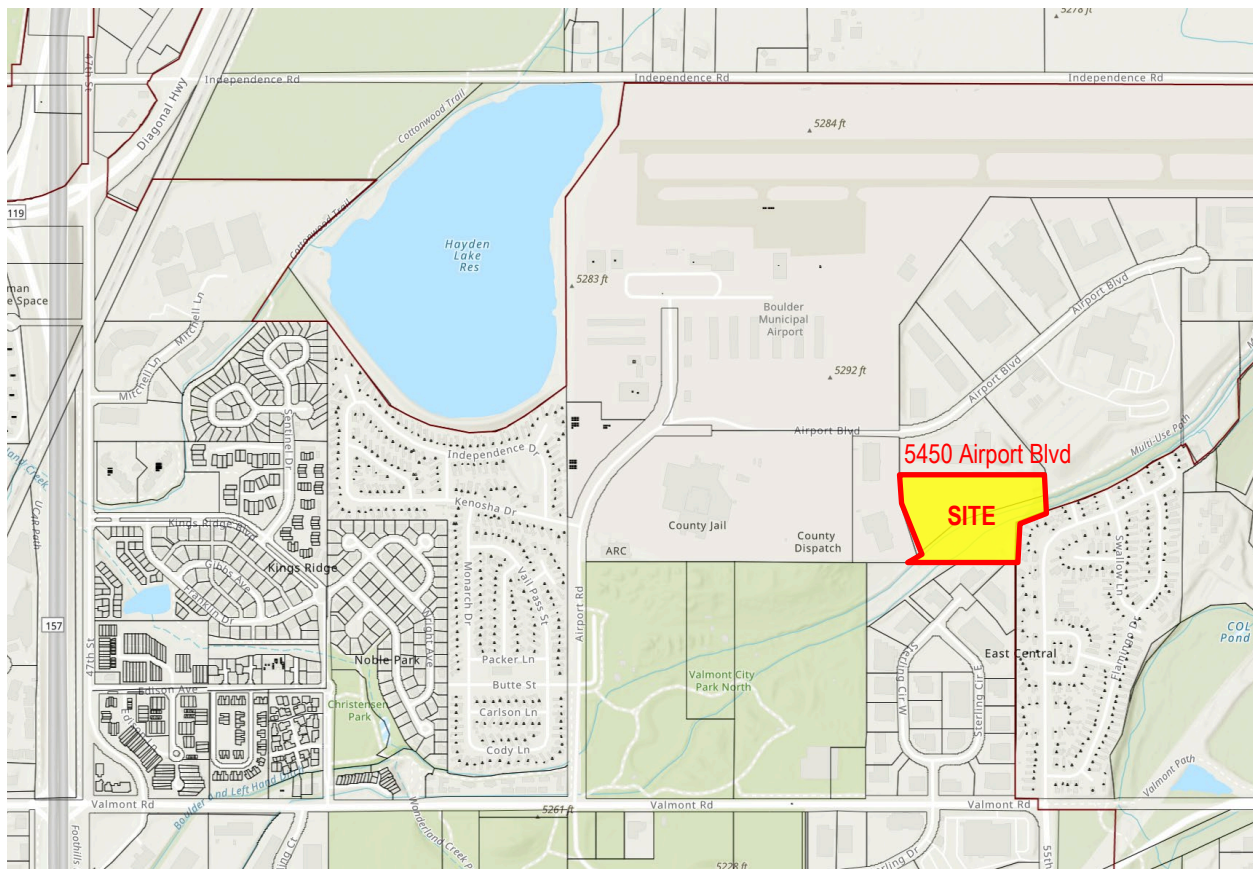
May 17<sup>th</sup> 2023

City of Boulder  
 Planning and Development Services  
 PO Box 791  
 Boulder, CO 80306

## CONCEPT PLAN REVIEW WRITTEN STATEMENT LAKECENTRE MIXED-USE PROJECT AT 5450 AIRPORT BLVD

### Description of the Proposal

The currently vacant site located at 5450 Airport Boulevard is 7.8 acres, zoned I-M and is located south of Airport Blvd and Northeast of the Valmont bike park. The map below shows the site's location within the city.



The surrounding uses include office buildings with surface parking lots to the west and north. There is an existing mobile home community to the southeast. On the south side of the site there is a large open space with accompanying trails that connect to Valmont Park. The site slopes down from the north to the south. Two ditches, the Lefthand Ditch and North Boulder Farmer's Ditch, also run through the southern half of the site. The existing lots are under common ownership, and since the combined site will exceed 5 acres, we anticipate including both in a future site review application. Vehicular access to the property comes from Valmont Rd. to Airport Blvd. and then south along a private road that runs adjacent to the site's west property line. The aerial image on the next page shows the existing surrounding uses for reference.



### Existing Conditions

Markel Home's proposal includes the construction of four, three-story buildings with a total of 147 units. Building A will be a mixed-use structure with 10,000 SF of retail/office space on the first floor, 10,000 SF of office on the second floor and 10,000 SF of residential on the third floor. Additional information on the residential use within Buildings B, C and D are included in the table on the site plans. A series of open space areas, or pocket parks, will be included to promote social gathering and a plaza south of Building A is included to accommodate outdoor seating for the restaurant/café.

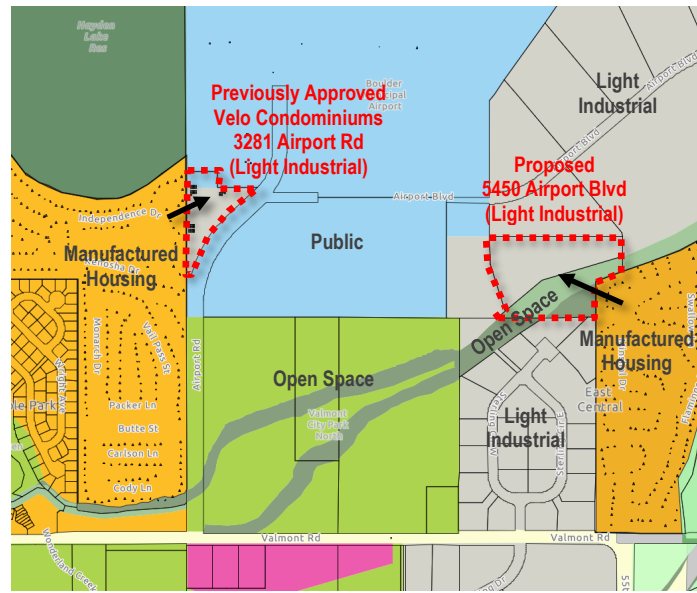
187 surface parking spaces are proposed where 219 would be required by code. This proposal anticipates requesting a 15%-16% parking reduction. The proposal will include a robust TDM plan to offset the requested parking reduction. We anticipate upgrading the existing path to a paved, multi-modal trail and linking it to the proposed sidewalks within the site. We will include short- and long-term bike parking throughout the site to support the use of alternative modes of transportation. We will provide EV parking spaces as well as EV ready spaces for future expansion.

### Mixed-use and Attainable Workforce Housing

We believe this is an excellent opportunity for the city to take advantage of an under-utilized site and create workforce housing without the typical impacts on existing residential neighborhoods. Our proposal adds 117 efficiency living units to the city's housing supply which is nearly 80% of the total number of multifamily homes proposed in our plan.

This new mixed-use, residential neighborhood will have excellent access to Valmont Park and its abundant recreational and open space amenities as well as future multi-modal trails that lead west to the city's existing employment centers and retail services.

This proposal is extremely similar to a recent precedent in this area, the previously approved Velo Condominium project at 3281 Airport Road. As you can see in the map on the right, the future land use designation for this property is also Light Industrial and includes adjacent Open Space and Manufactured Housing land uses. In our opinion, this property is even better suited to the development of a residential, mixed-use neighborhood than Velo Condominiums since it is adjacent to the Open Space land use to the south which connects to the nearby Valmont City Park. The similarities between the two properties and their adjacent land uses are remarkable, and we believe our proposal offers an even better location for a future workforce housing neighborhood.



City of Boulder's Future Land Use Map

Our proposal also includes the construction of two floors of commercial in Building A, for a total of 20,000 SF, to serve small businesses in Boulder. As mentioned earlier, we plan to incorporate a restaurant or café on the ground floor of Building A to support the residential as well as the surrounding office uses. We strongly believe in the potential of this location for a mixed-use development and intend to relocate Markel Home's headquarters to this site if the proposal is ultimately approved.

## Design Approach

The buildings proposed for the site seek to take advantage of the connectivity the site has with the nearby circulation and amenities. By designing for the occupants first, the proposed plan allows for a variability in lifestyles to be present at Lakecentre with multiple housing options, from micro apartment to full 2-bedroom units. The circulation of the site is connected to Airport Blvd and the main walking path along the Farmers Ditch to the South. By preserving the greenery to the South of the site, the area feels more open and less like standard apartment complexes. By keeping all land disturbance to the already vacant lot, and employing other strategies of environmental impact avoidance, the construction of the proposed site will adhere to Markel Homes' sustainability forward approach.

## About the Developer

Markel Homes, based in Boulder, has been building the highest quality, sustainable neighborhoods in and around the city since 1973. We are a privately owned, custom and production home builder and community developer focused on two things: our passion for extraordinarily high design standards and our homebuyers' aspirations. We promote the creation of inclusive, multi-generational communities by building a variety of home types attractive to first-time buyers as well as growing families and active-agers. We support sustainable living practices by creating communities with access to trails and open space, mountain views, and nearby shops, restaurants and services. Our TrueDesign philosophy drives us to build homes with a robust list of included features from interior comforts to energy-saving technology.





Markel Homes Construction Company  
5723 Arapahoe #2B  
Boulder, CO 80303  
303-449-8689/Fax: 303-444-2798

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9.21.23

Letter to Planning Board addressing Staff's Review and Comments

Re: Airport Project Lakecentre- LUR2023-00026

Dear Planning Board Members,

We're pleased to present the latest development from Markel Homes. We welcome input from the Planning Board and staff to improve our project. Our design process addressed various site constraints, resulting in the plan you see today.

Shannon has provided a detailed review with valuable comments. We'll reference relevant section numbers and respond without reproducing the entire comment.

Thank you for your time and input.

All the comments we'll be addressing are pertaining to BVCP Section 17 *Site Design*:

**2.09 Neighborhoods as Building Blocks**

Our project is a quarter-mile from Valmont Bike Park (VBP), which will be easily accessible once the multi-modal path is connected. This connection is crucial because it will link our project to the four bike trails originating from VBP, providing access to every pathway connection in Boulder. Given the increasing prevalence of electric scooters and bikes, we believe bike-friendly is the new standard for walkability.

We are confident that by incorporating thoughtful architecture, parks, and landscaping, we can establish a vibrant neighborhood identity within Lakecentre. We also look forward to the opportunity to improve further the pedestrian environment within our project in future iterations of the site plan. Your feedback and collaboration are welcomed and appreciated.

**2.16 Mixed Use & Higher-Density Development**

As a core design choice, we intend our project to accommodate ELUs (Efficiency Living Units) and workforce housing. However, it's important to note that our project isn't downtown, so we must be cautious about reducing parking spaces. We expect most residents will have cars, so we need cost-effective parking solutions. We aim to create an affordable project without expensive underground parking. To achieve this, we've increased the number of units, making tuck-under parking impractical as it would reduce unit quantity. Our solution is field parking, which we believe is the most practical and cost-effective approach to address our design constraints. We're actively exploring ways to minimize the impact of parking lots without losing spaces. Your input on this matter is appreciated.

### **2.21 Light Industrial Areas**

We are convinced that the concept of a sustainable urban environment is evolving significantly due to the emergence of electric bikes, electric cars, and ride-sharing services. Achieving a hassle-free, sweat-free commute on a bike path is now as simple as using an electric bike. In line with this, we are dedicated to offering ride-sharing services to our residents.

We are enthusiastic about partnering with services such as Zip, B Bikes, and Lime to provide our residents a wide range of transportation options. We believe our project can serve as an example and inspire other developers considering rezoning light industrial properties.

### **2.36 Physical Design for People**

With the cost of one underground parking space reaching \$40,000 or more and covered ground-level parking deactivating the pedestrian experience, we decided on surface parking to maintain affordability and enhance the pedestrian-friendly nature of the ground floors. We believe this approach will give residents more accessible access to open space amenities and major pedestrian paths and create a more inviting and pedestrian-friendly atmosphere. We also recognize room for improvement, considering we are in Sketch plan. We welcome working with Staff, Planning Board, and our planners to create a unique and creative solution to provide a friendlier pedestrian experience.

### **2.37 Environmentally Sensitive Urban Design**

Markel Homes has a strong track record in environmental design and constructing high-performing homes. Our achievements include winning the Leadership Award from the US Green Building Council (LEED), receiving the Department of Energy Indoor Air Quality Leadership Award, and earning an Energy Star award. We are committed to bringing the same leadership and green stewardship we have developed over decades of green building experience to this project.

In our design approach, we prioritize solar access by orienting all our buildings to the south. Additionally, our buildings feature enhanced overhangs, contributing to improved passive energy efficiency attributes. As we progress into the site review phase, we look forward to sharing more details about our green initiatives.

### **2.41 Enhanced Design for All Projects**

b. On our site, we planned a mixed-use building that will serve as a breakfast and lunch restaurant for residents and nearby office workers, fostering a sense of community. We've already established two connections to the multi-use path and are actively exploring additional means to provide direct access and ensure convenience.

Given the stunning views of the Flatirons, we are confident that rooftop decks will significantly enhance the overall design of the building.

c. please refer to the answer in section 2.16, which is the same comment.

d. We will improve the mixed-use path and the pedestrian experience along the ditch.

e. Please refer to the answer in section 2.09, which is the same comment.

f. Please refer to the answer in section 2.16, which is a similar comment.

i. We are currently in discussions with our neighbors who own the property that constitutes the missing link for the mixed-use path. We are hopeful that with the cooperation of the City, we can reach an agreement with the landowner and, as a result, successfully connect the mixed-use path to Valmont Bike Park at long last.

j. An important consideration during our planning process was the presence of existing retaining walls on the southern edge of the lot. These existing steep slopes on the south side of the property restrict building height and would have limited the number of workforce residential units achieved, so we moved the buildings north and turned this challenge into an opportunity by utilizing this area for patios, parks, and parking. These measures allowed us to focus on the affordability of the units by maximizing the number of stories attainable with our site plan. The lowest point in 25' code severely restricts our building heights if placed next to the retaining wall on the south side of the property.

We consider our sketch plan submittal as a strong foundation for a promising project. We firmly believe that collaboration is the linchpin for success in any project. Therefore, we enthusiastically welcome input from Board Members, Staff, and community members, as it enriches the overall fabric of the project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Markel', is positioned above the printed name.

- Jason Markel

## Written Response to Site Plan and Unit Mix Questions

**Could you share a little bit about the design approach to the site plan? Such as the intent behind the placement of vehicle circulation and buildings? How were the proposed building types arrived at?**

Hi Shannon, I appreciate the opportunity to share our thought process behind designing the Airport project's site plan and unit mix.

As the plans came together, we prioritized centralized open spaces, multi-modal access to trail systems, and neighborhood supporting amenities, all while ensuring attainable price points.

Our approach ensures that each building will enjoy its own appropriately scaled park, patio, or open space while capturing stunning views of the surrounding area. The central park, thoughtfully situated near the residential buildings, offers a convenient and inviting neighborhood amenity. Additionally, the large patio adjacent to the commercial building will cater to retail and restaurant customers, fostering a welcoming atmosphere. We strategically placed the commercial/retail services near the main entry, on the west side of the property, to ensure convenient access for residents and workers.

To enhance the community's overall appeal, we incorporated neighborhood-scaled open spaces, mindful of the nearby Valmont Park, just a short 2-minute walk away. We intended to create intimate, useable pocket parks and patios that enhance the charm of our residential neighborhood. By directing our paths and parks to the southwest, we capitalize on the breathtaking Flatirons views, a significant asset of this development. The proposed multi-modal path on the southern property line will provide convenient access to Valmont Park, a central hub along the City's extensive bike path and trail system network. We provide two main access points with our proposed improvements so residents can easily access this core transportation amenity.

An important consideration during our planning process was the presence of existing retaining walls on the southern edge of the lot. These existing steep slopes on the south side of the property restrict building height and would have limited the number of workforce residential units achieved, so we moved the buildings north and turned this challenge into an opportunity by utilizing this area for patios, parks, and parking. These measures allowed us to focus on the affordability of the units by maximizing the number of stories attainable with our site plan.

With the cost of one underground parking space reaching \$40,000 or more and covered ground-level parking deactivating the pedestrian experience, we decided on surface parking to maintain affordability and enhance the pedestrian-friendly nature of the ground floors. We believe this approach will give residents more accessible access to open space amenities and major pedestrian paths and create a more inviting and pedestrian-friendly atmosphere.

Our thoughtfully designed mix of building units, building types, and architectural aesthetics prioritizes the diverse needs of our community and the affordable workforce housing market we are trying to serve. Building A is the mixed-use heart of our site plan, with retail restaurant space on the first floor, office spaces on the second, and residential one- and two-bedroom units on the third floor. Buildings B and C focus on residential living, offering studio and two-bedroom units with breathtaking Flatirons views, while Building D comprises 27 cozy studio units. This purposeful blend of retail, office, and residential unit sizes creates a vibrant urban atmosphere, providing serene and welcoming homes for

our residents and catering to diverse lifestyles. We aim to build a balanced and attainable community where every resident can find their ideal home.

In conclusion, our site plan will build a thoughtfully designed community that delivers variety, affordability, and accessibility, all within a short bike ride to nearby services and employment centers. We are eager to contribute positively to the thriving landscape of Boulder by offering a space that fosters connections and embraces the natural beauty of the surrounding area.

**Could you share about the ELUs on the site – why there is a large proportion? In the written statement there is a reference to workforce housing – can you expand a little bit on how the proposal is geared toward workforce housing?**

Our market research for our project's location, situated outside Boulder's city center yet close to parks and trails, revealed the need for more Efficiency Living Units (ELUs). ELUs are vital to Boulder residents facing the challenges of escalating housing costs. Our proposal advocates for non-deed restricted workforce housing, addressing the pressing needs of Boulder's dynamic workforce while promoting social and economic growth.

With data from the Boulder Chamber highlighting the challenges in retaining essential workers due to soaring housing costs, our workforce housing approach bridges the gap between the demand for affordable accommodation and the desire to live and work in Boulder. According to the National Low-Income Housing Coalition, over 50% of renters in Boulder are cost-burdened, spending more than 30% of their income on housing. Our proposal seeks to alleviate this burden, allowing residents to allocate their earnings towards education, local businesses, and personal development.

In line with our vision for Boulder, we embrace the development of smaller, efficient living units that promote sustainability and community engagement. Data from the Urban Land Institute underscores the increasing popularity of smaller living units among millennials and Generation Z, who prioritize eco-friendly living, bike-ability, and proximity to work and amenities. Integrating smaller efficient living units fosters a stronger sense of community, with shared communal spaces encouraging interaction and connection among residents. This approach also supports Boulder's commitment to responsible urban development by reducing urban sprawl, offering a purposeful blend of rental workforce housing and compact spaces that optimize land usage and create more housing options within existing neighborhoods.

In conclusion, our proposal for non-deed restricted workforce housing and the integration of smaller efficient living units prioritizes affordability, sustainability, and community engagement. We envision a Boulder that attracts and retains a diverse workforce, fostering economic growth and enhancing the quality of life for all residents.

Recognizing the necessity and requirements of deed-restrictive affordable units, Markel Homes is taking a proactive step by incorporating innovative, non-deed restrictive workforce housing into our designs, featuring efficient living units. Here are some critical highlights of why we incorporated workforce housing into our plan:

1. Embracing Diversity: Unlike traditional deed-restricted housing, the non-deed-restricted workforce housing in our proposal fosters a diverse community fabric. By attracting individuals from various professions and income levels, we create a vibrant community where essential workers, teachers, nurses, and artists can coexist alongside tech professionals and entrepreneurs. This diversity cultivates a

rich social landscape, enabling residents to learn from one another, foster empathy, and build lasting connections.

2. Breaking Barriers: The non-deed restricted workforce housing model promotes social mobility, enabling individuals to progress in their careers and lives without facing the limitations imposed by restrictive covenants. With open access to housing opportunities regardless of income growth, residents can envision a future where they can live, work, and prosper in Boulder for the long term.

3. Economic Resilience: Our proposal recognizes that the vitality of Boulder's workforce is essential for the city's sustainable economic growth. We encourage people to work and invest in the local economy by providing unrestricted workforce housing. Research conducted by the Boulder Economic Council shows that for every 1% increase in local employment, the city's GDP experiences a corresponding 1.4% increase. Our workforce housing initiative thus becomes a catalyst for economic resilience and stability.

4. Fostering Livable Communities: Boulder, renowned for its natural beauty, must remain accessible to those who contribute to its growth and vibrancy. Our proposal ensures that essential workers, who often play a significant role in the city's functioning, have the opportunity to reside close to their workplaces. This reduction in commute times not only improves the quality of life for residents but also mitigates traffic congestion and reduces carbon emissions, aligning with the city's commitment to sustainability.

5. Supporting Local Businesses: A robust and diverse workforce residing in Boulder boosts local businesses, as residents have increased purchasing power and invest in their communities. According to a study by the National Multi-Housing Council, every dollar spent on rental housing generates approximately \$1.67 in the local economy. Therefore, by supporting non-deed restricted workforce housing, we foster a virtuous cycle of economic growth within the city.

6. Learning from Success Stories: To solidify our case, we can look to other cities that have successfully implemented non-deed restricted workforce housing initiatives. For instance, the "15% workforce housing" model has shown positive outcomes in Minneapolis, creating mixed-income neighborhoods and boosting socio-economic integration.

Thank you again for the opportunity to explain our thought process behind our unit mix and site plan design. Let me know if you have any further questions we can clarify.

Best Regards,

--Jason Markel



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **AGENDA ITEM**

Second reading and consideration of a motion to adopt Ordinance 8601 amending Chapter 9-13, "Inclusionary Housing," Section 9-2-14, "Site Review, and Section 9-16-1, "General Definitions," B.R.C. 1981, modifying affordable housing requirements and incentives and setting forth related details

### **PRIMARY STAFF CONTACT**

Jay Sugnet/Housing Sr Manager

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to adopt Ordinance 8601 amending Chapter 9-13, "Inclusionary Housing," Section 9-2-14, "Site Review, and Section 9-16-1, "General Definitions," B.R.C. 1981, modifying affordable housing requirements and incentives and setting forth related details.

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 5A - Second Reading Ordinance 86001**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 2, 2023**

**AGENDA TITLE**

Second reading and consideration of a motion to adopt Ordinance 8601 amending Chapter 9-13, "Inclusionary Housing," Section 9-2-14, "Site Review, and Section 9-16-1, "General Definitions," B.R.C. 1981 modifying the affordable housing requirements and incentives; and setting forth related details.

**PRESENTERS**

Housing & Human Services

Nuria Rivera-Vandermyde, City Manager

Kurt Firnhaber, Director of Housing & Human Services

Jay Sugnet, Housing Senior Manager

Michelle Allen, Inclusionary Housing Program Manager

Sloane Walbert, Inclusionary Housing Planner

Hollie Hendrikson, Housing Policy - Senior Project Manager

**EXECUTIVE SUMMARY**

The purpose of this item is for City Council to consider an ordinance on second reading amend the city's Inclusionary Housing (IH) program and modify the community benefit requirements for projects with height modifications to align with the IH ordinance changes. The draft ordinance is found in **Attachment A**. City Council identified updates to the IH program as part of [City Council's 2022-2023 Priorities](#).

Staff discussed the project in detail with City Council on [Sep. 7, 2023](#). At the meeting, council directed staff to remove the incentives for middle income homeownership units from the scope of the project. Most council members agreed that the provision of middle income units was not worth the tradeoff of impacts to cash-in-lieu revenues, and thus the ability to provide affordable housing elsewhere in the city.



Major topics of this update include:

- Update to the Cash-in-lieu (“CIL”) methodology, amounts, and structure to align with a feasibility analysis and nationwide best practices.
- Adjustments to the code and regulations to clarify IH requirements, simplify code language, and reduce redundancies.
- A financial analysis of potential program options (**Attachment B**).
- A review of Inclusionary Housing program best practices (**Attachment B**).

The Planning Board reviewed the ordinance on Sep. 26 and unanimously recommended approval with two additional recommendations. Subsequently, the Housing Advisory Board reviewed the proposal on Sep. 27 without a quorum present and unanimously recommended approval. Board comments and recommendations are discussed in “Board and Commission Feedback” below. City Council reviewed and passed the ordinance on first reading on the consent agenda on Oct. 19.

This project is part of a larger effort to address the current housing crisis by expanding housing supply and diversity of available housing types and increasing the number of permanently affordable homes, and in turn reducing housing costs and limiting displacement. In recent years, land use policies combined with rising labor and material costs have made it harder and more expensive to build residential development in the city. The IH program is only one way to address housing needs. Other recent council priority projects to address these housing challenges include zoning amendments, loosening regulations on accessory dwelling units (ADUs), and occupancy reform.

If approved, staff recommends the ordinance become effective 90 days after adoption (Jan. 30, 2024). This would allow for the additional time necessary to implement the associated procedural changes and administrative regulations,

#### **STAFF RECOMMENDATION**

**Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance 8601 amending Chapter 9-13, “Inclusionary Housing,” Section 9-2-14, “Site Review, and Section 9-16-1, “General Definitions,” B.R.C. 1981 modifying the affordable housing requirements and incentives; and setting forth related details.

#### **COMMUNITY SUSTAINABILITY ASSESSMENTS IMPACTS**

- Economic – Cash-in-lieu revenue from the IH program is expected to remain relatively constant with the proposed modifications. The Keyser Marston

Associates (KMA) analysis states that the proposed CIL methodology will continue to be a feasible option for developers in meeting the IH obligations.

- Environmental – None identified.
- Social – The concept of inclusionary housing has its roots in addressing racial segregation in housing. IH was first developed to counteract a history of ‘exclusionary zoning’ policies that reinforced economic and racial segregation. The option to contribute CIL and other compliance alternatives are often seen as ways to advance racial equity goals. The recommended policy updates in this memo are not expected to reduce the program’s CIL. The Racial Equity Instrument was applied at the initial scoping of the program update and is included in the City Council Study Session memo of [Oct. 27, 2022](#).

## OTHER IMPACTS

- Fiscal – This project is being completed using existing resources.
- Staff time – This project is being completed using existing staff resources.

## BOARD AND COMMISSION FEEDBACK

Feedback from board and council meetings is summarized below, starting with the most recent meeting.

### Housing Advisory Board – Sep. 27, 2023

The Housing Advisory Board met on Sep. 27, 2023 without a quorum (three board members present) and held a public hearing on Ordinance 8601. The board was supportive of the proposed modifications to the program and voted 3-0 (T. Palmos, D. Teodoru, J. Ramsey, M. Leccese absent) to recommend approval of the ordinance to Council. The board stated that they would like to see more aggressive efforts to address the housing crisis but acknowledged that IH is only one means to address housing needs in the city. Board members stated that the changes likely won’t significantly boost production of desired housing based on the current market conditions but are a move in the right direction. The staff memorandum and meeting audio are available in the [Records Archive for HAB](#).

### Planning Board – Sep. 26, 2023

Planning Board held a public hearing on Ordinance 8601 on Sep. 26, 2023. At the hearing the board asked clarifying questions of staff and deliberated on a variety of topics (discussed below). Ultimately the board recommended approval (6-0) with the following motion:

On a motion by **S. Silver** and seconded by **L. Kaplan**, the Planning Board voted 6-0 (**ml Robles** absent) to recommend that City Council adopt Ordinance 8601, amending Chapter 9-13, “Inclusionary Housing,” Section 9-2-14, “Site Review,” and Section 9-16-1, “General Definitions,” B.R.C. 1981, modifying affordable housing requirements and incentives and setting forth related details.

On a motion by **S. Silver** and seconded by **M. McIntyre**, the Planning Board voted 5-1 (**ml Robles** absent, **K. Nordback** nay) to recommend to City Council that it direct the City Manager to explore diversion of more CIL funds for the purpose of additional middle-income ownership through scatter-site acquisition in the city.

On a motion by **J. Boone** and seconded by **S. Silver**, the Planning Board voted 6-0 (**ml Robles** absent) to recommend that City council direct the City Manager to explore the addition of an escalation metric on the Commercial Linkage Fee modeled upon the escalation metric used within the Inclusionary Housing Ordinance to keep pace with costs of development and construction.

At the hearing, board members discussed council's direction to remove incentives for middle income homeownership units from the scope of the project. Some members understood the decision, and the related values tradeoffs, while others were disappointed in the direction. Board members discussed how cash-in-lieu contributions could be used as a different way to address for-sale middle income housing. Based on this discussion, the board included a motion to recommend that council and staff explore the diversion of affordable housing funds for additional city acquisition of properties for middle-income buyers, termed "scatter site acquisition".

Several board members voiced strong support for larger cash-in-lieu amounts for larger homes, particularly very large single family homes. Lastly, board member J. Boone asked about the proposed annual adjustments to the CIL amounts using the Construction Cost Index (CCI) and the Building Cost Index (BCI). Since CIL amounts are proposed to be adjusted to keep up with the cost of construction of affordable units, the board agreed the same methodology should be applied to the commercial linkage fee for affordable housing. The last motion asks council to explore a similar escalation metric on the linkage fees since the current rates are static.

The staff memorandum to Planning Board and meeting audio are available on the [Records Archive for Planning Board](#).

### **City Council – Sep. 7, 2023**

At the City Council meeting on [Sep. 7, 2023](#) staff provided an update on the project and requested input on potential code changes. At the meeting council members asked clarifying questions about the current and proposed requirements. They also asked questions of the project consultant on the financial assumptions and analysis. They voiced support for the Nexus Study and potential linkage fee on new single family homes and large additions. Members also asked staff to continue to evaluate outcomes of the program and proposed conducting regular updates. One member asked about the city's middle income housing goals and the city's progress in meeting those goals.

The majority of the conversation was around the code changes intended to increase the feasibility of middle income homeownership units produced through the IH program. There was a policy discussion around the tradeoffs between encouraging on-site middle income units and the CIL that would be paid on a project. Some felt that the proposal to reduce the on-site requirements on for-sale projects was directly pitted against the

provision of additional housing since CIL can be used to provide at least double the number of units elsewhere in the city. Most of the members of the council were not comfortable with any reduction in CIL contributions. On a straw poll only three members supported the proposal to make changes to support on-site middle income housing. Thus, council directed staff to remove the proposal to reduce the for-sale on-site requirement and to increase the unit price requirements. The majority of the council were not comfortable with the values tradeoff necessary to encourage these types of housing units. Staff incorporated these changes into the attached ordinance.

### **Planning Board – Sep. 5, 2023**

The Planning Board provided direction on the IH Update at a meeting on [Sep. 5, 2023](#). At the meeting the board was supportive of all the program changes presented. The Planning Board recommended staff consider how the inclusionary housing updates would work with the associated zoning code changes under consideration. They also recommended gathering data going forward and evaluating if the program changes are achieving intended outcomes.

### **Housing Advisory Board – Aug. 23, 2023**

A study session was held with the Housing Advisory Board and members of the Affordable Housing Technical Review Group (TRG) on [Aug. 23, 2023](#). At the meeting, board members asked questions about the proposed changes and consultant findings. The board was supportive of all the proposed changes, particularly the recommended Nexus Study to establish a residential linkage fee to apply to demolitions and rebuilds of homes and significant additions and recommended that the study be conducted in 2024. They encouraged staff to consider how IH modifications would interact with proposed zoning changes currently being considered. Overall, board members acknowledged that proposed changes to IH may not move the needle significantly on the production of for-sale middle income units, adding that on-going large area plans such as Phase II of the Transit Village Area Plan could offer opportunities.

## **COMMUNITY ENGAGEMENT**

Working with the city's engagement staff, Housing and Human Services staff developed a public engagement plan for the IH Update informed by the city's adopted Engagement Strategic Framework. Refer to **Attachment C**. The Inclusionary Housing Program has been in effect for more than two decades with several updates over the years. Due to the limited and technical nature of the update staff followed a "consult" level of engagement for this project. The engagement focused on targeted engagement using existing advisory board processes, community meetings, outreach events, and information sharing.

- Staff has continued community engagement on the project by including updates in the newsletter, updating the project website, and reaching out to interested neighborhood representatives and housing advocacy groups.
- In January, staff presented to a joint study session of the Planning Board, Housing Advisory Board, and Affordable Housing Technical Review Group to provide an

overview of the existing regulations, introduce the upcoming effort, and provide board members with an opportunity to ask questions.

- On Feb. 22, staff from Planning & Development Services and Housing & Human Services hosted a *Planning for Affordable Housing* community meeting on several upcoming City Council work program priority projects, including the IH Update. About 25 community members, including representatives of several neighborhood organizations, the University of Colorado, and other advocacy groups participated. After staff provided introductions to each of the projects and explained project timelines and opportunities for public input, the group divided into several small groups to discuss the issues and opportunities related to these projects.
- The project consultant Keyser Marston Associates (KMA) conducted a series of one-on-one interviews with local developers with active projects or recent experience in Boulder. Through these interviews, KMA sought input on key pro forma assumptions as well as perspectives on market conditions and experience with the IH program.
- On Aug. 23, Sep. 5, and Sep. 7 staff presented options to the Housing Advisory Board, Planning Board, and City Council, respectively, and received feedback on upcoming code changes. These meetings were noticed and televised.
- On Sep. 10, staff participated in the city's "What's Up Boulder?" event to answer questions and share information about IH program update with the general public. At the event members of the public voiced general support for changing the IH methodology to a per square foot basis and very strong support for applying a linkage fee to demolitions and large additions.
- On Sep. 26 and 27 information was shared and there was public participation as part of the formal decision-making processes and public hearings before the Planning Board and the Housing Advisory Board.

## **BACKGROUND**

### ***Inclusionary Housing Program***

Boulder's housing challenges are well known and long-standing. Household incomes have not kept pace with rising home values and rents. In 2000, Boulder became one of the first communities in the country to adopt Inclusionary Zoning as a strategy to address rising housing prices. Renamed Inclusionary Housing (IH), the program has undergone two major updates in 2009 and 2018.

In Boulder, the IH requirements are zoning standards and codified in the land use code as mandatory requirements for new residential developments. A permanent deed restriction is placed on the affordable units, which must be rented or resold to households at the identified incomes. This inclusionary housing requirement is based upon the city's power to enact zoning regulations that promote the health, safety, and welfare of the community. The IH program includes multiple options for satisfying the requirement, such as making a cash-in-lieu contribution or dedicating land for affordable housing development. Thus,

the cash-in-lieu option is not a fee but rather an alternative to providing affordable units on-site.

In the early years of the city's IH program (2000-2010) developments were primarily for-sale with very few rentals. After the housing crisis circa 2010 fewer condo units have been constructed. This shift from ownership to rental development mirrored national trends, and is linked to several factors including changing lending practices and the state's construction defect law. Recent inflationary pressures, including escalating material and labor costs and higher interest rates, have created new challenges to housing affordability.

The city's IH program has demonstrated considerable success over the years. New residential development continues to significantly contribute to the city's affordable housing goals. In many instances, payment of a CIL contribution to the Affordable Housing Fund is preferable to on-site affordable units. Local funding produced through CIL contributions generates more affordable housing, in a greater diversity of housing types, in a variety of affordability ranges, and dispersed throughout the city. Local funding can be leveraged two to three times with state and federal funding to produce more affordable housing than could be produced on-site. This leveraging of funds to produce additional affordable housing is especially important because Boulder has opted into the [Proposition 123 program](#) with the state. Boulder's affordable housing commitment is 655 new units for the three-year cycle (by 2026) that meet the affordability requirements of Prop123 (218 new units annually).

In 2000, when inclusionary housing was first adopted, 20% of new residential development was required to contribute to city affordable housing goals. In addition, 50% of the required affordable units be provided on-site. In 2010, the on-site requirement was lifted for rental developments to ensure they complied with the state prohibition on rent control. Rental developments were allowed to choose any combination of options to meet the requirement. The program has always included an alternative for for-sale developments to provide half of the affordable units on-site if additional community benefit was provided. In 2010 the standard for meeting that requirement in for-sale developments was set at 150% of the standard cash-in-lieu for those affordable units required but not provided on-site.

At the time of adoption of IH in 2000 it was thought that most developers would choose to provide the affordable units on-site and cash-in-lieu would be a rarely utilized option. Cash-in-lieu was set at \$60,000 per required affordable unit and, to encourage smaller units, could be reduced for units smaller than 1,200 square feet. Functionally this meant any development with an average unit size that exceeded 1,200 square feet was assessed the same CIL amount per required affordable unit. Flexibility and adaptability were important features of the adoptable and successful program.

In 2018 the program was updated to increase the overall IH requirement from 20% to 25% by adding a middle income pricing and rent requirement in addition to the 20% low moderate requirement, and the annual adjustment for CIL was increased from 7% to 10%

to encourage on-site affordable units. This approach has not resulted in developers choosing the on-site option.

The city's inclusionary housing program has demonstrated considerable success over the years by having a balance of implementation paths. New residential development continues to significantly assist the city to meet its affordable housing goals through a variety of means. As a result, the program has greatly increased the amount of permanently affordable housing, provided housing that meets the needs of a diverse range of households and incomes, and resulted in a dispersal of affordable housing throughout the city. That said, IH is a living program that should be updated regularly to address current housing challenges and goals, in this case updating the methodology and feasibility of the program's CIL option. The code language is accompanied by a set of administrative regulations approved by the City Manager. The purpose of these regulations is to set forth the procedures for administration and implementation of the program.

### ***Program Update***

The City Council identified an update to the existing Inclusionary Housing (IH) program as a Council Priority for the 2022-2023 work program, with a focus on increasing middle income homeownership units.

Keyser Marston Associates (KMA) was hired to support this IH program update and conducted a financial feasibility study and best practices analysis to identify housing development trends in the area and to inform potential alternatives in the IH program (**Attachment B**). This memo incorporates KMA's analysis, research, and program implementation guidance.

City Council provided direction on the IH Update at a study session on [Oct. 27, 2022](#). A summary of the study session discussion can be found [here](#). A joint study session was also held on [Jan. 31, 2023](#) for the Planning Board, Housing Advisory Board, and Affordable Housing Technical Review Group in preparation for upcoming updates to the IH program. At the study session the board members asked questions about the IH program and commented on the update. The minutes from the meeting can be found [here](#).

### **SUMMARY OF FINANCIAL ANALYSIS AND REVIEW OF BEST PRACTICES**

KMA evaluated the feasibility of the current IH program and explored nationwide inclusionary housing best practices. The analysis presents an assessment of financial feasibility for a range of development types, tests program alternative requirements, and reviews best practices and policy approaches elsewhere. The following is a summary of KMA's recommendations based on this analysis.

Continued Difficulty Achieving On-site For-sale Outcomes. Market factors, rising construction costs and perceived risks of construction defects liability have contributed to limited for-sale housing development in recent years. Changes to the IH program are unlikely to alter these dynamics.



Feasibility of Meeting the For-Sale IH Requirement On-site. Contributing cash in lieu of units (“CIL”) is currently feasible for for-sale developments. 2023 cash-in-lieu amounts are at the top end of what is feasible for developments to contribute. If the city would like to enable the provision of on-site for-sale inclusionary units rather than receive CIL, a reduction in the inclusionary on-site requirement would be required, such that the on-site cost is comparable with CIL.

Align the Program with Nationwide Best Practices. Modification of the CIL structure and methodology is necessary to align the city’s program with nationwide best practices. The proposed square foot methodology will remove disincentives to smaller, more affordable market-rate units and is straightforward to administer and apply.

## **PROPOSED UPDATES**

Per the direction of City Council from Sep. 7, 2023, discussed above, staff prepared a draft ordinance (**Attachment A**) that includes the following updates. Staff recommends the ordinance amendments become effective 90 days after adoption of the ordinance to allow for updates to the IH administrative regulations, including development of a cash-in-lieu table and updating the online cash-in-lieu and unit calculator.

### **1. Cash-in-Lieu Methodology**

Section 9-13-10(a)(b)

***Modify the city’s methodology to a “per square foot” CIL structure with a \$40 - \$47 per square foot requirement for most residential developments and a sliding scale downward for small developments.***

- ✓ *Structuring CIL on a per square foot basis is a best practice and widely used approach that results in CIL that scales with unit size, resulting in a fair burden across different sized units, and avoids an incentive for larger, less affordable market rate units.*
- ✓ *Per the consultant recommendation, CIL will be set at amounts that will generate revenues similar to 2022-23 CIL amounts.*
- ✓ *In general, applying CIL by square foot results in CIL amount that are higher than the current CIL for projects with larger sized homes and lower for projects with smaller homes. CIL will be applied to the aggregate square feet of all residential units in a market project.*
- ✓ *Remove the existing 1,200 square foot cap for calculating CIL (currently units larger than 1,200 square feet are assessed at the same rate regardless of unit size). Once removed, CIL for developments with units larger than 1,200 square feet will be higher than current amounts.*
- ✓ *CIL amounts per square foot will be the same for rental and for-sale developments.*
- ✓ *Conduct a CIL feasibility analysis at least every five years to ensure the square foot amounts remain feasible.*



- ✓ *Cash-in-lieu tables and an on-line calculator will be developed concurrent to updates to the IH regulations after ordinance adoption.*
- ✓ *Exact cash-in-lieu amounts and methodology will be implemented by the program manager and reviewed by the city manager.*

## **2. Required Rents**

Section 9-13-3(a)(1)(B)

***Replace the current requirement that 20% of affordable rents be affordable to households earning up to 80% of the area median income (AMI) with a requirement that 20% of the affordable rents be affordable to households earning 50% of the AMI.***

- ✓ *For the 25% requirement the result would be 80% of the required affordable rents set to be affordable to households earning 60% of the AMI and 20% set to be affordable to 50% AMI.*
- ✓ *Retain a diversity of affordable rents but include deeper affordability in IH units. Most affordable rental units are partially financed with state and federal funds that are more favorable to rents at or below 60% AMI.*
- ✓ *The current 80% rents compete with market rents because they are at or near market rents in older projects.*

## **3. Increase Middle Income Pricing**

Section 9-13-12(a)

***Modify the unit price requirements to allow more middle-income priced homes (up to 120% AMI).***

- ✓ *Affordable units provided on-site will be priced for middle income households.*
- ✓ *Based on the feasibility analysis conducted by KMA, on-site development is infeasible for developments. However, an increase in the allowable pricing for on-site units allows for more equity between the options to meet IH.*

## **4. Cash-in-Lieu Deferral**

Section 9-13-9(b)

***Remove the option for single family homes to defer the payment of required CIL to the time of first sale or 10 years, whichever is shorter.***

- ✓ *Deferral creates an administrative burden on the city and uncertainty for owners. The deferred CIL amount due is the amount in place at the time of payment. This creates a situation where homeowners owe a significant debt to the city that can be difficult to pay and to collect.*
- ✓ *The deferral option is rarely utilized (only 17 deferrals since 2011).*

## **5. For-sale On-site Incentives & Penalties**

Section 9-13-3(a)(1)(C)

***Remove the current requirements that half of any required for-sale affordable units be provided on-site, and if not provided on-site, the CIL for those units is increased by 50%.***

- ✓ *Based on direction from City Council and the financial analysis by Keyser Marston Associates (KMA), for-sale on-site units are not feasible or desirable in most circumstances.*
- ✓ *The additional 50% CIL increases the total CIL amount for-sale developments to an infeasible level and may disincentivize for-sale development.*

## **6. Land Dedication**

Section 9-13-10(d)

***Modify the land dedication option to include city manager approval of the proposed location of the land. If dedicated land is part of the same site review as the market rate units, the open space requirements for affordable units on the dedicated land must be met entirely on the dedicated land, and the open space requirements for the market rate units be met entirely within the market rate unit development.***

- ✓ *Ensures the land proposed to be dedicated can be assessed in terms of desirability and appropriateness for affordable housing development.*
- ✓ *Ensures the dedicated land (i.e., development project) has its own open space and will not share open space or amenities with the market rate projects.*

## **7. Affordable Housing Design Review**

Section 9-13-4

***Increase the threshold for required design review from developments of 5 or more units to 40 or more units in projects that are not subject to site review. Add that the review is not needed if the development completes either a site review or form-based code review.***

- ✓ *Both site review and form-based code review achieve oversight of the affordable project similar to the affordable housing design review.*
- ✓ *Increases the threshold for affordable housing design review of market developments to 40 units or more; containing 10 or more affordable units. Review of developments as small as five units, with only one required affordable unit is inefficient and unnecessary.*

## **8. Small Projects with < 4 Units**

Section 9-13-3(a)(2)

***Remove this category of CIL.***

- ✓ *Originally meant to keep CIL for small projects lower, the change in CIL methodology to a square foot assessment does not require a differentiation in development size.*

## **9. Housing Inspection Requirement**

Section 9-13-6

***Add a paragraph to the code requiring housing inspections.***

- ✓ *Housing inspections are conducted by a private inspector at the expense of the affordable housing provider. The inspector ensures the affordable units meet the requirements of all affordable housing agreements, covenants, and the livability standards for affordable housing.*
- ✓ *Housing inspections ensure affordable housing is constructed with durable materials that promote sustainable, energy efficient, and attractive housing and are constructed, installed, and finished in a quality workmanlike manner consistent with industry standards.*
- ✓ *This requirement is currently in the administrative regulations but should be included in the land use code.*

## **10. Relationship of Affordable Units to Market Units**

Section 9-13-7(b)

***Revise requirements to allow either detached dwelling units or attached townhomes to meet the affordable housing requirements within a development of detached single-family homes.***

- ✓ *Currently affordable units in developments with detached single-family homes must provide the same type of homes as affordable units.*
- ✓ *The proposal provides an alternative to affordable single-family homes.*
- ✓ *Aligns with city goal to encourage provide a diversity of housing types and price ranges.*

### **11. Number of Bedrooms for Middle Income Units**

Section 9-13-7(d)

***Remove requirement that middle income affordable units shall have at least one bedroom.***

- ✓ *This requirement conflicts with other code requirements that on- or off-site affordable units be proportional in type to market units in the development. For example, if the market units are studios, then the affordable units are required to be studios.*

### **12. Rebuilt Dwelling Units**

Section 9-13-11(4)

***Add a time limit of 10 years during which a market unit that is removed due to an act of nature or calamity can be rebuilt with no IH requirement. Clarify what entity makes the determination whether a demolished home is safe and habitable.***

- ✓ *When a home that is habitable is demolished and replaced, the owner has three years to replace the home during which the IH requirement may be waived. Additionally, any home destroyed by an act of nature or calamity can be replaced and have the IH requirement waived.*
- ✓ *Adds a reasonable time frame (i.e., 10 years) for replacement to ensure that a market unit destroyed by an act of nature or calamity many years or even decades ago is not exempt from IH upon re-development.*
- ✓ *If a demolished home is not safe and habitable it may not receive an IH waiver for a replacement home. Clarify that the Chief Building Inspector will determine if the building is safe and habitable.*

### **13. Conversion of Rental to Ownership Dwelling Units**

Section 9-13-13(b)

***Remove the requirement for an agreement to assess additional cash-in-lieu if a rental development converts to for-sale within 5 years.***

- ✓ *The requirement is no longer applicable based on the change to assess CIL by square foot.*

### **14. Community Benefit**

Section 9-2-14(h)(2)(K)

***Remove the requirement that half of any for-sale IH units be provided on-site in projects providing community benefit with height modifications.***

- ✓ *The community benefit ordinance was adopted in 2017 and requires an increase in the IH requirement to meet the Site Review criteria for projects with a 4th or 5th*

*story. To align the community benefit ordinance with the IH requirement that for-sale developments provide half of the required affordable units on-site the community benefit ordinance reiterated that half of any required for-sale affordable units be provided on-site. Per item #4 above, the on-site requirement is proposed to be removed from the IH ordinance.*

- ✓ *Remove the on-site requirement from the community benefit ordinance to stay consistent with this amended IH ordinance.*
- ✓ *Based on direction from City Council on-site for-sale affordable units are not desirable in most circumstances.*

### **NEXT STEPS**

If approved on second reading, the requirements will go into effect three months from adoption. This will allow for staff to update the administrative regulations, implement the associated procedural changes, and lay out program details before the new code goes into effect.

The Planning Board and City Council were supportive of the recommended Nexus Study for the possible application of a linkage fee to demolitions and rebuilds of homes. Thus, staff proposes to pursue the study in 2024 and, if necessary, proposed new code requirements to apply such a fee to these types of developments.

### **ATTACHMENTS**

Attachment A:	Ordinance 8601
Attachment B:	Consultant Report
Attachment C:	Public Engagement Plan

## ORDINANCE 8601

AN ORDINANCE AMENDING SECTION 9-2-14, "SITE REVIEW," CHAPTER 9-13, "INCLUSIONARY HOUSING," AND SECTION 9-16-1, "GENERAL DEFINITIONS," B.R.C. 1981, MODIFYING AFFORDABLE HOUSING REQUIREMENTS AND INCENTIVES; AND SETTING FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,  
COLORADO:

Section 1. Section 9-2-14, "Site Review," B.R.C. 1981, is amended to read as follows:

...

(h) Criteria: No site review application shall be approved unless the approving agency finds that the project is consistent with the following criteria:

...

(6) Land Use Intensity and Height Modifications: Modifications to minimum open space on lots, floor area ratio (FAR), maximum height, and number of dwelling units per acre requirements will be approved pursuant to the standards of this subparagraph:

...

(C) Additional Criteria for a Height Bonus and Land Use Intensity Modifications: A building proposed with a fourth or fifth story or addition thereto that exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, together with any additional floor area or residential density approved under Subparagraph (h)(6)(B), may be approved if it meets the requirements of this Subparagraph (h)(6)(C). For purposes of this Subparagraph(h)(6)(C), bonus floor area shall mean floor area that is on a fourth or fifth story and is partially or fully above the permitted height and any floor area that is the result of an increase in density or floor area described in Subparagraph (h)(6)(B). The approving authority may approve a height up to fifty-five feet if one of the following criteria is met:

(i) Residential Developments: If the development is residential, it will exceed the requirements of Subparagraph 9-13-3(a)(1)(A), B.R.C.

1981, as follows:

- a. For bonus units, the inclusionary housing requirement under Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, shall be increased by eleven percent. The resulting inclusionary requirement may be satisfied by any option allowed in Chapter 9-13 to meet inclusionary housing requirements. For example, if Chapter 9-13 requires twenty-five percent of units to be permanently affordable, for bonus units that requirement is increased by eleven percent so that at least thirty-six percent of the total number of bonus units must be permanently affordable units. ~~For bonus units, the inclusionary housing requirement shall be increased as follows: Instead of twenty-five percent, at least thirty-six percent of the total number of bonus units shall be permanently affordable units. If the building is a for sale development, at least fifty percent of all the permanently affordable units required for the building shall be built in the building; this fifty percent on-site requirement may not be satisfied through an alternative means of compliance. A minimum of one bonus unit shall be assumed to be provided in the building if any bonus floor area is in the building.~~

...

Section 2. Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, is amended to read as follows:

**9-13-1. - Findings.**

- (a) A diverse housing stock is necessary in this community to serve people of all income levels. Based upon the review and consideration of recent housing studies, reports and analysis, it has become clear that the provisions of this chapter are necessary to preserve a diversity of housing opportunities for the city's residents and working people.
- (b) The program defined by this chapter is necessary to provide continuing housing opportunities for very low-, low-, moderate-, and middle-income households. It is necessary to help maintain a diverse housing stock and to allow people to have better access to jobs and upgrade their economic status. It is necessary to provide housing to persons of all needs and abilities to have a place in the community. The strong employment base in this region, combined with the special attractiveness of Boulder, its University-related population and its environmentally sensitive urban service boundaries, all combine to make the continued provision of decent housing options for very low-, low-, moderate and middle-income and working people in Boulder a difficult but vital objective. The regional trend toward increasing housing prices will, without intervention, result in inadequate supplies of affordable housing here for very low-, low-, moderate and

middle-income households. This in turn will have a negative effect upon the ability of local employers to maintain an adequate local work force.

- (c) It is essential that appropriate housing options exist for university students, faculty and staff so that the housing needs of university-related populations do not preclude non-university community members from finding affordable housing.
- (d) A housing shortage for persons of very low-, low-, moderate and middle-income is detrimental to the public health, safety and welfare. The inability of such persons to reside within the city negatively affects the community's jobs/housing balance and has serious and detrimental transportation and environmental consequences.
- (e) Because remaining land appropriate for residential development within the city is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to very low-, low-, moderate and middle-income residents and working people. This is particularly true because of the tendency, in the absence of interventions, for large expensive housing to be developed within the city, which both reduces opportunities for more affordable housing and contributes to a general rise in prices for all of the housing in the community, thus exacerbating the scarcity of affordable housing within the city.
- (f) The primary objective of this chapter is to obtain a significant amount of permanently affordable dwelling units. Provisions of this chapter provide for various approaches to creating additional affordable housing units. Those provisions recognize the fact that individual site, legal and economic factors have an impact on which alternatives will work for different developments.
- (g) The intent of this chapter is that any resulting affordable housing units and developments will be distributed either within each development when provided on-site or at a building/neighborhood level when provided off-site and will be found throughout the community and not concentrated in certain areas of the city.
- (h) As land for new residential development becomes scarcer, redevelopment of existing housing will increase. The newly built housing that results will likely be more expensive than the housing it replaces. This is especially true of larger redevelopments. Smaller scale developments are less able to absorb development costs than are larger developments that can benefit from economies of scale. This chapter recognizes the differences between developments of different sizes and the inherent inefficiencies in smaller developments and seeks to not disproportionately affect smaller redevelopments within the City.
- (i) This inclusionary housing requirement is based upon the city's power to enact zoning regulations that promote the health, safety and welfare of the community. For the reasons cited above, the promotion and maintenance of a diverse housing stock is an important component of the city's zoning regulations.

...

### **9-13-3. - General Inclusionary Housing Requirements.**

- (a) Inclusionary Housing Requirements.
  - (1) ~~Developments Containing Five or More Dwelling Units:~~



- (A) ~~Any development containing five or more dwelling units is required to include at least twenty-five percent of the total number of dwelling units as permanently affordable dwelling units.~~
- (2B) For required for-sale permanently affordable units, townhouses and single-family homes shall have prices set to be affordable to one hundred twenty percent of the AMI. All other types of permanently affordable for-sale units shall have prices set to be affordable to one hundred percent of the AMI. ~~Twenty percent of the required affordable units shall be affordable to low/moderate income households.~~
- ~~Five percent of the required affordable units shall be affordable to middle income households.~~
- i. ~~The city manager is authorized to use rule-making authority to annually adjust the percentages in A and B to incentivize on-site affordable units.~~
- (3C) Required rental permanently affordable units shall include eighty percent of the required permanently affordable units as low/moderate income dwelling units and twenty percent of the required permanently affordable units shall have rents set to be affordable to households earning no greater than fifty percent of the AMI. ~~In for sale developments a minimum of fifty percent of the units shall be built on the site of the development, unless such units are provided for in another manner consistent with the provisions of this chapter.~~
- (4D) As an alternative to providing permanently affordable units on-site Rental developments do not have a minimum on-site requirement and may provide the permanently affordable units satisfy the inclusionary housing requirement through any combination of the alternative means of compliance set forth in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.
- (5) The city manager is authorized to use rule-making authority to annually adjust the percentages in Subsection 9-13-3(a) to incentivize on-site affordable units.
- (6) Rounding Rule: In determining the number of permanently affordable units required on or off-site, any inclusionary housing requirement resulting in a fractional value with a decimal point that is 0.5 or greater will be rounded up to the next whole number. Any remaining fraction may be met through other options as allowed in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.
- (2) ~~Developments with One to Four Dwelling Units: Any development containing one to four dwelling units must include at least twenty percent of the total number of dwelling units as permanently affordable dwelling units. Developments of this size may comply with this obligation either by including one permanently affordable dwelling unit within the development or through any combination of the alternative means of compliance set forth in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981(b) Rounding Rule: In determining the number of affordable units required on or off-site, any inclusionary housing obligation resulting in a fractional value with a decimal point that is 0.5 or greater will be rounded up to the next whole number. Any~~

~~remaining fraction may be met through other options as allowed in Section 9-13-10 Options for Satisfaction of Inclusionary Housing Requirement.~~

- (b) Scope of Chapter: No person shall fail to conform to the provisions of this chapter for any new development which applies for a development approval or building permit for a dwelling unit ~~after the effective date of this chapter.~~
- (c) Income Eligibility Required: No person shall sell, rent, purchase or lease a permanently affordable ~~dwelling~~ unit created pursuant to this chapter except to a program eligible household. A private owner of a single permanently affordable unit may rent the unit in accordance with the provisions of this chapter as set forth in Section 9-13-~~126~~ "Program Requirements for For-Sale Units," B.R.C. 1981. All sales, rentals, purchases and leases shall comply with the provisions of this chapter.
- (d) Deed Restriction Required: No person offering a permanently affordable ~~dwelling~~ unit for rent or sale shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the county recorder, a covenant or declaration of restrictions in a form approved by the city manager. Such covenant or declaration of restrictions shall reference applicable contractual arrangements, restrictive covenants and resale restrictions as are necessary to carry out the purposes of this chapter.
- (e) Good Faith Marketing Required: All sellers or owners of permanently affordable ~~dwelling~~ units shall engage in good faith marketing and public advertising efforts each time a permanently affordable ~~dwelling~~ unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance to become informed of the availability of such units.
- (f) Reference Information: Whenever this chapter refers to information generated by HUD but no such information is generated by or available from that agency, the city manager is authorized to adopt or create any necessary equivalent information, which can be utilized in the enforcement of the provisions of this chapter.
- (g) Required Agreements: ~~Those applicants creating residential for a developments with~~ Those applicants creating residential for a developments with dwelling units shall enter into a permanently affordable housing agreement with the city manager and shall execute such restrictive covenants and additional agreements, in a form acceptable to the city manager, as necessary to carry out the purposes of this chapter. Such agreements shall be on a form provided by the city manager and shall document how the applicant will meet the requirements of this chapter. The applicant shall provide all documentation and any other material requested by the city manager. An applicant shall not be eligible to submit an application for a building permit until the affordable housing agreement ~~and~~ any additional agreements, and required restrictive covenants are approved by the city manager.
- (h) Residency Requirement: No owner of a permanently affordable ~~dwelling~~ unit shall fail to occupy the purchased dwelling unit as a primary residence, except as otherwise agreed by the city manager.

#### **9-13-4. - Affordable Housing Design Review.**

- (a) Purpose: The ~~Affordable Housing Design Review~~ is established to provide a uniform and consistent method for evaluating proposals for meeting inclusionary housing ~~obligation requirements~~ where site review or form-based code review is not required.

- (b) Affordable Housing Design Review Required: All developments with more than ~~five~~ forty units providing permanently affordable units on or off-site to meet an inclusionary housing ~~obligation requirement~~ and all off-site developments in excess of ~~five~~ forty units providing permanently affordable units shall be subject to the ~~A~~ affordable housing ~~D~~ design ~~R~~ review unless the development is approved pursuant to a site or form-based code review.

#### 9-13-5. - Livability Standards.

The city manager is authorized to establish minimum livability standards which ~~will~~ address ~~size, distribution within a project,~~ design and materials of ~~all the~~ permanently affordable units to ensure that the ~~affordable housing units are~~ functional and designed with adequate circulation, room sizes, kitchen components and storage, comparable to the market rate units which created the obligation. No person shall fail to comply with the adopted livability standards.

#### 9-13-6. - Quality, Size, and Amenities of Permanently Affordable Units.

- (a) Quality of permanently affordable ~~U~~units. ~~Permanently Affordable~~ units provided on-site shall be of comparable quality, design and materials to the market rate units creating the inclusionary housing ~~obligation requirement~~ and constructed with durable materials that promote sustainable, energy efficient and attractive affordable housing. ~~If Permanently affordable units provided off-site, the affordable units shall also be comparable to the surrounding market housing in quality, design, and general appearance and constructed with durable materials that promote sustainable, energy efficient and attractive affordable housing.~~ Permanently affordable units shall be constructed, installed and finished in a quality workmanlike manner consistent with industry standards.
- (b) Size of Permanently Affordable ~~Dwelling~~ Units: The city manager is authorized to establish minimum and maximum sizes for permanently affordable units ~~annually to reflect the type of units that are being constructed in the previous year and are sized to meet unmet community needs.~~
- (c) Affordable Owner and Renter Access to Amenities: When permanently affordable units are provided on-site in any location or configuration, the affordable owners and renters shall have access equal to amenities to that of the owners and renters of the market rate units. Such amenities shall include but not be limited to: parks, outdoor play areas, pools, exercise facilities and equipment, dog washing rooms, bicycle repair facilities, internet cafes, and similar on-site amenities.
- (d) Housing Inspections: The city manager is authorized to require housing inspections for permanently affordable units during construction to ensure the permanently affordable units comply with the affordable housing requirements as defined in this chapter and required agreements, standards, and covenants, and are constructed, installed, and finished in a quality, workmanlike manner consistent with industry standards. All actual costs for the inspector's time and any actual costs incurred related to the inspections shall be borne by the affordable housing developer.

**9-13-7. – Relationship of Permanently Affordable Units to Market Units.**

- (a) Purpose: ~~Permanently Affordable units housing~~ shall be comparable in quality, design and general appearance to the market rate units creating the inclusionary housing ~~obligation requirement~~.
- (b) Detached Dwelling Units: When a development contains single-family detached dwelling units, a proportional number of the required permanently affordable ~~dwelling~~ units shall also be single-family detached dwelling units or attached townhouses.
- (c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit types, including, without limitation, single-family detached dwelling units, townhouses, duplexes, triplexes, four-plexes, eight-plexes, and stacked flats, the required permanently affordable ~~dwelling~~ units shall be comprised of the different dwelling unit types in the same proportion as the dwelling units that are not permanently affordable within the development except as allowed in Subsection (b) above.
- (d) Number of Bedrooms and Bathrooms: ~~Permanently Affordable~~ units shall have the same proportion of zero bedroom/studio, one-, two-, three- and four-bedroom dwelling units as ~~in its the~~ market rate ~~dwelling~~ units of the development. The city manager will determine the minimum numbers of bathrooms required for permanently affordable units with these numbers of bedrooms. ~~Middle income affordable units shall have at least one bedroom.~~
- (e) Ownership Type: Permanently affordable ~~dwelling~~ units shall be for-sale in the same proportion as the ~~dwelling~~ market rate units that are for-sale intended for sale that are not permanently affordable within the development that generated the requirement; for example, if fifty percent of the units in the ~~original~~ development are for sale units, then at least fifty percent of the permanently affordable units must be for-sale units except as otherwise approved by the city manager. Rental developments may provide either rental or for-sale permanently affordable units.

**9-13-8. – Location and Timing for Providing Permanently Affordable Units.**

Except as otherwise provided in this chapter, permanently affordable ~~dwelling~~ units shall be provided as follows:

- (a) Location of ~~For Sale~~ Permanently Affordable Units: ~~For sale p~~ Permanently affordable units provided on-site shall be distributed evenly throughout the development to achieve integration and avoid concentration or segregation of the affordable households unless otherwise approved by the city manager.
- (b) ~~Location of Rental Permanently Affordable Units: Rental permanently affordable units do not have a requirement for distribution throughout the development.~~
- (c) Timing of Construction: The construction of on-site permanently affordable dwelling units in any development shall be timed such that the permanently affordable units shall be constructed and pass final inspection concurrently or prior to the market-rate dwelling units in that development.
- (~~d~~) Timing of Marketing: On-site permanently affordable ~~dwelling~~ units shall be marketed concurrently with or prior to the market-rate dwelling units in ~~the~~ development.

### 9-13-9. - Developments Containing a Single Dwelling Unit.

A single lot owner that intends to construct one single dwelling unit on one buildingable lot-site that will be the primary residence of the owner for not less than three years immediately following the issuance of a certificate of occupancy ~~shall meet the standards set forth in Subsection 9-13-3(a), "Inclusionary Housing Requirements" B.R.C. 1981, or meet the following standards:~~ may satisfy the inclusionary housing requirement by making

- (a) ~~Designation of Home as a Permanently Affordable Dwelling Unit: The owner shall make the dwelling unit a permanently affordable dwelling-unit, except that such initial owner does not have to meet income or asset qualifications imposed by this chapter. The income and asset limitations shall apply to subsequent owners of the permanently affordable dwelling-unit.~~
- (b) ~~In Lieu Contribution: If the owner of a dwelling unit described in this subsection chooses to comply with inclusionary housing requirement by making a cash in lieu contribution, the owner shall have the option of deferring payment of that contribution until the property is conveyed to a subsequent owner or ten years from the date of execution of an agreement to that effect whichever is sooner, subject to the following:~~
  - (1) ~~Amount: The amount of the cash in lieu contribution shall be based on the in lieu amount for a similar single family home that is in place at the time the contribution is made, no later than at the time of transfer of title to a subsequent owner or ten years from the date of execution of an agreement to that effect whichever is sooner.~~
  - (2) ~~Legal Documents: The owner executes legal documents, the form and content of which are approved by the city manager, to secure the city's interest in receipt of the deferred in lieu contribution.~~

### 9-13-10. - Options for Satisfaction of Inclusionary Housing Requirement.

- (a) Purpose: ~~To obtain~~ In order to create a significant amount of permanently affordable dwelling units. ~~To the extent permitted by this chapter, developers may satisfy the inclusionary housing requirement through any combination of the following alternate means:~~
  - (b1) Cash-in-Lieu Contribution: Developers may satisfy permanently affordable housing requirements by making cash contributions to the city's affordable housing fund. ~~The cash in lieu contribution will be calculated by the city manager annually. The cash-in-lieu contribution will be based on the residential square footage of the development creating the inclusionary housing requirement and the applicable rate will be determined annually by the city manager.~~ The city manager may consider the number of units in the development, the size and type of units which created the obligation (including small attached units and townhomes), the amount that would incentivize on-site construction of permanently affordable units, and the affordability gap between market rate and permanently affordable home-unit prices when determining the cash-in-lieu calculation.
  - (1A) Annual Cash-in-lieu Escalator for Developments with Five or More Dwelling Units: The city manager is authorized to ~~increase~~ adjust the cash-

in-lieu contribution annually on July 1 of each year, ~~up to a maximum of ten percent compounded each year until seventy-five percent of the affordability gap in a given year is reached.~~

(2B) ~~Annual Escalator for Developments with One to Four Dwelling Units: The city manager is authorized to increase the cash-in-lieu contribution for developments with one to four dwelling units annually on July 1 of each year by up to a maximum of ten percent compounded each year until fifty percent of the affordability gap in any given year is reached.~~

(3) ~~Affordable Housing Fund Established: The city manager will establish an affordable housing fund for the receipt and management of permanently affordable dwelling-unit cash-in-lieu contributions. Monies received into that fund will be utilized solely for the construction, purchase and maintenance of affordable housing and for the costs of administering programs consistent with the purposes of this chapter.~~

(e2) Provision of Affordable Units Off-site:

(1A) ~~The intent of this option is that the off-site unit mix of permanently affordable units building type (attached, townhome, detached) and number of units with specific number of bedrooms will be proportionate in type and size to the mix of market rate units in the sending site development that generated the requirement for the permanently affordable units (the "Sending Site"). Recognizing that an off-site location is unique and may have different zoning and other planning considerations than the sending site, the city manager may meet the intent of this chapter by modifying the requirements in Chapters Sections 9-13-6 and 9-13-7, B.R.C. 1981, to accommodate receiving the off-site constraints.~~

(2B) To the extent permitted by this chapter, inclusionary housing requirements may be satisfied by restricting existing or newly constructed rental or for-sale off-site dwelling units which are approved by the city manager as suitable permanently affordable housing dwelling units through covenants, contractual arrangements or resale restrictions, the form and content of which are acceptable to the city manager. Off-site permanently affordable dwelling units shall be located within the City of Boulder.

(C) ~~The city manager is authorized to develop rules for approving, assessing, and monitoring the off-site development.~~

(3D) Off-site Agreement: Any development meeting the requirements of this chapter by providing permanently affordable units off-site shall be subject to the provisions of an off-site agreement as approved by the city manager. The off-site agreement must be executed prior to application for any residential building permit submittal for the sending site.

(4E) Financial Guarantee: The city manager may require a financial guarantee to secure the off-site units prior to issuing a building permit for the sending site, the development generating the need for the affordable units.

(5E) Timing of Construction for Off-site Units: The intent of this section is to provide concurrency of construction and marketing between permanently affordable units and market rate units.

(Ai) If ~~a~~-newly constructed dwelling units areis used to satisfy the requirements of this chapter, ~~the units shall pass final inspection no later than one year after the first market rate dwelling unit in the site that generated the requirement passes final inspection.~~ as permanently affordable units the applicant shall demonstrate that such units meet the following minimum requirements:

- a. The permanently affordable units shall pass final inspection no later than one year after the last market rate unit in the Sending Site passes final inspection; and
- b. The permanently affordable units shall be offered for sale or rent no later than one year after the final inspection of the last market rate unit in the Sending Site.

(iiB) If ~~an~~-existing dwelling units areis used to satisfy the requirements of this chapter, ~~the applicant shall provide a letter of completion for any rehabilitation or remodeling, subject to city manager review and approval, that establishes that the unit is habitable no later than one year after the first market rate dwelling unit in the site that generated the requirement passes final inspection.~~ as permanently affordable units, the applicant shall demonstrate that such units meet the following minimum requirements:

- a. The applicant provides a letter of completion for any rehabilitation or remodeling, subject to city manager review and approval, that establishes that the permanently affordable units are habitable no later than one year after the last market rate unit in the Sending Site receives a certificate of occupancy; and
- b. The permanently affordable units are offered for sale or rent no later than one year after the last market rate unit in the Sending Site receives a certificate of occupancy.

(6G) Timing of Marketing: The marketing of the permanently affordable ~~dwelling~~-units should start ~~within two months of when~~ before the permanently affordable units are expected to receive a certificate of occupancy ~~can be. Marketing shall occur no later than ten months after the first residential building permit for the site that generated the requirement is issued.~~

(7H) Off-Site Location Subject to Inclusionary Requirement: All newly constructed ~~dwelling~~ permanently affordable units ~~on the receiving~~ provided off-site are subject to the requirements of this chapter.

(8I) Off-Site Location Review and Approval: Any proposed off-site location is required to be approved by the city manager.

(d3) Land Dedication:

- (1A) Purpose: The inclusionary housing requirement may be ~~fully or partially~~ satisfied by the dedication of land to the City of Boulder or an entity designated by the City of Boulder for permanently affordable ~~dwelling~~ units in accordance with the provisions of this.
- (2B) General Requirements: A land dedication shall meet all of the following criteria to the satisfaction of the city:
- (Ai) ~~Any proposed off-site~~ The location is required to be approved by the city manager of the land would meet city affordable housing objectives and is required to be approved by the city manager;
  - (Bii) ~~The land is in the City of Boulder and has either a medium or high density residential land use and zoning classification or the city manager determines that such classification may be pursued~~ can reasonably be developed for affordable housing;
  - (Ciii) The land is in an environmentally acceptable condition as supported by a Phase I Environmental Assessment as approved by the city manager. The city manager may require other studies or assessments to make this determination;
  - (Dii) ~~No greater than ten percent of the land may be within the high hazard zone, or conveyance floodplain zone. No greater than twenty-five percent of the land may be within the one-hundred-year floodplain. If any portion of the land is in the high hazard zone, conveyance zone or one-hundred-year flood-plain, the city manager will have the sole discretion to determine if the land is appropriate for affordable housing development.~~
  - (Eiv) Satisfactory proof of ~~fee~~ title is provided to the city manager within thirty days ~~of before~~ the effective date of dedication to the city or an entity designated by the city for such dedication. The land will be free of all liens and encumbrances and all property taxes and special taxes will be current before the title for the dedicated land is conveyed. The land will be conveyed by ~~general~~ special warranty deed before issuance of a building permit for the ~~originating residential development~~ Sending Site.
  - (Fvi) Dedicated land plus any cash-in-lieu contributed must be of equivalent or greater value to the total cash-in-lieu contribution amount. ~~The land must equal no less than seventy five percent of the cash-in-lieu contribution amount, including any in-lieu requirements of Subsection 9-13-3(d), B.R.C. 1981, for providing less than one-half of the required affordable dwelling units on-site that would have been required of the originating residential development.~~ The value of the land will be determined, at the cost of the developer, by an independent appraiser, who will be selected from a list of Colorado Certified General Appraiser provided by the city, or by such alternative means of valuation to which a developer and the city may agree.
  - (Gvii) If the land does not equal the full amount of the cash-in-lieu owed, the applicant shall contribute cash-in-lieu to make up any gap



between the value of the donated land and the total cash-in-lieu contribution amount.

(C) Open Space Requirement: If land proposed to be dedicated under this subparagraph is part of the same site review as the market rate units that create the inclusionary housing requirement the open space requirements for any permanently affordable units constructed on the land proposed to be dedicated shall be met entirely on the land proposed to be dedicated and the open space requirements for the market rate units shall be met entirely within the market rate unit development.

(e4) Alternative methods of compliance. The city manager is authorized to enter into agreements to allow alternative methods of compliance for the inclusionary housing requirements contained within this chapter. The applicant shall provide all documentation and any other material requested by the city manager. An applicant for an alternative method of compliance will demonstrate that the proposed method of compliance:

(+A) Will result in additional affordable housing benefits for the city consistent with the purposes of this chapter; or

(2B) Will address unmet housing needs~~Will result in additional affordable housing benefits that are equivalent to or greater than the cash-in-lieu contribution as set forth in Subsection 9-13-9(a) including any additional cash-in-lieu that is contributed if less than fifty percent of any for-sale permanently affordable units are not provided on-site; or~~

(3C) Is necessary to prevent an unlawful taking of property without just compensation in accordance with Section 9-13-150, "No Taking of Property Without Just Compensation," B.R.C. 1981.

### 9-13-11. - Rebuilt Dwelling Units.

The provisions of this chapter apply to any dwelling unit that is removed and rebuilt, except as provided in this subsection.

(+a) ~~Developments with Four or Fewer Dwelling Units: An applicant may request an exemption from the inclusionary housing requirements of this section-chapter for each dwelling unit removed and replaced by a dwelling unit in a development that has four or fewer units proposed for construction. The exemption shall be valid for three years after the issuance of any permit that results in the removal of a unit if the applicant applies for a building permit for a dwelling unit, uses due diligence to commence and complete the construction of such building and meets all deadlines set by city building codes or that otherwise may be set by the city manager. Any removal of a dwelling unit undertaken without the issuance of a permit will not qualify for the above exemption regardless of the number of units removed.~~

(2b) Developments with Five or More Dwelling Units: When the total number of redeveloped or newly constructed dwelling units in a development equals five or more dwelling units, the requirements of this chapter shall apply regardless of the date of issuance of any permit resulting in the removal of a dwelling unit.

- (3c) Calamity: The provisions of this subsection shall not apply to market rate units~~non-affordable dwellings~~ that may have been removed or caused to be removed by fire, flood, wind, act of nature or another calamity. Such ~~dwellings~~ units may be replaced within ten years from the time of the calamity to the time of building permit submittal for a replacement dwelling unit without meeting the inclusionary housing requirements of this chapter ~~at the time preferred by the property owner. Deed restricted~~ Property on which permanently affordable dwelling units that may have been removed or caused to be removed by fire, flood, wind, act of nature or other calamity will continue to be bound by the permanently affordable deed restriction covenant which will apply to future construction must be replaced and include the deed restriction.
- (4d) Safe and Habitable: The provisions of this subsection shall not apply to dwellings to be removed, if, at the time of removal, such unit is considered to be an unsafe structure, a structure unfit for human occupancy, or a dangerous structure under the ~~1997 Uniform Code for the Abatement of Dangerous Buildings, City of Boulder Property Maintenance Code, Section 108302~~ adopted by the city by Section 10-2-25-3, B.R.C. 1981, unless otherwise excepted by the Boulder Revised Code. The chief building official shall determine if the unit meets these standards.

#### 9-13-12. - Program Requirements for For-Sale Units.

- (a) Affordable Unit Price: The city manager will set the maximum allowable sales price for permanently affordable dwelling units required by this chapter based upon the unit type, total floor area, and number of bedrooms and bathrooms.
- (1) The prices charged for permanently affordable low/moderate priced ~~dwellings~~ units shall not exceed a price that is affordable to a household earning the HUD low-income limit for the Boulder PMSA.
- (2) Middle Income priced ~~dwellings~~ permanently affordable units shall not exceed a price that is affordable to one hundred and twenty percent of the area median income as determined by HUD for the Boulder PMSA. The city manager is authorized to adopt or create pricing categories within this income range to be utilized in the enforcement of the provisions of this chapter.
- (b) Maximum Sales Price for Permanently Affordable ~~Dwelling~~ Units: The maximum sale price for an permanently affordable ownership unit shall be set by the city on at least a quarterly basis.
- (c) Income Eligibility: The city manager shall determine the maximum household income allowable for each sales price.
- (ed) Real Estate Commissions: A real estate commission shall be paid by any seller of an permanently affordable unit to a real estate agent representing the buyer. This amount shall be established by the city manager ~~and specified in the inclusionary housing administrative regulation.~~
- (de) Approved Purchasers for Permanently Affordable ~~Dwelling~~ Units: A developer or owner shall sell to a qualified purchaser after completing a good faith marketing and selection process approved by the city manager.
- (ef) Asset Limitations for Program-eligible Households: Program-eligible households that wish to purchase permanently affordable ~~dwellings~~ units shall be subject to reasonable asset limitations set by the city manager. The city manager will establish maximum asset

1 limitation requirements for purchasers of permanently affordable ~~dwelling~~ units in order  
 2 to accomplish the purposes of this chapter. The standard that the city manager will use to  
 3 set the asset limitation is that the housing be available to people who, without assistance,  
 4 would have difficulty marshaling the financial resources to obtain appropriate housing  
 5 within the city.

(fg) Sale Restriction: No person shall sell a permanently affordable ~~dwelling~~ unit except to a  
 4 person that meets the income, asset and other eligibility requirements of this chapter or  
 5 any asset and income eligibility requirement that is included in any contract, covenant or  
 6 any other agreement to which the city is a party or beneficiary.

(gh) Rental Restrictions for For-Sale Permanently Affordable Units:

(1) Rental Restrictions Pursuant to Sale: Newly constructed or existing units that are  
 7 deed restricted are initially owned by a developer. Prior to the first sale of such  
 8 units to a program eligible buyer and after receipt of a temporary or final  
 9 certificate of occupancy, a developer who initially owns an permanently  
 10 affordable unit is required to actively market the permanently affordable unit for a  
 11 minimum of one hundred twenty days to facilitate a sale. Subsequent program-  
 12 eligible owners must also market the permanently affordable unit for a minimum  
 13 of one hundred twenty days to facilitate a sale. If, after this period, the  
 14 permanently affordable ~~home~~ unit has not sold, the unit may be rented for a one-  
 15 time period not to exceed eighteen months. The developer or owner is required to  
 16 continue to market the unit while it is being rented but may defer the sale to the  
 17 end of the lease period. A written lease or rental agreement is required. The lease  
 18 or agreement must be provided to the city division of housing.

(2) An owner may rent one bedroom in an permanently affordable unit for any period  
 14 of time subject to city requirements concerning the renting of residential property.

(3) The provisions below apply to rental of the entirety of the for-sale permanently  
 15 affordable units. The provisions of this section do not apply to any affordable  
 16 housing developer who owns the permanently affordable unit initially prior to the  
 17 first sale to a program-eligible owner.

(A) No owner shall fail to occupy an permanently affordable unit for a  
 17 minimum of five years before renting the entirety of the unit.

(B) No owner shall fail to provide thirty days' notice to the city manager of  
 18 intent to rent an affordable unit.

(C) No owner shall allow an permanently affordable unit to be rented for more  
 19 than one year out of seven years. The one-year period may be continuous  
 20 or an aggregation of shorter time periods.

(D) No owner shall fail to provide a written lease or rental agreement to the  
 21 city division of housing when renting the entirety of an permanently  
 22 affordable unit. The city manager may require additional documents the  
 23 city finds reasonably necessary to comply with this section.

(E) No owner shall allow an permanently affordable unit to be rented for a  
 23 period of less than thirty days.

(hi) Resale Restrictions: All permanently affordable ownership ~~dwelling~~ units developed  
 24 under this chapter shall be subject to the following resale restrictions:

(1) Approved Purchasers: A seller of a permanently affordable ~~dwelling~~ unit must  
 25 select an income-eligible purchaser by a method that complies with the good faith

marketing and selection process approved by the city manager. All purchasers of permanently affordable ~~dwelling~~ units shall be part of program eligible households.

- (2) Resale Price: The resale price of any permanently affordable ~~dwelling~~ unit shall not exceed the purchase price paid by the owner of that unit with the following exceptions:

(A) Closing Costs: Customary closing costs and costs of sale as reviewed and approved by the city manager.

(B) Permanent Capital Improvements: Consideration of eligible permanent capital improvements installed by the seller that have been approved in advance by the city manager in accordance with rules or administrative guidance established by the city manager.

(C) Resale Price: The resale price may include an inflationary factor or shared appreciation factor as applied to the original sale price pursuant to rules as may be established by the city manager to provide for such consideration. In developing rules, the city manager may consider the purposes of this chapter, common private, nonprofit and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing. In the event that the city has not adopted rules that contemplate a particular arrangement for the use of an inflationary factor or shared appreciation factor, the city manager is authorized to approve a resale price formula that is consistent with the purposes of this chapter, common private, nonprofit and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing.

- (3) Special Fees: The seller of a permanently affordable ~~dwelling~~ unit shall neither levy nor charge any additional fees or any finder's fee nor demand any other monetary consideration other than provided in this chapter.

- (i) Ownership Associations: When accepting a for sale unit as meeting the inclusionary housing ~~obligation requirement~~, the city manager will review the condominium association declarations to assess the impact on buyers of permanently affordable units. The city manager is authorized to establish rules regarding allowable terms in condominium declarations in order to ensure that the purposes of this chapter are accomplished.

### 9-13-13. - Program Requirements for Rental Units.

- (a) Maximum Rent: Required rental permanently affordable units shall include eighty percent of the required permanently affordable units as low/moderate income dwelling units and twenty percent of the required permanently affordable units shall have rents set to be affordable to households earning no greater than fifty percent of the AMI~~Rents charged for permanently affordable units in any one development must be affordable to households earning no more than sixty percent of the AMI for low/moderate permanently affordable rental units and eighty percent of the AMI for middle income permanently affordable rental units.~~

(b) ~~Conversion of Rental Developments to Ownership Dwelling Units.~~

- (1) ~~A rental development may be converted to a for sale development. If the inclusionary housing requirement for a rental development was met with a cash-in-lieu contribution and the rental development is converted to a for sale development within five years of the issuance of a final Certificate of Occupancy, the property owner shall pay the city the difference between the cash-in-lieu amount paid and the amount that would have been due at the time of building permit issuance for a for sale development.~~
- (2) ~~An owner of a rental development shall enter into an agreement with the city to agree to pay the difference if the rental development is converted to for sale units in the five-year period.~~
- (3) ~~An agreement shall be executed in a form acceptable to the city manager and shall indicate the difference between the cash-in-lieu amount owed if the development were a for sale development instead of a rental development at issuance of the initial residential building permit. The term of the agreement shall be for five years starting from the date of the issuance of a residential building permit. After this period, no additional cash-in-lieu is required if such a conversion occurs. The agreement shall provide for the appropriate adjustment to the inclusionary housing requirements of this chapter.~~

**9-13-14. - Residential Developments with Prior Affordable Housing Agreements. Reserved**

~~Developments of the type described in this subsection will be permitted to develop utilizing the following provisions:~~

- (a) ~~Prior Development Approvals and Applications: The inclusionary housing requirements of Sections 9-13-3(a)(1)(A) and (C), 9-13-4(a) and (b) in place prior to the adoption of this chapter will apply to the following developments:~~
  - (1) ~~A development for which a site review application was filed prior to July 1, 2018;~~
  - (2) ~~A development subject to an affordable housing agreement and requirements imposed by prior inclusionary housing agreements; or~~
  - (3) ~~A dwelling unit for which a building permit has been submitted prior to July 1, 2018.~~

~~After July 1, 2018 any development subject to this subsection for which the site review, affordable housing agreement or building permit is expired, denied, revoked, or otherwise is not diligently pursued must conform to the rule in effect at the time of application.~~
- (b) ~~City Subsidized Developments: Developments subject to agreements with the city executed prior to the effective date of this chapter in order to receive Affordable Housing Funds, Community Housing Assistance Program, HOME or Community Development Block Grant funds may either:~~
  - (1) ~~Develop in compliance with affordable housing and restricted housing agreements executed prior to the effective date of this chapter and provide restricted units as required pursuant to ordinances in effect at the time such developments were approved;~~
  - (2) ~~Enter into a new agreement with the city manager to allow the development to retain funding pursuant to the earlier agreements, provide permanently affordable~~

units as required pursuant to the earlier agreements and law, be relieved of all obligations to provide restricted units and provide ten percent additional permanently affordable units as such units are defined by this title; or  
 (3) ~~Refund all monies received pursuant to such agreements and agree that contracts providing for the provision of such funding shall be void. The development shall then develop in compliance with the provisions of this chapter.~~

(e) ~~Developments Subject to Annexation Agreements: Developments subject to affordable housing requirements imposed by annexation contracts may develop in conformity with those contract provisions.~~

(d) ~~Moderate Income Housing Program: Any development subject to Ordinance No. 4638, "Moderate Income Housing," as amended, and which has not entered into a separate agreement with the city manager to fulfill those requirements prior to the effective date of this chapter shall be relieved of its obligations under Ordinance 4638, as amended, and shall be subject to the requirements of this chapter.~~

...

Section 3. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as follows:

...

A—E

*Area median income or AMI* means the midpoint of household incomes as determined by HUD for the Boulder Primary Metropolitan Statistical Area (PMSA); and adjusted for family size; half of all household incomes are higher and half are lower than the AMI. Income limits based on AMI are used to determine if a household's gross income qualifies for affordable housing and other assistance programs.

...

F—J

...

*Floor area for attached dwelling units* means the total square footage of all levels measured to the outside surface of the exterior framing, to the centerline of demising walls between units, and to the outside surface of the exterior walls if there is no exterior framing~~interior finished surface of the inside wall or portions thereof~~, which includes stairways, storage, and mechanical rooms, internal to the structure, ~~but excluding up to two hundred fifty square feet of unfinished floor area in basements, but excluding garages.~~ (Inclusionary Housing)

*Floor area for detached single-family dwelling units* means the total habitable square footage of all levels measured to the outside surface of the exterior framing, or to the outside

surface of the exterior walls if there is no exterior framing or portions thereof, which includes stairways, storage, ~~excluding any additional required storage per “Livability Standards for Permanently Affordable Units,”~~ and mechanical rooms internal to the structure, but excluding garages. (Inclusionary Housing)

*Floor area for townhouses and attached small units* means the total habitable square footage of all levels measured to the outside surface of the exterior framing, to the centerline of demising walls between units, and the outside surface of the exterior walls if there is no exterior framing, or to the mid-wall for interior unit defining walls or portions thereof, which includes stairways, storage, ~~excluding any additional required storage per “Livability Standards for Permanently Affordable Units,”~~ and mechanical rooms, internal to the unit, but excluding garages. (Inclusionary Housing)

...

P—T

...

*Permanently affordable unit* means a dwelling unit that is pledged to remain affordable in perpetuity to households earning no more than the maximum income limits specified in ~~this~~ Chapter 9-13, “Inclusionary Housing,” B.R.C. 1981, ~~and the unit.~~

(1) ~~Is owner occupied; or~~

(2) ~~Is owned or managed by the Housing Authority of the City of Boulder or its agents; or~~

(3) ~~Is a rental unit in which the city has an interest through the Housing Authority of the City of Boulder or a similar agency that is consistent with § 38-12-301, C.R.S., or that is otherwise legally bound by rent restrictions consistent with § 38-12-301, C.R.S., or successor statutes. (Inclusionary Housing)~~

*Program eligible household* means a household ~~who~~ that meets the income and asset limitations and other requirements established pursuant to this title for the purposes of owning or renting and a permanently affordable homeunit.

(1) ~~Low and moderate income homebuyer households’ income shall not exceed ten percentage points more than the HUD low income limit for the Boulder Primary Metropolitan Statistical Area (PMSA), with adjustments for family size.~~

(2) ~~Low and moderate income renter~~ Initial renter households’ income shall not exceed sixty percent of the area median income (60% AMI) as determined by HUD for the Boulder PMSA, or as determined by the city manager, with adjustments for lower rent AMI levels.

(3) ~~Middle income h~~ Homebuyer households’ income shall not exceed one hundred and fifty percent of the area median income as determined by HUD for the

1           Boulder PMSA or as determined by the city manager, with adjustments for lower  
 2           pricing AMI levels.

3           (4) ~~— Middle income renter households' income shall not exceed eighty percent of the~~  
 4           ~~area median income (80% AMI) as determined by HUD for the Boulder PMSA.~~  
 5           ~~(Inclusionary Housing)~~

6           ...

7           Section 4. The effective date of this Ordinance shall be 90 days after adoption. This  
 8           Ordinance shall apply to any development without an approved site review, use review, form-  
 9           based code review, technical document review or building permit and to any development  
 10          without an executed on-site agreement and deed restricting covenant; however, any development  
 11          that has an approved site review, use review, form-based code review, technical document  
 12          review, building permit or an executed on-site agreement or deed restricting covenant may be  
 13          allowed to develop according to either, a) the requirements in place when the review was  
 14          approved or agreement or covenant was executed, or b) the requirements of this Ordinance. Any  
 15          development subject to the requirements of this Ordinance for which the site, use, form-based  
 16          code or technical document review, affordable housing agreement or building permit is expired,  
 17          denied, revoked, or otherwise is not diligently pursued must conform to the rule in effect at the  
 18          time of re-application for review or permit.

19          Section 5. If any section, paragraph, clause, or provision of this Ordinance shall for any  
 20          reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
 21          provisions of this ordinance.

22          Section 6. This Ordinance is necessary to protect the public health, safety, and welfare of  
 23          the residents of the City and covers matters of local concern.  
 24  
 25



Section 7. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this Ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19th day of October 2023.

Aaron Brockett,  
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 2nd day of November  
2023.

Aaron Brockett,  
Mayor

Attest:

City Clerk



# KEYSER MARSTON ASSOCIATES

## **FINANCIAL ANALYSIS AND REVIEW OF BEST PRACTICES**

*to support updates to Boulder's*

### **Inclusionary Housing Requirement**

*Prepared for:*  
**City of Boulder**

*Prepared by:*  
**Keyser Marston Associates, Inc.**

**September 2023**

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## **1.0 INTRODUCTION AND SUMMARY OF FINDINGS**

This report was prepared to support consideration of updates to the City of Boulder's (City) Inclusionary Housing (IH) policy. The report presents an assessment of financial feasibility for a range of residential development types, tests alternative requirements, and reviews best practices and policy approaches elsewhere.

### **1.1 Background and Purpose**

Boulder has a robust IH program that has been in place for decades. The current IH requirement is for new residential developments to set aside 25% of units as affordable. Alternatives include Cash-in-Lieu (CIL) payment, off-site affordable units, land dedication, or an alternative proposed by an applicant that provides a greater housing benefit to the community.

Payment of CIL has been the most frequently used means of compliance. There are several recent examples of projects that have proposed the use of other compliance methods. Diagonal Plaza dedicated a site to Boulder Housing Partners for construction of affordable units. Weathervane and 4775 Spine Road (Celestial Seasonings site) are each building 25% inclusionary units within the project. Both of these projects are situated on large sites in comparatively low land cost areas of the city.

The City is considering an update to its IH policy to ensure the program continues to align with community priorities and best practices. This report presents analysis and recommendations to support the proposed update.

### **1.2 Residential Development Types Analyzed**

A set of five prototypical residential development projects were identified to serve as the basis for the financial analyses provided in this report. The intent is to represent the types of projects that are likely to be developed in Boulder. A summary of the five residential prototypes is presented in Table 1-1. Prototypes were defined based on a review of recent and proposed projects. Supporting information is presented in Section 2 and Appendix B.

Stacked condominiums are included as a prototype so the economics of this project type can be understood, although few such projects have been built or proposed recently. Single-family development was deemed too limited to warrant being made a focus of pro forma testing. Most single-family units built in recent years have been a result of demolition and replacement of existing homes. Four story prototypes assume use of bonus height under the City's community benefits program and are included to assist in understanding inter-relationships between potential changes to IH and the community benefits program.

**Table 1-1. Residential Prototype Projects Programmatic Assumptions**

	<b>Townhome</b>	<b>Small Condo, 3-story</b>	<b>Larger Condo, 4- story</b>	<b>Rental, 3- story</b>	<b>Rental, 4- story</b>
Number of Units / Density	48 units 24 du/ac. <sup>(1)</sup>	21 units 26 du/ac.	78 units 39 du/ac.	98 49 du/ac.	131 66 du/ac.
Number of stories above grade	3 stories	3 stories	4 stories	3 stories	4 stories
Average Unit Size	1,750	1,400	1,250	750	750
Parking Type	attached garage	podium garage	subterranean garage	subterranean garage	subterranean garage
Avg No. of Bedrooms	3.0	2.0	1.7	1.0	1.0

<sup>(1)</sup> Townhome density estimate is reflective of several precedent townhome projects at a similar density, as shown in Appendix Table B- 8. A townhome at a density of 11 units per acre was also tested. See Section 2.7 for more information.

### 1.3 Feasibility Analysis Summary

KMA prepared an analysis to assess feasibility of the five prototypical residential development projects. Pro forma analyses were prepared to model development costs and revenues of each project type under existing and alternative affordable housing requirements. One of three feasibility classifications is assigned to each scenario: feasible, marginally feasible, or infeasible / challenged. Categories are based on the adequacy of revenues, net of a threshold developer return, to fund the development costs. Section 2 presents the analysis and provides additional metrics including supported land values and the equivalent dollar cost of complying with the IH program to enable quantitative comparisons across scenarios.

#### (1) Base Case Pro Forma Findings

Table 1-2 summarizes the base case pro forma findings assuming existing IH requirements. Payment of CIL is assumed since most projects are using this compliance option. Use of the community benefits program is reflected with respect to the four-story prototypes.

**Table 1-2. Base Case Pro Forma Under Current Requirements**

<b>Pro Forma Summary (\$millions)</b>	<b>Townhome</b>	<b>Small Condo, 3-story</b>	<b>Larger Condo, 4- story</b>	<b>Rental, 3-story</b>	<b>Rental, 4-story</b>
Supported Developer Investment <sup>(1)</sup>	\$57.46	\$18.85 <sup>(2)</sup>	\$54.36	\$47.45	\$63.43
Total Development Cost	\$57.62	\$19.82 <sup>(2)</sup>	\$57.42	\$48.75	\$63.99
%Costs Supported (100% = in balance)	100%	95%	95%	97%	100%
Feasibility Category	Feasible	Marginal Feasibility	Marginal Feasibility	Marginal Feasibility <sup>(3)</sup>	Feasible

(1) Supported investment represents the amount the developer can invest in the project based on the projected net rental income, or the case of a for-sale project, based on sales revenue net of costs of sale and a threshold developer profit.

(2) Project revenues and costs substantially less than other scenarios based on analysis of a smaller project on a smaller site (0.75 acre site vs 2 acre site for the other prototype projects).

(3) Feasible when evaluated with FY 2022-23 CIL rates.

For the townhome, revenues are approximately in balance with costs, and thus the prototype project is classified as feasible.

The two stacked condo projects are both classified as marginally feasible based on project revenues that support only approximately 95% of estimated development costs, suggesting stacked condominium projects are less likely to develop overall and less likely to use the community benefit program. This generally aligns with recent development activity in that stacked condos have been far less common than other project types.

The four-story rental project was found to be feasible. The three story rental is classified as marginally feasible, but prior to the most recent 10% increase in CIL rates on July 1, the three-story rental was identified as feasible.

More favorable economics for the four-story rental compared to the three-story rental are inclusive of the increased IH requirement that applies due to use of the community benefits program to realize a fourth story. This finding is consistent with the presence of several pipeline rental developments proposing use of the program to add a fourth story.

## ***(2) Supportable Cash-In-Lieu Levels***

The prototype projects are able to support cash in-lieu amounts from \$35 to \$50 per square foot depending on the prototype. The four-story condo is an exception because it is subject to a minimum of 50% on-site affordable units under the City's community benefit requirements and was not found to support a CIL payment in addition to provision of the on-site units. Absent the on-site units, the four-story condo could support a CIL requirement in a similar range as the other project types.

## ***(3) Feasibility of Meeting 25% IH Requirement On-site***

*Larger Sites* - Projects on larger sites accommodating multiple buildings are in the best position to satisfy the 25% IH requirement in a separate building financed with low income housing tax credits (LIHTCs) and other subsidy sources that help offset the cost of affordable units. Such projects can feasibly deliver 25% affordability on-site. This finding is consistent with projects such as 4775 Spine Road (Celestial Seasonings site), that are proposing to do so. To be financeable, affordable units typically must be in a separate building and have roughly fifty or more affordable units to be efficient from a development and operating standpoint. With use of LIHTCs and other subsidy sources, the effective market rate developer cost to provide affordable units can be below the existing CIL rate. For example, with 4775 Spine Road, the contribution from the market rate component of the project (land and cash) to deliver 59 affordable units on a portion of the site is estimated to equate to around \$25 per square foot, roughly half the existing CIL rate. The project is situated on a large site in a comparatively low land cost area of the City (Gunbarrel).

**Smaller Sites** – Developments on smaller sites and infill developments will typically lack the scale to set aside a portion of the site for a separate LIHTC project. Projects unable to leverage outside subsidy sources to finance affordable units face feasibility challenges meeting the 25% affordable housing requirement on-site. Potential exceptions include projects able to acquire a site at a discounted value and/or locations where exceptionally high pricing or rents are achievable. The cost of providing 25% affordable units on-site is estimated to be well above the existing CIL rate<sup>1</sup> without use of outside subsidies. A mandate that 25% affordable units be delivered on-site, rather than allowing CIL or another alternative, would make it significantly more challenging for projects on smaller sites and infill developments to move forward.

Weathervane is one example of a project providing 25% affordable units on-site without use of tax credit financing. The project is unique in that its land costs are less than half the per unit average for multifamily projects in Boulder and it is reportedly being financed with socially responsible investment capital. These factors likely contribute to the ability of this project to satisfy the 25% requirement on-site without tax credit financing.

Table 1-3 summarizes pro forma testing of existing requirements, alternative CIL levels, and meeting a 25% IH requirement on-site.

<b>Table 1-3. Feasibility Testing Summary</b>					
	<b>Townhome</b>	<b>Small Condo, 3-story</b>	<b>Larger Condo, 4-story</b>	<b>Rental, 3-story</b>	<b>Rental, 4-story</b>
Existing CIL Rates	Feasible	Marginal Feasibility	Marginal Feasibility	Marginal Feasibility (but feasible with FY22-23 rates)	Feasible
Feasible CIL level (expressed per square foot)	up to \$50 PSF	up to \$35 PSF	marginal feasibility with any CIL amount due to 50% on-site minimum with community benefit program	up to \$45 PSF	up to \$50 PSF
25% On-Site Affordable	infeasible for income levels up to 100% AMI, marginal at 120% AMI	infeasible at all income levels tested	infeasible at income levels up to 100% AMI, marginal at 120% AMI	infeasible at all income levels tested unless affordable units can be financed with outside subsidies such as tax credits.	

#### **(4) Affordable Unit Percentages Comparable to Existing CIL Option**

Table 1-4 identifies on-site inclusionary requirements approximately equivalent to existing CIL rates in terms of overall impact to project pro formas. Findings assume inclusionary units are provided in a mixed-income format without use of tax credit financing. As shown, between 12%

<sup>1</sup> With for-sale the net cost of meeting the 25% requirement on-site is estimated at approximately \$90 to \$100 per square foot and, with rental, in the range of \$80 to \$90 per square foot, well above the cost of paying CIL under existing rates, which converts to \$46 to \$59 per square foot for the prototype projects, depending on project type and average unit size.



and 17% on-site affordable units would be roughly equivalent to existing CIL rates, depending on the tenure of the project and the income level of the inclusionary units.

Table 1-4. On-Site Inclusionary Percentages Representing Similar Cost to Existing CIL Option	
For-Sale	Rental
13.9% with 1/3 each at Low/Mod, 80%, 100% AMI	13% with half 50% AMI and half 60% AMI
14.7% MI with 1/3 each at 80%, 100%, 120% AMI	14.2% with 1/3 each at 50%, 60%, 70% AMI
13.2% Low/Mod	12% at 50%, AMI
13.6% at 80% AMI	14.3% at 60% AMI
14.9% at 100% AMI	17.5% at 70% AMI <sup>(1)</sup>

<sup>(1)</sup> To be financed with LIHTCs, projects are required to have an average AMI level of 60% or below so a project with all 70% AMI units would not qualify.

**(5) Feasibility of LIHTC project with 20% of units at 50% AMI and 80% of units at 60% AMI**

KMA was asked to evaluate whether a unit mix of 20% of units at 50% of AMI or below and 80% of units at 60% of AMI is feasible in a LIHTC project. KMA reviewed data on 51 new construction LIHTC projects financed in Colorado over the last five years reported by the Colorado Housing Finance Agency and financed with 4% tax credits<sup>2</sup>. As shown in Table 1-5, on average, projects included approximately 20% of units at 50% of AMI or below, two thirds at 60% AMI, and 13% at either 70% or 80% of AMI. Eight of 51 projects (16%) would have met the criteria of at least 20% of units at 50% AMI or below and no units over 60% AMI, suggesting a unit mix meeting the specified criteria is feasible but not as common.

Approximately one third of projects included units above 60% of AMI as part of their unit mix, the majority at 70% of AMI, taking advantage of income averaging rules allowing units over 60% of AMI, as long as the overall affordability for the project averages 60% of AMI or below. The projects that included units above 60% of AMI also accounted for approximately two thirds of all units produced at 50% AMI and below. Over 70% of projects included at least some units at 50% of AMI or below. The data indicates a requirement to include 20% of units at 50% of AMI or below is feasible in a LIHTC project, but that allowing an equal share of units over 60% of AMI, up to 70% or 80% AMI, would likely provide helpful flexibility for financing these projects.

**Table 1-5. Affordability Mix for New Construction 4% LIHTC Projects, 2018 to 2023 in Colorado**

50% AMI and below	20%
60% AMI	67%
70% to 80% AMI	13%
	100%

Source: KMA Analysis of Colorado Housing Finance Agency data on 4% tax credit projects

<sup>2</sup> The focus was on 4% tax credits based on the assumption that the City would want the requirement to work for projects that do not receive 9% credits.

## 1.4 Interviews with Local Development Professionals

KMA conducted a series of one-on-one interviews with local developers with active projects or recent experience in Boulder. Through these interviews, KMA sought input on key pro forma assumptions as well as perspectives on market conditions and experience with the IH program.

Interviewees were also asked to provide feedback on why the market is primarily delivering rental housing in Boulder. The following insights were offered:

- (1) Rental projects attract a different set of investors that are investing for a longer-term horizon and are willing to accept lower risk-adjusted returns on that capital.
- (2) Rentals can be more tax efficient for investors.
- (3) For-sale projects have more market risk since projects have “one shot” at the market and the timing of sales can significantly affect performance.
- (4) Colorado’s construction defects laws increase costs and discourage production of for-sale housing, especially larger condominium projects.
- (5) Stacked for-sale projects cannot be phased resulting in higher financing costs since all costs are upfront while sales revenues take time to be realized.
- (6) Developers cited the cash-in-lieu premium that applies to for-sale but not rental as a policy bias favoring rental.

See Section 4 for more information.

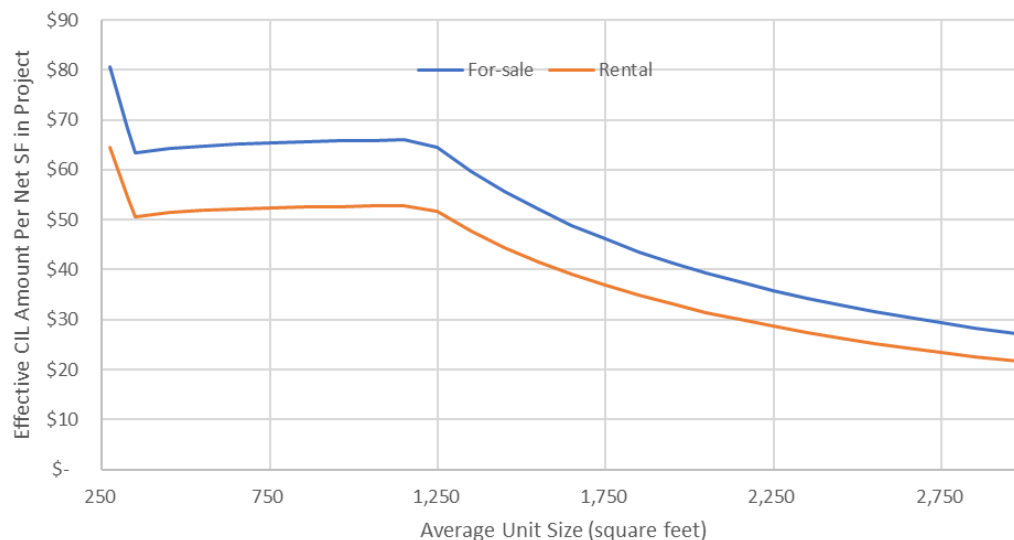
## 1.5 Approaches Elsewhere and Best Practices

Section 3 provides context regarding best practices and the diversity of approaches used by other inclusionary programs. The focus is on provisions related to Cash-In-Lieu alternatives and middle income for-sale units. Selected highlights include:

- (1) *CIL Shapes Outcomes* – The availability, structure, and amount of any CIL option shape whether units are provided on-site or through CIL payment. Onsite units contribute to mixed income communities and sometimes serve income categories, such as middle income, that 100% affordable projects do not reach based on criteria for funding sources. CIL creates funding that can be used to assist 100% affordable projects, which tend to serve households with the lowest incomes. CIL can also be leveraged with outside funding sources, potentially yielding production of more affordable units than would have been provided on-site.

- (2) **Basis of CIL Amount** – Alternative approaches to establishing CIL amounts include the (a) affordability gap associated with providing units on-site, (b) average public subsidy required to replace units that are not provided on-site, (c) a nexus study documenting impacts, and (d) a feasibility analysis identifying amounts projects are able to support. Boulder currently uses the affordability gap approach, but with increases subject to an annual cap, such that CIL amounts have always lagged the full calculated gap.
- (3) **CIL Structure** – The most common CIL structures are per affordable unit and per square foot. A per square foot CIL structure is considered best practice because it results in a fair burden across different unit types and avoids a disincentive for smaller more affordable market rate units. Boulder's per affordable unit CIL structure shares some attributes of a per square foot structure in that it adjusts based on unit size, but there is still variability by unit size, as indicated in Chart 1.

**Chart 1-1. Boulder's Existing Effective Cash In-Lieu Rate Per Square Foot**



\*Based on 100% CIL payment and large attached rate for FY 23-24

- (4) **CIL Annual Updates** – CIL rates must be updated regularly to ensure they keep pace with the cost of delivering affordable units. This can be accomplished through an update of the original methodology or by applying an index. Boulder currently updates its CIL rates annually based on the original methodology.
- (5) **Margin Between Market and Affordable Prices** – For for-sale inclusionary units to be marketable, there must be a substantial margin between market and affordable prices. The analysis indicates this is currently the case in Boulder. Affordable prices are also below market pricing in nearby communities.

- (6) *Margin Between Affordable Prices and Maximum Qualifying Income* – Affordable prices should be set below the maximum income to qualify to purchase a unit so that eligible households are able to afford the purchase prices. Boulder currently sets affordable pricing below qualifying limits consistent with this best practice.
- (7) *Re-sale prices* – The formula for determining re-sale prices of affordable units must balance inherent tradeoffs between providing an opportunity for owners to build equity and recoup the cost of capital improvements and maintaining affordability over the long-term. Boulder currently limits appreciation to the lesser of CPI, the change in area median income, and 3.5%; with a minimum increase of 1%. Pricing is adjusted based on the cost of capital improvements made by the owner. Boulder's current approach emphasizes long-term affordability as a primary goal.

## 1.6 Recommendations

Following is a summary of KMA's recommendations based on the findings of the analysis.

### ➤ *Cash In-Lieu Structure*

- Modify to a per square foot CIL structure so CIL obligations fully scale with unit size, and to avoid a disincentive for smaller units.
- Step-in the CIL requirement for smaller projects using a graduated scale that increases to the full rate at a threshold project size.
- Annually adjust the CIL amounts using an index, while periodically revisiting whether CIL requirements are keeping up with the cost of producing units, remain feasible, and continue to incentivize the compliance outcomes desired. Consider using an index tied to the cost of construction, as it would ideally allow rates to keep up with the cost of producing the affordable units. Engineering News Record publishes two construction cost indices for the Denver area. We suggest using a composite of the two indices published by ENR, the Construction Cost Index (CCI) and the Building Cost Index (BCI), because this allows both skilled and general construction labor costs to be considered. The composite of the two indices increased at an annualized rate of 4.6% over the last five years and 3.5% over the last twenty years, outpacing the overall rate of inflation (CPI) over both periods.

### ➤ *Overall Program Cost Parameter*

Establish updated IH requirements at levels yielding an overall cost of approximately \$40 to \$50 per square foot of net residential area. This recommended "cost envelope" for program updates would apply to the lowest cost alternative available to a project, which could be

provision of inclusionary units on-site, payment of CIL, or a combination, depending on policy preferences.

- The term “cost” is used loosely to refer to both a direct payment (i.e. CIL) and the net impact to a project’s pro forma from restricting rents or sales prices at affordable rates.
- A variety of policy options for the structure of the program are available within this recommended parameter.
- Current program costs, following the most recent 10% increase in CIL rates for 23-24, equate to approximately \$65 per square foot for for-sale units and \$52 per square foot for rentals under 1,200 square feet, and steadily decrease for unit sizes over 1,200 square feet due to the cap on CIL rates for units above that size<sup>3</sup>. Thus, with for-sale projects with unit sizes under 1,200 square feet, for which development activity has been quite limited, the recommended cost parameter would roll back approximately the last three years of 10% annual CIL increases. For rentals, a \$50 cost parameter would represent a slight decrease from current. For projects with larger unit sizes, the recommended cost parameter represents a net increase.
- Stacked condominiums have been rare enough that they were not a principal consideration in identifying the recommended cost parameter for the update, although support for a lesser requirement with this project type is indicated. As discussed below, a reduced requirement for this project type could be considered.

➤ *Approaches to On-site Affordable Units*

Whether, and in which situations, the City would like to require or encourage on-site inclusionary units rather than receive CIL is a key policy decision. Below is a discussion of alternatives.

- *Option 1 Maintain Existing Incentives* – Retain a 25% inclusionary requirement and a by-right CIL option set within the cost parameter described above. This option is likely to yield similar outcomes to current in which most projects utilize the CIL option with some exceptions. A variant of this approach would be to require on-site affordable units within the largest projects that have the site-size and scale to deliver affordable units as part of a 100% affordable project financed using tax credits. With this structure, projects well positioned to deliver on-site units are able to do so while other projects for which 25% on-site affordability is more challenging will use CIL as the lower cost and more feasible option.

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<sup>3</sup> Current program costs are based on the CIL option, since this is the alternative most projects have used.

- *Option 2 Require On-Site Units or Incentivize Through CIL Rate* – If on-site affordable units are strongly preferred over CIL, the following approaches could be considered, potentially only with for-sale projects if that is the priority for on-site units.
  - a. Remove the option to pay CIL for projects over a threshold size, such as ten units, or
  - b. Set the CIL rate at a significant margin above the estimated cost of providing on-site affordable units, or
  - c. Incentivize projects to provide a mix of on-site units and CIL by building in incentives for this outcome into the structure of the CIL option.

In conjunction with a mandate or strong incentive for on-site inclusionary units through the CIL rate, a reduction in the inclusionary percentage is recommended to maintain feasibility. Table 1-6 identifies on-site inclusionary percentages consistent with the recommended cost parameters described above, which vary depending on the required income levels of the units. Projects on larger sites capable of providing affordable units in a separate tax credit project are able to support a 25% requirement. Site size and/or unit count thresholds could be considered for continued application of a 25% inclusionary percentage.

<b>Table 1-6. On-Site Inclusionary Percentages Consistent with Recommended Cost Parameter, Assuming no Outside Subsidies</b>					
<b>Equivalent to \$50/SF Estimated Compliance Cost</b>					
<u>For-Sale</u>	<u>Townhome</u>	<u>Stacked Condo</u>	<u>Rental</u>		
120% AMI Units	14.5%	16.9%	80% AMI Units		21.7%
100% AMI Units	13.2%	15.0%	70% AMI Units		16.9%
80% AMI Units	12.1%	13.4%	60% AMI Units		13.8%
Low/Mod (71.7% AMI)	11.8%	12.7%	50% AMI Units		11.6%
<b>Equivalent to \$40/SF Estimated Compliance Cost</b>					
<u>For-Sale</u>	<u>Townhome</u>	<u>Stacked Condo</u>	<u>Rental</u>		
120% AMI Units	11.6%	13.6%	80% AMI Units		17.4%
100% AMI Units	10.6%	12.0%	70% AMI Units		13.5%
80% AMI Units	9.7%	10.7%	60% AMI Units		11.0%
Low/Mod (71.7% AMI)	9.4%	10.1%	50% AMI Units		9.3%

- *Option 3 Incentive-Based Approach to Achieving On-Site Units* – Retain a 25% inclusionary requirement with a by-right CIL option but add incentives for projects that include 25% affordable units on-site. Examples of the types of incentives that could be evaluated include:
  - a. Modification or waiver of certain development standards that tend to limit development capacity, such as density limitations, height limits, setbacks, open space requirements, parking, floor area ratio limits, or others.

- b. A streamlined approval process that substantially reduces the time required for approval and increases certainty regarding approval outcomes for projects that comply with all applicable requirements and include 25% affordable units on-site.
- c. Financial incentives for affordable units.

The potential incentives identified above would entail code changes beyond the scope of the IH ordinance. Success of an incentive-based approach would hinge upon identification of meaningful incentives that are both acceptable from a city and community perspective and sufficiently valuable to influence the decision-making of developers regarding provision of affordable units on-site. Each project will evaluate the use of incentives differently and a mix of outcomes would be expected.

- *Encouraging Market-Rate For-Sale Housing* – Market factors and construction defects liability considerations have contributed to limited for-sale housing development in recent years. Changes to the IH program are unlikely to alter these dynamics but can still be structured to support outcomes the City seeks to encourage. Options that would be supportive of additional for-sale development include:
  - a. Modify the CIL structure so for-sale projects are no longer charged more than rentals. A per square foot structure will be beneficial to stacked condo projects with their typically smaller average unit sizes.
  - b. If there is a desire to see more stacked condominium projects, consider reducing CIL and/or on-site percentage requirements for stacked condominiums projects that exceed a density threshold in recognition of the currently weaker feasibility of this project type.
  - c. Depending on the structure of the updated program, consider removal of the requirement that any for-sale project utilizing the community benefit program automatically triggers a requirement to provide at least half of the units on-site. The gap between market and affordable prices has increased over time and made this requirement more challenging. It also encourages a focus on rentals because a rental project using the program does not trigger a similar on-site obligation.
- *Conforming Updates to Community Benefits Program* – The community benefit program allows additional height in conjunction with an increased inclusionary requirement. Modifications to the inclusionary program are likely to alter incentives to use the community benefits program. Adjustments to requirements to coordinate with potential updates to IH are likely to be needed.

## 1.7 Report Organization

The following report sections present additional background and analysis to support the findings and recommendations summarized above.

- Section 1.0 provides a summary of findings and recommendations.
- Section 2.0 presents the financial feasibility analysis evaluating five prototype residential projects and the ability to sustain alternative CIL and affordability requirements.
- Section 3.0 provides a review of best practices for inclusionary programs, with a focus on provisions related to Cash-In-Lieu (CIL) alternatives and middle income for-sale units.
- Section 4.0 summarizes themes from interviews with local development professionals.
- Appendix A provides supporting tables related to the financial feasibility analysis.
- Appendix B identifies the survey of new and newer residential development projects in Boulder that provided a foundation for the prototypical residential development prototypes used in this analysis.



## 2.0 FEASIBILITY ANALYSIS

This section presents a financial feasibility analysis addressing a range of residential development types in Boulder and the ability to sustain alternative inclusionary and Cash-in-Lieu requirements. The purpose is to help inform the design of updated requirements at levels that are sustainable for market rate projects and to provide information regarding how alternative requirements compare in terms of their effects on the economics of new residential development projects.

### 2.1 Analysis Limitations

The analysis presented in this section is intended to provide a reasonable estimate based on current conditions; however, it is useful to bear in mind the following limitations:

- *Near-Term Time Horizon* – The analysis is intended as a best estimate based on current conditions. However, real estate development economics are fluid and are impacted by constantly changing conditions with regard to rent potential or sales prices, construction costs, land costs, and costs of financing. A year or two from now, conditions will undoubtedly be different. Financial feasibility conditions are not expected to remain static over a longer time horizon.
- *Prototypical Nature of analysis* – The feasibility analysis can only provide an overview-level assessment of development economics– it is not intended (nor would it be appropriate) to reflect any specific project. Every project has unique circumstances that will dictate rents or sale prices supported by the market as well as development costs and developer return requirements. Each developer will finance their project in different ways and the determination of risk and return requirements will vary as well. The feasibility analysis is intended to reflect typical projects in Boulder for the development types described. By taking this approach, it is understood that the economics of some projects will look better and some will look worse than those described herein.

### 2.2 Project Types Evaluated

Five residential prototype projects are evaluated, comprised of three for-sale and two rental projects, as follows:

#### For-sale

- Townhomes
- Stacked Condos, three stories in height
- Stacked Condos, four stories in height, with use of the community benefit program to allow the fourth story.

## Rental

- Rental, three stories in height
- Rental, four stories in height, with use of the community benefit program to allow the fourth story.

Prototype projects are representative of those developed or proposed in Boulder in recent years. Although stacked condominiums have been less common, they are included based on interest in encouraging additional for-sale housing opportunities, and so the economics of this project type can be understood.

Single-family development has been quite limited in recent years, likely driven by the high cost and limited availability of suitable sites. Most single-family units built in recent years have been a result of demolition and replacement of existing homes. Single-family development activity was deemed sufficiently limited to not warrant being made a focus of pro forma testing.

Rental and condo prototypes were evaluated both with and without use of bonus height under the City's community benefits program to address inter-relationships between the inclusionary and community benefits programs. The community benefits program allows projects to exceed base height limits with provision of additional affordable housing (11% additional inclusionary requirement with respect to units accommodated by the bonus height).

The prototype townhome project reflects a density of 24 units per acre based on several precedent projects at similar densities. A lower density townhome example at 11 units per acre was also tested, as described in Section 2.7.

Table 2-1 presents the programmatic assumptions for the five prototype projects. Programmatic assumptions are based on review of precedent projects, summarized in Appendix B.

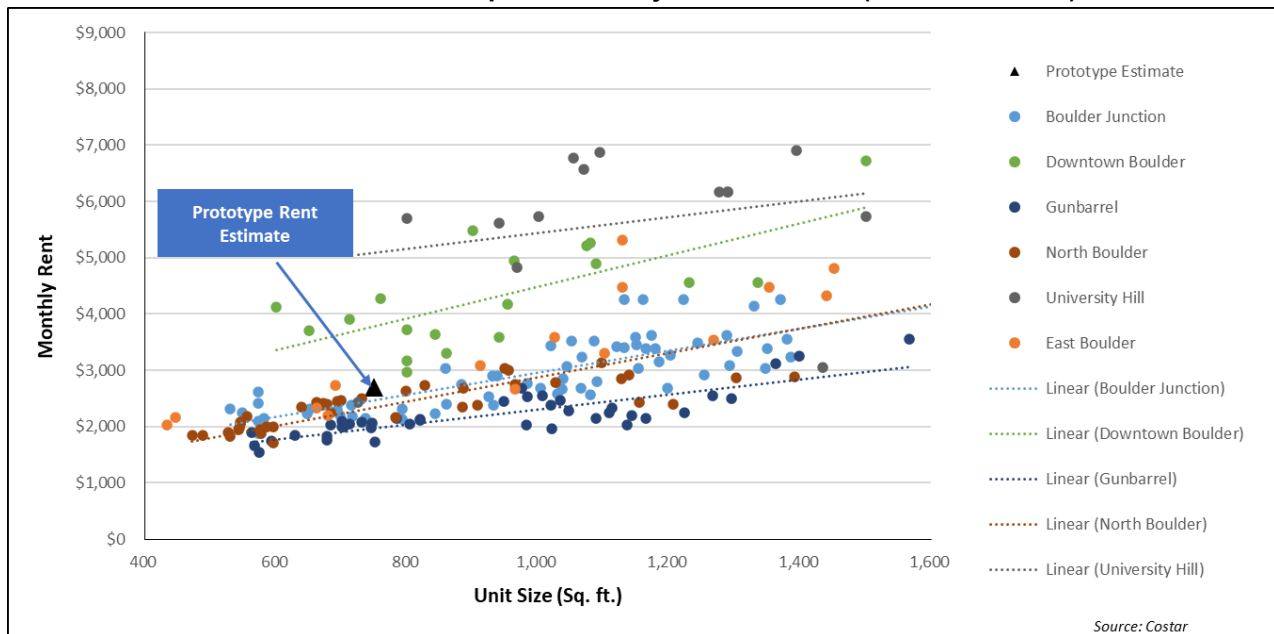
**Table 2-1. Programmatic Assumptions**

	<b>Townhome</b>	<b>Small Condo, 3-story</b>	<b>Larger Condo, 4-story</b>	<b>Rental, 3-story</b>	<b>Rental, 4-story</b>
Site Size	2 acres	0.8 acres	2 acres	2 acres	2 acres
Number of Units / Density	48 units	21 units	78 units	98	131
	24 du/ac.	26 du/ac.	39 du/ac.	49 du/ac.	66 du/ac.
Number of stories above grade	3 stories	3 stories	4 stories	3 stories	4 stories
Floor area ratio	1.0	1.0	1.3	1.0	1.3
Average Unit Size - mkt	1,750	1,400	1,250	750	750
Parking Spaces	87	28	95	98	131
Parking Ratio	1.8	1.3	1.22	1	1
Parking Type	attached garage	podium garage	subterranean garage	subterranean garage	subterranean garage
Avg No. of Bedrooms	3.0	2.0	1.7	1.0	1.0

### 2.3 Pro Forma Methodology

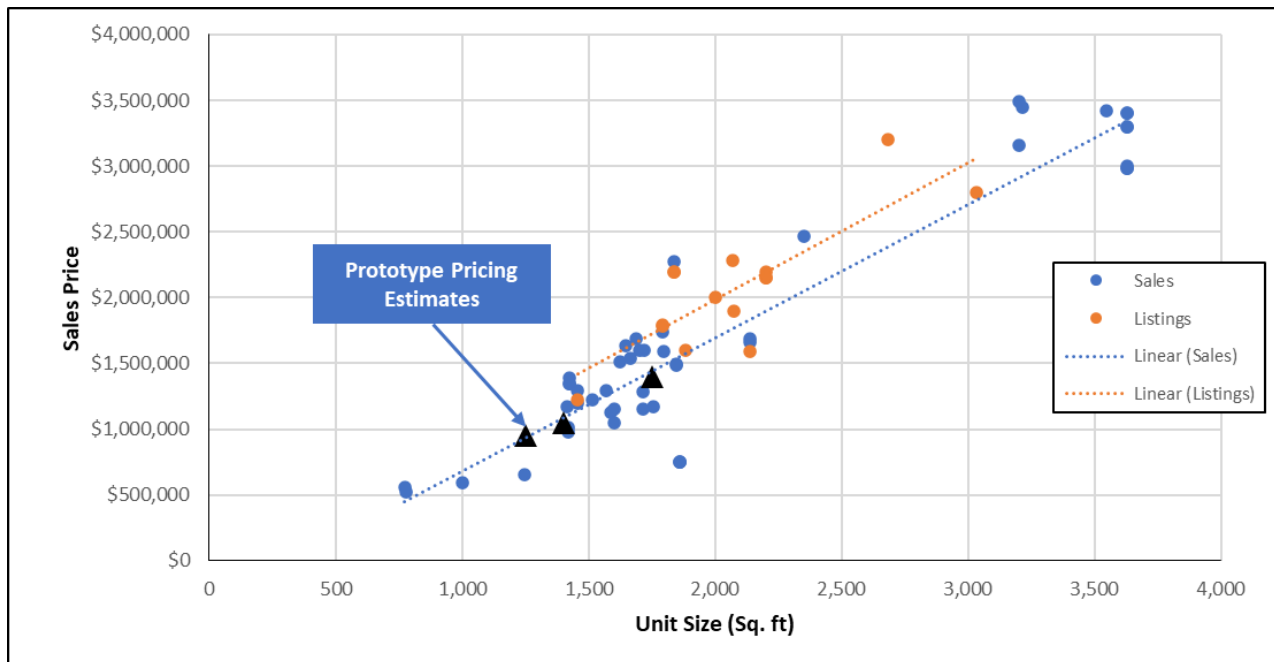
To assess the financial feasibility of the five prototype projects, KMA prepared a pro forma analysis which models the development costs and revenues of each project. Key assumptions of the pro forma analysis are reviewed below.

*Residential Rental Income* – Average market rate rents are estimated at \$2,650 per month (\$3.53 per square foot), for a 750 square foot average-sized rental unit. Rents are based on the average effective rents for recently built apartment projects, as shown in Chart 2-1.

**Chart 2-1: Effective Rents for Newer Apartment Projects in Boulder (built since 2010)**

**Residential Sale Prices**— Sale prices are estimated based on sales data and current listings for attached units in Boulder built since 2020, summarized in Chart 2-2. Supporting sales and listings data is provided in Appendix Table B-2A and B-2B.

Using the sales data presented in Chart 2-2, sale prices for a 1,750 square foot-average townhome unit are estimated at \$1.4 million. Pricing for stacked condominiums are estimated at \$950,000 for a 1,250 square foot-average sized unit and \$1,050,000 for a 1,400 square foot-average sized unit.

**Chart 2-2: Sales and List Prices for Attached Units Built Since 2020**

As shown in Appendix Table B-2A and B-2B, sales of new attached units in Boulder reflect a wide range of pricing from as low as \$400 per square foot to over \$1,000 per square foot and averaging \$826 per square foot. List prices for newly built attached units currently being marketed for sale range from approximately \$840 per square foot to nearly \$1,200 per square foot and average \$994 per square foot. Pricing variations reflect the location, quality of finishes, amenities, as well as the time of sale. The housing market has softened since peaking in spring 2022 as rising interest rates have put downward pressure on pricing. A review of list prices at multiple points over the conduct of the work (spring and summer 2023) revealed price cuts ranging from approximately 5% to 10% in some new developments for the same specific units that had not sold in the intervening months. The softening market along with the limited number of listings focused on high-end units were considerations in more weight being given to data on closed sales than current listings for purposes of pricing estimates.

The pro forma analysis is prepared with the objective of informing a citywide policy. With this objective in mind, neither the highest nor lowest pricing achievable in the market data is represented. Another objective is to provide internally consistent estimates with respect to market pricing, construction costs, and land costs. For example, units priced higher than represented in the pro forma are likely to be built on more expensive land where this higher pricing is achievable and / or have higher-end finishes that add to cost, and vice versa. A sensitivity test with higher pricing is described in Section 2.8.

**Supported Investment** – To calculate the developer investment supported (debt and equity) for the rental prototypes, KMA first estimated the Net Operating Income (NOI), which is equal to

rental income minus operating expenses. The NOI is then divided by a return on cost (ROC)<sup>4</sup> to estimate the developer investment supported. A threshold developer return on cost requirement of 5.5% is utilized. This return on cost assumption represents a spread of approximately 1% over the estimated cap rate<sup>5</sup> of 4.5% for market rate multifamily projects in Boulder drawn from a combination of sources including review of recent sales of built apartment properties, offering memoranda for multifamily properties, CoStar, and feedback from developer interviews. In the case of for-sale scenarios, the investment supported is calculated based on the sales price, less a risk-adjusted developer return. A gross developer margin of 17.5% of sales is assumed for the townhome and small condo projects and 19.5% of sales is assumed for the larger stacked condo project based on greater market risk associated with a longer sell through period and greater exposure to construction defects liability. These equate to an estimated threshold developer profit margin, net of cost of sale and developer overhead that are included in the gross margin, of approximately 10% and 12% of sales revenue, respectively.

*Development Costs Excluding Land* – Development costs excluding land represent all costs to design, finance, and construct the project other than the cost of acquiring a site. Development cost estimates are informed by a series of developer interviews and construction pricing provided by one interviewee for a recently bid project. In addition to hard construction costs, development cost estimates include all indirect or soft costs of development such as architecture and engineering, governmental fees and permits costs, taxes, insurance, financing, and developer overhead and administration. The construction cost estimates assume quality construction, architecture, and finishes but do not assume any extraordinary costs that would be atypical for the market. The pro forma tables in Appendix A provide itemized cost figures by prototype.

*Land Value Supported* – The residual land value represents the amount a project can afford to pay for a development site. Residual land value is calculated as the difference between the supported investment and the development costs other than land. Residual value is calculated for each prototype and scenario but was not the primary criteria for evaluating feasibility. See Section 2.4 for more information.

*Land Costs in Boulder* – Table 2-2 summarizes land sale transactions for residential development sites in Boulder. Values range based on location, development potential, site-specific conditions, time of sale, and other factors.

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<sup>4</sup> Return on Cost (ROC) is a development return metric that relates the estimated NOI of the property once built to the total development cost ( $ROC = NOI / \text{development cost}$ ).

<sup>5</sup> Capitalization rate or "cap rate" is a percentage relating the market value of a property to the annual NOI it generates ( $\text{cap rate} = NOI / \text{value}$ ).

**Table 2-2. Land Sale Transactions**

	No. Sales	Land Price/ sf land <sup>(1)</sup>			Land Price/ unit <sup>(1)</sup>		
		Low	High	Average	Low	High	Average
<b>Rental Housing</b>							
Downtown and Vicinity	2	\$62	\$210	\$170	\$48,000	\$121,000	\$105,000
Outside Downtown	11	\$10	\$117	\$31	\$21,000	\$89,000	\$51,000
Student Housing	3	\$47	\$289	\$241	\$30,000	\$219,000	\$34,000
Affordable Housing	3	\$37	\$108	\$72	\$34,000	\$87,500	\$56,000
<b>For-Sale Housing</b>							
Downtown and Vicinity	4	\$147	\$200	\$167	\$255,000	\$400,000	\$288,000
Outside Downtown	4	\$54	\$136	\$96	\$193,000	\$375,000	\$201,000

(1) Averages weighted based on land area and unit count, for price per square foot and price per unit, respectively.

Sources: CoStar, CBRE Appraisal Report, Lot 3 Diagonal Plaza. James Real Estate Services appraisal reports for Geological Society of America Office Complex and Land 3300 Penrose Place, and Rally Sport Health Club & Land 2727 29th Street.

See Appendix Table B-4 for details. Includes transactions from 2015 through 2023.

Land cost estimates are identified in Table 2-3 based on the land sale data and attributes of the prototype projects. Land cost estimates for the for-sale prototypes are somewhat higher than rental based on the sale data and the fact that recent for-sale projects have tended to be located on smaller sites in higher value locations.

**Table 2-3. Land Cost Estimates based on Sales Data**

For-Sale	\$100 per square foot of land (~\$182,000 per unit for townhome prototype)
Rental	\$73 per square foot of land (~\$65,000 per unit for 3 story rental prototype)

## 2.4 Feasibility Criteria

The financial feasibility analysis is based on the relationship between the project's revenue potential, the estimated development costs, and a threshold developer return commensurate with the cost of funds and development risk. Each prototype project is placed into one of the following three feasibility categories for each scenario tested:

- 1) *Feasible* – project type is generally feasible and likely to develop.
- 2) *Marginal Feasibility* – project type has weaker feasibility and may require some improvement in its economics to move forward in the near term.
- 3) *Infeasible / Challenged* – project type has more challenging feasibility and is less likely to move forward in the near term. More significant improvements to the pro forma, such as higher prices and rents or lower costs are estimated to be needed for projects to move forward.

Table 2-4 shows the specific criteria applied to place projects into these three feasibility categories. In essence, feasibility is evaluated based on whether project revenues, net of a developer return, are sufficient to support project costs. The threshold developer returns described above are incorporated into this evaluation.

Table 2-4. Feasibility Classification	
Feasibility Classification	Criteria Applied
Feasible	Development costs including land approximately in balance with net sales revenue or developer investment supported by the project's rental income, within 2%.
Marginal Feasibility	Development costs including land exceed net sales revenue or developer investment supported by the project's rental income by more than 2% but less than 7%.
Infeasible / Challenged	Development costs including land significantly exceed the net sales revenue or developer investment supported by the project's rental income, by more than 7%.

This system of categories allows characterization of results in a systematic fashion to facilitate simple comparisons across scenarios. A limitation is that projects with economics that are only narrowly separated can be placed in different feasibility categories. In addition to use of the qualitative feasibility categories, the following quantitative metrics are reported for each scenario tested:

- 1) Residual land value per square foot of land.
- 2) Net cost of the inclusionary program, expressed per net square foot of building.
- 3) Net cost of the inclusionary program, expressed as a percentage of total project costs.
- 4) Developer investment supportable as a percentage of project costs. This is the metric used to place projects into the three feasibility categories.

Factors that can improve project feasibility over time include increases in prices or rents, more competitive construction pricing, decreases in fees or other requirements, adjustments to land costs, more favorable investment conditions that reduce the cost of capital, or a combination of these factors. Of course, future changes could also move in the opposite direction and adversely affect feasibility.

Land prices can adjust in response to market or other factors affecting the economics of development projects, and in this way can sometimes help absorb the impact of these changes. However, there are limits on the potential for adjustments to land values, particularly in an urban context with a finite supply of high-quality development sites, competing uses for those sites, existing uses that generate income and may limit the willingness of sellers to make concessions



on price, and / or sellers who may prefer to hold out until they achieve pricing consistent with their expectations.

## 2.5 Base Case Pro Forma With Current Requirements

Table 2-5 summarizes the base case pro forma analysis, which reflects existing requirements. Payment of cash-in-lieu is assumed since most projects have utilized this compliance option. For the four-story prototypes, use of the community benefits program is reflected to accommodate a fourth story. Bonus units made possible through the fourth story are subject to an additional 11% inclusionary requirement. For the four-story rental, all units are assumed to be satisfied with cash-in-lieu. For the four-story condominium, half of inclusionary units are assumed to be provided on-site, consistent with community benefit program requirements applicable to for-sale projects.

Table 2-5. Pro Forma Summary, Base Case Scenario Under Current Requirements					
	Town-home	Small Condo, 3-story	Larger Condo, 4-story	Rental, 3-story	Rental, 4-story
Number of Units	48 units	21 units	78 units	98 units	131 units
<u>Pro Forma Summary (\$millions)</u>					
Supported Investment <sup>(1)</sup>	\$57.46	\$18.85	\$54.36	\$47.45	\$63.43
Development Cost Except Land	\$48.91	\$16.34	\$48.71	\$42.38	\$57.62
Land Cost Estimate	<u>\$8.71</u>	<u>\$3.48</u>	<u>\$8.71</u>	<u>\$6.37</u>	<u>\$6.37</u>
Total Cost	\$57.62	\$19.82	\$57.42	\$48.75	\$63.99
%Development Costs Supported (100% = in balance)	100%	95%	95%	97%	100%
Feasibility Category	Feasible	Marginal Feasibility	Marginal Feasibility	Marginal Feasibility <sup>(2)</sup>	Feasible

(1) Supported investment represents the amount the developer can invest in the project based on the projected net rental income, or the case of a for-sale project, based on sales revenue net of costs of sale and a threshold developer profit.

(2) Feasible when evaluated with FY 2022-23 CIL rates.

For the townhome and four-story rental prototypes, revenues are approximately in balance with costs, and thus the project is identified as feasible.

The three-story rental is identified as marginally feasible with FY 2023-24 CIL rates but would be identified as feasible with 2022-23 CIL rates, prior to the most recent 10% increase. The four-story rental pencils slightly better than the three-story rental. This suggests rental projects will have an incentive to utilize the community benefits program. The several pipeline rental developments proposing use of the program would appear to affirm this.

The two stacked condo projects are both classified as marginally feasible based on project revenues that support only approximately 95% of estimated development costs. The four-story condo project supports a somewhat lower land value per square foot than the three-story project, suggesting stacked condominium projects are less likely to use the community benefit program.

## 2.6 Scenario Testing

The pro forma model was used to test the feasibility of a variety of scenarios. Scenarios included the following:

- Alternative Cash-In-Lieu amounts from \$35 to \$75 per square foot, in addition to existing cash-in-lieu rates.
- 25% inclusionary units on-site under various alternatives as to the income levels of the inclusionary units.
- On-site inclusionary requirements that are approximately equivalent to payment of cash in-lieu at current rates under various alternatives as to the income levels of the inclusionary units.

Results of this feasibility testing are summarized in Table 2-6. The prototype projects were able to support cash in-lieu amounts from \$35 to \$50 per square foot. The four-story condo project is an exception because it is subject to a minimum of 50% on-site affordable units under the City's community benefit requirements and was not found to support a CIL payment in addition to provision of the on-site units.

Table 2-6. Feasibility Testing Summary					
	Townhome	Small Condo	Larger Condo, 4-story	Rental, 3-story	Rental, 4-story
Existing CIL	Feasible	Marginal Feasibility	Marginal Feasibility	Marginal feasibility (feasible with 22-23 CIL rate)	Feasible
Feasible CIL level (expressed per square foot)	up to \$50 PSF	up to \$35 PSF	marginal feasibility with any CIL amount due to 50% on-site minimum with community benefit program	up to \$45 PSF	up to \$50 PSF
25% On-Site Affordable	infeasible at income levels up to 100% AMI, marginal at 120% AMI	infeasible at all income levels tested	infeasible at income levels up to 100% AMI, marginal at 120% AMI	infeasible at all income levels tested unless affordable units are provided in separate building financed with tax credits.	

Table 2-7 identifies on-site inclusionary requirements estimated to be approximately equivalent to the City's existing CIL rates in terms of the net pro forma impact.

- With for-sale projects, between approximately 13% and 15% on-site for-sale inclusionary units are estimated to be roughly equivalent to the existing CIL rate, depending on the income level of the units.
- With rental projects, between approximately 12% and 17% on-site rental inclusionary units are estimated to be roughly equivalent to the existing CIL rate, depending on the income level of the units.

Findings assume inclusionary units are provided in a mixed-income format dispersed with the market rate units, without use of tax credits to offset the cost of providing the affordable units.

<b>Table 2-7. On-Site Inclusionary Percentages Representing Similar Cost to Existing CIL Option</b>	
<b>For-Sale</b>	<b>Rental</b>
13.9% with 1/3 each at Low/Mod, 80%, 100% AMI	13% with half 50% AMI and half 60% AMI
14.7% MI with 1/3 each at 80%, 100%, 120% AMI	14.2% with 1/3 each at 50%, 60%, 70% AMI
13.2% Low/Mod	12% at 50%, AMI
13.6% at 80% AMI	14.3% at 60% AMI
14.9% at 100% AMI	17.5% at 70% AMI <sup>(1)</sup>

<sup>(1)</sup> To be financed with LIHTCs, projects are required to have an average AMI level of 60% or below so a project with all 70% AMI units would not qualify.

Table 2-8 (for-sale) and Table 2-9 (rental), present each of the scenarios tested along with the quantitative metrics listed in Section 2.4, to allow quantitative comparison between scenarios.

**Table 2-8**  
**For-Sale Scenario Testing Summary**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Scenario Description and Table Reference	Supported Land Value Per Square Foot of Land			Net IH Program Cost Per Net Square Foot in Project <sup>(1)</sup>			Net IH Program Cost, % of Total Development Cost <sup>(2)</sup>			Supported Investment as % of Project Cost <sup>(5)</sup>			Feasibility Classification <sup>(4)</sup>		
	TH	Sm Condo	Lg Condo	TH	Sm Condo	Lg Condo	TH	Sm Condo	Lg Condo	TH	Sm Condo	Lg Condo	TH	Sm Condo	Lg Condo
	Land Cost Estimate														
	\$100														
<u>CIL Scenarios</u>	w/ 50% onsite			w/ 50% onsite			w/ 50% onsite			w/ 50% onsite			w/ 50% onsite		
F1a Existing CIL (23-24 rates)	\$98	\$72	\$65	\$46	\$59	\$70	6.4%	8.8%	11.5%	100%	95%	95%	F	M	M
F1b \$35 PSF CIL Rate	\$109	\$93	\$69	\$35	\$35	\$67	4.9%	5.2%	10.9%	101%	99%	95%	F	F	M
F1c \$40 PSF CIL Rate	\$104	\$88	\$67	\$40	\$40	\$68	5.6%	5.9%	11.2%	101%	98%	95%	F	M	M
F1d \$45 PSF CIL Rate	\$99	\$84	\$66	\$45	\$45	\$69	6.3%	6.7%	11.4%	100%	97%	95%	F	M	M
F1e \$50 PSF CIL Rate	\$94	\$80	\$64	\$50	\$50	\$71	6.9%	7.4%	11.6%	99%	96%	95%	F	M	M
F1f \$60 PSF CIL Rate	\$85	\$72	\$61	\$60	\$60	\$73	8.3%	8.9%	12.0%	98%	95%	94%	M	M	M
F1g \$75 PSF CIL Rate	\$70	\$59	\$57	\$75	\$75	\$77	10.4%	11.1%	12.7%	96%	93%	94%	M	I	M
<u>25% Affordable, All On-Site</u>															
F2a 25% exist Low/Mod/MI Mix	\$46	\$45	\$35	\$101	\$91	\$96	14.0%	13.5%	15.8%	91%	89%	90%	I	I	I
F2b 25% Low/Mod	\$40	\$39	\$26	\$106	\$99	\$105	14.7%	14.6%	17.3%	90%	88%	88%	I	I	I
F2c 25% at 80%	\$43	\$44	\$33	\$103	\$93	\$99	14.4%	13.8%	16.2%	90%	89%	89%	I	I	I
F2d 25% at 100%	\$51	\$52	\$46	\$95	\$83	\$87	13.2%	12.3%	14.3%	92%	90%	91%	I	I	I
F2e 25% at 120%	\$59	\$60	\$58	\$87	\$74	\$76	12.0%	10.9%	12.5%	93%	92%	93%	M	I	M
<u>On-Site Req. Similar to Existing CIL <sup>(3)</sup></u>															
F3a 13.9% Low/Mod, 80%, 100%	\$88	\$79	\$78	\$56	\$51	\$58	7.8%	7.5%	9.6%	98%	96%	97%	F	M	M
F3b 14.7% MI (80%, 100%, 120%)	\$89	\$81	\$82	\$56	\$49	\$55	7.8%	7.3%	9.0%	98%	96%	97%	F	M	M
F3c 13.2% Low/Mod	\$89	\$78	\$76	\$56	\$52	\$60	7.8%	7.7%	9.9%	98%	96%	96%	F	M	M
F3d 13.6% at 80% AMI	\$88	\$79	\$78	\$56	\$51	\$58	7.8%	7.5%	9.6%	98%	96%	97%	F	M	M
F3e 14.9% at 100% AMI	\$88	\$80	\$81	\$56	\$50	\$56	7.8%	7.4%	9.1%	98%	96%	97%	F	M	M
F4a Absent an IH Requirement	\$143	\$122	\$143	\$0	\$0	\$0	0.0%	0.0%	0.0%	107%	104%	106%	F	F	F

**Notes**

(1) Based upon the estimated net impact to the pro forma associated with the identified requirement, expressed per net livable square foot.

(2) Net cost of requirement divided by total cost of project in base case scenario with existing CIL payment. (land and all direct and indirect costs of construction)

(3) Similar program cost based upon average of townhome and small condo prototypes.

(4) Reflects application of the following feasibility criteria (applied with revenues net of cost of sale and developer return and costs including estimated land costs).

**Feasibility Classification**

F = Feasible

M = Marginal Feasibility

I = Infeasible / Challenged

**Criteria Applied**

Revenues approximately balance with costs (within 2%)

Revenues out of balance with costs, but by no more than 7%

Revenues significantly out of balance with costs, falling more than 7% below costs

(5) Developer investment supported by sales revenues (net of return), as a percent of project cost including land. 100% = revenues balance with costs.

**Table 2-9**  
**Rental Scenario Testing Summary**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Scenario Description and Table Reference		Supported Land Value Per Square Foot of Land		Net IH Program Cost Per Net Livable Square Foot <sup>(1)</sup>		Net IH Program Cost, % of Total Development Cost <sup>(2)</sup>		Supported Investment as % of Project Cost <sup>(5)</sup>		Feasibility Classification <sup>(4)</sup>	
		Rental, 3-story	Rental, 4-story	Rental, 3-story	Rental, 4-story	Rental, 3-story	Rental, 4-story	Rental, 3-story	Rental, 4-story	Rental, 3-story	Rental, 4-story
Land Cost Estimate		\$73									
<u>CIL Scenarios</u>											
R1a	Existing CIL (23-24 rates)	\$58	\$67	\$52	\$58	8.1%	9.0%	97.3%	99.1%	M	F
R1b	\$35 PSF CIL Rate	\$73	\$88	\$35	\$39	5.4%	6.0%	99.9%	102.2%	F	F
R1c	\$40 PSF CIL Rate	\$69	\$82	\$40	\$44	6.2%	6.9%	99.2%	101.3%	F	F
R1d	\$45 PSF CIL Rate	\$64	\$76	\$45	\$50	7.0%	7.7%	98.4%	100.4%	F	F
R1e	\$50 PSF CIL Rate	\$60	\$70	\$50	\$55	7.7%	8.6%	97.7%	99.5%	M	F
R1f	\$60 PSF CIL Rate	\$52	\$57	\$60	\$67	9.3%	10.3%	96.2%	97.9%	M	M
R1g	\$75 PSF CIL Rate	\$39	\$38	\$75	\$83	11.6%	12.9%	94.1%	95.4%	M	M
<u>25% On-Site Affordable</u>											
R2a	25% exist mix 60% / 80% AMI	\$31	\$27	\$84	\$94	13.0%	14.5%	91.7%	92.9%	I	I
R2b	25% mix 50%, 60%, 70% AMI	\$26	\$18	\$91	\$101	14.1%	15.6%	90.6%	91.6%	I	I
R2c	25%, Separate LIHTC project	\$74	\$89	\$33	\$38	5.2%	5.9%	100.2%	102.2%	F	F
<u>On-Site Req. Similar to Existing CIL <sup>(3)</sup></u>											
R3a	13% at 50% and 60% AMI	\$59	\$62	\$52	\$62	8.0%	9.7%	97.2%	98.3%	M	F
R3b	14.2% at 50%, 60%, 70% AMI	\$59	\$63	\$52	\$62	8.0%	9.5%	97.2%	98.4%	M	F
R3c	12% at 50%, AMI	\$59	\$61	\$52	\$63	8.0%	9.8%	97.2%	98.1%	M	F
R3d	14.3% at 60% AMI	\$58	\$62	\$52	\$62	8.1%	9.6%	97.1%	98.4%	M	F
R3e	17.5% at 70% AMI	\$58	\$65	\$52	\$60	8.1%	9.3%	97.1%	98.7%	M	F
R4a	Absent an IH Requirement	\$102	\$132	\$0	\$0	0.0%	0.0%	105.7%	108.8%	F	F

Notes

(1) Based upon the estimated net impact to the pro forma associated with the identified requirement, expressed per net livable square foot.

(2) Net cost of requirement divided by total cost of project (land and all direct and indirect costs of construction).

(3) Similar program cost based upon three story rental, not subject to community benefit requirement.

(4) Reflects application of the following feasibility criteria (applied with revenues net of cost of sale and developer return and costs including estimated land costs).

Feasibility Classification

F = Feasible

M = Marginal Feasibility

I = Infeasible / Challenged

Criteria Applied

Supported investment approximately balances with costs (within 2%)

Supported investment out of balance with costs, but by no more than 7%

Supported investment significantly out of balance with costs, falling more than 7% below costs.

(5) Developer investment supported by project revenues (net of developer return), as a percent of project cost including land. 100% = revenues balance with costs.

## 2.7 Townhome Density, Sensitivity Test

The townhome prototype evaluated in the preceding sections is a three-story project at 24 units per acre. This density is reflective of several townhome projects built or proposed in Boulder, as indicated in Appendix Table B-8. It is also consistent with densities reflected in most of the land sales for townhome projects that are identified in Appendix Table B-4. The estimated sales price and development costs are representative of a higher-end, higher-priced unit with superior finishes and materials, built in a higher value location in Boulder. This is reflective of the townhome units the market appears to primarily be delivering in Boulder, as indicated in the sales data included in Appendix Table B-2.

Since there have also been several attached townhomes projects proposed at a lower density ranging from 9 to 17 units per acre, as shown in Appendix Table B-8, a separate pro forma was prepared to evaluate a lower density townhome project representative of these lower density examples. The analysis is included as Appendix Table FS-5. Pricing is estimated at \$620 per square foot and is representative of a unit built on comparatively lower cost land with lower density zoning at a lower construction cost utilizing more moderate finishes and materials and two-story wood-frame construction. The analysis indicates the lower density townhome example can feasibly support an IH requirement established within the recommended cost parameter discussed in Sections 1.6 and 2.9.

## 2.8 Feasibility Results are Sensitive to Changes in Market Conditions

Findings presented above are estimates under current market conditions, which will continue to evolve. Results are quite sensitive to changes in prices, rents, costs, returns, or other pro forma assumptions. To illustrate:

- A \$50 per month increase in rents would increase the feasible CIL amount to \$60 per square foot from \$45 in the three-story rental project. Conversely, a \$50 decrease in pro forma monthly rents reduces the feasible fee level to \$30 per square foot.
- A 0.25% increase in the required return on cost for rental projects (from 5.5% to 5.75%) would render nearly all rental scenarios, including all CIL levels tested (from \$35 to \$75/SF), marginally feasible or infeasible. Conversely, a 0.25% decrease to a 5.25% return on cost improves feasibility and would allow support for CIL amounts up to \$75 per square foot and improve feasibility of a 25% on-site requirement from infeasible to marginally feasible. Rising interest rates have put upward pressure on cap rates and the yields being sought by investors to move forward with projects.
- With higher market pricing of \$900 per square foot across all for-sale prototypes, the for-sale prototype projects were found to support a 25% on-site requirement, assuming no change to land or other cost assumptions. When higher land costs are also reflected

based on land sales for for-sale developments near downtown (with an average land cost of \$167 per square foot of land), providing 25% on-site under existing requirements was found to present feasibility challenges even with market sales prices of \$900 per square foot. Supporting pro forma analyses are provided in Appendix Table FS 5B and FS 5C. Market pricing in the range of \$1,000 per square foot is estimated to be needed for projects to support the existing 25% requirement on-site and a land cost of \$167 per square foot of land.

Since feasibility findings are sensitive to market changes, it can be helpful to consider overall program costs as an additional measure to assist in evaluating how likely requirements are to influence development decisions, and to compare across scenarios in a quantitative manner. While feasibility conditions may fluctuate, the cost of complying with the program will be somewhat less sensitive to market changes over time. These measures are presented in Tables 2-8 and 2-9.

## **2.9 Recommended Cost Parameter for Update to Inclusionary Ordinance**

Inclusionary policies depend on development of market rate projects for their success. If requirements are set at a level beyond what projects are able to support, neither market rate or inclusionary units will be built. Based on the findings of the pro forma analysis, KMA recommends consideration of alternatives that result in an overall program cost, whether in the form of units or CIL, that does not exceed approximately \$40 to \$50 per square foot. This is somewhat below the existing cost of the program for most prototypes following the recent 10% increase in CIL rates for 23-24. Existing program costs (including CIL premiums and community benefit requirements) are estimated to equate to \$52 per square foot for the three-story rental, \$58 for the four-story rental, \$46 per square foot for the townhome, \$59 per square foot for the three-story condo, and \$70 per square foot for the four-story condo. For projects with larger unit sizes, the recommended cost parameter would represent an increase.

The suggested “cost envelope” would apply to the lowest cost alternative available under the program, which could be provision of inclusionary units on-site, payment of CIL, or a combination. As one illustration, an on-site requirement estimated to cost \$45 per square foot paired with a CIL rate at \$70 per square foot would still be within the recommended “cost envelope” because at least one available alternative is within the \$40 to \$50 per square foot range. For simplicity, the term “cost” is used to refer to both a direct payment (i.e. CIL) and the net impact to the project’s pro forma from restricting rents or sales prices at affordable rates. There are a variety of policy alternatives and incentive structures that could be explored which result in an overall program cost which does not exceed this recommended parameter.

### 3.0 BEST PRACTICES AND APPROACHES USED ELSEWHERE

This section presents a review of best practices for inclusionary programs, with a focus on provisions related to Cash-In-Lieu (CIL) alternatives and middle income for-sale units. Approaches in use in other jurisdictions are summarized for context and to illustrate a range of approaches.

#### 3.1 Cash-in-Lieu

The availability, structure, and amount of a Cash In-Lieu (CIL) option is a critical consideration in the design of any inclusionary program. CIL, also commonly referred to as an “in-lieu fee,” is a payment in-lieu of providing affordable units within the market rate project. The amount of the CIL option relative to the cost of providing on-site affordable units and the circumstances in which use of CIL is allowed are important determinants of whether projects satisfy the requirement through provision of units or cash payment.

Onsite affordable units have the benefit of contributing to mixed income communities and delivery of affordable units concurrent with the market rate. Collecting CIL creates a funding source that can be leveraged to provide gap funding for 100% affordable projects, with the potential to develop units at a deeper level of affordability, and sometimes more total units.

Structuring CIL options on a per square foot basis is a best practice and widely used approach. A per square foot approach results in CIL that scales with unit size, resulting in a fair burden across different unit types. It also avoids a disincentive for smaller more affordable market rate units and is straightforward to administer and apply.

CIL amounts can be determined based on the affordability gap associated with providing affordable units onsite, the funding needed to assist 100% affordable projects off-site, amounts that are financially feasible for projects to sustain or a combination of these factors.

CIL rates must be updated regularly to ensure they keep pace with the cost of delivering affordable units and, if applicable, to maintain the desired incentive for providing on-site units. This can be accomplished through annual updates or a hybrid approach with periodic updates and application of an index in interim years.

#### 3.2 Middle Income For-Sale Units

Highlights from the review of best practices related to middle-income for-sale inclusionary units are discussed below:

- Prices should be set below the maximum income level for qualifying for a unit. For example, if households earning up to 100% of AMI qualify, pricing should be set at 80%



or 90% of AMI so that households within the applicable income range are able to afford the unit, rather than just those at the top of the qualifying income range.

- Pricing of middle-income units should be at a significant margin below market rate prices. If affordable sales prices are too close to market rate, units may be difficult to market. For cities with wide variation in market pricing by neighborhood, it may be appropriate to set affordable sales prices lower in areas where market prices are lower, or to establish a minimum differential with market prices. Boulder currently sets affordable pricing below qualifying limits consistent with this best practice.
- A resale pricing formula must balance inherent tradeoffs between providing an opportunity for owners to build equity, recoup the cost of capital improvements, and maintaining affordability over the long-term.

### 3.3 Example Programs

Table 3-1 provides a summary of example inclusionary programs that were selected to illustrate a range of approaches that are used. Selected jurisdictions include newly updated programs in larger cities such as Denver, Portland, San Jose, and Boston, which is currently considering an update. San Francisco was chosen because it had an onsite requirement that was similar to Boulder, until it was amended in July 2023 to significantly reduce the requirement in consideration of current feasibility challenges for projects. Several smaller cities with strong real estate markets are also represented (Palo Alto, Mill Valley, and Pasadena). Montgomery County, MD, one of the first inclusionary programs in the country, is included for its middle income program, as is Cambridge, MA.

<b>City</b>	<b>Inclusionary Percentage</b>	<b>Income Level for Prices and Rents</b>	<b>Notes</b>
Boulder	25%	Rental 60% and 80% AMI For-sale: HUD Low Income Limit, 80%, 100%, 120% AMI	<4 units: 20%
Denver	8% - 15%, depending on income level, unit type, market area	Rental: 60% or 70% (average)  For Sale: 80% or 90% (average)	Requirements vary by Typical and High Market Areas.  "High Impact" projects have different requirements.  <10 units: pay impact fee.
San Jose, CA	15%	Rental: 50%, 60% and 100%  For Sale: 110%	<10 units: exempt.
Portland, OR	10% or 20% depending on income level of units	20% at 80% MFI or 10% at 60% MFI	<20 units: exempt
Boston, MA (Current program)	13%	Rental: 70%  For Sale: 80% and 100%	Rezoned only. <10 units: exempt

Table 3-1. Example Inclusionary Programs, Overview of Requirements			
City	Inclusionary Percentage	Income Level for Prices and Rents	Notes
			Off-site and fee payments require higher percentages of units.
Boston, MA (Proposed program)	Rental: 17 – 20%  For Sale: 17% – 20%  Depends on project size and affordability target	Rental: average of either 50% AMI or 60% AMI depending on project size and option selected.  For Sale: 80% and 100%	Would apply citywide.  <7 units: exempt
San Francisco <i>Amended July 2023 to Reduce Requirement</i>	12%: pipeline projects approved by Nov. 1, 2023  15%: projects approved by Nov 1, 2026.  Projects after Nov. 1, 2026: - 18% rental - 20% for-sale  Increasing 0.5% per year 2028 until reaching 24% and 26%.	Rental: 55%, 80% and 110% AMI  For Sale: 80%, 105%, and 130% AMI	Pipeline projects must commence construction before May 1, 2029  New projects approved by 2026 must commence construction in 30 months to be eligible for temporarily reduced requirements.  <10 units: exempt. 10-24 units: reduced requirements.  Off-site and fee payments require higher percentages of units.  Requirements reduced July 2023 based on feasibility constraints (from 22% for rentals and 24% with for-sale with subsequent phase-in to 24% and 26%)
Montgomery County, MD	12.5% – 15%  Depends on location	Set by County annually. May not exceed HUD Low Income limit	<11 units: exempt 11-19 units: may pay fee equal to 0.5% of purchase price. 20+ units: fee only if infeasible. 3% of purchase price.
Cambridge, MA	20% of floor area	Rental: qualify between 50% and 80% with rent based on actual tenant income. For Sale: 90%	<10 units or <10,000 sf: exempt
Pasadena, CA	20%	Rental: 50%, 80%, 120% For Sale: 80%, 110%	
Mill Valley, CA	25%	"Low to mid-range of income limits": Rental: 50% to 80%, For-Sale: 100 to 120%	Single Family, MF < 4 units: pay impact fee
Palo Alto, CA	For Sale: 15%	For Sale: 100%, 120%	<3 units: exempt  Rental: impact fee program  Large projects have higher requirements.

Additional information on various aspects of these programs is described in the sections below.

### 3.4 Cash In-Lieu Provisions

CIL options vary widely in terms of fee level, how fees are assessed, and whether and when fee payment is allowed. Differences are often a function of differing policy goals and respond to differing real estate market conditions. This section provides an overview of the range of approaches and the advantages and disadvantages of each.

#### ***A. Establishing Amount of Cash In-Lieu***

##### *(1) Affordability Gap Approach*

Setting CIL amounts based upon the “affordability gap” between market rate and affordable prices and rents is a widely used approach. This method is employed in Denver, San Jose, Portland, Pasadena, Boston, and many other jurisdictions. With an affordability gap approach, CIL is determined using the difference between market rate and affordable prices and rental unit values. Combined with the onsite inclusionary percentage, the affordability gap is used to identify the estimated financial impact of providing affordable units within the project consistent with the requirements of the ordinance. This enables the cost of providing on-site units to be an explicit consideration in the CIL amount, which can be helpful if incentivizing on-site units is a goal.

Most cities that use the affordability gap approach estimate an average, or typical, affordability gap and establish a fee level that applies citywide based on that gap. Larger cities or counties with a wide range of home values and rents will sometimes vary rates by market area to account for these differences.

A few cities, including Boston with for-sale projects, establish the affordability gap on a project-by-project basis. The advantage is the potential for increased fee revenues based on actual sales prices of the market rate units and ability to balance CIL amounts with the cost of onsite compliance even in projects with above- average sales prices. The downside of this approach is that it creates a significant administrative burden and uncertainty for developers.

Boulder uses an affordability gap methodology for CIL rates with a cap on annual increases. CIL rates have consistently lagged the calculated gap even while increasing at the maximum annual rate of 10% per year.

##### *(2) Average Public Subsidy Required*

The average local public subsidy required for the development of new affordable housing is another basis than can be used in establishing cash-in-lieu amounts. The net subsidy is typically based on 100% affordable developments assisted by the local jurisdiction. The concept is that the city must build the units that the developer is not providing onsite, so the CIL amount reflects the net cost to the city to deliver the units. San Francisco uses this approach; the fee is

calculated each year based on the City's average cost to construct affordable units in the prior three years and is converted to a square foot amount based on the average gross residential floor area of projects electing to pay the fee.

Typically, the public subsidy used in this calculation is after financing available through the low income tax credit program. The data required to determine the average public subsidy requirement can be more difficult to obtain for smaller cities where locally subsidized affordable housing developments are not built as often as larger cities. CIL amounts do not reflect the cost of providing onsite affordable units, which is typically higher, and therefore cities interested in establishing incentives to build onsite may prefer the affordability gap approach as it is usually more closely linked to the onsite vs. CIL decision from the perspective of the developer. Alternatively, an incentive for on-site units can be created by basing the CIL amount on a higher inclusionary percentage than applies when units are provided on-site.

A key difference between the average subsidy approach and the affordability gap approach is the type of affordable unit used to estimate the fee. In the affordability gap approach, affordable units generally reflect units within the market rate project that are set aside as affordable, with gaps based on foregone revenue from designating an onsite unit as affordable. With the average public subsidy approach, affordable units are based on affordable projects assisted by the city, usually 100% affordable rental projects. The resulting CIL levels from the two approaches can vary widely depending on residential market conditions and the range of development types in the jurisdiction.

### *(3) Nexus Study (Mitigation Costs)*

CIL amounts can also be based on the findings of a nexus study. Nexus studies generally quantify the impact of new market rate residential development on demand for services and the affordable housing needs of those who work in these services. CIL amounts are then based on the cost of providing affordable housing to the share of workers who need it. This nexus-based approach is typically used only where an in-lieu fee cannot be implemented, or nexus support is otherwise deemed to be advisable based on advice of legal counsel. The analysis to support a nexus-based approach does not directly relate to the inclusionary requirement.

### *(4) Feasibility*

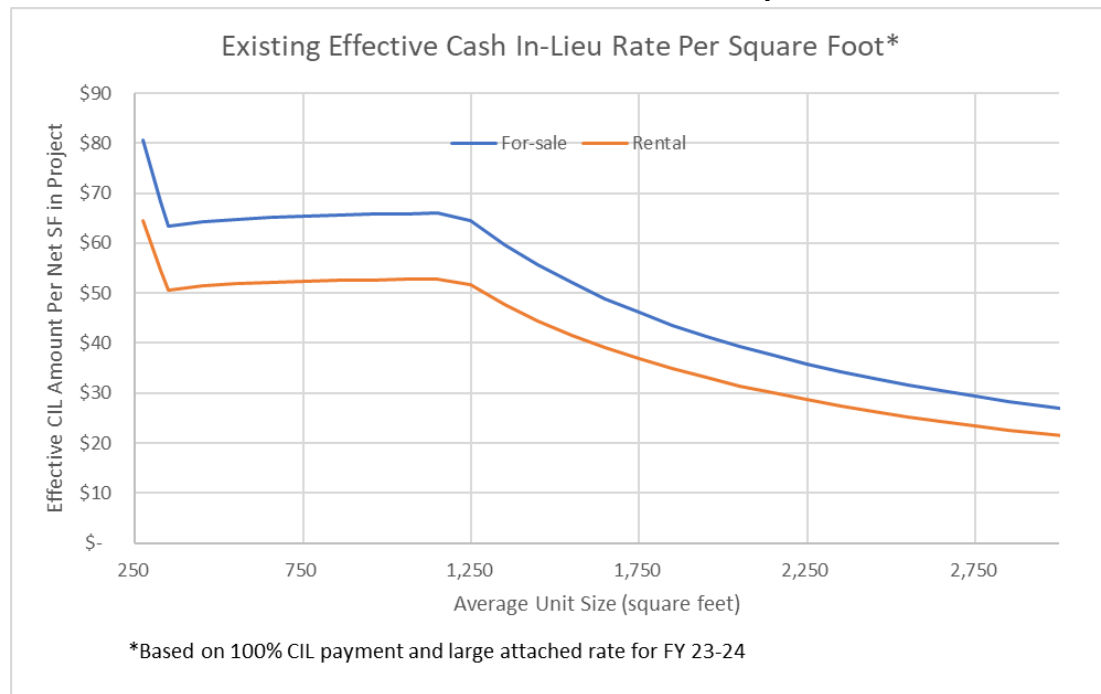
Finally, financial feasibility, or the ability of market rate projects to sustain the cost of requirements, including CIL amounts, is a frequent consideration in conjunction with the other approaches identified above, or sometimes as the primary basis for setting the amount of the CIL option. San Jose is an example that uses an affordability gap approach to determine CIL rates, but also adjusts rates downward based on feasibility conditions.

## **B. CIL Rate Structure**

Most major west coast cities including Seattle, Portland, Sacramento, San Francisco, San Jose, Los Angeles, and San Diego employ a “per square foot” of market rate development fee structure, as do many smaller and medium size cities. Another common approach is to apply CIL on a per affordable unit basis, an approach used by programs in Boston, Chicago, Atlanta and Denver, and many others, including Boulder. In Boulder’s case, although CIL is applied on a per affordable unit basis, the amount varies depending on the average size of units in the project, up to a maximum, and thus Boulder’s fee structure shares some attributes of a per square foot structure. Another approach is a CIL rate per market rate unit, which is a simple conversion from a per affordable unit approach and is functionally the same. Other less frequent methods include a percent of construction value or a percent of sales price. Advantages and disadvantages of these alternative CIL structures are discussed below.

- **CIL rate per affordable unit owed or per market rate unit.** A per affordable unit owed CIL structure is relatively easy to calculate and apply. A CIL rate per market rate unit, usually based on an affordability gap and the onsite inclusionary percentage, is also very straightforward in its application. These structures, however, typically have the downside of smaller units paying higher fees than larger units on a per square foot basis, as the fee does not scale with unit size. This can create an undue burden on smaller units, usually rentals and condos. In addition, projects with larger average unit sizes may have less incentive to provide units onsite, depending on the specifics of the on-site requirement. This fee structure requires regular updating to keep pace with the cost of delivering affordable units and / or market changes. Denver and Boston assess fees on a per affordable unit owed basis, although proposed revisions to the Boston program include establishing fees per square foot.

Boulder’s CIL structure, which is on a per affordable unit basis, addresses some of the downsides of a per affordable unit structure by establishing CIL rates that vary based on unit size ranges, thus mirroring a per square foot structure to some degree, but with a cap at 1,200 square feet, after which the amount no longer increases with unit size. The chart below expresses Boulder’s existing CIL rates on a per square foot basis, assuming 100% CIL payment and with application of the CIL premium that applies to for-sale projects when no inclusionary units are provided on-site. The structure incentivizes larger units over smaller units and rental over for-sale.

**Exhibit 1. Boulder's Effective Cash In-Lieu Rate Per Square Foot**

- **CIL rate per square foot.** A fee assessed per square foot of the residential development scales with the unit size, resulting in a more stable fee burden across different unit sizes. It is also easy for developers to estimate, while not creating a significant administrative burden. Establishing the CIL rate on a per square foot basis requires translating the affordability gap, average public subsidy, or other basis for the CIL amount into a rate per square foot. This is generally based on representative unit size for new market rate housing. This fee structure requires regular updating to keep pace with the cost of delivering affordable units and / or market changes. Use of a per square foot structure has become a standard that many new programs and program updates are adapting. Per square foot fees are considered a best practice because it is simple, fair, and easy to understand and apply.
- **Percent of construction value.** With this approach, fees are applied as a percentage of direct construction costs. Cost figures used in assessing fees are typically based on the same per square foot construction valuation schedule used by the building department in assessing other fees. An advantage is that fees mirror a per square foot structure in that they scale with unit size but adjust automatically as construction costs increase. A downside is that the amount is typically not as transparent as it cannot be determined absent an assessment of construction valuation. A percent of construction value can also create a disincentive for higher density project types because of higher construction costs per square foot, which results in higher fees, compared to lower density projects such as single family or townhomes, which usually have lower construction costs per

square foot. This approach is less common but Mill Valley is an example of a program that utilizes this approach.

- **Percent of Sales Price.** Assessing CIL rates as a percentage of sales value is rare, but there are some examples of this practice. To apply the fee, the payment obligation must be recorded on each market rate unit and the fee collected out of escrow at sale. Alternatively, an estimated sales price can be used. Advantages of this approach are that it does not require annual updating to keep pace with inflation, tracks with market shifts, and scales with the value of the unit, and therefore the affordability gap. Downsides are that it presents unique complexities for implementation because the collection point is not typical and thus it creates an additional administrative burden for the city. The approach doesn't work for rentals unless an appraisal is used to determine the value to which the fee is applied. Legal concerns have sometimes been raised regarding this structure based on appearing too similar to a tax. The rare instances where this approach is used tend to be communities with very high pricing and a build on-site mandate for all but the smallest projects. Palo Alto's fee was set at 7.5% of sales price until modified to a per square foot structure in 2017.

Table 3-2 provides an overview of the fee structures used in the sample cities.

<b>City</b>	<b>CIL Rate Structure</b>
Boulder, CO	Per affordable unit with sliding scale based on average market rate unit size
Denver, CO	Per Affordable Unit
San Jose, CA	Per Square Foot
Portland, OR	Per Square Foot
Boston, MA	Per Market Unit (proposed revision to per square foot)
San Francisco, CA	Per Square Foot
Pasadena, CA	Per Square Foot
Mill Valley, CA	Percent of Construction Value
Palo Alto, CA	Per Square Foot.

### **C. Differentiation of Cash In-Lieu Rates**

CIL rates are often differentiated based on project attributes like tenure (rental or for-sale), geographic location, or other factors. Differentiation is usually driven by market or policy factors, and/or the relationship between CIL rates and the cost of on-site units. The most common types of fee differentiation are:

- **Tenure.** Some cities set different fee levels by tenure to encourage onsite compliance for one tenure type and fee payment in the other, or to recognize differences in feasibility conditions. A city that employs the affordability gap approach to set CIL levels will generally need to use separate analyses for for-sale projects and rental projects to reflect differences in affordability gaps, which are driven both by differences in the

economics of projects and usually the inclusionary requirements that apply by tenure. An affordability gap approach will typically yield different CIL rates with for-sale and rental. On the other hand, setting fees that are consistent across tenure types avoids favoring one tenure type over the other. Practices vary and the right approach for each community depends on policy goals, program structure, and market conditions.

- **Project Size.** Another common strategy is to vary CIL rates by project size (the number of units in the project), with smaller projects paying a lower fee. This strategy recognizes that small projects do not benefit from the same economies of scale that larger projects have, and they are more often infill projects, which can add expense and complexity. Sometimes the CIL amount gradually increases until reaching the full rate for larger projects. Many programs exempt projects with fewer than a minimum threshold number of units from the program altogether. Most often, the minimum threshold is set by determining the project size that owes one inclusionary unit given a city's onsite percentage requirements (for example, a 20% obligation would suggest a minimum threshold of five units, as 20% of 5 is one unit).
- **Project Attributes.** Some cities vary CIL fees based on other attributes of the project such as attached versus detached, density (units per acre), or average unit size. This can be done to capture the difference in the affordability gaps by product type (e.g., detached units tend to have higher sales prices with larger affordability gaps) or to incentivize on-site units in certain project types. It can also be a way to address feasibility considerations or policy goals for encouraging certain project types, such as higher density projects or projects with smaller more affordable units.
- **Geographic.** Larger cities with significant variation in market conditions by neighborhood will sometimes vary fees by geography. CIL rates based on the affordability gap approach support this type of differentiation because market rate sales prices and rent levels may vary widely by neighborhood and will yield different CIL rates. Programs in larger cities including Denver, San Jose, Portland, Boston, Chicago, Los Angeles, and Seattle all vary CIL rates by geographic area. Average sales prices, zoning districts, land values, planning area designations, and the amount of development activity have all been used in defining geographic area CIL rate distinctions in large cities. Varying CIL rates by location requires ongoing monitoring to ensure that the differentiation continues to be appropriate.

Table 3-3 presents an overview of how CIL amounts are differentiated in the example programs.



**Table 3-3. How CIL Fee Rates are Differentiated in Example Programs**

City	Tenure	Project Size	Unit Type or Other Project Attributes	Location or Market Area
Boulder, CO		X	X	
Denver, CO	X		X	X
San Jose, CA	X	X	X	X
Portland, OR				X
Boston, MA	X			X
San Francisco, CA	X	X		
Pasadena, CA	X	X		X
Mill Valley, CA				
Palo Alto, CA	X		X	

#### **D. Fee Payment Criteria**

Unless CIL rates are set at a level that is high enough to encourage onsite units, developers will tend to choose CIL payment, if that option is available. In addition to setting fees that encourage onsite units, cities can restrict the projects that are eligible to use the CIL option. Some also require city council approval to use a fee option. The most common example of differentiating fee payment criteria is by project size; many cities allow fee payment for small projects, for which onsite compliance can be more difficult, or when a fraction of an affordable unit is required, even where onsite units are required for larger projects. Most larger cities offer fee payment to all projects while seeking to create incentives for producing onsite units through incentives like additional density, reductions in impact fees, reductions in parking standards, or property tax exemptions.

Table 3-4 provides an overview of the availability of CIL options in the example programs.

Table 3-4. Availability of CIL Option in Example Programs		
City	Availability of CIL Option	Note:
Boulder, CO	All projects are eligible for CIL option.	For-sale projects with five or more units not providing 50% onsite units are subject to CIL rate premium.
Denver, CO	All projects are eligible for CIL	
San Jose, CA	All projects are eligible for CIL	
Portland, OR	All projects are eligible for CIL.	Most projects are providing onsite units. In-lieu fee is set at a level to encourage onsite units and incentives for on-site units are provided.
Boston, MA	Rental: CIL Requires City approval. For-sale: CIL allowed by right in one market area but requires City approval in two others.	Proposed update: CIL payment “may be allowed” with City approval.
San Francisco, CA	All projects are eligible for CIL option	Fee payment is based on higher percentage of affordable units than onsite obligation.
Pasadena, CA	All projects are eligible for CIL option	
Mill Valley, CA	Projects with one to three units may pay fee	Alternatives considered only for feasibility concerns.
Palo Alto, CA	Rental: all projects are eligible for CIL option  For-sale: fractional units (including small projects), OR large projects 5+ acres OR with City Council approval based on infeasibility of on-site units.	

## E. Annual Adjustment of Cash-In-Lieu Rates

An annual adjustment mechanism is necessary to ensure that CIL rates keep pace with the cost of providing affordable units. Without this, over time, CIL rates will fall behind the increases in the cost of providing affordable units. Fees that do not keep pace with costs may undermine a jurisdiction’s policy goals and the level of affordable housing production of the program.

Selection of an adjustment mechanism reflects a balance of several considerations, and the preferred approach may vary depending on community priorities. The key considerations include:

- Keeping pace with the cost of providing affordable units.
- Ease of implementation / administrative burden.
- Predictability of year-to-year changes.
- Maintaining feasibility of the program.

Following is a discussion of approaches used to adjust fees, and some of the inherent tradeoffs with each approach.

- **Annual Index.** Increasing CIL fees by a published index is a simple and straightforward approach, predictable for developers, and for many cities, consistent with how other building and permitting fees are updated. Published indices are not customized to the

local housing market and may not keep pace with changes in the cost to deliver affordable units over time. Examples of indices that have been used elsewhere include:

- Consumer Price Index (CPI), which tracks overall prices in the regional economy. Most programs using CPI apply the index for the applicable metropolitan area. A CPI index is available for metro Denver.
- Engineering News Record publishes two cost indices, the Construction Cost Index (CCI) and the Building Cost Index (BCI). The indices track changes in the cost of construction. The two indices are based on pricing estimates for a specific mix of materials and labor. The CCI has more labor hours than the BCI and is based on general construction labor costs, whereas the BCI includes fewer labor hours and is based on skilled trades. Both are available for metro Denver.

In addition, Mortenson also publishes a local construction cost index for metro Denver (MCI), although we are unsure if it has been previously used to index fees. The index is based on costs for a representative non-residential construction project.

Table 3-5 shows the annualized rate of increase for four construction cost indices referenced above over various time periods, using the applicable index for the Denver area. In addition, a composite of the BCI and CCI is shown. Construction costs have typically outpaced CPI, but not for all indices over all periods.

	<b>Engineering News Record Construction Cost Index (CCI) <sup>(1)</sup></b>	<b>Engineering News Record Building Cost Index (BCI) <sup>(1)</sup></b>	<b>Composite of BCI and CCI <sup>(1)</sup></b>	<b>Consumer Price Index (CPI)</b>	<b>Mortenson Construction Cost Index, (MCI)</b>
1 year	3.2%	9.5%	5.8%	6.4%	0.0%
5 years	3.0%	6.8%	4.6%	3.6%	6.2%
10 years	2.1%	4.2%	3.0%	3.1%	5.5%
20 years	3.0%	4.1%	3.5%	2.6%	n/a

<sup>(1)</sup> Based on data for December for the years 2002, 2012, 2017, 2021, and 2022.

Some programs have sought to include market factors as a factor in indexing fees. For example, Sacramento County uses a composite of four factors that considers changes in home prices, rents, construction costs, and CPI.

- **Analysis to update affordability gap or average public subsidy.** Some communities prepare a custom analysis to update CIL rates each year. San Francisco is an example, as is Boulder (subject to a cap on annual escalation at 10%). This can result in CIL amounts that more accurately reflect changes in the cost of onsite compliance. The

downside is the administrative burden. The CIL amount can also be more unpredictable from year to year, creating cost uncertainty for developers.

- **Hybrid Approach.** Some communities take a hybrid approach with a more thorough review and update every few years, with application of an index in between updates. This can lessen the administrative burden while providing a full recalibration of CIL rates periodically.

While many inclusionary housing ordinances include an escalator provision, some cities fail to apply the escalator, even when the escalator is a straightforward index. Adequacy of staff resources to manage implementation is a consideration in choices such as the approach to annual updates and other provisions.

Table 3-6 provides an overview of how the sample programs adjust CIL rates from year to year.

<b>City</b>	<b>Annual CIL Adjustment Mechanism</b>
Boulder, CO	Recalculation of affordability gap, subject to a cap of a 10% annual increase over the prior year, and 75% of the gap (50% for projects with 1-4 units).
Denver, CO	Consumer Price Index
San Jose, CA	New affordability gap analysis every five years, Engineering News Record (ENR) Construction Cost Index in other years.
Portland, OR	Annually based on an affordability gap analysis.
Boston, MA	No adjustment mechanism but uses project-specific gap analysis.
San Francisco, CA	Annual adjustment based on average cost to construct an affordable unit in previous three years and average floor area of projects that elected to pay the fee. Increases temporarily capped at 2% per year until 2026 as part of July 2023 amendment.
Pasadena, CA	Not specified in ordinance but fees appear to be indexed.
Mill Valley, CA	Adjustment mechanism not needed as fees based on % of construction cost
Palo Alto, CA	Fees updated annually based on the ENR Construction Cost Index.

### 3.5 Middle Income For-Sale Housing

This section provides a review of best practices focused on middle income for-sale housing. In high cost housing markets such as Boulder, affordability challenges can extend further up the income ladder to middle income households. Inclusionary policies can be attractive as a tool to address housing needs for middle income households because outside funding is generally not available for units that serve this income group. Many inclusionary programs focus their on-site inclusionary requirements applicable to for-sale housing on middle income.

Boulder's inclusionary program identifies middle income as between 80% of Area Median Income and 150% of Area Median Income. How "middle income" is defined can vary by jurisdiction. Other terms are sometimes used to refer to the same or overlapping income ranges

such as “median,” “moderate,” or “workforce”. Differences in how middle income is defined can be driven by regional variation in relationships between housing prices and median income and/or variation in state and local policies and practices.

### **A. Middle Income For-Sale Requirements in Example Programs**

To preface the discussion of Middle Income housing practices, Table 3-7 presents an overview of the requirements applicable to for sale housing in selected jurisdictions, many of which address income levels corresponding to middle income.

<b>Table 3-7. Overview of For-Sale Inclusionary Requirements in Sample Programs</b>			
<b>City</b>	<b>For-Sale Inclusionary Percentage</b>	<b>Income Levels for Qualification (% of AMI)</b>	<b>Income Levels for Pricing (% of AMI)</b>
Boulder, CO	25%	Mix of 80%, 100%, 120%, 150% AMI. Income mix varies based on % on-site	Mix of Low/Mod (71.7%), 80%, 100%, 120% AMI. Income mix varies based on % on-site
Denver, CO	8% - 15%, depending on income level and market area	80% or mix from 30% - 100% AMI, averaging 90% AMI or below	Same as qualifying levels
Portland, OR	20% of units or bedrooms	100%, Or 80%	20% at 80% Or 10% at 60% AMI
San Jose, CA	15%	120%	110%
Boston, MA (Current)	13%	Up to 80% and 80% - 100%	80% and 100%
Boston, MA (Proposed)	17% – 20% depending on project size, affordability	Up to 80% and 80% - 100%	80% and 100%
San Francisco, CA (as amended to reduce requirements, July 2023)	12%: pipeline projects approved by Nov. 1, 2023  15%: projects approved by Nov 1, 2026.  20% after Nov. 1, 2026: increasing 0.5% per year beginning 2028 until reaching 26%.	Low: up to 100% Moderate: 95% - 120% Middle: 120% – 150%	Low: 80% Moderate: 105%, Middle: 130% AMI Pricing at least 20% below market for neighborhood
Montgomery County, MD	12.5% – 15% Depending on location	Set by County annually. May not exceed HUD Low	Pricing based on construction costs established by County.
Mill Valley, CA	25%	50 - 80% 80 - 120%	“low to mid-range of income limits.”
Palo Alto, CA	15%  20% for projects over 5 acres	80 - 100% and 100 – 120% AMI	100%, 120%
Cambridge, MA	20% of floor area	Up to 100% AMI	90% AMI

### **B. Onsite Requirements and Income Levels**

Inclusionary programs must strive to establish an appropriate balance between the onsite affordable unit percentage, affordable prices, and the ability of market rate projects to sustain

the requirement. Following is a discussion of recommended practices relating to middle income for-sale requirements:

- Establish prices at income levels below the maximum income level for qualifying for a unit, such as 10% or 20% below the qualifying limit. If inclusionary prices are set based on the maximum qualifying income, households that are below the maximum will be paying more than they are able to afford. For example, if the income level that qualifies to purchase a unit is between 80% and 100% of AMI and sets prices are set based on 100% AMI, a household at 85% or 90% of AMI would be paying more than they are able to afford. Boulder currently follows this recommended practice<sup>6</sup>.
- Affordable prices should be set well below market prices for comparable units. Deed restricted affordable units with sales prices that are too close to market may be difficult to market, due to limited cost savings to a purchaser and limits on the ability to build equity through appreciation in the home value. Selecting the appropriate income level for pricing middle income units requires consideration of the affordability of comparable market rate housing, including in neighboring jurisdictions. Creating a margin between affordable and market prices also helps insulate affordable units from foreclosure risk in the event of a market downturn.
- For cities with varied market strength by neighborhood or a variety of unit types, it may be desirable to provide for adjustments to affordable sales prices to address situations where affordable prices approach market prices. San Francisco's program, in recognition of variation in market pricing by neighborhood, includes a downward adjustment of affordable prices if the calculated prices are within 20% of market rate for the neighborhood. Portland includes a clause for condominium units: "...units must be sold at no more than the higher of the annually calculated amount affordable to a household earning 80 percent of AMI or 50 percent of the market price of other units."
- In cities where market rate unit sizes do not align with the most desired unit sizes for affordable units, alternative ways to express the inclusionary requirement can be helpful for achieving policy goals. For example, Portland allows inclusionary obligations to be determined by the number of bedrooms instead of the number of units. Cambridge requires, and the proposed updates in Boston would allow, inclusionary obligations to be determined by square footage. Both approaches (bedrooms and square footage) allow developers to set aside fewer larger units or more smaller units, which can benefit both the city and the developer. Most programs require developers to create units that are proportionate to the size and bedroom types in the development, which can result in mismatch between unit sizes that are desired as inclusionary units versus units that are

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<sup>6</sup> For Low/Mod units, pricing is at 71.7% AMI and the qualifying limit is 80% AMI. For Middle Income units, there are three levels of pricing with each 20% to 30% below qualifying limits.

provided. Calculating inclusionary obligations on bedrooms or square footage provides flexibility in unit size.

### **C. Affordable Prices at Resale**

The methodology for calculating the resale price of deed restricted affordable units is an important implementation detail with for-sale inclusionary requirements. A resale pricing formula must strike a balance between allowing households to build equity over time and maintaining affordability for subsequent purchasers of the unit. The formula must also recognize the cost of improvements to the unit. There are a variety of approaches and selection of the most appropriate method can depend on policy priorities. Examples include:

- **Fixed Annual Appreciation.** Some cities rely on a fixed annual appreciation rate to determine resale prices, or a fixed rate with additional maximum/minimum growth rates depending on market sales prices. The advantage of this approach is simplicity.
- **Index-based.** Prices can be indexed based on changes in the Consumer Price Index (CPI) or Area Median Income (AMI). A rolling average can be used to prevent short-term drops or spikes. An AMI-based index ensures prices track with median incomes, a key input in the calculation of affordable prices. A CPI approach will allow affordable prices to keep up with inflation. Boulder uses a hybrid approach, with annual appreciation levels set at the lower of the CPI or AMI indices and a fixed maximum annual adjustment set in the deed restriction. This approach allows for moderate growth in home equity, while maintaining affordability of the unit by not allowing the resale price to increase faster than the growth in median income. It is a structure emphasizing long-term affordability as the principal goal.
- **Updated Pricing Calculation.** Affordable pricing can be based on then-current affordable prices, as calculated using all current assumptions including AMI, expenses, interest rates and other factors. This method most closely tracks housing affordability for future purchasers and is simplest to use when affordable pricing is published regularly. Some protection against a decrease in affordable prices should be built into the formula to address potential declines in affordable prices if interest rates rise. If interest rates fall, appreciation can exceed index-based methods.
- **Shared appreciation.** With this structure, the unit is sold to the initial purchaser at an affordable price, with the difference between the market price and affordable price recorded as a note in favor of the City. When the unit is later sold, it is permitted to be sold at a market price. The seller receives the original purchase price plus a proportionate share of any market appreciation. The note, representing the original difference between the market and affordable price, is repaid from sales proceeds with a proportionate share of the market appreciation on the unit. Funds from the note repayment are recycled to assist a new household. The advantage of this approach is

that there is no restriction on building equity and re-sale at market provides a source of reinvestment in the unit by a subsequent buyer to address any deferred maintenance or repair needs. Disadvantages are that specific units within the project do not remain permanently affordable and the city becomes responsible for recycling funds from repayment of the note to assist new households.

In addition to adjustments based on one of the above mechanisms, a mechanism for owners of affordable units to recover the cost of capital improvements and replacement (beyond ordinary maintenance) is also a necessary component of any resale formula to ensure owners have a means to recover investment made in the unit.

#### ***D. Incentives for Onsite Units***

New and newly updated programs in Portland, Denver and San Jose provide a menu of compliance choices and incentives to encourage certain policy goals. The menus provide flexibility and ideally will encourage inclusion of units onsite at a variety of income levels. A brief overview of these cities' incentives for creating onsite units follows:

**Portland** – Portland's program is structured to encourage provision of onsite units at 60% of Median Family Income. The in-lieu fee option is set at a level to encourage production of units on-site, and the City provides a range of incentives to reduce costs when affordable units are included in the project. Incentives include a 10-year property tax exemption for affordable units, construction excise tax exemption for affordable units, parking exemptions, FAR bonuses, and System Development Charge (impact fee) exemptions for the affordable units. Projects located in the Central City Plan District with an FAR of 5 or greater that provide inclusionary units are eligible to receive a 10-year property tax exemption on the full residential portion of the building, not just the affordable units.

**San Jose** – San Jose's revised rental in-lieu fee structure is designed to provide a large incentive for rental projects in strong market areas to provide at least 5% inclusionary units on-site. The full in-lieu fee rate for rentals in strong market areas is \$45.26 per square foot; however, by providing 5% affordable units within the project, the in-lieu fee is reduced by over half to \$19.68 per square foot for median income units, \$13.13 for 60% AMI units and \$10.60 for 50% AMI units. This translates into an effective reduction in in-lieu fees of \$420,000 to \$583,000 per affordable unit provided within the project<sup>7</sup>, depending on the income level, providing a strong incentive to include the affordable units on-site. Providing 5% affordable units at 50% of AMI also qualifies the project for a 20% density bonus.

**Denver** – Denver offers incentives including flexible parking requirements, height incentives and permit fee reductions to help offset the cost of the inclusionary units. There are three base incentives for projects providing onsite affordable units. Projects are eligible for a building permit

<sup>7</sup> Assuming a 900 square foot average unit size.



fee reduction equal to \$6,500 per affordable unit in Typical Market Areas and \$10,000 per affordable unit in High Market Areas. Projects are also eligible for a reduced parking standard. Ground floor commercial uses in residential buildings providing onsite affordable units are exempt from paying the affordable housing linkage fee. Projects that set aside an additional two to three percent of units as affordable (depending on the income level of the units) are eligible for an increase in building height and floor area ratio and an exemption from parking requirements, in addition to the base incentives.

While these programs are all recently adopted or updated, San Jose and Portland have had success thus far in encouraging projects to provide units onsite. Denver's program is still in the grandfathering phase, as it transitions to the new requirements; as such, there is not yet data on whether the incentives are successful in increasing production of units onsite.

### ***E. Program Outcomes: Onsite Middle Income Units***

Program outcomes for selected inclusionary programs are described below. The focus is on the extent to which the programs resulted in production of on-site for-sale middle income units. The examples illustrate production of on-site for-sale middle income units is achievable but results are highly dependent upon (a) the amount of for-sale development occurring, and (b) the strength of incentives (or an outright requirement) for projects to include middle income units on-site.

**San Francisco** – Of the 50 for-sale project completions in San Francisco over the previous five years, 26 of the for-sale projects included on-site below market rate units, or approximately half. The number of below market rate units within these for-sale projects totals 398 units. Figures are summarized from the data reported in San Francisco's Housing Inventory reports for 2018 through 2022. San Francisco's inclusionary program incentivizes on-site units through the structure of its cash-in-lieu option, which is calculated based on a higher inclusionary percentage than applies when units are provided on-site within the project.

**Portland** – Portland's inclusionary program was established in 2017. The program seeks to encourage projects to provide on-site units, with an incentive structure designed to achieve on-site units primarily at 60% of median income. The program has been successful in achieving on-site inclusionary units in rental projects. However, according to data on inclusionary unit production published by the City of Portland, of the more than 160 projects that provided or are proposing to provide on-site inclusionary units from inception of the program through 2022, just two are providing on-site for-sale middle income units, for a total of 28 for-sale middle income inclusionary units. This outcome is likely driven both by the nature of the development activity, which has been over 80% multifamily over the past ten years, and the pricing that applies to the required units, at either 80% or 60% of median income, which likely results in a large affordability gap with for-sale affordable units.

**Boston** – From 2000 through 2020, Boston’s inclusionary policy resulted in a total of 3,238 on- and off-site inclusionary units and an additional 2,226 units were funded through cash-in-lieu contributions. Of the total on- and off-site units, 22% were for-sale inclusionary units<sup>8</sup>, which are required to be affordable for middle income households. Overall, approximately 19% of the City of Boston’s housing stock is income-restricted. Of the income-restricted housing stock, 5% is for-sale and 95% is rental<sup>9</sup>. Boston has required approval for for-sale projects to use the cash-in-lieu option in two of three market areas and has used a project-specific calculation to determine cash-in-lieu amounts, thus for-sale projects are generally either required or incentivized to include for-sale affordable units within the project.

**San Jose** – San Jose has had an inclusionary policy since the 1980s, originally only within its redevelopment areas. Under San Jose’s original inclusionary policy, approximately 350 for-sale middle income units and 1,400 affordable rental units were produced, based on data reported in a city staff report. The policy was later modified and expanded citywide, with initial implementation of the citywide policy in 2016 after a delay related to litigation and was subsequently amended in 2021. In its current form, the policy is designed to encourage rental projects to provide at least a portion of required units on-site, including a share at middle incomes. The program is not designed to incentivize for-sale projects to provide inclusionary units on-site. Based on city data on inclusionary compliance plans for proposed projects since 2021, none of the few pipeline for-sale projects are proposing middle income for-sale units on-site. In contrast, a number of rental projects are proposing on-site units, with only about one third proposing to pay the in-lieu fee exclusively. Most proposed developments in San Jose in recent years have been rental.

**Denver** – Denver’s new inclusionary ordinance went into effect July 1, 2022; however, due to provisions for pipeline projects to proceed under prior requirements, there is not yet data on outcomes under the new program. Prior to adoption of the City’s new inclusionary requirements, Denver had an affordable housing linkage fee program. The program generated \$24 million in fees between 2017 and 2020 (including residential and non-residential fees). Under that program, onsite units were allowed as an alternative to fee payment, but projects did not have an incentive to use the onsite option and only three total affordable units were provided on-site. Prior to the linkage fee, Denver had an inclusionary policy that applied to for-sale residential projects from 2001 through 2016. A total of approximately 2,000 for-sale inclusionary units were produced through this prior policy. Most for-sale inclusionary units were produced within large-scale developments in moderate-cost housing areas of the City. Developments in higher cost areas of the City were generally not incentivized to provide inclusionary units within the project and primarily used the cash-in-lieu option<sup>10</sup>.

<sup>8</sup> City of Boston, Bridging the Gap: Creating Income Restricted Housing through Inclusionary Development, 2020 Annual Report.

<sup>9</sup> City of Boston, Income-Restricted Housing in Boston, 2022.

<sup>10</sup> City of Denver, Expanding Housing Affordability through Market-Based Tools. Interim Background Report. 2021.

#### 4.0 INTERVIEWS WITH LOCAL DEVELOPMENT PROFESSIONALS

KMA interviewed development professionals with the following organizations active in the Boulder market to help inform the analysis:

- Allison Management
- Boulder Housing Partners
- Coburn Partners
- Humboldt Development
- Markel Homes
- Pace Development
- Shutkin Sustainable Living

Interviewees provided a wide range of insights on topics including construction and development cost estimates, market conditions, expectations regarding their own projects, the entitlement process and land use policy in Boulder, how affordable housing obligations affect their pro forma, suggestions for changes to the program, among other topics. The following is a summary of insights and perspectives offered by interviewees.

1. Boulder is an attractive place for developers to invest because it is a highly desirable community that is seen as supply constrained. Developers expressed confidence in the long-term potential of the Boulder housing market from a developer or investor perspective.
2. The inclusionary ordinance provides opportunities for affordable housing to be built in locations where new development is occurring and where affordable housing developments might not otherwise be sited. One role it plays is as a mechanism for affordable housing developments to gain access to high quality sites.
3. Providing affordable units within a stand-alone affordable project receiving tax credits can be a cost-competitive or a financially favorable option relative to payment of cash-in-lieu under the current ordinance but not all developers are interested in taking on the complexity of a transaction of this nature.
4. Inclusion of affordable units within the project is perceived as a positive factor relative to the entitlement process.
5. When asked why the market is primarily delivering rental housing in Boulder, with for-sale projects primarily consisting of smaller-scale projects at the luxury end of the market, the following insights were offered:
  - a. Rental projects attract a different set of investors that are investing for a longer-term horizon and are willing to accept lower risk-adjusted returns on that capital.

This ultimately contributes to stronger feasibility for rental projects and an ability of rental projects to pay more for land. Rentals can also be more tax efficient for investors; for example, through the ability of investments to roll over investments from sale of another property through a 1031 exchange, which defers the capital gains taxes.

- b. For-sale projects have more market risk since projects have “one shot” at the market and the timing of when units are sold can significantly affect sales performance and profits. Stacked for-sale projects that cannot be phased are seen as higher risk and have greater financing costs since all costs are upfront but sales revenue can take time to be realized through unit sales.
  - c. Construction defects liability with for-sale projects - Several developers cited Colorado’s construction defects laws as a significant factor inhibiting the production of for-sale housing, particularly larger condominium projects. Costs of insuring against potential liability cited by interviewees are significant but still represent a relatively modest share of overall development costs. Beyond the cost of insurance, interviewees expressed that the risk of a potential lawsuit can scare developers away from larger condominium projects. In addition, some design professionals may be unwilling to work on for-sale projects due to liability concerns. Smaller attached townhome projects are more insulated from these concerns. Townhome projects are sometimes structured with fee-simple ownership to avoid the need for an HOA, which reduces the risk of a lawsuit, insurance costs, and eliminates HOA dues which is a positive factor for home prices.
  - d. Developers cited the cash-in-lieu premium that applies to for-sale but not rental as a policy bias favoring rental, although this was not described as the major explanation for the current market dynamic.
  - e. Interviewees did not expect market dynamics favoring rentals over for-sale in Boulder to shift in the near term.
6. Interviewees offered varied perspectives regarding provision of for-sale affordable units.
- a. One developer raised concerns based on an experience roughly a decade ago that the pool of potential buyers for for-sale affordable units is shallow because potential affordable unit buyers may also consider market rate units in lower priced communities nearby, which offer the opportunity to build more equity over time<sup>11</sup>.

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<sup>11</sup> A review of affordable prices indicates there is currently a significant discount to average market prices in nearby communities. See Appendix Table B-6.

- b. Another developer was more positive regarding for-sale affordable units and is contemplating provision of for-sale affordable units within a proposed project. This developer indicated that marketing for-sale affordable units had not been problematic in the past.
  - c. One developer indicated that increases in homeowner association dues over time are a challenge for households in affordable units and can lead to conflicts within the HOA in agreeing to fund maintenance needs over time.
  - d. The question of whether affordable units are a good value proposition for purchasers, given limitations on appreciation, was raised by multiple interviewees. One developer suggested modifying the cap on appreciation to enable affordable unit purchasers the ability to build more equity.
- 7. Recent changes in market conditions have made projects more challenging to pencil. Sales prices have cooled, builders are offering more incentives to sell units, and rents have leveled off. Construction costs, which rose significantly over the past several years, have not noticeably decreased. This in conjunction with more conservative underwriting and higher interest rates has resulted in more projects being placed on hold. This combination of factors was cited as making it more challenging for projects to support inclusionary requirements. Notwithstanding these headwinds, interviewees were relatively bullish on the long-term prospects for the Boulder market, and suggested developers and investors generally have a longer-term perspective in mind when building in Boulder, taking a “build to own” approach on rental projects. Student housing was seen as more insulated from changes in market conditions.
- 8. Some interviewees indicated that the inclusionary requirement is overly burdensome. It was suggested that an outcome of the inclusionary program is that few units being provided for middle income households because the requirement increases the market prices and rents that are needed for projects to pencil. Interviewees generally did not make the argument that the program is not feasible in its current form, or that projects do not pencil with the requirement, even while describing the program along with other City requirements, as challenging or burdensome.
- 9. Several interviewees offered suggestions for incentivizing projects to provide affordable units as part of the project. Suggestions include:
  - a. Providing additional options for compliance by varying the percentage requirement depending on the income level of units provided.
  - b. Providing a streamlined approval process for projects that provide affordable units within the project. Seek approaches for reducing the level of uncertainty

associated with the process by applying objective standards. Shorten the approval timeline. These approaches could reduce the perceived risk and expense associated with the entitlement process, which would in turn improve the ability to provide affordable units.

- c. Allowing additional density in appropriate zones for projects that include affordable units on-site. Several developers cited density limitations as being a constraint on projects.
  - d. Waiving development fees for affordable units.
10. The City's community benefits program requirement that for-sale projects must include half of required inclusionary units on-site was cited as being challenging for projects. One developer indicated they were unable to make a four-story stacked condo project pencil after being encouraged to explore such a project.
11. Allowing projects to pay the CIL at certificate of occupancy would be helpful so that developers do not have to finance the CIL early in the project using the most expensive capital (Boulder already allows deferral of half of the CIL amount to certificate of occupancy and adds 8% to the deferred portion).

## **APPENDIX A – SUPPORTING PRO FORMA TABLES**

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**Table A-1**  
**For-Sale Residential, Programmatic Assumptions**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes	Small Stacked Condo Project, Three Stories	Larger Stacked Condo Project, Four Stories
Site Size	87,120 square feet 2 acres	34,848 square feet 0.8 acres	87,120 square feet 2 acres
Number of Units / Density	48 units 24 du/ac.	21 units 26 du/ac.	78 units 39 du/ac.
Maximum Height	35 feet	35 feet	55 feet
Number of stories above grade	3 stories	3 stories	4 stories
Floor area ratio	1.0 FAR	1.0 FAR	1.3 FAR
Gross Building Area	84,000 square feet	34,588 square feet	110,753 square feet
Efficiency	100% efficiency	85% efficiency	85% efficiency
Residential Net Sellable	84,000 square feet	29,400 square feet	94,140 square feet
Average Unit Size - mkt	1,750 square feet	1,400 square feet	1,250 square feet
Average Unit Size - aff	1,400 square feet	1,100 square feet	970 square feet
Construction Type	Type V	Type V	Type V
Parking Type	attached garage	podium garage	subterranean garage
Parking Ratio	1.8 /unit	1.3 /unit	1.22 /unit
Parking Spaces	87 spaces	28 spaces	95 spaces
Avg No. of Bedrooms	3.0 BRs	2.0 BRs	1.7 BRs
Market Price Estimate	\$1,400,000	\$1,050,000	\$950,000
\$/SF	\$800 /sf	\$750 /sf	\$760 /sf
<b>Unit Mix</b>			
One Bedrooms	0%	15%	45%
Two Bedrooms	0%	75%	40%
Three Bedrooms	100%	10%	15%



**Table A-2**  
**Rental Residential, Programmatic Assumptions**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories	Rental, Four Stories Using Community Benefit
Site Size	87,120 square feet 2 acres	87,120 square feet 2 acres
Number of Units / Density	98 units 49 du/ac.	131 units 66 du/ac.
Maximum Height	35 feet	55 feet
Number of stories above grade	3 stories	4 stories
Floor area ratio (FAR)	1.0 FAR	1.3 FAR
Gross Building Area (excl. parking)	86,471 square feet	115,588 square feet
Efficiency	85% efficiency	85% efficiency
Residential Net Leasable	73,500 square feet	98,250 square feet
Average Unit Size - mkt	750 square feet	750 square feet
Average Unit Size - aff	700 square feet	700 square feet
Construction Type	Type V	Type V
Parking Type	subterranean garage	subterranean garage
Parking Ratio	1.0 /unit	1.0 /unit
Parking Spaces	98 spaces	131 spaces
Market Rent Estimate (\$/Mo)	\$2,650 \$3.53 /sf	\$2,650 \$3.53 /sf
\$/SF		
<u>Unit Mix</u>		
Studios	20%	20%
One Bedrooms	60%	60%
Two Bedrooms	18%	18%
Three Bedrooms	2%	2%

**Appendix Table FS 1A**  
**For-Sale Pro Forma, Existing Ordinance, Existing Cash In-Lieu**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$3,871,080	\$80,648	\$46	\$1,741,986	\$82,952	\$59	\$1,244,552	\$15,956	\$13
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$48,905,480	\$1,018,900	\$582	\$16,338,086	\$778,000	\$556	\$48,706,152	\$624,400	\$517
Residual Land Value	\$8,548,800	\$178,100	\$102	\$2,515,800	\$119,800	\$86	\$5,655,000	\$72,500	\$60
per acre	\$4,274,400			\$3,144,750			\$2,827,500		
price PSF land	\$98			\$72			\$65		
Estimated Land Cost (target value)	<u>\$8,712,000</u>	<u>\$181,500</u>	Net Rev as %Costs	<u>\$3,484,800</u>	<u>\$165,900</u>	Net Rev as %Costs	<u>\$8,712,000</u>	<u>\$111,700</u>	Net Rev as %Costs
Total Cost with Land	\$57,617,480	\$1,200,400	99.7%	\$19,822,886	\$943,900	95.1%	\$57,418,152	\$736,100	94.7%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 1B**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$35 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqm't	\$2,940,000	\$61,250	\$35	\$1,029,000	\$49,000	\$35	\$914,335	\$11,722	\$10
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$47,974,400	\$999,500	\$571	\$15,625,100	\$744,100	\$532	\$48,375,935	\$620,200	\$514
<u>Residual Land Value</u>									
<i>per acre</i>	\$9,480,000	\$197,500	\$113	\$3,227,700	\$153,700	\$110	\$5,982,600	\$76,700	\$64
<i>price PSF land</i>	<u>\$4,740,000</u>			<u>\$4,034,625</u>			<u>\$2,991,300</u>		
	\$109			\$93			\$69		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$56,686,400	\$1,181,000	101.4%	\$19,109,900	\$910,000	98.7%	\$57,087,935	\$731,900	95.2%
Feasibility Classification	Feasible			Feasible			Marginal Feasibility		

**Appendix Table FS 1C**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$40 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$3,360,000	\$70,000	\$40	\$1,176,000	\$56,000	\$40	\$1,044,954	\$13,397	\$11
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$48,394,400	\$1,008,200	\$576	\$15,772,100	\$751,100	\$537	\$48,506,554	\$621,900	\$515
<u>Residual Land Value</u>									
per acre	\$9,062,400	\$188,800	\$108	\$3,080,700	\$146,700	\$105	\$5,850,000	\$75,000	\$62
price PSF land	<u>\$4,531,200</u>			<u>\$3,850,875</u>			<u>\$2,925,000</u>		
	\$104			\$88			\$67		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$57,106,400	\$1,189,700	100.6%	\$19,256,900	\$917,000	97.9%	\$57,218,554	\$733,600	95.0%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 1D**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$45 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$3,780,000	\$78,750	\$45	\$1,323,000	\$63,000	\$45	\$1,175,573	\$15,071	\$12
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$48,814,400	\$1,017,000	\$581	\$15,919,100	\$758,100	\$542	\$48,637,173	\$623,600	\$517
<u>Residual Land Value</u>									
per acre	\$8,640,000	\$180,000	\$103	\$2,933,700	\$139,700	\$100	\$5,717,400	\$73,300	\$61
price PSF land	<u>\$4,320,000</u>			<u>\$3,667,125</u>			<u>\$2,858,700</u>		
	\$99			\$84			\$66		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$57,526,400	\$1,198,500	99.9%	\$19,403,900	\$924,000	97.2%	\$57,349,173	\$735,300	94.8%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 1E**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$50 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$4,200,000	\$87,500	\$50	\$1,470,000	\$70,000	\$50	\$1,306,193	\$16,746	\$14
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$49,234,400	\$1,025,700	\$586	\$16,066,100	\$765,100	\$547	\$48,767,793	\$625,200	\$518
<u>Residual Land Value</u>									
per acre	\$8,222,400	\$171,300	\$98	\$2,786,700	\$132,700	\$95	\$5,592,600	\$71,700	\$59
price PSF land	<u>\$4,111,200</u>			<u>\$3,483,375</u>			<u>\$2,796,300</u>		
	\$94			\$80			\$64		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$57,946,400	\$1,207,200	99.2%	\$19,550,900	\$931,000	96.4%	\$57,479,793	\$736,900	94.6%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 1F**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$60 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$5,040,000	\$105,000	\$60	\$1,764,000	\$84,000	\$60	\$1,567,431	\$20,095	\$17
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$50,074,400	\$1,043,200	\$596	\$16,360,100	\$779,100	\$557	\$49,029,031	\$628,600	\$521
<u>Residual Land Value</u>									
per acre	\$7,382,400	\$153,800	\$88	\$2,492,700	\$118,700	\$85	\$5,327,400	\$68,300	\$57
price PSF land	<u>\$3,691,200</u>			<u>\$3,115,875</u>			<u>\$2,663,700</u>		
	\$85			\$72			\$61		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$58,786,400	\$1,224,700	97.7%	\$19,844,900	\$945,000	95.0%	\$57,741,031	\$740,300	94.1%
Feasibility Classification	Marginal Feasibility			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 1G**  
**For-Sale Pro Forma, Existing Ordinance, Cash In-Lieu at \$75 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>
Market Rate	100%	48	1,750	100%	21	1,400	85%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	1%	1	970
Low/Mod - 71.7% AMI	<u>0%</u>	<u>0</u>	<u>1,400</u>	<u>0%</u>	<u>0</u>	<u>1,100</u>	<u>13%</u>	<u>10</u>	<u>970</u>
	100%	48	1,750	100%	21	1,400	100%	78	1,207
	<i>[100% cash in-lieu]</i>			<i>[100% cash in-lieu]</i>			<i>[half on-site per com benefit reqrm't with 50% discount on remaining CIL]</i>		
<u>Sale Price</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,400,000	\$800		\$1,050,000	\$750		\$834,600	\$692
<u>Residential Sales</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$65,098,800	\$834,600	\$692
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$2,929,446)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	<u>(\$6,720,000)</u>	<u>(\$140,000)</u>	<u>(\$80)</u>	<u>(\$2,205,000)</u>	<u>(\$105,000)</u>	<u>(\$75)</u>	<u>(\$7,811,856)</u>	<u>(\$100,200)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$54,357,498	\$696,900	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$35,503,000	\$455,200	\$377
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,714,400	\$34,800	\$29
CIL for IH reqrm't	\$6,300,000	\$131,250	\$75	\$2,205,000	\$105,000	\$75	\$1,959,289	\$25,119	\$21
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,302,000	\$16,700	\$14
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,065,000	\$13,700	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,195,000	\$41,000	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$414,000	\$5,300	\$4
Financing	<u>\$3,456,000</u>	<u>\$72,000</u>	<u>\$41</u>	<u>\$1,134,000</u>	<u>\$54,000</u>	<u>\$39</u>	<u>\$3,268,200</u>	<u>\$41,900</u>	<u>\$35</u>
Total Costs	\$51,334,400	\$1,069,500	\$611	\$16,801,100	\$800,100	\$572	\$49,420,889	\$633,600	\$525
<u>Residual Land Value</u>									
<i>per acre</i>	\$6,120,000	\$127,500	\$73	\$2,051,700	\$97,700	\$70	\$4,937,400	\$63,300	\$52
<i>price PSF land</i>	<u>\$3,060,000</u>			<u>\$2,564,625</u>			<u>\$2,468,700</u>		
	\$70			\$59			\$57		
<u>Estimated Land Cost (target value)</u>	<u>\$8,712,000</u>	<u>\$181,500</u>	<u>Net Rev as %Costs</u>	<u>\$3,484,800</u>	<u>\$165,900</u>	<u>Net Rev as %Costs</u>	<u>\$8,712,000</u>	<u>\$111,700</u>	<u>Net Rev as %Costs</u>
Total Cost with Land	\$60,046,400	\$1,251,000	95.7%	\$20,285,900	\$966,000	92.9%	\$58,132,889	\$745,300	93.5%
Feasibility Classification	Marginal Feasibility			Infeasible / Challenged			Marginal Feasibility		



**Appendix Table FS 2A**  
**For-Sale Pro Forma, 25% with Income Mix per Existing Ordinance**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 100% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 80% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Low/Mod - 71.7% AMI	13%	6	1,400	13%	3	1,100	14%	11	970
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	[25% on-site, mix low/mod & middle]			[25% on-site, mix low/mod & middle]			[25% on-site, + added 11% 4th floor]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,121,800	\$675		\$849,900	\$641		\$753,100	\$642
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$53,846,400	\$1,121,800	\$675	\$17,847,900	\$849,900	\$641	\$58,741,800	\$753,100	\$642
(Less) Closing Costs	(\$2,423,088)	(\$50,500)	(\$30)	(\$803,156)	(\$38,200)	(\$29)	(\$2,643,381)	(\$33,900)	(\$29)
(Less) Risk Adjusted Return	(\$5,384,640)	(\$112,200)	(\$67)	(\$1,784,790)	(\$85,000)	(\$64)	(\$7,049,016)	(\$90,400)	(\$77)
Net Sales Proceeds	\$46,038,672	\$959,100	\$577	\$15,259,955	\$726,700	\$548	\$49,049,403	\$628,800	\$536
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,076,900	\$22,400	\$13	\$357,000	\$17,000	\$13	\$1,174,800	\$15,100	\$13
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$351,000	\$7,300	\$4	\$120,000	\$5,700	\$4	\$398,000	\$5,100	\$4
Financing	\$2,769,600	\$57,700	\$35	\$917,700	\$43,700	\$33	\$2,948,400	\$37,800	\$32
Total Costs	\$42,059,900	\$876,200	\$527	\$13,679,600	\$651,400	\$492	\$45,959,600	\$589,200	\$503
Residual Land Value	\$3,979,200	\$82,900	\$50	\$1,581,300	\$75,300	\$57	\$3,088,800	\$39,600	\$34
per acre	\$1,989,600			\$1,976,625			\$1,544,400		
price PSF land	\$46			\$45			\$35		
Estimated Land Cost (target value)	\$8,712,000	\$181,500	Net Rev as %Costs	\$3,484,800	\$165,900	Net Rev as %Costs	\$8,712,000	\$111,700	Net Rev as %Costs
Total Cost with Land	\$50,771,900	\$1,057,700	90.7%	\$17,164,400	\$817,300	88.9%	\$54,671,600	\$700,900	89.7%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged			Infeasible / Challenged		

**Appendix Table FS 2B**  
**For-Sale Pro Forma, 25% at Low / Mod**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	<u>25%</u>	<u>12</u>	<u>1,400</u>	<u>25%</u>	<u>5</u>	<u>1,100</u>	<u>28%</u>	<u>22</u>	<u>970</u>
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	<i>[25% on-site, low/mod]</i>			<i>[25% on-site, low/mod]</i>			<i>[25% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,109,500	\$667		\$836,200	\$631		\$738,600	\$630
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$53,256,000	\$1,109,500	\$667	\$17,560,200	\$836,200	\$631	\$57,610,800	\$738,600	\$630
(Less) Closing Costs	(\$2,396,520)	(\$49,900)	(\$30)	(\$790,209)	(\$37,600)	(\$28)	(\$2,592,486)	(\$33,200)	(\$28)
(Less) Risk Adjusted Return	<u>(\$5,325,600)</u>	<u>(\$111,000)</u>	<u>(\$67)</u>	<u>(\$1,756,020)</u>	<u>(\$83,600)</u>	<u>(\$63)</u>	<u>(\$6,913,296)</u>	<u>(\$88,600)</u>	<u>(\$76)</u>
Net Sales Proceeds	\$45,533,880	\$948,600	\$571	\$15,013,971	\$715,000	\$540	\$48,105,018	\$616,700	\$526
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,065,100	\$22,200	\$13	\$351,200	\$16,700	\$13	\$1,152,200	\$14,800	\$13
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$350,000	\$7,300	\$4	\$120,000	\$5,700	\$4	\$397,000	\$5,100	\$4
Financing	<u>\$2,736,000</u>	<u>\$57,000</u>	<u>\$34</u>	<u>\$903,000</u>	<u>\$43,000</u>	<u>\$32</u>	<u>\$2,893,800</u>	<u>\$37,100</u>	<u>\$32</u>
Total Costs	\$42,013,500	\$875,300	\$526	\$13,659,100	\$650,400	\$491	\$45,881,400	\$588,200	\$502
<u>Residual Land Value</u>									
per acre	\$3,518,400	\$73,300	\$44	\$1,356,600	\$64,600	\$49	\$2,223,000	\$28,500	\$24
price PSF land	<u>\$1,759,200</u>			<u>\$1,695,750</u>			<u>\$1,111,500</u>		
	\$40			\$39			\$26		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$50,725,500	\$1,056,800	89.8%	\$17,143,900	\$816,300	87.6%	\$54,593,400	\$699,900	88.1%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged			Infeasible / Challenged		

**Appendix Table FS 2C**  
**For-Sale Pro Forma, 25% at 80% AMI**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	25%	12	1,400	25%	5	1,100	28%	22	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	[25% on-site, middle@80%AMI]			[25% on-site, middle@80%AMI]			[25% on-site, + added 11% 4th floor]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,115,100	\$671		\$846,400	\$639		\$749,200	\$639
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$53,524,800	\$1,115,100	\$671	\$17,774,400	\$846,400	\$639	\$58,437,600	\$749,200	\$639
(Less) Closing Costs	(\$2,408,616)	(\$50,200)	(\$30)	(\$799,848)	(\$38,100)	(\$29)	(\$2,629,692)	(\$33,700)	(\$29)
(Less) Risk Adjusted Return	(\$5,352,480)	(\$111,500)	(\$67)	(\$1,777,440)	(\$84,600)	(\$64)	(\$7,012,512)	(\$89,900)	(\$77)
Net Sales Proceeds	\$45,763,704	\$953,400	\$573	\$15,197,112	\$723,700	\$546	\$48,795,396	\$625,600	\$534
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,070,500	\$22,300	\$13	\$355,500	\$16,900	\$13	\$1,168,800	\$15,000	\$13
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$351,000	\$7,300	\$4	\$120,000	\$5,700	\$4	\$398,000	\$5,100	\$4
Financing	\$2,750,400	\$57,300	\$34	\$913,500	\$43,500	\$33	\$2,932,800	\$37,600	\$32
Total Costs	\$42,034,300	\$875,700	\$527	\$13,673,900	\$651,100	\$491	\$45,938,000	\$588,900	\$502
Residual Land Value	\$3,729,600	\$77,700	\$47	\$1,524,600	\$72,600	\$55	\$2,862,600	\$36,700	\$31
per acre	\$1,864,800			\$1,905,750			\$1,431,300		
price PSF land	\$43			\$44			\$33		
Estimated Land Cost (target value)	\$8,712,000	\$181,500	Net Rev as %Costs	\$3,484,800	\$165,900	Net Rev as %Costs	\$8,712,000	\$111,700	Net Rev as %Costs
Total Cost with Land	\$50,746,300	\$1,057,200	90.2%	\$17,158,700	\$817,000	88.6%	\$54,650,000	\$700,600	89.3%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged			Infeasible / Challenged		

**Appendix Table FS 2D**  
**For-Sale Pro Forma, 25% at 100% AMI**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	25%	12	1,400	25%	5	1,100	28%	22	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	<i>[25% on-site, middle@100% AMI]</i>			<i>[25% on-site, middle@100% AMI]</i>			<i>[25% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,134,600	\$682		\$863,700	\$652		\$767,800	\$655
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$54,460,800	\$1,134,600	\$682	\$18,137,700	\$863,700	\$652	\$59,888,400	\$767,800	\$655
(Less) Closing Costs	(\$2,450,736)	(\$51,100)	(\$31)	(\$816,197)	(\$38,900)	(\$29)	(\$2,694,978)	(\$34,600)	(\$30)
(Less) Risk Adjusted Return	(\$5,446,080)	(\$113,500)	(\$68)	(\$1,813,770)	(\$86,400)	(\$65)	(\$7,186,608)	(\$92,100)	(\$79)
Net Sales Proceeds	\$46,563,984	\$970,100	\$584	\$15,507,734	\$738,500	\$557	\$50,006,814	\$641,100	\$547
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,089,200	\$22,700	\$14	\$362,800	\$17,300	\$13	\$1,197,800	\$15,400	\$13
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$352,000	\$7,300	\$4	\$120,000	\$5,700	\$4	\$400,000	\$5,100	\$4
Financing	\$2,798,400	\$58,300	\$35	\$932,400	\$44,400	\$34	\$3,003,000	\$38,500	\$33
Total Costs	\$42,102,000	\$877,100	\$528	\$13,700,100	\$652,400	\$492	\$46,039,200	\$590,200	\$503
<u>Residual Land Value</u>									
per acre	\$4,464,000	\$93,000	\$56	\$1,808,100	\$86,100	\$65	\$3,970,200	\$50,900	\$43
price PSF land	\$2,232,000			\$2,260,125			\$1,985,100		
	\$51			\$52			\$46		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	\$8,712,000	\$181,500		\$3,484,800	\$165,900		\$8,712,000	\$111,700	
Total Cost with Land	\$50,814,000	\$1,058,600	91.6%	\$17,184,900	\$818,300	90.2%	\$54,751,200	\$701,900	91.3%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged			Infeasible / Challenged		

**Appendix Table FS 2E**  
**For-Sale Pro Forma, 25% at 120% AMI**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	25%	12	1,400	25%	5	1,100	28%	22	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	<i>[25% on-site, middle@120% AMI]</i>			<i>[25% on-site, middle@120% AMI]</i>			<i>[25% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,153,000	\$694		\$880,900	\$665		\$786,100	\$671
<u>Residential Sales</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Sales	\$55,344,000	\$1,153,000	\$694	\$18,498,900	\$880,900	\$665	\$61,315,800	\$786,100	\$671
(Less) Closing Costs	(\$2,490,480)	(\$51,900)	(\$31)	(\$832,451)	(\$39,600)	(\$30)	(\$2,759,211)	(\$35,400)	(\$30)
(Less) Risk Adjusted Return	(\$5,534,400)	(\$115,300)	(\$69)	(\$1,849,890)	(\$88,100)	(\$66)	(\$7,357,896)	(\$94,300)	(\$80)
Net Sales Proceeds	\$47,319,120	\$985,800	\$593	\$15,816,560	\$753,200	\$568	\$51,198,693	\$656,400	\$560
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,106,900	\$23,100	\$14	\$370,000	\$17,600	\$13	\$1,226,300	\$15,700	\$13
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$352,000	\$7,300	\$4	\$121,000	\$5,800	\$4	\$401,000	\$5,100	\$4
Financing	\$2,846,400	\$59,300	\$36	\$951,300	\$45,300	\$34	\$3,081,000	\$39,500	\$34
Total Costs	\$42,167,700	\$878,500	\$528	\$13,727,200	\$653,700	\$493	\$46,146,700	\$591,600	\$505
Residual Land Value	\$5,150,400	\$107,300	\$65	\$2,089,500	\$99,500	\$75	\$5,054,400	\$64,800	\$55
per acre	\$2,575,200			\$2,611,875			\$2,527,200		
price PSF land	\$59			\$60			\$58		
Estimated Land Cost (target value)	\$8,712,000	\$181,500	Net Rev as %Costs	\$3,484,800	\$165,900	Net Rev as %Costs	\$8,712,000	\$111,700	Net Rev as %Costs
Total Cost with Land	\$50,879,700	\$1,060,000	93.0%	\$17,212,000	\$819,600	91.9%	\$54,858,700	\$703,300	93.3%
Feasibility Classification	Marginal Feasibility			Infeasible / Challenged			Marginal Feasibility		

**Appendix Table FS 3A****For-Sale Pro Forma, Mix of Low/Mod and Middle at 80% and 100% Representing Similar Cost to Existing CIL****Inclusionary Housing Analysis****Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Unit SF</u>
Market Rate	86%	41	1,750	86%	18	1,400	83%	65	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	5%	2	1,400	5%	1	1,100	6%	4	970
Middle Income - 80% AMI	5%	2	1,400	5%	1	1,100	6%	4	970
Low/Mod - 71.7% AMI	<u>5%</u>	<u>2</u>	<u>1,400</u>	<u>5%</u>	<u>1</u>	<u>1,100</u>	<u>6%</u>	<u>4</u>	<u>970</u>
	100%	48	1,701	100%	21	1,358	100%	78	1,203
	<i>[13.9% on-site, mix low/mod &amp; middle]</i>			<i>[13.9% on-site, mix low/mod &amp; middle]</i>			<i>[13.9% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,244,200	\$731		\$938,100	\$691		\$831,100	\$691
<u>Residential Sales</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Sales	\$59,721,600	\$1,244,200	\$731	\$19,700,100	\$938,100	\$691	\$64,825,800	\$831,100	\$691
(Less) Closing Costs	(\$2,687,472)	(\$56,000)	(\$33)	(\$886,505)	(\$42,200)	(\$31)	(\$2,917,161)	(\$37,400)	(\$31)
(Less) Risk Adjusted Return	<u>(\$5,972,160)</u>	<u>(\$124,400)</u>	<u>(\$73)</u>	<u>(\$1,970,010)</u>	<u>(\$93,800)</u>	<u>(\$69)</u>	<u>(\$7,779,096)</u>	<u>(\$99,700)</u>	<u>(\$83)</u>
Net Sales Proceeds	\$51,061,968	\$1,063,800	\$625	\$16,843,586	\$802,100	\$591	\$54,129,543	\$694,000	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$32,665,920	\$680,500	\$400	\$10,461,000	\$498,100	\$367	\$35,416,000	\$454,100	\$377
Fees & Permits	\$2,160,000	\$45,000	\$26	\$837,900	\$39,900	\$29	\$2,706,600	\$34,700	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,194,400	\$24,900	\$15	\$394,000	\$18,800	\$14	\$1,296,500	\$16,600	\$14
G&A/Overhead	\$979,978	\$20,400	\$12	\$314,000	\$15,000	\$11	\$1,062,000	\$13,600	\$11
A&E, Legal, Marketing, Other	\$2,939,933	\$61,200	\$36	\$941,000	\$44,800	\$33	\$3,187,000	\$40,900	\$34
Soft Cost Contingency	\$364,000	\$7,600	\$4	\$124,000	\$5,900	\$4	\$413,000	\$5,300	\$4
Financing	<u>\$3,072,000</u>	<u>\$64,000</u>	<u>\$38</u>	<u>\$1,012,200</u>	<u>\$48,200</u>	<u>\$35</u>	<u>\$3,252,600</u>	<u>\$41,700</u>	<u>\$35</u>
Total Costs	\$43,376,230	\$903,700	\$531	\$14,084,100	\$670,700	\$494	\$47,333,700	\$606,800	\$504
<u>Residual Land Value</u>									
<i>per acre</i>	\$7,684,800	\$160,100	\$94	\$2,759,400	\$131,400	\$97	\$6,801,600	\$87,200	\$72
<i>price PSF land</i>	<u>\$3,842,400</u>			<u>\$3,449,250</u>			<u>\$3,400,800</u>		
	\$88			\$79			\$78		
<u>Estimated Land Cost (target value)</u>	<u>\$8,712,000</u>	<u>\$181,500</u>	<u>Net Rev as %Costs</u>	<u>\$3,484,800</u>	<u>\$165,900</u>	<u>Net Rev as %Costs</u>	<u>\$8,712,000</u>	<u>\$111,700</u>	<u>Net Rev as %Costs</u>
Total Cost with Land	\$52,088,230	\$1,085,200	98.0%	\$17,568,900	\$836,600	95.9%	\$56,045,700	\$718,500	96.6%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 3B**  
**For-Sale Pro Forma, Middle Income Representing Similar Cost to Existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	85%	41	1,750	85%	18	1,400	83%	64	1,250
Middle Income - 120% AMI	5%	2	1,400	5%	1	1,100	6%	5	970
Middle Income - 100% AMI	5%	2	1,400	5%	1	1,100	6%	5	970
Middle Income - 80% AMI	5%	2	1,400	5%	1	1,100	6%	5	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,699	100%	21	1,356	100%	78	1,201
	<i>[14.7% on-site, middle income]</i>			<i>[14.7% on-site, middle income]</i>			<i>[14.7% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,243,700	\$732		\$940,400	\$694		\$835,400	\$696
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$59,697,600	\$1,243,700	\$732	\$19,748,400	\$940,400	\$694	\$65,161,200	\$835,400	\$696
(Less) Closing Costs	(\$2,686,392)	(\$56,000)	(\$33)	(\$888,678)	(\$42,300)	(\$31)	(\$2,932,254)	(\$37,600)	(\$31)
(Less) Risk Adjusted Return	(\$5,969,760)	(\$124,400)	(\$73)	(\$1,974,840)	(\$94,000)	(\$69)	(\$7,819,344)	(\$100,200)	(\$83)
Net Sales Proceeds	\$51,041,448	\$1,063,400	\$626	\$16,884,882	\$804,000	\$593	\$54,409,602	\$697,600	\$581
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$32,612,160	\$679,400	\$400	\$10,445,000	\$497,400	\$367	\$35,360,000	\$453,300	\$377
Fees & Permits	\$2,160,000	\$45,000	\$26	\$837,900	\$39,900	\$29	\$2,698,800	\$34,600	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,194,000	\$24,900	\$15	\$395,000	\$18,800	\$14	\$1,303,200	\$16,700	\$14
G&A/Overhead	\$978,365	\$20,400	\$12	\$313,000	\$14,900	\$11	\$1,061,000	\$13,600	\$11
A&E, Legal, Marketing, Other	\$2,935,094	\$61,100	\$36	\$940,000	\$44,800	\$33	\$3,182,000	\$40,800	\$34
Soft Cost Contingency	\$363,000	\$7,600	\$4	\$124,000	\$5,900	\$4	\$412,000	\$5,300	\$4
Financing	\$3,067,200	\$63,900	\$38	\$1,014,300	\$48,300	\$36	\$3,268,200	\$41,900	\$35
Total Costs	\$43,309,819	\$902,300	\$531	\$14,069,200	\$670,000	\$494	\$47,285,200	\$606,200	\$505
Residual Land Value	\$7,732,800	\$161,100	\$95	\$2,814,000	\$134,000	\$99	\$7,129,200	\$91,400	\$76
per acre	\$3,866,400			\$3,517,500			\$3,564,600		
price PSF land	\$89			\$81			\$82		
Estimated Land Cost (target value)	\$8,712,000	\$181,500	Net Rev as %Costs	\$3,484,800	\$165,900	Net Rev as %Costs	\$8,712,000	\$111,700	Net Rev as %Costs
Total Cost with Land	\$52,021,819	\$1,083,800	98.1%	\$17,554,000	\$835,900	96.2%	\$55,997,200	\$717,900	97.2%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		



**Appendix Table FS 3C**  
**For-Sale Pro Forma, Low/Mod Requirement Representing Similar Cost to Existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	87%	42	1,750	87%	18	1,400	84%	66	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	<u>13.2%</u>	<u>6</u>	<u>1,400</u>	<u>13.2%</u>	<u>3</u>	<u>1,100</u>	<u>16.0%</u>	<u>12</u>	<u>970</u>
	100%	48	1,704	100%	21	1,360	100%	78	1,205
	[13.2% on-site, low/mod]			[13.2% on-site, low/mod]			[13.2% on-site, + added 11% 4th floor]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,246,600	\$732		\$937,100	\$689		\$828,500	\$687
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$59,836,800	\$1,246,600	\$732	\$19,679,100	\$937,100	\$689	\$64,623,000	\$828,500	\$687
(Less) Closing Costs	(\$2,692,656)	(\$56,100)	(\$33)	(\$885,560)	(\$42,200)	(\$31)	(\$2,908,035)	(\$37,300)	(\$31)
(Less) Risk Adjusted Return	<u>(\$5,983,680)</u>	<u>(\$124,700)</u>	<u>(\$73)</u>	<u>(\$1,967,910)</u>	<u>(\$93,700)</u>	<u>(\$69)</u>	<u>(\$7,754,760)</u>	<u>(\$99,400)</u>	<u>(\$82)</u>
Net Sales Proceeds	\$51,160,464	\$1,065,800	\$626	\$16,825,631	\$801,200	\$589	\$53,960,205	\$691,800	\$574
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$32,712,960	\$681,500	\$400	\$10,475,000	\$498,800	\$367	\$35,464,000	\$454,700	\$377
Fees & Permits	\$2,164,800	\$45,100	\$26	\$840,000	\$40,000	\$29	\$2,706,600	\$34,700	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,196,700	\$24,900	\$15	\$393,600	\$18,700	\$14	\$1,292,500	\$16,600	\$14
G&A/Overhead	\$981,389	\$20,400	\$12	\$314,000	\$15,000	\$11	\$1,064,000	\$13,600	\$11
A&E, Legal, Marketing, Other	\$2,944,166	\$61,300	\$36	\$943,000	\$44,900	\$33	\$3,192,000	\$40,900	\$34
Soft Cost Contingency	\$364,000	\$7,600	\$4	\$125,000	\$6,000	\$4	\$413,000	\$5,300	\$4
Financing	<u>\$3,076,800</u>	<u>\$64,100</u>	<u>\$38</u>	<u>\$1,012,200</u>	<u>\$48,200</u>	<u>\$35</u>	<u>\$3,244,800</u>	<u>\$41,600</u>	<u>\$35</u>
Total Costs	\$43,440,815	\$905,000	\$531	\$14,102,800	\$671,600	\$494	\$47,376,900	\$607,400	\$504
<u>Residual Land Value</u>									
per acre	\$7,718,400	\$160,800	\$94	\$2,721,600	\$129,600	\$95	\$6,583,200	\$84,400	\$70
price PSF land	\$3,859,200			\$3,402,000			\$3,291,600		
	\$89			\$78			\$76		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	<u>\$8,712,000</u>	<u>\$181,500</u>		<u>\$3,484,800</u>	<u>\$165,900</u>		<u>\$8,712,000</u>	<u>\$111,700</u>	
Total Cost with Land	\$52,152,815	\$1,086,500	98.1%	\$17,587,600	\$837,500	95.7%	\$56,088,900	\$719,100	96.2%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		



**Appendix Table FS 3D**  
**For-Sale Pro Forma, 80% AMI Requirement Representing Similar Cost to Existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	86%	41	1,750	86%	18	1,400	84%	65	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	13.6%	7	1,400	13.6%	3	1,100	16%	13	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,702	100%	21	1,359	100%	78	1,204
	[13.6% on-site, all MI at 80% AMI]			[13.6% on-site, all MI at 80% AMI]			[13.6% on-site, + added 11% 4th floor]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,245,000	\$731		\$939,300	\$691		\$831,700	\$691
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$59,760,000	\$1,245,000	\$731	\$19,725,300	\$939,300	\$691	\$64,872,600	\$831,700	\$691
(Less) Closing Costs	(\$2,689,200)	(\$56,000)	(\$33)	(\$887,639)	(\$42,300)	(\$31)	(\$2,919,267)	(\$37,400)	(\$31)
(Less) Risk Adjusted Return	(\$5,976,000)	(\$124,500)	(\$73)	(\$1,972,530)	(\$93,900)	(\$69)	(\$7,784,712)	(\$99,800)	(\$83)
Net Sales Proceeds	\$51,094,800	\$1,064,500	\$625	\$16,865,132	\$803,100	\$591	\$54,168,621	\$694,500	\$577
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$32,686,080	\$681,000	\$400	\$10,467,000	\$498,400	\$367	\$35,436,000	\$454,300	\$377
Fees & Permits	\$2,164,800	\$45,100	\$26	\$840,000	\$40,000	\$29	\$2,706,600	\$34,700	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,195,200	\$24,900	\$15	\$394,500	\$18,800	\$14	\$1,297,500	\$16,600	\$14
G&A/Overhead	\$980,582	\$20,400	\$12	\$314,000	\$15,000	\$11	\$1,063,000	\$13,600	\$11
A&E, Legal, Marketing, Other	\$2,941,747	\$61,300	\$36	\$942,000	\$44,900	\$33	\$3,189,000	\$40,900	\$34
Soft Cost Contingency	\$364,000	\$7,600	\$4	\$125,000	\$6,000	\$4	\$413,000	\$5,300	\$4
Financing	\$3,072,000	\$64,000	\$38	\$1,014,300	\$48,300	\$36	\$3,260,400	\$41,800	\$35
Total Costs	\$43,404,410	\$904,300	\$531	\$14,096,800	\$671,300	\$494	\$47,365,500	\$607,300	\$504
<u>Residual Land Value</u>									
per acre	\$7,689,600	\$160,200	\$94	\$2,767,800	\$131,800	\$97	\$6,801,600	\$87,200	\$72
price PSF land	\$3,844,800			\$3,459,750			\$3,400,800		
	\$88			\$79			\$78		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	\$8,712,000	\$181,500		\$3,484,800	\$165,900		\$8,712,000	\$111,700	
Total Cost with Land	\$52,116,410	\$1,085,800	98.0%	\$17,581,600	\$837,200	95.9%	\$56,077,500	\$719,000	96.6%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 3E**  
**For-Sale Pro Forma, 100% AMI Requirement Representing Similar Cost to Existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	85%	41	1,750	85%	18	1,400	82%	64	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	14.9%	7	1,400	15%	3	1,100	18%	14	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,698	100%	21	1,355	100%	78	1,201
	<i>[14.9% on-site, all MI at 100% AMI]</i>			<i>[14.9% on-site, all MI at 100% AMI]</i>			<i>[14.9% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,241,800	\$731		\$939,000	\$693		\$834,100	\$695
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$59,606,400	\$1,241,800	\$731	\$19,719,000	\$939,000	\$693	\$65,059,800	\$834,100	\$695
(Less) Closing Costs	(\$2,682,288)	(\$55,900)	(\$33)	(\$887,355)	(\$42,300)	(\$31)	(\$2,927,691)	(\$37,500)	(\$31)
(Less) Risk Adjusted Return	(\$5,960,640)	(\$124,200)	(\$73)	(\$1,971,900)	(\$93,900)	(\$69)	(\$7,807,176)	(\$100,100)	(\$83)
Net Sales Proceeds	\$50,963,472	\$1,061,700	\$625	\$16,859,745	\$802,800	\$592	\$54,324,933	\$696,500	\$580
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$32,598,720	\$679,100	\$400	\$10,441,000	\$497,200	\$367	\$35,346,000	\$453,200	\$377
Fees & Permits	\$2,155,200	\$44,900	\$26	\$835,800	\$39,800	\$29	\$2,698,800	\$34,600	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,192,100	\$24,800	\$15	\$394,400	\$18,800	\$14	\$1,301,200	\$16,700	\$14
G&A/Overhead	\$977,962	\$20,400	\$12	\$313,000	\$14,900	\$11	\$1,060,000	\$13,600	\$11
A&E, Legal, Marketing, Other	\$2,933,885	\$61,100	\$36	\$940,000	\$44,800	\$33	\$3,181,000	\$40,800	\$34
Soft Cost Contingency	\$363,000	\$7,600	\$4	\$124,000	\$5,900	\$4	\$412,000	\$5,300	\$4
Financing	\$3,062,400	\$63,800	\$38	\$1,014,300	\$48,300	\$36	\$3,268,200	\$41,900	\$35
Total Costs	\$43,283,266	\$901,700	\$531	\$14,062,500	\$669,600	\$494	\$47,267,200	\$606,000	\$505
<u>Residual Land Value</u>									
per acre	\$7,680,000	\$160,000	\$94	\$2,797,200	\$133,200	\$98	\$7,059,000	\$90,500	\$75
price PSF land	\$3,840,000			\$3,496,500			\$3,529,500		
	\$88			\$80			\$81		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	\$8,712,000	\$181,500		\$3,484,800	\$165,900		\$8,712,000	\$111,700	
Total Cost with Land	\$51,995,266	\$1,083,200	98.0%	\$17,547,300	\$835,500	96.1%	\$55,979,200	\$717,700	97.0%
Feasibility Classification	Feasible			Marginal Feasibility			Marginal Feasibility		

**Appendix Table FS 4A**  
**For-Sale Pro Forma, No Requirement**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	100%	48	1,750	100%	21	1,400	100%	78	1,250
Middle Income - 120% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 100% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Middle Income - 80% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
Low/Mod - 71.7% AMI	0%	0	1,400	0%	0	1,100	0%	0	970
	100%	48	1,750	100%	21	1,400	100%	78	1,250
	[100% cash in-lieu]			[100% cash in-lieu]			[half on-site per com benefit reqrm't]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,400,000	\$800		\$1,050,000	\$750		\$950,000	\$760
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$67,200,000	\$1,400,000	\$800	\$22,050,000	\$1,050,000	\$750	\$74,100,000	\$950,000	\$760
(Less) Closing Costs	(\$3,024,000)	(\$63,000)	(\$36)	(\$992,250)	(\$47,300)	(\$34)	(\$3,334,500)	(\$42,800)	(\$34)
(Less) Risk Adjusted Return	(\$6,720,000)	(\$140,000)	(\$80)	(\$2,205,000)	(\$105,000)	(\$75)	(\$8,892,000)	(\$114,000)	(\$91)
Net Sales Proceeds	\$57,456,000	\$1,197,000	\$684	\$18,852,750	\$897,800	\$641	\$61,873,500	\$793,300	\$635
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$33,600,000	\$700,000	\$400	\$10,739,000	\$511,400	\$365	\$36,571,000	\$468,900	\$375
Fees & Permits	\$2,222,400	\$46,300	\$26	\$863,100	\$41,100	\$29	\$2,808,000	\$36,000	\$29
CIL for IH reqrm't	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,344,000	\$28,000	\$16	\$441,000	\$21,000	\$15	\$1,482,000	\$19,000	\$15
G&A/Overhead	\$1,008,000	\$21,000	\$12	\$322,000	\$15,300	\$11	\$1,097,000	\$14,100	\$11
A&E, Legal, Marketing, Other	\$3,024,000	\$63,000	\$36	\$967,000	\$46,000	\$33	\$3,291,000	\$42,200	\$34
Soft Cost Contingency	\$380,000	\$7,900	\$5	\$130,000	\$6,200	\$4	\$434,000	\$5,600	\$4
Financing	\$3,456,000	\$72,000	\$41	\$1,134,000	\$54,000	\$39	\$3,720,600	\$47,700	\$38
Total Costs	\$45,034,400	\$938,200	\$536	\$14,596,100	\$695,100	\$497	\$49,403,600	\$633,400	\$507
<u>Residual Land Value</u>									
per acre	\$12,422,400	\$258,800	\$148	\$4,256,700	\$202,700	\$145	\$12,472,200	\$159,900	\$128
price PSF land	\$6,211,200			\$5,320,875			\$6,236,100		
	\$143			\$122			\$143		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	\$8,712,000	\$181,500		\$3,484,800	\$165,900		\$8,712,000	\$111,700	
Total Cost with Land	\$53,746,400	\$1,119,700	106.9%	\$18,080,900	\$861,000	104.3%	\$58,115,600	\$745,100	106.5%
Feasibility Classification	Feasible			Feasible			Feasible		

**Appendix Table FS 5A**  
**Townhomes, Reduced Density**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Site Size/Density	Townhomes, Reduced Density		
	2 acres	11 du/ac.	
	two story wood frame		
Residential Unit Mix	% of Units	No. Units	Unit SF
Market Rate	100%	22	1,750
Middle Income - 120% AMI	0%	0	1,400
Middle Income - 100% AMI	0%	0	1,400
Middle Income - 80% AMI	0%	0	1,400
Low/Mod - 71.7% AMI	0%	0	1,400
	100%	22	1,750
	[100% cash in-lieu]		
Sale Price		\$/Unit	\$/NSF
Market Rate		\$1,085,000	\$620
Middle Income - 120% AMI		\$412,100	\$294
Middle Income - 100% AMI		\$338,400	\$242
Middle Income - 80% AMI		\$260,200	\$186
Low/Mod - 71.7% AMI		\$237,800	\$170
		\$1,085,000	\$620
Residential Sales	Total	\$/Unit	\$/NSF
Gross Sales	\$23,870,000	\$1,085,000	\$620
(Less) Closing Costs	(\$1,074,150)	(\$48,800)	(\$28)
(Less) Risk Adjusted Return	(\$2,387,000)	(\$108,500)	(\$62)
Net Sales Proceeds	\$20,408,850	\$927,700	\$530
Development Costs excl. Land			
Total Directs	\$9,240,000	\$420,000	\$240
Fees & Permits	\$1,018,600	\$46,300	\$26
CIL for IH reqmnt @\$50 PSF	\$1,925,000	\$87,500	\$50
Warranty and Insurance	\$477,400	\$21,700	\$12
G&A/Overhead	\$277,200	\$12,600	\$7
A&E, Legal, Marketing, Other	\$831,600	\$37,800	\$22
Soft Cost Contingency	\$130,000	\$5,900	\$3
Financing	\$1,227,600	\$55,800	\$32
Total Costs	\$15,127,400	\$687,600	\$393
Residual Land Value	\$5,282,200	\$240,100	\$137
per acre	\$2,641,100		
price PSF land	\$61		
Estimated Land Cost @\$60/SF	\$5,227,200	\$237,600	as %Costs
Total Cost with Land	\$20,354,600	\$925,200	100.3%
Feasibility Classification	Feasible		

**Appendix Table FS 5B**

**For-Sale Pro Forma, 25% with Income Mix per Existing Ordinance - Sensitivity with \$900 / SF Market Pricing, No Change to Land Cost Estimate**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 100% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 80% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Low/Mod - 71.7% AMI	<u>13%</u>	<u>6</u>	<u>1,400</u>	<u>13%</u>	<u>3</u>	<u>1,100</u>	<u>14%</u>	<u>11</u>	<u>970</u>
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	<i>[25% on-site, mix low/mod &amp; middle]</i>			<i>[25% on-site, mix low/mod &amp; middle]</i>			<i>[25% on-site, + added 11% 4th floor]</i>		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,575,000	\$900		\$1,260,000	\$900		\$1,125,000	\$900
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		<u>\$237,800</u>	<u>\$170</u>		<u>\$194,814</u>	<u>\$177</u>		<u>\$188,189</u>	<u>\$194</u>
		\$1,253,100	\$754		\$1,007,400	\$760		\$879,600	\$750
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$60,148,800	\$1,253,100	\$754	\$21,155,400	\$1,007,400	\$760	\$68,608,800	\$879,600	\$750
(Less) Closing Costs	(\$2,706,696)	(\$56,400)	(\$34)	(\$951,993)	(\$45,300)	(\$34)	(\$3,087,396)	(\$39,600)	(\$34)
(Less) Risk Adjusted Return	<u>(\$6,014,880)</u>	<u>(\$125,300)</u>	<u>(\$75)</u>	<u>(\$2,115,540)</u>	<u>(\$100,700)</u>	<u>(\$76)</u>	<u>(\$8,233,056)</u>	<u>(\$105,600)</u>	<u>(\$90)</u>
Net Sales Proceeds	\$51,427,224	\$1,071,400	\$644	\$18,087,867	\$861,300	\$650	\$57,288,348	\$734,500	\$627
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,203,000	\$25,100	\$15	\$423,100	\$20,100	\$15	\$1,372,200	\$17,600	\$15
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$357,000	\$7,400	\$4	\$123,000	\$5,900	\$4	\$408,000	\$5,200	\$4
Financing	<u>\$3,091,200</u>	<u>\$64,400</u>	<u>\$39</u>	<u>\$1,087,800</u>	<u>\$51,800</u>	<u>\$39</u>	<u>\$3,447,600</u>	<u>\$44,200</u>	<u>\$38</u>
Total Costs	\$42,513,600	\$885,700	\$533	\$13,918,800	\$662,800	\$500	\$46,666,200	\$598,300	\$510
Residual Land Value	\$8,913,600	\$185,700	\$112	\$4,168,500	\$198,500	\$150	\$10,623,600	\$136,200	\$116
per acre	\$4,456,800			\$5,210,625			\$5,311,800		
price PSF land	\$102			\$120			\$122		
Estimated Land Cost (target value)	<u>\$8,712,000</u>	<u>\$181,500</u>	Net Rev as %Costs	<u>\$3,484,800</u>	<u>\$165,900</u>	Net Rev as %Costs	<u>\$8,712,000</u>	<u>\$111,700</u>	Net Rev as %Costs
Total Cost with Land	\$51,225,600	\$1,067,200	100.4%	\$17,403,600	\$828,700	103.9%	\$55,378,200	\$710,000	103.4%
Feasibility Classification	Feasible			Feasible			Feasible		

**Appendix Table FS 5C**

**For-Sale Pro Forma, 25% with Income Mix per Existing Ordinance - Sensitivity with \$900 / SF Market Pricing and Higher Land Cost Location**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Townhomes / Rowhomes			Small Stacked Condo Project, Three Stories			Larger Stacked Condo Project, Four Stories		
<u>Residential Unit Mix</u>	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF	% of Units	No. Units	Unit SF
Market Rate	75%	36	1,750	75%	16	1,400	72%	56	1,250
Middle Income - 120% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 100% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Middle Income - 80% AMI	4%	2	1,400	4%	1	1,100	5%	4	970
Low/Mod - 71.7% AMI	13%	6	1,400	13%	3	1,100	14%	11	970
	100%	48	1,663	100%	21	1,325	100%	78	1,172
	[25% on-site, mix low/mod & middle]			[25% on-site, mix low/mod & middle]			[25% on-site, + added 11% 4th floor]		
<u>Sale Price</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$1,575,000	\$900		\$1,260,000	\$900		\$1,125,000	\$900
Middle Income - 120% AMI		\$412,100	\$294		\$373,460	\$340		\$359,515	\$371
Middle Income - 100% AMI		\$338,400	\$242		\$304,829	\$277		\$293,285	\$302
Middle Income - 80% AMI		\$260,200	\$186		\$235,748	\$214		\$226,380	\$233
Low/Mod - 71.7% AMI		\$237,800	\$170		\$194,814	\$177		\$188,189	\$194
		\$1,253,100	\$754		\$1,007,400	\$760		\$879,600	\$750
<u>Residential Sales</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Sales	\$60,148,800	\$1,253,100	\$754	\$21,155,400	\$1,007,400	\$760	\$68,608,800	\$879,600	\$750
(Less) Closing Costs	(\$2,706,696)	(\$56,400)	(\$34)	(\$951,993)	(\$45,300)	(\$34)	(\$3,087,396)	(\$39,600)	(\$34)
(Less) Risk Adjusted Return	(\$6,014,880)	(\$125,300)	(\$75)	(\$2,115,540)	(\$100,700)	(\$76)	(\$8,233,056)	(\$105,600)	(\$90)
Net Sales Proceeds	\$51,427,224	\$1,071,400	\$644	\$18,087,867	\$861,300	\$650	\$57,288,348	\$734,500	\$627
<u>Development Costs excl. Land</u>									
Direct Construction incl conting.	\$31,920,000	\$665,000	\$400	\$10,239,000	\$487,600	\$368	\$34,645,000	\$444,200	\$379
Fees & Permits	\$2,112,000	\$44,000	\$26	\$816,900	\$38,900	\$29	\$2,636,400	\$33,800	\$29
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Warranty and Insurance	\$1,203,000	\$25,100	\$15	\$423,100	\$20,100	\$15	\$1,372,200	\$17,600	\$15
G&A/Overhead	\$957,600	\$20,000	\$12	\$307,000	\$14,600	\$11	\$1,039,000	\$13,300	\$11
A&E, Legal, Marketing, Other	\$2,872,800	\$59,900	\$36	\$922,000	\$43,900	\$33	\$3,118,000	\$40,000	\$34
Soft Cost Contingency	\$357,000	\$7,400	\$4	\$123,000	\$5,900	\$4	\$408,000	\$5,200	\$4
Financing	\$3,091,200	\$64,400	\$39	\$1,087,800	\$51,800	\$39	\$3,447,600	\$44,200	\$38
Total Costs	\$42,513,600	\$885,700	\$533	\$13,918,800	\$662,800	\$500	\$46,666,200	\$598,300	\$510
<u>Residual Land Value</u>									
per acre	\$8,913,600	\$185,700	\$112	\$4,168,500	\$198,500	\$150	\$10,623,600	\$136,200	\$116
price PSF land	\$4,456,800			\$5,210,625			\$5,311,800		
	\$102			\$120			\$122		
<u>Estimated Land Cost (target value)</u>			Net Rev as %Costs			Net Rev as %Costs			Net Rev as %Costs
	\$14,549,040	\$303,100		\$5,819,616	\$277,100		\$14,549,040	\$186,500	
Total Cost with Land	\$57,062,640	\$1,188,800	90.1%	\$19,738,416	\$939,900	91.6%	\$61,215,240	\$784,800	93.6%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged			Marginal Feasibility		

**Appendix Table R 1A**  
**Rental Pro Forma, Existing Cash In-Lieu**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmnt]</i>			<i>[pay cash in-lieu for IH rqmnt]</i>		
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmnt	\$3,842,000	\$39,200	\$52	\$5,712,000	\$43,600	\$58
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$42,383,500	\$432,500	\$577	\$57,619,550	\$439,900	\$587
Residual Land Value	\$5,066,600	\$51,700	\$69	\$5,803,300	\$44,300	\$59
per acre	\$2,533,300			\$2,901,650		
per square foot land	\$58			\$67		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$48,753,500	\$497,500	97.3%	\$63,989,550	\$488,500	99.1%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 1B**  
**Rental Pro Forma, Cash In-Lieu at \$35 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmnt]</i>			<i>[pay cash in-lieu for IH rqmnt]</i>		
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmnt	\$2,572,500	\$26,250	\$35	\$3,817,013	\$29,138	\$39
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$41,114,000	\$419,600	\$559	\$55,724,563	\$425,400	\$567
Residual Land Value	\$6,330,800	\$64,600	\$86	\$7,702,800	\$58,800	\$78
per acre	\$3,165,400			\$3,851,400		
per square foot land	\$73			\$88		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	Supp Invest as %Costs	\$6,370,000	\$48,600	Supp Invest as %Costs
Total Cost w/Est. Land Cost	\$47,484,000	\$484,500	99.9%	\$62,094,563	\$474,000	102.2%
Feasibility Classification	Feasible			Feasible		



**Appendix Table R 1C**  
**Rental Pro Forma, Cash In-Lieu at \$40 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmnt]</i>			<i>[pay cash in-lieu for IH rqmnt]</i>		
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH rqmnt	\$2,940,000	\$30,000	\$40	\$4,362,300	\$33,300	\$44
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$41,481,500	\$423,300	\$564	\$56,269,850	\$429,600	\$573
Residual Land Value	\$5,968,200	\$60,900	\$81	\$7,152,600	\$54,600	\$73
per acre	\$2,984,100			\$3,576,300		
per square foot land	\$69			\$82		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	Supp Invest as %Costs	\$6,370,000	\$48,600	Supp Invest as %Costs
Total Cost w/Est. Land Cost	\$47,851,500	\$488,300	99.2%	\$62,639,850	\$478,200	101.3%
Feasibility Classification	Feasible			Feasible		

**Appendix Table R 1D**  
**Rental Pro Forma, Cash In-Lieu at \$45 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmnt]</i>			<i>[pay cash in-lieu for IH rqmnt]</i>		
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmnt	\$3,307,500	\$33,750	\$45	\$4,907,588	\$37,463	\$50
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$41,849,000	\$427,100	\$569	\$56,815,138	\$433,800	\$578
Residual Land Value	\$5,595,800	\$57,100	\$76	\$6,602,400	\$50,400	\$67
per acre	\$2,797,900			\$3,301,200		
per square foot land	\$64			\$76		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	Supp Invest as %Costs	\$6,370,000	\$48,600	Supp Invest as %Costs
Total Cost w/Est. Land Cost	\$48,219,000	\$492,000	98.4%	\$63,185,138	\$482,300	100.4%
Feasibility Classification	Feasible			Feasible		

**Appendix Table R 1E**  
**Rental Pro Forma, Cash In-Lieu at \$50 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	[pay cash in-lieu for IH rqmnt]			[pay cash in-lieu for IH rqmnt]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmnt	\$3,675,000	\$37,500	\$50	\$5,452,875	\$41,625	\$56
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$42,216,500	\$430,800	\$574	\$57,360,425	\$437,900	\$584
Residual Land Value	\$5,233,200	\$53,400	\$71	\$6,065,300	\$46,300	\$62
per acre	\$2,616,600			\$3,032,650		
per square foot land	\$60			\$70		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$48,586,500	\$495,800	97.7%	\$63,730,425	\$486,500	99.5%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 1F**  
**Rental Pro Forma, Cash In-Lieu at \$60 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmt]</i>			<i>[pay cash in-lieu for IH rqmt]</i>		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmt	\$4,410,000	\$45,000	\$60	\$6,543,450	\$49,950	\$67
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$42,951,500	\$438,300	\$584	\$58,451,000	\$446,300	\$595
Residual Land Value	\$4,498,200	\$45,900	\$61	\$4,964,900	\$37,900	\$51
per acre	\$2,249,100			\$2,482,450		
per square foot land	\$52			\$57		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	Supp Invest as %Costs	\$6,370,000	\$48,600	Supp Invest as %Costs
Total Cost w/Est. Land Cost	\$49,321,500	\$503,300	96.2%	\$64,821,000	\$494,800	97.9%
Feasibility Classification	Marginal Feasibility			Marginal Feasibility		

**Appendix Table R 1G**  
**Rental Pro Forma, Cash In-Lieu at \$75 PSF**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	<i>[pay cash in-lieu for IH rqmnt]</i>			<i>[pay cash in-lieu for IH rqmnt]</i>		
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqmnt	\$5,512,500	\$56,250	\$75	\$8,179,313	\$62,438	\$83
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$44,054,000	\$449,600	\$599	\$60,086,863	\$458,700	\$612
Residual Land Value	\$3,390,800	\$34,600	\$46	\$3,340,500	\$25,500	\$34
per acre	\$1,695,400			\$1,670,250		
per square foot land	\$39			\$38		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	Supp Invest as %Costs	\$6,370,000	\$48,600	Supp Invest as %Costs
Total Cost w/Est. Land Cost	\$50,424,000	\$514,500	94.1%	\$66,456,863	\$507,300	95.4%
Feasibility Classification	Marginal Feasibility			Marginal Feasibility		

**Appendix Table R 2A**

**Rental Pro Forma, Existing Requirement, all on-site, existing 25% requirement, mixed income building(s)**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	75%	74	750	72%	95	750
Affordable (80% AMI)	5%	5	700	6%	7	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	20%	20	700	22%	29	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	738	100%	131	736
	[25% on-site, mix low/mod MI]			[25% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,374	\$3.22		\$2,343	\$3.18
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,791,451	\$28,484	\$39	\$3,683,649	\$28,119	\$38
Other Income	\$264,600	\$2,700	\$4	\$340,731	\$2,601	\$4
(Less) Vacancy/Bad Debt	(\$152,803)	(\$1,559)	(\$2)	(\$201,219)	(\$1,536)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$10)
Net Operating Income (NOI)	\$2,217,249	\$22,625	\$31	\$2,906,161	\$22,184	\$30
Supported Investment@5.5% ROC	\$40,317,000	\$411,400	\$558	\$52,845,000	\$403,400	\$548
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,493,850	\$290,800	\$394	\$38,379,600	\$293,000	\$398
Fees & Permits	\$2,940,000	\$30,000	\$41	\$3,930,000	\$30,000	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,442,000	\$24,900	\$34	\$3,290,000	\$25,100	\$34
Overhead/Admin	\$814,000	\$8,300	\$11	\$1,097,000	\$8,400	\$11
Soft Cost Contingency	\$269,000	\$2,700	\$4	\$361,000	\$2,800	\$4
Financing	\$2,636,200	\$26,900	\$36	\$3,458,400	\$26,400	\$36
Total Costs	\$37,595,050	\$383,600	\$520	\$50,516,000	\$385,700	\$524
Residual Land Value	\$2,724,400	\$27,800	\$38	\$2,318,700	\$17,700	\$24
per acre	\$1,362,200			\$1,159,350		
per square foot land	\$31			\$27		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$43,965,050	\$448,600	91.7%	\$56,886,000	\$434,200	92.9%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged		

**Appendix Table R 2B****Rental Pro Forma, 25% on-site requirement, mix of 50%, 60%, 70% AMI, mixed income building(s)****Inclusionary Housing Analysis****Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	75%	74	750	72%	95	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	8%	8	700	9%	12	700
Affordable (60% AMI)	8%	8	700	9%	12	700
Affordable (50% AMI)	8%	8	700	9%	12	700
	100%	98	738	100%	131	736
	[25% on-site, mix 50%, 60%, 70% AMI]			[25% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,348	\$3.18		\$2,315	\$3.14
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,761,325	\$28,177	\$38	\$3,638,949	\$27,778	\$38
Other Income	\$264,600	\$2,700	\$4	\$340,731	\$2,601	\$4
(Less) Vacancy/Bad Debt	(\$151,296)	(\$1,544)	(\$2)	(\$198,984)	(\$1,519)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$10)
Net Operating Income (NOI)	\$2,188,629	\$22,333	\$30	\$2,863,696	\$21,860	\$30
Supported Investment@5.5% ROC	\$39,798,000	\$406,100	\$551	\$52,073,000	\$397,500	\$540
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,493,850	\$290,800	\$394	\$38,379,600	\$293,000	\$398
Fees & Permits	\$2,940,000	\$30,000	\$41	\$3,930,000	\$30,000	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,442,000	\$24,900	\$34	\$3,290,000	\$25,100	\$34
Overhead/Admin	\$814,000	\$8,300	\$11	\$1,097,000	\$8,400	\$11
Soft Cost Contingency	\$269,000	\$2,700	\$4	\$361,000	\$2,800	\$4
Financing	\$2,606,800	\$26,600	\$36	\$3,406,000	\$26,000	\$35
Total Costs	\$37,565,650	\$383,300	\$520	\$50,463,600	\$385,300	\$523
Residual Land Value	\$2,234,400	\$22,800	\$31	\$1,598,200	\$12,200	\$17
per acre	\$1,117,200			\$799,100		
per square foot land	\$26			\$18		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$43,935,650	\$448,300	90.6%	\$56,833,600	\$433,800	91.6%
Feasibility Classification	Infeasible / Challenged			Infeasible / Challenged		

## Appendix Table R 2C

Rental Pro Forma, Existing Requirement, all on-site, existing 25% requirement, LIHTC Project  
Inclusionary Housing Analysis  
Boulder, CO

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
	[25% in LIHTC project]			[IH met in LIHTC project]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
Subsidy to LIHTC project	\$2,450,000	\$25,000	\$33	\$3,773,616	\$28,806	\$38
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$40,991,500	\$418,300	\$558	\$55,681,166	\$425,100	\$567
Residual Land Value	\$6,458,200	\$65,900	\$88	\$7,742,100	\$59,100	\$79
per acre	\$3,229,100			\$3,871,050		
per square foot land	\$74			\$89		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$47,361,500	\$483,300	100.2%	\$62,051,166	\$473,700	102.2%
Feasibility Classification	Feasible			Feasible		



**Appendix Table R 3A****Rental Pro Forma, on-site requirement, mix of 50% and 60% of AMI, similar in cost to current CIL rate.****Inclusionary Housing Analysis****Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	87%	85	750	84%	110	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	7%	6	700	8%	10	700
Affordable (50% AMI)	7%	6	700	8%	10	700
	100%	98	744	100%	131	742
	[13% on-site, mix 50 & 60% AMI]			[13% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,476	\$3.33		\$2,440	\$3.29
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,912,127	\$29,716	\$40	\$3,834,979	\$29,275	\$39
Other Income	\$306,936	\$3,132	\$4	\$397,323	\$3,033	\$4
(Less) Vacancy/Bad Debt	(\$160,953)	(\$1,642)	(\$2)	(\$211,615)	(\$1,615)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,372,110	\$24,205	\$33	\$3,103,687	\$23,692	\$32
Supported Investment@5.5% ROC	\$43,130,000	\$440,100	\$592	\$56,435,000	\$430,800	\$580
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,675,500	\$292,600	\$394	\$38,623,200	\$294,800	\$397
Fees & Permits	\$2,969,400	\$30,300	\$41	\$3,956,200	\$30,200	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,458,000	\$25,100	\$34	\$3,311,000	\$25,300	\$34
Overhead/Admin	\$819,000	\$8,400	\$11	\$1,104,000	\$8,400	\$11
Soft Cost Contingency	\$271,000	\$2,800	\$4	\$363,000	\$2,800	\$4
Financing	\$2,822,400	\$28,800	\$39	\$3,694,200	\$28,200	\$38
Total Costs	\$38,015,300	\$388,000	\$522	\$51,051,600	\$389,700	\$525
Residual Land Value	\$5,105,800	\$52,100	\$70	\$5,384,100	\$41,100	\$55
per acre	\$2,552,900			\$2,692,050		
per square foot land	\$59			\$62		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,385,300	\$452,900	97.2%	\$57,421,600	\$438,300	98.3%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 3B**

**Rental Pro Forma, on-site requirement, mix of 50%, 60%, 70% AMI, Inclusionary % similar in cost to existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	86%	84	750	83%	109	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	5%	5	700	6%	7	700
Affordable (60% AMI)	5%	5	700	6%	7	700
Affordable (50% AMI)	5%	5	700	6%	7	700
	100%	98	743	100%	131	742
	[14.2% on-site, mix 50, 60%, 70% AMI]			[14.2% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,479	\$3.34		\$2,445	\$3.30
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,914,718	\$29,742	\$40	\$3,843,994	\$29,343	\$40
Other Income	\$302,702	\$3,089	\$4	\$391,664	\$2,990	\$4
(Less) Vacancy/Bad Debt	(\$160,871)	(\$1,642)	(\$2)	(\$211,783)	(\$1,617)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,370,549	\$24,189	\$33	\$3,106,875	\$23,717	\$32
Supported Investment@5.5% ROC	\$43,100,000	\$439,800	\$592	\$56,487,000	\$431,200	\$582
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,657,650	\$292,400	\$394	\$38,599,050	\$294,600	\$397
Fees & Permits	\$2,959,600	\$30,200	\$41	\$3,956,200	\$30,200	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,456,000	\$25,100	\$34	\$3,308,000	\$25,300	\$34
Overhead/Admin	\$819,000	\$8,400	\$11	\$1,103,000	\$8,400	\$11
Soft Cost Contingency	\$271,000	\$2,800	\$4	\$363,000	\$2,800	\$4
Financing	\$2,822,400	\$28,800	\$39	\$3,694,200	\$28,200	\$38
Total Costs	\$37,985,650	\$387,700	\$522	\$51,023,450	\$389,500	\$525
Residual Land Value	\$5,105,800	\$52,100	\$70	\$5,462,700	\$41,700	\$56
per acre	\$2,552,900			\$2,731,350		
per square foot land	\$59			\$63		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,355,650	\$452,600	97.2%	\$57,393,450	\$438,100	98.4%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 3C****Rental Pro Forma, on-site requirement, 50% AMI units and inclusionary % similar in cost to existing CIL****Inclusionary Housing Analysis****Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	88%	86	750	85%	112	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	12%	12	700	15%	19	700
	100%	98	744	100%	131	743
	[12% on-site, 50% AMI]			[12% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,474	\$3.33		\$2,434	\$3.28
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,909,760	\$29,691	\$40	\$3,826,276	\$29,208	\$39
Other Income	\$310,464	\$3,168	\$4	\$402,039	\$3,069	\$4
(Less) Vacancy/Bad Debt	(\$161,011)	(\$1,643)	(\$2)	(\$211,416)	(\$1,614)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,373,213	\$24,216	\$33	\$3,099,899	\$23,663	\$32
Supported Investment@5.5% ROC	\$43,149,000	\$440,300	\$592	\$56,356,000	\$430,200	\$579
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,691,250	\$292,800	\$394	\$38,643,150	\$295,000	\$397
Fees & Permits	\$2,969,400	\$30,300	\$41	\$3,956,200	\$30,200	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,459,000	\$25,100	\$34	\$3,312,000	\$25,300	\$34
Overhead/Admin	\$820,000	\$8,400	\$11	\$1,104,000	\$8,400	\$11
Soft Cost Contingency	\$271,000	\$2,800	\$4	\$363,000	\$2,800	\$4
Financing	\$2,822,400	\$28,800	\$39	\$3,681,100	\$28,100	\$38
Total Costs	\$38,033,050	\$388,200	\$522	\$51,059,450	\$389,800	\$525
Residual Land Value	\$5,105,800	\$52,100	\$70	\$5,292,400	\$40,400	\$54
per acre	\$2,552,900			\$2,646,200		
per square foot land	\$59			\$61		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,403,050	\$453,100	97.2%	\$57,429,450	\$438,400	98.1%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 3D**  
**Rental Pro Forma, on-site requirement, 60% AMI units and inclusionary % similar in cost to existing CIL**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	86%	84	750	83%	109	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	14%	14	700	17%	22	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	743	100%	131	741
	[14.3% on-site, 60% AMI]			[14.3% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,477	\$3.33		\$2,444	\$3.30
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,913,246	\$29,727	\$40	\$3,842,014	\$29,328	\$40
Other Income	\$302,350	\$3,085	\$4	\$391,192	\$2,986	\$4
(Less) Vacancy/Bad Debt	(\$160,780)	(\$1,641)	(\$2)	(\$211,660)	(\$1,616)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,368,816	\$24,172	\$33	\$3,104,546	\$23,699	\$32
Supported Investment@5.5% ROC	\$43,071,000	\$439,500	\$592	\$56,448,000	\$430,900	\$581
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,656,600	\$292,400	\$394	\$38,596,950	\$294,600	\$397
Fees & Permits	\$2,959,600	\$30,200	\$41	\$3,956,200	\$30,200	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,456,000	\$25,100	\$34	\$3,308,000	\$25,300	\$34
Overhead/Admin	\$819,000	\$8,400	\$11	\$1,103,000	\$8,400	\$11
Soft Cost Contingency	\$271,000	\$2,800	\$4	\$363,000	\$2,800	\$4
Financing	\$2,812,600	\$28,700	\$39	\$3,694,200	\$28,200	\$38
Total Costs	\$37,974,800	\$387,600	\$522	\$51,021,350	\$389,500	\$525
Residual Land Value	\$5,086,200	\$51,900	\$70	\$5,423,400	\$41,400	\$56
per acre	\$2,543,100			\$2,711,700		
per square foot land	\$58			\$62		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,344,800	\$452,500	97.1%	\$57,391,350	\$438,100	98.4%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 3E****Rental Pro Forma, on-site requirement, 70% AMI units and inclusionary % similar in cost to existing CIL****Inclusionary Housing Analysis****Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	% of Units	No. Units	Avg SF	% of Units	No. Units	Avg SF
Market Rate	83%	81	750	80%	104	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	18%	17	700	20%	27	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	741	100%	131	740
	[17.5% on-site, mix 70% AMI]			[17.5% on-site, + added 11% 4th floor]		
<u>Monthly Rents</u>		\$/Unit	\$/NSF		\$/Unit	\$/NSF
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,484	\$3.35		\$2,457	\$3.32
<u>Operating Income</u>	Total	\$/Unit	\$/NSF	Total	\$/Unit	\$/NSF
Gross Rent per year	\$2,920,708	\$29,803	\$40	\$3,863,106	\$29,489	\$40
Other Income	\$291,060	\$2,970	\$4	\$376,101	\$2,871	\$4
(Less) Vacancy/Bad Debt	(\$160,588)	(\$1,639)	(\$2)	(\$211,960)	(\$1,618)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,365,180	\$24,134	\$33	\$3,110,246	\$23,742	\$32
Supported Investment@5.5% ROC	\$43,002,000	\$438,800	\$592	\$56,553,000	\$431,700	\$583
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,607,250	\$291,900	\$394	\$38,531,850	\$294,100	\$397
Fees & Permits	\$2,959,600	\$30,200	\$41	\$3,943,100	\$30,100	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,452,000	\$25,000	\$34	\$3,303,000	\$25,200	\$34
Overhead/Admin	\$817,000	\$8,300	\$11	\$1,101,000	\$8,400	\$11
Soft Cost Contingency	\$271,000	\$2,800	\$4	\$362,000	\$2,800	\$4
Financing	\$2,812,600	\$28,700	\$39	\$3,694,200	\$28,200	\$38
Total Costs	\$37,919,450	\$386,900	\$522	\$50,935,150	\$388,800	\$525
Residual Land Value	\$5,086,200	\$51,900	\$70	\$5,619,900	\$42,900	\$58
per acre	\$2,543,100			\$2,809,950		
per square foot land	\$58			\$65		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,289,450	\$451,900	97.1%	\$57,305,150	\$437,400	98.7%
Feasibility Classification	Marginal Feasibility			Feasible		

**Appendix Table R 4A**  
**Rental Pro Forma, No Req.**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

	Rental, Three Stories			Rental, Four Stories Using Community Benefit		
<u>Residential Unit Mix</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>	<u>% of Units</u>	<u>No. Units</u>	<u>Avg SF</u>
Market Rate	100%	98	750	100%	131	750
Affordable (80% AMI)	0%	0	700	0%	0	700
Affordable (70% AMI)	0%	0	700	0%	0	700
Affordable (60% AMI)	0%	0	700	0%	0	700
Affordable (50% AMI)	0%	0	700	0%	0	700
	100%	98	750	100%	131	750
<u>Monthly Rents</u>		<u>\$/Unit</u>	<u>\$/NSF</u>		<u>\$/Unit</u>	<u>\$/NSF</u>
Market Rate		\$2,650	\$3.53		\$2,650	\$3.53
Affordable (80% AMI)		\$1,956	\$2.79		\$1,956	\$2.79
Affordable (70% AMI)		\$1,699	\$2.43		\$1,699	\$2.43
Affordable (60% AMI)		\$1,442	\$2.06		\$1,442	\$2.06
Affordable (50% AMI)		\$1,186	\$1.69		\$1,186	\$1.69
Weighted Average		\$2,650	\$3.53		\$2,650	\$3.53
<u>Operating Income</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>	<u>Total</u>	<u>\$/Unit</u>	<u>\$/NSF</u>
Gross Rent per year	\$3,116,400	\$31,800	\$42	\$4,165,800	\$31,800	\$42
Other Income	\$352,800	\$3,600	\$5	\$471,600	\$3,600	\$5
(Less) Vacancy/Bad Debt	(\$173,460)	(\$1,770)	(\$2)	(\$231,870)	(\$1,770)	(\$2)
(Less) OPEX	(\$686,000)	(\$7,000)	(\$9)	(\$917,000)	(\$7,000)	(\$9)
Net Operating Income (NOI)	\$2,609,740	\$26,630	\$36	\$3,488,530	\$26,630	\$36
Supported Investment@5.5% ROC	\$47,452,000	\$484,200	\$646	\$63,430,000	\$484,200	\$646
<u>Development Costs excl. Land</u>						
Direct Construction incl. conting.	\$28,872,900	\$294,600	\$393	\$38,941,350	\$297,300	\$396
Fees & Permits	\$2,989,000	\$30,500	\$41	\$3,995,500	\$30,500	\$41
CIL for IH reqrmt	\$0	\$0	\$0	\$0	\$0	\$0
A&E/prof fees/taxes/Ins./other	\$2,475,000	\$25,300	\$34	\$3,338,000	\$25,500	\$34
Overhead/Admin	\$825,000	\$8,400	\$11	\$1,113,000	\$8,500	\$11
Soft Cost Contingency	\$273,000	\$2,800	\$4	\$367,000	\$2,800	\$4
Financing	\$3,106,600	\$31,700	\$42	\$4,152,700	\$31,700	\$42
Total Costs	\$38,541,500	\$393,300	\$524	\$51,907,550	\$396,300	\$528
Residual Land Value	\$8,908,200	\$90,900	\$121	\$11,514,900	\$87,900	\$117
per acre	\$4,454,100			\$5,757,450		
per square foot land	\$102			\$132		
Estimated Land Cost (target value)	\$6,370,000	\$65,000	as %Costs	\$6,370,000	\$48,600	as %Costs
Total Cost w/Est. Land Cost	\$44,911,500	\$458,300	105.7%	\$58,277,550	\$444,900	108.8%
Feasibility Classification	Feasible			Feasible		

**Appendix A Table 5**  
**Fees and Permits Detail**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

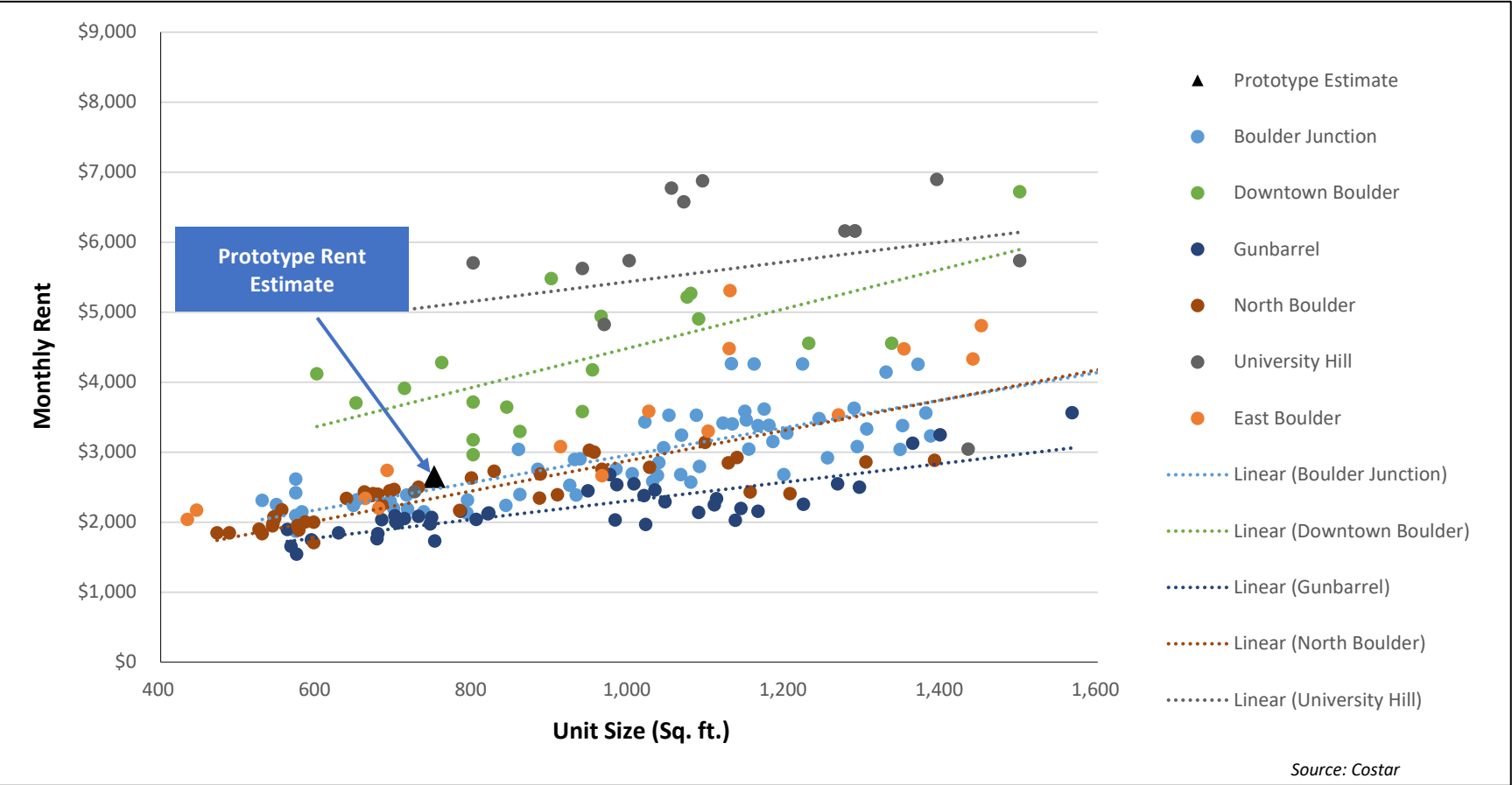
	Townhomes / Rowhomes	Small Stacked Condo Project, Three Stories	Larger Stacked Condo Project, Four Stories	Rental, Three Stories	Rental, Four Stories Using Community Benefit
<b>BP Value Schedule</b>	159	159	159	159	159
<b>Efficiency</b>	100%	85%	85%	85%	85%
<b>Estimate BP Value per unit</b>	\$278,250	\$261,882	\$233,824	\$140,294	\$140,294
Density (dwelling units/acre)	24 dua	26 dua	78 dua	49 dua	66 dua
Average Unit Size	1,750 sf	1,400 sf	1,250 sf	750 sf	750 sf
Average No. of Bedrooms	3.0 BR	2.0 BR	1.7 BR	1.0 BR	1.0 BR
<b>Unit Mix</b>					
Studio	0	0	0	20%	20%
1 BR	0%	15%	45%	60%	60%
2 BR	0%	75%	40%	18%	18%
3BR	100%	10%	15%	2%	2%
4BR	0%	0%	0%	0%	0%
<b>Estimated Cost Per Unit</b>					
Transportation Excise Tax	\$2,995	\$2,995	\$2,995	\$2,995	\$2,995
Sales and use tax	\$12,584	\$11,844	\$10,575	\$6,345	\$6,345
Capital Facilities	\$7,744	\$7,136	\$6,420	\$6,420	\$6,420
Water Plant Investment Fee	\$9,796	\$7,837	\$7,837	\$7,837	\$7,837
Wastewater Plant Investment Fee	\$3,495	\$3,056	\$3,056	\$3,056	\$3,056
Stormwater PIF	\$4,465	\$4,082	\$1,374	\$2,187	\$1,636
Other permit and insp fees	<u>\$5,250</u>	<u>\$4,200</u>	<u>\$3,750</u>	<u>\$2,250</u>	<u>\$2,250</u>
	\$46,329	\$41,150	\$36,007	\$31,090	\$30,539
Total Fee PSF, not including IH	\$26	\$29	\$29	\$41	\$41

## **APPENDIX B - MARKET DATA AND SUMMARY OF PRECEDENT PROJECTS**

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Appendix Table B 1A  
Effective Rents for Rental Properties Built Since 2010  
Inclusionary Housing Analysis  
Boulder, CO



**Appendix Table B 1B**  
**Rents by Project, Apartments Built Since 2010**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar, 1/2023

Project	Avg SF	BRs	No. of Units	Effective Rent	\$/SF
Boulder Commons	651	1	1	\$2,317	\$3.56
Boulder Commons	858	2	1	\$3,039	\$3.54
Boulder Commons	860	2	1	\$2,396	\$2.79
Boulder Commons	1,044	2	1	\$3,063	\$2.93
Boulder Commons	1,051	2	1	\$3,529	\$3.36
Boulder Commons	1,066	2	1	\$2,680	\$2.51
Boulder Commons	1,067	2	5	\$3,244	\$3.04
Boulder Commons	1,086	2	6	\$3,527	\$3.25
Boulder Commons	1,120	2	1	\$3,416	\$3.05
Boulder Commons	1,131	2	1	\$4,265	\$3.77
Boulder Commons	1,160	2	1	\$4,260	\$3.67
Boulder Commons	1,165	2	12	\$3,379	\$2.90
Boulder Commons	1,222	2	1	\$4,260	\$3.49
Boulder Commons	1,329	2	1	\$4,142	\$3.12
Boulder Commons	1,370	2	3	\$4,254	\$3.11
Griffis 3100 Pearl	573	0	35	\$1,872	\$3.27
Griffis 3100 Pearl	573	1	130	\$2,096	\$3.66
Griffis 3100 Pearl	698	1	4	\$2,199	\$3.15
Griffis 3100 Pearl	716	1	20	\$2,186	\$3.05
Griffis 3100 Pearl	793	1	2	\$2,313	\$2.92
Griffis 3100 Pearl	932	1	2	\$2,385	\$2.56
Griffis 3100 Pearl	573	2	30	\$2,420	\$4.22
Griffis 3100 Pearl	573	2	92	\$2,617	\$4.57
Griffis 3100 Pearl	1,153	2	1	\$3,042	\$2.64
Griffis 3100 Pearl	1,184	2	3	\$3,151	\$2.66
RÊVE	530	0	2	\$2,309	\$4.36
RÊVE	581	0	1	\$2,147	\$3.70
RÊVE	647	0	2	\$2,239	\$3.46
RÊVE	548	1	24	\$2,249	\$4.10
RÊVE	694	1	19	\$2,297	\$3.31
RÊVE	715	1	74	\$2,386	\$3.34
RÊVE	737	1	2	\$2,147	\$2.91
RÊVE	883	1	28	\$2,754	\$3.12
RÊVE	924	1	3	\$2,526	\$2.73
RÊVE	937	1	7	\$2,903	\$3.10
RÊVE	983	1	3	\$2,761	\$2.81
RÊVE	1,004	1	1	\$2,691	\$2.68
RÊVE	1,090	1	6	\$2,796	\$2.57
RÊVE	1,350	1	4	\$3,381	\$2.50
RÊVE	1,927	1	7	\$3,824	\$1.98
RÊVE	1,020	2	2	\$3,430	\$3.36
RÊVE	1,148	2	2	\$3,584	\$3.12
RÊVE	1,150	2	1	\$3,459	\$3.01
RÊVE	1,173	2	1	\$3,616	\$3.08
RÊVE	1,202	2	20	\$3,272	\$2.72
RÊVE	1,243	2	7	\$3,480	\$2.80
RÊVE	1,380	2	3	\$3,561	\$2.58

**Appendix Table B 1B**  
**Rents by Project, Apartments Built Since 2010**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar, 1/2023

Project	Avg SF	BRs	No. of Units	Effective Rent	\$/SF
RÊVE	1,716	2	2	\$4,217	\$2.46
RÊVE	1,800	2	1	\$5,503	\$3.06
RÊVE	1,800	2	1	\$4,457	\$2.48
RÊVE	1,959	2	7	\$4,223	\$2.16
RÊVE	2,150	2	1	\$5,574	\$2.59
RÊVE	2,200	2	1	\$4,542	\$2.06
RÊVE	2,471	2	1	\$5,401	\$2.19
RÊVE	1,665	3	5	\$4,479	\$2.69
RÊVE	1,690	3	1	\$5,566	\$3.29
RÊVE	1,870	3	1	\$5,314	\$2.84
RÊVE	1,890	3	1	\$5,119	\$2.71
RÊVE	2,030	3	1	\$5,098	\$2.51
Two Nine North	792	1	26	\$2,129	\$2.69
Two Nine North	842	1	54	\$2,238	\$2.66
Two Nine North	930	1	6	\$2,894	\$3.11
Two Nine North	1,030	1	16	\$2,584	\$2.51
Two Nine North	1,036	1	18	\$2,666	\$2.57
Two Nine North	1,079	1	23	\$2,570	\$2.38
Two Nine North	1,038	2	1	\$2,853	\$2.75
Two Nine North	1,132	2	2	\$3,404	\$3.01
Two Nine North	1,179	2	10	\$3,383	\$2.87
Two Nine North	1,198	2	61	\$2,680	\$2.24
Two Nine North	1,254	2	1	\$2,919	\$2.33
Two Nine North	1,288	2	8	\$3,626	\$2.82
Two Nine North	1,292	2	1	\$3,079	\$2.38
Two Nine North	1,304	2	4	\$3,332	\$2.56
Two Nine North	1,347	2	4	\$3,039	\$2.26
Two Nine North	1,386	2	3	\$3,231	\$2.33
17 Walnut	600	1	1	\$4,118	\$6.86
17 Walnut	650	1	2	\$3,702	\$5.70
17 Walnut	712	1	1	\$3,912	\$5.49
17 Walnut	760	1	1	\$4,278	\$5.63
17 Walnut	800	1	1	\$2,965	\$3.71
17 Walnut	800	1	1	\$3,174	\$3.97
17 Walnut	843	1	2	\$3,644	\$4.32
17 Walnut	860	1	2	\$3,295	\$3.83
17 Walnut	800	2	2	\$3,717	\$4.65
17 Walnut	900	2	1	\$5,479	\$6.09
17 Walnut	940	2	4	\$3,581	\$3.81
17 Walnut	953	2	1	\$4,175	\$4.38
17 Walnut	964	2	1	\$4,938	\$5.12
17 Walnut	1,074	2	1	\$5,217	\$4.86
17 Walnut	1,089	2	1	\$4,902	\$4.50
17 Walnut	1,230	2	1	\$4,554	\$3.70
17 Walnut	1,079	3	1	\$5,269	\$4.88
17 Walnut	1,336	3	1	\$4,554	\$3.41
17 Walnut	1,500	3	1	\$6,718	\$4.48

**Appendix Table B 1B**  
**Rents by Project, Apartments Built Since 2010**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar, 1/2023

Project	Avg SF	BRs	No. of Units	Effective Rent	\$/SF
Apex 5510	567	0	1	\$1,656	\$2.92
Apex 5510	593	0	23	\$1,746	\$2.94
Apex 5510	677	0	2	\$1,761	\$2.60
Apex 5510	982	0	2	\$2,029	\$2.07
Apex 5510	683	1	18	\$2,033	\$2.98
Apex 5510	700	1	3	\$2,092	\$2.99
Apex 5510	701	1	53	\$2,003	\$2.86
Apex 5510	703	1	18	\$1,988	\$2.83
Apex 5510	819	1	9	\$2,117	\$2.58
Apex 5510	820	1	39	\$2,132	\$2.60
Apex 5510	1,021	2	38	\$1,966	\$1.93
Apex 5510	1,046	2	1	\$2,289	\$2.19
Apex 5510	1,109	2	2	\$2,245	\$2.02
Apex 5510	1,143	2	5	\$2,195	\$1.92
Apex 5510	1,165	2	17	\$2,155	\$1.85
Boulder View	562	0	3	\$1,895	\$3.37
Boulder View	712	1	6	\$2,049	\$2.88
Boulder View	751	1	41	\$1,729	\$2.30
Boulder View	804	1	2	\$2,039	\$2.54
Boulder View	947	2	6	\$2,445	\$2.58
Boulder View	975	2	3	\$2,679	\$2.75
Boulder View	984	2	3	\$2,534	\$2.58
Boulder View	1,006	2	3	\$2,546	\$2.53
Boulder View	1,033	2	1	\$2,458	\$2.38
Gunbarrel Center	574	0	22	\$1,544	\$2.69
Gunbarrel Center	628	1	22	\$1,847	\$2.94
Gunbarrel Center	678	1	22	\$1,834	\$2.71
Gunbarrel Center	730	1	22	\$2,081	\$2.85
Gunbarrel Center	745	1	22	\$1,975	\$2.65
Gunbarrel Center	747	1	22	\$2,065	\$2.76
Gunbarrel Center	784	1	22	\$2,154	\$2.75
Gunbarrel Center	1,019	1	12	\$2,379	\$2.33
Gunbarrel Center	1,089	2	11	\$2,139	\$1.96
Gunbarrel Center	1,112	2	10	\$2,333	\$2.10
Gunbarrel Center	1,136	2	9	\$2,025	\$1.78
Gunbarrel Center	1,223	2	11	\$2,253	\$1.84
Gunbarrel Center	1,267	2	9	\$2,547	\$2.01
Gunbarrel Center	1,295	2	9	\$2,497	\$1.93
Gunbarrel Center	1,363	3	9	\$3,127	\$2.29
Gunbarrel Center	1,398	3	9	\$3,249	\$2.32
Gunbarrel Center	1,567	3	8	\$3,562	\$2.27
The Armory	488	0	2	\$1,846	\$3.78
The Armory	526	0	4	\$1,899	\$3.61
The Armory	530	0	2	\$1,835	\$3.46
The Armory	543	0	13	\$1,947	\$3.59
The Armory	544	0	20	\$1,981	\$3.64
The Armory	546	0	16	\$2,054	\$3.76

**Appendix Table B 1B**  
**Rents by Project, Apartments Built Since 2010**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar, 1/2023

Project	Avg SF	BRs	No. of Units	Effective Rent	\$/SF
The Armory	575	0	3	\$1,952	\$3.39
The Armory	577	0	6	\$1,887	\$3.27
The Armory	585	0	6	\$2,002	\$3.42
The Armory	596	0	2	\$1,997	\$3.35
The Armory	545	1	4	\$2,074	\$3.81
The Armory	555	1	4	\$2,176	\$3.92
The Armory	638	1	2	\$2,340	\$3.67
The Armory	661	1	5	\$2,432	\$3.68
The Armory	670	1	6	\$2,379	\$3.55
The Armory	672	1	2	\$2,408	\$3.58
The Armory	678	1	2	\$2,398	\$3.54
The Armory	683	1	14	\$2,247	\$3.29
The Armory	693	1	2	\$2,447	\$3.53
The Armory	699	1	2	\$2,466	\$3.53
The Armory	730	1	9	\$2,500	\$3.42
The Armory	798	1	7	\$2,632	\$3.30
The Armory	827	1	4	\$2,727	\$3.30
The Armory	886	1	2	\$2,688	\$3.03
The Armory	1,026	1	3	\$2,782	\$2.71
The Armory	949	2	11	\$3,027	\$3.19
The Armory	955	2	8	\$2,998	\$3.14
The Armory	965	2	7	\$2,756	\$2.86
The Armory	1,097	2	6	\$3,139	\$2.86
The Armory	1,127	2	7	\$2,848	\$2.53
The Armory	1,138	2	2	\$2,922	\$2.57
The Armory	1,790	3	1	\$4,609	\$2.57
The Armory	2,185	3	4	\$5,711	\$2.61
The Armory	2,232	3	3	\$5,775	\$2.59
The Armory	2,236	3	2	\$5,727	\$2.56
The Armory	2,359	3	1	\$6,098	\$2.58
The Armory	2,360	3	1	\$6,141	\$2.60
The Armory	2,614	4	3	\$6,780	\$2.59
The Armory	2,852	4	1	\$7,364	\$2.58
The Armory	2,970	4	1	\$5,799	\$1.95
The Armory	3,134	4	1	\$8,047	\$2.57
Violet on Broadway	472	0	9	\$1,847	\$3.91
Violet on Broadway	596	1	29	\$1,707	\$2.86
Violet on Broadway	783	2	10	\$2,166	\$2.77
Violet on Broadway	908	2	50	\$2,389	\$2.63
Wonderland Creek THs	885	2	2	\$2,342	\$2.65
Wonderland Creek THs	1,155	2	10	\$2,431	\$2.10
Wonderland Creek THs	1,206	2	22	\$2,405	\$1.99
Wonderland Creek THs	1,303	3	5	\$2,860	\$2.19
Wonderland Creek THs	1,391	3	2	\$2,882	\$2.07
Parc Mosaic	434	1	63	\$2,037	\$4.69
Parc Mosaic	446	1	78	\$2,171	\$4.87
Parc Mosaic	662	1	4	\$2,337	\$3.53

**Appendix Table B 1B**  
**Rents by Project, Apartments Built Since 2010**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar, 1/2023

Project	Avg SF	BRs	No. of Units	Effective Rent	\$/SF
Parc Mosaic	679	1	10	\$2,197	\$3.24
Parc Mosaic	690	1	7	\$2,740	\$3.97
Parc Mosaic	912	1.5	5	\$3,081	\$3.38
Parc Mosaic	965	2	5	\$2,665	\$2.76
Parc Mosaic	1,101	2	5	\$3,300	\$3.00
Parc Mosaic	1,129	2	2	\$5,309	\$4.70
Parc Mosaic	1,128	1	5	\$4,480	\$3.97
Parc Mosaic	1,268	2	21	\$3,530	\$2.78
Parc Mosaic	1,025	2	4	\$3,582	\$3.49
Parc Mosaic	1,352	2.5	4	\$4,474	\$3.31
Parc Mosaic	1,451	2.5	6	\$4,806	\$3.31
Parc Mosaic	1,440	3	7	\$4,331	\$3.01
East Village Flats	476	1	1	\$1,825	\$3.83
East Village Flats	838	2	1	\$2,772	\$3.31
East Village Flats	860	3	3	\$3,285	\$3.82
East Village Flats	874	3	34	\$3,555	\$4.07
1005 on the Block	940	3	5	\$5,623	\$5.98
1005 on the Block	1,054	4	1	\$6,770	\$6.42
1005 on the Block	1,070	4	1	\$6,577	\$6.15
1005 on the Block	1,094	4	1	\$6,877	\$6.29
1005 on the Block	1,394	4	1	\$6,897	\$4.95
1725 18th St	725	2	1	\$2,435	\$3.36
1725 18th St	1,434	2	2	\$3,044	\$2.12
1912 Arapahoe Ave	1,000	4	1	\$5,737	\$5.74
1912 Arapahoe Ave	1,500	4	4	\$5,737	\$3.82
Lofts On College	800	2	1	\$5,702	\$7.13
Lofts On College	968	3	3	\$4,825	\$4.98
Lofts On College	1,276	4	4	\$6,160	\$4.83
Lofts On College	1,289	4	2	\$6,160	\$4.78
Lofts On College	1,289	4	3	\$6,160	\$4.78

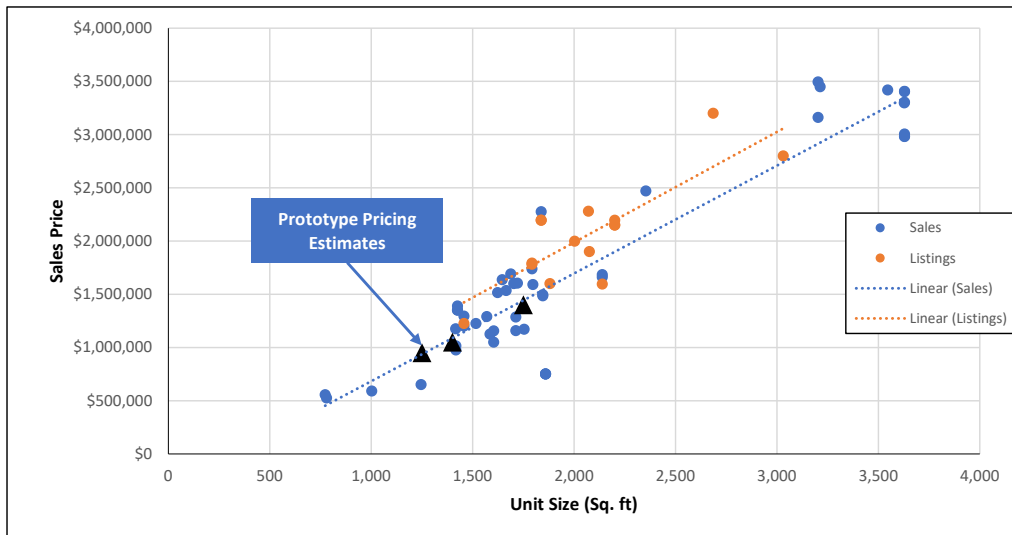
**Appendix Table B 2A**  
**Attached Unit Sales and Listings (Built and Sold Between 2020-22)**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Address	Yr Built	Sale Date	# Bath	# Bed	Sq. ft	Price	\$/SF
2805 Broadway St Unit A	2021	10/15/2022	3.5	3	3,213	\$3,450,000	\$1,074
2805 Broadway St Unit E	2021	3/2/2021	3.5	3	3,203	\$3,495,000	\$1,091
2805 Broadway St Unit C	2021	2/26/2021	3.5	3	3,203	\$3,161,525	\$987
2010 Pearl St Unit C	2022	4/20/2023	4	3	1,792	\$1,738,500	\$970
2010 Pearl St Unit C	2022	2/28/2023	3	3	1,838	\$2,275,000	\$1,238
2128 Pearl St Unit B	2020	7/16/2021	3.5	3	1,665	\$1,535,000	\$922
2128 Pearl St Unit C	2020	6/23/2021	2.5	3	1,720	\$1,603,500	\$932
2126 Pearl St Unit A	2020	8/11/2022	3.5	3	1,646	\$1,637,000	\$995
2128 Pearl St Unit A	2020	6/30/2020	3.5	3	1,688	\$1,690,000	\$1,001
2126 Pearl St Unit C	2020	8/7/2020	2.5	3	1,702	\$1,600,000	\$940
2126 Pearl St Unit B	2020	8/25/2020	3.5	3	1,623	\$1,515,000	\$933
1955 3rd St #5	2022	6/8/2022	4.5	4	3,629	\$3,403,491	\$938
1955 3rd St #8	2022	7/25/2022	4.5	4	3,629	\$3,406,638	\$939
1955 3rd St #1	2022	6/2/2022	4.5	4	3,546	\$3,417,859	\$964
1955 3rd St #3	2022	6/3/2022	4.5	4	3,629	\$3,004,872	\$828
1955 3rd St #4	2022	6/24/2022	4.5	4	3,629	\$2,980,390	\$821
1955 3rd St #10	2022	6/10/2022	4.5	4	3,629	\$2,984,143	\$822
1955 3rd St #2	2022	6/3/2022	4.5	4	3,628	\$3,296,343	\$909
1955 3rd St #9	2022	6/8/2022	4.5	4	3,629	\$3,302,765	\$910
2718 Pine St #201	2020	7/16/2021	2	2	1,417	\$975,000	\$688
2718 Pine St 203	2020	01/07/2021	2	2	1,416	\$1,175,000	\$830
2718 Pine St #204	2020	3/25/2021	2.5	2	1,713	\$1,157,000	\$675
2718 Pine St #205	2020	6/10/2021	2	2	1,603	\$1,050,000	\$655
2718 Pine St #207	2020	1/13/2021	1	1	773	\$555,000	\$718
2718 Pine St #301	2020	3/1/2021	2	2	1,417	\$1,015,000	\$716
2718 Pine St #302	2020	4/22/2021	2	2	1,585	\$1,125,000	\$710
2718 Pine St 303	2020	12/24/2020	2	2	1,516	\$1,225,000	\$808
2718 Pine St 304	2020	12/23/2020	3	2	1,713	\$1,285,000	\$750
2718 Pine St 305	2020	1/19/2021	2	2	1,603	\$1,155,000	\$721
2718 Pine St #306	2020	6/18/2021	2	2	1,754	\$1,170,000	\$667
2461 Walnut St	2021	8/10/2022	3.5	3	1,846	\$1,495,000	\$810
2465 Walnut St #1	2021	9/9/2022	2.5	2	1,569	\$1,290,000	\$822
2465 Walnut St #2	2023	3/24/2023	2.5	2	1,457	\$1,295,000	\$889
2465 Walnut St #12	2021	8/10/2022	2.5	2	1,457	\$1,200,000	\$824
2463 Walnut St	2021	8/17/2022	3.5	3	2,139	\$1,660,000	\$776
2455 Walnut St	2021	8/2/2022	3.5	3	2,139	\$1,685,000	\$788
2469 Walnut St	2021	12/15/2022	3.5	3	1,846	\$1,485,000	\$804
3261 Airport Rd #202	2021	11/19/2021	2	2	1,002	\$590,000	\$589
3281 Airport Rd #307	2021	12/3/2021	1	1	779	\$525,000	\$674
3271 Airport Rd #130	2021	9/3/2021	2.5	2	1,859	\$751,500	\$404
3271 Airport Rd #128	2021	9/3/2021	2	2	1,245	\$651,500	\$523
3271 Airport Rd #131	2021	9/9/2021	2.5	2	1,859	\$751,500	\$404
3271 Airport Rd #132	2021	9/13/2021	2.5	2	1,859	\$751,500	\$404
2140 Folsom St	2022	6/30/2023	3.5	3	2,353	\$2,470,000	\$1,050
940 North St Unit B	2021	3/9/2022	2.5	3	1,425	\$1,350,000	\$947
940 North St Unit A	2021	3/9/2022	2.5	3	1,425	\$1,390,000	\$975
936 North St Unit B	2021	2/23/2022	3.5	3	1,797	\$1,590,000	\$885
938 North St Unit A	2020	3/2/2022	2.5	3	1,425	\$1,350,000	\$947
Average					2,047	\$1,743,021	\$826

Source: Redfin.com

**Appendix Table B 2B**  
**Recently Built Attached Unit Listings**  
**Inclusionary Housing - Market Analysis**  
**City of Boulder, CO**

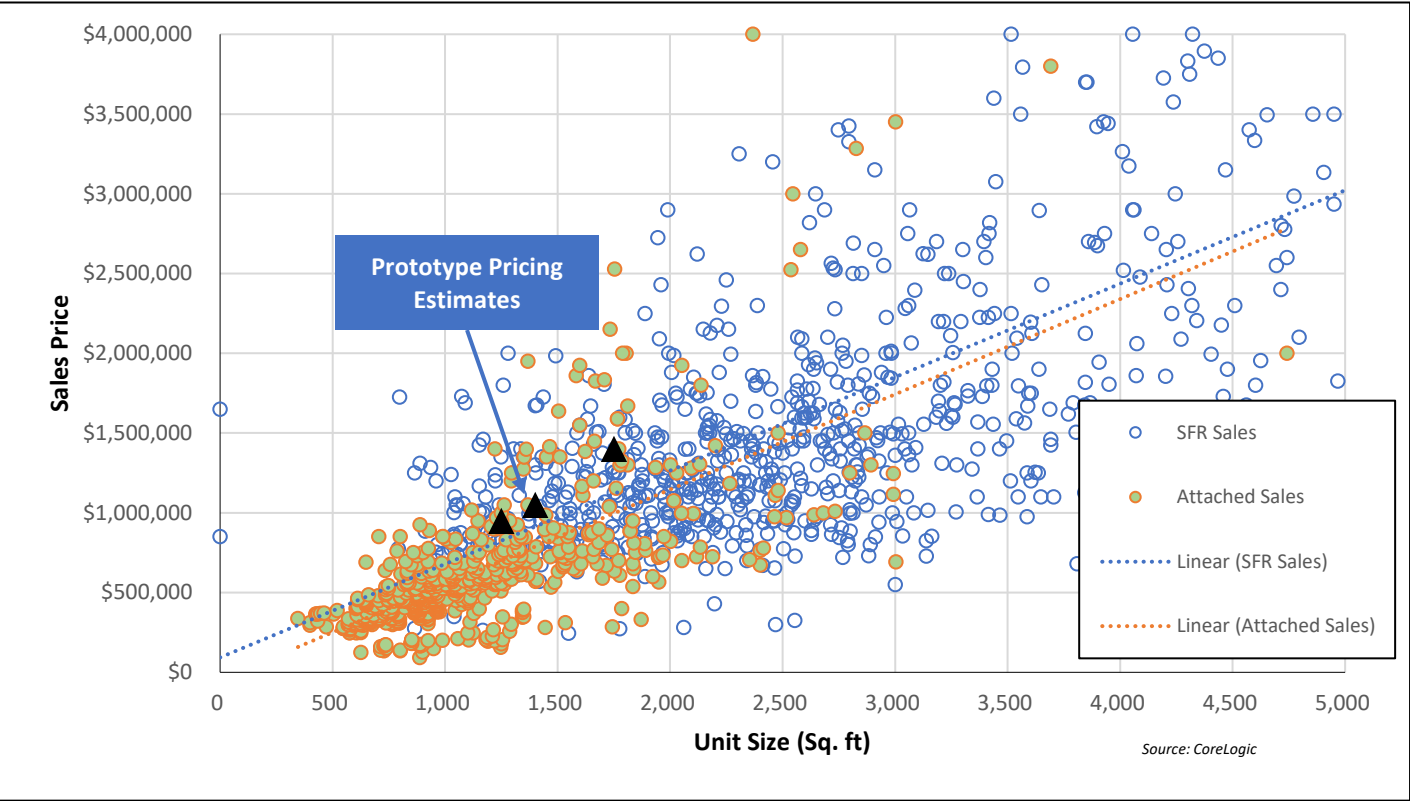
Address	Yr Built	Sale Date	# Bath	# Bed	SF	Sale Price	\$/SF	
<b>Listings</b>								
944 Arapahoe Ave	2022	N/A	3	3	2,685	\$3,200,000	\$1,192	
2475 Walnut St	2022	N/A	3.5	3	2,139	\$1,595,000	\$746	
2457 Walnut St	2022	N/A	3.5	3	1,881	\$1,600,000	\$851	
2465 Walnut St	2022	N/A	2.5	2	1,457	\$1,225,000	\$841	
2010 Pearl St	2022	N/A	4	3	1,792	\$1,792,000	\$1,000	
2010 Pearl St Unit B	2022	N/A	4	2	1,792	\$1,782,000	\$994	
2010 Pearl St Unit D	2022	N/A	3	3	1,838	\$2,195,000	\$1,194	
2707 Pine	2022	N/A	3.5	4	2,200	\$2,195,000	\$998	
2709 Pine	2022	N/A	3.5	4	2,200	\$2,150,000	\$977	
2711 Pine	2022	N/A	3.5	4	2,200	\$2,150,000	\$977	
1831 22nd ST Unit 3	2022	N/A	2.5	3	2,002	\$1,999,000	\$999	
2010 Pearl St Unit B	2022	N/A	3	3	1,838	\$2,195,000	\$1,194	
2130 Folsom St	2022	N/A	3.5	3	2,071	\$2,280,000	\$1,101	
2160 Folsom St	2022	N/A	3	4	3,031	\$2,800,000	\$924	
2120 Folsom St	2022	N/A	3.5	3	2,075	\$1,900,000	\$916	
Source: Redfin.com					Average	2,080	\$2,070,533	\$994



Source: Redfin.com



**Appendix Table B 3**  
**Sales Prices for Re-Sale of Existing Homes in Boulder**  
**Inclusionary Housing Analysis**  
**Boulder, CO**



**Appendix Table B 4**  
**Residential Land Sales**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

			Est.	Units/					Mixed	
Site	Land SF	Zoning	Units	Acre	Sale Yr	Price (\$M)	\$/Land SF	\$/Unit	Use <sup>1</sup>	Note
A. Rental Development Sites										
Downtown and Vicinity										
The Collective (15th St)	84,942	DT-5	147	75	2018	\$17.9M	\$210	\$121,000	x	Apartments
1750 14th St	32,234	DT-5	42	57	2015	\$2.0M	\$62	\$48,000	x	Apartments
Weighted Average							\$170	\$105,000		
Outside Downtown										
1530 55th Street	43,143	BC-1	TBD		2023 listing	\$3.6M	\$83	TBD		listing for apt site
3365 Diagonal Hwy	416,869		230	24	2021	\$10.7M	\$26	\$46,000		Apartments
2360 30th St	47,203		76	70	2019	\$5.5M	\$117	\$72,000		Apts, IH already met
4750 Broadway St	376,828	U-1, Bould	201	23	2019	\$17.8M	\$47	\$89,000		Armory Apartments
3200 Bluff St	46,230	MU-4	36	34	2018	\$2.5M	\$54	\$69,000	x	Apartments
3289 Airport Rd	113,256	IG	70	27	2018	\$3.7M	\$33	\$53,000		Apartments
5801 Arapahoe	639,224		317	22	2017	\$7.9M	\$12	\$25,000	x	Apartments
Reve Boulder (3 Props.)	196,891	BR-1	257	57	2017	\$16.5M	\$84	\$64,000	x	Apartments
3705 Diagonal Hwy	726,167	BT-1	357	21	2017	\$7.5M	\$10	\$21,000	x	Apartments
3085 Bluff St <sup>3</sup>	81,936	RH-6	51	27	2016	\$3.5M	\$43	\$69,000	x	Apartments
3390-3392 Valmont Rd <sup>3</sup>	257,875	MU-4	161	27	2015	\$13.5M	\$52	\$84,000	x	Apartments
Weighted Average							\$31	\$51,000		
Weighted Average exl 5801 Arapahoe							\$37	\$56,000		
Student Housing										
			BRs							
770 28th St	108,900	BT-1	942	377	2021	\$28.5M	\$262	\$30,000		Student, exist hotel
1912 Arapahoe Ave	15,160	RH-1	20	57	2019	\$4.4M	\$289	\$219,000		Student (unit = br)
2333 Arapahoe Ave	15,322	BT-2	18	51	2015	\$0.7M	\$47	\$40,000		Student
Weighted Average							\$241	\$34,000		
Affordable Housing										
Bluff and 29th	81,100	BMS-X	100	54	2020	\$8.8M	\$108	\$87,500	x	Affordable
1665 33rd St	67,953	BR-1	132	85	2017	\$4.5M	\$66	\$34,000		Senior
4871 Broadway St	74,923	IS-1	55	32	2016	\$2.8M	\$37	\$51,000		Affordable
Weighted Average							\$72	\$56,000		
B. For-Sale Housing / Other										
Downtown and Vicinity										
2008 Pearl St	8,001	MU-3	4	22	2018	\$1.6M	\$200	\$400,000	x	Townhomes
2116 Pearl St	19,331	MU-3	11	25	2017	\$3.0M	\$155	\$273,000		Townhomes
1828 Pearl St	6,995	MU-3	4	25	2016	\$1.0M	\$147	\$258,000		Townhomes
2049 Pearl St	7,071	MU-3	5	31	2015	\$1.3M	\$180	\$255,000		Townhomes
Weighted Average							\$167	\$288,000		
Outside Downtown										
2718 Pine	21,019	BC-2	13	27	2019	\$2.9M	\$136	\$219,000	x	Condos
2751-2875 30th St	80,934	BT-1	na	na	2019	\$9.0M	\$111	na		City Fire Station
630 Terrace Ave	55,463	P	8	6	2017	\$3.0M	\$54	\$375,000		Townhomes
1900 Folsom	55,583		29	23	2017	\$5.6M	\$101	\$193,000		townhomes
Weighted Average							\$96	\$201,000		
Single Family										
4215 Broadway	50,965	RL-2	5	4	2022	\$3.1M	\$61	\$620,000		single family
2140 Tamarack Ave	56,192	Estate Zor	2	2	2020	\$2.0M	\$36	\$1,000,000		single family
Weighted Average							\$48	\$729,000		

<sup>1</sup> Commercial components have not been excluded from land value.

<sup>2</sup> Part of S'Park project. Allocation of total unit count (i.e., approximately 286 units divided by 10.5 acres).

**Appendix Table B 5**  
**Multifamily Property Sales**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Source: Costar

Property Address	Submarket	Year Built	No. Units	Density (du/ac)	Sale Yr	Price (\$M)	\$/Unit	\$/SF	Cap Rate
<b>Boulder Sales</b>									
1044 Pleasant St	University Hill	1901	8	67	2022	\$3.2	\$400,000	\$875	4.70%
298 Arapahoe Ave	Lower Arapahoe	1930	12	24	2022	\$3.2	\$266,667	\$669	4.80%
2950 Bixby Ln	Baseline Sub	1973	163	40	2022	\$50.0	\$306,748	\$265	
917 Baseline Rd	Lower Chautauqua	1909	15	71	2022	\$2.8	\$188,333	\$602	3.00%
4970 Meredith Way	Arapahoe Ridge	1991	216	24	2022	\$105.7	\$489,286	\$575	
2535 Spruce St	Whittier-Boulder	1990	4	24	2022	\$2.8	\$700,000	\$1,308	4.00%
1210 Linden Ave	Melody Heights	1966	4	18	2022	\$1.4	\$337,500	\$493	
2726 Moorhead Ave	Martin Acres	1993	144	29	2022	\$85.3	\$592,014	\$688	
3280 Madison Ave	Baseline Sub	1966	4	24	2022	\$1.7	\$415,600	\$406	

**Metro Denver Sales, Multifamily properties built in last five years**

18400 E Elmendorf Dr	Denver / Gateway		206	30	2021	\$66	\$319,903	\$320	4.20%
1350 Speer Blvd	Denver / Golden Triangle		322	140	2021	\$145	\$448,758	\$456	4.40%
1615 Pennsylvania St	Denver / Uptown Denver		99	126	2021	\$39	\$393,939	\$376	4.20%
18280 E 45th Ave	Denver / Gateway		270	31	2021	\$79	\$291,667	\$383	4.50%
1959 Wewatta St	Denver / LoDo		168	189	2021	\$174	\$1,037,202	\$512	3.30%
1586 Hooker St	Denver / West Colfax		60	122	2021	\$18	\$291,667	\$575	4.50%
2355 Mercantile St	Castle Rock		111	15	2021	\$35	\$313,964	\$290	4.30%
4040 Clear Creek Dr	Wheat Ridge		310	25	2021	\$142	\$458,065	\$458	3.80%
2103 Peregrine Dr	Brighton		136	11	2021	\$63	\$463,971	\$477	4.10%
4109 E 10th Ave (Part of M	Denver / Hale		319	140	2021	\$170	\$531,348	\$848	3.90%
985 Albion St (Part of Multi	Denver / Hale		275	89	2021	\$142	\$514,545	\$247	3.90%
2065 S Cherokee St	Denver / Overland		140	202	2022	\$58	\$410,714	\$592	3.50%
757 Grant St	Denver / Capitol Hill		68	91	2022	\$21	\$312,500	\$275	4.70%
9641 E Geddes Ave	Centennial		215	87	2022	\$95	\$441,860	\$380	4.30%
15068 E 103rd Pl	Commerce City		180	25	2023	\$65	\$363,056	\$404	4.50%
4811 S Niagara St	Denver / Denver Tech Center		310	121	2023	\$124	\$398,387	\$398	4.89%
13438 Oneida Ln	Thornton		102	92	2023	\$49	\$476,716	\$486	5.00%
3715 Bilberry St	Castle Rock		204	18	2023	\$67	\$329,167	\$322	5.40%

**Appendix Table B 6**  
**Recent Median Home Prices in Boulder and Surrounding Communities**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

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<u>Community</u>	<b>Median Market Sale Price</b>	
	<u>All Homes</u>	<u>Single Family</u>
Boulder	\$861,500	\$1,285,000
Longmont	\$587,500	\$620,000
Louisville	\$857,500	\$875,000
Erie	\$710,000	\$765,000
Lafayette	\$723,000	\$812,500
Broomfield	\$638,000	\$675,000
Denver	\$600,000	\$707,000

Representative Affordable Prices (attached units)

	<u>Low/Mod</u>	<u>80% AMI</u>	<u>100% AMI</u>	<u>120% AMI</u>
Two Bedroom	\$194,910	\$238,830	\$308,347	\$377,864
Three Bedroom	\$237,800	\$260,200	\$338,400	\$412,100

Source: Redfin sale prices, May 2023. City of Boulder 2023, Q3 affordable prices.

**Appendix Table B 7**  
**Illustrative Affordability Gap for LIHTC Project Used to Meet IH**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

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**Illustrative Affordability Gap for LIHTC Project Used to Meet IH**

*Net of Tax Credits and Supported Debt*

Example Project:	Spine Road Boulder	
No. of Units	59 Units	
	<b><u>Total</u></b>	<b><u>Per Unit</u></b>
Development Cost, excl land <sup>(1)</sup>	\$21,867,098	\$370,629
<b>Sources</b>		
Tax Credit Equity	\$7,306,778	\$123,844
First Mortgage	\$9,950,000	\$168,644
Deferred Developer Fee	<u>\$963,320</u>	<u>\$16,327</u>
Subtotal	\$18,220,098	\$308,815
Grants	\$822,000	\$13,932
CDOH soft debt	\$1,475,000	\$25,000
Developer soft debt	<u>\$1,350,000</u>	<u>\$22,881</u>
Subtotal	\$3,647,000	\$61,814
Total Sources	<u>\$21,867,098</u>	<u>\$370,629</u>
<b>Developer Funding Recap</b>		
Developer Soft Debt	\$1,350,000	\$22,881
Land Value (land residual in current CIL scenario)	<u>\$2,821,739</u>	<u>\$51,700</u>
Total	\$4,171,739	\$74,581
	<b>Rounded:</b>	<b>\$75,000</b>
	<b>Per Market Rate Unit at 25%</b>	<b>\$25,000</b>
	<b>Per Market Rate Unit with com benefit</b>	<b>\$28,806</b>

*Source: Tax Credit Application + estimated land value.*

**Notes**





(1) No land cost identified, donated site from market developer.

(2) Example selected as it is a developer initiated 4% LIHTC project being used to meet the IH obligation for a market rate project.


**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Rental	Rental	Rental	Rental
				
<b>Project Name</b>	<b>Oliv</b>	<b>Platform at S'park</b>	<b>RÊVE Boulder</b>	<b>The Standard at Boulder</b>
<b>Location</b>	1750 15th St	3350 Bluff St	3000 Pearl Pky	1345 28th ST
<b>Status</b>	Under Cxn	Built	Built	Proposed
<b>Site Size</b>	1.88 ac.	1.14 ac.	5.12 ac.	15 ac.
<b>No. of Dwelling Units (du)</b>	150 du	85 du	242 du	303 du
notes				942 beds
<b>Density (du/ac)</b>	79.8 dua	74.6 dua	47.3 dua	20.2 dua
<b>Unit Size Range</b>	297 - 1,742 sf	417 -1,156 sf	530 - 2,030sf	estimated at
<b>Average Unit Size</b>	709 sf	653 sf	967 sf	1,228 sf
<b>Bedroom Mix</b>				
Studio	Development will consist of studio, 1, 2, 3, and 4 bedroom apartments.	30%	2%	11%
1-Bedrooms		23%	73%	10%
2-Bedrooms		23%	21%	12%
3-Bedrooms		23%	4%	4%
4-Bedrooms				64%
5-Bedrooms				
<b>Avg No. Bedrooms</b>		1.4 BRs	1.3 BRs	3.0 BRs
<b>No of Stories</b>	3-story building.	4-story building.	5-story building.	4-story buildings
<b>Parking</b>	Structured parking	below grade	Structured, and surface parking	Surface

**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**




Unit Type	Rental	Rental	Rental	Rental
				
<b>Project Name</b>	<b>2900 East College</b>	<b>Diagonal Plaza</b>	<b>Boulder Commons</b>	<b>Armory #1</b>
<b>Location</b>	2900 E. College Ave	3320 28th ST	3200 Bluff St	4750 Broadway
<b>Status</b>	Proposed	Proposed	Built	Built
<b>Site Size</b>	0.52 ac.	9 ac.	1.11 acres	5.74 acres
<b>No. of Dwelling Units (du)</b> notes	39 du	310 du incl 30 existing units	37 du	183 du
<b>Density (du/ac)</b>	74.3 dua	33.7 dua	33.3 dua	31.9 dua
<b>Unit Size Range</b>	800 - 1,300 sf		651 - 1,333 sf	530 - 1,127 sf
<b>Average Unit Size</b>	1,050 sf	na	1,120 sf	724 sf
<b>Bedroom Mix</b>				
Studio	0%	15%		40%
1-Bedrooms	5%	51%	3%	37%
2-Bedrooms	0%	28%	97%	22%
3-Bedrooms	62%	6%		
4-Bedrooms	33%			
5-Bedrooms				
<b>Avg No. Bedrooms</b>	3.2 BRs	1.3 BRs	2.0 BRs	0.8 BRs
<b>No of Stories</b>	4-story buildings	3 and 4-story buildings	4-story building.	2-story buildings.
<b>Parking</b>	two levels of below grade parking	Structure	below grade	Structured, and surface parking

**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**




Unit Type	Rental	Rental	Rental	Rental
		no image		
<b>Project Name</b>	<b>BASELINE ROAD AND 27TH WAY</b>	<b>965 Broadway</b>	<b>The HUB</b>	<b>Pearl Street Apartments</b>
<b>Location</b>	2700 Baseline	965 Broadway	770 28th St	2206 Pearl
<b>Status</b>	Proposed	Proposed	Under Cxn	Proposed
<b>Site Size</b>	3.10 ac.	0.45 ac.	3	0.48 ac.
<b>No. of Dwelling Units (du)</b>	84 du	12 du	96 du	45 du
notes				
<b>Density (du/ac)</b>	27.1 dua	26.7 dua	37.6 dua	93.3 dua
<b>Unit Size Range</b>			-	
<b>Average Unit Size</b>	1,093 sf	n/a	1,114 sf	299 sf
<b>Bedroom Mix</b>				
Studio	0%			100%
1-Bedrooms	0%			
2-Bedrooms	29%			
3-Bedrooms	0%			
4-Bedrooms	71%	100%	100%	
5-Bedrooms				
<b>Avg No. Bedrooms</b>	3.4 BRs	4.0 BRs	4.0 BRs	0.0 BRs
<b>No of Stories</b>	4 stories	3 stories	3-stories	3 stories
<b>Parking</b>	two level podium garage	primarily below grade	Below grade garage	podium garage






**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Rental	Townhomes	Rental Townhomes	Rental Townhomes
				
<b>Project Name</b>	<b>Glenwood Court - Rentals</b>	<b>Glenwood Court - Townhomes</b>	<b>Armory #2</b>	<b>Celestial Seasonings Lot 1</b>
<b>Location</b>	2747 Glenwood Ct	2747 Glenwood Ct	4750 Broadway	4600 Hwy 119
<b>Status</b>	Proposed	Proposed	Built	Proposed
<b>Site Size</b>	3.14 ac.	3.14 ac.	1.92 acres	7.90 ac.
<b>No. of Dwelling Units (du)</b> notes	123 du	14 du	18 du	94 du
<b>Density (du/ac)</b>	44 dua incl THs	44 du/ac incl apts	9.4 dua	26.33 dua net
<b>Unit Size Range</b>			2,185 - 3,134 sf	
<b>Average Unit Size</b>			1,477 sf	
<b>Bedroom Mix</b>				
Studio	83%	0%		
1-Bedrooms	0%	0%		
2-Bedrooms	12%	0%		
3-Bedrooms	5%	100%	67%	100%
4-Bedrooms			33%	
5-Bedrooms				
<b>Avg No. Bedrooms</b>	0.4 BRs	3.0 BRs	3.3 BRs	3.0 BRs
<b>No of Stories</b>	3 stories	3 stories	3-story townhomes.	3 stories
<b>Parking</b>	below grade	private garages	Attached garages	private garages



**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Condominiums	Condominiums	Townhomes	Townhomes
				
<b>Project Name</b>	<b>27 PINE</b>	<b>17th Street Flats</b>	<b>940 North</b>	<b>Velo Park</b>
<b>Location</b>	2718 Pine St	1629 17th ST	940 North St	3289 Airport Rd
<b>Status</b>	Built	Proposed	Built	Built
<b>Site Size</b>	0.48 ac.	0.23 ac.	0.23 acres	2.7 acres
<b>No. of Dwelling Units (du)</b>	13 du	6 du	6 du	70 du
<b>Density (du/ac)</b>	27.1 dua	26.6 dua	26.1 dua	25.9 dua
<b>Unit Size Range</b>	773 - 1,754 sf	892-1325 sf	1,484 sf	706 - 1,984 sf
<b>Average Unit Size</b>	1,372 sf	1,267 sf	1,484 sf	851 sf
<b>Bedroom Mix</b>				Project consists of 1, 2, and 3 bedroom townhomes.
Studio		0%		
1-Bedrooms	8%	33%		
2-Bedrooms	92%	67%		
3-Bedrooms		0%	100%	
4-Bedrooms				
5-Bedrooms				
<b>Avg No. Bedrooms</b>	1.9 BRs	1.7 BRs	3.0 BRs	
<b>No of Stories</b>	3-story building.	3-story building	3-story townhomes.	3-story townhomes.
<b>Parking</b>	Structured parking	private garages	Detached garages	Private garages & surface

**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Townhomes	Townhomes	Townhomes	Townhomes
				no image
<b>Project Name</b>	<b>Alveare</b>	<b>Flatiron Vista</b>	<b>4725 Broadway</b>	<b>358 Arapahoe</b>
<b>Location</b>	2008-2010 Pearl St	2160 Folsom St	4725 Broadway	358 Arapahoe
<b>Status</b>	Built	Built	Proposed	Proposed
<b>Site Size</b>	0.18 acres	0.63 acres	2.35 ac.	0.28 ac.
<b>No. of Dwelling Units (du)</b> notes	4 du	6 du	26 du	3 du
<b>Density (du/ac)</b>	22.2 dua	9.5 dua	11.1 dua	10.6 dua
<b>Unit Size Range</b>	-	2,071 - 3,520 sf		
<b>Average Unit Size</b>	1,700 sf	2,769 sf	1,730 sf	n/a
<b>Bedroom Mix</b> Studio 1-Bedrooms 2-Bedrooms 3-Bedrooms 4-Bedrooms 5-Bedrooms	100%	100%	23% 77%	
<b>Avg No. Bedrooms</b>	3.0 BRs	2 and 3 BRs	2.8 BRs	
<b>No of Stories</b>	3-story townhomes.	3-story townhomes.	2-story townhomes.	3-story townhomes.
<b>Parking</b>	Attached garages	Attached garages	Attached garages	Attached garages

**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Townhomes	Single Family	Single Family Detached	Duplex
	no image	no image		
<b>Project Name</b>	<b>Shining Mountain Waldorf School - Townhomes</b>	<b>Shining Mountain Waldorf School - Single Family</b>	<b>Whittier Corner</b>	<b>Odonata</b>
<b>Location</b>	999 Violet	1000 Violet	2709 Pine St	1955 3rd St
<b>Status</b>	Proposed	Proposed	Built	Built
<b>Site Size</b>	1.01 ac.	3.30 ac.	0.32 acres	1.01 acres
<b>No. of Dwelling Units (du)</b> notes	17 du	20 du	5 du	10 du
<b>Density (du/ac)</b>	16.8 dua	6.1 dua	15.6 dua	9.9 dua
<b>Unit Size Range</b>			1,370 - 2,200 sf	3,546 - 3,629 sf
<b>Average Unit Size</b>	2,103 sf	3,424 sf	1,600 sf	3,620 sf
<b>Bedroom Mix</b> <div> Studio  1-Bedrooms  2-Bedrooms  3-Bedrooms  4-Bedrooms  5-Bedrooms </div>			100%	100%
<b>Avg No. Bedrooms</b>	n/a	n/a	2.0 BRs	3.0 BRs
<b>No of Stories</b>	n/a	n/a	3-story single family.	3-story single family.
<b>Parking</b>	private garages	private garages	Private garages	Surface parking

**Appendix Table B-8**  
**Project Summaries**  
**Inclusionary Housing Analysis**  
**Boulder, CO**

Unit Type	Duplex	Duplex
		
<b>Project Name</b>	<b>Névé House</b>	<b>1224 Upland Ave</b>
<b>Location</b>	944 Arapahoe	1224 Upland Ave
<b>Status</b>	Under Cxn	Built
<b>Site Size</b>	0.22 acres	0.76 acres
<b>No. of Dwelling Units (du)</b> notes	2 du	4 du
<b>Density (du/ac)</b>	9.1 dua	5.3 dua
<b>Unit Size Range</b>	2,685 - 2,767sf	2,000 sf
<b>Average Unit Size</b>	2,700 sf	2,000 sf
<b>Bedroom Mix</b> <div> Studio  1-Bedrooms  2-Bedrooms  3-Bedrooms  4-Bedrooms  5-Bedrooms </div>	100%	100%
<b>Avg No. Bedrooms</b>	3.0 BRs	4.0 BRs
<b>No of Stories</b>	2-story duplex.	2-story duplex.
<b>Parking</b>	Attached garages	Surface parking

## Attachment C: Public Engagement Plan

Working with the Engagement staff, Housing and Human Services staff developed a public engagement plan for the Inclusionary Housing Update informed by the city's adopted Engagement Strategic Framework. The Inclusionary Housing Program has been in effect for more than two decades with several updates over the years. Step 9. "Reflect and evaluate", has led to this current update, especially the desire to better produce middle income homeownership opportunities. Below Figure 1, staff lays out the Planning Stage (Steps 1-3) the Shared Learning Stage (Step 4) and the Options Phase (Step 5 and 6), which will support a Council decision in Step 7. A plan for Step 8 and Step 9 is also summarized below.

Figure 1: 9 Steps to Good Engagement, [\*Engagement Strategic Framework\*](#) (p. 9).



**Step 1: Define the issue before embarking.**

Desired Outcome: Align housing programs, especially the Inclusionary Housing Program, with the city's goal to increase middle income homeownership opportunities in Boulder.

*Note: Previous policy efforts have demonstrated that middle income homeownership is both desirable and lacking in Boulder. The purpose of this project is not to establish the need. The 2017 update to the Inclusionary Housing program sought to promote middle income homeownership, yet the five years it has been in effect have not produced that outcome directly.*

**Step 2: Determine who is affected.**

Primary Stakeholders: Market-rate housing developers who must meet the Inclusionary Housing requirement.

Important Sources of Input:

1. City's affordable housing partners
2. City of Boulder Technical Advisory Group (HHS)
3. City of Boulder Housing Advisory Board (HHS)
4. Other organizations and/or jurisdictions with middle income homeownership programs
5. Other city departments with resources or incentives that could help expand access to middle income homeownership opportunities in Boulder.

Secondary Sources of Input:

1. Market-rate homeownership developers
2. Housing professionals, including architects, planning consultants, general contractors, lenders, realtors

**Step 3. Create a public engagement plan.**

*Level of Engagement.* Based on the technical nature of the desired outcome, "adjust Inclusionary Housing program to efficiently produce middle income homeownership units", the project team proposes the following approach to public engagement.



	<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>
<b>Parties</b>	General public	Market-rate homeownership developers Housing professionals City Council Other MI homeownership programs Other city departments with resources	City's affordable housing partners Technical Advisory Group Housing Advisory Board Planning Board	
<b>Participation Goal</b>	Provide with balanced and objective information to assist them in understanding a problem, alternatives, opportunities and/or solutions	Obtain feedback on consultant analysis and recommendations.	Work throughout the process to ensure that concerns and aspirations are consistently understood and considered.	Partner with, in each aspect of decision, including development of alternatives and identification of preferred solution.
<b>Promise</b>	We will keep you informed.	We will keep you informed, listen to you, and acknowledge your concerns and aspirations, and share feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.	We will work with you to ensure that your concerns and aspirations are reflected in any alternatives and share feedback on how the input influenced the decision.	We will work together with you to formulate solutions and to incorporate your advice and recommendations into the decisions to the maximum extent possible.



#### **Step 4. Share a foundation of knowledge.**

The Oct. 27, 2023, study session memo and presentation provided the initial foundation of knowledge. Efforts to share knowledge to the community is ongoing and has included the following activities:

- *Project Webpage and Project Interest List.* The project webpage was updated with project progress, and an email list was created to systematically capture contact information of interested parties. (December 2022)
- *Joint Study Session.* Staff presented to a joint study session of the Planning Board, Housing Advisory Board, and Affordable Housing Technical Review Group to provide an overview of the existing regulations, introduce the upcoming effort, and provide board members with an opportunity to ask questions. (January 2023)
- *World Café/Planning Open House.* Project staff attended a community forum to share information about the inclusionary housing program generally. (February 2023)
- *Email Update.* An email was sent to all members of the inclusionary housing update email list, with details and dates of meetings to provide feedback on update options. (August 2023)
- *What's Up Boulder?.* Inclusionary Housing staff will be participating in the city's "What's Up Boulder?" event to answer questions and share information about IH program update for the general public. (September 2023)

#### **Step 5. Identify options.**

Incorporating initial feedback from city council, community feedback, and the Planning Board/Housing Advisory Board/Technical Review Board joint session feedback, staff worked with a consultant to identify options to update inclusionary housing program. The options presented in this memo are a result of this process. (February – July 2023)

#### **Step 6. Evaluate options.**

A memo summarizing the background, issues, and potential options was crafted in August 2023 and presented to the Housing Advisory Board (Aug. 23) and will be presented to Planning Board (Sep. 5) and to City Council (Sep. 7). The memo was also shared with the email interest list and shared through various city communications avenues. All feedback will be evaluated and incorporated into a draft ordinance for board and council consideration in the fall.

#### **Steps 7. Make a Decision**

City Council meeting on Sep. 7 staff provided an update on the project and requested input on potential code changes, and I directed staff to: remove the proposal to reduce the for-sale on-site requirement and to increase the unit price requirements; proceed in changing the cash-in-lieu methodology; and proceed in conducting a Nexus study.

Staff has incorporated these changes into the proposed ordinance – Ordinance 8601.

**Step 8. Communicate Decision and Rationale**

The proposed ordinance is scheduled for first reading before City Council on Oct. 19 and second reading on Nov. 2. If approved, the requirements will go into effect three months from adoption. This will allow for staff to update the administrative regulations, implement the associated procedural changes, and lay out program details before the new code goes into effect. If passed, changes typically go into effect 30 days after adoption. During this time, staff will communicate these changes by updating the project page with the proposed changes and sending an email to the inclusionary housing update email list.

**Step 9. Reflect and Evaluate.**

Evaluation of the Inclusionary Housing program will continue. During the Sep. 7 City Council Meeting, asked staff to continue to evaluate outcomes of the program and proposed updates on a regular basis. Staff will continue to evaluate outcomes and provide updates to City Council and the community as requested. The new ordinance includes a requirement to conduct a feasibility analysis at least every 5 years, which provides general guidance for city staff to evaluate and reflect on the changes made in the proposed ordinance.



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **BOARDS AND COMMISSIONS ITEM**

07.17.2023 WRAB Signed Minutes

### **PRIMARY STAFF CONTACT**

Karen Sheridan, Board Secretary

### **ATTACHMENTS:**

#### **Description**

- ▣ **07.17.2023 WRAB Signed Minutes**

**CITY OF BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING MINUTES**

<b>Name of Board / Commission:</b> Water Resources Advisory Board	
<b>Date of Meeting:</b> 17 July 2023	
<b>Contact Information for Person Preparing Minutes:</b> Karen Sheridan, 303-441-3208	
<b>Board Members Present:</b> Gordon McCurry, Amy Broughton, Steve Maxwell, Lauren Koopman <b>Board Members Absent:</b> John Berggren	
<b>Staff Present:</b> Joe Taddeucci, Director of Utilities Joanna Bloom, Utilities Deputy Director of Policy and Planning Chris Douville, Utilities Deputy Director of Operations Chris Douglass, Wastewater Engineering Supervisor Christopher Olson, Civil Engineering Senior Project Manager Jon Stoddard, Water Treatment Manager Brandon Coleman, Civil Engineering Senior Project Manager Kevin Clark, Civil Engineering Principal Project Manager Stephen Grooters, Civil Engineering Manager Erin Neil, Civil Engineering Senior Project Manager Scott Coulson, Water Quality Compliance Program Manager Meredith Schleske, Board Secretary Karen Sheridan, Board Secretary	
<b>Agenda Item 1 – Call to Order</b>	<b>[6:04 p.m.]</b>
<b>Agenda Item 2 – Approval of 26 June 2023 Meeting Minutes</b>	<b>[6:05 p.m.]</b>
<p><b>Chair requested several text edits.</b></p> <p><b>Motion to approve with requested edits: Maxwell Seconded by: Broughton</b>  <b>Vote: 4:0</b></p>	
<b>Agenda Item 3 – Public Participation and Comment</b>	<b>[6:10 p.m.]</b>
<p>Lynn Segal: Throngs of people that want to talk to you about our high water bills and about CU South and all the expense and about everything, and nobody wants to talk. And I spend hours writing letters to ask you a lot of questions, after sitting through four or five hours of meetings, and I get nothing (after I sent three different times). Then I get the city writing back and saying they forwarded it to the boards, the recipients are aware, and they may not have capacity to respond. So, do you not have capacity? I have questions, you are not answering them. Do you have the capacity to answer them? The city considers this matter closed. So, is that what I do? Stay up all night going through your meeting very carefully and asking good questions and then getting no answers? Is that just the matter is closed? So, should I just not have bothered? I guess I should just get off this Zoom because what is the point? I have no input. Nobody cares about what I am asking about. I need to know things about my city and about what the WRAB is doing. Is it unreasonable for me to ask? What do you want me to do? I am asking you. I forfeit my time for you to answer that. I don't want to waste my time. Tell me. Generally, I am concerned about my water costs going up and up and up, and some people are not independently wealthy in Boulder and cannot afford all this. I get some help because I am low income but then what? I have used up my help and I have these high water bills to deal with, and I don't even irrigate. And I have an addition on my house that does not have heating or cooling, so I am really hot and I need to take showers during the day, and I feel like I just have to suffer rather than get in the water because I am paying so heavily for it. Is that what the life of a 70-year-old in Boulder is supposed to be about? Scared of every inch of tap water that I am using to just survive, just to have enough to drink or enough to keep me cool a little bit? Is that what my life is reduced to in Boulder? Just asking. Done.</p> <p><b>Staff Response to Public Comment:</b> Joe Taddeucci acknowledged having recently received Lynn's forwarded email regarding the project prioritization formula, following two weeks out of the office. The closed matter likely being referred to is a master plan that has already been through the approval process and concluded last year. Regarding the prioritization formula, if the board is interested, further discussion could continue at a future date. Joanna Bloom acknowledged that she and Lynn continue to correspond regarding available financial support.</p>	

**Agenda Item 4 – Public Hearing and Consideration of a Recommendation  
Regarding the 2024-2029 Utilities Capital Improvement Program**

[6:20 p.m.]

Chris Douglass, Utilities Engineering Manager, and Chris Douville, Deputy Director of Operations, presented this item.

**EXECUTIVE SUMMARY:**

As part of the city's annual budget process, Utilities staff develops a six-year planning budget. The Water Resources Advisory Board (WRAB) role in this process, as defined in the Boulder Revised Code, includes reviewing all capital improvements conducted or proposed by the Utilities department and making recommendations to City Council regarding the proposed capital budget. Utilities staff has formulated revenue and expenditure projections for each of the three utility funds for years 2024 through 2029 (see **Attachments A, B, and C**). City Council approves and appropriates funds only for the next year (2024). The 2024 proposed rate increases would result in a total increase of approximately \$10 to the average monthly utility bill for a single-family residential customer. The proposed budget reflects a commitment to reinvest in critical infrastructure to maintain levels of service to the community in alignment with the department's master plans and Asset Inventory & Maintenance (AIM) methodology.

At the [June 26, 2023 WRAB meeting](#), staff presented the preliminary projected six-year capital improvement program (CIP) with associated rate increases. Board discussion followed, which included questions about rate increases relative to peer communities, bonding strategies, the flood project prioritization framework, and rate increase impacts to customers. The purpose of this memo is to discuss WRAB feedback from June and provide further information to inform a recommendation by WRAB to City Council on the proposed 2024 CIP and associated rate increases.

**STAFF RECOMMENDATION**

Staff recommends that the WRAB make the following motion related to the 2024–2029 CIP and 2024 budget:

*The Water Resources Advisory Board recommends that City Council approve the 2024 Capital Improvement Program for the Water, Wastewater, and Flood & Stormwater Management Utilities including proposed rate adjustments to support 2024 revenue increases of 8% in the Water Utility, 8% in the Wastewater Utility, and 10% in the Stormwater & Flood Management Utility.*

**WRAB Member Disclosures:**

Board Member Broughton has previously disclosed she is an employee of Stantec Engineering. Stantec is currently involved in several water and wastewater projects including the Albion Dam project, Watershed hydrology project, Watershed EAP and seismic analysis project, the Barker Dam work, and the WRRF phosphorous treatment improvements project. She is not personally involved in any of those projects but will recuse herself from recommending these specific projects in the CIP.

**WRAB Clarifying Questions Included:**

- Question if there is an intent to expand the affordability program to help with rate relief.
- Are rate increases projected at least roughly over the time period of the CIP or are they more reactive?
- Comment that the flood and stormwater utility trends for the city are likely unique and costs might be expected to be higher than comparable jurisdictions.
- Request to further explain shifting timing of bonding for certain projects.

**Public Participation:**

Richard Harris: So, some of the things that I may ask here you may have already addressed in the last few months. This is my first time, so if you would forgive me for asking things you've already dealt with, I would appreciate that. The bottom line is that concerning the CU South property, the voters approved that annexation with some conditions that the city provide funds that will help the university develop the property. And I would like to see a running tally, updated say every month, about how much

of our water and wastewater bills are being used to cover this. Perhaps a good way to express that was already used tonight, which is what a typical Boulder homeowner is going to have to pay in order to facilitate this. And I apologize for not being on top of this earlier. And then, you've surely spent lots of money already just in terms of staff time both before the election and after the election, trying to work out all the technical details with other agencies, so I would like to see the estimate of costs going back say at least a year, maybe a year before the election. And that needs to be public knowledge. I think many of the voters who voted to – I've got to say this right – the people who didn't turn this down, the majority were in I believe North Boulder. And I think people assumed there would be no cost to them like the people in South Boulder. So, this is a very important issue and I hope you can be fully transparent about it and not try to mix the costs related to that project too much in with other costs that may obscure what we're really spending. I just heard something about a bond issue at the end of '24, and I think that is one of the things, if I understood it right, should be considered. Anyway, that wasn't terribly well organized, and it was totally spontaneous, and thank you very much.

Karen Hollweg: Thank you. I'm Karen Hollweg and I am the past chair of the Open Space Board of Trustees and want to talk about the South Boulder Creek project that is currently shown in your CIP. The Open Space Board of Trustees, in January of this year, saw a presentation on the 30% design for that project and still had many questions, especially about the groundwater conveyance system and the impacts on the native globally imperiled plant communities in the state natural area that will be affected by the project. The 60% design update is to come back to the Open Space Board of Trustees at their October 11<sup>th</sup> meeting this year, and in addition to the multiple different agency approvals that are still needed, and the approval of CDOT, there is something that OSBT has been very well aware of and has included in detail in the resolution that we passed at our 2021 meeting; that has to do with the environmental mitigation plan to assess whether the plant communities are appropriately sustained given the plans and the monitoring that will be associated with that. As far as I am aware, that work has not been started either. So, I question the amount of money being requested for this project in this particular CIP, and I would ask you to think about whether you won't be able to provide a more accurate amount of the money needed for the South Boulder Creek project next year and still have time to include a more appropriate amount in next year's CIP and thereby continue to do the work on acquiring permits and the environmental mitigation plan in the meantime but not address the amount of the bond until you more accurately know that amount. Thank you very much.

Lynn Segal: It isn't like I don't appreciate water, my name means water, Lynn, it's Welsh. My brother was a water chemist, my daughter is a water climate artist. So, I get it, but you know what, my property tax just went from \$6,000 to \$9,000 a year. I found out that I had \$33,000 of retirement payment that I didn't get and that Denver General won't give me because they can't pay retroactive benefits, and I didn't know I had it. They got a return-to-sender in the mail 22 years after I left. So, a lawyer wants \$3,000, you know. There is sagging on my house that, speaking of water, the gutter was aimed toward my house before I bought my house, so the water had infiltrated my siding, which is made of fiberboard. Anyway, it is all eroded away down to the Tyvek. Now I could be eligible for a low-income, free loan (after 10 years they forgive the loan), but my house has to be staked. So, I have to come up with the funds first to fix the siding on my house. The addition on my house had resistive heat and I won't use that because I am not going to pay Xcel energy for it, so I am just freezing cold in my house in the new part all year long and hot in the summer. So, I need that fixed in order to be eligible for this loan, and I have to fix some structural things that happened when I tried to open up my attic to make it for storage. You cannot get a contractor in Boulder that does not cost a huge pile of money. You cannot fix things in Boulder. What you do in Boulder is you tear it down and you build it new, and that's a couple million bucks. So, you know, we're not talking cheap money here, we're talking a lot, and yet I go to the Planning Board on 2206 Pearl for 300 square-foot places that they are giving them a parking reduction for and they are giving them a height amendment for, and people are testifying that their sewer has been overflowed because of his kind of development, that they are already maxed out. So, you know, we've got enough trouble. And you know what Gilbert White said, he said it's the people building more and putting people in the line of the water that is the problem. So that is what needs to be stopped, and CU South is at the height of it, and I am not paying for that.

#### **Board Chair Response:**

Chair acknowledged the board received three written comments by email ahead of the meeting. The common themes included timing of the South Boulder Creek project in light of the necessary permits

and studies requested by OSBT, concerns about impacts to wildlife, and the continued lack of examples of a groundwater conveyance system that is established in a project that is like this project.

**Staff Response:**

Examples of ground water conveyance systems have been presented that staff felt were compatible. Ultimately, the approval entity is the state engineer. The importance of keeping the ground water flowing and ensuring that habitat has adequate water is understood and important to staff. Regarding bond timing, we are currently a year and a half away from going to bid for construction and this is typically the level and stage of development where to make a recommendation for funding. Open Space Board of Trustees has given extensive feedback, which is appreciated by staff, and multidepartment staff meet every other week to consider the needs and plans of the OSBT and coordinate to seek their approval.

**WRAB Board Discussion Included:**

- Referring to issues raised about environmental approach, question if there is some confusion in terms of process and the development of the mitigation plan and revegetation.
- Request for staff to respond to differing perception of Utilities and the public regarding the groundwater conveyance system, the Viele channel, and the timing of the bonding.

**Staff Response:**

The South Boulder Creek project has been on the table for 25 years, and it has been 10 years since the 2013 flood. Heavy rains this spring are felt to be another warning that it is time to move the project forward. Multidepartment staff work to balance maintenance of the Viele channel to create capacity with preserving environmental habitat. Project has been modeled and capacity shown to be adequate to convey the design flows of the project. Utilities working with Open Space staff and Mile Hi Flood District on maintenance. Maintenance is separate from the budget line item for the flood project.

Groundwater conveyance system can accommodate the variable conditions. It is understood and appreciated that some community members disagree with the land use changes; however, it is the opinion of staff after decades of negotiations and changes, that this is as good as it will get. It is also felt to be appropriately at the top of the prioritization list because it takes more properties out of the flood plain than most other projects.

**First Motion:**

The Water Resources Advisory Board recommends approval of the Albion Dam 2022-2024, Watershed Hydrology 2023-2026, Watershed EAP and Seismic Analysis 2023-2026, Barker Dam Work 2024-2029, and WRRF Phosphorus Treatment Improvements 2022-2026 in the 2024 to 2029 CIP for the Water and Wastewater Utilities.

**Moved by: Maxwell Seconded by: Koopman**

**Motion Passes: 3:0; Broughton recuses**

**Second Motion:**

The Water Resources Advisory Board recommends that City Council approve the 2024 Capital Improvement Program for the remaining projects in the Water and Wastewater Utilities including proposed rate adjustments to support 2024 revenue increases of 8% in both the Water Utility and the Wastewater Utility.

**Moved by: Broughton Seconded by: McCurry**

**Motion Passes: 4:0**

**Third Motion:**

The Water Resources Advisory Board also recommends that City Council approve the 2024 Capital Improvement Program for the Stormwater & Flood Management Utility including proposed rate adjustments to support 2024 revenue increases of 10% in the Stormwater & Flood Management Utility, contingent upon the following conditions being met:

- Design and funding of improvements and/or maintenance for the Viele Channel, which will convey the water released from the detention pond behind the South Boulder Creek Phase 1 Flood Mitigation dam, become part of the project.
- Expedited planning, design and implementation of Phase 2 of the South Boulder Creek Flood Mitigation project, with a focus on mitigating flooding from the Viele Channel tributary, which was a significant contributor to flooding in the September 2013 flood.

**Moved by: Koopman Seconded by: Broughton**  
**Motion Passes: 4:0**

**Agenda Item 5 – Keep it Clean Partnership Intergovernmental Agreement**

**[7:56 p.m.]**

Scott Coulson, Water Quality Compliance Program Manager, presented this item.

**EXECUTIVE SUMMARY:**

The Keep it Clean Partnership (KICP) is a regional organization formed through an intergovernmental agreement (IGA) between local governments in Boulder County. The KICP partner communities include Boulder County, the cities of Boulder, Lafayette, Longmont, Louisville, and the town of Superior—all communities that lie within the Boulder Creek – St. Vrain Watershed, which is tributary to the South Platte River. The partnership exists to foster collaboration across the watershed and help the partner communities meet the requirements of their State of Colorado municipal separate storm sewer system (MS4) permits. The IGA is currently up for renewal. Participation in the partnership has improved stormwater management collaboration and compliance, promoted positive watershed behaviors through consistent messaging, and leveraged planning and analysis to highlight watershed issues and opportunities for improving water quality.

This Information Item does not require Water Resource Advisory Board (WRAB) action but is intended to inform WRAB of the KICP IGA renewal and associated watershed-scale collaboration. Renewal of the IGA is for an initial five-year term, with an automatic renewal for another five-year term unless terminated.

**WRAB Board Discussion Included:**

- Question why Erie no longer participates.
- Question if there has been consideration of adding University of Colorado into consortium.

**Agenda Item 6 – Matters from Board**

**[8:04 p.m.]**

- Board Member McCurry: Question if city has done sampling of cloud seeding material, including silver nitrate, once it falls onto the watershed, and if so, whether there are any detected levels of those constituents in the water.
- Staff Response: The city is not involved in any cloud seeding efforts but Water Resources staff have met with the St. Vrain Water Conservancy District to learn about their operation. Data was provided that did not show a water quality concern. Further follow-up will be made with the Water Resources Manager and brought to a future meeting.

**Agenda Item 7 – Matters from Staff**

**[8:07 p.m.]**

- Lead Service Line Inventory, presented by Joanna Bloom:
  - Per updated EPA regulations, water providers nationwide need to know whether lead service lines are present in their distribution systems.
  - Inventory of lead service lines currently being conducted, initially including records research to eliminate buildings constructed after 1988 and to review ordinances and other local regulations that would have prohibited lead pipes.
  - Inventory will include customer outreach. Customers can have lines assessed.
  - Possible excavation to confirm pipe composition if needed.
  - Replacement plan to be developed by October 2024 as needed.



<ul style="list-style-type: none"> <li>- No known lead lines in the public service portion of the distribution system.</li> <li>- City Council will be updated in near future.</li> <li>• COVID Wastewater testing, presented by Joe Taddeucci: <ul style="list-style-type: none"> <li>- COVID testing and reporting has waned significantly.</li> <li>- COVID presence in wastewater no longer correlates to wastewater data.</li> </ul> </li> </ul>	
<b>Agenda Item 8 – Discussion of Future Schedule</b>	<b>[8:13 p.m.]</b>
<ul style="list-style-type: none"> <li>• August: No meeting.</li> <li>• September: Water Efficiency Plan Public Hearing and Recommendation.</li> <li>• October: Water Quality Update.</li> </ul>	
<b>Agenda Item 9 – Adjournment</b>	<b>[8:14 p.m.]</b>
<b>Motion to adjourn by: Maxwell Seconded by: Broughton</b>	
<b>Motion Passes 4:0</b>	
<b>Date, Time, and Location of Next Meeting:</b>	
The next WRAB meeting will be held in hybrid format on <b>Monday, September 18, 2023 at 6:00 p.m.</b>	

APPROVED BY:

ATTESTED BY:

Board Chair: Gordon McHugh

Board Secretary: [Signature]

Date: 9-18-23

Date: 9/18/23

*An audio recording of the full meeting for which these minutes are a summary is available on the Water Resources Advisory Board web page via the Access Meeting Agendas and Materials link.*

[Water Resources Advisory Board | City of Boulder \(bouldercolorado.gov\)](#)



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **BOARDS AND COMMISSIONS ITEM**

09.11.23 TAB Meeting Minutes

### **PRIMARY STAFF CONTACT**

Meredith Schleske, TAB Secretary

### **REQUESTED ACTION OR MOTION LANGUAGE**

09.11.23 TAB Meeting Minutes

### **ATTACHMENTS:**

#### **Description**

- ▣ **09.11.23 TAB Meeting Minutes**

**CITY OF BOULDER  
BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING  
MINUTES**

<b>Name of Board/ Commission:</b> Transportation Advisory Board (TAB)	
<b>Date of Meeting:</b> September 11, 2023	
<b>Contact Information Preparing Summary:</b> Meredith Schleske 303.441.3204	
<b>Board Members Present:</b> Rebecca Davies, Vice Chair; Tila Duhaime; Ryan Schuchard; Triny Willerton	
<b>Staff Present:</b> Natalie Stiffler, Director for Transportation and Mobility Valerie Watson, Transportation Planning Manager Veronica Son, Senior Transportation Engineer Chris Hagelin, Transportation Principal Planner Sydney Schieffer, Transportation Senior Planner Daniel Sheeter, Transportation Senior Planner Jean Sanson, Transportation Senior Planner Melanie Sloan, Transportation Principal Project Manager Allison Moore-Farrell, Senior Transportation Planner Gastonia Anderson, Budget Senior Analyst, Transportation Mark Woulf, Finance Officer Meredith Schleske, Board Secretary	
<b>Also Present:</b> Mitch Bekhit, Colorado Department of Transportation (CDOT) Chris Proud, HDR Consultants	
<b>Type of Meeting:</b> Advisory/Regular	
<b>Agenda Item 1: Call to Order</b>	<b>[6:00 p.m.]</b>
<b>Agenda Item 2: Technical Rules</b> – Sydney Schieffer, technical host reviewed rules and technical operations on the virtual platform.	<b>[6:00 p.m.]</b>
<b>Agenda Item 3: Approval of August 2023 Minutes</b> <b>Motion: Approval of August 14, 2023 minutes as presented.</b> <b>Motion: Willerton Second: Schuchard</b> <b>4:0 Motion Passes.</b>	<b>[6:02 p.m.]</b>
<b>Agenda Item 4: Public Comment</b> <ul style="list-style-type: none"> <li>Lynn Segal – why could I not get on? Problems with system, browser, had to go through a bunch of things, taking time away from me. Guess it's nice you don't have to hear from me. In other city meetings I get on easily, more concerned about process than all the problems with congestion in Boulder and potholes and threats to me on my bike when I'm 70 years old, and trying to drive around and go past the Whittier neighborhood, with crossing streets all over the place, to get around all the construction all over town, and the huge puddles that are very dangerous to bikes. That's what I want to be talking about. But instead, I have to talk about the process. So how do I get on easily? Can you please help me?  <b>TAB Comment</b> – We can hear you, Lynn. Proceed.  <ul style="list-style-type: none"> <li><i>Staff response:</i> Can follow up with you to help resolve any technical issues after the meeting.</li> </ul> I was two minutes late at Planning Board last week, cost me my opening comments. Don't have time to troubleshoot later. Your system is broken. I was here on time, can't get on. If it's on my end, tell me. I've got the siding falling off of my house. I've got plenty of other issues, would like to be able to testify at TAB without interference from even being able to log on. So you listen to nothing. That's what you get from your public. Hope you're happy. </li> </ul>	<b>[6:03 p.m.]</b>
<b>Agenda Item 5: Staff update and TAB feedback on Chautauqua Access Management Plan (CAMP) ordinance updates</b> Chris Hagelin made the report to the board. <b>Executive Summary</b> The purpose of this memo and presentation on the Chautauqua Access Management Program (CAMP) Evaluation is to receive feedback from the Transportation Advisory Board (TAB) on the program's future. CAMP is a multidepartment effort under the Access Management and Parking Strategies (AMPS) program and includes staff	<b>[6:07 p.m.]</b>

from Community Vitality (CV), Transportation & Mobility (T&M), and Open Space and Mountain Parks (OSMP), and a wide variety of partners and stakeholders. CAMP began in 2017 to address parking, access, and livability issues at the historic park and in the surrounding residential area. After a successful pilot in 2017, CAMP was extended to operate until the end of 2023 under BRC 2-2-21. As part of the 2023 work plan, staff are conducting a formal evaluation of the CAMP program and will provide recommendations to boards and council on whether to continue the program, and if continued, identify potential changes to the program.

### Action Requested of Board

Staff is requesting TAB feedback on CAMP, staff's recommendation to continue CAMP and potential modifications to the program, and future analysis to move beyond the current park-n-ride model.

1. Does the board have feedback on staff's recommendation to continue CAMP with anticipated changes and on the possible modifications?
2. Does the board have feedback on staff recommendation to further explore options to provide direct transit service to Chautauqua and develop a wholistic approach to trailhead access and management?

### TAB Feedback

- Comment that earlier discussions included possibility of increasing parking cost for longer periods of time; question if it is still a consideration.
  - *Staff response:* There is no parking time limitation, in part due to climbing groups being there a long time. Could increase parking cost for higher usage areas.
- Question regarding how much residents currently pay to park and how much more they are willing to pay, since survey shows that they support the program.
  - *Staff response:* Current cost is \$10/season, didn't ask how much more residents would be willing to pay, just asked if they would be willing to pay more.
- Inquiry regarding temporary alteration to city code to charge for parking near trailheads to implement CAMP, and whether its relative success has created greater initiative to charge for parking around other trailheads.
  - *Staff response:* No immediate program for charging at other trailheads; have seen it as an effective means of managing demand at Chautauqua, will be part of City Council October study session discussion.
- Question regarding what potential ordinance changes would be.
  - *Staff response:* Eliminate sunset date for charging for parking at Chautauqua; year-end 2023, would also end pilot status.
- Inquiry about impact of discontinuing the CAMP program.
  - *Staff response:* Significant negative livability issues; created demand for CAMP initially in 2016/2017.
- Support expressed to continue as full program, serve more destinations, analyze financials of expansion to be self-funding, model Transportation Demand Management (TDM). Displays spirit of Boulder. Consistent with the sustainability, equity, resilience framework. Package parking ordinance change and reforms into strategic plan, add Vehicle Miles Traveled (VMT), etc. as considerations for City Council.
- Suggestion to expand the HOP to Chautauqua Auditorium to more destinations, make B-cycle station at Chautauqua permanent.
- Support to continue the CAMP program, especially to help employees; reservations expressed regarding expansion – what problem would it be solving?
  - *Staff response:* Possibilities are to other months, lessen impact on neighborhoods.
- Question regarding whether expansion would impact expense/profitability? There are very many other things we'd like to fix.
  - *Staff response:* A thorough feasibility study would be required to better understand the financial performance.
- Question regarding how resident concerns about parking can be assessed where they have one or two garage or driveway spaces under city code. They live near a fabulous feature that other people can rarely see. If extending, would we lower price/reflect less than peak demand?
  - *Staff response:* That is one of the questions. Livability issues include blocked driveways, some houses do not have driveway access and have to park far away if they leave their homes on busy days, have collected empirical evidence.
- Comment that a lot of residents are elderly; observation that half of survey respondents would pay more than \$10 for a parking permit, half would not – mixed message.

**Agenda Item 6: Staff update and TAB feedback on CO Highway 7/Arapahoe Avenue, Segment A [7:13 p.m.]**  
**28th Street to 63rd Street**

Jean Sanson, CDOT staff, and consultant HDR made the report to the board.

### Executive Summary

The purpose of CO 7 Segment A (Arapahoe Ave): 28th Street to 63rd Street Preliminary Engineering & Environmental Study is to advance the preliminary design of the multimodal concepts identified in the East Arapahoe Transportation Plan (EATP) along CO 7 (Arapahoe Avenue) between 28th Street to 63rd Street. The study is a collaborative effort led by CDOT and supported by the City of Boulder. The study picks up where past CO 7 (Arapahoe Avenue) planning efforts left off when the City of Boulder adopted the EATP in 2018. The study team will take past plans, adapt them to on-the-ground conditions, and refine the multimodal vision into a feasible concept. This design phase will begin to detail the corridor infrastructure, right-of-way needs, and cost. This study is one segment in a larger effort by CDOT and multiple corridor jurisdictions to implement high-capacity transit, improve travel safety, and create quality bicycle and pedestrian infrastructure along the entire CO 7 corridor from Brighton to Boulder.

#### **TAB Feedback**

- Question about opportunity for further TAB input going forward.
  - *Staff response:* Public engagement will be conducted in October and include a poll. The East Arapahoe Transportation Plan included TAB recommendation; this project is managed by CDOT.
- Clarification noted that segment A option 1 is east of 63<sup>rd</sup> Street.
- Question regarding Option 3 (various locations as needed) and why is it that the most vulnerable users must give up their space before the amenities/plants provision is impacted.
- Inquiry whether all three options will be used.
  - *Staff response:* Yes, but preferences are appreciated.
- Question if any code changes are deterring the project.
  - *Staff response:* Currently evaluating design standards, not aware of issues at this time. Code generally speaks to a higher level; Design and Construction Standards (D&CS) would be appropriate but this project is also subject to CDOT standards.
- Question if intersections are addressed at this stage of planning.
  - *Staff response:* Yes, especially in regards to bike/pedestrian/car interactions, signalized or unsignalized including private access points, considering safety and visibility, generally in accordance with the East Arapahoe plan. Process is to establish consensus on cross-sections then apply to intersections.
- Question about interaction to date with developers of transit-oriented project now and next ten years, what kind of coordination, support, restrictions should we be aware of, how is city regulating.
  - *Staff response:* Weathervane is in process, have approvals; further development will follow CO7 design, including right-of-way plan.

#### **Questions for TAB**

1. Considering the existing conditions along the corridor, do you generally agree with the direction of the study and its three typical design cross section options?
  - Comment that it will not make future work any more difficult.
2. Which design option would best achieve safety and comfort goals?
  - Option 1: The bike facility adjacent to the roadway, and the multi-use path separated from the bike facility by a landscape amenity zone.
  - Option 2: The bike facility set back from the roadway by a landscape amenity zone, and the multi-use path adjacent to the bike facility.
  - Unanimous agreement – option 2 is safer. Allows vulnerable users to negotiate their roadspace at lower speed, moves cyclist as far as possible from motorized vehicles.
3. In Option 2 and Option 3 which configuration of the adjacent bicycle and pedestrian facilities is preferred?
  - Specifically defining the space (using paint or other materials) with an area dedicated to bicycles and an adjacent area dedicated as a multi-use path/sidewalk?
  - Having no visible definition and allowing pedestrians or bikes to use the entire width of the space?
  - Opinion expressed to delineate.
  - Comment that we need to be building a more resilient, more accommodating space for less experienced cyclists. When push comes to shove, throughput of large vehicles reigns supreme.
  - Opinion that with more traffic and modes, more delineation is required. With less density, mixed space can work.
  - Preference for defined space. Best in class practice is to separate.
4. Are there other design considerations the study team should take into account?
  - Comment that if anything has to go, it should never be the pedestrians.
  - Support for protected bicycle intersections that were envisioned within the East Arapaho transportation plan.
  - Concern expressed that intersections will have really long crossing distances without any refuge space.

Chris Proud will send survey and contact information to TAB, encouraged to share with network, soliciting feedback.



**Agenda Item 7: Matters****[8:35 p.m.]****A. Matters from Staff/Non-Agenda**

1. Sidewalk Upgrades/Pavement Management Program (PMP) Update (Slatter) – There are two ways in which sidewalks are repaired – Sidewalk Repair Program and Pavement Management Program (PMP) whereby adjacent sidewalks are upgraded to comply with Americans with Disabilities Act (ADA) including ramps. We are moving forward with experimental vertical curb, preventing cars from going up onto sidewalk, for sidewalk repairs longer than 100' in 2024.
2. Denver Regional Council of Governments (DRCOG) South Boulder Road Steering Committee – Request for TAB Representation (Sanson/Watson) – DRCOG is funding a pilot corridor project for South Boulder Road as a multimodal vision corridor. Steering Committee's role is to recommend ideas, develop partnerships, goals, vet recommendations, and act as ambassador for the project for respective communities and interest groups. Representatives from other organizations include Community Cycles, Center for People with Disabilities, University of Colorado, Boulder Valley School District. There will be 4-6 meetings over the next year starting in October.

**TAB Representative:** Triny Willerton

**Alternate:** Becky Davies

3. 2024 Proposed Budget Update (Stiffler) – 2024/2029 Capital Improvement Program (CIP) revisions to PMP and Violet Avenue bridge funding from the transportation fund was increased due to inability of the Community, Culture, Resilience and Safety (CCRS) fund being able to accommodate. Minimal in 2024-2025 – \$1.5 million for design; greater in future years.

**TAB Comment**

- Interest in how the story is packaged – create a cost-positive transportation system that escapes car dependence, walk and bike freely, with transit that comes frequently. Need to educate public and City Council.
  - Comment that advising staff about money they seek is one of the most impactful things TAB can do. There is not a robust funding system to achieve Vision Zero like there is for the Fire Department; could have a far greater impact for what I consider a public health crisis.
  - Observation that additional funding sources is a retreat priority – look forward to contributing, advocating.
  - Could demonstrate via chart.
  - Comment that it is a national crisis, but federal funding is starting to become available.
    - *Staff response:* Lot of work to do, where are we recovering costs. Do a better job in measuring our outcomes and our impact going forward. Applying for Safe Streets for All was one step in the right direction.
4. Boards and Commissions Evaluation (Stiffler) – opportunity to provide feedback to consultant, should have gone to all TAB members. Stiffler will follow up on whether TAB member responses were received.

**B. Matters from the Board****[9:05 p.m.]**

1. Open Board Comment
  - a. Schuchard - TAB Feedback to City Council concerning parking reform as discussed and recorded at July TAB meeting as part of the East Aurora neighborhood parking permit matter. Asked TAB members for any edits to proposed document emailed to them.
  - b. Davies off-street parking – request to City Council: 1. Add an item to the 2024 work plan to revise off-street parking ordinances; 2. Eliminate off-street parking mandates from city code; and 3. Consider implementing off-street parking maximums and adopting a Transportation Demand Management (TDM) ordinance to further improve parking management. TAB members should let Davies know if any objections. Main boards she plans to talk to are Planning Board, Boulder Junction Commission, Housing Advisory Board, Environmental Advisory Board, Water Resources Advisory Board.
    - Questions if any feedback from staff, if acceptable for TAB to take to City Council.
      - *Staff response:* No staff feedback at this time; topic seems to fall within TAB purview.

**Agenda Item 8: Future Agenda Items****[9:20 p.m.]****Agenda Item 9: Adjournment****[9:23 p.m.]**

There being no further business to come before the board at this time, by motion regularly adopted, the meeting

TAB Minutes  
September 11, 2023  
Page 4 of 5

was adjourned at 9:23 p.m.

**Motion: Moved to adjourn:** Schuchard **Second:** Willerton

**Motion passes 4:0**

**Date, Time, and Location of Next Meeting:**

The next meeting will be a regular virtual meeting on Monday October 9, 2023 at 6:00 p.m. unless otherwise decided by staff and the Board.

APPROVED BY:

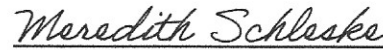


Board Chair

Oct 9, 2023

Date

ATTESTED:



Board Secretary

10/9/2023

Date

An audio recording of the full meeting for which these minutes are a summary is available on the Transportation Advisory Board web page.



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **BOARDS AND COMMISSIONS ITEM**

09.06.2023 Boulder Library Commission Meeting Minutes

### **PRIMARY STAFF CONTACT**

Celia Seaton, Board Secretary, Library

### **ATTACHMENTS:**

#### **Description**

- ▣ **September 6, 2023 Boulder Library Commission Meeting Minutes**



**CITY OF BOULDER  
BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING MINUTES**

<b>Name of Board/ Commission:</b> Library Commission	
<b>Date of Meeting:</b> September 6, 2023	
<b>Contact information preparing summary:</b> Celia Seaton	
<b>Commission members present:</b> Steven Frost, Scott Steinbrecher, Sylvia Wirba	
<b>Commission members not present:</b> Miriam Gilbert and Benita Duran	
<b>Library staff present:</b> David Farnan, Library Director Jennifer Phares, Deputy Library Director Celia Seaton, Board Secretary  <b>City staff present:</b>  <b>Members of the public present:</b>	
<b>Type of Meeting:</b> Regular	
<b>Agenda Item 1: Reminder: Commissioners please log monthly volunteer hours</b> <a href="#">Count Me In Boulder</a> [0:00:30 Audio min.] The Commission logged their service.	
<b>Agenda Item 2: Approval of agenda</b> [0:01:06 Audio min.] The meeting was called to order and Frost asked if there were any changes to the agenda. There was a nod of approval from the commission for the agenda as presented in the <a href="#">packet</a> .	
<b>Agenda Item 3: Public comment</b> [0:01:15 Audio min.] None.	
<b>Agenda Item 4: Consent agenda</b> [0:01:20 Audio min.] a. Approval of August 2023 Meeting Minutes: Steinbrecher moved to approve these minutes. Frost seconded, and the motion was unanimously approved.	
<b>Agenda Item 5: Approval of Warner Charitable Trust contribution</b> [0:02:40 Audio min.] Staff requested commission's acceptance of revenue from The Warner Charitable Trust for this year's annual gift to the Library which totals almost \$6,000. Staff explained that these monies are distributed evenly between adult and children's acquisition budgets.  Wirba made a motion to approve the acceptance of funds from the Warner Charitable Trust. Frost seconded, and the motion was unanimously approved. Commission expressed gratitude to the Warner Charitable Trust for this ongoing financial support. Staff will bring a letter of appreciation to sign at the October meeting.	
<b>Agenda Item 6: Library and Arts Director's Report</b> [0:06:08 Audio min.] a. Summer of Discovery Volunteer Experience – see <a href="#">packet</a> .  b. Summer of Discovery Highlights – see <a href="#">packet</a> . Farnan reported another great year; “the numbers continue to go up.” He emphasized the great aid provided by Emily Reynolds, who served as Summer of Discovery Library Program Assistant as a temporary paid intern from University of Colorado.  Steinbrecher shared his observation that the volunteers tabling in the library were typically bustling with youth registrations when he passed by. The group discussed the removal of the previous banquette seating which fortuitously revealed an optimal spot for visible volunteers to base registration activity and orient patrons with the program.  The Library experienced two recent instances of after-hour break-in theft activity. At least one event occurred with the disfunction of the door-locking mechanism – a problem that has since been remedied. Security officers have recorded some recent outbursts that appear related to patrons experiencing mental health issues.	

Farnan provided an update on the North Boulder Library. “We are closing in” on resolving any last-minute issues and changes; Antonia Gaona is working closely with the project team to finalize design decisions over the next several weeks. Frost has already observed neighbors using the newly laid path that connects to the manufactured home community – the accessibility is “a huge thing for the neighborhood.”

**Agenda Item 7: Items from Library Commission**

**[0:15:30 Audio min.]**

- a. Updates from commissioners representing the Commission in other venues (verbal) – Wirba relayed that the district trustee work is “really rolling now.” Discussions with council are planned for next week regarding the intergovernmental agreement surrounding lease or transfer of library buildings and other considerations. Farnan noted that a draft of the wellness benefit package should be available before long. He noted that the local benefits broker is ready to engage with staff; he relayed his impression that this benefits team appears professional and reliable. Farnan plans to gather staff feedback over the next several weeks.
- b. Boulder Library Foundation (BLF) update (Frost/Wirba) – As Vice Chair Jenn Yee is currently occupied with her district trustee duties, she departed from BLF. The board appointed Kitty deKieffer who will replace Yee in the vice chair role. With deKieffer’s professional background in foundation building and fundraising, Wirba noted that she “seems like a good fit for the Foundation.”
- c. Update on emails and phone calls to Library Commission – staff will prepare a response to the email sent to some commissioners and trustees regarding the inconvenience of the computer wiring issue at the Main Library.

**Agenda Item 8: Adjournment**

**[0:27:27 Audio min.]**

There being no further business to come before the commission at this time, the meeting was adjourned.

**Date, time, and location of next meeting:**

The next Library Commission meeting will be at 6 p.m. on Wednesday, October 4, 2023, in the Canyon Meeting Room at the Main Library, 1001 Arapahoe Ave., Boulder, CO 80302.

**Commissioner Frost approved these minutes on October 4, 2023; and Celia Seaton attested to it.**



## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

International World Freedom Day Declaration

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **World Freedom Day**

## **World Freedom Day November 9, 2023**

The fall of the Berlin Wall on November 9, 1989, stands as the turning point of the Cold War and the reunification of Central and Eastern European communities fractured by an oppressive state. We commemorate this historic event and honor all those who peacefully rose up and claimed their freedom and all those who continue their legacy by peacefully working to end tyranny and oppression in our world today.

We honor the spirit and perseverance of those who strived for freedom in East Germany and under other repressive regimes. Since the fall of the Berlin Wall, many countries have achieved freedom via the ballot box, through political pressure rising from their communities, or as a result of the settlement of internal or regional conflicts. We also acknowledge that unless systematic inequities in our existing structures are addressed, democratic freedom will be oppressive those most vulnerable in our communities.

Today, we reaffirm our commitment to the ideal that democracy — a government of the people, by the people, and for the people — is how we safeguard the rights, freedoms, and dignity that belong to every person.

We, the City Council of the City of Boulder, Colorado declare November 9, 2023 as

### **World Freedom Day**

And invites the community to participate by educating yourself on historical events and figures to learn from history, and studying your rights and how to exercise them to gain an understanding of the true meaning of freedom.



**Aaron Brockett, Mayor**





## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

Extra Mile Day Declaration

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **Extra Mile Day Declaration**



**Extra Mile Day  
November 1, 2023**

The City of Boulder is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service.

We are a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community.

With gratitude we celebrate individuals and organizations within our community who “go the extra mile” in order to make a difference and lift up fellow members of the community.

The City of Boulder acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2022.

We, the City Council of the City of Boulder, Colorado declare November 1, 2023, as

**Extra Mile Day**

And urge each individual in the community to take time on this day to not only “go the extra mile” in their own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.



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**Aaron Brockett, Mayor**





## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

Diwali Declaration

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **Diwali Day Declaration**



**Diwali Day  
October 24, 2023**

Diwali, the Festival of Lights, is the largest and most anticipated holiday in Indian tradition and is celebrated every autumn during the Hindu month of Kartika.

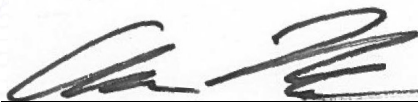
Diwali is celebrated over five days, each with their own significance and traditions, with the rituals of highest importance occurring on the third day.

Diwali also marks the beginning of the new year which is celebrated by family gatherings, gifts, and other traditions, as well as worship to Lakshmi, the Hindu goddess of wealth and prosperity.

During Diwali, oil lamps called diyas are lit to signify the belief that light will overcome the darkness, good will prevail over evil, and love will win out hatred. The holiday is a uniting force, as it is celebrated by the majority of people from India, regardless of their faith and is celebrated by more than one billion people worldwide.

We, the City Council of the City of Boulder, Colorado declare October 24, 2023 as

**Diwali Day**



Aaron Brockett, Mayor







## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

Veterans Day Declaration

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **Veterans Day Declaration**

**Veterans Day  
November 11, 2023**

On November 11 each year, we pay tribute to those who served this nation as members of our armed forces.

This holiday initially commemorated the end of World War I, which came at the eleventh hour of the eleventh day of the eleventh month in 1918. One year later, we celebrated the first Armistice Day, and it became a national holiday in 1938. In 1954, following World War II and the Korean War, President Eisenhower renamed it Veterans Day to honor and commemorate veterans of all wars.

According to the US Census there are approximately 1,300 veterans in Boulder County. In addition to serving our country, many often continue to fill important roles in our workforce, contribute to our economies, and make our communities healthy and strong. We sincerely value and appreciate their dedication. Furthermore, we pay homage to all those who have passed, and those who paid the ultimate price in their service.

Today we recognize these courageous people who represent the best our nation and community have to offer and, with their service, these veterans have proven that America's freedoms are worth protecting.

We honor all people who have served in the military, and we encourage those who will serve our nation in the future.

We, the City Council of the City of Boulder, Colorado declare November 11, 2023 as

**Veterans Day**

**And encourage people to seek ways to give back and thank a veteran in your community.**



**Aaron Brockett, Mayor**





## **COVER SHEET**

### **MEETING DATE**

**November 2, 2023**

### **DECLARATIONS ITEM**

**Declaration for “Light the World in Teal” Campaign from the Alzheimer’s Foundation**

### **PRIMARY STAFF CONTACT**

Taylor Reimann: Assistant to City Council

### **ATTACHMENTS:**

#### **Description**

- ▣ **“Light the World in Teal” Campaign from the Alzheimer’s Foundation**



## **Light the World in Teal Campaign for Alzheimer's Foundation**

### **October 20, 2023**

Alzheimer's disease is a progressive brain disorder that slowly destroys memory, thinking and language skills, and eventually, the ability to carry out the simplest tasks. More than 6.2 million Americans are currently living with Alzheimer's; the number of Americans with Alzheimer's is projected to surpass 13.8 million by 2060.

While everyone is unique, experts have identified common warning signs of Alzheimer's disease, including memory loss, confusion about time and place, struggling to complete familiar tasks, trouble finding appropriate words, difficulties in judging situations, and changes in mood and personality;

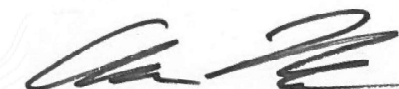
Alzheimer's disease can be diagnosed by a doctor, they may ask questions about health conduct cognitive tests, and carry out standard medical tests to determine whether to diagnose a person with Alzheimer's disease. If a doctor thinks a person may have Alzheimer's, they may refer the person to a specialist, such as a neurologist, for further assessment. Specialists may conduct additional tests, such as brain scans or lab tests of spinal fluid, to help make a diagnosis. These tests measure signs of the disease, such as changes in brain size or levels of certain proteins.

There is currently no cure for Alzheimer's, though there are several medicines approved by the U.S. Food and Drug Administration (FDA) that can help manage some symptoms of the disease along with coping strategies to manage behavioral symptoms; and more than 11 million American caregivers provide over 15 .3 billion hours of unpaid care

We, the City Council of the City of Boulder declare October 20, 2023 as

### **Alzheimer's Awareness Day**

And encourage all citizens to join in this observance by turning their lights to TEAL to show their support of the Alzheimer's Foundation of America's efforts to educate people about Alzheimer's disease and the importance of early detection



**Aaron Brockett, Mayor**

