City of Louisville
COLORADO • SINCE 1878

# *City Council*

## *Study Session Agenda*

**June 11, 2013**
**Louisville Public Library, 1st Floor Meeting Room**
**951 Spruce Street**
**6:00 PM**
**5:30 PM Dinner served to City Council**

| | | |
|---|---|---|
| 6:00 p.m. | **I.** | Call to Order |
| 6:00 – 7:00 p.m. | **II.** | Discussion – Urban Land Institute Economic Analysis of McCaslin Corridor |
| 7:00 – 7:30 p.m. | **III.** | Discussion – Cable Franchise Update |
| 7:30 – 8:30 p.m. | **IV.** | Discussion – Parks/Open Space Advertising Issues |
| 8:30 – 8:35 p.m. | **V.** | City Manager's Report<br>a. Advanced Agenda |
| 8:35 – 8:40 p.m. | **VI.** | Discussion Items for Study Session on July 9, 2013 and Identification of Future Agenda Items |
| 8:40 p.m. | **VII.** | Adjourn |

# CITY COUNCIL COMMUNICATION
## AGENDA ITEM II

**SUBJECT:** **MCCASLIN BOULVARD, MARKET AND ECONOMIC ANALYSIS URBAN LAND INSTITUTE (ULI) -TECHNICAL ADVISORY PANEL (TAP):**

**DATE:** **JUNE 11, 2012**

**PRESENTED BY:** **GAVIN MCCMILLAN, PLANNING AND BUILDING SAFETY DEPARTMENT**

**SUMMARY:**

The City of Louisville has partnered with the Urban Land Institute to conduct a Technical Advisory Panel for the McCaslin Blvd area. The Technical Advisory Panel is a one-and-a-half day program in which experts from around the state will examine physical, social, economic, and regulatory conditions of the McCaslin Boulevard corridor and provide observations and recommendations for the community to consider in promoting continued investment and reinvestment in this important area of the City.

One of the first steps in this process will be interviews with stakeholders and interested parties in order to learn the many differing perspectives on the performance expectations of the corridor. This City Council Study Session will be the panel's opportunity to interview the Louisville City Council and gain the political perspective on the issues and opportunities facing the corridor.

The results of the panel's efforts will be presented to the public Wednesday evening, June 12th at 5:30 pm in the Council Chambers. The study encompasses the McCaslin Boulevard corridor from US 36 to Via Appia, and includes all of the Centennial Valley. Staff expects the panel's recommendations to be useful when we work on a Small Area Plan for the area, which is scheduled to begin in late summer, or early fall.

**FISCAL IMPACT:**
None

**RECOMMENDATION:**
Discussion

**ATTACHMENTS:**
None

**SUBJECT:** **COMCAST CABLE FRANCHISE UPDATE**

**DATE:** **JUNE 11, 2013**

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

**SUMMARY:**
The City is currently working under a one-year extension of its cable franchise with Comcast that will expire in April of 2014. Council extended the franchise earlier this year to allow time for Denver and Aurora to complete their new franchises. Those franchises are almost complete and staff expects to see that model franchise in the next week or so.

Attached is a memo from Ken Fellman the City's legal counsel for the franchise negotiations. The memo outlines the negotiation process and highlights some of the items that may be of interest to Louisville specifically.

Once the Council has determined its plan for negotiations and outlined what items are of interest, staff will determine a public involvement process.

Council member Dalton has been appointed by the Council to act as the Council representative for the negotiation process.

Nancy Cornish Rodgers from Ken Fellman's office will be at the Study Session to answer any questions.

**FISCAL IMPACT:**
The City has budgeted $25,000 for the services of legal counsel to help represent us in the negotiations.

**RECOMMENDATION:**
Discussion

**ATTACHMENT(S):**
1. Memo from Legal Counsel

**KISSINGER & FELLMAN, P.C.**
**ATTORNEYS AT LAW**
**PTARMIGAN PLACE, SUITE 900**
**3773 CHERRY CREEK NORTH DRIVE**
**DENVER, COLORADO 80209**
**TELEPHONE: (303) 320-6100**
**TOLL FREE : 1-877-342-3677**
**FAX: (303) 327-8601**
**www.kandf.com**

**RICHARD P. KISSINGER**
**KENNETH S. FELLMAN**
**JONATHAN M. ABRAMSON**
**BOBBY G. RILEY**
**NANCY CORNISH RODGERS**

**PAUL D. GODEC**
SPECIAL COUNSEL

**ROBERT E. JAROS**
1941 - 2002

# M E M O R A N D U M

TO: Hon. Mayor Muckle and Members of City Council
City of Louisvile, Colorado

FROM: Ken Fellman, Esq.

CC: Meredyth Muth, Public Relations Manager
Heather Balser, Deputy City Manager

DATE: June 4, 2013

RE: The Cable Franchise Renewal Process and Upcoming Negotiations with Comcast

---

Federal law dictates the process, and scope of the City's authority to address issues in a cable franchise. In general, City staff, elected officials, and consultants should examine the past performance of the cable operator, identify the community's future cable needs and interests, and then determine what franchise terms are suitable for the citizens and City government. This memo is intended to describe the overall franchise renewal process, some particular issues that may be of interest, and will briefly describe recent negotiations between Comcast, Aurora and Denver that will result in a franchise document with many provisions that will be available and beneficial to Louisville.

## I. FRANCHISE RENEWAL PROCESS

### A. A Brief Description of Cable Franchising.

A cable franchise is a contract between the cable operator and the local government that the cable operator serves. To provide cable services to subscribers, cable companies must locate facilities within public rights of way, either on utility poles or underground. In consideration for a cable operator's right to utilize the City's rights of way the City requires the cable operator to enter into a franchise agreement. Federal law governs what issues can be addressed in that contract.

Franchise agreements cover a wide range of topics including: compensation paid to the City by the cable company (the *franchise fee)*; requirements for provision of public, educational and government access channels (commonly referred to as *PEG channels*) and financial support for capital expenditures related to PEG channels; requirements of compliance with conditions under which work in the rights of way can be conducted; customer service standards; the variety of cable services provided; compliance with federal technical standards; procedures for addressing franchise transfers; procedures for remedying franchise violations; and franchise termination. By law, franchise agreements are non-exclusive, but to date, there has been little competition.

**B. Federal Entitlement of Franchise Renewal.**

Under federal law, Comcast is *entitled* to a franchise renewal if it offers and has the legal, technical, and financial ability to comply with a franchise agreement that meets the future cable-related needs of the City. Since Comcast clearly has the capability to comply with almost any franchise condition, the foundational question becomes whether Comcast will agree to a franchise document that will meet the City's future cable-related needs. Some local jurisdictions attempt to determine future cable-related needs through data developed in informal conversations, community feedback from public meetings, community focus groups, and/or a survey to citizens within the community. This process is described in more detail in Section D below. There is not one "correct" way to do it.

Aurora's new franchise will come to its Council for first reading in early July. Due to some Denver-specific issues, Denver is about a month or so behind that schedule. Comcast has agreed to work with me on a "generic" version of the Aurora agreement, and that document will be shared with Louisville and a number of other Colorado communities about to begin their renewal negotiations. While all it may not be appropriate for all communities in the area to have the same provisions as Aurora (for example, the number of PEG channels will differ in each community), Comcast will be willing to offer most of the terms in the new Aurora franchises to other Colorado communities. Both Denver and Aurora conducted community needs assessments prior to their negotiations, and to the extent that their franchise terms are acceptable to Louisville, it will likely not be necessary for Louisville to undertake the comprehensive needs assessment described in Section D below. However, if the City believes it has unique interests that need to be met in a franchise agreement, we will want to discuss how to demonstrate those needs to Comcast through the needs assessment process.

Federal law provides for two types of franchise renewals. The first, and more common, is an informal renewal process. In an informal process, the parties meet and negotiate a mutually acceptable franchise. The informal process is less structured, usually less confrontational, and less costly.

If the City and Comcast are unable to informally negotiate an acceptable franchise, under the federal Cable Act, either party may pursue a formal franchise renewal. To commence a formal franchise renewal proceeding, a cable operator may make a written demand for formal proceedings. Within a very structured and limited time period, the franchising authority determines its future cable-related needs and submits that information to the cable operator. The cable operator then submits a proposed franchise. The franchising authority, within four months of the submission date, must make a preliminary assessment of whether it will accept or deny the cable operator's offered franchise. If the franchising authority does not accept the proposed franchise, the end result, in all likelihood, is federal court litigation. It is not uncommon however, that even when the parties are proceeding through a "formal" renewal process, they will continue to negotiate informally, and the threat of litigation at the end of the process often leads to an eventual "informal" resolution.

**C. Federal Limitations on City Authority.**

It is important to understand the *limitations* imposed by federal law. The City may require an upgrade of the cable system to provide certain cable services and may require that the cable operator

meet the technical standards that have been promulgated by the FCC, but cannot require specific transmission technologies (e.g., fiber to the home). The City may not use the franchise to negotiate for any communications services that are not considered cable services under federal law, such as telephone services or high speed Internet services, nor can the City charge franchise fees on non-cable service revenues. The City may not require Comcast to offer particular channels (e.g., ESPN or CNN), but may require Comcast to offer particular programming categories (e.g, sports channels or news channels). Federal law *does* allow the City to adopt customer service standards that may be more stringent than the federal standards, without Comcast's consent.

The City may require financial support (over and above the franchise fee) for PEG channels, but federal law limits the use of these funds for capital expenses. It is common in Colorado for Comcast to pay fifty cents per subscriber per month to the local franchising authority. It is completely within the City's discretion to use these funds for capital expenditures for the government channel, or to share some of these funds the educational and//or public access entities. When imposing any requirement on the cable operator, federal law provides that it should be reasonable in light of the costs of providing cable services to your community. The cable operator is allowed to pass through to subscribers to costs it incurs in meeting community needs through the franchise agreement.

**D. Assessing Community Needs**

Through a combination of surveys, focus groups, public meetings, web feedback and other methods, questions concerning PEG usage, citizens' views of PEG channels, programming choices offered, upgrade issues, and other issues related to the cable system may be addressed. Inquiries can also be made into whether Comcast has met its prior customer service obligations. For example, do citizens watch PEG channels, and what kind of programming on PEG channels to they find most beneficial? When customers call Comcast's customer service line, are they put on hold for an unreasonable time? When a customer reports a cable service problem, approximately how many days pass before Comcast resolves the problem? When a customer calls to request Comcast to bury its cable lines, does Comcast actually bury the cable lines? Has Comcast met its current franchise requirements? Does the cable system comply with the technical picture and sound quality required by federal law? The City could engage a technical consultant to provide an independent opinion of the technical quality of the cable system, whether it is state of the art, and whether it meets all applicable codes. In addition, a financial audit might be done to ensure that Comcast has complied with its prior franchise fee payments and other financial obligations.

The description above is intended to provide an overview of the various methods of determining community needs. I am certainly aware of the particular citizen issue in Louisville related to customer service issues, and I understand that past experience may influence how the City wishes to address these issues going forward.

As noted above, Denver and Aurora have conducted needs assessments, and many of their new franchise provisions will be offered by Comcast to Louisville. Unless there are specific concerns that Louisville needs addressed in its new franchise, it should not be necessary to undertake a comprehensive needs assessment. That being said, the City may be interested in a franchise fee and

PEG fee audit and/or an evaluation of the technical quality and safety code compliance of the cable system.

One of the major issues that many local governments will face in their next franchise negotiation involves new technologies and PEG channels. As you probably know, many cable programs can now be viewed on-demand. Comcast has been hesitant to provide on-demand programming for PEG channels. Based upon the new Aurora franchise, there will be an opportunity to negotiate with Comcast for support for enhancing on-demand programming that can be streamed over the internet (and therefore available to anyone with a broadband connection – not just Comcast subscribers), if this is of interest to Louisville.

In addition, many cable channels can currently be viewed in both standard definition (SD) and high definition (HD). Those cable channels that are not currently available on HD will likely be made available in that format during the term of the next franchise. For a period of time all cities will have some citizens that continue to watch video programming in SD, while others will (or already have) chosen to watch most of their programming in HD. The City should consider whether it is important to make your access channels (or at least your government channel) available to Louisville subscribers in both SD and HD. While Comcast prefers not to give additional bandwidth to local governments (since they are not paid for it) to allow for access channels to be seen in both SD and HD, based upon the new Aurora and Denver franchises, there will likely be an opportunity to obtain an HD channel for government access.

Within the framework of the federal limitations on local authority, the new Aurora and Denver agreements will have better definitions of "gross revenues" (upon which franchise fees are calculated), better language on the City's right to audit Comcast's payment obligations to the City, and better language to address relatively recent changes in the law governing the respective rights of the City and the cable operator, when a competiting cable provider seeks its own franchise from the City.

**E. Understanding Cable Services**

Most often, people think of cable services as video programming. As previously mentioned, the City cannot require Comcast to provide specific channels, but may require it to provide certain broad levels of programming. As channel capacity expands, there is more room on the cable bandwidth to provide additional programming choices. The City and the community should review its current video programming choices and determine if there are other desired categories of programming that are not presently being offered.

Federal law authorizes the City to require one or more public, educational or governmental ("PEG") access channels. These are three distinct categories. The City would operate a government access channel. Operating a channel includes acquiring the capital equipment, developing programming, and staffing. A government access channel includes programming such as a community message board, City Planning and Zoning meetings, City Council meetings, and other programming providing information about local issues. This channel may also be used in conjunction with other governmental entities.

An education access channel may be used by public schools for broadcasting school board meetings, athletic activities, performing arts, programming created by students, or other scholastic/educational type events. Frequently, governments and educational institutions combine resources and operate shared government/education access channels. I know that there was a channel being used by the Boulder Valley School District at the time of the last franchise rewnewal, but I am not sure if that channel is still operational.

The general public may also operate a public access channel. It is my understanding that there currently is a public access entity in Louisville. The public access channel should be separate from the government access channel. Content programmed on government access is controlled by the governmental entity, and can be limited to government related issues. Public access is open to anyone, and the content of the programming is subject to First Amendment protections.

Federal law classifies telephony as a telecommunications service. It is regulated by the Colorado PUC and the Federal Communications Commission, not through a cable franchise. Federal law classifies high speed Internet as an "information service." Information services may not be regulated in a cable franchise.

## II. PROCESS MOVING FORWARD

### A. Prior to Negotiations

The current franchise expires in April 2014. I have already had an opportunity to begin discussing the franchise renewal process and Louisville's issues with Mayor Pro Tem Dalton and City Staff. Going forward, it will be helpful to obtain the Council's direction regarding customer service issues, and a position on PEG programming. We should also discuss the City's potential interest in determining Comcast's compliance with its various obligations prior to commencing negotiations.

### B. Commencing Negotiations

After completing the evaluation described above and developing a strategy for what the City seeks to accomplish in the new franchise agreement, we will draft and propose a new agreement to Comcast to begin the re-negotiation process. While it may seem like we have plenty of time to engage in negotiations prior to franchise expiration, many franchises in the metro area are going to be up for renewal at the same time, and Comcast has traditionally been slow in scheduling meetings and responding to franchise issues in between meetings. We may find that depending upon the number of issues to be negotiated, we will be needing to press them to come to the negotiating table in a timely manner.

I look forward to the study session on June 11th. Should you have any questions that you would like addressed before that time, please let me know.

**SUBJECT:** **DISCUSSION – ADVERTISING IN PARKS AND ON OPEN SPACE**

**DATE:** **JUNE 11, 2013**

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

**SUMMARY:**

City staff has explored ways to more efficiently and effectively address dog feces in parks and on open space within Louisville. To address this problem, a number of Colorado municipalities and jurisdictions including Denver, Aurora, Westminster, Colorado State Parks, Lakewood, Littleton, and Foothills Park District have partnered with a private vendor called Poo Free Parks. This vendor provides, monitors and maintains "pooch" waste stations throughout their systems with a one-time charge ($250.00/station including installation). In exchange, the vendor is granted permission, subject to City approval, to sell advertising on a 12" x 18" portion of the "dog stations".

The City of Louisville currently has 66 stations. Attached are photos of a current Louisville station and a station installed, operated and maintained by Poo Free Parks. If the City used the Poo Free Parks stations, City staff estimates the initial one-time cost would be $16,500 (66 X $250), and then the City would avoid about $15,000/year that we currently spend maintaining the City's existing dog waste The Open Space Advisory Board (OSAB) has encouraged staff to investigate the program but has not made a final recommendation requesting installations on open space.

This proposal raises a number of issues. Staff believes the waste stations could be permitted under Louisville Municipal Code (LMC) Sections 17.24.170, 4.04.010.V and 14.12.010.Q, which provide, among other things:

- An exemption to the sign code requirements for "Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazard, parking, swimming, dumping, etc.;" [emphasis added].
- Authorization for the Parks and Recreation Director to give permission to attach items to any sign, display, or other object for the purpose of decorating or for any other purpose.

However, advertising is a complicated issue that brings into play many issues, including:

- Implications for Off-Premises Signage: How might we clarify the difference between this form of advertising and other instances of advertising and signage that is prohibited by the LMC.
- Fairness: How would the City select who gets to advertise on the signs?

- Weighing Benefits & Impacts: Do the economic benefits of advertising in this manner justify the visual impact of the signs? How might we value the tradeoffs and what value should we place on the ability to put advertising on a portion of a sign; $20,000? $5,000? $50,000?
- Regulating Content: What size, color, or design constraints might be placed on the advertising portion of the signs and should content be regulated?
- Applicability to other situations: What are the implications and how might this proposal influence the possibility of other instances where advertising could be used to further municipal purposes? The possibilities range from relatively inconspicuous names and logos on bike racks, to highly visible signs on municipal facilities, to negotiated naming rights.

If the City Council believes this this concept has merit, staff believes it is possible to proceed under the existing LMC exemption. However, staff also believes we should develop amendments to the LMC, and perhaps administrative guidelines, to address the issues noted above. Specifically, at a minimum, staff recommends adding language to Section 17.24.040, clarifying that "off-premise" advertising is permitted on City signs and/or facilities. Attached are examples of how the cities of Lakewood and Aurora addressed this issue.

**FISCAL IMPACT:**
One-time initial costs of up to $16,500 to install 66 dog waste stations offset by annual savings projected to be about $15,000/year. Unknown staff and legal costs to develop and conduct public involvement associated with developing and refining amendments to the LMC.

**RECOMMENDATION:**
Discussion so staff can hear Council Member's perspectives on the issues noted above.

**ATTACHMENT(S):**
1. Photos of current Louisville station and a station installed, operated and maintained by Poo Free Parks
2. Examples of how the cities of Lakewood and Aurora addressed this issue
3. Existing Bike Rack
4. Poo Free Park Press Release

DOG WASTE
IS A THREAT TO THE
HEALTH OF OUR CHILDREN-DEGRADES
OUR TOWN-TRANSMITS DISEASE
LEASH-CURB AND
CLEAN UP
AFTER YOUR
DOG
IT'S REQUIRED BY LAW !
MAXIMUM $300.00 FINE

POO FREE PARKS
STUMP REMOVAL
Tree & Stump Work
Call (303) 246-6891
POO FREE PARKS

**Lakewood's Ordinance**

**9.32.120 Commercial activity prohibited**

It is unlawful to conduct any commercial activity or sell or offer for sale any service, product or activity for which a fee is charged, or to advertise in or on any park, community center, or recreation facility, except where such activity is authorized in writing by the Director. (Ord. O-97-31 § 10, 1997; Ord. O-83-2 § 1 (part), 1983).

# Exhibit B

City of Aurora

City Manager's Office
15151 E. Alameda Parkway
Aurora, Colorado 80012
Phone: 303-739-7010
Fax: 303-739-7123
www.auroragov.org

**Administrative Policy Memorandum No. 4-21** 

**Date Issued:** **December 24, 2009**

**Subject:** **Market Based Revenue Opportunities**

This Administrative Policy Memorandum (APM) sets forth the City Council Market Based Revenue Opportunity (MBRO) Policy and city MBRO administrative policy which are to be followed in city MBRO activities. APM paragraphs I through III and Addendum A set forth the City Council MBRO Policy and APM paragraph IV and following set forth city MBRO administrative policy.

**City Council MBRO Policy (adopted June 8, 2009)**

**I. Purpose**

The purpose of the Market Based Revenue Opportunities (MBRO) program is to capture and maximize marketing-related, commercial, non-traditional sources of revenue such as event sponsorships, advertising and naming rights. This policy defines what activities are to be governed, procedures for the review and screening of potential and existing activities, principles to test potential sponsors and activities, process to manage solicitation of sponsors, and determine benefits and forms of recognition for sponsors.

**II. Scope**

Market Based Revenue Opportunities include but are not limited to activities such as sponsorship, naming rights, and recognition of MBRO sponsors or benefits received. Sponsorships are defined as the financial or in-kind support from an entity (sponsor) toward city events, programs, projects or sites in exchange for tangible and intangible benefits to the sponsor. Benefits for MBRO activities are characterized by the recognition in marketing, advertising, naming or name association for an event, program, project or site.

Recognition of gifts or donations does not qualify as an MBRO activity, and therefore is not subject to this policy.

## III. General Principles

All MBRO activities and potential sponsors will adhere to the following over-riding principles.

1. The city has established a MBRO Committee to review activities. The MBRO Committee will include at a minimum a deputy city manager, an assistant city attorney, grants development officer, representation from the Communications and Finance Departments and at least one other department. Also, potential affected departments will have the director, or designee, work temporarily with the MBRO Committee for as long as necessary. The MBRO Committee shall select a chair.
2. The City Manager will designate a MBRO Program Manager to coordinate overall program and MBRO Committee functions, and other duties as determined by the MBRO Committee.
3. Requests for Sponsorship (RFS) optimally should be competitive and solicited from a broad base of potential sponsors.
4. The funding provided by a sponsor shall in no way entitle the sponsor to exercise any involvement or influence on any decision directly or indirectly connected to the management and operation of the city, including any decisions regarding the award of city contracts and the formation and implementation of city policy.
5. Sponsors and their associated business activities should be in keeping with community standards and values as determined by City Council. Any sponsorship entity or activity should meet the following criteria:
   a. Activity must promote City Council Goals and Objectives, city programs, policies and community well-being;
   b. All events must be open to the public (either free or paid entry);
   c. Partnerships that provide financial or in-kind support for city events, programs, projects or sites need to significantly outweigh the cost of staff support and operational costs or capital investment needed to support the partnership;
   d. Entities supporting MBRO activities should at least not have a negative record and ideally have a positive record of responsible community activity or stewardship;
   e. MBRO partnerships with entities whose sole purpose is to sell or manufacture firearms may only be considered in certain appropriate environments or as specifically approved by City Council;
   f. MBRO partner entities' business activities are in keeping with community values, for example, this would <u>prohibit</u> entities:
      i. Engaged in political campaigns or advocacy, sexually oriented business, gambling or pornography; or
      ii. Whose sole purpose is to sell or manufacture tobacco

**Any potential sponsor or any activity generated by a MBRO partnership, advertising or any other commercial partnership as determined by the city, shall not:**

1. Promote hostility, disorder or violence;
2. Discriminate against ethnic, racial or religious groups or discriminate, demean, harass or ridicule any person, or group of persons on the basis of gender or sexual orientation;
3. Be libelous or untruthful;
4. Inhibit the function of the city or any of its facilities, programs, activities or events;
5. Override the city's identity as the "City of Aurora, Colorado;"
6. Include any advertising in vehicles or equipment utilized for Fire and Police activities;
7. Promote, favor or oppose the candidacy of any candidate for election to public office, political party, or public interest campaign;
8. Be offensive, obscene or pornographic as defined by prevailing community standards throughout the city;
9. Promote the use of illicit drugs, tobacco or alcohol;
10. Disperse or use alcohol products *except in certain adult environments, or as specifically approved by the city*;
11. Promote the use of illegal firearms;
12. Promote religious or political organizations; or
13. Interfere with current city advertising or marketing programs.

## A. City Council Guidance

In the event the MBRO Committee finds that a proposed MBRO project, activity or sponsor is in conflict with the General Principles set forth above, the MBRO Program Manager will work swiftly to communicate this finding to City Council for its review and comment. The review process will be set forth in the Administrative Policy Memorandum adopted by the City Manager.

## B. Sponsorship

Sponsorship is financial or in-kind support from an entity toward city events, programs, projects or sites in exchange for tangible and/or intangible benefits to the sponsor.

<u>Benefits for Sponsors</u>
Benefits are determined by agreement between the city and the sponsor. Benefits include but are not limited to:

1. Marketing Opportunities include product promotion and temporary advertising on city property.
2. Exclusive corporate partnerships, which would include vending and pouring rights.
3. Vendor marketing events at city facilities.

4. Promotion by the business of its investment in the city and association with city programs.
5. Name association for an event, program or site.
6. Participation in the event.

Titles - The title and ownership of all events, programs, projects or sites sponsored by an outside entity shall remain the City of Aurora. All names shall first be titled "City of Aurora" and then followed by the sponsor name and or logo. The city logo can be substituted in the title for the "City of Aurora."

Recognition - The city wants to recognize their partners in as meaningful a way as possible. At the same time, the city strives to minimize visual impacts in facilities and sites. Consequently, working with the sponsor, the staff will select a variety of avenues in which to recognize them for their sponsorship.

MBRO Activities - The MBRO Committee will review all forms of MBRO activities to ensure proposed activities are tasteful, appropriate, meet city standards and policy guidelines; and are in keeping with community standards and values as determined by City Council.

**The acceptance of sponsor funding will be tested against aforementioned General Principles and will apply to all MBRO activities.**

## C. Naming Rights

A naming right is a type of sponsorship in which an external company, organization, enterprise, association or individual purchases the exclusive right to name a park, facility, site or amenity within a facility or site, for a negotiated period of time. Usually, naming rights are considered in a commercial context, which is that the naming right is sold or exchanged for significant cash and/or other considerations under a long-term arrangement. This arrangement is usually documented in a written agreement signed by the interested parties and has a specified end date to the contractual obligations.

Naming opportunities should be the result of a significant financial or in-kind contribution. This contribution should be relative to the construction, operation costs of city parks, facilities and amenities within facilities or sites.

Existing names should not be changed without consideration of historical significance of the existing name, the impact on the individual or organization previously named, the costs and impact of changing all existing signs, marketing collateral, rebuilding community recognition and updating public records.

Policy

The acceptance of funding will be tested against the General Principles that apply to all MBRO activities, as well as existing city policies.

The term of the naming right of a city park, facility, site or amenity can be for a negotiated length of time to be determined by the value of the sponsorship. The city will not grant permanent naming rights or negotiate a right for an indefinite term.

All proposals for naming rights will be submitted for review by the MBRO Committee and the City Manager. The City Manager may submit the nomination for internal review and then to City Council.

**D. Endorsement**

Endorsement is the express approval or guarantee that a product or entity meets a certain standard. This differs from a testimonial which is an unpaid statement attesting the satisfaction of the consumer with a good or service.

It is the policy of the city to prohibit paid endorsements, either implied or direct, of commercial products or services by the city, or its employees in their official capacity. Testimonials which may be used for advertising purposes must be approved by the City Manager or executive staff.

It is to be expressly understood that the acceptance by the city of sponsorships, advertising revenues, or other corporate partnership funding does not imply or grant the city's endorsement of the product, service or organization except as approved by the City Manager and in accordance with a signed agreement between the city and a provider of products or services.

**E. Revenue Allocation**

Revenues collected from activities defined by this policy will be initially allocated to pay city costs associated with the event and for reimbursement of any costs associated with procuring the sponsorship. Remaining revenues will be used for general city purposes as determined through the city budget process, which may include a set aside to fund future work on additional market-based revenue opportunities as recommended by the MBRO Committee.

## IV. Administrative Policy for City MBRO Activities

**A. Policy**

1. All MBRO related activities as defined by the City Council MBRO Policy shall be subject to the following governing procedures. Sponsorships for events, programs, projects or sites are subject to centralized review, approval and management by the MBRO Committee.
2. Departments will submit all potential sponsorships to the MBRO Committee for review and approval prior to pursuit of Requests for Sponsorship or

approaching potential sponsors for any activities defined by the MBRO policy. The MBRO Committee will determine the best course of action for pursuit of significant sponsorship activities.

3. All MBRO related data must be compiled by departments and reported to the MBRO Program Manager and MBRO Committee.

**B. Scope**

This Administrative Policy applies to all departments and will serve as city policy in securing MBRO related revenues.

**C. Responsibilities**

Department Directors will be responsible for ensuring adherence to the City Council MBRO Policy and this MBRO administrative policy and obtaining policy specified review by the MBRO Committee and Executive Staff.

**D. Procedure:**

1. Approval for activity. Prior to pursuing any sponsor or partner, departments must submit a memo requesting permission to proceed to the MBRO Program Manager and MBRO Committee for all MBRO related activities. The memo will include the following information:
   a. title of MBRO related activity
   b. date
   c. description of activity
   d. detailed budget
   e. potential partner rights and benefits
   f. forms of recognition and
   g. estimated value of rights and benefits and any collateral materials.

   The MBRO Committee will review all proposals for all MBRO activities as defined by the policy.

   In addition the MBRO Committee will either designate a project manager for city-wide projects or work with a department to determine the manager of a project.

2. Should the MBRO Committee find a proposed MBRO activity or sponsor to be in conflict with the General Principles (Section III.) set forth in the City Council MBRO Policy or list of acceptable activities (Addendum A), that finding will be communicated to the proposing department. If the finding of conflict is not resolved and if the department requests further review of the proposed activity or sponsor, the proposing department will work with the MBRO Committee in communication of the proposal and MBRO Committee finding to the City Council Management and Finance Committee for further guidance.

3. The City Manager will designate a MBRO Program Manager to coordinate overall program and MBRO Committee functions and other duties as

determined by the MBRO Committee. Duties of the Program Manager shall include but not be limited to:

a. review departmental submissions for approval by the MBRO Committee of proposed activities, including associated benefits and valuation data;
b. review departmental submissions for approval by the MBRO Committee of all proposed contracts with vendors and with sponsors;
c. participate in departmental search and selection process of outside vendors used to obtain MBRO revenues;
d. provide oversight and reporting of all revenues generated by outside vendors;
e. communicate and report MBRO activities to the MBRO Committee, City Manager and City Council; and
f. work with the MBRO Committee to designate project managers for specific activities.

4. Valuation of Rights & Benefits
   a. Departments are encouraged to use outside independent agencies to value benefits and secure sponsors when deemed appropriate.
   b. Market values for similar advertising should be utilized to determine valuation of rights and benefits offered to sponsors.

5. Solicitation of Sponsors / Partners
   The MBRO Committee will determine the best method to pursue sponsors for given activities. The methods include:
   a. City staff solicit proposals for MBRO revenues and activities with prior approval of departmental management and the MBRO Committee;
   b. Requests for Sponsorships (RFS) which are designed to be competitive and equitable; or
   c. Outside agencies may be used to solicit sponsors partners for MBRO activities.

6. Reporting
   a. Departments shall report to the MBRO Program Manager regarding all MBRO activities. The report should detail the type of activities, sponsors, revenues and related expenses.
   b. The Program Manager will report quarterly to the City Manager regarding MBRO activities.

**E. Execution of Contracts**

Departments should work with the Program Manager to review all sponsorship contracts.

The authority to pursue and execute sponsorship agreements is as follows:

a. After receiving approval by the MBRO Committee, the Department Director can execute sponsorships for less than $25,000;
b. A Deputy City Manager must approve all contracts over $25,000 but less than $50,000; and
c. The City Manager must approve all contracts over $50,000.

**F. Benefits for MBRO Partners / Sponsors**

Examples of types of benefits and recognition include publications, marketing materials, collective gift walls, monuments, signs, engravings or small plaques. The following guidelines apply to recognition of all partnerships:

1. All forms of recognition must meet city design and maintenance guidelines.
2. Permanent and temporary forms of recognition must be checked against pertinent city policies, plans, code, ordinances and other legal obligations.
3. The city will establish and follow guidelines for the size, material, color and location of a plaque or other name recognition media.
4. Permanent recognition in a park, facility, site or amenity within a facility or site can include the name of individuals, organizations and corporations.
5. Other visible recognition objects will be limited to areas of the city recognized as "built" environments; such as: benches, picnic tables, buildings, play areas, ball fields and tennis courts.
6. All forms of recognition for MBRO partnerships will be coordinated and approved by the Communications Department.
7. All recognition activities shall be approved by the City Manager or designee.

## V. Glossary of terms

**Advertising.** Advertising is the signage created by the for-profit entity (usually placed in designated, purchased space) to promote a product. Paid advertisements shall be allowed in the city's printed materials and publications.

**Benefits.** Benefits are the advertising, marketing, naming or name association rights received for the in-kind or monetary payment to become a sponsor of a City of Aurora event, program, project or site.

**Corporate Sponsorship.** Corporate sponsorship differs from gifts. It is financial or in-kind support from a for-profit entity toward city events, projects, programs and sites in exchange for tangible and intangible marketing benefits for the sponsor.

**Endorsement.** Endorsement is the express approval or guarantee that a product or entity meets a certain standard.

**Events.** Events are generally one-time activities for the public organized by the department and held on city property that generally last less than a week.

**Fees**. The city charges everyone a fee to permit and have priority use of any park, permitted amenities, stages or city facilities. This is to cover extra operational expenses associated with the event and to guarantee the space for the permitted. Fees are based upon the purpose and size of the event. Additional fees are charged as a damage deposit.

**Gambling.** For the purpose of this policy, gambling shall not include State sponsored lottery gaming.

**Gift.** A gift is a freely given donation of property, goods or cash to the city, preferably with no expectation of return. If the gift is contingent upon a special request or restriction, the gift is considered as being subject to a "condition". Property can range from land and buildings to smaller goods. Cash could include actual cash, discounts or investments. Gifts may be donated for a specific purpose or may be general in nature.

**Marketing benefits.** These are opportunities given to the for-profit sponsor to have their branding, their products, their name and their logo given temporary visibility on city property or materials. The details of those opportunities are negotiated, covered by the agreement, and must meet city laws and departmental policies.

**Naming Benefits**. Naming is the name associated with a park, facility, or features within a park or facility and is an exceptional way in which to recognize a <u>significant</u> in-kind or financial contribution or payment.

**Projects.** Projects are one-time departmental efforts, often with a product or improvement as the end result.

**Programs**. Programs are on-going, organized activities led by the department for the public and generally involve staff supervision.

**Pouring Rights.** A pouring right is a type of sponsorship in which a corporation, an organization or an individual purchases the exclusive right to supply beverages at a city facility in exchange for significant cash and/or other considerations over a long-term agreement.

**Sponsorship**. Sponsorship is financial or in-kind support from an entity toward city events, programs, projects or sites in exchange for tangible and intangible benefits.

**Forms of Sponsorship**
Cash – A sponsorship received in the form of money.
In-kind – Goods or services of value to the city are received rather than cash.

**Sites**. Sites are specific places, varying in scale from individual features or areas to an entire facility, park or center, and even to an entire system.

**Temporary Advertising.** Temporary advertising is the temporary display of corporate logos, branding or advertising copy at a department event or on peripheral materials associated with an event or program.

VI. **Effective Date:** December 24, 2009

VII. **Approval**:

Ronald S. Miller
City Manager

12-24-09
Date

## Addendum A

### Market Based Revenue Opportunities Acceptable Activities
### Approved by City Council
### June 8, 2009

**Current Activities**

- **Sponsorship for Special Events**
  - KidSpree, 4th of July, Fiesta Aurora, Jack-O-Launch at Pumpkin Fest, Veterans Salute

**Potential Activities or Benefits**

1) **Expand / change current events**
   - Allow beer gardens or music area for adults
   - Charge for select or limited activities in order to add value to events
2) **Add new events**
3) **Recognition of Sponsors**
   - Temporary display on the City of Aurora Website
     - i) Banner & Links
4) **Advertising in or on:**
   - Signs
     - i) Outfield fences
     - ii) Fences - Park, Recreation or Other Facility
     - iii) Facilities or Amenities
       - (1) Park Benches
       - (2) Recreation Equipment
       - (3) Playground Equipment
       - (4) Flower beds
     - iv) Tracks
       - (1) Side and/or surface
     - v) Trails
       - (1) Side and/or surface
     - vi) Historic Markers
     - vii) Golf Tees
   - Special advertising structures such as special monuments or gateway signs, light post flags or banners, or median signage
   - Bathrooms
   - Publications
     - i) Internal
       - (1) City Scene – Employee Newsletter
     - ii) External
       - (1) Leisure Living – Library, Recreation & Cultural Services class guide
       - (2) ICCNA or Kaleidoscope Guides
       - (3) News Aurora
   - Park scoreboards & goalposts or goals
   - Pool bottoms / side s

- City vehicles & equipment (excluding Fire & Police)
  - i) Golf carts
  - ii) Park equipment
  - iii) Street equipment
  - iv) Courier cars

**5) Exclusive Marketing**

- Events or Fairs
  - i) Public / Citizens
  - ii) Employees
- Kiosks at city facilities
  - i) Product Placements
    - (1) Displays at Library
      - (a) Reading nooks
      - (b) Shelf end caps
- Marketing to city employees
  - i) Intranet website banner & links
  - ii) Fliers & posters on physical bulletin boards

**6) Exclusive Association Rights**

- Vendors provide payment or goods and/or services at a lower cost to obtain status to:
  - i) Market to employees
  - ii) Recognition as exclusive provider
  - iii) Advertising benefits

**7) City Store**

- Sell products with City of Aurora logo

**8) Cell towers**

- Right-of-way
- Facilities
- Traffic lights

**9) Sale of Products**

- Bottled water
- Bio-products
- Wood chippings or mulch
- GIS mapping information

**10) Sponsor Channel 8 Programs**

**11) FYI Bulletin Board - Intranet**

Bike racks donated by
KAISER PERMANENTE

**FOR IMMEDIATE RELEASE**

Contact: Aimee Miller
Aimee Miller Marketing & Communications
303.549.9034
aimee@aimeemillermarketing.com

## POO FREE PARKS® PROGRAM EXPANDS TO HIGHLANDS RANCH

*Program Adds 200 Eco-Friendly Pet Waste Stations in Highlands Ranch Area to Keep Parks Green & Clean*

Denver, CO (October 30, 2012) – Poo Free Parks®, a Denver-based, privately-held company providing environmentally-responsible pet waste supplies and services to local communities, announces it has expanded its program to Highlands Ranch. Installation of nearly 200 eco-friendly dog waste stations was recently completed – making Highlands Ranch the ninth community in the Denver Metro Area to join the program. The program has also recently expanded to the St. Louis area, a school district in Oregon and several private apartment communities throughout Chicago and Denver.

The Poo Free Parks® program makes biodegradable dog waste bags available to residents using area parks, open spaces and trails -- committed to keeping outdoor spaces clean and enjoyable for all visitors and pets and reducing the amount of harmful plastics in the environment. At the same time, the program reduces the fiscal burden on local municipalities with program funding provided by sponsors that are publically recognized for their support on signage attached to each station. Unleashed by Petco® is the founding sponsor for this market, covering costs for maintenance and supplies at stations in the Highlands Ranch Metro District.

Poo Free Parks® currently serves more than 300 parks throughout the U.S. with the eco-friendly pet waste program which includes the installation, supply, and upkeep of pet waste bag dispensers made from 100 percent recyclable aluminum, filled with 100 percent biodegradable bags designed to naturally deteriorate within 18 months. The dog waste dispensers are maintained weekly by crews driving hybrid vehicles.

"We value the environmentally-friendly and supportive services provided by Poo Free Parks®," says Terry Nolan, general manager, Highlands Ranch Metro District. "This program will help protect water quality, saves the Metro District money and will help to keep our community's beautiful parks and trails clean."

According to reports, 4.6 million biodegradable bags have been used at participating parks throughout Illinois, Indiana, Oregon and California and the Denver Metro Area, which equates to over 583,000 pounds or 291.5 tons of pet waste that has been collected by dog owners using earth-friendly supplies provided by Poo Free Parks®.

"We look forward to continuing our tremendous impact on local communities across the country and aligning ourselves with like-minded sponsors, such as Unleashed by Petco®, who believe in keeping our parks and waterways clean and beautiful for pet owners and visitors and giving back to their communities," says Poo Free Parks® founder and president, Bill Airy. "The Poo Free Parks® program is committed to cleaning up our parks, reducing the amount of harmful plastics in our environment, taking a fiscal burden off the shoulders of local municipalities and taxpayers, and providing a public service opportunity for businesses and organizations."

Airy is currently in talks with over 230 park systems throughout the country, as well as local and national sponsors, to expand the Poo Free Parks® program.

"Pets are always welcome at Unleashed by Petco® so our stores have clean up stations in the event of an accident, says Tina Hingle, marketing manager for Petco®. "As a pet parent myself, I know accidents sometimes happen and you're not always equipped to deal with it. We love the idea of Poo Free Parks® because their environmentally conscious dog park clean-up stations are meant to help pet parents who find themselves in a pinch."

**About Poo Free Parks®**

Poo Free Parks® is a privately-held company providing eco-friendly pet waste supplies and services to communities throughout the U.S. The company is dedicated to keeping parks and waterways clean and beautiful in an environmentally-, fiscally- and socially-responsible manner, providing employment opportunities to members of the community and bringing value and recognition to sponsorship partners. For more information, please visit www.PooFreeParks.com.

**About Unleashed by Petco®**

Anything but ordinary, Unleashed by Petco® offers exceptional customer service in a fun, pet-friendly environment. We always encourage shopping with your pet. We've got a wide variety of your favorite brands. Our knowledgeable associates make finding the right nutrition and healthy pet essentials a snap. If you're looking for fashionable pet apparel, we've got that too. Best of all, we're conveniently located right in your neighborhood. Visit Unleashed by Petco® today!

###