AGENDA TITLE: Consideration of a motion authorizing the city manager to enter into settlement agreements in the disputes with Honeywell International, Inc. and Tusco, Inc. for their roles in the environmental remediation efforts on the Valmont Butte property.

PRESENTERS:
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Tom Carr, City Attorney
David J. Gehr, Deputy City Attorney
Maureen Rait, Executive Director of Public Works

EXECUTIVE SUMMARY:
The city has been working on parallel tracks to: (1) deal in a responsible manner with environmental remediation requirements at the city’s Valmont Butte property, and (2) discover potentially responsible parties for the environmental contamination associated with the Valmont Butte property. The city has retained Elizabeth Temkin and Alison Thayer of the law firm Temkin, Wielga and Hardt, LLP and Environmental Engineer Paul Casey of Casey Resources, Inc. to identify the scope of the environmental issues on the property, and to identify and bring previous property owners into the discussion about how to remediate the hazardous materials left on the property in the past.

The city identified two potentially responsible parties that were former owners and operators of milling operations on the property. Honeywell International, Inc., the successor to Allied Chemicals, Inc., operated the property from 1939 to 1976. The property was thereafter purchased by Tusco, Inc. Tusco leased portions of the property to a variety of businesses that were involved in the business of mining during its ownership from 1976 until it sold the property in 1992.
The city has been working with these parties to develop and fund a cleanup plan for the property. The city has not filed lawsuits, but instead the parties have entered into a mediated alternative dispute resolution process.

Section 2-2-14(c), B.R.C. 1981 authorizes the city attorney to initiate and pursue actions to address damages to city property. Given the community interest in this property, the city attorney and city manager are requesting authorization from the council to settles these disputes.

Additionally, this memorandum provides an update regarding approval of the city’s Limited Impact Special Use Review application from Boulder County. The Boulder County Board of Commissioners imposed additional conditions, mostly in the area of historic preservation. A copy of the County’s decision is included in Attachment A.

The city maintains a web site containing current status, next steps and key documents relating to the environmental conditions and activities at the Valmont Butte property at: www.bouldercolorado.gov/utilities/projects/valmontbutte.

**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 settlement agreements in the disputes with Honeywell International, Inc. and Tusco, Inc. for their roles in the environmental remediation efforts on the Valmont Butte property, subject to the terms and conditions described in this memorandum.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- Economic: N/A

- Environmental: Settlement of this dispute will allow the city to commence clean up and remediate existing environmental contamination. The cleanup plan will remediate past adverse action associated with waste products stored on the property.

- Social: The cleanup plan will help ensure that the basic health and safety needs of all residents are met. There is also a historic preservation component of the Voluntary Cleanup Plan that is intended to recognize, respect and value our local cultural heritage.

**OTHER IMPACTS:**

- Fiscal: It is anticipated that the total costs to implement the cleanup plan will be approximately $5 million. Apportionment of the costs for this effort have been allocated based on the interests that each city fund has in the property: General Fund (fire training
center), 50%; Wastewater Utility (bio-solids facility), 40% and Open Space and Mountain Parks (environmental preservation / open space), 10% .

The General Fund portion is proposed to be completed by an inter-fund loan from the Fleet Replacement Fund (FRF) to the Facilities and Asset Management Fund. The recommended term is ten years at an interest rate of three percent. Wastewater funding will come from a combination of the Wastewater CIP and a 2011 adjustment to base. OSMP will fund their portion from the OSMP capital improvements program.

- Staff time: Settlement of this matter would avoid the need for trial and related expenditures of outside counsel costs and fees in addition to city staff time associated with litigation.

BACKGROUND:
The city purchased the Valmont Butte property in 2000. (See property map in Attachment B.) The property is comprised of an abandoned ore milling complex and associated tailings ponds. The intent was to use the approximately 102 acre property for a composting facility associated with the wastewater utility and for a fire training center. Also, portions of the property, notably along the northern property boundary, were purchased for open space and natural values. After an extensive public process, City Council decided not to pursue the fire training facility or the composting uses on the property, and directed the staff to begin the process of identifying potentially responsible parties for the environmental contamination on the property.

Over the years, the property has been used for industrial, milling and debris disposal. Milling of mineral ore began on the property in the mid-1930s when gold ore was processed on the site. From 1941 to 1973 the mill complex was expanded and converted to process fluorspar and generated approximately 400,000 cubic yards of tailings. These fluorspar tailings contain naturally occurring radioactive materials and heavy metals, including lead and arsenic. These tailings were generally deposited within two tailings impoundments east of the mill complex, referred to as the primary and secondary tailings ponds.

From approximately 1977 through 1985, the mill was converted to process gold ore; during this time, an additional 45,000 cubic yards of tailings were deposited on top of the fluorspar tailings in the primary tailings pond. Milling uses were discontinued on the property in 1985, however the historic mill site and other associated structures remain. The property was utilized intermittently by various operators for industrial uses through September 2000 when it was purchased by the city. Since that time it has remain unused.

The federal Environmental Protection Agency (EPA) conducted a site investigation on the Valmont Butte property under its authority under the federal Comprehensive Environmental, Response, Compensation and Liability Act in 2004 -2005. The EPA hired URS Operating Services, Inc. to complete the site investigation on its behalf. URS prepared an Analytical Results Report which can be found on the city's Valmont Butte website. The report has been prepared in accordance with the EPA guidance for performing site inspections under CERCLA. The report included a great deal of soil and water sampling and analysis from the property. In 2008, the EPA made a request to be reimbursed for its costs associated with this work when the city was in discussions with the Trust for Public Lands for the purchase of the property. Interest,
employee, and other expenses from the EPA have continued to mount over the initial amount of $430,000. The last claim letter from February of this year had the claim at approximately $540,000.

The city now has a remediation plan that was approved by the Colorado Department of Public Health and the Environment (CDPHE) on September 1, 2010 as part of the city’s Voluntary Cleanup Plan (VCUP) application for the property. The project proposes to complete remediation of soils impacted with heavy metals and low-level, naturally occurring radioactive materials to limit the risk of human and wildlife exposure. The cleanup plan seeks to remediate the tailings pond areas as well as 14 additional areas outside the tailings ponds that were discovered to have high lead concentrations. The remediation strategy is driven by the need to construct a properly engineered cap on the primary tailings pond and the need to properly manage mining residuals located outside the tailings pond area. Contaminated soils will be consolidated in the tailings pond, then covered by a new cap of soil and rock.

The County approved the city’s implementation of the cleanup plan. It included a number of standard conditions related to transportation construction, operation and scheduling requirements, the requirements for weed control and revegetation plans, construction and maintenance, and approval of the cap rock replacement colors.

There were also requirements related to historic preservation on the property. The city must provide a revised grading plan, illustrating the protection of significant structures, the preservation of the existing site access road to the scale house and extending to the mill’s ore bins, to the Land Use Department for review and approval.

After the work is completed, the city will submit an application to the County for landmark designation of the Mill Complex along with a portion of the property that includes these resources. The designation includes the following buildings and features be included in the landmark designation: the mill structure, water clock building, cistern, rail spur, scale house, concrete well, and the road to the scale house.

If feasible, the County asked that the pump house, storage tanks, fire hydrants, and office/lab/assay office buildings also be retained. These are less important buildings to the preservation efforts. For these buildings and structures, the County will approve an administrative process where, as the work commences, the city will confer with the County and the County will allow structures to be demolished based on the level of contamination in and around the structure, as well as its general structural integrity. It is anticipated that final approval of this preservation and demolition plan will be done as part of the building permit process.

After the environmental covenants with the CDPHE are revised, the city is required to apply for a landmark designation for the balance of the property, defined as the entire property excluding the Mill Complex (which is covered in the separate landmarking requirement) and the 12.5 acres constituting the primary tailings pond.

The purpose of this landmarking is to evaluate thoroughly the historical significance of the balance of the property based on its association with Native American inhabitants and tribes, the Valmont settlers, and the property’s past mining and milling activities. Through this landmarking
process, the County may exclude additional specific areas (such as the secondary tailings pond), but only if the areas are deemed not to meet the County’s historic landmark designation criteria.

Once all approvals are in place, staff will commence implementation of the VCUP. Construction is expected to be completed in approximately six months.

**ANALYSIS:**

**Honeywell Settlement**

During 2010 and 2011, there have been five meetings between city, Honeywell and Tusco representatives to resolve the matters related to clean up of the property. Two meetings were unmediated during the first half of the year and resulted in the exchange of information related to the site and the cleanup plan. Since May, there were three mediations that were facilitated by the Judicial Arbiter Group (often referred to as “JAG”). There have also been a number of other less formal communications that were facilitated by the mediator. Judge Richard Dana, a former Boulder District Court judge and nationally recognized expert in the resolution of environmental disputes, served as the mediator.

Subject to final approval by the City Council and Honeywell management, the parties agreed on the following proposed settlement:

1. Honeywell agrees to fully resolve and satisfy the EPA claim ($500,000, plus interest) and to indemnify, defend, and hold the city harmless in that regard.

2. The city takes responsibility for its non-VCUP costs.

3. The parties agreed that the VCUP application was reasonable and that it will define the scope of the project.

4. The issue of liability will not be subject to further debate. One required element of a claim under the federal Comprehensive Environmental Response, Compensation, and Liability Act is proof that the person or company caused (was liable for) a release of a hazardous material. This element will be resolved through this settlement. Each party will effectively acknowledge some level of responsibility for releases of hazardous materials on the Valmont Butte property. If the city had to litigate this element, it would have to establish that one party or the other was the proximate cause of the environmental contamination. Once the issues of liability and proximate causation are determined, the question then moves to how much responsibility each party has for the damages to the property, through the release of hazardous materials or other causes.

5. On an interim basis, the city and Honeywell will be equally responsible for the costs for moving forward to implement and complete the approved VCUP. This arrangement will be used to fund the construction of the improvements described in the VCUP. The city and Honeywell will be partners in the clean up.

This approach provides the city with upfront funding of 50 percent of the capital cost for construction of the remedy, instead of being forced to sue for reimbursement after the fact.
Once the project is completed, the parties can either live with the 50/50 split or resolve the final damages allocation in an abbreviated, mini-trial process. The mini-trial will be limited to a determination of how much each property owner was responsible for paying, based on the damages the property owner made to the property. Agreeing to a “mini-trial” approach will greatly limit legal and related expenses.

The city or Honeywell could litigate the allocation of responsibility, with either party having an upside of obtaining up to 85% of the cleanup costs. Both parties have agreed to accept responsibility for no less than 15% of the cleanup costs.

6. Honeywell’s future responsibility, once allocation of the construction and operation and maintenance costs are complete, will be limited to any new issues or problems at the property that the city and Honeywell could not anticipate. Typical items that would allow reopening include previously unknown conditions, significant changes in the regulatory environment, or for some type of catastrophic failure of containment of the materials on the property.

7. The city reserves the right to use and develop the property for any lawful use consistent with the VCUP, subject to appropriate state and local permitting authorities.

Tusco Settlement

The city also has an agreement in principal to resolve its claims against Tusco Inc. for a payment of $200,000 in exchange for a general release of liability, subject to standard reopeners. Reopeners will allow the city to seek further response if information is received after the settlement of previously unknown site conditions, significant changes in the regulatory environment, or for some type of catastrophic failure of containment of the materials on the property. The $200,000 will be allocated in equal amounts to the city’s costs and Honeywell’s costs.

Fund Apportionment and Future Use of the Property

As noted above, the apportionment across city funds (General Fund, Wastewater Utility, and Open Space and Mountain Parks) has been approximately 50 percent, 40 percent and 10 percent respectively, based upon ownership of the land by fund. The ultimate use of the property has not yet been determined because the focus in recent years has been on the environmental remediation. It remains possible that the land will be used by all of the contributing entities, including the utility. Beyond the implementation of the VCUP, the city’s discussion about the extent to which funds should be reimbursed should be scheduled when the ultimate use of this property is determined by the city.

MATRIX OF OPTIONS:

Council has the option of approving or rejecting the proposed settlement. If the settlement is rejected, the matter will likely be placed on a litigation track.
Attachments:

A - Boulder County Land Use Approval Resolution for the city’s limited impact land use approval for the Valmont Butte property
B - Map of Valmont Butte property.
August 15, 2011

City of Boulder Fleet Services
Attn: Joe Castro
PO Box 791
Boulder, CO 80306

Dear Applicant:

This letter certifies that a hearing of the Board of County Commissioners, County of Boulder, State of Colorado, was duly called and held on June 27, 2011, in consideration of the following request:

**Docket LU-11-0005: CITY OF BOULDER VALMONT BUTTE PROPERTY REMEDIATION**

**Request:** Request for Limited Impact Special Use Review for an estimated 304,000 cubic yards of earthwork and demolition of selected industrial structures associated with the proposed remediation of a former mill, industrial and debris disposal site.

**Location:** At 3000 63rd Street and 6680 Valmont Drive, approximately 1.5 miles east of the intersection of Valmont Road and Foothills Parkway, south of and adjacent to Valmont Road and northeast and adjacent to 63rd Street, in Sections 22 & 23, Township 1N, Range 70W.

**Zoning:** Agricultural (A) and General Industrial (GI)

**Applicant:** Joe Castro, City of Boulder

**Agent:** Paul Casey, Casey Resources, Inc.

The Board of County Commissioners has determined that the request is CONDITIONALLY APPROVED, subject to the terms in the attached resolution.

Your approval may have included certain conditions that must be met. Please contact the planner who processed your docket for more information on any requirements that will need to be met.

If you have any additional questions, please feel free to contact me at (303) 441-3930 or via email at bharding@bouldercounty.org

Sincerely,

[Signature]

Bryan Harding, Planner II
Planning Division

[Stamp]

Cindy Domenico County Commissioner

[Stamp]
RESOLUTION 2011-76

A RESOLUTION CONDITIONALLY APPROVING BOULDER COUNTY LAND USE DOCKET #LU-11-0005 ("CITY OF BOULDER - VALMONT BUTTE PROPERTY REMEDIATION"): A REQUEST FOR A LIMITED IMPACT SPECIAL USE REVIEW FOR GRADING INVOLVING THE MOVEMENT OF AN ESTIMATED 304,000 CUBIC YARDS OF EARTH MATERIAL AND DEMOLITION OF SELECTED INDUSTRIAL STRUCTURES ASSOCIATED WITH THE PROPOSED REMEDIATION OF A FORMER MILL AND INDUSTRIAL AND DEBRIS DISPOSAL SITE, PER THE VOLUNTARY CLEANUP PLAN APPROVED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ON THE CITY OF BOULDER’S PROPERTY KNOWN AS THE "VALMONT BUTTE" PROPERTY, LOCATED APPROXIMATELY 1.5 MILES EAST OF THE INTERSECTION OF VALMONT ROAD AND FOOTHILLS PARKWAY, SOUTH OF AND ADJACENT TO VALMONT ROAD AND NORTHEAST OF AND ADJACENT TO 63rd STREET, IN SECTIONS 22 AND 23, T1N, R70W, UNINCORPORATED BOULDER COUNTY

WHEREAS, the City of Boulder ("Applicant" or "City") has requested approval pursuant to Article 4 of the Boulder County Land Use Code ("the Land Use Code") for a limited impact special use permit for grading in excess of 500 cubic yards of earth material, to move approximately 304,000 cubic yards of earth material and demolish selected industrial structures as part of an environmental remediation effort (Voluntary Cleanup Plan, or "VCUP") approved on September 1, 2010 by the Colorado Department of Public Health and Environment ("CDPHE"), involving the approximately 103-acre property which is located as described in the caption to this Resolution, above, in the Agricultural and General Industrial Zoning Districts in unincorporated Boulder County; and

WHEREAS, the project area is located on two adjacent parcels that are owned by the City of Boulder and currently occupied by an abandoned ore milling complex and associated tailings pond sites, including a parcel at 3000 63rd Street identified by parcel identification number 146322400019 (25.92 acres), and a parcel at 6680 Valmont Drive identified by parcel identification number 146323000019 (76.30 acres) (collectively, "the Property"); and

WHEREAS, the project proposes to complete remediation of soils impacted with heavy metals and low-level, naturally occurring radioactive materials, to limit the risk of human and wildlife exposure; and

WHEREAS, milling of mineral ore began on the Property in 1936, when gold ore was processed on the site, and then, from 1941 to 1973, the mill complex was expanded and converted to process fluorspar, generating approximately 400,000 cubic yards of tailings which contain naturally occurring radioactive materials and heavy metals, including lead and arsenic; and
WHEREAS, the tailings were generally deposited within two impoundments east of the mill complex, that are referred to as the primary and secondary tailings ponds; and

WHEREAS, from approximately 1977 through 1985, the mill was converted to again process gold ore, and during this time an additional 45,000 cubic yards of tailings were deposited on top of the fluorspar tailings in the primary tailings pond; and

WHEREAS, after the cessation of mining activity the Property was utilized intermittently by various operators for industrial uses through September, 2000, when it was purchased by the City of Boulder, after which time the Property has remain unused and does not have an established principal use; and

WHEREAS, while milling uses were discontinued on the Property in 1985, the historic mill site and other associated structures remain; and

WHEREAS, in addition to the Property's historic significance in association with mining activities, Valmont Butte and the surrounding area, including the Property, have additional historic ties to Native American communities and to the original settlers of the Valmont area, with Valmont Butte being considered a sacred site among Native American tribes, and the surrounding areas understood to contain archaeological features and cultural resources linked to historic Native American inhabitants; and

WHEREAS, the Property is also adjacent to the Valmont Pioneer Cemetery, which dates to the late 1800's and is linked to the original settlers of the area; and

WHEREAS, in response to the Property's recognized historical and cultural values, the Boulder County Historic Preservation Advisory Board ("HPAB") held several public meetings to discuss the historical significance of the Property with the Applicant and to hear public comment regarding the remediation proposal; and

WHEREAS, the proposed project aims to remediate the tailings pond areas, as well as 14 additional areas outside the tailings ponds that were discovered to have high lead concentrations, with the remediation strategy being driven by the need to construct a properly engineered cap on the primary tailings pond, and to properly manage mining residuals located outside of the tailings pond area; and

WHEREAS, the 14 mining residual areas, totaling 15.6 acres, are planned to be excavated and placed within the confines of the primary tailings pond, and, once graded, the primary tailings pond area will capped with two feet of clean soil overlain by 1.5 feet of
rock to prevent prairie dog migration onto the tailings pond area; and

WHEREAS, disturbed areas outside the tailings pond will be regraded to promote drainage and then be revegetated; and

WHEREAS, the remediation project will include the deconstruction of several buildings located on the Property, to reduce public health and safety concerns and/or to perform remediation work on soils around and beneath existing structures; and

WHEREAS, all proposed remediation work will be completed following the CDPHE-approved VCUP application, and is regulated under the CDPHE’s Air Quality Control Division; and

WHEREAS, the above-described request was processed and reviewed as Boulder County Land Use Docket #LU-11-0005 ("the Docket"), all as further described in the Boulder County Land Use Department Planning Staff’s Memorandum and written recommendation to the Boulder County Board of County Commissioners ("the Board") dated June 27, 2011, with its attachments ("the Staff Recommendation"); and

WHEREAS, on June 27, 2011, the Board held a duly-noticed public hearing on the Docket ("the Public Hearing"), at which time the Board considered the Staff Recommendation, and also considered the documents and testimony presented by the County Land Use Department Planning Staff, representatives of the Applicant, spokespersons for Historic Boulder, Rocky Mountain Peace and Justice Center, Rural Historic Valmont, Valmont Butte Heritage Alliance, and Valmont Cemetery Association, in addition to other members of the public being present to speak to the Docket, all as reflected on the Board’s official record of the Public Hearing; and

WHEREAS, based on the Public Hearing, the Board finds that the Docket meets the criteria for special use approval for grading in excess of 500 cubic yards as set forth in Article 4-600 of the Land Use Code, and can be approved, subject to the conditions listed below.

NOW, THEREFORE, BE IT RESOLVED that the Docket is hereby approved, on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. PRESERVATION OF HISTORIC AND CULTURAL RESOURCES
  Mill Complex Landmarking
  a. Prior to issuance of building or grading permits, the Applicant shall provide to the Land Use Department for review and approval a revised grading plan illustrating
the protection of significant structures and the preservation of the existing site access road to the scale house and extending to the mill's ore bins. This plan should include a narrative clearly describing how determinations will be made regarding the potential to preserve existing structures deemed marginally important.

b. **Upon completion of remediation work,** the Applicant shall provide to the Land Use Department written verification that remediation work, not including revegetation, is complete.

c. **Within four months after the CDPHE’s revisions to the VCUP environmental covenants,** the Applicant shall submit an application to the County under Article 15 of the Land Use Code for landmark designation of the Mill Complex along with a site area encompassing these resources. The buildings and features to be included in the landmark designation shall include:

- the mill structure
- water clock building
- cistern
- rail spur
- scale house
- concrete well
- road to the scale house

If feasible, the pump house, storage tanks, fire hydrants and office/lab/assay office buildings (#2 & #3) should also be retained. Additionally, the cistern should not be filled with dirt as proposed but protected and preserved through other methods.

**Balance of Property Landmarking**

Within four months after the CDPHE’s revisions to the VCUP environmental covenants, the Applicant shall apply under Article 15 of the Land Use Code for landmark designation for the balance of the Property, defined as the entire Property excluding the Mill Complex (which is covered in the separate landmarking required above), and excluding the 12.5 acres constituting the primary tailings pond. The purpose of this landmarking shall be to evaluate thoroughly the historical significance of the balance of the Property based on its association with Native American inhabitants and tribes, the Valmont settlers, and the Property’s past mining and milling activities. Through this landmarking process the County may exclude specific areas of this balance of the Property (such as the secondary tailings pond), but only if deemed not to meet the Land Use Code’s criteria for historic landmark designation.

**Additional Conditions**

Except as provided otherwise in this approval, the Applicant
shall comply with all other recommendations of the Boulder County HPAB’s referral letter dated June 9, 2011, which is part of the official Docket file, including but not limited to Discovery Plan requirements.

2. TRANSPORTATION

Prior to issuance of building or grading permits, the Applicant shall provide to the County Transportation Department for review and approval an on-site road design that will support the expected vehicle traffic; information regarding proposed truck routes; and a traffic control/traffic management plan.

Prior to issuance of building or grading permits, documentation of the existing conditions of Valmont Road and associated striping near the proposed access must be submitted to the Transportation Department. The Applicant must ensure that any damage or degradation of the roadway or striping is brought to existing conditions or better at the completion of the project.

Additionally, the Applicant must adhere to the following conditions regarding the use of Valmont Road for construction traffic during remediation efforts:

a. Construction schedule shall allow for construction traffic on roads only between the hours of 9:00am and 4:00pm, Monday through Friday.

b. A vehicle tracking pad must be installed per the Applicant’s construction drawings at the Valmont Road access.

c. Daily street sweeping of Valmont Road is required.

d. The Applicant must verify the status of legal access to N. 63rd Street. Should legal access to N. 63rd Street be available, the Valmont Road access shall be restricted to use for construction vehicles only.

3. RE-VEGETATION

Prior to issuance of building or grading permits, the Applicant shall submit to the Land Use Department for review and approval one copy of a Revegetation Plan indicating a final seed mix selection.

One year from remediation work completion, the full installation of the approved Revegetation Plan must be inspected and approved by the Land Use Department. All areas of exposed soil must be revegetated.
4. WEED CONTROL

**Prior to issuance of building or grading permits**, the Applicant shall submit two copies of a Weed Control Plan for review and approval by the County Land Use Department and the Parks and Open Space Department. The Weed Control Plan should identify what County-listed noxious weeds are known to be on the Property, their location, and the proposed method of weed control. For assistance in the development of this plan the Applicant is encouraged to contact the County’s weed management coordinator (at 303-678-6110) or the CSU Weed Extension Agent (at 303-776-4865).

5. CAP ROCK COLOR REQUIREMENT

**Prior to issuance of building or grading permits**, the Applicant shall submit to the Land Use Department for review and approval, a sample of the proposed cap rock material.

At the **final inspection**, the Land Use Department must inspect and verify that the approved color was used on the rock-capped area.

6. Future development on the Property shall comply with all applicable requirements of the Land Use Code.

7. The Applicant shall be subject to the terms, conditions, and commitments of record for the Docket.
A motion to approve the Docket (#LU-11-0005), as stated above, was made by Commissioner Domenico, seconded by Commissioner Toor, and passed by a 3-0 vote.

ADOPTED as a final decision on this 9th day of August, 2011.

BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY:

Ben Pearlman, Chair

Cindy Domenico, Vice Chair

Will Toor, Commissioner

ATTEST:

Clerk to the Board