

Interim Report to City Council
Utility Line Undergrounding Study Committee
November 7, 2014



Committee Members:
Mayor Pro Tem Russell Stewart, Councilor Alex Brown,
Earl Hoellen, Andy Love, John Love, Dan Lynch, Susan Maguire,
Paul Stewart and David Wyman

1. Assignment to Committee

In January 2014, the City Council adopted a resolution establishing the Utility Line Undergrounding Study Committee (Exhibit A). The Committee was asked to explore the long-standing goal of undergrounding all overhead utility lines in the Village. The Cherry Hills Village Master Plan identifies this task as a priority as it would contribute to public safety by eliminating traffic hazards and removing a significant cause of storm-related power outages. Additionally, undergrounding would eliminate the need for removal or aggressive trimming of the Village's tree canopy located in or near rights-of-way and enhance the visual appearance of the community.

The City Council charged the Committee with considering several matters, including:

- The estimated cost of undergrounding organized by categories, such as state highways, arterial roads, neighborhood streets and easements;
- Policy recommendations for cost sharing between the Village and property owners;
- A priority ranking for the sequence of undergrounding utility lines;
- Suggested changes to the Municipal Code or Village policies to support the effort;
- A plan to finance the project recommending financial resources and new revenue sources; and
- All other matters the Committee deems relevant to the issue and requiring the City Council's consideration.

2. Overhead Utility Lines

The Village currently has over 50,000 linear feet of overhead lines located along arterial roads and state highways (Exhibit B). Xcel Energy accounts for approximately 35,000 feet of these lines and CenturyLink accounts for approximately 15,000 feet. Of this total, almost all of CenturyLink's lines overlap with Xcel's. There is an additional 140,000 feet of Xcel's lines located along residential streets and on private property. Other overhead lines are located throughout the Village for service providers like Comcast and NewPath Networks. These lines have not been included in the City's cost estimate as it is not financially responsible for burying these facilities per existing franchise agreements.

3. Responsibility for Undergrounding

The City has several franchise agreements with service providers that determine which organization is responsible for the cost of undergrounding (Exhibit C). For instance, the franchise agreement with Xcel (signed on November 1, 2007 and set to expire on October 31, 2027) states that the company is responsible for the cost of relocation if it is necessary for the completion of a public project (i.e. street widening). Otherwise, the City is responsible for all associated undergrounding costs. There is no franchise agreement with CenturyLink as telecommunications companies do not require additional authorization or franchise by any

municipality per the 1996 Telecommunications Act. Therefore, the City would be responsible for all associated undergrounding costs. The franchise agreement with Comcast (signed on February 23, 2002 and set to expire on February 22, 2019) states that the company shall place all cable facilities underground in which electric, telephone and other above-ground utilities are placed underground at no expense to the City.

NewPath Networks (a wireless infrastructure company) has several facilities located throughout the City. In order to install equipment, NewPath is required to have a right-of-way use agreement that is approved by the City. Each agreement states that NewPath is responsible for the relocation of equipment at its sole expense whenever the City determines that relocation is necessary to protect or preserve the public health or safety. NewPath has stated that there may be some engineering or technical concerns regarding the functionality of wireless equipment placed underground. NewPath equipment could be mounted on existing street lights, however.

4. Communication with Utilities

The Committee has met with several representatives from service providers, local municipalities and other organizations to discuss undergrounding. Tom Henley, Area Manager for Community and Local Government Affairs with Xcel, provided information regarding various issues, including the use of funds, construction timelines, coordination with other service providers and contractor selection. John McCormick, Government Affairs Representative for CenturyLink, reported that CenturyLink might be open to discussing the use of fiber optics if installed during undergrounding. Dave Zelenok with the City of Centennial described the process for installing fiber optics and the estimated cost. He also addressed the ballot question that Centennial voters had to approve to reinstitute the municipality's right to use a fiber optic infrastructure.

Chris Mitchell with MuniNetworks (a non-profit organization that focuses on community-owned broadband networks) and Vince Jordan with the City of Longmont advised the Committee on the benefits of fiber optics. Ken Fellman with the Colorado Communications and Utility Alliance (CCUA) discussed the City's ability to renegotiate franchise agreements and bid construction out to contractors that are not pre-approved by Xcel. Jeff Glance with Cable Systems (a private service provider) addressed the opportunity to partner with the City if a fiber optic infrastructure was installed. Lastly, a team of Comcast representatives expressed interest in a long-term partnership with the City.

5. Cost of Undergrounding

Category Costs

The City Engineer reported that the approximate cost for relocating overhead lines ranges from \$150 to \$225 per linear foot of overhead line (Exhibit D). This estimate was confirmed by both Xcel and CenturyLink. In June 2014, the City Council approved a request for Xcel to prepare an

engineering design for a section of E. Quincy Avenue between S. Holly Street and Happy Canyon Road in which both Xcel and CenturyLink have overhead lines. Once Xcel completes the design and submits it to the City for review, the Committee will have a more concrete assessment of the costs associated with undergrounding and can confirm the estimates currently being used. As of this report, Xcel engineers estimate that the study will be finalized in January 2015.

Trenching or directional boring may be used for undergrounding at various locations depending on the utilities and any potential conflicts, such as roadways, etc. Based on this estimate, the total cost for burying overhead lines along arterial roads and state highways ranges from \$7,000,000 to \$12,000,000. The total cost for burying overhead lines located along residential streets and on private property ranges from \$22,000,000 to \$34,000,000. Engineering and design work for the project will cost an additional 15% to 20% of the total estimate. The table below illustrates the categories of overhead lines found in the City and their associated costs.

Category	Approximate Linear Feet of Overhead Lines	Approximate Cost (\$150 per Linear Foot)	Approximate Cost (\$225 per Linear Foot)
Arterial Roads	26,175 (Xcel)	\$3,926,250 (Xcel)	\$5,889,375 (Xcel)
	13,008 (CenturyLink)	\$1,951,200 (CenturyLink)	\$2,926,800 (CenturyLink)
State Highways	8,850 (Xcel)	\$1,327,500 (Xcel)	\$1,991,250 (Xcel)
	2,667 (CenturyLink)	\$400,050 (CenturyLink)	\$600,075 (CenturyLink)
Residential Streets	39,072 (Xcel)	\$5,860,800 (Xcel)	\$8,791,200 (Xcel)
Private Property	108,240 (Xcel)	\$16,236,000 (Xcel)	\$24,354,000 (Xcel)
Total Feet and Cost Range	198,012	\$29,701,800	\$44,552,700

Additional Costs

The burial of overhead lines and removal of poles along the City’s roadways would impact a number of property owners who have service lines directly connected to arterial facilities or those that receive service from a secondary pole that is directly connected to an arterial facility. Supplementary expenses for undergrounding include the relocation of residential service lines and reconnection of secondary poles. Exhibit E is a diagram that illustrates these types of structures.

The City Engineer estimates that there are approximately 27 homes that have service lines connected to arterial facilities (Exhibit F). Pending further analysis, the cost to bury these lines ranges from \$10,000 to \$15,000 per home. There are approximately 69 secondary poles that are connected to arterial facilities. The cost to reconnect these poles ranges from \$5,000 to \$10,000 per pole. The table below illustrates the associated costs of these structures.

Supplementary Expense	Approximate Cost (\$10,000 per Home or \$5,000 per Pole)	Approximate Cost (\$15,000 per Home or \$10,000 per Pole)
Residential Service Lines	\$270,000	\$405,000
Secondary Poles	\$345,000	\$690,000
Total Cost Range	\$615,000	\$1,095,000

In 1994, the City Council approved a policy to share the cost of undergrounding with property owners up to 50%, or a maximum of \$250, when a City-initiated undergrounding project forces private facilities to be relocated (Exhibit G). The price for burying facilities has increased since the adoption of this policy, however. The City Council will need to review this policy to see if the cost-sharing program should be applied to property owners that might be impacted by the burial of facilities.

Xcel 1% Fund

The City's franchise agreement with Xcel includes a provision for an underground fund. Xcel is required to budget and allocate an annual amount equal to one percent (1%) of the preceding year's electric gross revenues for the purpose of burying existing overhead distribution lines as requested by the City (Exhibit H). The 1% fund can only be used for lines that are located in the public right-of-way per the franchise agreement. The fund has been historically used in conjunction with the City's capital improvements program. In 2012, a portion of the fund was used to bury overhead lines located adjacent to the new Joint Public Safety Facility and in 2014 to finance an engineering study for undergrounding. The current balance of the City's 1% fund with a 3-year borrow forward projection is approximately \$800,000. This does not take into account the cost of the E. Quincy Avenue design that Xcel is currently studying per the City's request.

6. Financial Scenarios

Prioritization

The Committee considered a preliminary financial analysis of the options and impacts to residents resulting from the cost to implement an undergrounding program. The analysis was guided by certain objectives, which include:

- The primary objective of undergrounding lines along arterial roads as first priority;
- A secondary objective of completing undergrounding along state highways, especially short segments in areas where most lines are already buried; and
- A tertiary objective of offering assistance to property owners in the formation of local improvement districts to privately fund projects located along residential streets and on private property.

The primary and secondary objectives of undergrounding lines along arterial roads and state highways were identified as priorities due to the community benefit that both categories provide. The removal of potential safety hazards and improved visual appearance of these corridors offer a uniform benefit to residents. The tertiary objective of relocating lines located along residential streets and on private property was not identified as a priority as the 1% fund can only be used in the public right-of-way. Additionally, the burial of these lines could create a disparity for home owners who have previously funded the relocation of facilities in their neighborhoods. The City is prepared to offer guidance in regards to the formation of local

improvement districts to property owners to privately fund these projects, however. Such assistance could be offered in the form of meeting coordination and survey funding.

Tax Increase

The Committee considered the issue of a uniform revenue increase versus one that would create two or more zones based upon the proximity of a property to overhead lines. Under this approach, properties closer to overhead lines located along arterial roads and state highways would be charged a higher annual fee. After consideration, it was concluded that undergrounding is a community-wide benefit and should be accomplished using a uniform cost throughout the Village. While proximity is a consideration, the visual improvement and community image benefit argue for a uniform revenue structure.

Ultimately, the Committee studied a scenario involving between a two (2) and three (3) mill property tax rate increase. This amount of new revenue would support undergrounding on the priority streets identified above within a 10-year timeframe (Exhibit I). The Committee found that funding for undergrounding should create a balance between any tax and revenue increase and the timeframe to complete the task as shorter timeframes create a need for higher annual revenue increases.

While the tax increase would be collected from 2016 through 2026, the construction would be completed by 2020 if the utilities were able to meet the desired construction timeframe. The City has limited control over scheduling but would request the shortest timeframe possible. A 2-mill tax increase would cost a property owner approximately \$40 per year per \$250,000 of property value. The table below illustrates the annual and monthly tax increase based on sample property values.

Property Value	2-Mill Annual Tax Increase	2-Mill Monthly Tax Increase	3-Mill Annual Tax Increase	3-Mill Monthly Tax Increase
\$750,000	\$120	\$10	\$180	\$15
\$1,000,000	\$160	\$14	\$240	\$20
\$1,250,000	\$200	\$17	\$300	\$25

The finance plan would include both cash-funded work and a borrowing in the amount of \$5 million to complete the project in an expeditious manner. The details of the timing and amount of any borrowing are subject to change depending upon final cost, annual cash flow and the scope of work undertaken each year. The last factor is heavily influenced by Xcel as it will control certain elements of project work.

The Committee also discussed the fact that the City currently uses property tax revenue equal to a 2.7 mill tax rate to fund annual payments to the South Suburban Parks and Recreation District. This obligation ends in 2019, or about halfway through the undergrounding timeframe. The Committee notes that some or all of the proposed tax increase could be offset upon the completion of payments to South Suburban. The result is that any tax increase would be temporary, either in whole or in part.

Utility Monthly Fee

An alternative to a tax increase would involve seeking an amendment to the franchise agreement with Xcel that would authorize an additional monthly fee to be imposed by Xcel on individual customers within the Village. The revenue generated by this additional fee would be allocated to offset future costs associated with undergrounding and would be in addition to the current 1% fund. The 1% fund may be used for undergrounding per the terms of the franchise agreement, but the funds available through the 1% fund are not sufficient to complete the project in the desired timeframe. If Xcel is amenable to imposing an additional fee on Village residents, it would appear on the monthly Xcel bill similar to the current 3% franchise fee.

The Committee estimates that an additional monthly fee between 6% and 9% would generate revenue equivalent to the above-described tax increase. No Committee discussions with Xcel regarding this issue have occurred. City staff has been advised by Xcel that it has agreed to such arrangements but has reservations about doing so again in the future. The concern is centered on being part of a revenue-raising process not directly related to gas and electric service provision.

The Committee, in discussing this option, has identified both benefits and drawbacks. Some of these include:

Benefits

- Builds on an existing charge used to underground utility lines;
- Avoids a need to conduct an election; and
- Internalizes financial operations with Xcel, which will perform most of the work.

Drawbacks

- The project cost could increase if Xcel adds internal borrowing or return on capital charges;
- The fee increase might not be offset by tax revenues repurposed from South Suburban payments to undergrounding; and
- The City might have a lesser role in scheduling work.

7. Enhanced Services

Street Improvements

The Committee considered several supplementary projects that could be completed at the same time as undergrounding to further benefit residents. For example, streetscaping was suggested as it could be performed simultaneously. Streetscape refers to roadway design and conditions as they impact users and nearby residents. Streetscaping involves improving streetscape conditions, such as: changes to road cross sections, traffic management, sidewalk conditions, landscaping, utilities, etc. The Committee found that ongoing concerns regarding future traffic in the area could also be resolved as a result of streetscaping.

Recent development in surrounding jurisdictions (i.e. Kent Place, Belleview Station, etc.) has the potential to significantly impact traffic in the Village. Altering current road conditions could better meet the needs of the community in coming years due to cut-through traffic. Furthermore, if the relocation of existing overhead lines is the result of a public project, the utility would be responsible for the associated costs. The proposed work would have to directly impact the location of existing facilities for the utility to be responsible, however. The Public Works Department has added a traffic study to the 2015 proposed budget in which potential streetscaping projects could be further explored.

Fiber Optic Infrastructure

The Committee also considered the installation of a City-owned fiber optic infrastructure. Fiber optic lines are strands of thin glass arranged in optical cables that transmit light signals and carry digital information over long distances. A fiber optic infrastructure is less expensive than copper wire, has a higher carrying capacity and delivers digital signals. Several communities have pursued fiber optics in order to provide competitive prices for telecommunications services and offer improved cable and telephone signals and internet communication. The City of Longmont is currently in the process of expanding its fiber optic system.

Longmont is a full-service municipality that provides electric service through Longmont Power and Communications. In 1997, Longmont City Council authorized the construction of a 17-mile fiber optic cable loop. The City lost its right to use the loop in 2005 as a result of Senate Bill 05-152, which restricted the City's ability to provide telecommunications services to the community, either independently or in partnership with the private sector, without voter approval. Longmont voters were given the opportunity to reinstate the City's right to utilize the fiber optic network in 2011. Ballot Measure 2A passed by a 60% majority.

In 2013, a Longmont ballot initiative asked voters to approve a \$45 million bond issue to construct a City-wide fiber optic network. Longmont Power and Communications proposed a 3-year completion date and business plan that projected that all costs would be paid back within 11 years. If telecommunications revenue fell short, electric revenue would be used to support repayment. The initiative passed by a 67% majority. Services to be offered include internet and phone. A feasibility study assumed that 35% of home owners would choose to receive services from the City, but pilot projects indicate that up to 60% of home owners would select the City as their provider. A summary of other communities that have pursued similar projects can be found in Exhibit J.

8. Code Amendments

The Cherry Hills Village Municipal Code currently requires the burial of new utilities in conjunction with the subdivision of land but does not include regulations for the relocation of existing overhead lines or the burial of new utilities in conjunction with other types of development. The Committee looked at the regulations of other communities with similar

guidelines. For instance, the City of Greenwood Village cannot approve a plat, master development plan or site development plan unless existing overhead electric and communication utility lines are installed or relocated underground. This requirement can be waived if the Community Development Director determines that the cost of undergrounding substantially outweighs the public benefit due to the size and number of lots involved.

The City of Boulder requires that newly installed utilities are to be placed underground as part of the subdivision process, as well. Additionally, existing utilities are to be placed underground unless the subdivider can demonstrate to the City Manager that the cost substantially outweighs the visual benefit from doing so. The Committee found that the City's Municipal Code should be amended to require the relocation of existing overhead utilities unless the City Council can determine that a subdivider has demonstrated that relocation of existing utilities is not possible due to physical constraints on or near the property or that the cost of undergrounding outweighs the public benefit and relocation is not necessary to meet the goals and strategies of the Master Plan.

Furthermore, the Committee suggested adding a section to the zoning code that states that new or existing utilities are to be placed underground with the construction of all new single family residences, nonprofit institutions, private clubs, public recreational facilities and nonprofit recreational facilities. The burial of utilities would also be required for the addition or replacement of 50% or more of existing square footage of all structures. The Committee found that amending the Municipal Code to include these requirements would help incrementally bury existing overhead lines and prevent new facilities from being installed aboveground.

9. Next Steps for Committee

Ballot Measure 2F

In anticipation of the possible installation of fiber optics while undergrounding, the City Council approved a ballot initiative that would reinstate the City's right to use a fiber optic infrastructure and provide high-speed internet either directly or indirectly with public or private sector partners (Exhibit K). A factual summary of the ballot question provided to residents is included as Exhibit L. On November 4, 2014, Village residents approved Ballot Measure 2F by an 80% majority, reinstating the City's right to use a fiber optic infrastructure and provide service with or without partners.

If installed at the same time as undergrounding, the additional costs for a fiber optic network would include: \$1 to \$2 per linear foot of conduit, \$1 to \$2 per linear foot of 96-strand fiber and \$1 to \$2 per linear foot to lay the fiber in the conduit. These costs are based on shared trenching with either Xcel and/or Century Link. If Xcel determines that a joint trench is not feasible, the City would be required to pay an additional \$20 per linear foot for directional boring along Xcel's trench. CenturyLink appears to be amendable to shared trenching, but there is approximately 10,000 linear feet along the arterial roadways that do not have overhead

CenturyLink lines or have lines that have already been buried. The additional costs along E. Quincy Avenue and S. Colorado Boulevard would be approximately \$200,000.

The City would likely install a fiber optic network along the arterial roads only as the state highways may already have fiber installed. A partnership with a private provider could possibly extend fiber to residential streets and private property. The table below illustrates the additional costs of a fiber optic infrastructure when installed during undergrounding.

Infrastructure Item	Approximate Cost (\$1 per Linear Foot)	Approximate Cost (\$2 per Linear Foot)
Conduit	\$26,000	\$52,000
Fiber Strand	\$26,000	\$52,000
Labor to Lay Fiber	\$26,000	\$52,000
Total Cost Range	\$78,000	\$156,000

Instead of installing additional conduits, multiple chambers in one conduit can be created using fabric or plastic interducts. Interducts can add between \$1 to \$4 per linear foot depending on the type of material and carrier conduit. It is important to note that interducts may not provide the required separation of lines as determined by Xcel, and there may be technical or physical issues in regards to splicing for individual properties. Interducts can maximize the utilization of conduit space but tend to be more cost-effective for retrofit projects where new installation is limited by other factors.

2015 Objectives

The Committee considered several goals to implement in the upcoming year in order to address the matters assigned by the City Council. These objectives include:

- Establishing a resolution to redefine the changing roles of Committee members and include new members;
- Continuing to refine the financial analysis with the information provided by the E. Quincy Avenue design prepared by Xcel;
- Continuing to explore supplementary projects, such as streetscaping, and analyzing the results of the traffic study;
- Seeking out technical expertise to conceptualize a fiber optic network with potential partners;
- Coordinating with Xcel and other utility providers to establish a long-term plan and construction schedule;
- Preparing a ballot initiative for the 2015 election that may include a tax increase and bond issue;
- Negotiating with Xcel to see if a utility monthly fee can be agreed upon in order to eliminate the need for a tax increase and bond;
- Scheduling a meeting through the Colorado Municipal League with other local communities that have passed similar ballot measures to work together towards a common goal;

- Continuing to track Denver’s franchise agreement negotiations with Xcel and the Greenwood Village lawsuit with Xcel to see if either outcome affects the Village’s position; and
- Working with the community to educate residents on the costs and benefits of undergrounding and supplementary projects.

Attachments:

Exhibit A: Resolution No. 2, Series 2014

Exhibit B: Overhead Utility Lines Map

Exhibit C: Franchise Agreements Summary

Exhibit D: Estimated Undergrounding Costs

Exhibit E: Arterial Facility Diagram

Exhibit F: Pole Location Map

Exhibit G: Electric Home Conversion Policy

Exhibit H: Xcel Franchise Agreement

Exhibit I: Cash Flow Optimization Chart

Exhibit J: Fiber Optic Communities Summary

Exhibit K: Resolution No. 13, Series 2014

Exhibit L: Ballot Question 2F Summary

**A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
CONCERNING THE ESTABLISHMENT OF
THE UTILITY LINE UNDERGROUNDING STUDY COMMITTEE**

WHEREAS, the complete undergrounding of overhead utility lines within the City of Cherry Hills Village ("Village") has been a long-standing goal in the Village; and

WHEREAS, the Village's Master Plan identifies this task as a priority for the City Council to pursue by developing a plan to accomplish this objective; and

WHEREAS, residents of the Village have asked about policies regarding sharing of expenses of undergrounding utility lines; and

WHEREAS, undergrounding utility lines contributes to public safety by eliminating traffic hazards and by removing a significant cause of storm-related power outages; and

WHEREAS, undergrounding utility lines eliminates the need for removal or aggressive trimming of the Village's tree canopy located in or near rights-of-way and enhances the visual appearance of the community; and

WHEREAS, funds available from Xcel Energy and Village resources for the cost of undergrounding utility lines are well below the total cost; and

WHEREAS, in order to consider and adopt an undergrounding plan, the Council would benefit from a review and report on this issue by a citizen's committee of experts and interested residents; and

WHEREAS, a report from the citizen's committee should be presented to the Council in time for Council's consideration of a possible ballot measure in the November 4, 2014 election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. The Council hereby establishes a committee, designated as the Utility Line Undergrounding Study Committee ("the Committee"), to review the undergrounding of overhead utility lines in the Village.

Section 2. The Committee shall consist of up to six (6) residents. In appointing members the two members of Council appointed to the Committee will consider competence in finance, law, engineering and other areas of related expertise. In addition to the up to six (6) members appointed by the Council, there shall be two (2) members of the City Council assigned as non-voting advisors to the Committee.

Section 3. The Committee shall consider and report to the Council on:

1. The estimated cost of undergrounding utility lines organized by categories such as state highways, Village arterial roads, neighborhood streets and easements.
2. Policy recommendations for cost sharing between the Village and benefitted property owners.
3. A priority ranking for the sequence of undergrounding utility lines.
4. Suggested changes to the Municipal Code or Village policies to

- support the effort to underground utility lines.
5. A plan to finance the project in summary form recommending specific financial resources including new revenue sources.
 6. All other matters the Committee deems relevant to the issue and requiring the Council's consideration.

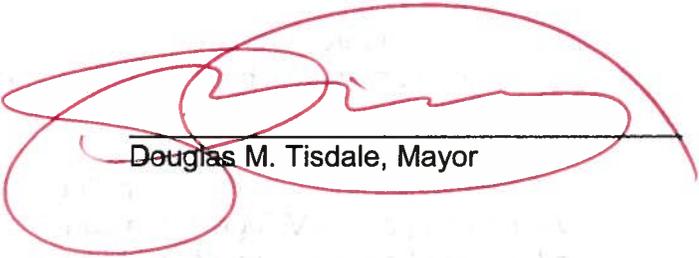
Section 4. The City Manager shall assign appropriate staff to support the Committee's work.

Section 5. The Council hereby instructs the Committee to present a final report by June 1, 2014 with interim reports as decided by the Committee.

Section 6. This Resolution shall be effective immediately.

Introduced, passed and adopted at the regular meeting of City Council this 7th day of January, 2014, by a vote of 6 Yes and 0 No.

(SEAL)



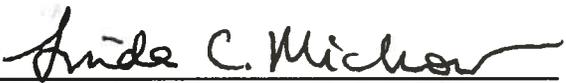
Douglas M. Tisdale, Mayor

ATTEST:

APPROVED AS TO FORM



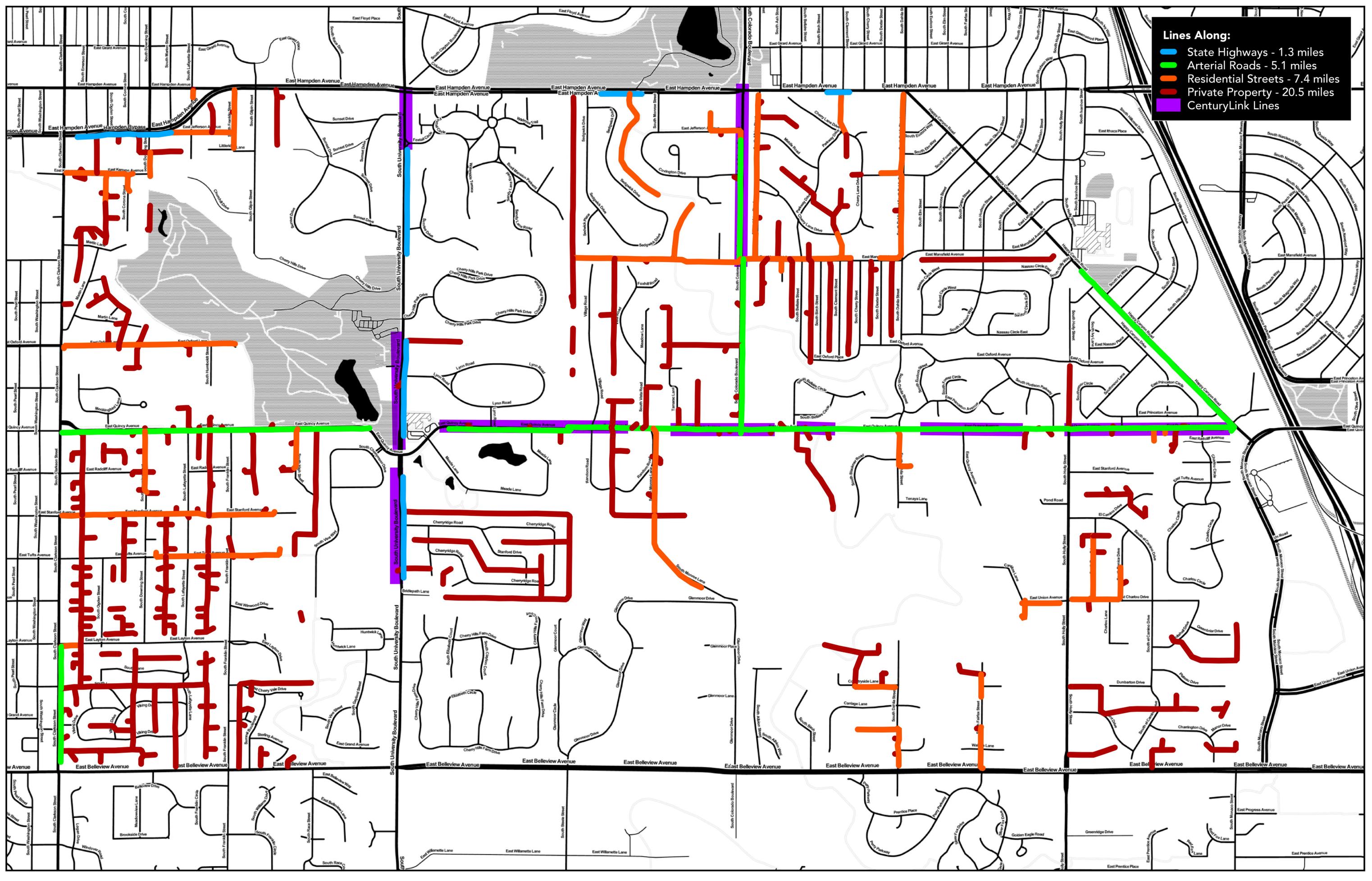
Laura Smith, City Clerk



Linda C. Michow, City Attorney

Lines Along:

- State Highways - 1.3 miles
- Arterial Roads - 5.1 miles
- Residential Streets - 7.4 miles
- Private Property - 20.5 miles
- CenturyLink Lines



**Utility Franchise Agreements
City of Cherry Hills Village**

Utility	Status	Undergrounding Language
Public Service Company of Colorado (Xcel)	Agreement dated 11/1/2007 and set to expire on 10/31/2027	Section 6.8 (Relocation Obligation) - The Company shall at its sole cost and expense temporarily or permanently remove, relocate or alter the position of any Company Facility in City Street whenever such removal, relocation, change or alteration is necessary for the completion of any Public Project. Section 6.8(F) - Obligation applies only to Company Facilities located in City Streets; does not apply to Company Facilities locate on property owned by the Company in fee or to Company Facilities located in privately-owned easements or Public Utility Easements. Section 6.8(G) - Above-ground Facilities place above-ground unless the Company is paid for the incremental cost of undergrounding (the City may request that incremental costs be paid out of the Underground Fund. Article 10 (Underground Fund) - The Fund may be used to defray costs of undergrounding, as set forth in the Agreement. Section 10.2(D) - The City may require any above-ground Company Facilities be moved underground at the City's expense. Section 10.5 - The Company shall cooperate with other utilities or companies that have their facilities above-ground to attempt to have all facilities undergrounded as part of the same project. The Company is not required to pay for the cost of undergrounding facilities of other companies.
Centurylink	N/A	There is likely no current/updated agreement due to C.R.S. 38-5.5-101 et seq (1996 Telecommunications Act) which states that telecommunications companies operating under the FCC or PUC authority "require no additional authorization or franchise by any municipality". Centurylink is authorized to occupy and utilize public right-of-way (subject to being required to obtain the City's consent for any new facilities within the right-of-way and reasonable license/permit fees). The City is party to a 1972 agreement with Mountain States Telephone & Telegraph. There is no current agreement with either Qwest or Centurylink. The 1972 agreement contains no provisions applicable to undergrounding.
Mountain States Video Communications Inc (Comcast)	Agreement dated 2/23/2002 and set to expire on 2/22/2019	Section 10.14 - "where electric, telephone and other above-ground utilities are...subsequently placed underground, all Cable System lines shall also be placed underground...at no expense to the City". See also Section 10.24 (Movement of Cable System Facilities for City Purposes).
New Path Networks	Right-of-Way Use Agreement per facility	Section 3.3 - NPN equipment shall be located at the base of the pole or located below ground level. Authorizes co-location of equipment with other public utility infrastructure (street lights, utility poles, etc.) with agreement by owner of pole(s). Section 5.2 - NPN shall relocate equipment at NPN's sole cost and expense whenever the City reasonable determines that relocation is required for the reasons articulated in Section 5.2, including "to protect or preserve the public health or safety". There may be some engineering/technical concerns regarding the functionality of wireless equipment placed underground.

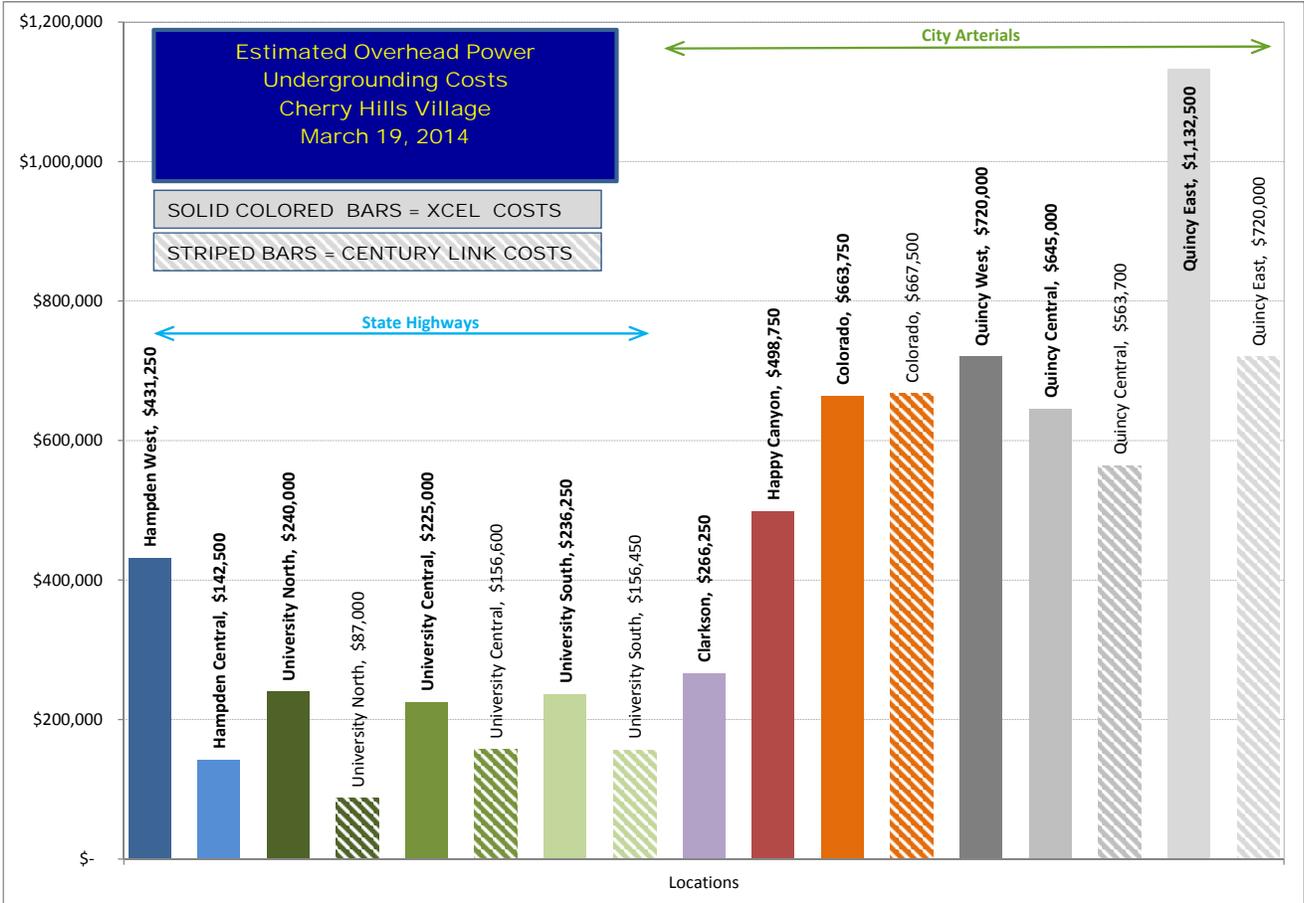
Assume: \$150.00 per linear foot
for undergrounding per Xcel & Century Link estimates

Locations

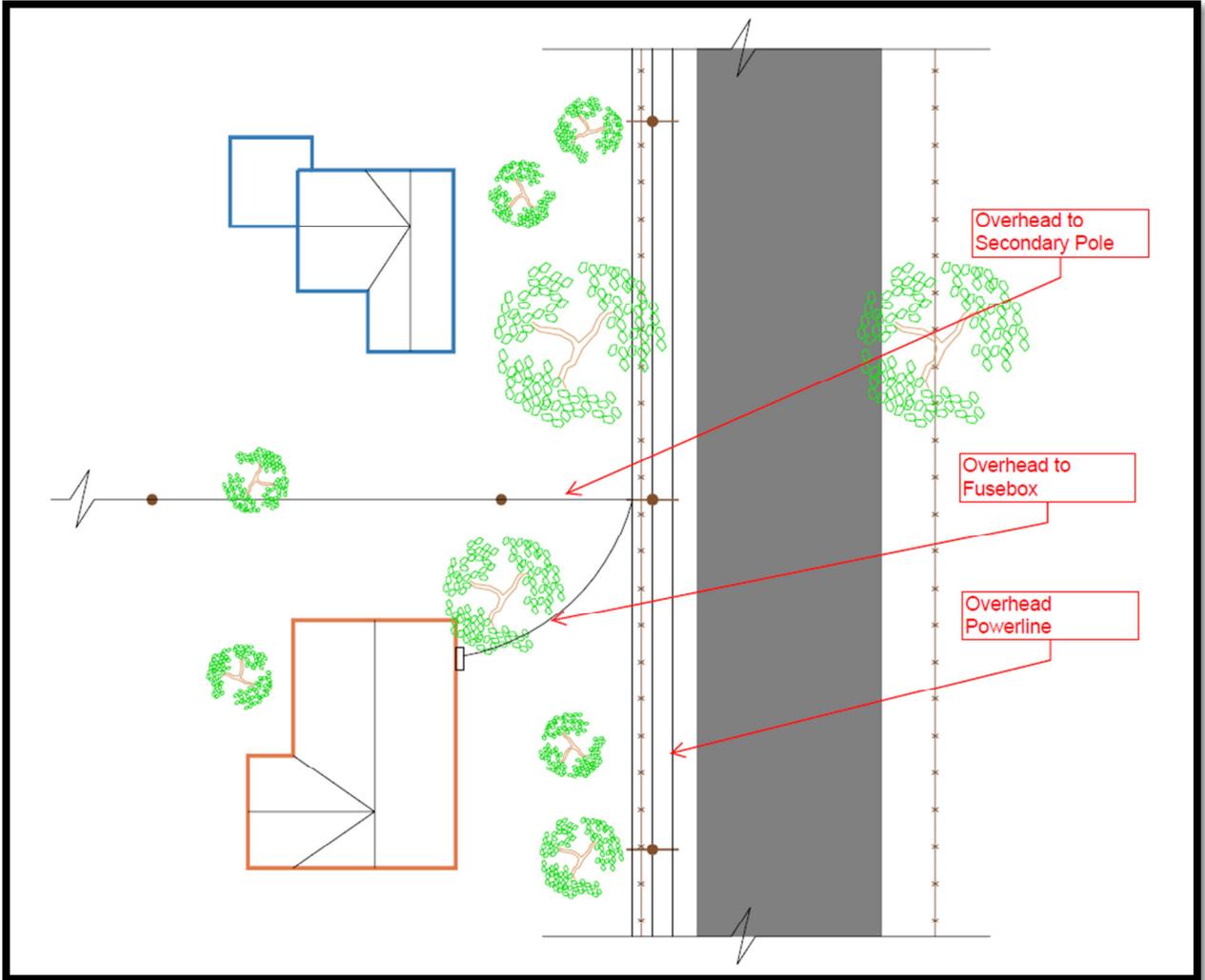
State Highways				
Classification	Xcel		Century Link	
	Linear Feet of Overhead Utilities	Estimated Cost	Linear Feet of Overhead Utilities	Estimated Cost
Hampden West	2875	\$ 431,250		\$ -
Hampden Central	950	\$ 142,500		\$ -
Hampden East	350	\$ 52,500		\$ -
University North	1600	\$ 240,000	580	\$ 87,000
University Central	1500	\$ 225,000	1044	\$ 156,600
University South	1575	\$ 236,250	1043	\$ 156,450
State Highways Total =	8,850	\$ 1,327,500	2,667	\$ 400,050

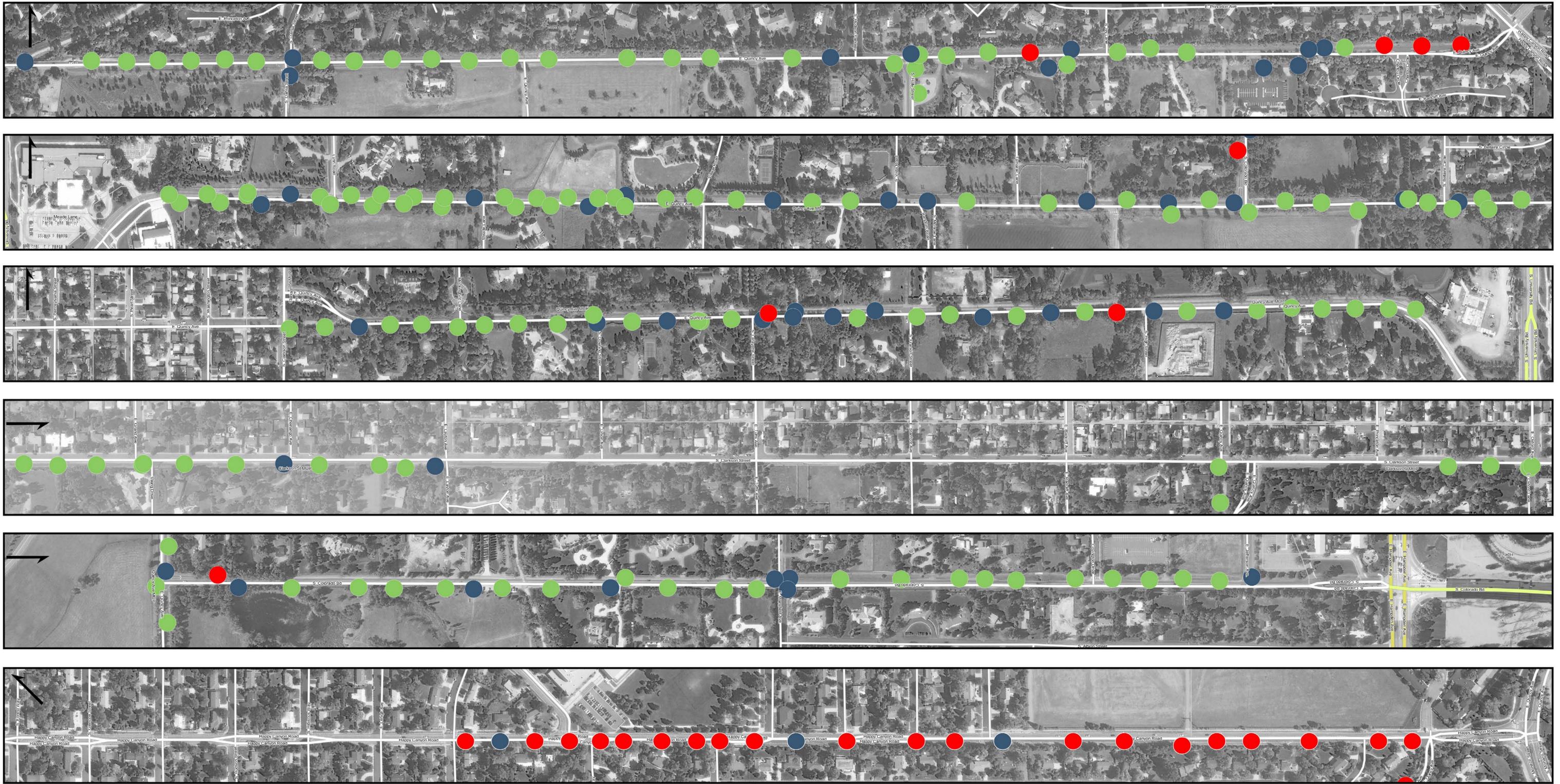
Arterials				
Classification	Xcel		Century Link	
	Linear Feet of Overhead Utilities	Estimated Cost	Linear Feet of Overhead Utilities	Estimated Cost
Clarkson	1775	\$ 266,250		\$ -
Happy Canyon	3325	\$ 498,750		\$ -
Colorado	4425	\$ 663,750	4450	\$ 667,500
Quincy West	4800	\$ 720,000		\$ -
Quincy Central	4300	\$ 645,000	3758	\$ 563,700
Quincy East	7550	\$ 1,132,500	4800	\$ 720,000
Arterials Total =	26,175	\$ 3,926,250	13,008	\$ 1,951,200

State Highways & Arterials Sub Total Overhead Utilities (LF) =	35,025	\$ 5,253,750	15,675	\$ 2,351,250
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ARTERIAL FACILITY DIAGRAM





Street	Count	Primary		Secondary						
		Cable	Power	Cable	Power	Secondary to Fuse box	Secondary to Pole	Telecom	Transformer	Underground
Clarkson	16	2	14	2	-	-	2	13	4	-
Colorado	28	-	28	24	-	1	8	26	4	-
Quincy	153	20	130	123	2	6	56	118	39	1

Secondary Functions:

- Pole to Pole
- Fusebox
- Secondary to Pole



Council Communication

Date 04/19/94	Agenda No. 10a	Subject Home conversion policy for electric underground projects
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Initiated by	Staff & Public Service Co.
Action Proposed	adoption of policy
Presented by	City Manager Coward

As you are aware, the City has been utilizing a new provision of our franchise agreement with the Public Service Company to systematically underground existing overhead electric lines in our community. Initially, the City chose projects that were along State highways. These projects did not affect any private properties. However, now that we are moving into some residential environments (Woodie Hollow Park and Holly Street), we are finding that there is an occasional private property impact.

The impact we are talking about is the electric service line to the home. Is the line overhead or underground? Obviously, areas that have utilities underground also have underground service lines to the individual homes. It is not unusual in the Village to have overhead utilities in an area, but underground service lines to the homes. However, the problem develops when the area has overhead utility lines, the home has an overhead service line, and the City desires to underground the electric lines in that area. In this instance, the service lines to the home must be changed and placed underground. The question then comes, who pays for this modification on private property?

Yvonne Seaman, our Community Development Coordinator, has done some research on this subject. We find that an average cost for the basic undergrounding of an existing overhead electric service is \$500. In essence, the homeowner must bury the service line, replace and relocate the meter box and alter the entry into the building. Certainly, a homeowner can send a lot more if they desire other cosmetic or upgraded service enhancements.

It must be remembered, too, that this private property alteration would not be necessary if the City had not chosen a certain electric line to be undergrounded. The homeowner benefits by having the overhead lines in their area undergrounded; however, they must spend their own money for private property modifications made necessary by the City's project, whether they acknowledge the benefit or not.

Given all this information, it is our recommendation that the City split the private undergrounding cost of basic services with the homeowner. The City would, therefore, pay 50% of the actual cost up to a maximum of \$250. There are four homes in the Woodie Hollow Park project that would qualify for this, and another three to five in the Holly project. This seems like the fair thing to do and is within parameters established in other communities.

Suggested Motion: That the City of Cherry Hills Village, pay 50% of private property electric and telephone undergrounding expenses, up to a maximum of \$250, where such expenses are made necessary by a City utility undergrounding project *at subject to review at each project.*

adoption - policy of paying up to \$250

has indicated that service to the properties must provide a loop between the line at 5000 E. Quincy Avenue and a location at Quincy and Holly. The City's staff would like to establish a formal policy that each of the properties must construct a portion of the loop when a water tap is purchased.

After extensive discussion regarding the financial aspects of the proposed Fairfax-Belleview loop, it was recommended by Council Member Welborn that Resolution No. 3-94 be amended in order to maximize the City's ability to recover the money spent to construct a water line extension. It was the consensus of the Council that the resolution be amended as such.

Resolution No. 3, Series of 1994, entitled "A RESOLUTION OF THE CITY COUNCIL ESTABLISHING A WATER LINE EXTENSION POLICY FOR THE FAIRFAX-BELLEVIEW LOOP", was introduced by Jeff Welborn, seconded by George Secor, and unanimously approved as amended.

Resolution No. 4, Series of 1994, entitled "A RESOLUTION OF THE CITY COUNCIL ESTABLISHING A WATER LINE EXTENSION POLICY FOR THE QUINCY-HOLLY LOOP", was introduced by Jeff Welborn, seconded by Viola Lahana, and unanimously approved.

HOME CONVERSION POLICY FOR ELECTRIC UNDERGROUND PROJECTS

Mr. Coward explained that as a provision of the City's franchise agreement with the Public Service Company, certain existing overhead electric lines in the community have been undergrounded. Initially, projects were chosen by the City that were along State highways. Now that the project is moving into residential areas, occasionally it is found that there is an impact to private properties. This problem presents itself when the City undergrounds a utility line that has an overhead service line to the home. At the time the line is undergrounded, the service line to the home must also be changed and placed underground. The average cost for undergrounding the line to the home is about \$500. It is the recommendation of the staff that the City pay 50% of the cost, or a maximum of \$250, for the private property owner's line to be undergrounded, because the alteration would not be necessary if the City had not elected to underground the adjacent electric line.

Upon a motion by George Secor, seconded by Deborah Julander, it was unanimously approved that the City of Cherry Hills Village adopt a policy that the City will pay up to 50%, but not more than \$250, of the private property owner's undergrounding expenses for electric and telephone service drops made necessary by a City initiated utility undergrounding project, and that this policy will be reviewed and is subject to change at the beginning of each new project.

5/29/96

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80110

MEMORANDUM

Village Center
Telephone 789-2541
FAX 761-9386

TO: City Council
FROM: City Staff
MEETING: June 4, 1996
RE: Home Conversion Policy for Electric Underground Projects
DATE: 5-29-96

On April 19, 1994 City Council approved a policy to pay 50%, but not to exceed \$250, of the private property owners undergrounding expenses for drops made necessary by City initiated utility undergrounding projects. This policy was initiated by the Woodie Hollow Park undergrounding project.

Currently we are undergrounding the power lines on Holly Street between Belleview Avenue and the Gooding property. There are three homes on the west side of Holly that need to convert their service lines to complete the undergrounding project. These homes are on 2.5 acre lots and the cost of undergrounding their service lines is much higher than it was in the Woodie Hollow area, primarily because of the size of the lots and the distance of the drop that needs to be buried.

The average bill for private undergrounding of services in this Holly undergrounding project is \$1000. This is substantially higher than the average cost of \$500 incurred by the Woodie Hollow property owners.

The staff is recommending that the City Council retain the 50% policy but consider increasing the limit of the City contribution to, not to exceed \$500.

SUGGESTED MOTION: That the City participate in undergrounding private property electric service drops associated with the City's Holly Street Undergrounding Project - Phase I up to 50% of the actual construction cost but not in excess of \$500.

MEMORANDUM

TO: Cheryl Bohn
FROM: Yvonne Seaman
DATE: 6-14-96

Please issue checks to the following people through the Home Conversion Policy for Electric Underground Projects:

<u>PROPERTY OWNER</u>	<u>AMOUNT</u>
Everett Clark 5001 South Holly Street Cherry Hills Village, CO 80110	\$250
Jean Arthur 4951 South Holly Street Cherry Hills Village, CO 80110	\$225
Darrell Seal 5097 South Holly Street Cherry Hills Village, CO 80110	\$500

Company's use of Company Facilities. Any such City use must comply with the National Electric Safety Code and all other applicable laws, rules and regulations.

- §9.2 Third Party Use Of Company Facilities. If requested in writing by the City, the Company may allow other companies who hold franchises, or otherwise have obtained consent from the City to use the Streets, to utilize Company Facilities for the placement of their facilities upon approval by the Company and agreement upon reasonable terms and conditions including payment of fees established by the Company. No such use shall be permitted if it would constitute a safety hazard or would interfere with the Company's use of Company Facilities. The Company shall not be required to permit the use of Company Facilities for the provision of utility service by the City or by third parties.
- §9.3 City Use Of Company Transmission Rights-Of-Way. The Company shall, upon written request, grant to the City use of transmission rights-of-way which it now, or in the future, owns in fee within the City for parks and open space; provided, however, that the Company shall not be required to make such an offer in any circumstance where such offer would constitute a safety hazard or would interfere with the Company's use of the transmission right-of-way.
- §9.4 Emergencies. Upon written request, the Company shall assist the City in developing an emergency management plan. In the case of any emergency or disaster, the Company shall, upon verbal request of the City, make available Company Facilities for emergency use during the emergency or the disaster period. Such use of Company Facilities shall be of a limited duration and will only be allowed if the use does not interfere with the Company's own use of Company Facilities.

ARTICLE 10 UNDERGROUNDING OF OVERHEAD FACILITIES

- §10.1 Underground Electrical Lines In New Areas. The Company shall, upon payment to the Company of the charges provided in its tariffs or their equivalent, place all newly constructed electrical distribution lines in newly developed areas underground in accordance with applicable laws, regulations and orders.
- §10.2 Underground Conversion At Expense Of Company.
- A. Underground Fund. The Company shall budget and allocate an annual amount, equivalent to one percent (1%) of the preceding year's Electric Gross Revenues (the "Fund"), for the purpose of undergrounding existing overhead distribution facilities in the City, as may be requested by the City, provided that the undergrounding shall extend for a minimum distance of one (1) block or 750 feet, whichever is less, or as may be mutually agreed by the parties. Except as provided in §6.8.F, no relocation expenses which the Company would be required to expend pursuant to Article 6 of this franchise shall be charged to this allocation.
- B. Unexpended Portion And Advances. Any unexpended portion of the Fund shall be carried over to succeeding years and, in addition, upon request by the City designee, the Company agrees to expend amounts anticipated to be available under the preceding

paragraph for up to three (3) years in advance. Any amounts so expended shall be credited against amounts to be expended in succeeding years. Any funds accumulated under any prior franchise shall be carried over to this Fund balance. The City shall have no vested interest in the Fund and any monies in the Fund not expended at the expiration or termination of this Agreement shall remain the property of the Company.

C. Systemwide Undergrounding. If, during the term of this franchise, the Company should receive authority from the PUC to undertake a systemwide program or programs of undergrounding its electric distribution facilities, the Company will budget and allocate to the program of undergrounding in the City such amount as may be determined and approved by the PUC, but in no case shall such amount be less than the one percent (1%) of annual Electric Gross Revenues provided above.

D. City Requirement To Underground. In addition to the provisions of this Article, the City may require any above ground Company Facilities to be moved underground at the City's expense.

§10.3 Undergrounding Performance. Upon receipt of a written request from the City, the Company shall, to the extent of monies available in the Fund and as otherwise provided herein, underground Company Facilities in accordance with the procedures set forth in this Section.

A. Performance. The Company shall complete each undergrounding project requested by the City within a reasonable time, not to exceed one hundred eighty (180) days from the later of the date upon which the City designee makes a written request and the date the City provides to the Company all Supporting Documentation. The Company shall be entitled to an extension of time to complete each undergrounding project where the Company's performance was delayed due to a cause that could not be reasonably anticipated by the Company or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to, fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

B. City Revision of Supporting Documentation. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or change its plans regarding an undergrounding project shall be deemed good cause for a reasonable extension of time to complete the undergrounding project under the franchise.

C. Completion/Restoration. Each such undergrounding project shall be deemed complete only when the Company actually undergrounds the designated Company Facilities, restores the undergrounding site in accordance with Section 6.7 of this franchise or as otherwise agreed with the City designee and removes from the site or

properly abandons on site any unused facilities, equipment, material and other impediments.

D. Estimates. Promptly upon receipt of an undergrounding request from the City and the Supporting Documentation necessary for the Company to design the undergrounding project, the Company shall prepare a detailed, good faith cost estimate of the anticipated actual cost of the requested project for the City to review and, if acceptable, issue a project authorization. The Company will not proceed with any requested project until the City has provided a written acceptance of the Company estimate.

E. Report Of Actual Costs. Upon completion of each undergrounding project, the Company shall submit to the City a detailed report of the Company's actual cost to complete the project and the Company shall reconcile this total actual cost with the accepted cost estimate.

F. Audit Of Underground Projects. The City may require that the Company undertake an independent audit of any undergrounding project for five hundred thousand dollars (\$500,000.00) or greater. The cost of any such independent audit shall reduce the amount of the Fund. The Company shall cooperate fully with any audit and the independent auditor shall prepare and provide to the City and the Company a final audit report showing the actual costs associated with completion of the project. If a project audit is required by the City, only those actual project costs confirmed and verified by the independent auditor as incurred by the Company to complete the particular City undergrounding project shall reduce the Fund.

§10.4 Audit Of Underground Fund. Upon written request of the City, but no more frequently than once every three (3) years, the Company shall audit the Fund for the City. Such audits shall be limited to the previous three (3) calendar years. The Company shall provide the audit report to the City and shall reconcile the Fund consistent with the findings contained in the audit report.

§10.5 Cooperation With Other Utilities. When undertaking an undergrounding project the City and the Company shall coordinate with other utilities or companies that have their facilities above ground to attempt to have all facilities undergrounded as part of the same project. When other utilities or companies are placing their facilities underground, the City shall provide the Company written notice of the specific undergrounding project. The Company shall cooperate with these utilities and companies and undertake to underground Company facilities as part of the same project where financially, technically and operationally feasible. The Company shall not be required to pay for the cost of undergrounding the facilities of other companies or the City.

§10.6 Planning And Coordination Of Undergrounding Projects. The City and the Company shall mutually plan in advance the scheduling of undergrounding projects to be undertaken according to this Article as a part of the review and planning for other City and Company construction projects. In addition, the City and the Company agree to meet, as required, to review the progress of then-current undergrounding projects and to review planned future undergrounding projects. The purpose of such meetings shall be to

further cooperation between the City and the Company to achieve the orderly undergrounding of Company Facilities. At such meetings, the parties shall review:

- A. Undergrounding, including conversions, Public Projects and replacements which have been accomplished or are underway, together with the Company's plans for additional undergrounding; and
- B. Public Projects anticipated by the City.

ARTICLE 11 PURCHASE OR CONDEMNATION

§11.1 Municipal Right To Purchase Or Condemn.

A. Right And Privilege Of City. The right and privilege of the City to construct, purchase or condemn any Company Facilities located within the territorial boundaries of the City, and the Company's rights in connection therewith, as set forth in applicable provisions of the constitution and statutes of the State of Colorado relating to the acquisition of public utilities, are expressly recognized. The City shall have the right, within the time frames and using the procedures set forth in such provisions, to purchase Company Facilities, land, rights-of-way and easements now owned or to be owned by the Company located within the territorial boundaries of the City. In the event of any such purchase, no value shall be ascribed or given to the rights granted under this franchise in the valuation of the property thus taken.

B. Notice Of Intent To Purchase or Condemn. The City shall provide the Company no less than one (1) year's prior written notice of its intent to purchase or condemn Company Facilities. Nothing in this section shall be deemed or construed to constitute a consent by the Company to the City's purchase or condemnation of Company Facilities.

ARTICLE 12 TRANSFER OF FRANCHISE

§12.1 Consent Of City Required. The Company shall not transfer or assign any rights under this franchise to an unaffiliated third party, except by merger with such third party, or, except when the transfer is made in response to legislation or regulatory requirements, unless the City approves such transfer or assignment in writing. Approval of the transfer or assignment shall not be unreasonably withheld.

§12.2 Transfer Fee. In order that the City may share in the value this franchise adds to the Company's operations, any transfer or assignment of rights granted under this franchise requiring City approval, as set forth herein, shall be subject to the condition that the Company shall promptly pay to the City a transfer fee in an amount equal to the proportion of the City's then-population provided Utility Service by the Company to the then-population of the City and County of Denver provided Utility Service by the Company multiplied by one million dollars (\$1,000,000.00). Except as otherwise required by law, such transfer fee shall not be recovered from a surcharge placed only on the rates of Residents.

CASH FLOW OPTIMIZATION CHART

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Tax Revenue (2m)	580,580	638,638	651,411	651,411	664,439	664,439	677,728	677,728	691,282	691,282	705,108
Tax Revenue (2.5m)	725,725	798,298	814,264	814,264	830,549	830,549	847,160	847,160	864,103	864,103	881,385
Tax Revenue (3m)	870,870	957,957	977,116	977,116	996,659	996,659	1,016,592	1,016,592	1,036,924	1,036,924	1,057,662
Debt Service	0	616,455	616,455	616,455	616,455	616,455	616,455	616,455	616,455	616,455	616,455
Net Tax Revenue (2m)	580,580	22,183	34,956	34,956	47,984	47,984	61,273	61,273	74,827	74,827	88,653
Net Tax Revenue (2.5m)	725,725	181,843	197,809	197,809	214,094	214,094	230,705	230,705	247,648	247,648	264,930
Net Tax Revenue (3m)	870,870	341,502	360,661	360,661	380,204	380,204	400,137	400,137	420,469	420,469	441,207
1% Fund	800,000	0	0	0	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Bond Proceeds	0	5,000,000	0	0	0	0	0	0	0	0	0
Other											
Net for Construction (2m)	1,380,580	5,521,145	3,932,988	2,344,831	869,702	(605,427)	(444,154)	(282,881)	(108,053)	66,774	255,427
Net for Construction (2.5m)	1,525,725	5,825,950	4,400,646	2,975,341	1,666,322	357,303	688,008	1,018,713	1,366,361	1,714,009	2,078,939
Net for Construction (3m)	1,670,870	6,130,754	4,868,303	3,605,851	2,462,942	1,320,033	1,820,170	2,320,306	2,840,775	3,361,244	3,902,451
Xcel Construction	0	981,563	981,563	981,563	981,563	0	0	0	0	0	0
Xcel Design	588,938				0	0	0	0	0	0	0
CenturyLink Construction	0	487,800	487,800	487,800	487,800	0	0	0	0	0	0
CenturyLink Design	292,680	0	0	0	0	0	0	0	0	0	0
Service Line Costs		67,500	67,500	67,500	67,500	0					
Secondary Pole		86,250	86,250	86,250	86,250	0					

CASH FLOW OPTIMIZATION CHART

Total Construction	881,618	1,623,113	1,623,113	1,623,113	1,623,113	0	0	0	0	0	0
Net Construction Fund	498,962	3,898,032	2,309,875	721,718	(753,411)	(605,427)	(444,154)	(282,881)	(108,053)	66,774	255,427
Net Construction Fund	644,107	4,202,837	2,777,533	1,352,228	43,209	357,303	688,008	1,018,713	1,366,361	1,714,009	2,078,939
Net Construction Fund	789,252	4,507,641	3,245,190	1,982,738	839,829	1,320,033	1,820,170	2,320,306	2,840,775	3,361,244	3,902,451

Fiber Optic Communities Summary

Community	Services	Process
Montrose, CO	To be determined	<p>The City of Montrose has approximately 15,000 residents. In early 2014, voters approved a ballot initiative to take back local authority for telecommunications services. Community leaders reported that they wanted to ensure that local businesses are in a position to compete with large corporations that might attempt to establish a major share of the market. The city plans to engage the public and determine how to move forward with possible investments to improve access to internet. A similar initiative has been placed on the ballot for Boulder voters to consider in November.</p>
Kansas City, KS	Internet/Cable	<p>Kansas City has approximately 145,000 residents. In 2011, Google Fiber selected Kansas City as its first fiber community. The local government did not have to commit funds to build the network and as a result faced limited financial risks. The city did have to relinquish control over the projects to Google. Therefore, Google is responsible for leading the project and making all current and future operational decisions. Local leaders are unable to determine how the network is designed, which services are offered and what prices are charged to customers. They also cannot decide whether the network will be built out to all residents, upgraded in the future or if it will operate at all over the long-term. Google offers 1 gigabit internet and cable service for \$120 per month. Residents can also choose free 5 megabit service for a one-time \$300 installation fee. A 2014 survey of five neighborhoods in the area showed that 53% of home owners were paying for some form of Google fiber service. Questions are currently being raised about what the gigabit service can be used for in the future.</p>
Reedsburg, WI	Internet/Cable/ Telephone	<p>The City of Reedsburg has approximately 9,000 residents. The Reedsburg Utility Commission (RUC) entered the telecommunications business in 1998 when it constructed a fiber optic ring to tie its wells and electrical substations together and provide internet access to several schools. The City asked the incumbent telephone and cable companies to build the ring but found both to be unresponsive. RUC built a 7-mile ring of 96-strand fiber at a cost of \$850,000. During construction several local companies asked to be connected to the ring. In 2000, RUC began planning fiber-to-the-home (FTTH) internet, cable and telephone services. Optical Solutions Inc. partnered with RUC and began development in 2003. A local bank loaned the initial \$5 million for planning and construction. RUC issued an additional \$8.5 million bond to complete the project. A new electrical main was laid with conduit for the fiber using a directional boring company. The take rates were initially projected to be 35% but grew to 55%. By the end of 2009, 1,870 homes received television, 1,750 received internet and 1,675 received telephone service. RUC offers 10 megabit service for \$50 per month and high-end cable for \$62 per month. An unlimited telephone plan is offered as part of a triple play bundle for \$160 per month.</p>

Fiber Optic Communities Summary

Westminster, MD	Access to fiber network	<p>The City of Westminster has approximately 18,000 residents. In 2012, Westminster began public consideration for community broadband investment. The following year, City Council voted to fund two FTTH projects, one in a business area and another in a large residential senior community. Both projects are located near the Carroll County Fiber Network, which the city plans to tap into to reduce costs. The cost for both pilot projects is \$650,000. Construction on the projects is expected to begin in late 2014. The city recently allocated an additional \$6.3 million in the 2015 budget to begin building a city-wide network, connecting 9,000 homes and 500 businesses. The city is in the process of seeking private providers who are interested in selling competing services to residents and businesses over the fiber network. The city received notice from a clothing company that it plans to relocate its distribution and data centers from New York City to Westminster as a result of the new network.</p>
UTOPIA (Utah Telecommunication Open Infrastructure Agency)	Access to fiber network	<p>Founded in 2002, UTOPIA was funded by 11 cities throughout the north-central region of Utah and has approximately 160,000 residents and business owners located within its service range. UTOPIA operates an open access telecommunications model, which owns and manages the infrastructure but leases the lines to private service providers who deliver services to subscribers. It has been reported that the project experienced significant problems as a result of inaccurate projections of customer demand, miscalculations on borrowing and construction strategies, poor choice of contractors, business-model flaws and mismanagement. As of 2011, UTOPIA had only 10,000 subscribers and had lost \$120 million. In 2014, a large Australian investment bank had offered to become a partner in exchange for a \$300 million capital infusion to finish a long-stalled FTTH build out.</p>

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING A BALLOT QUESTION TO BE SUBMITTED TO THE VOTERS
AT THE COORDINATED ELECTION HELD NOVEMBER 4, 2014
RELATED TO THE LOCAL RIGHT
TO USE MUNICIPAL FIBER OPTIC INFRASTRUCTURE**

WHEREAS, the City of Cherry Hills Village ("City") will participate with the Arapahoe County Clerk and Recorder in the November 4, 2014 coordinated election; and

WHEREAS, the City Council has the authority, and desires to place a proposed ballot question on the November 4, 2014 ballot concerning the local right to use municipal fiber optic infrastructure; and

WHEREAS, until 2005, municipalities throughout Colorado enjoyed the right and authority to use municipal fiber optic infrastructure to provide high-speed Internet, advanced telecommunications, and cable television services to their residences and businesses; and

WHEREAS, in 2005, the State Legislature enacted Senate Bill 05-152 (codified in Article 27 of Title 29, C.R.S.) to revoke and deny all Colorado municipalities the right of using municipal facilities, improvements, and fiber optic infrastructure to provide directly or indirectly high-speed Internet, advanced telecommunications, and cable television services to residents and businesses; and

WHEREAS, Senate Bill 05-152 expressly authorizes every local government to submit a ballot question to the local voters to reauthorize and reclaim the local right to use the municipal fiber optic infrastructure to provide high-speed Internet, telecommunications, and cable television services to residents and businesses; and

WHEREAS, although the City does not currently own any municipal fiber optic infrastructure, future construction and use of such infrastructure would likely increase competition and potentially decrease costs of services to residents and businesses by providing opportunities to private service providers to partner with the City to use the City's fiber optic infrastructure to deliver services to residents and businesses; and

WHEREAS, the City Council has determined it is in the best interests of the City to refer a ballot question to the voters concerning the City's ability to provide directly or indirectly through private companies high-speed internet, advanced telecommunications, or cable television services, as authorized pursuant to C.R.S. Section 29-27-201.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF CHERRY HILLS VILLAGE:

Section 1. The City Council hereby refers and approves the following ballot question for submission to the registered electors and to appear on the November 4, 2014 ballot coordinated by Arapahoe County:

SHALL THE CITY OF CHERRY HILLS VILLAGE, WITHOUT INCREASING TAXES BY THIS MEASURE, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO LOCAL GOVERNMENTS BY THE COLORADO GENERAL ASSEMBLY AND FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES BASED ON NEW TECHNOLOGIES, TELECOMMUNICATIONS

SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY ARTICLE 27, TITLE 29 OF THE COLORADO REVISED STATUTES?

YES _____
NO _____

Section 2. This Resolution and the ballot question posed to the electorate are intended and should be interpreted to restore to the greatest extent possible the right of self-governance, self-determination, and local control over all matters addressed in Article 27 of Title 29, C.R.S.).

Section 3. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot question set forth herein and the ballot title for such question shall be the text of the question itself.

Section 4. The City Clerk is authorized to correct typographical errors and omissions and to cause to be entered into any blanks of the ballot question the appropriate ballot question number or letter upon designation of the ballot number or letter by the appropriate election official.

Section 5. The City Manager, City Attorney, and City Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including the taking of all reasonable and necessary action to cause such approved ballot question to be printed and placed on the ballot for the election.

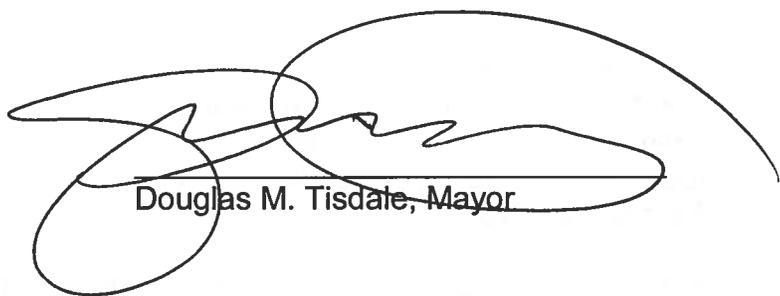
Section 6. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

Section 7. This Resolution shall be effective immediately upon adoption.

DONE AND RESOLVED THIS 2ND DAY OF SEPTEMBER 2014.

Introduced, passed and adopted at the
regular meeting of City Council this 2nd day
of September, 2014, by a vote of 5 Yes and 0 No.

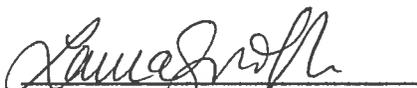
(SEAL)



Douglas M. Tisdale, Mayor

ATTEST:

APPROVED AS TO FORM:



Laura Smith, City Clerk



Linda C. Michow, City Attorney

November 4, 2014
Cherry Hills Village
Coordinated Election
Ballot Question 2F

The Ballot Question

Shall the City of Cherry Hills Village, without increasing taxes by this measure, and to restore local authority that was denied to local governments by the Colorado General Assembly and foster a more competitive marketplace, be authorized to provide high-speed internet, including improved high bandwidth services based on new technologies, telecommunications services, and/or cable television services to residents, businesses, schools, libraries, non-profit entities and other users of such services either directly or indirectly with public or private sector partners, as expressly permitted by Article 27, Title 29 of the Colorado Revised Statutes?

What is being asked of voters?

Cherry Hills Village voters are being asked to restore the City's pre-2005 right to provide high-speed internet, telecommunications services, and/or cable television services, either directly or through public-private partnerships. The City does not currently own any fiber optics networks or similar assets, but is asking the voters to restore the right for any future networks or other City-sponsored telecommunications initiatives.

History

- Until 2005, municipalities throughout Colorado enjoyed the right and authority to use municipal communications network infrastructure to provide high-speed Internet, advanced telecommunications, and cable television services to their residences and businesses. Only a few did so, although some governments have studied how to leverage their network assets to promote a more competitive private sector market.
- In 2005, the State Legislature enacted Senate Bill 05-152 (codified in Article 27 of Title 29, C.R.S.) to revoke and deny all Colorado municipalities the right of using municipal communication network facilities, improvements, and fiber optic infrastructure to provide directly or indirectly high-speed Internet, advanced telecommunications, and cable television services to residents and businesses.
- Senate Bill 05-152 expressly authorizes every local government to submit a ballot question to the local voters to reauthorize and reclaim the local right to use the municipal communications networks, including but not limited to fiber optic infrastructure to provide high-speed Internet, telecommunications, and cable television services to

residents and businesses, and to enter into public-private partnerships to promote broadband network deployment.

- Although the City of Cherry Hills Village does not currently own any municipal fiber optic infrastructure or other communications network assets, future construction and use of such infrastructure could likely be used to increase competition and potentially decrease costs of services to residents and businesses by providing opportunities to private service providers to partner with the City to use the City's fiber optic infrastructure to deliver services to residents and businesses, or in some cases, for the City to directly provide services.
- The City Council has determined it is in the best interests of the City to refer a ballot question to the voters concerning the City's ability to provide directly or indirectly, including through partnerships with private companies high-speed internet, advanced telecommunications, or cable television services, as authorized pursuant to C.R.S. Section 29-27-201.

Those in favor believe:

- Cities should have local control on critical issues such as the telecommunications needs of the community. This important issue should be decided at the local level as a matter of self-determination. A yes vote will restore Cherry Hills Village's legal right and ability to partner with public and private sector partners, and to utilize public assets to provide these services where appropriate.
- Although Cherry Hills Village does not have an existing fiber optic infrastructure or similar communications network, any future network could be used either directly or in partnership with public or private sector partners to facilitate access to faster and higher capacity advanced telecommunications and Internet services. Through competition among private providers using this network, citizens could potentially receive these advanced services at a lower cost.
- Cities should have the right to fully leverage community-owned infrastructure in order to encourage economic growth, increase jobs, improve the community's ability to compete for primary employers, and to support education, the arts, cultural activities and health care organizations.
- Ballot question #2F will authorize the City, without increasing taxes, to explore and provide opportunities for the provision of telecommunications services, high-speed internet and/or cable services to the City's highly educated residents, businesses, non-profits and other users.
- The goal and benefit of undergrounding overhead utility lines could be enhanced, and additional benefits provided to City residents, by re-establishing the City's authority lost due to Senate Bill 05-152.

Those opposed believe:

- Cherry Hills Village residents and businesses are satisfied with the availability, quality and costs of services provided by the current telecommunications companies, so there is no reason for the City to be involved.
- Local government should not be involved in the telecommunications services industry. By Cherry Hills Village putting this measure on the ballot, the City is expanding government. This is not the role of local government.
- Private sector companies built their existing fiber optic networks with private capital at no cost or risk to the taxpayers and bear the entire risk of their investment. The City should not be allowed to use any future publicly-funded communications network infrastructure for direct provision of competitive services or to partner with private businesses that may offer competitive services.

Election Day is November 4, 2014

Ballots are scheduled to be mailed to all voters October 14th.

Voters can drop off ballots at the Village Center, 2450 E. Quincy Avenue

- During business hours 8:00 a.m. to 4:30 p.m. Monday to Friday beginning October 13th
- Saturday October 25th from 9:00 a.m. to 3:00 p.m.
- Saturday November 1st from 9:00 a.m. to 3:00 p.m.
- Election Day, Tuesday November 4th from 7:00 a.m. to 7:00 p.m.

Please refer to www.ArapahoeVotes.com for more information regarding ballot drop off locations, mailing instructions, voter service centers, and voter registration.