

Agricultural Land Use Assignment Guidelines

The following are guidelines for how agricultural use properties will be assigned to ranchers and farmers when properties become available for assignment. They will be posted at <https://bouldercolorado.gov/services/osmp-agriculture-program> so that everyone has access to and can understand the guidelines. If it continues to work well as a pilot program, staff will seek to further formalize the process, as necessary.

Purpose

The primary goals of the agricultural use assignment process are to:

- Use an agricultural use assignment approach that is compatible with the goals of the city's agricultural and resource stewardship and working lands plans and programs.
- Use a fair and efficient way to identify qualified ranchers and farmers interested in managing city agricultural lands.
- Maintain and support working agricultural lands, including the preservation of water resources, by keeping city agricultural lands in agricultural use.
- Help existing agricultural operations be successful and promote stewardship.
- Integrate agricultural management practices that support priority ecological values or sensitive species where critical or important habitat have been identified.

- Maintain an agricultural program within available funding and staff capacity.
- Maintain and support a diversity of agricultural operations and uses on city agricultural lands except for those relying on genetically modified organisms (GMOs).
- Establish opportunities for diversified vegetable and pastured livestock farms and micro-dairies in accordance with city values, community demand, and land availability.
- Minimize the failure rate of agricultural operations on city lands.
- Establish an agreed-upon payment amount and other terms for the right to manage the city agricultural land.

Applicability

This document is to guide the way by which City of Boulder agricultural lands are offered and assigned to ranchers and farmers. This document is meant to be comprehensive. No agricultural lands are to be offered or assigned in ways other than as described below.

Ethics and Transparency

City employees responsible for the care and stewardship of city assets have a responsibility to ensure that their conduct does not violate the public trust. To that end, staff commit to act in ways that their conduct does not raise suspicion or give the appearance that they have violated the public trust. These include:

- Acting in the best overall interest of the city and its residents.
- Interacting with all ranchers and farmers with courtesy, consideration, and even-handedness.
- Making sure that there is fair, competitive access to agricultural opportunities when that best preserve the property for agricultural uses and agricultural production.
- Protecting and using information gained confidentially or because of city duties solely in the city's interest.
- Reporting unethical practices or deviance from these guidelines whenever discovered or suspected to a responsible manager.

City employees commit to implement this process with as much transparency as possible. This means that copies of documents related to the agricultural use assignment guidelines (such as lists of available properties, property assessments, invitations for proposals, questions and answers related to proposals, proposals themselves, proposal evaluations and decisions, awarded agreements, and agreement performance) are available for public inspection in accordance with the city's Open Data Policy. Such documents shall be posted on the city website to the extent practical for current offerings and assignments, as well as historical ones as resources allow, in accordance with city retention policies.

Decision to Offer City Agricultural Land

City staff commit to indicate which properties shall be offered for use on the city website with a location map so that potential proposers can be alerted to upcoming opportunities. This list will include information about location and

about what the plan is, if any, for these properties. The decision about availability is subject to change at any time based on new information, staff capacity limitations, or other considerations, but such changes will be updated on the city website in a timely manner.

Factors to be considered in making a decision about availability shall include whether:

- An existing rancher or farmer under agreement with the city has indicated their intention to stop using the property;
- An existing rancher or farmer has (or has not) fully met commitments under their current agreement with the city;
- A newly acquired agricultural property or recently restored agricultural property has become available;
- The property is likely to be productive for agricultural use without significant impacts to other department land protection or use goals; and
- The property has adequate access, water, soil, and infrastructure for agricultural use.

Choice of Assignment Method

City staff commit to using the following methods of assignment (i.e., determining which rancher or farmer would be offered the opportunity) for city agricultural properties:

- Competitive sealed proposals; and
- Negotiated assignment.

These methods are further described below. City staff commit to indicate which properties shall be offered by competitive sealed proposals with a location map by December 15 each year so that potential proposers can be alerted to properties being offered prior to the next growing season. This list will also include properties being offered by negotiated assignment, however, the City reserves the right to assign properties not included on this list if property becomes available prior to the next notice date and requires short term agricultural management. This decision is subject to change at any time based on new information, staff capacity limitations, or other considerations, but such changes will be updated on the city website in a timely manner.

Factors to be considered in the choice of assignment method shall include whether:

- The property could significantly improve the viability of a ranch or farm operation currently under agreement with the city due to its proximity to that operation (so might be negotiated assignment);
- The incorporation of the property into the operations of an existing rancher or farmer could free up another property for competitive sealed proposals (so might be negotiated assignment);
- The property could mitigate impacts to an existing operation or its neighbors resulting from establishing a diversified vegetable operation, pastured livestock farm, or micro-dairy (so might be negotiated assignment).

- The property could offer an additional opportunity for a diversified agricultural operation consistent with the goals of the Agricultural Resource Management Plan (so might be competitively offered);
- Significant interest from multiple parties has been expressed or is expected for the property (so might be competitively offered);
- An administrative efficiency could be gained (so might be negotiated assignment);
- The property is of relatively high value for agricultural use (so might be competitively offered);
- The property needs considerable work to restore it to optimum agricultural viability (so might be negotiated assignment);
- A rancher or farmer using the property is no longer available or the agreement has been terminated, and it is a time-sensitive situation (so might be negotiated assignment).

Decision on Type of Agreement

There are four types of agricultural use agreements that city staff commit to choose from for governing the relationship between the city and a prospective rancher or farmer:

- City contract
- Agricultural license
- Profit-a-prendre
- Agricultural lease

These types of agreement differ by the extent to which the city is directly involved in the management and stewardship of the property. The authority for entering into these agreements differs slightly, and the past practice and preference has been for issuing three-year agricultural leases (or profit-a-prendre for properties subject to a lease-purchase agreement through the Boulder Municipal Property Authority) under the delegated authority of the city manager.

Under a city contract, the city controls the agricultural operation through binding contract specifications and payment to a rancher or farmer for services. This approach might be used when a property requires significant investment to bring it up to a desired level of productivity (e.g., soil recovery, riparian enhancement, facility renovation) or when the rancher or farmer is providing valuable additional services requested by the city (e.g., educational programming, training, community participation). This type of agreement must also comply with city purchasing procedures (B.R.C. chapter 2-8).

With an agricultural license, the city gives permission to a rancher or farmer to use a property for a specific purpose. The city continues to control many aspects of land stewardship on the property (e.g., restrictions on hay production to benefit grassland birds, wildlife control, fence maintenance, water infrastructure maintenance, payment of water assessments) while it also gives permission for it to be used profitably for agricultural production. The licensed use does not transfer an interest in real property; is not transferable; it is revocable; and while it may be exclusive for the agricultural purpose described, the general use of the property may be non-exclusive in that it is shared with others such as recreational visitors. Licenses may be issued by the department for terms of up to five years

(C.B.C., art. XII, § 171(a)) or longer (not to exceed 30 years) with approval of the city council.

With a profit-a-prendre, there is a non-possessory interest in the land, unlike an easement, that gives the holder a right to take the profits from an agricultural crop from the city property. This method has typically been used in situations where the city has used municipal bonds to acquire a property over time, and not been able to convey a lease.

Under an agricultural lease, the city, as landlord, surrenders exclusive possession of the property to the rancher or farmer, as tenant, for a specified time in return for a periodic payment. If the rancher or farmer complies with the terms of the lease, maintains insurance, and makes their payments, the lease remains in place for the term. The lease is exclusive for possession of the property and transferable, unless limited by the specific agreement, and tenant responsibility and limits on possession or use are further specified in the lease terms. The department director has the authority to enter agricultural leases for up to five years (C.B.C., art. XII, § 171(a)).

City staff commit to document the choice of agreement type expected to be offered and its rationale in any Invitation for Proposals. This decision is subject to change at any time based on new information, staff capacity limitations, or other considerations, but such changes will be updated on the city website in a timely manner.

Factors to be considered in the decision on type of agreement will include:

- Condition of the property for agricultural productivity;

- Other open space values or uses provided by the property;
- Desire to convey an interest in real property; and
- Administrative efficiencies, cost-effectiveness, and staff capacity.

Competitive Sealed Proposals

City staff commit to use the following guidance for the competitive sealed proposal assignment method:

Contents of the Invitation for Proposals

An Invitation for Proposals issued by the city will include at minimum the following information:

- A statement that the assignment shall be offered to the responsible proposer whose proposal represents the best value to the city in terms of expected quality, cost recovery, and efficiency, and as a result is determined to best preserve the property for agricultural uses and agricultural production , taking into consideration the criteria that are set forth in the Invitation for Proposals;
- A statement of specifications, expectations, performance requirements, type of agreement to be offered, term including renewal, insurance requirements, and any special instructions for agricultural use of the property;
- A detailed map of the property to be offered including such information as property boundaries, boundaries of the agricultural use area, access,

fencing, water availability, topography, buffer areas, and special instructions for use of the property;

- The location where copies of relevant plans, specifications and other documents may be examined, if any;
- The specific criteria and the relative weight of each criteria that will be used to evaluate the proposals (see below);
- The license fee or lease rate, or an acceptable range, and its adjustment over time, that the use of the property will be offered at;
- Proposal submission requirements and schedule including time(s) and place(s) for the mandatory pre-proposal tour, requirements for electronic and paper sealed submissions including a checklist of items to be considered for responsiveness, location or electronic mail address for proposal submission, the time and date after which proposals will no longer be accepted for opening and evaluation, and the time and place where proposals will be opened;
- A request for a description of experience as a rancher or farmer including key staff capabilities, equipment capabilities, financial preparedness, and other information required to evaluate the Invitation for Proposals criteria;
- A request for contact information for references that might include the following:
 - Neighboring landowner(s) to proposer's current operation;
 - A landowner who leases or has agreed to allow proposer to use their land;
 - A ditch rider or water commissioner who has worked with proposer on their current operation;

- A customer or buyer of proposer's current agricultural product;
- Any additional similar references that proposer believes would be helpful in evaluating the proposed operation;
- A request for information pertaining to the proposer's potential or certified eligibility as a "Historically Underserved Producer"¹ in accordance with United States Department of Agriculture guidelines;
- A notice of the proposer's rights and recourse method to appeal certain decisions;
- A requirement for acknowledgement of amendments to the Invitation for Proposals;
- A notice that although discussions may be held with proposers submitting acceptable proposals, assignment may be made without any discussions;
- Any provisions on the submission and consideration of multiple or alternate proposals;
- A statement that proposers should understand that information submitted is prepared at the proposer's expense and becomes city record and therefore a public record and that proposers should give specific attention to portions of their proposal (that should be easily separable from the non-confidential portions) that they consider to be confidential and provide any justification why such materials, upon request, should not be disclosed by the city, if the city attorney determines that such portions meet the requirements of the Colorado Open Records Act;

¹ A socially disadvantaged, beginning, limited resource or veteran farmer or rancher.
<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/people/outreach/slbfr/>

- A requirement for provision of the name, address, telephone number, and electronic mail address of a single contact person for the proposer;
- A statement that the city reserves the right to reject any or all proposals and to waive any minor informalities or irregularities; and
- A template of the agricultural use agreement expected to be offered.

Proposal Evaluation Criteria and Scoring

City staff commit that each Invitation for Proposals will contain the specific criteria and the relative weight of each criteria that will be used to evaluate the proposals. In general, this will be consistent with the following standard criteria and weighting, although documented exceptions stating the rationale may be made to provide the best value to the city for a specific property. The standard criteria and their weights shall generally be consistent with the following:

<i>#</i>	<i>Criterion</i>	<i>Weight</i>
1	Fit of Proposed Operation	35
2	Agricultural Experience	30
3	Equipment Available	10
4	Demonstrated Financial Ability	10
5	Historically Underserved Producer and Access to Land	10
6	Diversity and Inclusion	5
	Total	100

City staff commit to use the following guidance for evaluating the criteria listed above:

Criterion (1) is an assessment of how well the proposed operation fits the city's overall objectives and management objectives for the property. These are described in the Invitation for Proposals. This assessment includes a consideration of how the proposed operation might support the management objectives in the context of the Agricultural Resource Management Plan. This criterion will be evaluated and scored based on the following information, as available: information provided in the proposal; experience that the city has had with the proposer; site visit to a property managed by the proposer; and/or interview with the proposer. Guidance for scoring is provided in the following table. Proposals may include information included in the guidance for various levels of scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (1) Fit of Proposed Operation</i>	<i>Score</i>
<p>Excellent fit between the proposed operation and the city's management objectives for the property – for example:</p> <ul style="list-style-type: none"> • Proposed operation describes best management practices, and past results with them, suitable to achieve resource conservation, improved soil health, and management objectives as described in the invitation for proposals; • Proposed operation is headquartered near the property such that response times for a problem would be minimal; • Proposed operation supports multiple goals of the Agricultural Resource Management Plan and is in alignment with management objectives; • Proposed operation demonstrates good local food production market opportunity. 	7-10

<p>Good fit between the proposed operation and the city’s management objectives for the property—proposed operation has some evident qualities of excellent fit to achieve management objectives as described in the invitation for proposals, but also some evident qualities of a lower level of fit.</p>	4-6
<p>Lower level of fit between the proposed operation and the city’s management objectives for the property -- for example:</p> <ul style="list-style-type: none"> • Proposed operation includes management practices that are not proven to be effective to achieve resource conservation, improve or maintain soil health, and meet management objectives as described in the invitation for proposals or lacks key practices; • Proposed operation is headquartered at a distance from the property such that response times for a problem would be lengthy; • Proposed operation only minimally supports goals of the Agricultural Resource Management Plan or is not in alignment with management objectives. 	1-3
<p>Unable to be evaluated</p>	0

Criterion (2) is an assessment of relevant past agricultural experience. This is important because ranching and farming in Boulder County within an urban interface is difficult, and the city would like to minimize the risk of operational failure of agricultural operations on its properties. This criterion will be evaluated and scored based on the following information, as available: information and references provided in the proposal; experience that the city has had with the proposer; site visit to a property managed by the proposer; and/or an interview with the proposer. Guidance for scoring is provided in the following table.

Proposals may include information included in the guidance for various levels of

scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (2) Agricultural Experience</i>	<i>Score</i>
<p>High level of agricultural experience relevant to the property and proposed operation – for example:</p> <ul style="list-style-type: none"> • Proposer has successfully commercially ranched or farmed in Boulder County or within an urban interface full-time for ten or more years like the proposed operation; • Proposer demonstrates knowledge of best agricultural practices, stewardship and markets relevant to the proposed operation and property; • Proposer’s operations appear clean and well-organized and fields appear fully irrigated and well cared for. 	7-10
<p>Good level of agricultural experience relevant to the property and proposed operation – for example:</p> <ul style="list-style-type: none"> • Proposer has commercially ranched or farmed in Boulder County less than ten years or part-time; in locations other than Boulder County or outside an urban interface or with approaches different than the proposed operation; • Proposer demonstrates less knowledge of best agricultural practices, stewardship and markets relevant to the proposed operation and property; • Proposer’s operation(s) has some evident qualities of good appearance, but also some evident qualities of poorer appearance. 	4-6
<p>Lower level of agricultural experience – for example:</p> <ul style="list-style-type: none"> • Proposer's commercial ranching or farming experience may be academic, part-time, unproven, unsuccessful, or poorly demonstrated; • Proposer’s pastures or fields appear over-used and weedy and/or irrigation infrastructure is poorly maintained and untidy. 	1-3
Unable to be evaluated	0

Criterion (3) is an assessment of whether the proposed operation and equipment demonstrably available to the proposer are in alignment. This is important because it shows an understanding of the proposed operation and an ability to secure the necessary resources. This criterion will be evaluated and scored based on the following information, as available: information provided in the proposal; experience that the city has had with the proposer; site visit to a property managed by the proposer; and/or interview with the proposer. Guidance for scoring is provided in the following table. Proposals may include information included in the guidance for various levels of scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (3) Equipment Available</i>	<i>Score</i>
<p>Excellent alignment between the proposed operation and the equipment available – for example:</p> <ul style="list-style-type: none"> • List of machinery and equipment is complete, available and appropriate to the proposed operation; • Proposer demonstrates ownership and has multiple years of experience with machinery and equipment needed; • Proposer adequately describes the business benefit of limited use of custom operations. 	7-10
<p>Good fit between the proposed operation and the equipment available – for example:</p> <ul style="list-style-type: none"> • Operation has some evident qualities of excellent equipment alignment and availability, but also some qualities of a lower level of fit. 	4-6
<p>Lower level of fit between the proposed operation and equipment available – for example:</p> <ul style="list-style-type: none"> • List of machinery and equipment is incomplete or not entirely appropriate to the proposed operation or proposer has to purchase significant amounts of equipment; 	1-3

<ul style="list-style-type: none"> • Proposer does not demonstrate reliable access to necessary equipment; proposer does not demonstrate experience with necessary equipment; • Proposer is reliant upon custom equipment operations to support a majority of the proposed operation. 	
Unable to be evaluated	0

Criterion (4) is an assessment of whether the proposer has demonstrated an ability to meet the financial demands of the proposed operation including insurance and payment amount. This is important because a financial failure poses a risk to the property itself and the city's ability to meet objectives for the property and its overall agricultural program. This criterion will be evaluated and scored based on the following information, as available: information provided in the proposal; experience that the city has had with the proposer in terms of understanding the proposed operation; and/or interview with the proposer. Guidance for scoring is provided in the following table. Proposals may include information included in the guidance for various levels of scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (4) Demonstrated Financial Ability</i>	<i>Score</i>
<p>Lower financial risk – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates a sound financial plan relevant to the proposed operation with measurable financial goals or otherwise demonstrates the profitability of the proposed operation; • Proposer demonstrates a substantial number of years being in the business; 	7-10

<ul style="list-style-type: none"> • Proposer demonstrates that they have the resources to start up and sustain the proposed operation; • Proposer has clearly identified outside resource needs as available and adequate documentation is provided; • Proposer offered an appropriate and justified payment rate. 	
<p>Medium financial risk – for example, operation has some evident qualities of lower financial risk, but also some qualities of a higher risk.</p>	4-6
<p>Higher financial risk – for example:</p> <ul style="list-style-type: none"> • Proposer does not have a sound financial plan; resources are not apparent, or proposer must start a new business or develop a new customer base to start up and sustain the proposed operation; • Proposer demonstrates that outside resources will be required to start up or sustain the proposed operation but has not identified the source or provided any documentation as to their availability; • Proposer offered an inappropriate or unjustified payment rate. 	1-3
<p>Unable to be evaluated</p>	0

Criterion (5) is intended to encourage individuals or entities that are historically underserved producers across the population of ranchers and farmers using city agricultural lands. This criterion will be evaluated and scored based on the following information, as available: statements in the proposal, other evidence of certification, or a notarized affidavit. Guidance for scoring is provided in the following table. Proposals may include information included in the guidance for various levels of scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (5) Historically Underserved Producer and Access to Land</i>	<i>Score</i>
<p>High level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they meet the United States Department of Agriculture eligibility requirements for historically underserved individuals or entities as a “Socially Disadvantaged”² Farmer or Rancher, Limited Resource Farmer or Rancher, Beginning Farmer or Rancher, or a “Veteran Farmer or Rancher”³; and • Proposer has demonstrated currently limited access to land and water resources. 	7-10
<p>Medium level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they meet the United States Department of Agriculture eligibility requirements for historically underserved individuals or entities as a Socially Disadvantaged Farmer or Rancher, Limited Resource Farmer or Rancher, Beginning Farmer or Rancher, or a Veteran Farmer or Rancher; and • Proposer is a farmer or rancher who currently has access to public land and water resources. 	4-6
<p>Lower level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they meet the United States Department of Agriculture eligibility requirements for historically underserved individuals or entities as Socially Disadvantaged, Limited Resource Farmer or Rancher, Beginning Farmer or Rancher, or a Veteran Farmer or Rancher; and • Proposer is a farmer or rancher who currently leases a publicly owned agricultural headquarters (i.e. residence, barns, outbuildings) or site determined to be a best opportunity area 	1-3

² A group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

³ A farmer or rancher who has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard within the last 10 years.

<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/people/outreach/slbfr/>

by criteria identified in the Agricultural Resources Management Plan.	
Unable to be evaluated or does not demonstrate criteria above.	0

Criterion (6) is intended to promote diversity and inclusion across the population of ranchers and farmers using city agricultural lands and the broader community. This criterion will be evaluated and scored based on the following information, as available: information provided in the proposal; experience that the city has had with the proposer; site visit to a property managed by the proposer; and/or interview with the proposer. Guidance for scoring is provided in the following table. Proposals may include information included in the guidance for various levels of scoring. Scores will ultimately be determined through the professional judgement of individual reviewers and the proposal evaluation team.

<i>Assessment Level - Criterion (6) Diversity and Inclusion</i>	<i>Score</i>
<p>High level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they have in the past and will provide goods or services to marginalized or economically disadvantaged communities; • Proposer demonstrates that they have in the past and will mentor Socially Disadvantaged first-generation farmers; • Proposer demonstrates that they have in the past and will employ workers from socially disadvantaged populations and will exceed Colorado Department of Labor and Employment wage and hour laws. 	7-10
<p>Medium level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they will provide goods or services to the community or organizations engaged in connecting communities with farmers and ranchers or local food sources; 	3-6

<ul style="list-style-type: none"> • Proposer demonstrates that they will mentor a first-generation farmer; • Proposer demonstrates that they have in the past will employ workers from socially disadvantaged populations and will pay wages as required by Colorado Department of Labor and Employment wage and hour laws. 	
<p>Low level – for example:</p> <ul style="list-style-type: none"> • Proposer demonstrates that they will provide goods or services to the community or organizations engaged in connecting communities with farmers and ranchers or local food sources. • Proposer demonstrates that they will employ workers from socially disadvantaged populations and will pay wages as required by Colorado Department of Labor and Employment wage and hour laws. 	1-3
<p>Unable to be evaluated or does not demonstrate criteria above.</p>	0

Notice of Invitation

The agricultural stewardship supervisor commits to publish a notice about any Invitation for Proposals at least once in a newspaper of general circulation in the city and send such notice to a list of interested agricultural use parties (described below). Proposal preparation time will be set to provide potential proposers a reasonable time to prepare their proposals with a minimum of twenty-one calendar days provided from the date of the Notice of Invitation to the date by which proposals are due (unless waived in writing by the director such as for a re-solicitation). The notice will contain:

- A description of the agricultural property or properties offered for agricultural use;
- The location where copies of relevant plans, specifications and other documents may be examined, if any;
- A link or web address to the Invitation for Proposals;
- The time(s) and place(s) to meet for a mandatory pre-proposal tour of the property;
- The time and place to submit any clarifying questions on the Invitation for Proposals to be answered in writing for all prospective proposers;
- The deadline and place where proposals will be received;
- The time and place where proposals will be opened;
- The expected date that the agricultural property or properties will be offered for agricultural use;
- A statement that the city reserves the right to reject any or all proposals and to waive any minor informalities or irregularities therein;
- A statement that the proposal is prepared at proposer's expense and becomes city record and therefore a public record; and
- A statement of availability for potential proposers to be added to the list of interested agricultural use parties.

City staff commit to maintain a list of interested agricultural use parties who would like to receive notice of opportunities for agricultural use of city properties. Any person may request and be added to this list at any time by signing up via the city website (<https://bouldercolorado.gov/services/osmp-agriculture-program>) or by letter sent to the department. A person on the list of interested agricultural use parties may

be removed by city staff from the list if they fail to respond to an Invitation for Proposals on three consecutive such invitations. A “No Proposal” statement on a returned proposal shall be considered a response, and re-addition to the list may be requested in writing at any time.

Mandatory Pre-Proposal Tour(s)

For each property offered for agricultural use, city staff commit to hold a mandatory pre-proposal tour or tours on the site (unless waived in writing by the director such as for a re-solicitation). All prospective proposers, or an identified representative, must attend at least one of the tours. City staff commit to conduct the tour to orient potential proposers to the property, answer questions about the agricultural use opportunity, and explain the proposal requirements. City staff commit to try to have other people familiar with the history of the property in attendance, if possible, or available to answer questions submitted. The mandatory pre-proposal tour will be held long enough after the Notice of Invitation has been issued to allow prospective proposers to become familiar with the Invitation for Proposals documents, but sufficiently before the opening of proposals to allow consideration of the pre-proposal tour results in preparing proposals. Nothing stated by staff at the mandatory pre-proposal tour will change the Invitation for Proposals requirements or content unless a change is made by written amendment. Staff commit to prepare a summary, transcript, or audio recording of the tour and make such available by posting it on the city website. A record of attendance will be kept of all mandatory pre-proposal tours and will be posted on the city website.

Questions and Amendments to Invitations for Proposals

Significant clarifying questions submitted in writing by the time and to the place indicated on the Invitation for Proposals will be answered in writing by city staff. The clarifying questions and their answers will be sent to everyone who supplied contact information at the mandatory pre-proposal tour(s). Nothing stated by staff at the mandatory pre-proposal tour will change the Invitation for Proposals requirements or content as only the written answers to clarifying questions or an amendment can do that. Amendments will be distributed within a reasonable time to allow prospective proposers to consider them in preparing their proposals or else the time until proposals will be received should be amended. All amendments will be posted on the city website.

Opening of Proposals

Upon receipt, city staff commit that each proposal or proposal modification will be time and date-stamped, but not opened, and will be stored in a secure location until the opening of proposals. Staff will not disclose the identity of any proposer before the opening of proposals.

Proposals will be publicly opened by the resource and stewardship manager or designee at the time and place provided in the notice for the Invitation for Proposals. Proposals received after the submission deadline indicated on the notice (unless amended) will be considered non-responsive and will not be opened or considered, and proposers of such proposals will be notified of this determination.

The proposal opening will be open to the public and done in the presence of at least three staff members who will not serve on the proposal evaluation team. Members of the proposal evaluation team will not attend the opening to maintain

their independence. Each proposal will be read aloud as follows: name of proposer, property of interest, number of pages in proposal, and other information as is deemed appropriate. This information will be published on the city website generally within 24 hours of the opening.

Proposals will not be available for examination by the public at the opening. All responsive proposals will be published on the city website following the completion of proposal evaluation and a determination by the city attorney whether any requested information shall be withheld as confidential, as applicable.

Responsiveness of Proposals

A responsive proposal is one that complies with all material requirements of the Invitation for Proposals, as determined by the members of the proposal evaluation team. Considerations regarding the responsiveness of a proposal shall include:

- Attendance by the proposer or an identified representative at one of the mandatory pre-proposal tours;
- Compliance with all material requirements of the Invitation for Proposals;
- Submission of proposal in the form specified in the Invitation for Proposals including any required signatures;
- Submission of proposal by the deadline and at the location or electronic address specified in the Invitation for Proposals or amendment;
- Submission of all other information required by the Invitation for Proposals or amendments; and
- Submission of all required disclosure statements.

As soon as possible and generally within 24 hours of a determination of non-responsiveness, staff commit to notify the proposer of the reason for such determination. All non-responsive determinations may be appealed in writing as set forth below in the section on appealing decisions. If the non-responsiveness is determined to be minor, staff may choose to work with the proposer to resolve the deficiency and allow the proposal to be evaluated.

Evaluation of Proposals

Offer of an agricultural use opportunity, if any, will be made to the responsible proposer whose proposal represents the best value to the city in terms of expected quality and efficiency, and as a result is determined to best preserve the property for agricultural uses and agricultural production, taking into consideration the criteria that are set forth in the Invitation for Proposals. In evaluating proposals, staff will only consider the criteria set forth in the Invitation for Proposals and any amendments to that invitation.

Proposals will be reviewed and scored by a proposal evaluation team consisting of no fewer than four persons with knowledge, expertise, and experience sufficient to make a fair and reasonable evaluation. The proposal evaluation team shall include at least one staff member who was not at the mandatory pre-proposal tour. The team may include people who are not employed by the department. The team will not include the director or resource and stewardship manager to maintain independence for approvals, reviews, and evaluating appeals of decisions.

Responsibilities of the proposal evaluation team members require that they:

- Disclose any real or appearance of conflicts of interest and remove themselves from the team, as appropriate;
- Read the Invitation for Proposals and any addenda;
- Read and rate every proposal independently of other team members;
- Keep ratings confidential during the individual scoring prior to signing and dating the work;
- Do not discuss proposals outside of team meetings prior to a recommendation;
- Score consistently; and
- Attend all team meetings, discussions, or interviews.

Each evaluator on the proposal evaluation team commits to use rating sheets or other written evaluation forms to initially and independently score each proposal. Evaluators will sign and date each of their rating sheets. Evaluator ratings will be impacted by individual evaluator professional discretion and interpretation of the stated management objectives and information submitted in management proposals. Initial ratings may be amended following team discussion and the amended ratings recorded on amended rating sheets, but copies of all initial and amended rating sheets or evaluation forms will be maintained.

The proposal evaluation team will evaluate all responsive proposals and may choose to check references and/or enter discussions and/or visit existing properties managed by the proposer with one or more of the initially top-ranked proposals to promote understanding of the city's requirements and the proposers' proposals and capabilities. The proposal evaluation team may choose to interview a competitive sub-set of proposers to clarify information submitted in a management proposal. City staff commit to accord fair treatment to

proposers with respect to any opportunity for reference checks, interviews or discussions, and/or revisions of proposals but such activities may be limited to a competitive range sub-set of proposers based on an initial ranking of proposals. The evaluation team will only amend ratings and rating sheets for the proposers that were interviewed or included in the competitive range sub-set of proposers.

Offer of Assignment

The proposal evaluation team commits to provide a ranking of all responsive proposals and a recommendation for offer to the resource and stewardship manager for approval. Each recommendation for offer will include at minimum a justification for the selection, information about efforts to negotiate better value for the city, and any special terms or conditions to be included in the offer in addition to the proposal.

If approved, the resource and stewardship manager will instruct the agricultural stewardship supervisor to offer an assignment to the recommended proposer. If accepted, the agricultural stewardship supervisor will prepare an agreement, in accordance with the terms of the Invitation for Proposals and the submitted proposal, for resource and stewardship manager, director and/or city manager approval, as required. If not accepted, the agricultural stewardship supervisor will seek approval from the resource and stewardship manager to offer an agreement to the next ranked proposal. City staff commit to notify all proposers who submitted unsuccessful proposals of the results and provide adequate time for protest prior to finalizing the agreement.

Immediately following director and city manager approval of the assignment, staff will update the city website with the results including a summary of scoring for all

proposals and copies of the proposals received. It is the responsibility of the proposer to provide accurate data and information in their submitted proposals. False certifications or inaccurate representations may be cause for the city to rescind its offer of assignment or terminate a lease.

Negotiated Assignment

City staff commit to use the following guidance for the negotiated assignment method.

Preliminary Discussions

City staff may engage in preliminary discussions with a rancher or farmer who might be interested in using a city property for agricultural use to explore the feasibility of a proposed negotiated assignment.

Negotiations

City staff may negotiate with qualified ranchers or farmers regarding the terms of a proposed offer of assignment. They commit to maintain a written record of the conduct of negotiations and the basis for any determination to continue or suspend negotiations with each qualified rancher or farmer. City staff may request a proposal from the qualified rancher or farmer to serve as the basis for an offer of assignment.

Appealing Decisions

Any interested party may request an administrative appeal for a determination of the following agricultural assignment actions described in these guidelines:

- Choice of assignment method

- Selection or non-selection of a rancher or farmer

Appellant shall submit their appeal in writing to the OSMP director within five business days after the notice of assignment or proposal results are posted on the city website. All written appeals shall be delivered by electronic mail to <OSMPAgLeasing@bouldercolorado.gov>.

An appeal of the choice of assignment method shall briefly and succinctly state the reason why the decision is not consistent with the guidelines.

Recognizing that while there is naturally a range of variability and discretion in interpretation of proposals and applying criteria to them, particularly when multiple reviewers are involved, on occasion an error could be made. Therefore, an appeal of selection or non-selection of a rancher or farmer shall briefly and succinctly state the basis on which the appellant believes the determination is in error based on the city's guidelines. Offer of the property shall be stayed pending determination of the director, or delegate.

The director, or delegate, shall consider the appeal, but shall do so by relying on existing materials. As this is an administrative review, new information and hearsay will not be considered. The director, or delegate, shall make a prompt determination (within thirty days) including the reasons upon which it is based and provide a copy of such determination to the appellant and other affected parties.

The director's, or delegate's, determination shall be final.