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October 1, 2021

**Via Electronic Mail to:** RSheesley@c3gov.com

Robert Sheesley  
City Attorney  
Commerce City  
7887 E. 60th Ave.,  
Commerce City, CO 80022

***Re: Continuation of Public Hearing for Res 2021-61, AN-259-21, & Z-964-21***

Dear Mr. Sheesley:

Foster Graham Milstein, & Calisher, LLP (“FGMC”) represents QuikTrip Corporation and United Development Companies (collectively “Applicant”) regarding its submission of the CanAm PUD Zone Document, Annexation Petition, and Plat (the “Project”) for certain real property generally located in unincorporated Adams County at 9940 E. 112th Avenue, southeast of the intersection of E. 112th Avenue and U.S. Highway 85 (the “Property”). The Project proposes an approximately 36.7-acre mixed-use development of commercial and residential uses in northwestern Commerce City. Notably, for the Property to be developed according to the Project, annexation of the Property into Commerce City must be completed. Currently, the Project is scheduled for review by the Commerce City Council via public hearing on October 4, 2021.

This letter outlines Applicant’s request for a continuance of City Council’s public hearing on the Project until November 15, 2021.

**I. Continuance Justification**

Title 31, Article 12 of the Colorado Revised Statutes details Colorado’s Municipal Annexation Act of 1965 (the “Act”). Relevant to the Project, the Act lays out certain requirements that municipalities must follow when annexing property into its jurisdiction. One such requirement is the preparation of an Annexation Impact Report (“Impact Report”) by the municipality.<sup>1</sup> According to the Act, the Impact Report concerning the proposed annexation must be prepared “at least **twenty-five days** before the date of the [public] hearing” and one copy of the report must be filed with the “board

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<sup>1</sup> Colo. Rev. Stat. § 31-12-108.5(1).

of county commissioners governing the area proposed to be annexed **within five days**” after the report has been prepared.<sup>2</sup>

As Commerce City Staff (“City Staff”) identified in its staff report to City Council regarding the Project, the Impact Report was not delivered to the Adams County Board of County Commissioners (“BOCC”) more than twenty days before the proposed hearing on October 4, 2021. Accordingly, due to late receipt of the Impact Report, Applicant is requesting a continuation of the October 4, 2021, public hearing concerning the Project to November 15, 2021.<sup>3</sup>

## **II. Continuation Procedure**

Under the Act, City Council may continue an annexation public hearing due to a need for additional time to consider materials received.<sup>4</sup>

Accordingly, Applicant requests that City Council conduct the following procedure on October 4<sup>th</sup>: (1) call up the Project in accordance with the noticed agenda; (2) open the public hearing but do not request presentations or public comment; (3) move immediately on to the remaining agenda items; and (4) after one hour, close the Project’s public hearing and vote to continue the Project’s public hearing until November 15, 2021. Such procedure will ensure (1) that City Council will be compliant with the Act’s requirements for annexations; and (2) that City Council will have an opportunity to hear all comments/evidence on the Project (to include any comments from the BOCC) at one time, and in its entirety, at the duly scheduled continued public hearing on November 15, 2021.

## **III. Conclusion**

For the foregoing reasons, Applicant respectfully requests that City Council, pursuant to the Act, continue the October 4, 2021, until November 15, 2021, in accordance with the procedure identified above.

Sincerely,

FOSTER, GRAHAM, MILSTEIN & CALISHER LLP



David Wm. Foster

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<sup>2</sup> *Id.*

<sup>3</sup> Colo. Rev. Stat. § 31-12-108(3).

<sup>4</sup> *Id.*