

# The Lowry Range Colorado



# **The Lowry Range Colorado**

## **A Strategy for Development**

June 1-4, 2004  
An Advisory Services Program Report

ULI—the Urban Land Institute  
1025 Thomas Jefferson Street, N.W.  
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# About ULI—the Urban Land Institute

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**U**LI—the Urban Land Institute is a non-profit research and education organization that promotes responsible leadership in the use of land in order to enhance the total environment.

The Institute maintains a membership representing a broad spectrum of interests and sponsors a wide variety of educational programs and forums to encourage an open exchange of ideas and sharing of experience. ULI initiates research that anticipates emerging land use trends and issues and proposes creative solutions based on that research; provides advisory services; and publishes a wide variety of materials to disseminate information on land use and development.

Established in 1936, the Institute today has 23,000 members and associates from 80 countries, representing the entire spectrum of the land use and development disciplines. Professionals represented include developers, builders, property owners,

investors, architects, public officials, planners, real estate brokers, appraisers, attorneys, engineers, financiers, academics, students, and librarians. ULI relies heavily on the experience of its members. It is through member involvement and information resources that ULI has been able to set standards of excellence in development practice. The Institute has long been recognized as one of America's most respected and widely quoted sources of objective information on urban planning, growth, and development.

This Advisory Services program report is intended to further the objectives of the Institute and to make authoritative information generally available to those seeking knowledge in the field of urban land use.

Richard M. Rosan  
*President*

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# About ULI Advisory Services

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**T**he goal of ULI's Advisory Services Program is to bring the finest expertise in the real estate field to bear on complex land use planning and development projects, programs, and policies. Since 1947, this program has assembled well over 400 ULI-member teams to help sponsors find creative, practical solutions for issues such as downtown redevelopment, land management strategies, evaluation of development potential, growth management, community revitalization, brownfields redevelopment, military base reuse, provision of low-cost and affordable housing, and asset management strategies, among other matters. A wide variety of public, private, and nonprofit organizations have contracted for ULI's Advisory Services.

Each panel team is composed of highly qualified professionals who volunteer their time to ULI. They are chosen for their knowledge of the panel topic and screened to ensure their objectivity. ULI panel teams are interdisciplinary and are developed based on the specific scope of the assignment. ULI teams provide a holistic look at development problems. Each panel is chaired by a respected ULI member with previous panel experience.

The agenda for a panel assignment is intensive. It includes an in-depth briefing composed of a tour of the site and meetings with sponsor representatives; interviews of key people within the community; and a day of formulating recommendations. On the final day on site, the panel makes an oral presentation of its findings and conclusions to the sponsor. At the request of the sponsor, a written report is prepared and published.

Because the sponsoring entities are responsible for significant preparation before the panel's visit, including sending extensive briefing materials to each member and arranging for the panel to meet with key local community members and stakeholders in the project under consideration, participants in ULI's panel assignments are able to make accurate assessments of a sponsor's issues and to provide recommendations in a compressed amount of time.

A major strength of the program is ULI's unique ability to draw on the knowledge and expertise of its members, including land developers and owners, public officials, academicians, representatives of financial institutions, and others. In fulfillment of the mission of the Urban Land Institute, this Advisory Services program report is intended to provide objective advice that will promote the responsible use of land to enhance the environment.

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# Acknowledgments

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The panel would also like to acknowledge the efforts and time of the more than 20 people it met with during its time in Colorado. This group helped the panel understand the intricacies involved with developing this special property.

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# Introduction

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**T**he Lowry Range is a 40-square-mile property east of Denver, Colorado. It is possibly the nation's largest single-site development opportunity near a major metropolitan area. It is closer to Denver International Airport, the Denver Tech Center, and Fitzsimons (home to the University of Colorado's Hospital and Health Sciences Center and to the affiliated 160-acre Colorado Bioscience Park) than to downtown Denver. The Colorado State Land Board owns and manages this property, which contains 12 linear miles of riparian corridors, rolling hills, and short-grass prairie.

The Colorado State Land Board (SLB) was formed when Colorado became a state in 1876. At that time, the federal government gave nearly every section 16 and section 36 parcel in the state to the SLB. The SLB is charged with managing the assets entrusted to their care for their beneficiaries (primarily Colorado children in kindergarten through twelfth grades) by producing a reasonable and consistent income within the long-term protection of economic values, while also providing responsible environmental stewardship to ensure the conservation of natural resources.

Approximately 10 percent of the SLB's holdings, including the Lowry Range, are included in its Stewardship Trust. These properties were nominated based on their exceptional qualities and receive an additional level of scrutiny. The Colorado Constitution requires the SLB to manage these properties to "protect and enhance the beauty, natural values, open space and wildlife habitat for this and future generations."

The Lowry Range was originally part of a 59,000-acre (100-square-mile) parcel that the federal government used during World War II and the Korean and Vietnam wars for artillery training. The SLB acquired the site in three transactions from the Department of Defense: In 1964, it traded School Trust lands near Fort Carson and the Pueblo Army

Depot for 12,700 acres of the Lowry Range parcel. In 1966, it traded additional land near Fort Carson for 11,244 acres. In 1991, it exchanged holdings near Falcon Air Force Base for 3,500 acres.

In total, the SLB acquired 27,500 total contiguous acres, of which approximately 1,500 acres have been sold. The U.S. Army Corps of Engineers is currently cleaning up the ordnance on the property. The Corps estimates that approximately 5,000 acres contain areas of concern and that it will take ten to 20 years to clear the remaining 75 percent of this environmentally hazardous segment (about 3,750 acres). An environmental survey of the site will more accurately determine how much safe land is available.

Today the property is leased for a variety of uses, including agricultural operations, two model airplane clubs, a horseback riding club, sand extraction, flight training for the Army National Guard, and oil and gas production.

## Work Done to Date

The state has commissioned or participated in several land use studies and processes over the past few years. These are summarized below.

### University of Colorado Real Estate Panel

In July 2000, the University of Colorado hosted a real estate panel to evaluate potential development opportunities for the property. The panel found that "failure to immediately develop adequate resources and attention to the Lowry Range could significantly decrease the value of the property by limiting near-term options open to the Board." As a result, the SLB assembled the Lowry Working Group, composed of entities representing a variety of interests, including the SLB, the Rangeview Metropolitan District (Rangeview leases the water under the Lowry Range and has a contract with the SLB to serve the projected 100,000 people who will ultimately reside on the



Location map.

site), the Cherry Creek School District (representing the three school districts that have jurisdiction over the property), the Governor’s Office of Policies and Initiatives, the Colorado Department of Natural Resources (which contains the SLB), Arapahoe County, the city of Aurora, and the Trust for Public Lands (a national nonprofit organization with expertise in open-space conservation). These stakeholders worked from July 2000 through May 2003 to devise goals for both the planning process and the development of the property and to define opportunities and constraints. The Working Group stated that “the land is special, allowing for a new paradigm of planning and new models of development that balance economic development interests with environmental and sustainability models.” This group provided the foundation for the initial design charrette.

**Vision Process for the Lowry Range (RNL Design, Spring 2000)**

RNL Design, in conjunction with the Working Group, facilitated a preliminary design charrette conducted by a team of experts in May 2000. The nine-member panel included experts in land use law, governance, transportation, market and economic analysis, land use planning and design, land development, public affairs, education, and conservation planning.

The panel developed a conceptual development plan for the property and set forth the following goals and objectives:

- Future land use should positively impact the region.
- Connections with regional trails, open space, recreation opportunities, and adjacent jurisdictions should be identified and defined.
- Foster a sense of value and place.
- Serve as a model for social, environmental, and economic sustainability for the region.
- Land use should enhance the site’s natural and cultural attributes.
- Development should apply open-space and conservation principals that exhibit responsible, sensitive development and planning.
- Devise an institutional and management framework and governance strategy that assures effective and timely implementation.
- Future land use should result in a meaningful and visible connection between people and the environment.

**Lowry Range Property Development Study (RNL Design, Summer 2003)**

In August 2003, RNL analyzed the conceptual development plan created during the design charrette to determine what densities and type of development (i.e., trend development, planned community, or compact development) would be most appropriate for the property. This study concluded that a planned density of eight to 12 units per acre would be appropriate for the site. The report divided the property into several development zones:

- a compact series of villages located on the least-sensitive portion of property (essentially north of Quincy Road);
- an opportunity for planned recreational uses adjacent to Aurora Reservoir (near the west property boundary);
- a flexible conservation zone that could be developed over time or preserved, based on commu-

nity interests (roughly the central portion of the site); and

- a significant portion to be designated as an undeveloped short-grass prairie reserve (especially along Box Elder Creek or the east portion of the site).

The report also included two other studies:

- *Advancing the Disposition of the Lowry Range: Economic and Business Considerations* (Jean Townsend, Coley/Forrest, Inc., July 2003) recommended that SLB partner with a master developer to entitle the land and develop an overall theme for the property.
- *Lowry Land Range Ecological Issues Brief* (ERO, July 2003) provided a brief overview of several ecological issues (such as declining habitat and threats to biodiversity) and recommended tasks that should be completed to help maintain the site's natural diversity and ecological integrity.

### **Development Process Overview and Timing (THK & Associates, Fall 2003)**

THK evaluated several possible entitlement alternatives and defined a "critical path" for the development process. The report recommended that SLB (1) select a venture partner; (2) develop/process an overall conceptual master plan and phase I development plan through Arapahoe County; (3) issue a second RFP to select the developer; (4) when four to five years' worth of developable land remained, reevaluate the master plan and process. The SLB followed these recommendations and issued a board order to proceed accordingly in October 2003.

### **Technical Team**

At the time the ULI panel convened, a number of consultants were working with the SLB to research progressive development opportunities and create guiding principles that could be incorporated into the request for qualifications (RFQ) and the request for proposals (RFP). These consultants working on the project included the following groups and individuals.

### **Rocky Mountain Institute**

The Rocky Mountain Institute (RMI) has researched green development opportunities in areas such as energy, water, and resource efficiency, human well-being, ecological diversity, transportation, and education. Its report, *Benchmarking and Guidelines for a Sustainable Community*, explores how the Lowry Range can serve as an example of effective land stewardship where limited development can actually help enhance both the land and its value.

### **The Natural Learning Initiative**

The Natural Learning Initiative (NLI) has developed a vision for the Lowry Range based on the concepts of sustainable development; education as a community-based process covering informal and formal domains; and the integration of education for all ages. The NLI reviewed literature and research pertaining to community building, cultural animation, community education, pedestrian environments, active living, and other environmental systems influencing child development and the lifestyles of children and families.

NLI devised a list of guiding principles it recommended for the Lowry Range, including:

- compact, moderate-density neighborhood development;
- interlinked hierarchical pedestrian pathway networks;
- a variety of small neighborhood public open spaces with management treatments ranging from manicured to wild;
- naturalized child-care and school grounds;
- indoor-outdoor architecture;
- childcare centers located in residential or mixed-use neighborhoods;
- safe, narrow streets;
- and school/community centers in all public village spaces.

NLI's draft report also included evaluation criteria and recommendations for the Lowry Range in the long term.

### **The Trust for Public Land**

The Trust for Public Land researched various funding mechanisms and revenue-generating open-space opportunities for the Lowry Range.

### **Catalytix, Inc.**

Catalytix, Inc., helped shape the vision for the Lowry Range as a future place of social, cultural, economic, and commercial diversity. It recommended that the development of the Lowry Range be guided by principles of smart growth, creative-sector economy, natural capitalism, sustainable environment, and new urbanism. It also recommended that Lowry Range's development should be both market-driving as well as market-driven to attract individual, institutional, and commercial occupants from a national and global marketplace.

In order to create “buzz” for the development and to build on the development process overview and timing guidelines prepared by THK, Catalytix recommended the following next steps:

- Expand the vision.
- Develop a fleshed-out preliminary strategic master plan.
- Develop a preliminary public information and communications plan.
- Hold an educational competition to design components of the Lowry Range development.
- Solicit the partnering participation of pioneering businesses and institutions.
- Coordinate with local governments.

### **Don Unger**

Don Unger, the former superintendent of the Poudre School District in Fort Collins, Colorado, is working with the team to investigate the potential of forming a new school district for the Lowry Range. He helped draft the vision and develop guiding principles for Lowry's education system. He also teamed with the Research and Development Center for the Advancement of Student Learning to review best practices leading to excellence in education and to begin defining a model for school district development.

### **Jeff Cushing**

Author Jeff Cushing chronicled the history of the site, including Native American uses of the land, Spanish exploration and subsequent European settlement, ranching and farming uses, 1938 sale of the property to the War Department, use from 1942 to 1963 as a bombing and gunnery range, and its use for former Titan missile silos.

### **ERO Environmental Consultants**

ERO will be conducting a vegetation and wildlife inventory of the site in several phases. This study will map the location, extent, and composition of high-quality native plant communities and key habitat for migratory birds and species targeted for conservation. To date, ERO has inventoried over 14,000 acres and has made recommendations concerning grazing and weed management practices and gravel mining and reclamation techniques.

### **CommunityViz**

CommunityViz has conducted a demographic analysis of real estate demand and the development of assumptions concerning future residents and employment. GIS-based software will be used to educate stakeholders and the public about the complexity of issues being addressed. It enables the public to visualize the impact of their choices and will help quantify in economic terms the value of social, visual, and environmental impacts. A value system based on “importance as rated by participants” can be used to assess the tradeoffs associated with complex social, economic, environmental, and visual planning.

After the technical team has completed all its research, members of the team will facilitate a workshop with stakeholders and potential partners to discuss the findings and to confirm the mission, goals, and objectives of Lowry Range development.

### **The ULI Process**

In June 2004, the SLB asked ULI to convene a panel to provide additional advice on development strategies for the Lowry Range. The panel was asked to provide input on the process the state should use to ensure that it makes the most of its valuable asset. In particular, the SLB asked for advice on choosing a development partner; the

steps necessary for readying the land for development, and ways to ensure that the site's land use is maximized for the state.

Prior to visiting the Denver area, each of the panelists received and reviewed extensive briefing materials prepared by the SLB staff and consultants. The panel also received briefings by SLB staff and a board member. The panel members toured the site partially from the air. The panel then met with community leaders and business

owners, whose knowledge of and passion for the site were both inspirational and informative. This input, as well as the panelists' best professional judgment, helped the panel to prepare its findings and recommendations.

This report provides a summary of the panel's findings and recommendations, and outlines key issues that should be addressed before the state considers development of this property.

# Overview and Summary of Recommendations

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Since World War II, the state of Colorado, and in particular the metropolitan area of Denver, has experienced substantial economic and population growth. Although the rate of growth has been erratic at times, the results to date have established Denver as one of the premier metropolitan regions in the United States.

As Denver looks to the future, it is confronted with many of the growth problems facing almost all metropolitan regions throughout the nation. A growing population demanding a better quality of life is stressing the major components of the infrastructure needed to support and accommodate life services. It has become painfully clear that the development paradigm that served previous growth will no longer be capable of serving growth on a go-forward basis. The sprawling developments typically built to provide housing and commercial opportunities over the past half century cannot be repeated in the future. Poor transportation infrastructure, limited quantities of water, degrading air quality, dynamic changes to household demographics, overextended utilities, underfunded educational systems, and shortfalls of public funds are just a few of the barriers that prevent business as usual.

Denver does differ from other metropolitan areas in that there is not a shortage of nearby land to accommodate future growth. The problems lie in the locations and deficiencies of the undeveloped land. Much of the undeveloped areas lack adequate water, are not serviced by road or public transportation and other basic infrastructure, are far from centers of employment, lack school capacity, and thus are poorly suited for sustainable development. Other lands lie within jurisdictions that are not prepared to process the intensive planning and entitlements necessary to address the needs of new growth in the region.

Planning for future development throughout the Denver region will require master plans that fol-

low the principles of smart growth and incorporate clearly defined, sustainable practices. Mixed-use buildings, higher densities, public open space, a strong sense of community, preservation of sensitive ecological features, and balanced components of live/work/play must be integrated into each new master plan. Development must be planned and carried out by highly qualified public- and private-sector professionals working together to achieve the common goal of quality sustainable development.

The Lowry Range offers the Denver region an opportunity to establish a new paradigm for master planning. It is located at the outer edge of the growth path. It is in a raw state, with no previous development to fix or redevelop. It thus provides an unusual opportunity to plan and design for “suburban smart growth,” based on thorough research that will guide the future needs and best uses of the land.

The most critical environmental features should be preserved and at the same time positioned for maximum sharing with the people who will live, work, play, and learn in the planned community. Design criteria for architectural themes should be established. A matrix of housing types should be identified to accommodate various needs according to affordability, livability, and lifestyle. Areas for housing, schools, recreation, parks, walking paths, local and regional shopping, places of employment, restaurants, and mixed-use facilities should be clearly delineated.

The Lowry Range can become the prototype of master planning for the Denver region and potentially for the intermountain West and beyond. The master plan for 26,000 acres should contemplate its functioning as a new “Edge City.” Before completing the design and creation of the master plan, however, a number of fundamental issues must first be addressed. They are outlined in this report.

The panel notes that many studies have already been completed, and a multiple number of recommendations have resulted from them. Such recommendations may or may not be of value to the ultimate strategic plan. Some may provide usable data, while others may be discarded at the end. In other words, some of these studies are not yet relevant to the overall master planning and ultimate development of this site. The panel believes that some of the studies may only be of value to the master developer when it carries out the master plan in the future. The timing of some of these studies has thus been out of sequence with the normal planning flow for master-planned communities. The panel therefore recommends that most of the current consulting work be put on hold until the fundamental issues are dealt with and a broad vision and strategic plan for the site is established. The exceptions to this suspension should be the necessary continuation of all environmental baseline studies regarding the condition of the soil, animal and plant species, unexploded ordnance, and the like.

With a truly aggressive strategic plan and by leveraging its huge water supply, the Lowry Range could move to the top of the long list of new master-planned developments in the Denver region. The expertise and experience to manage and guide such cutting-edge master planning, however, does not currently exist within the SLB. The necessary fundamental changes required within the SLB are discussed in this report.

The panel also recommends that the use of the names “Lowry Range” or “Lowry Bombing Range” cease immediately. These names have

negative connotations based on unfound facts about the quality of the land. Many Denver residents think of this land as “the old bombing range” and therefore as a site that is polluted, contaminated, or otherwise undesirable. A temporary name should be used during the design and implementation of the strategic plan. Later, a more permanent name should be established for permanent branding and marketing purposes.

The panel’s recommendations are organized into three sections. The first deals with strategy development: determining a vision for the site after resolving issues such as the appropriate actions that can and should be taken by the SLB. The second section addresses specific SLB organizational issues that will help it move toward successful development of the Lowry Range. The third addresses the environmental issues that need to be resolved before moving forward with a plan for this land and recommends a structure for selecting a development partner.

While this report may appear to raise questions more than it provides answers, it is the panel’s belief that the resolution of these questions—which can only be resolved by the SLB and its representatives—will mean the difference between another “suburban sprawl” project and a cutting-edge sustainable community. Many strategic issues need to be resolved in order to facilitate the successful development of the Lowry Range into a distinctive community that can set the standard for future master-planned projects well into the 21st century.

# Strategy Development

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**T**he Colorado State Land Board issued an order in October 2003 to initiate a process for the orderly development of the Lowry Range property. This process included a two-step request-for-proposals (RFP) process for the selection of one master developer/venture partner for the site's overall conceptualization and planning, and the selection of a second developer/venture partner for the actual development of the first identified phase. This RFP process would be repeated for subsequent development phases and is discussed in more detail in the next section of this report.

The panel questions whether the first step of this two-step process will be sufficiently attractive to qualified master developers if their participation in the ultimate long-term development of the property is not reasonably assured. More important, however, although SLB staff and the Lowry Range Working Group have devoted considerable time and effort to identifying and evaluating the development alternatives, the panel believes that the SLB does not yet have a clearly defined strategy for the property, nor has it yet answered some fundamental questions that will be of primary importance in unlocking the maximum value of the property.

Before selecting a course of action for the development of the property, the SLB needs a clearly defined strategy that resolves the apparent conflicts between the SLB's stewardship and revenue mandates, establishes an appropriate long-range vision, sets clear and unambiguous goals and objectives, is politically and publicly defensible, and is achievable.

## Fundamental Questions

Before committing the substantial amounts of capital required to acquire, to entitle, and to develop any portion of the property, a qualified developer

will need reasonable certainty with regard to fundamental questions that will affect the project's financial feasibility. These questions address both internal and external influences on the future development framework. Master developers will want the following issues to be addressed:

- Will the site be part of Aurora, of Arapahoe County, or its own entity? The panel recommends that it becomes its own entity so that it can control the rules and the destiny of the project from the beginning.
- The long-term commitment of the SLB to the development strategy for the property, binding on both future boards of trustees and other Colorado state agencies, needs to be clearly articulated.
- If the property has a nobler purpose than purely market-driven development, the SLB's commitment and ability to subsidize the outcome will need to be clearly articulated. For example, it is possible that the SLB would like this development to be a model for smart growth and a demonstration of how fringe development can be carried out in an environmentally sensitive manner that promotes community development. Since these goals would be attempted within an untested market, the SLB may need to be ready to help subsidize this type of development.
- The legal rights of the SLB to sell the property for development in a timely manner need to be determined and made known to those interested in developing the property.
- The availability and cost of water and wastewater services, and the relationships with those service providers, need to be resolved.
- Which jurisdiction (Arapahoe County, the city of Aurora, another city, or a new municipality) will provide the development entitlements to the project?

- Certification and accurate assessment of the removal of unexploded ordnance on or adjacent to the property will be critical to its development. This assessment must be part of a complete environmental survey of all of the property, not just of the initial 5,000 acres.
- Identification of environmental constraints (species, habitat, and so on) must be completed.
- The ability of the SLB to control or mitigate the impacts of on-site and adjacent land uses (active landfill and Superfund sites, explosives factory, youth detention facility, military overflight, sand mining, and so on) needs to be determined.
- The availability of appropriate infrastructure financing must be thoroughly investigated.
- The feasibility of creating a new school district should be determined.
- The amount of political support for creating alternative energy sources must be gauged.
- What are the goals of the various stakeholders?
- Which goals can be reasonably met by SLB and which will need to be met by the private sector?
- How will success be measured financially, socially, and politically?
- What is the target rate of return?
- What are the desired time frames for completing the various phases of the project?
- What role does the SLB want to play: active or passive, land bank or partner?

### **Establish Objectives**

The SLB will need to establish short-term, measurable objectives in order to answer questions such as “What is the target rate of return? What needs to be achieved in 2005? In 2006?” Concrete, measurable objectives and benchmarks will be critical to measuring the success of a project and determining when and how the process may need to be reevaluated or modified.

### **Plan the Strategy**

Once the goals and objectives are established, it is important to map out how they will be achieved. This process should include the following components:

- Review the objectives to identify and define internal and external influences that may affect the SLB’s ability to implement them. Identify what legal, political, institutional, and organizational obstacles may exist and develop action plans to overcome them, item by item.
- Isolate each objective and define the specific action steps, resources needed, and responsible parties for each one.
- Review the action steps and group the activities to identify overlaps and opportunities for efficient implementation.
- Prioritize these actions, allocate the needed resources, and assign responsibility for completion of the steps according to a timeline.

### **Plan the Legal and Organizational Structure**

The organizational structure and support of a project this large is as important as the plan and

## **Approach**

The panel found no compelling urgency—nothing driving the Lowry Range property to market today—and therefore the SLB has the time and opportunity to get it right. The panel believes that the SLB should carefully work through the following steps and answer the fundamental questions that underline any large-scale master-planned community.

### **Formulate a Mission Statement**

The success of this project will depend, in part, upon a successful mission statement that reflects the beliefs, attitudes, and guidelines for how the plan will be designed and implemented. It is important to solicit buy-in for the mission statement from the stakeholders and the community at large early in the process and to conduct a proactive campaign to positively establish the property and the strategy in the minds of voters and stakeholders.

### **Set Goals**

With a site this large, it is critical to have clear development objectives. A project this big cannot be left to chance, in hopes that it will turn out okay. The panel recommends that the SLB review and answer the following questions:

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## Financing Options

Assuming land sale starting in 2009

Assuming development of 10,000 acres over the next 30 years<sup>1</sup>

Option I: Sell “as is”                      \$5,000/acre = \$50,000,000<sup>2</sup>

Option II: Land bank a master plan      50,000 units @ \$20,000/unit = \$1,000,000<sup>2</sup>

<sup>1</sup> For demonstration purposes only—not a panel recommendation.

<sup>2</sup> Does not include retail or other revenue such as water.

the vision for the site. Without sufficient resources to carry out the vision, all the planning would be for naught. The panel recommends that the following steps be taken to address the project’s legal and organizational structure. These are suggestions based on the panel’s experience with master-planned communities of similar scale and complexity.

- Create a regional development body or other management subdivision of the SLB specifically to manage the Lowry Range project.
- Create a senior staff position for this project that will guide the creation of the strategy, manage its implementation, recruit and coordinate consultants as required, and oversee the performance of the ultimate developer(s). This point is described in more detail later in the report.

The SLB also needs to identify the form of development entity that will best meet the project’s development objectives.

### Provide Personnel

The panel believes that the SLB needs to recruit an experienced, senior professional with extensive master-planned community development expertise to oversee the development of this site. One of this person’s key jobs would be to implement the RFQ/RFP process to select the best qualified developer(s) to meet the objectives and to fulfill the long-range vision for the property.

### Provide Capital

A project of this size will need sustained funding at all phases. The SLB needs to be prepared to fund a strategic planning and public communications effort for several years while the hurdles to development are being cleared. To help pay for

these and other efforts, it also needs to be prepared to form development and tax increment financing districts and to provide tax incentives and enhancements for funding of on- and off-site infrastructure.

### Set Standards

The SLB needs to be the project’s guiding entity and therefore should set the standards for development. This responsibility includes establishing measurable benchmarks for performance by staff and the private developer(s), as well as defining the quality required for the project. Only by articulating and communicating achievable objectives can the progress of the project can be measured and adjusted as necessary.

### Accountability

The SLB needs to design appropriate reporting requirements so that it will be adequately informed of the status of the plan and the financial performance of the property and the private developer(s). The process must constantly maintain transparency and accountability to preserve public support over the extended development time frame.

### Compensation Structure

The SLB should create an appropriate incentive structure for staff responsible for the implementation of the plan, as well as provide for industry-reasonable profits for private developer(s) as an incentive to meeting SLB’s long-term objectives. Such incentives and compensation mechanisms will help move the project toward the ultimate goals.

## Financing Options

The panel prepared some financing assumptions (above) to demonstrate how, if land were banked and master planned, the realized revenue from developing the site would be much greater than simply selling the property as is.

This demonstrates that if the SLB sells the land as is and loses control of the site it can lead to suburban sprawl. If strategically master planned, the result will most likely be smart growth and sustainability. This result will also help maximize the revenues for the state and the school fund.

# Preparing for Success

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**T**his section discusses the structure of the SLB and how it can more effectively manage not only the Lowry site but also its other assets. The panel believes that the SLB has a truly rare opportunity both to create an outstanding project at the Lowry Range and to manage all its assets in ways that will greatly further its missions of stewardship and revenue generation.

A state constitutional amendment passed in 1996 that related to the mission of the governing body of the SLB contained several provisions furthering a balanced approach to managing its assets. The implementation of these provisions will require policy decisions regarding the balance between generating income and preserving natural resources for future generations. Tangentially, opportunities for both income generation and asset protection may have direct or indirect benefits to Colorado's schools and schoolchildren.

The amendment changed the SLB's management structure to a volunteer board of five members, four of whom must meet specific qualifications, defined in the amendment as one member with experience in each of the following areas:

- production agriculture;
- public primary or secondary education;
- local government and land use planning; and
- natural resource conservation.

The amendment also provided that the board should act as prudent managers in conducting activities related to the land in order to produce reasonable and consistent income over time. By virtue of the language in the amendment, the board has the legitimate authority to pursue both asset preservation and development of assets to generate revenue.

## Observations

Curiously, the criteria for board membership did not include a requirement for a person with experience in prudent management of land related to generating reasonable and consistent income over time. The board and staff, however, seem committed to pursuing proactive management of those assets that have the potential to generate revenues for the school fund. This pursuit would appropriately place resources toward maximizing the potential for revenue by using a variety of approaches, such as:

- securing entitlements prior to contracting the sale or lease of land;
- entering into contracts that provide benefits beyond those derived from a cash sale of land; and
- establishing land development arrangements that meet multiple objectives regarding both revenue generation and asset preservation.

Based on the briefing it was given while on site, the panel believes that the SLB staff has a clear desire to achieve additional objectives that relate neither to revenue generation nor to asset preservation. While the panel agrees with these objectives, it may be valuable for the SLB to further explore how they integrate with the board's core mission. Examples of such objectives include the following:

- establishing specific programming links for the project based on results in recent educational and behavioral research, which could include integrating education into many aspects of the development, such as virtual learning centers, educational displays, and so on, and requiring senior living centers and daycare centers to be close to each other and to border open spaces;
- requiring sustainable development; and

- increasing the regional job supply.

These objectives, if adopted, should have a positive impact on the SLB process, financial return, and asset preservation.

## **Recommendations**

The following are the panel's management recommendations for the SLB to consider as it moves forward with the development of the Lowry Range site.

### **Revenue-Generating Properties**

For all those SLB assets that provide the opportunity to generate income, the board should, on an asset-by-asset basis, establish minimum financial return objectives. These return objectives should be measured by means both accepted in the industry and appropriate to the particular asset. Factors that should be included in establishing these objectives include direct and indirect costs of management, effects of inflation, asset depreciation, asset appreciation, the time value of money, and so on.

For the Lowry Range in particular, the panel recommends that the board establish the amount of revenue or percentage of asset value that it wants to generate from disposition and management of the land. Setting this target will determine where the planning program needs to go with respect to revenue for the acreage under development by type (i.e., how many acres should be allocated for commercial retail and office, how many should be allocated for single-family residential, multifamily residential, and so on).

### **Lands to Be Preserved**

For those assets that the board determines should be preserved, the board should, on an asset-by-asset basis, establish detailed use and management plans. In cases where decisions to preserve are final and absolute, deed restrictions, conservation easements, and other similar legal approaches

should be considered to overcome public skepticism regarding the finality of such determinations.

For the Lowry Range in particular, the panel recommends that the board establish the amount and the locations of the land that will not be included in the disposition component of the project. Further, the board should establish use and management plans for these properties, including estimates of revenue generated from these activities, and document these decisions in appropriate legal filings. Finally, the board should determine the net impact to revenue generation as a result of setting aside a specific amount of land not to be developed.

### **Alternative Management Planning**

For all assets under asset management, the board should, on an asset-by-asset basis, determine the extent to which alternative management approaches will be considered and implemented. The board can develop measures of benefit to justify these approaches. For example, an educational living laboratory could deliver benefits to the schoolchildren of Colorado.

For the Lowry Range in particular, the panel recommends that the board establish the extent to which it will apply sustainability, land use criteria, and other alternative approach requirements to this site and to its development process. Further, the board should determine and quantify the impacts (both negative and positive) of adopting such requirements, and, when feasible, make corresponding adjustments to the targeted financial return.

# Issues to Be Resolved

Irrespective of whether or not the SLB elects to undertake the fundamental restructuring discussed previously, the panel believes that three critical environmental issues must be addressed before presenting the property to market. They are (1) on-site contamination; (2) the availability of water; and (3) the characteristics of the on-site ecology and the constraints and opportunities they present.

## On-Site Contamination

The Lowry Range property consists of approximately 26,000 acres, of which approximately 1,500 acres have been previously sold. The balance remains in inventory and is owned by the SLB. Historically, this land was part of a training area for the testing of bombs and artillery. Current estimates put the amount of land still in need of remediation or cleanup at approximately 3,000 noncontiguous acres. Until the environmental survey and remediation are completed, however, this is just an estimate and may change. This acreage is has been mapped in a preliminary way, and it would, based on all that is known now, affect any potential development of the property.

The documents by which the SLB acquired the Lowry Range property have not been examined to determine whether and to what extent the federal government agreed to clean up the site, but all stakeholders report that it is the responsibility of the federal government, and in particular of the U.S. Department of Defense, to clean up the Lowry Range property.

At present, the U.S. Army Corps of Engineers is handling the cleanup, but not much is known about what it has done to date, the quality of what has been done, or when it will be completed. The present status of the cleanup effort thus leaves much unknown, and the panel believes there is a pressing need to bring immediate clarity to this issue.

Some stakeholders seem quite satisfied with what has been done to date and the promise for the future, while others seem equally concerned about past efforts and possible future risks.

Because any end user of the Lowry Range property, whether as a result of outright sale or as a result of a future partnership, will require that the site be certified as clean, a failure to address this issue materially and significantly would compromise the value of the property. Because the definition of how clean is clean will ultimately be determined by the ability of the project to access the capital markets, any protracted delay in resolving this issue would only serve to depress the value of the property now and into the future.

Equally important is the market impact of the unexploded ordnance or contamination issue. The panel's research makes it clear that the general public perception in the greater Denver area is that the Lowry Range contains hazardous waste. What is less clear is whether that perception relates to the Lowry Range property under review here or to two other facilities, both bearing the name Lowry and known to have contamination problems.

Accordingly, the panel believes that, in addition to dealing with the physical characteristics of the site and its remediation, the SLB must develop a strategy for differentiating the Lowry Range property under review here from other Lowry properties in the same market. This will best be accomplished not only by eliminating all physical contamination but also by communicating that cleanup success to the market and to the general public. Consideration should be given to dropping the name "Lowry" from this undertaking. No effort should be made to permanently rename the property from a project perspective, as it is premature to do so, but the panel recommends adopting a new temporary name as an essential part of the effort to begin to reposition the property.

The panel suggests that the SLB acquire the services of an environmental remediation consulting firm to assist it with the following activities:

- conducting a review of all studies and reports relative to the efforts to date to clean up the property;
- developing a plan to complete the cleanup, including a time line and budget to complete the task;
- preparing an ancillary strategy with the assistance of a qualified public relations firm to begin the process of repositioning the property and differentiating it from the other Lowry projects in the Denver market; and
- implementing the repositioning strategy, consistent with the results from the remediation effort.

The timely initiation and completion of these tasks are essential to ensuring that any subsequent partners or purchasers will be certain that what they are investing in is safe and clean. It will also ensure that the market understands that what you are selling is safe and clean.

Finally, an ancillary benefit of this process is the positioning of the SLB to negotiate with the federal government regarding both the level of environmental safety to be achieved and the completion date. This approach will also allow for more detailed planning of the building envelopes and permit the targeted cleanup of areas prioritized for development if the environmental remediation process suggests that it is necessary or desirable. Perhaps more important, the SLB can determine early in the process if there is any significant disagreement about either the scope or timing of the cleanup and adjust its planning accordingly.

The panel has not reviewed any of the legal documentation regarding the respective obligations of the federal government and the SLB, and it is beyond the scope of this analysis to do so. However, by undertaking the recommendations outlined here in the near term, the SLB can bring clarity to the issue and develop an effective strategy for dealing with the cleanup. Experience has demonstrated that if there are differences in opinion re-

garding what is to be cleaned and to what level, it is always best to grapple with such disagreements well before placing a property on the market for either a partner or a buyer.

In all events, the panel believes that environmental remediation is a touchstone issue for the Lowry Range that needs immediate attention and resolution.

## **Water Management**

Water supply and access will be critical to the ability to plan and implement development on the Lowry Range property. The availability of water is generally viewed as a given, and all reports suggest there are sufficient quantities of water available on the property to support the anticipated levels of development. The ability to access water, however, is controlled by an agreement with the Rangeview Metropolitan District; accordingly, a touchstone inquiry requires confirmation that Rangeview has the financial capacity and management ability to deliver water infrastructure on time and on budget to the Lowry Range property.

Rangeview is a special district authorized under Colorado law to enter into contractual undertakings with client customers to design, permit, construct, and operate water utility systems. The panel understands that the Lowry Range has a 100-year lease that will expire in 2080. Under the terms and conditions of the lease, Rangeview is to provide water service to the Lowry Range property contemporaneously with development. Rangeview has, among other authority, the right to issue bonds to raise capital for the performance of its obligations. It can then impose and charge user fees or tap fees to recover the costs associated with the development of water service infrastructure.

The panel sees some element of risk in this arrangement, both by reason of its longevity and because of uncertainty about the adequacy of Rangeview's present organization and management to perform under the lease. It is important to note that the panel has no knowledge of any facts or circumstances that would suggest an inability to perform as the SLB contemplates. But that very absence of information and the inability to review the contractual undertakings them-

selves suggest that this relationship is an important aspect needing further review. Because water is the single most important element determining the suitability of the Lowry Range property for development, any ambiguity regarding the ability to have water systems developed on time and on budget suggests a need to bring the matter into focus and to resolve all relevant issues.

A termination of the agreement between Rangeview and SLB by agreement or otherwise would change the dynamics of the development program in a material way. Add to this the right of Rangeview to export on an annual basis approximately 30 percent of the available water capacity to other users and to pay the SLB a royalty for the same, and the need to further review the implications of the existing agreement seems self-evident.

Again, the panel has not examined the contractual agreements between the SLB and Rangeview, and we are not offering a legal opinion concerning the same or possible performance under it. However, our clear impression is that there is some ambiguity about the relationship, and gaining further clarity about the relationship with Rangeview should be viewed as an important near-term objective. If the relationship can be structured or restructured to reassure the SLB that it will be able to obtain the benefits contemplated for infrastructure delivery, then such adjustments should be made. If the arrangement presently in place is not viewed as workable, then immediate steps should be taken to ensure that what is acknowledged to be available to the Lowry Range site is in fact accessible and affordable when development is ready to commence.

## **Environmental Constraints**

The SLB has already commenced a preliminary analysis of the property's ecological features, but it is inadequate in its present form. Accordingly, the panel recommends that the SLB undertake a comprehensive inventory of the property's environmental characteristics, using a biologist or ecologist to complete this analysis. Determining before development planning what the environmental constraints and opportunities are will facilitate the land use analysis and provide a frame-

work early in the entitlement process for planning required mitigation for impacts likely to occur within the project's building envelope.

The SLB should also take all appropriate steps to recover the property from the "stewardship" classification under which the panel understands it is presently classified. It is essential that the SLB preserve flexibility in dealing with the development envelope, as well as with the size and location of any preserve area that subsequent planning might identify.

Earlier studies have endeavored to pinpoint these areas, but the more iterative process suggested in this report may result in adjustments to these boundaries. The SLB should retain the ability to consider all options as the project is prepared for development planning.

Once the SLB has settled on a land use plan, the panel believes it would then be appropriate to launch the preparation of an environmental management plan (EMP). An EMP would specify organizational and operational protocols for the management of the ecological assets both within the target building envelope as well as any areas to be set aside for conservation or preservation. This undertaking will only be possible after completion of the preliminary environmental studies suggested here and will be integral to the Lowry Range's long-term land management.

The panel views this process as consistent with the SLB's conservation mandate, and it has the added advantage of highlighting any environmental issues that might serve to compromise the efficiency of the entitlement process. It is important to understand that the EMP as envisioned here would incorporate all permits obtained or to be obtained from all local, state, or federal agencies, so that the local, state, and federal regulatory processes will be the controlling paradigms and set the minimum standards by which the property's ecological assets will be managed into the future. The EMP itself should, where possible and consistent with the overall economic goals of the strategic plan, provide additional management protocols designed to create surplus credits within the conservation/preservation areas.

The SLB must be able to claim credit for both setting the land aside and for developing the management protocols to ensure its in-perpetuity care and maintenance. This achievement will, the panel believes, facilitate the obtaining of other development entitlements. Additionally, it will enable the SLB to maintain significant control over the land it desires to develop.

### **Comments on RFQ/RFP Strategies**

Because the fundamental charge given to the panel concerned the development of an RFQ and RFP for the selection of a development partner, the panel offers some general observations regarding areas of focus to be examined when it is appropriate to proceed with issuing an RFQ or RFP. The panel believes, however, that it is premature to move forward with an RFQ/RFP until most or all of the issues highlighted in this report are resolved or on a predictable timeline to resolution. Until these key concerns are addressed, the SLB will not be in a position to negotiate the best possible partnership arrangement or sale.

Similarly, the panel offers some observations on the nature of public/private partnerships. These comments are far from an exhaustive treatment of the subject, and they are intended only to suggest some areas of focus to be explored when the SLB has readied itself for the task.

The RFQ process logically precedes the RFP and is designed to define and select a group of candidates who will be asked to respond to the RFP. For the RFP to be fully successful, it must carefully establish and document the review criteria for the developer partner. This group or groups will be long-term partners, and so the SLB should carefully delineate all those factors that will be important in developing the property.

Price is not the only consideration. Experience and financial stability may be far more important. Creativity is also important, particularly on a long-term project, although creativity and how it can be measured are difficult to define clearly. It will be critical that each applicant believes that his or her firm has been evaluated according to a uniform set of criteria; anything that compromises

that impression will expose the selection process to potential challenge.

Perhaps as important any characteristic to be evaluated is the applicant's reputation for honest and fair dealing. It has been said that the ability to anticipate the future is always constrained by the limits of our cumulative experience. The SLB can anticipate that, notwithstanding its best efforts to anticipate all that will follow, including the negotiation of the ultimate partnership agreement, there will be times when the parties will need to address unforeseen issues. It is at such times that the developer's reputation for honest and fair dealing will be critical to sustaining the project's momentum. Indeed, it will be critical over the life of the project.

Before issuing an RFQ, the SLB should first identify the companies that it would like to respond. This may require the retention of a disinterested consultant, particularly if the SLB elects to proceed without the restructuring suggested by this report. The fact that identified recipients will receive an invitation to participate does not lessen the need for an open bidding process, and therefore a mechanism for advising all potential bidders must also be developed and implemented.

The SLB must develop its selection and review criteria. The importance of giving careful consideration to both of these parameters cannot be overemphasized. If they are poorly conceived or administered, the process will not produce the quality of applicants that the SLB seeks and the project deserves.

The SLB and the Lowry Range project manager should be prepared to hold meetings with applicants to respond to questions and, of course, to use that time to further promote the project. This latter point is important, because even if the SLB has short-listed a group of potential candidates, there is no assurance that they will follow through and pursue a relationship with the SLB and the project. It is not uncommon for developers to seek to preserve their "place at the table" by responding to an RFQ only to decide when the RFP surfaces that other priorities of more certain outcome should take precedence. Continuing to promote the project throughout the RFQ process is impor-

tant to attracting a good group of qualified companies that may respond to the RFP.

Just as a consultant can assist in structuring the RFQ, the SLB may want to consider using a third party during the evaluation phase. Experience has shown this procedure to be particularly attractive to a board like the SLB, since it provides some level of political cover and assurance that the process will be conducted fairly and openly. It is critical, however, that the SLB have significant input regarding the final list of candidates, because ultimately it is the SLB that will have to live with the selected developer(s) over a protracted period.

When the SLB has a short list of developers—and it should be no more than five and no less than three, assuming an adequate selection of applicants in the RFQ phase—then it can proceed with the RFP. There should not be a significant gap between the conclusion of the first phase and the start of the next, since all who participate will be doing so in anticipation of the RFP and winning the right to participate. This highlights again the need to maintain public enthusiasm for the project to ensure comprehensive, high-quality submissions throughout the RFQ/RFP process.

The key goal in the RFP process will be to obtain a group of submissions that promise to achieve and honor the SLB's fundamental development goals without stifling the creativity of the respondents. The SLB should expect its ideas to be challenged at more than the edge, because it will want to take advantage of the expertise of its potential partners. However, part of the challenge for the respondents will be to apply their creativity and expertise to the criteria established by the SLB so that the project's core values can be preserved and even enhanced. How well they take their expertise and tailor it to meet the SLB's goals for the property will be in no small measure the basis on which to decide among various choices.

The structure of the RFP must allow for an “apples-to-apples” comparison, so care must be taken to ensure that there is maximum clarity in the RFP. Implicit in this point, however, is the concurrent need to tap the applicants' “outside-of-the-box” thinking. This is a balance that only careful drafting based on a crystal-clear understanding of the

project and its potential, both economic and aesthetic, will allow. That requirement highlights the need to fully resolve the issues suggested by this report before either the RFQ or the RFP processes are initiated.

Only when the SLB understands its goals with precision and depth can it craft a RFP that will clearly define the expectations for the private partner, the selection process and evaluation criteria by which it will select that partner, and the other information that is essential to a meaningful and comprehensive application. The process must be perceived as fair at all costs if the SLB is to attract a full complement of qualified bidders. The RFP must set forth how the SLB will assist the successful applicant in the implementation process: what will it contribute, either financially or otherwise, to the task? This delineation of options and responsibilities will drive the risk/reward component of the bid, which in turn will drive the various economic outcomes proposed by the applicants.

The SLB has a right to expect and should require that the responding developers identify all of their team members, their credentials, and what they will contribute to the overall project. Similarly, each developer should be asked to articulate his or her vision for the project, so that the SLB can assess how it meshes with, conflicts with, improves, or does a disservice to the goals for the property outlined in the RFP.

Each developer should provide a detailed budget and outline a plan for raising the capital necessary to fund the budget. Applications should identify whether the developer will be looking for any financial aid from the SLB and if so, how much, in what form, and when. The SLB should state in the RFP what limitations it has or will impose on its financial contributions, including any nonnegotiable constraints that all who apply must accept. The SLB should also define any nonmarket objectives to be adhered to by the developer and specify the governance structure proposed for the postdevelopment operation. Each developer should provide a proposal that has enough detail so that the SLB can ascertain in a comparative fashion any discrepancies between respondents.

The foregoing suggestions are skeletal, but they should serve to highlight the importance of getting the strategic plan in place before the development process is initiated. The panel suggests that until that occurs, the SLB will not be in a position to meaningfully specify the level of detail required to structure an RFQ/RFP, and that any attempt to do so prematurely will not generate the results that the SLB seeks. When a sponsoring governmental entity has not completed its own analysis to determine the nature and the extent of the development opportunity that presents itself, the private-sector participants will not be as eager to participate and the likelihood of attracting the highest level of expertise to the project will be compromised.

When an RFQ/RFP is not structured properly, it almost uniformly will result in a longer time to process and review, and the respondents will wonder whether or not they have fully understood the project and the constraints within which they are being asked to operate. When the process contains such uncertainties, it will be viewed in the market as involving too much risk, time, and investment and will not attract the level of candidates sought by the sponsor.

Ultimately, the goal is to select one entity or perhaps multiple entities to partner with the SLB in the development of the property. The panel offers the following additional observations on the nature of these relationships.

### **Public/Private Partnerships (P/PPs)**

First and foremost, care must be taken to ensure that private interests in the P/PP do not become a vehicle to short-circuit public policy. All P/PPs involve a governmental entity by definition and thus, legal constraints aside, the rules going in are as different as the rules coming out.

The mere fact that the public has, or will have, expectations about the Lowry Range development and its prospects will change the dynamics of the relationship between the public and the private partners and between the SLB and its constituents. The panel believes strongly that heretofore the SLB and its operations have largely escaped close public scrutiny and accordingly lack the kind

of internal management protocols that are well suited to managing a complex process that will have a high degree of public interest and scrutiny. Proceeding with the Lowry Range project will change the nature of the SLB's operational characteristics in ways not yet anticipated, as it moves from a passive, holding stewardship of land to a proactive development posture.

The SLB thus should seek a partner that not only has the expertise to accomplish the task but also is comfortable operating in the public eye and within the constraints that such operations involve. To structure the relationship as a true partnership both sides must try to anticipate all contingencies and address them at the front end, so that there will be minimal need for further interpretation downstream. The SLB and its partner must define with care how decisions will be made and how conflicts in the decision-making process will be resolved. In no small measure the resolution of these issues will be a function of how much control the SLB wishes to preserve versus how much control the partner is willing to renounce. To a large extent that decision will also be based on how the costs and revenues of the project are shared. There must be a careful balance among the partners of both benefits and costs, and this result can best be accomplished through maintaining a completely open and transparent financial and management structure from beginning to end.

Two factors influence how each partner will view its own success: (1) the contractual allocation of costs, risks, responsibilities, and returns, and (2) the enforcement of these contractual arrangements during the life of the project. These are matters that must be dealt with in the P/PP.

It must be recognized that the roles and expectations of the public and private partners will be different. The relationship therefore cannot be effectively evaluated by only private criteria but must also take into account the characteristics of the public entity. A public entity such as the SLB has different goals than private partner and will have different measuring standards by which success and failure might be determined. Care should be given to defining those standards so that unrealistic expectations are not built into the process at

the front end and later compromise the partnership at the back door.

Tasks and duties should be ascribed to each partner with minimal asymmetry, so that neither side obtains an advantage that is inappropriate. A carefully balanced partnership can help resolve the SLB's seemingly conflicting mandate to both provide a recurring income stream to the state board of education while at the same time providing environmental stewardship. The Lowry Range P/PP will have multiple mandates that must be honored and thus will require crafting more creative measurement standards.

To be successful a P/PP must include the following elements:

- public-sector support for the partnership approach;
- well-defined objectives and a methodology for measuring them;
- well-defined roles and responsibilities;
- active participation by all partners; and
- a methodology for accountability and transparency to the general public.

As already noted, the private-sector partner must be able to operate with the attendant delays that will necessarily flow from public participation and transparency. The successful candidate will have significant experience not only in the tasks associated with the project but also in the dynamics of working with a public-sector entity.

The startup analysis for the Lowry Range must recognize that there are environmental, political, and economic goals to be set and that all must be feasible. If one goal is met and not the others, then the prospects for success will be compromised. The SLB should not be saddled with either a project that is otherwise economically feasible and

cannot be approved or with an approved project that is economically infeasible and cannot be financed. All goals must be clearly defined and should be periodically reviewed to be sure that both sides remain on the same page.

Experience suggests that government, while professing a desire for P/PPs, is frequently reluctant to make the ultimate decision to sign on. This is particularly true when the sponsoring entity is new to the process or unsure about the depth of political commitment to the project. Getting such issues resolved at the front end of the process will be critical to the ability to attract the right private partner. Similarly, a failure to deliver the right level of commitment and stick with it will almost certainly assure that the undertaking will not meet its expectations or, worse, will fail. These realities further reinforce the necessity for more analysis before the land board is ready to take the project to market and to seek a partner.

Finally, the SLB should consider carefully the potential for a default by its development partner or other changed circumstances and should provide appropriate exit strategies aimed to protect existing values and provide stability for the remainder of the undeveloped land. This is one of the most difficult tasks, but its importance cannot be overemphasized, particularly where, as here, the SLB has a clear fiduciary duty to preserve and enhance the income from its holdings.

In conclusion, it is clear that there are candidates in the market now who would line up to buy land at the Lowry Range. The difficulty is that the land is not yet ready to be marketed, if the goal is to maximize revenue from that sale.

# Conclusion

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**T**he panel believes that there is enormous potential in the Lowry Range site. However, the SLB must realize that development of this site will be an unusually long-term process that will require significant preparation, resources, and time.

The panel also believes that the patience applied to the process will be well worth the wait. This report may pose more questions than answers, but the panel believes that without a thorough investigation and analysis of these questions and issues, the result would be a mediocre development at best and an unmitigated disaster at worst. The following summary outlines the issues that need to be resolved before moving forward, so that the development of the Lowry Range will benefit not only the developer but also the SLB and its constituents.

## Status of the Land as It Relates to Development

- The Lowry Range must be subject to a complete environmental review. Work done to date must be verified and accepted when appropriate. All undone or unfinished environmental studies must be completed as soon as possible. This should provide the SLB with a fuller assessment of the environmental situation, including determination of responsibility for any remaining cleanup.
- The SLB must prepare a vision and strategic plan for the site, including a determination of whether the entire site should be master planned in one overall development plan or partitioned into three to five independent villages of 1,500 to 2,500 acres each. The strategic plan must identify the amount and location of land to be developed, along with realistic timelines and objectives.
- The environmental cleanup must be certified at the highest levels in order to satisfy the capital

markets and insurance industry. All unfounded or misplaced perceptions must be removed from the public's mind.

- The governance of the land must be clarified. Should it be incorporated on its own, be part of unincorporated Arapahoe County, or annexed into Aurora? The benefits and drawbacks of each possibility should be carefully evaluated.

## SLB Organizational Issues

- SLB must be able to provide certainty to the capital markets and the development industry. Its commitments and obligations must be binding on future trustees, political administrations, and legislative bodies.
- The extent and appropriateness of the SLB's abilities to swap land or trade off ground assets with other landowners for strategic purposes should be determined. Such flexibility would help where the Lowry Range land is checkerboarded or fragmented.
- The extent and appropriateness of the SLB's abilities to fund activities that make its land more marketable and developable should be determined. Such expenses may include environmental studies, market research, conceptual land planning and design, proactive communications with stakeholders and the population at large, and so on. In other words, is the SLB prepared to spend money to make money?
- The SLB must be empowered to structure private/public development partnerships, particularly where it can bank land for future projects. It should also be prepared to form development districts, tax increment financing, and other incentives and enhancements for funding on- and off-site infrastructure.

- When a win-win strategic plan is completed for the SLB and its land assets, it must conduct a proactive campaign to positively establish itself in the minds of the region’s voters and stakeholders. Champions and cheerleaders must be found to help the SLB in the public arena. School boards would be likely allies.
- The SLB’s trust fund should be made available to support the board’s expanded activities.
- The SLB must not be concerned that it appears to be in competition with the development industry. In reality, the development industry should welcome the opportunities and advantages of being in partnership with the SLB. Similarly, the SLB should not be concerned that it is now “going into business.” Its constitutional mandate has already required it to be in business.
- Until professional management is in place, almost all consulting work should cease. This will eliminate the proliferation of unnecessary and poorly timed studies and recommendations, and at the same time preserve the SLB’s operating funds for appropriate needs in the future.
- RFQs and RFPs should not be contemplated until the new SLB structure is in place and a strategic plan for the Lowry Range is completed and approved by the SLB commissioners.

## **Key Steps**

The panel believes the following are the key steps for the SLB to take in fulfilling the development potential of the Lowry Range. If these steps are followed, the Lowry Range can become a national model for future fringe development.

- Form an SLB Lowry Range operations division, headed by a general manager or a temporary executive professional, to coordinate and facilitate the day-to-day activities related to the site’s development.
- Complete the study of all environmental issues to achieve complete certainty.
- Form an SLB ad hoc advisory committee of stakeholders to oversee the activities on the site.
- Create and implement a strategic plan.
- Launch a public disclosure and promotion of the strategic plan.
- Issue the RFQ/RFP for development partner(s).
- Undertake design of the master plan.

# About the Panel

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## **Anthony J. (Tony) Trella**

*Panel Chair  
Deerfield Beach, Florida*

Anthony J. Trella is president and chief executive officer of the Meranth Company, a development and investment management company. He also offers his executive, marketing, and financial management skills and vision as a consultant to major corporations and investment bankers across the nation. His expertise is widely recognized by developers, builders, real estate agents, architects, planners, designers, attorneys, investment bankers, financial advisers, bankers, and management executives.

Trella has served as president/CEO or senior executive of companies such as Markborough Communities, Inc., Pulte Home Corporation, and American Capital Corporation. He has been responsible for the development of over 20,000 acres of land, private and public golf courses, and retail and office centers. He has also built over 5,000 residential units, including more than 15 master-planned communities with both primary and secondary housing. He has been responsible for over 3,000 employees, and his achievements have resulted in more than \$1 billion in sales and over \$300 million in profits.

He holds a bachelor's degree in business administration and accounting from Pace University and has completed graduate studies at Adelphi University.

## **Ted R. Brown**

*Orlando, Florida*

Ted R. Brown began practicing law in 1968 in Orlando, Florida. Today his practice centers on the representation of developers and companies active in land acquisition and development. From 1988

until 1996, he served as vice president and general counsel of Arvida Company, a firm engaged in the development of master-planned residential, resort, and business communities in various markets across the United States. In that capacity, he was responsible for managing the company's legal affairs and, in particular, the land entitlement and environmental permitting processes. After leaving Arvida, Brown became a private management consultant assisting companies in the development of strategic plans to ensure environmental and regulatory compliance. In September 1996, he joined the law firm of Akerman, Senterfitt & Eidson, where he continues his environmental, land use, and real estate practice today. He is rated AV by Martindale-Hubbell and listed by Chambers & Partners among the nation's leading lawyers for business.

Brown is a full member of the Urban Land Institute and has served as a member of its National Policy Council, Environmental Council, and Senior Housing Council; he is currently a member of the Community Development Council. He was appointed by former Florida Governor Lawton Chiles to serve on the Private Property Rights Study Commission II, tasked with the responsibility of analyzing the interface of regulatory takings and private property.

Brown has served as president of the Foundation for Environmental and Economic Progress, a coalition of 15 companies with land holdings in 44 states that are seeking to make the Section 404 wetlands program's and the Endangered Species Act's operational protocols more balanced. In that capacity, he has testified before the Water Resources Subcommittee of the U.S. House of Representatives and the Environment and Public Works Committee of the U.S. Senate on the reauthorization of both the Clean Water Act and the Endangered Species Act. He also served as vice chair of the American Bar Association's Endan-

gered Species Act Study Committee and is a member of the Environmental Law Institute. He is a frequent lecturer and author for conferences and symposiums on the issues surrounding development and environmental permitting.

Brown obtained his bachelor's degree from the University of Florida and his JD from Ohio State University.

## **Robert Hewgley**

*Austin, Texas*

Robert Hewgley is director of real estate with the Texas General Land Office's Asset Management Division, located in Austin. This division is responsible for generating nontax revenue from the sale or lease of state real property assets that are unused or underused. Since late 2001, the division has shifted its emphasis to acquiring real property for the Permanent School Fund.

Since 1987, when the state of Texas first began maximizing returns from surplus state land, Hewgley has managed a number of projects that resulted in public/private development agreements covering everything from zoning and other entitlements to performance-based lease and sale contracts. Through these ground-breaking projects, he has gained extensive experience in structuring and implementing successful public/private land development transactions.

Hewgley's expertise includes evaluating the existing and needed authorities needed for public entities to engage in land-related projects, establishing deal structures that are acceptable to developers and investors, and performing strategic analyses of fundamental issues and concepts in a multidisciplinary environment.

Hewgley earned a BA from Duke University and a master's degree in community planning from the University of Arkansas. Prior to joining the Texas General Land Office, he worked as a planner for the city of Austin and for the Indian Nations Council of Governments (Tulsa area) in Oklahoma.

## **Derek C. Thomas**

*La Jolla, California*

Derek C. Thomas is vice chairman and chief operating officer of Newland Communities, responsible for acquiring new real estate projects, securing equity financing, and investor relations. He also oversees Newland's residential and commercial development activities throughout the United States.

For 23 years prior to joining Newland in 1995, Thomas was a consultant and accountant specializing in the real estate industry. From 1985 to 1994, he served in the Chicago and San Diego offices of Kenneth Leventhal & Company, becoming partner-in-charge of real estate consulting in 1991. He provided advice on business strategies and financial transactions to real estate developers, owners, lenders, and financial institutions.

A certified public accountant, he has served on numerous boards and committees, including the Building Industry Association of San Diego, and is a member of the Urban Land Institute, Lambda Alpha, and the Pension Real Estate Association.

He holds an MBA in real estate finance from DePaul University in Chicago.