NOTICE OF COUNCIL MEETING

STUDY SESSION
TELECONFERENCE (Open to the Public)
August 2, 2021
6:30 p.m.

TELECONFERENCE/ELECTRONIC PARTICIPATION PROCEDURES

Members of the Aurora City Council will participate in the August 2, 2021 Study Session by teleconference due to concerns surrounding the COVID-19 (coronavirus) outbreak. To keep the members of our community, employees and leaders safe, there will be no public presence at the meeting. Members of the public and media will be able to participate remotely through the options listed below:

View or listen live to the Study Session

Live streamed at www.auroraTV.org
Cable Channels 8 and 880 in Aurora
Call: 855.695.3475

Translation/Accessibility

The City will provide closed captioning services on Cable Channels 8 and 880. If you need any other accommodation, please contact the Office of the City Clerk at (303) 739-7094. If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521 by Monday, August 2, 2021 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el viernes anterior a la reunión del lunes.)

For other information regarding public meetings, please contact the Office of the City Clerk at (303) 739-7094 or by email at CityClerk@auroragov.org, or visiwww.auroragov.org

REVISED AGENDA

Study Session of the
Aurora City Council

Monday, August 2, 2021
6:30 p.m.
VIRTUAL MEETING
City of Aurora, Colorado
15151 E Alameda Parkway

Pages

1. ITEMS FROM THE MAYOR

1.a. Mayor's Update

1.a.1. A RESOLUTION EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE TRI-COUNTY HEALTH DEPARTMENT STAYING INTACT 6

Sponsor Mayor Michael Coffman / Rachel Allen, Client Group Manager

Estimated time: 10 mins

1.b. Issue Update

2. CONSENT CALENDAR

2.a. IGA with Arapahoe County for a Coordinated Election 10

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Arapahoe County, Colorado for a coordinated election to be held November 2, 2021

Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney

Staff requests a waiver of reconsideration

2.b. IGA with Adams County for a Coordinated Election 33

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Adams County, Colorado for a coordinated election to be held November 2, 2021

Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney

Staff requests a waiver of reconsideration

2.c. IGA with Douglas County for a Coordinated Election 50

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Douglas County, Colorado for a coordinated election to be held November 2, 2021

Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney

Staff requests a waiver of reconsideration

2.d. Consideration to appoint three (3) members to the Aurora Youth Commission 108

Kadee Rodriguez, City Clerk, General Management/ Dave Lathers, Senior Asst. City Atty.

3. ITEMS FROM THE POLICY COMMITTEES

3.a. FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE TO UPDATE DEFINITIONS & LICENSING AND TO ALLOW MARIJUANA HOSPITALITY BUSINESSES AND RETAIL MARIJUANA HOSPITALITY AND SALES BUSINESSES WITHIN THE CITY 118

Robin Peterson, Manager Marijuana Enforcement /Dan Money, Senior Assistant City Attorney

Estimated time: 50 mins total for 3.a. and 3.b. combined presentation/discussion

3.b. FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING THE UNIFIED DEVELOPMENT ORDINANCE (UDO) IN ORDER TO ADDRESS ZONING CLASSIFICATIONS OF MARIJUANA HOSPITALITY BUSINESSES AND TO UPDATE THE DEFINITIONS ACCORDINGLY 143

Robin J Peterson, Manager Marijuana Enforcement/Dan Money, Senior Assistant City Attorney

Estimated time: 50 mins total for 3.a. and 3.b. combined presentation/discussion

3.c. Housing and Homeless Services Agreement Outcomes Update 154

Lana Dalton, Homelessness Programs Manager, Rodney Milton, Community Development Manager; Tim Joyce, Assistant City Attorney

Estimated time: 20 mins

3.d. Ordinance Pertaining Unauthorized Camping 237

Sponsor Mayor Michael Coffman / Tim Joyce, Assistant City Attorney

Estimated time: 30 mins

3.e. Resolution to Approve a Cooperative Agreement Between Aurora, Denver, Commerce City and Non-Profits 247

Pat Schuler, Manager Open Space and Natural Resources; Tim Joyce, Assistant City Attorney

Estimated time: 1 min

3.f. State Legislative 2021 Session Recap 286

Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager

Estimated time: 15 mins

3.g. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, Approving an Intergovernmental Agreement between the City of Aurora, Colorado and the Urban Drainage and Flood control District, d/b/a Mile High Flood District 320

Sarah Young, Deputy Director of Planning and Engineering / Ian Best, Asst. City Attorney

Estimated time: 3 mins

3.h. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING WEECYCLE WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR PROPOSED ACTIVITIES 342

Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney

Estimated time: 2 mins

3.i. A Resolution Expressing Council's Approval of the Community Development Block Grant Agreement between the City of Aurora, Colorado, and Aurora/Arapahoe Battered Women's Shelter, Inc. 367

Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney

Estimated time: 2 mins

3.j. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE 2020 AFFORDABLE HOUSING GAP FINANCING PROGRAM FUNDING RECOMMENDATION FOR THE HABITAT FOR HUMANITY MOUNTAIN VIEW PROJECT 457

Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney

Estimated time: 2 mins

3.k. 2021 Median Project 494

Tracy Young, Manager, PROS Planning, Design & Construction/Tim Joyce, Assistant City Attorney

Estimated time: 25 mins

3.l. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY BOND ALLOCATION FOR 2021 TO THE HOUSING AUTHORITY OF THE CITY OF AURORA,DBA AURORA HOUSING AUTHORITY 512

Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney

Estimated time: 10 mins

4. ITEMS FROM CITY THE MANAGER

*4.a. 2021 Fireworks Follow-Up *532*

Steven Wright, Aurora Fire Rescue Commander/Angela Garcia, Senior Assistant City Attorney

Estimated time: 15 mins

5. ITEMS FROM THE CITY COUNCIL

*5.a. AMENDMENT TO CAMPAIGN FINANCE ORDINANCE *545*

Sponsor Council Member Marcano / Rachel Allen, Client Group Manager

Outside speaker: Mark Grueskin

Estimated time: 20 mins

5.b. ORDINANCE AMENDING SECTION 54-31 OF THE CITY CODE - ELECTORS ELIGIBLE TO HOLD MUNICIPAL OFFICE *567*

Rachel Allen, Client Group Manager / Dave Lathers, Senior Assistant City Attorney

Outside speaker: Gerald Dahl

Estimated time: 20 mins

6. CALL-UPS OF COUNCIL POLICY COMMITTEE ITEMS

7. MISCELLANEOUS ITEMS

8. ITEMS REMOVED FROM THE AGENDA, IF ANY

9. POLICY COMMITTEE MINUTES

CITY OF AURORA
Council Agenda Commentary

Item Title: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE TRI-COUNTY HEALTH DEPARTMENT STAYING INTACT
Item Initiator: Mayor Mike Coffman
Staff Source/Legal Source: Rachel Allen, Client Group Manager
Outside Speaker: None
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☒ Approve Item as proposed at Study Session

☐ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

None.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

In the best interests of the city of Aurora, which is located in Adams, Arapahoe and Douglas County, Aurora City Council would like to express their support for keeping Tri-County Health Department intact, representing these three counties.

Having one health department, as opposed to two or three, allows for greater depth of public health expertise, allows for a consistent range and quality of services, assists in their ability to tailor public health policies across each county; and would be more cost effective to the taxpayers by having just one administration overseeing all three counties.

QUESTIONS FOR COUNCIL

Does Council support this Resolution to express their desire to the Tri-County Health Department that they stay intact, representing the counties of Adams, Arapahoe and Douglas within which the city of Aurora resides?

LEGAL COMMENTS

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Art. 5-1). It shall be unlawful for any person to molest, hinder, interfere with or in any manner prevent any individual of the Tri-County Health Department or any official of the city from performing any duties imposed upon the individual or official by any city, state or federal law or the rules and regulations of the Tri-County Health Department. (City Code Sec. 74-53). (Allen)

PUBLIC FINANCIAL IMPACT

☐ YES ☐ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

RESOLUTION NO. R2021- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE TRI-COUNTY HEALTH DEPARTMENT STAYING INTACT

WHEREAS, the City of Aurora is in all three counties represented by the Tri-County Health Department, and it's better for our city to be in one health department instead of multiple health departments which might offer a different range and quality of services; and

WHEREAS, the Tri-County Health Department guided us through a pandemic using public health expertise to implement necessary restrictions in the midst of evolving data and scientific evidence; and

WHEREAS, throughout the pandemic, Tri-County Health Department worked with businesses, schools, faith leaders, community-based organizations, and many other stakeholders in the City of Aurora to limit the impacts of public health restrictions; and

WHEREAS, Tri-County Health Department's Board of Health, composed of three commissioner-appointed representatives from each of the three member counties, and Tri-County Health Department, recognizing the diverse needs of each of the three member counties, tailored public health policies to maximize health benefits in each county; and

WHEREAS, it would be more costly to the taxpayers of Adams, Arapahoe and Douglas Counties to have a separate administration for each county rather than one administration overseeing the public health operations in all three counties; and

WHEREAS, having one organization allows for greater depth of public health expertise and an ability to obtain and operationalize grant funding to support innovative and impactful programs that are not found in smaller departments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO THAT THE COUNCIL RULES SHALL BE AMENDED AS FOLLOWS:

Section 1. The Aurora City Council supports keeping Tri-County Health Department intact to represent Adams, Arapahoe and Douglas Counties and the City of Aurora.

Section 2. The Mayor and City Clerk are hereby authorized to execute with such technical additions, deletions, and variations as may be deemed necessary or appropriate by the City Attorney that are not inconsistent with this resolution.

RESOLVED AND PASSED this_____day of_____, 2021

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

RACHEL ALLEN, Client Group Manager

CITY OF AURORA
Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Arapahoe County, Colorado for a coordinated election to be held November 2, 2021
Item Initiator: Kadee Rodriguez, City Clerk
Staff Source/Legal Source: Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney
Outside Speaker: n/a
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☒ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☒ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

Regular municipal elections are defined as those at which persons are elected to municipal office. Section 54-7 of the Aurora municipal code "herby declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams and Douglas counties'. Furthermore, election legislation adopted in 2013 authorized all elections conducted by county clerk and recorders to be mail ballot elections.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

City Council is being asked to approve a resolution for an Intergovernmental Agreement with Arapahoe County authorizing participation in the November 2, 2021, coordinated election utilizing Title 1, the Uniformed Election Code of 1992, as the legislative basis for that election, The City of Aurora has participated in coordinated elections in prior years and staff is supporting continuing participation. Election costs continue to rise; however, the cost of participation is anticipated to be less than having the City conduct its own standalone election. The draft 2021 IGA is included with the packet.

QUESTIONS FOR COUNCIL

Does the City Council wish to approve the Intergovernmental Agreement with Arapahoe County to conduct the 2021 regular municipal election as part of a coordinated election?

LEGAL COMMENTS

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: n/a

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: n/a

RESOLUTION NO.____ _

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF AURORA, FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 2, 2021

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, the City of Aurora, Colorado (the "City"), and Arapahoe County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding the conduct of the November 2, 2021, coordinated general municipal election; and

WHEREAS, the City Council of the City finds and determines that such agreement is in the best interests of the City and its citizens; and

WHEREAS, the City Council is authorized by City Charter Article 10-12, City Code Section 2-31, and Colorado Revised Statutes Section 29-1-203, to enter into intergovernmental agreements upon adoption of a Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Intergovernmental Agreement between the City of Aurora, Colorado, and Arapahoe County, Colorado, for the conduct of the coordinated general municipal election to be held November 2, 2021 is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute and deliver said Intergovernmental Agreement in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. All Resolutions or parts of Resolutions of the City of Aurora, Colorado, in conflict herewith are hereby rescinded.

Section 4. This Resolution shall take effect immediately without reconsideration.

RESOLVED AND PASSED this ____day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

David Lathers RLA
_____
DAVE LATHERS, Senior Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT

BETWEEN

ARAPAHOE COUNTY CLERK AND RECORDER

AND

CITY OF AURORA

REGARDING THE CONDUCT AND ADMINISTRATION OF THE

NOVEMBER 2, 2021

COORDINATED ELECTION

PREPARED BY:

ARAPAHOE COUNTY CLERK AND RECORDER'S OFFICE

ELECTIONS DIVISION

5334 S. PRINCE STREET

LITTLETON, COLORADO 80120

303-795-4511

THIS AGREEMENT is made by and between the Board of County Commissioners of the County of Arapahoe, State of Colorado, on behalf of the Arapahoe County Clerk and Recorder (hereinafter referred to as the "County") and City of Aurora (hereinafter referred to as the “Jurisdiction") (hereinafter collectively referred to as the “Parties”); and

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) as amended, governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, pursuant to section 1-7-116, C.R.S. if more than one jurisdiction holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the County Clerk and Recorder is the coordinated election official and, pursuant to section 1–5–401, C.R.S. shall conduct the elections on behalf of all jurisdictions whose elections are part of the coordinated election utilizing the mail ballot procedures set forth in article 7.5 of title 1; and

WHEREAS, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct a Coordinated Election on November 2, 2021; and

WHEREAS, such agreements are authorized by State law.

WHEREAS, the County and the Jurisdiction have a history of successful coordinated elections and have therewith established certain practices and procedures to preserve the integrity of the election process; and

WHEREAS, the Parties understand and agree that conducting coordinated elections subjects all Parties participating in the process to the strictures of Article XXIX of the Colorado Constitution pertaining to Ethics in Government, including that all Parties must: hold the respect and confidence of the people; carry out their duties for the benefit of the people; and avoid conduct that is in violation of their public trust or that creates a justifiable impression in the public that such trust is being violated.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

This election shall be conducted as a Coordinated Election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.). The election participants will execute agreements with Arapahoe County for this purpose and may include municipalities, school districts, and special districts within the Arapahoe County limits and the State of Colorado.

The Arapahoe County Clerk and Recorder shall be designated as the Coordinated Election Official (hereinafter “CEO”) and the Jurisdiction hereby identifies Kadee Rodriguez as its Designated Election Official (hereafter “DEO).

FURTHER, the Parties agree as follows:

SECTION I.
PURPOSE AND GENERAL MATTERS

1.01 DEFINITIONS.

A. "**Address Library Report**" means the address report from the Secretary of State voter registration system that defines street addresses and precincts within the jurisdiction.

B. "**Coordinated Election Official**" (hereinafter "CEO") shall mean the County Clerk and Recorder who shall act as the "coordinated election official," as defined within the Code and Rules and, as such, shall conduct the election for the Jurisdiction for all matters in the Code and the Rules which require action by the CEO.

C. "**Colorado Election Code**" or "Code" means any part of the Uniform Election Code of 1992, (Articles 1-13 of Title 1, C.R.S.) or any other Title of C.R.S governing participating Jurisdiction's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules.

D. "**Coordinated Election**" means an election where more than one jurisdiction with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the County Clerk is the Coordinated Election Official for the jurisdictions.

E. "**Contact Officer**" means the individual who shall act as the primary liaison or contact between the Jurisdiction and the County Clerk. The Contact Officer shall be that person under the authority of the County Clerk who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.

F. "**Designated Election Official**" (hereinafter "DEO") means the individual who shall be identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder. To the extent that the Code requires that an Election Official of the Jurisdiction conduct a task, the DEO shall conduct same.

G. "**IGA**" or **"Agreement"** means this Intergovernmental Agreement between the County and the Jurisdiction for election coordination.

H. **"Jurisdiction"** means a political subdivision as defined in § 1-7.5-103(6), C.R.S. and referenced in the Code and, in this Agreement, is interpreted to refer to the City of Aurora.

I. "**Logic and Accuracy Test**" means a test of all electronic and electromagnetic voting equipment to test mail, provisional and audio ballots, in accordance with § 1-7-509, C.R.S. by processing a preaudited group of ballots.

J. "**Mail Ballot Packet**" means the packet of information provided by the CEO to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, and a return envelope. § 1-7.5-103(5), C.R.S.

K. "**Post Election Audit**" means such audit as set forth substantially in the Colorado Election Code.

L. **"Precinct"** means an area with established boundaries within a political jurisdiction used to establish election districts.

M. "**Proposed Jurisdiction**" means a jurisdiction which may be formed pursuant to this election which is not yet identified by a tax authority code in the County Assessor database. When the context of this Agreement so requires, a Proposed Jurisdiction will simply be referred to as a Jurisdiction.

N. "**SOS**" means the Colorado Secretary of State.

O. "**Election Calendar**" means the "2021 Coordinating Election – Abridged Calendar Key Dates for Coordinating Jurisdictions," attached hereto as Attachment B, which is based upon and incorporates the most recent election calendar as published on the SOS website located at www.sos.state.co.us.

P. "**TABOR"** means a ballot issue that is governed by article X, § 20 of the Colorado Constitution.

Q. **"UOCAVA voters"** means military personnel and overseas civilians who are registered to vote and receive services under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the Military and Overseas Voter Empowerment Act of 2009.

1.02 JURISDICTIONAL LIMITATION.

A. The Jurisdiction encompasses territory within Arapahoe County. This Agreement shall be construed to apply only to that portion of the Jurisdiction within Arapahoe County.

SECTION II.
COUNTY/JURISDICTION RESPONSIBILITIES

2.01 JOINT RESPONSIBILITIES.

Nothing herein shall be deemed or construed to relieve the County or the Jurisdiction from their official responsibilities for the conduct of the election as generally set forth in the Colorado Election Code.

All parties shall:

A. Familiarize themselves and adhere to all applicable provisions and timelines of the Colorado Election Code while performing their official responsibilities for the conduct of the election, unless superseded by other legal authority.

B. Enforce all applicable provisions of the Fair Campaign Practices Act.

C. Review and execute this IGA with all required signatures on or before the deadline set forth in § 1-7-116(2), C.R.S.

D. Confirm they have sufficient funds available and appropriated in an approved budget to pay their expenses for this election.

E. All parties shall remain cognizant of their obligations under article XXIX of the Colorado Constitution at all times during the election process, from the signing of this IGA to final certification of election results to the SOS.

2.02 COUNTY RESPONSIBILITIES.

The County shall perform the following duties:

A. Designate a Contact Officer to provide assistance and information to the DEO of the Jurisdiction on matters relating to the conduct of this election. Such information shall not include legal advice.

B. Maintain voter records and an address library for Arapahoe County voters within the Colorado SCORE voter registration database. Comply with Colorado SOS and Arapahoe County cyber-security recommendations to protect confidential voter information.

C. Send a certified list of registered voters to the Jurisdiction via secure FTP transfer if requested by the DEO of the Jurisdiction.

D. In order to identify which addresses are eligible to receive and vote on the Jurisdiction's ballot question, the County shall perform the following duties for the Address Library:

a. Use the Colorado SCORE voter registration database to produce an Address Library Report that indicates residential street ranges included within the boundaries of the Jurisdiction.

b. Provide the Jurisdiction with the Address Library Report in an electronic format, along with an Acknowledgement Form that the Jurisdiction should use to confirm the accuracy of the ranges or note any errors, omissions, and/or corrections.

c. Verify any errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.

E. Receive certified ballot content from the Jurisdiction in electronic format. Layout the text of the official ballot using the certified content without any modifications or formatting changes. Provide an electronic proof of the ballot to the Jurisdiction's DEO via email for written approval prior to final production. Post a sample ballot to www.arapahoevotes.com.

F. Determine the number and letter of each ballot issue and question for the Jurisdiction and any other coordinating jurisdictions participating in the election, in accordance with SOS Rule 4.5.2:

a. If the Jurisdiction is entirely contained within Arapahoe County, the County has authority to set the ballot measure order and number.

b. If the Jurisdiction includes territory in more than one county, the County will coordinate with the other applicable counties for purpose of determining the controlling county and agreeing upon ballot measure numbers for shared issues and questions.

G. Conduct a Logic and Accuracy Test in accordance with § 1-7-509, C.R.S. Invite the Jurisdiction to participate along with the Testing Board to verify the accuracy of electronic vote tabulation equipment. Post a public notice of the Test seven (7) days in advance.

H. Provide a candidate hotline at 303-734-5365, which every candidate running for office in the Jurisdiction (if applicable) shall call to provide the phonetic pronunciation of their name as it appears on their Statement of Intent, title of the office, and Jurisdiction for which they are running.

I. Prepare an accessible audio ballot for the electronic ballot marking devices to be made available to voters upon request at any Voter Service and Polling Center.

J. Contract with a vendor acceptable to the SOS to print and send Mail Ballot Packets to every active registered voter and transmit ballots electronically to every active registered UOCAVA voter.

K. Publish and post the required legal notice of election pursuant to § 1-5-205(1), C.R.S. for the Jurisdiction's ballot issues, ballot questions, and/or candidates.

L. If the Jurisdiction's election includes a TABOR issue, the County shall perform the following duties relative to the TABOR Notice:

a. Provide a Microsoft Word document template for the TABOR Notice to the jurisdiction with instructions to submit its certified ballot language, pro/con statements and financial summary for each ballot question or issue governed by TABOR by the deadline **listed in Attachment B.**

b. Prepare the TABOR Notice using the certified content provided by the Jurisdiction, without revision.

c. Contract with a printing vendor to produce and mail one copy of the TABOR notice to every household where an active registered voter of the Jurisdiction resides at the least cost possible in the time frame as required by law. If the Jurisdiction is a special district, the TABOR notice also will be mailed to every eligible property owner who is not already a registered voter in Arapahoe County. The County may send the TABOR Notice to persons other than electors of the Jurisdiction in an effort to mail the TABOR Notice package at the "least cost."

d. Post the TABOR Notice on www.arapahoevotes.com.

e. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's TABOR Notice services for the Jurisdiction. The Jurisdiction's proportional share of actual costs shall be based on the County's total expenditures relative to the TABOR Notice.

M. Hire, instruct and oversee election judges and temporary workers necessary for the conduct of the election.

N. Establish and maintain mail ballot 24-hour drop-boxes, and designate and operate Voter Service and Polling Centers as required by the Code.

O. Provide trained personnel to pick up sealed ballot containers containing voted ballots from every Voter Service and Polling Center and 24-hour drop-box each business day. Provide a replacement sealed empty ballot container(s), except if the location is a stand-alone 24-hour drop-box.

P. Provide the necessary equipment, the adequately trained personnel, and the secure facility, and conduct and oversee the process to receive, verify voter signatures, open, tabulate and store ballots.

Q. Maintain a record of every eligible voter's registration and every ballot sent, received, voided and cast using the Colorado SCORE voter registration and election management system. A SCORE download providing an update on every eligible voter's registration and ballot status will be posted on www.arapahoevotes.com daily during the voting period. No person will be given preferential treatment regarding the receipt of updated SCORE information, except that the Clerk's Office may respond to lawful records requests made pursuant to the Colorado Open Records Act.

R. Send letters to voters whose mail ballot envelopes are missing a signature, missing identification or have a signature discrepancy, and provide instructions and an affidavit to cure this issue within eight (8) days of Election Day for the ballot to be counted. Conduct the process to receive and verify voter affidavits and where appropriate, cure and count these ballots.

S. Maintain the following reports for all Arapahoe County eligible voters, and publish a public version (excluding confidential voters) on www.arapahoevotes.com:

a. A registered voter list, including the names of eligible electors;

b. A turnout list, including the names of eligible electors, precinct number, date mail ballot was sent, and date ballot was issued at a Voter Service and Polling Center.

T. Accept public inquiries by phone at 303-795-4511 and by email at elections@arapahoegov.com. Respond to all correspondence and calls within the County's expertise relating to election procedures. Refer members of the public and news media to the DEO for any matters pertaining to the Jurisdiction's race, questions, measures or operations.

U. Post unofficial election results by ballot question after the polls close on Election Night at www.arapahoevotes.com, and regularly update the unofficial results as more eligible ballots are counted. Election results will not be shared before the online posting.

V. Conduct a recount of the ballots cast if required by law or if requested by the Jurisdiction pursuant to state law. In either scenario, the cost of the recount will be charged to the Jurisdiction. If more than one Jurisdiction is involved in the recount, the cost will be pro-rated among the participating Jurisdictions equally.

W. Prepare and run the required Post Election Risk Limiting Audit in accordance with the Code before certifying election results.

X. Appoint a Canvass Board and conduct a canvass of the votes in order to certify the results of the Jurisdiction's election pursuant to C.R.S. § 1-10-103. Provide the Jurisdiction with a copy of all election statements and certificates which are to be created under the Code.

Y. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's administration of the election.

Z. Submit to the Jurisdiction a good faith preliminary cost estimate at the time of this Agreement, an updated cost estimate after the deadline for ballot content to be submitted has passed pursuant to state law, and an itemized invoice for all expenses incurred under this Agreement post-election.

a. The County allocate costs using a Weighted Population Average, which reflects the proportionate number of active registered voters in each Jurisdiction on Election Day compared to the sum of all active registered voters in all coordinating jurisdictions for that election (including the County itself).

b. The total shared costs attributable to the County's administration of the election are multiplied by the Weighted Population Average to determine the Jurisdiction's allocation based on this formula. The final invoice detailing the Jurisdiction's portion of shared election costs will reflect actual cost totals as well as any changes in the total number of coordinating jurisdictions participating in the election and any increases in active voter count between the cost estimates and Election Day.

AA. Store all election records as required by the Code for 25 months in such a manner that they may be accessed by the Jurisdiction, if necessary, to resolve any challenges or other legal questions that might arise regarding the election.

2.03 JURISDICTION RESPONSIBILITIES.

The Jurisdiction shall perform the following duties:

A. Identify a Designated Election Official to act as liaison between the Jurisdiction and the County.

B. Notify the County prior to executing this IGA if the Jurisdiction's boundaries include property in any other county.

C. Review the Address Library Report provided by the County, which determines which residential addresses are within the jurisdiction. View the street ranges in a map format at: http://gis.arapahoegov.com/ArapaMAP/. Confirm the street ranges are correct and identify any errors, omissions or deletions if necessary. Provide the County with certification of any annexations, inclusions, and/or exclusions to the Jurisdiction, including all supporting documents. Return via email a signed copy of the provided Acknowledgement Form to the County, including any corrections if necessary, by the date set forth in Attachment B.

a. If the Jurisdiction is a Proposed Jurisdiction not already identified by a tax authority code in the County Assessor's records, the Jurisdiction shall provide the County with a certified legal description, map, and a list of street ranges for all streets within the Proposed Jurisdiction on or before eighty (80) days prior to Election Day. If residential addresses are not available, provide a list of the land parcel numbers that are within the boundaries of the Proposed Jurisdiction.

D. For elections where owning property in the Jurisdiction is a requirement for voting in the election, the Jurisdiction must perform the following tasks relating to the property owners list:

a. Coordinate directly with the Arapahoe County Assessor's Office to order and pay for an initial and a supplemental certified list of all recorded owners of taxable real and personal property within the Jurisdiction's boundaries in Arapahoe County, in accordance with § 1-5-304, C.R.S. and by the deadlines in Attachment B.

b. Contact Minerva Padron at the Colorado SOS's Office to receive access to DEO SCORE lookup. (Minerva Padron, 855-428-3555 ext. 6332, minerva.padron@sos.state.co.us).

c. Using the list from the Assessor's Office:

   i. Remove from the list non-person entities and persons not living in the state of Colorado.

   ii. Look up the remaining names using the SOS SCORE look-up tool to determine if each person is a registered voter. Remove from the list those individuals who are not registered to vote.

   iii. Remove from the list persons who reside in the district, as they will already receive a mail ballot.

   iv. Deliver to the County via email an initial and a supplemental list of property owners who are property owners in the district, registered to vote in the state of Colorado, and not physically residing in the district. Each list should be delivered by the deadline indicated in Attachment B. The list should be a Microsoft Excel spreadsheet and must contain no more than one (1) eligible elector's name per line. Each line must consist of the following separated fields: eligible elector's voter identification number, last name, first name, middle name, mailing address, city, state, zip, parcel number, and phone number, if available.

E. Directly manage the responsibilities defined in § 1-4-901 to 912, C.R.S. for all candidate petitions for all local election races held by the Jurisdiction, including but not limited to: reviewing the petition format, receiving petitions that are filed, verifying voter validity, determining sufficiency, notifying candidates of sufficiency, responding to protest filings, and cures if applicable.

F. Determine the title and text of the Jurisdiction's ballot races, measures and/or issues using plain, non-technical language, worded with simplicity and clarity, in accordance with § 1-40-105(1), C.R.S. Determine the order of candidates in each race by lot drawing, or if applicable, city/town charter.

G. Defer to the County to determine the number and letter of each ballot issue and question, as outlined in Section 2.02. Abstain from communicating or publicizing a ballot issue or question in conjunction with a letter or number before it has been officially determined by the County.

H. Submit the Jurisdiction's certified ballot content, verbatim, as it should appear on the ballot for the Jurisdiction's races, questions and issues to the County. Submit the ballot content via email to Corene Henage at chenage@arapahoegov.com on or before the deadline as set forth within Attachment B. Format the ballot content in a Microsoft Word document in plain text; do not include bold, italic, underline, bullets, tables, strikethrough or indentation. Titles should indicate whether the question is a referred measure or an initiative from a citizen petition. TABOR issues must be in all caps. All other

measures and races must be mixed case. (Ballot content submitted to the County after the deadline will not appear on the ballot.)

I. Within one business day of receipt from the County, proofread the layout and the text of the Jurisdiction's portion of the official ballots and provide written notice of acceptance to the County via email to Corene Henage at chenage@arapahoegov.com.

J. If the Jurisdiction's election includes a race, contact all candidates on the ballot and ask them to call the County's candidate hotline at 303-734-5365 by the deadline indicated in Attachment B and record a voicemail with the phonetic pronunciation of their name, the title of the race and jurisdiction for which they are running.

K. If the Jurisdiction's election includes a TABOR issue, the Jurisdiction shall perform the following duties relative to the TABOR Notice by the relevant deadlines indicated in Attachment B:

a. Receive petition representative's written summary of comments relating to ballot issues/ballot questions. Receive and compile community members' written summary of pro/con statements relating to ballot issues/ballot questions.

b. Prepare a financial summary for each ballot question or issue.

c. Prepare a Microsoft Word document using the template provided by the County for the TABOR Notice with the final and exact text of its certified ballot language, pro/con statements and financial summary for each ballot question or issue governed by TABOR by the deadline in Attachment B, delivered to Briana Kacinski at bkacinski@arapahoegov.com.

d. Defend and resolve, at the Jurisdiction's sole expense, all challenges related to the candidates, ballot issues and/or ballot questions, or to the TABOR Notice if applicable, as certified to the County.

L. Publish and post any required legal notices for the Jurisdiction's candidates, ballot issues and/or ballot questions, other than the notice published by the County in conformance with § 1-5-205, C.R.S. A copy of such published legal notice shall be submitted to the County for its records.

M. Respond to all correspondence and calls for any matters pertaining to the Jurisdiction's race, question or measures or operations. Refer members of the public and news media to the County for any matters outside of the DEO's expertise relating to election procedures.

N. Notify the CEO by the statutory deadline whether a recount is required or desired. The Jurisdiction shall reimburse the County for the full cost of the recount. If other Jurisdictions are included in the recount, the cost of the recount will be prorated among the participating Jurisdictions as per § 1-10.5-101, C.R.S.

O. Remit to the County the total payment for the Jurisdiction's prorated share of costs for the printing and mailing of ballots, TABOR Notice (if required), any additional or unique election costs resulting from Jurisdiction delays and/or special preparations or cancellations, and all other election expenses within sixty (60) days from the date of receipt of an invoice from the County.

SECTION III.
CANCELLATION OF ELECTIONS

3.01 CANCELLATION OF ELECTION BY THE JURISDICTION.

In the event that the Jurisdiction resolves not to hold the election, notice of such resolution shall be provided to the CEO immediately. The Jurisdiction shall be liable for the full actual costs of the activities of the CEO relating to the election incurred before receipt of such notice and activities of the CEO relating to cancelling the election after the receipt of such notice. The Jurisdiction shall provide and post notice by publication as defined in the Code. In the event that the Jurisdiction resolves not to hold the election after the last day for the DEO to certify the ballot order and content to the CEO (see Attachment B), the text provided by the Jurisdiction cannot be removed from the ballot and/or the Ballot Issue notice (TABOR Notice).

SECTION IV.
MISCELLANEOUS

4.01 NOTICES.

Any and all notices required to be given by this Agreement are deemed to have been received and to be effective: (1) three days after they have been mailed by certified mail, return receipt requested; (2) immediately upon hand delivery; or (3) immediately upon receipt of confirmation that an email or fax was received; to the address of a Party as set forth below or to such Party or addresses as may hereafter be designated in writing:

To County:
Joan Lopez
Arapahoe County Clerk and Recorder's Office
Elections Division
5334 S. Prince St.
Littleton, Colorado 80120
Fax: (303) 794-4625
Email: jlopez@arapahoegov.com

To Jurisdiction:
Kadee Rodriguez
City Clerk
and Designated Election Official
15151 E Alameda Pkwy
Aurora CO 80012
Email: kvrodrig@auroragov.org
Phone: 303-739-7180

4.02 TERM OF AGREEMENT.

The term of this Agreement shall continue until all statutory requirements concerning the conduct of the election and the creation, printing, and distribution of the TABOR Notice, if needed, are fulfilled.

4.03 AMENDMENT.

This Agreement may be amended only in writing, and following the same formality as the execution of the initial Agreement.

4.04 INTEGRATION.

The Parties acknowledge that this Agreement constitutes the sole and entire Agreement between them relating to the subject matter hereof and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

4.05 CONFLICT OF LAW.

In the event that any provision in this Agreement conflicts with the Code or other statute, this Agreement shall be modified to conform to such law.

4.06 TIME OF ESSENCE.

Time is of the essence for this Agreement. The time requirements of the Code shall apply to completion of the tasks required by this Agreement. Failure to comply with the terms of this Agreement and/or the deadlines in Attachment B or the Code may result in consequences up to and including termination of this Agreement.

4.07 GOOD FAITH.

The parties shall implement this Agreement in good faith, including acting in good faith in all matters that require joint or general action.

4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.

The Parties understand and agree that the County, its commissioners, officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities, protections or defenses provided by the Colorado Governmental Immunity Act (the "CGIA"), §§ 24-10-101 to 120, C.R.S., or otherwise available to the County or the Jurisdiction. To the extent the CGIA imposes varying obligations or contains different waivers for cities and counties, both the Jurisdiction and the County agree that they will remain liable for their independent obligations under the CGIA, and neither party shall be the agent of the other or liable for the obligations of the other.

4.09 NO THIRD PARTY BENEFICIARIES.

The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Jurisdiction, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

4.10 GOVERNING LAW: JURISDICTION AND VENUE.

Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado. Venue for any and all legal actions arising under this IGA shall lie in the District Court in and for the County of Arapahoe, State of Colorado.

4.11 SEVERABILITY.

Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Agreement shall be of full force and effect.

4.12 ATTACHMENTS.

The following attachments are incorporated herein by this reference.

Attachment A – 2021 Preliminary Cost Estimate

Attachment B – Key Dates for Coordinating Jurisdictions (subject to updates)

END OF PAGE

Arapahoe County

_____	_____
Joan Lopez, Coordinated Election Official Clerk and Recorder	Date
_____	_____
Kadee Rodriguez, City Clerk Designated Election Official	Date

ARAPAHOE COUNTY
CLERK & RECORDER

ATTACHMENT A - PRELIMINARY COST ESTIMATE
City of Aurora
NOV. 2, 2021 ELECTION COORDINATING COSTS
(no TABOR issue)

Jurisdiction's Share of Total Election Costs Based On:	
Total Jurisdiction Active Registered Voters	**195,809**
÷ Sum of Active Registered Voters for all Coordinating Entities	**1,177,947**
= Weighted Population Average (WPA)	**0.166229**

Election Expenses for 2020 Coordinated Election	**Total Cost**
County Staff	
Permanent staff overtime compensation (after 9/03/2021)	$ 8,000.00
Temporary election staff compensation (after 9/03/2021)	$ 8,000.00
Total	**$ 16,000.00**
Election Judges	
Election Judge training materials	$ 1,000.00
Election Judge compensation (VSPCs & ballot processing)	$ 140,000.00
Election Judge communications	$ 250.00
Total	**$ 141,250.00**
Ballot and Envelope Printing (Mail, in-person, test, etc.)	
Mail Ballot Printing	$ 135,000.00
Ballot envelopes (outgoing, return and labels)	$ 50,000.00
Voter instructions, secrey sleeves, inserts	$ 55,000.00
Ballot shipping fees	$ 16,000.00
Ballot-on-Demand supplies (card stock, toner, etc)	$ 5,000.00
Total	**$ 261,000.00**
Ballot Printing, Programming & Insertion	
Vendor onsite election support (3rd party vendor only)	$ -
Ballot layout and programming (3rd party vendor only)	$ -
Ballot insertion and mailing fees (3rd party vendor only)	$ 115,000.00
BOD Ballot Programming (3rd party vendor only)	$ -
Total	**$ 115,000.00**
VSPC Location Costs	
VSPC set up expenses	$ 5,000.00
VSPC location rental expenses	
Signage	$ 500.00
Office Supplies (pens, forms, etc.)	$ 2,000.00
Electronic equipment for VSPCs purchased/leased	$ 18,000.00
Vehicle expenses (rentals, mileage etc)	$ 8,000.00
Ballot and equipment delivery/collection	$ 7,000.00
Remote connectivity expenses (Wifi)	$ 1,000.00
Total	**$ 41,500.00**
Security Expenses related to Judges and VSPCs	
Transfer cases and portable ballot boxes	$ -
Security personnel costs	$ 1,000.00
CBI background checks for Election Judges/temp staff	$ 4,000.00

Total	**$**	**5,000.00**
Election Notices		
Statutory notice of election	$	250.00
TABOR Notice - printing and production	n/a	
Total	**$**	**250.00**
Postage		
Mail Ballot Postage	$	55,000.00
TABOR Notice Postage	n/a	
Mail Ballot Undeliverable/Return Postage Due	$	8,000.00
Total	**$**	**63,000.00**

Total Election Expense	**$**	**643,000.00**
x Weighted Population Average (WPA)	**$**	**0.1662**
Total Due to Arapahoe County	**$**	**106,885.27**

Attachment B

2021 Coordinated Election - Abridged Calendar
Key Dates for Coordinating Jurisdictions

Resource provided by Arapahoe County Elections. Use this as a reference guide only.
Always refer to the Colorado Constitution, Revised Statutes and Secretary of State rules for applicable provisions.
Find a complete election calendar at:
https://www.sos.state.co.us/pubs/elections/calendars/2021ElectionCalendar.pdf

Date	Event	Reference	Accountable
	July 2021		
5-Jul	Preferred date for County Clerk to provide Election Plan to the Secretary of State (120 days prior)	1-7.5-105(1) Rule 7.1.1	County Clerk
23-Jul	Deadline for Jurisdiction to notify County Clerk of intent to coordinate in the election (100 days prior)	1-1-106(5) 1-7-116(5)	Jurisdiction
	August 2021		
24-Aug	Deadline for Jurisdiction to return Address Library Report acknowledgment form with any necessary revisions to County Clerk (70 days prior)	IGA	Jurisdiction
24-Aug	Deadline for County Clerk and coordinating jurisdictions to sign intergovernmental agreement (70 days prior)	1-7-116(2), Rule 4.1.2	Jurisdiction, County Clerk
30-Aug	Deadline for candidates to record their name on a phone voice mail provided by County Clerk for the audio ballot	Rule 4.6.2	Candidates
	September 2021		
3-Sep	Deadline for Jurisdiction to certify ballot content to County Clerk (60days prior)	1-5-203(1) 1-1-106(5)	Jurisdiction
3-Sep	Deadline for Jurisdiction to order initial property owner list from County Assessor (60 days prior)	IGA	Jurisdiction
17-Sep	Last day for Jurisdiction to accept pro/con comments pertaining to local ballot issues for the TABOR Notice (by noon the Friday before 45th day before the election)	1-7-901(4)	Voters, Petition Reps, Jurisdiction
18-Sep	Deadline to send mail ballots to military and overseas electors. (No later than 45 days before the election)	1-1-106(5) 1-8.3-110(1)	County Clerk
20-Sep	Deadline for Jurisdiction to provide initial list to County Clerk of eligible property owners to receive ballots and TABOR notice (43 days prior)	IGA	Jurisdiction
20-Sep	Deadline for Jurisdiction to deliver full text of TABOR issue notices to County Clerk (43 days prior)	1-7-904	Jurisdiction
	October 2021		
1-Oct	Deadline for County Clerk to mail TABOR Notice to registered voter households on behalf of all coordinating jurisdictions (30 days prior)	Art. X, Sec. 20(3)(b) 1-1-106(5) Rule 4.3.1	County Clerk
1-Oct	Deadline for Jurisdiction to order supplemental list of property owners from County Assessor (30 days prior)	IGA	Jurisdiction

8-Oct	Deadline for Jurisdiction to withdraw a ballot issue or question from the ballot (25 days prior)	1-5-208(2)	Jurisdiction
8-Oct	Deadline for Jurisdiction to provide supplemental list of eligible property owners to County Clerk (25 days prior)	IGA	Jurisdiction
11-Oct	First day County Clerk can mail ballots to voters, excluding UOCAVA voters (22 days prior) 24-hour ballot drop boxes will be open for ballot return	1-7.5-107(3)(a) Rule 7.2.3	County Clerk
11-Oct	Deadline to register to vote through a Voter Registration Drive and receive a mail ballot (22 days prior or day after holiday)	1-2-201(3)(b)(I)	Voters
12-Oct	Deadline for County Clerk to conduct the public Logic and Accuracy Test (21 days prior)	Rule 11.3.2(a)	County Clerk
13-Oct	Deadline for County Clerk to publish notice of election in newspaper (20 days prior)	1-1-104(34) 1-5-205(1)(a)	County Clerk
18-Oct	First day that County may count ballots. (15 days prior) No results may be disclosed until 7 p.m., Election Day	1-7.5-107.5	County Clerk
25-Oct	First day Voter Service & Polling Centers must be open (Beginning at least 8 days before and on election day, except Sundays)	1-5-102.9(2) Rule 7.9	County Clerk
25-Oct	Deadline for voters to register to vote or make updates and still receive a mail ballot (Through the 8th day prior)	1-2-201(3)(b)(III) 1-2-201(4) 1-2-508(3)(a)(1)	Voters
29-Oct	Deadline to return a completed Certificate of Appointment to County Clerk to appoint watchers observe election activities on Election Day (earlier if want to observe earlier days)	1-7-107	Candidate, Ballot Issue Proponents or Opponents
	November 2021		
2-Nov	**Coordinated Election**(Voter Service and Polling Centers and Ballot Drop-Off locations open 7 a.m. - 7 p.m.)	1-1-104(17) 1-4-201 Rule 7.9.1(b)	County Clerk, Voters
10-Nov	Deadline for UOCAVA (military and overseas) ballots to be received by Clerk to be received (8 days after)	1-8.3-111 and 113 Rule 16.1.5	Voters
10-Nov	Deadline for voters to cure signature discrepancy or missing signature, and/or to provide missing ID for mail and provisional ballots (8 days after)	1-7.5-107(3.5)(d) 1-7.5-107.3 (2)(a) 1-8.5-105(3)(a)	County Clerk, Voters

12-Nov	Deadline for County Clerk to count eligible provisional ballots (9 days after)	1-8.5-105(5)	County Clerk
23-Nov	Deadline for County Clerk to complete risk-limiting audit (21 days after)	Rule 25.2.3(d)	County Clerk
24-Nov	Deadline for County Clerk to canvass the election (22 days after)	1-10-102(1) 1-10-103(1) Rule 10	County Clerk
26-Nov	Last day for Jurisdiction to provide written notice to Clerk to waive an automatic recount of a referred ballot issue or question that failed (23 days after)	1-10.5-103	Jurisdiction
30-Nov	Deadline for any interested party to request a recount of election results at their own expense (28 days after)	1-10.5-106(2)	Any
December 2021			
7-Dec	Deadline for County Clerk to complete a statutory recount of any race (35 days after)	1-10.5-102(2) 1-10.5-103	County Clerk
9-Dec	Deadline for County Clerk to complete a requested recount (37 days after)	1-10.5-106(2)	County Clerk
Note on Computation of Time			
NOTE	If the last day for any act to be done or the last day of any period is a Saturday, Sunday, or legal holiday and completion of the act involves a filing or other action during business hours, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.		1-1-106(4)
	If a statute or rule requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months before the date of an election, the period is shortened to and ends on the prior business day that is not a Saturday, Sunday, or legal holiday.		1-1-106(5)

CITY OF AURORA
Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Adams County, Colorado for a coordinated election to be held November 2, 2021
Item Initiator: Kadee Rodriguez, City Clerk
Staff Source/Legal Source: Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney
Outside Speaker: n/a
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☒ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☒ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name:

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

Regular municipal elections are defined as those at which persons are elected to municipal office. Section 54-7 of the Aurora municipal code "herby declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams and Douglas counties'. Furthermore, election legislation adopted in 2013 authorized all elections conducted by county clerk and recorders to be mail ballot elections.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

City Council is being asked to approve a resolution for an Intergovernmental Agreement with Adams County authorizing participation in the November 2, 2021, coordinated election utilizing Title 1, the Uniformed Election Code of 1992, as the legislative basis for that election, The City of Aurora has participated in coordinated elections in prior years and staff is supporting continuing participation. Election costs continue to rise; however, the cost of participation is anticipated to be less than having the City conduct its own standalone election. The draft 2021 IGA is included with the packet.

QUESTIONS FOR COUNCIL

Does the City Council wish to approve the Intergovernmental Agreement with Adams County to conduct the 2021 regular municipal election as part of a coordinated election?

LEGAL COMMENTS

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: n/a

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: n/a

RESOLUTION NO.____ _

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF AURORA, FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 2, 2021

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, the City of Aurora, Colorado (the "City"), and Adams County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding the conduct of the November 2, 2021, coordinated general municipal election; and

WHEREAS, the City Council of the City finds and determines that such agreement is in the best interests of the City and its citizens; and

WHEREAS, the City Council is authorized by City Charter Article 10-12, City Code Section 2-31, and Colorado Revised Statutes Section 29-1-203, to enter into intergovernmental agreements upon adoption of a Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Intergovernmental Agreement between the City of Aurora, Colorado, and Adams County, Colorado, for the conduct of the coordinated general municipal election to be held November 2, 2021 is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute and deliver said Intergovernmental Agreement in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. All Resolutions or parts of Resolutions of the City of Aurora, Colorado, in conflict herewith are hereby rescinded.

Section 4. This Resolution shall take effect immediately without reconsideration.

RESOLVED AND PASSED this ____day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

RLA
David Lathers
_____
DAVE LATHERS, Senior Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT BETWEEN
ADAMS COUNTY AND
THE CITY/TOWN OF _____
FOR THE NOVEMBER 2, 2021 COORDINATED ELECTION

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2021, by and between the Adams County Clerk and Recorder, located at 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601, hereinafter referred to as the "Clerk and Recorder," and the City/Town of _____, located at _____
_____, hereinafter referred to as the "Municipality" for the purpose of conducting a Coordinated Election to be held on **November 2, 2021**. The Clerk and Recorder and the Municipality may be collectively referred to herein as the "Parties."

RECITALS

WHEREAS, pursuant to Colo. Const. art. XIV, § 18(2)(a), and Colorado Revised Statute (C.R.S.) § 29-1-203, the County and the Municipality may cooperate or contract with each other to provide any function or service lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and incurring of debt; and,

WHEREAS, pursuant to § 1-1-111, C.R.S. of the Uniform Election Code of 1992 (§ 1-1-101, *et. seq.* C.R.S.), hereinafter referred to as the "Code," the Municipality is authorized to contract with the Clerk and Recorder to perform all or part of the duties associated with conducting elections; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in their best interests to conduct the election as a "coordinated election," as such terms are defined in the Code; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in the best interests of their respective residents to cooperate and contract concerning the election upon the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is acknowledged, the Parties hereto agree as follows:

AGREEMENT

ARTICLE I: DUTIES OF THE CLERK AND RECORDER

1. COORDINATED ELECTION OFFICIAL. The Clerk and Recorder shall act as the "Coordinated election official," pursuant to § 1-1-104(6.5), C.R.S., and shall be responsible for the conduct of the election, which shall be in accordance with the provisions of the Code, the Taxpayer's Bill of Rights, Colo. Const. art. X, § 20, hereinafter referred to as "TABOR," and any pertinent Rules promulgated by the Colorado Secretary of State, hereinafter referred to as the "Rules."

2. NO RUN-OFF ELECTION. This Agreement is for the November 2, 2021 election only. In the event the Municipality's Code and/or Charter provide for a run-off election, and a run-off election becomes necessary, the Adams County Clerk and Recorder will not conduct that election for the Municipality.

3. CONTACT OFFICER. The Election Administrator, Jami Gaultney, will be the designated contact officer and will act as the primary liaison between the Election Office and the Municipality for purposes of the election. Jami Gaultney can be reached at (720) 523-6421 or jgaultney@adcogov.org.

4. VOTER LISTS. Upon the request of the Municipality, the Clerk and Recorder shall provide to the Municipality a list of the names and addresses of the registered voters in the Municipality. The list shall be certified by the Clerk and Recorder upon the request of the Municipality designated election official. If the Municipality believes the Clerk and Recorder's voter registration list is inaccurate, the Municipality shall immediately advise the Clerk and Recorder and shall work with the Clerk and Recorder on corrections and revisions in a timely manner.

5. VOTING. The Clerk and Recorder shall provide for voter service and polling centers, mail, emergency, and provisional voting, pursuant to the relevant provisions of the Code and/or the Rules.

6. CERTIFICATION OF RESULTS. The Clerk and Recorder shall appoint a canvass board, pursuant to § 1-10-101 or § 1-10-201, *et seq.*, C.R.S.

7. RECORDS AND STORAGE. The Clerk and Recorder shall store all election records, and any other such materials as required under the Code, for a period of at least twenty-five (25) months after the election. Such storage shall be accessible by the Municipality, if legally necessary, upon accompaniment by the Clerk and Recorder or a designated representative, to resolve any challenges or other legal questions that might arise. In addition, upon request, the Clerk and Recorder shall compile a list of the names of persons who vote in the election and, shall provide to the Municipality a printed or electronic list containing the names of those persons.

ARTICLE II: DUTIES OF THE MUNICIPALITY

1. DESIGNATED ELECTION OFFICIAL. The Municipality has designated _____
_____
_____,
as its "designated election official," pursuant to § 1-1-104(8), C.R.S. The designated election official shall act as the primary liaison between the Municipality and the Clerk and Recorder. The municipality may provide a secondary contact via email to jgaultney@adcogov.org. All communications concerning the election, whether oral or in writing, shall be directed to the Adams County Election Department, 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601; phone number: (720) 523-6421; and facsimile number: (720) 523-6266. Email communications are preferred and should be sent to jgaultney@adcogov.org.

2. ORDINANCE OR RESOLUTION. In order to avoid any potential discrepancies and as allowed by § C.R.S. 1-1-102, the Municipality will pass an Ordinance or Resolution indicating that it will utilize and be subject to the requirements and procedures of the Uniform Election Code of 1992 while participating in this election and that said Code will apply in lieu of the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., with respect to any election. Municipality will supply a copy of this Ordinance or Resolution when returning a signed copy of this IGA to the Clerk and Recorder.

3. STREET LOCATOR FILE. In order for the Clerk and Recorder to provide correct ballots to electors, it is critical that the information contained in the Municipality's street locator file be accurate. It is the Municipality's responsibility to ensure that the information contained in the street locator file is an accurate representation of the Municipality's street indexes contained within the Municipality's legal boundaries.

As long as the Clerk and Recorder has been timely notified of the Municipality's intent to participate in the election, the Clerk and Recorder will provide to the Municipality a street locator file by **July 28, 2021**.

- The file will contain a list of the street address ranges the Clerk and Recorder's system currently shows as being located in the Municipality.
- The designated election official for the Municipality shall inspect the information contained in the locator file and shall notify the Clerk and Recorder's Office by **August 13, 2021** of any changes, additions or deletions that need to be made. If required, the Clerk and Recorder will make the required changes and resubmit the locator file to the Municipality.
- The Municipality will inspect the file and shall make a final certification as to the accuracy of the locator file by no later than **September 3, 2021**.
- If the locator information and/or certification are not provided by the Municipality on the date specified herein, the Municipality may not participate in the election on **November 2, 2021.**

4. LEGAL NOTICES. The Clerk and Recorder shall publish notice of the election, as required by the Code, and such publication shall satisfy the publication requirement for all political subdivisions participating in the election, pursuant to § 1-5-205(1.4), C.R.S. However, the Municipality shall post and/or publish any other legal notices required of the Municipality, pursuant to relevant provisions of its charter, the Code, TABOR, the Rules, or the Colorado Municipal Code of 1965, § 31-10-101, *et seq.*, C.R.S., except as otherwise provided herein.

6. PETITIONS. Petitions, where applicable, shall be made available through the Municipality's designated election official, pursuant to the applicable laws and/or rules.

7. VERIFICATION OF PETITIONS. Petitions shall be verified by the Municipality, pursuant to the applicable laws and/or rules. The Clerk and Recorder will provide access to voter registration information to the Municipality if petitions are verified.

8. WRITE-IN CANDIDATES. Affidavits of intent to become a write-in candidate, where applicable, shall be filed with the Municipality's designated election official, pursuant to the applicable laws and/or rules, and a copy will be provided to the Clerk and Recorder.

9. BALLOT CERTIFICATION AND PREPARATION. The Municipality shall provide to the Clerk and Recorder the Municipality's ballot text by no later than **September 3, 2021 at 3:00 p.m.**, which is sixty (60) days prior to the election, pursuant to § 1-5-203(3)(a), C.R.S.. The Municipality shall be solely responsible for the language, content, and accuracy of the ballot text.

In accordance with § 1-5-407(7), C.R.S., no printing or distinguishing marks shall be on the ballot except as specifically provided in the Code. Additionally, the ballot text shall be submitted by e-mail as an attachment that conforms to the following requirements, to Jami Gaultney at jgaultney@adcogov.org. Ballot questions and issues will be designated a number and a letter after ballot certification.

The ballot text, sample attached as "Exhibit A", shall be provided:

- In Microsoft Word format
- In Arial 10 point font
- With no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, bolding, strike-outs, strike-throughs, parenthesis, or symbols)
- Ballot issue title and text shall be provided in all caps
- All contests must include the "term of office" and "vote for #" information

For purposes of consistency, when candidates choose to use nicknames they will appear on the ballot in quotation marks as follows: First Name "Nickname" Last Name.

An audio recording of all candidate names for Municipality's portion of the ballot must be provided by having the candidates call (720) 523-6046 and follow the recorded instructions by no later than the ballot certification deadline of **September 3, 2021 at 3:00 p.m.**

Within one (1) business day of receiving a "proof-ready" copy of the ballot text from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the ballot prior to the printing of ballots. The Municipality will be allowed to make corrections to the ballot proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District's portion of ballot text will be approved for printing.

10. ELECTION TESTING, AUDIT AND RESULTS. The Municipality may attend and observe any ballot testing, as scheduled by the Clerk and Recorder, prior to the election. The Municipality may also attend and observe any logic and accuracy or post-election audit conducted after Election Day, pursuant to §§ 1-7-509 and 1-7-514, C.R.S. Election results will not be final and official until certified by the canvass board, which may be up to 22 days after Election Day.

11. ELECTION DAY. On Election Day, the Municipality shall provide election support by telephone and/or in-person from 7 a.m. until 7 p.m. or longer, as requested by the Clerk and Recorder. The Municipality must also act as a voter registration agent as required by § 1-2-202 (2), C.R.S., and assist voters with "same day voter registration" needs, if a voter appears and requests such service.

12. REFERENCE CALENDAR. The Municipality will comply with all of the dates listed in the Important Elections Dates calendar attached as "Exhibit B".

ARTICLE III: TABOR

The Municipality shall be solely responsible for its compliance with the requirements of TABOR, Colo. Const. art. X, § 20, for the purposes of the election, unless otherwise specified herein.

If the Municipality is required to prepare a TABOR notice for any ballot issue(s), the Municipality shall be solely responsible for its preparation, accuracy, and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the Clerk and Recorder by no later than **September 20, 2021 at 3:00 p.m**., which is forty-three (43) days prior to the election, pursuant to § 1-7-904, C.R.S. Such notice, including pro and con summaries and fiscal information, shall be submitted by e-mail as an attachment that conforms to the following requirements to Jami Gaultney at jgaultney@adcogov.org.

The notice, sample attached as "Exhibit C", shall be provided:

- in Microsoft Word format
- in Arial 10 point font
- with no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, strike-outs, strike-throughs, bolding, or symbols)

If the Clerk and Recorder is responsible for preparing a TABOR notice package, the Clerk and Recorder shall do so in compliance with the provisions of TABOR, Colo. Const. art. X, § 20, and any pertinent Rules.

Except as otherwise specified herein, the Clerk and Recorder shall in no manner be responsible for the Municipality's compliance with the requirements of TABOR, nor shall the Clerk and Recorder in any manner be responsible for the language contained in the TABOR notice(s) prepared by the Municipality.

The Municipality shall be solely responsible for calculating and providing to the Clerk and Recorder any fiscal information necessary to comply with TABOR, Colo. Const. art. X, § 20(3)(b), and the Clerk and Recorder shall in no way be responsible for the accuracy of the fiscal information, which shall be placed in the ballot issue notice as provided by the Municipality.

If applicable, pursuant to § 1-7-906(2), C.R.S., the Municipality shall be responsible for mailing the ballot issue notice packet to each address of one or more active registered electors who do not reside within the County.

Within one (1) business day of receiving a "proof-ready" copy of the TABOR notice from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the notice prior to the printing of notices. The Municipality will be allowed to make corrections to the notice proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District's portion of the TABOR Notice will be approved for printing.

ARTICLE IV: COSTS

The Municipality shall reimburse the County for its prorata share of the actual costs of the election, as permitted under § 1-7-116(2)(b), C.R.S., including the costs associated with the mailing of the TABOR notice package (if applicable). Such proration shall be made based upon a formula of active registered voters within each entity participating in the election. The prorated actual costs shall include those expenses permitted by state law including, but not limited to, the costs of temporary labor, part-time labor, overtime, postage, equipment delivery, extraordinary equipment rental, printing, legal publications, mailings, materials, voter service and polling centers if applicable, election worker expenses, and other costs. There may be additional factors, for example anticipated voter turnout, that may affect this cost estimate. A multiple page ballot is possible and will result in additional costs. Actual costs may include charges for extraordinary ballot question length if said length results in increased printing costs. Minimum election cost is $100.

For the 2021 election, it is estimated that costs to the Municipality will be approximately $2.00 per active registered voter in the Municipality. This is an estimate only.

TABOR notice costs will be additional and will be billed for printing based on the number of pages consumed by the Municipality. TABOR notice costs will be based on the number of active registered voter households in the Municipality. There is a $100 TABOR notice cost for entities with 1,000 voters or less. The TABOR notice cost for entities with 2,000 voters or less is $500. Fees for Districts with more than 2,000 voters are based on proportional actual costs.

In the event Municipality has a mandatory recount, Municipality will be responsible and charged for the actual cost incurred by the County for conducting the recount.

In the event that there is an error in the ballot language certified to the Clerk and Recorder by the Municipality, and the Municipality requests that it be corrected, the Clerk and Recorder will make its best effort to correct the error on the ballot if time and circumstance allow. However, the Municipality will be responsible for the cost of correcting the error, including, but not limited to all costs associated with reprinting the ballots.

The Clerk and Recorder shall submit to the Municipality an invoice for all expenses incurred under this Agreement, and the Municipality shall remit to the Clerk and Recorder the total payment within thirty (30) days of the receipt of such invoice. If the invoice is not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE V: CANCELLATION OF THE ELECTION

In the event the election is canceled, notice of such cancellation shall be provided by the Municipality to the Clerk and Recorder. The Municipality shall reimburse the Clerk and Recorder for the actual expenses incurred in preparing for the election, and those expenses shall be paid by the Municipality to the Clerk and Recorder within thirty (30) days of the receipt of an invoice therefor. If cancelation occurs after the certification deadline, full election costs may be incurred. If the actual expenses are not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE VI: DAMAGES

Subject to the provisions of the Colorado Governmental Immunity Act, each party assumes liability for losses, costs, demands or actions arising out of or related to any actions, errors or omissions of its officers, employees, or agents in fulfilling its responsibilities for the election or under this Agreement. Nothing contained in this Agreement shall constitute any waiver by either party of the provisions of the Colorado Governmental Immunity Act or any other immunity or defense provided by statute or common law.

ARTICLE VII: CONDUCT OF THE ELECTION

It is the intent of the Parties that the Clerk and Recorder shall conduct the election and the Municipality shall timely supply the Clerk and Recorder with all information needed for that part of the election that is related to the Municipality.

ARTICLE VIII: MISCELLANEOUS

1. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures.

2. NOTICES. Any and all notices required to be given to the Parties by this Agreement are deemed to have been received and to be effective: a) three (3) days after the same shall have been mailed by certified mail, return receipt requested; b) immediately upon hand delivery; or c) immediately upon receipt of confirmation that a facsimile transmission thereof was received. All notices shall be addressed to the following Parties:

For the Clerk and Recorder:
Josh Zygielbaum
Adams County Clerk and Recorder
4430 S. Adams County Parkway
Suite E3102
Brighton, Colorado 80601
Phone: (720) 523-6500
Facsimile: (720) 523-6266
E-mail: jzygielbaum@adcogov.org

Jennifer D. Stanley, Assistant County Attorney
Adams County Attorney's Office
4430 S. Adams County Parkway, Suite C5000B
Brighton, Colorado 80601
Phone: (720) 523-6116
Facsimile: (720) 523-6114
E-mail: jstanley@adcogov.org

For the Municipality:
_____
_____
_____
_____
_____
_____
_____

3. INTEGRATION OF UNDERSTANDING. This Agreement contains the entire understanding of the Parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by all of the Parties.

4. SEVERABILITY. If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect. No subsequent resolution or ordinance enacted the Municipality shall impair the rights of the Clerk and Recorder or the Municipality hereunder without the written consent of the Parties.

5. TIME OF ESSENCE. Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the date first written above.

CLERK AND RECORDER
ADAMS COUNTY, COLORADO

_____ _____
Josh Zygielbaum Date

Approved as to form:

_____
Adams County Attorney's Office

FOR THE Municipality:

_____ _____
Name:_____ Date
Title:_____

ATTEST:

_____ _____
Municipal Clerk Date

Approved as to form:

_____
Municipality Attorney's Office

Exhibit A
Ballot Text Examples

Contests

"District" "Office"
"Term of Office"
"(Vote for #)"

"Candidate names in Arial 10 point font and upper/lower case"

Ballot Questions

"District" Question "#"

"Ballot Title"

"Print ballot question in Arial 10 point font and upper/lower case text."

Ballot Issue

"DISTRICT" BALLOT ISSUE "#"

"BALLOT TITLE"

"PRINT BALLOT ISSUE IN ARIAL 10 POINT FONT AND ALL UPPERCASE TEXT."

Exhibit B
Important Election Dates

The following are dates of important activities related to the 2021 election for reference by the Municipality.

2021 Election Activity Dates	
7/23	Last day for Municipality to notify Clerk of intent to participate
7/28	Clerk supplies Municipality with street locator file
8/13	Last day for Municipality to notify Clerk of street locator file discrepancies
8/24	Last day to sign IGA
9/3	Last day for Municipality to file ballot content with Clerk
9/3	Last day for Municipality to provide audio recording of candidates' names
9/3	Last day for Municipality to certify street locator file
9/20	Last day for Municipality to certify TABOR content, if applicable
11/2	Election day – Municipal Clerk's office must be open 7 a.m. - 7 p.m. to assist voters

Exhibit C
TABOR Notice Example

NOTICE OF ELECTION TO XXXXXXXX XXXXX

[two line spaces]

Election Date: Tuesday, November 2, 2021
Election Hours: 7:00 AM – 7:00 PM

Local Election Office: Name of Designated Election Official
Entity
Street Address
City, CO Zip
(xxx) xxx-xxxxx [phone] [extension if applicable]

[two line spaces]

Ballot title and text of ballot issue:

xxxxxx
xxxxxxxxxx
xxxxxxx
xxxx
xxxx
xxxx

Fiscal Information [insert table, type in info]

Fiscal Year	Fiscal Year Spending
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual	$ xxx,xxx,xxx
20xx (Estimated)	$ xxx,xxx,xxx

Then undo table borderlines, content will be in column alignment

Fiscal Year	Fiscal Year Spending
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual	$ xxx,xxx,xxx
20xx (Estimated)	$ xxx,xxx,xxx

Overall percentage change xxxXXXxxxxxxxx: percentage
Overall dollar xxxxxxxxxxxxxxxxXXXXxxxxxxx: $ xx,xxx,xxx
Estimated 20xx (first full fiscal year)xxxxxxx: $ xx.xxx.xxx
Estimated 20xx fiscal year spending xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
Xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx: $ xx,xxx,xxx

Information on District's Current **Debt***
xxxxx
xxxxx

Please do not use underscore line or footnote for *
Type only the * and comment

Summary of Written Comments FOR xxxxxxxx:

Summary of Written Comments AGAINST xxxxxx:

CITY OF AURORA
Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado and Douglas County, Colorado for a coordinated election to be held November 2, 2021
Item Initiator: Kadee Rodriguez, City Clerk
Staff Source/Legal Source: Kadee Rodriguez, City Clerk / Dave Lathers, Assistant City Attorney
Outside Speaker: n/a
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☒ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☒ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name:

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

Regular municipal elections are defined as those at which persons are elected to municipal office. Section 54-7 of the Aurora municipal code "herby declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams and Douglas counties'. Furthermore, election legislation adopted in 2013 authorized all elections conducted by county clerk and recorders to be mail ballot elections.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

City Council is being asked to approve a resolution for an Intergovernmental Agreement with Douglas County authorizing participation in the November 2, 2021, coordinated election utilizing Title 1, the Uniformed Election Code of 1992, as the legislative basis for that election, The City of Aurora has participated in coordinated elections in prior years and staff is supporting continuing participation. Election costs continue to rise; however, the cost of participation is anticipated to be less than having the City conduct its own standalone election. The draft 2021 IGA is included with the packet.

QUESTIONS FOR COUNCIL

Does the City Council wish to approve the Intergovernmental Agreement with Douglas County to conduct the 2021 regular municipal election as part of a coordinated election?

LEGAL COMMENTS

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: n/a

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: n/a

RESOLUTION NO.____ _

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN DOUGLAS COUNTY AND THE CITY OF AURORA, FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 2, 2021

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, the City of Aurora, Colorado (the "City"), and Douglas County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding the conduct of the November 2, 2021, coordinated general municipal election; and

WHEREAS, the City Council of the City finds and determines that such agreement is in the best interests of the City and its citizens; and

WHEREAS, the City Council is authorized by City Charter Article 10-12, City Code Section 2-31, and Colorado Revised Statutes Section 29-1-203, to enter into intergovernmental agreements upon adoption of a Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Intergovernmental Agreement between the City of Aurora, Colorado, and Douglas County, Colorado, for the conduct of the coordinated general municipal election to be held November 2, 2021 is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute and deliver said Intergovernmental Agreement in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. All Resolutions or parts of Resolutions of the City of Aurora, Colorado, in conflict herewith are hereby rescinded.

Section 4. This Resolution shall take effect immediately without reconsideration.

RESOLVED AND PASSED this ____day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

David Lathers RLA
DAVE LATHERS, Senior Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT

BETWEEN

DOUGLAS COUNTY CLERK AND RECORDER

AND

_____
(Jurisdiction Name)

REGARDING THE CONDUCT AND ADMINISTRATION OF THE

NOVEMBER 2, 2021
COORDINATED ELECTION

MERLIN KLOTZ
DOUGLAS COUNTY CLERK AND RECORDER
ELECTIONS DIVISION
CASTLE ROCK, CO 80109

THIS AGREEMENT is made by and between the Board of County Commissioners of the County of Douglas, State of Colorado, on behalf of the Douglas County Clerk and Recorder (hereinafter referred to as the "County") and _____ (hereinafter referred to as the "Jurisdiction") collectively as the "Parties"; and

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.), governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, pursuant to section 1-7-116, C.R.S. if more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the County Clerk and Recorder is the Coordinated Election Official and, pursuant to section 1–5– 401, C.R.S. shall conduct the elections on behalf of all political subdivisions utilizing the mail ballot procedures set forth in article 7.5 of title 1; and

WHEREAS, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct the Coordinated Election on November 2, 2021; and

WHEREAS, such agreements are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution, and sections 1-7-116 and 29-1-203, C.R.S.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree this election shall be conducted as a coordinated election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.) or any other Title of C.R.S. governing participating Jurisdiction's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules (hereinafter referred to as the "Code"). The election participants will execute agreements with Douglas County for this purpose and may include municipalities, school districts, and special districts within the Douglas County limits and the State of Colorado.

SECTION I.
PURPOSE AND GENERAL MATTERS

1.01 DEFINITIONS:

A. "**Coordinated Election Official**" (hereinafter "CEO") means the County Clerk and Recorder who acts as the "coordinated election official", as defined within the Code and Rules.

B. "**Contact Officer**" means the person who acts as the primary liaison or contact between the Jurisdiction and the CEO. The Contact Officer shall be that person under the authority of the CEO who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.

C. **Canvass Board** is appointed by the major political parties before the election. The canvass is the audit function of the election and the process of reconciling the number of ballots counted to the number of voters who voted. The Canvass Board

will meet no later than the 22nd day after the election to certify the abstract of votes cast.

D. "**Designated Election Official**" (hereinafter "DEO"), means the person identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction, as specified within the Code.

E. **Logic & Accuracy Test** The county must conduct a Logic and Accuracy Test on its voting equipment at least 21 days before the election. Voting devices must be tested before they are used in an election. One registered elector from each major political party is required to serve on the Logic and Accuracy Testing Board.

F. **Risk Limiting Audit** This audit provides strong statistical evidence that the election outcome is correct. The number of ballots required to conduct an RLA will vary based on the smallest margin of the contest selected by the Secretary of State and the risk limit. The smaller the margin, the more ballots to audit. The smaller the risk limit, the more ballots to audit. The Audit Board is appointed by the major political parties and must complete its report no later than 5:00 p.m. one business day before the canvass deadline. At least one member of each major political party's Canvass Board will serve as an observer of the audit.

G. **TABOR** (Taxpayer Bill of Rights) is a constitutional measure that requires voter approval for tax increases.

1.02 JOINT RESPONSIBILITIES

A. All parties shall familiarize themselves with all statutory and regulatory requirements impacting coordinated elections and TABOR notices and shall adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the duties required.

B. Nothing herein shall be deemed to relieve the CEO or the Jurisdiction from their official responsibilities for the conduct of the election, including any of their respective responsibilities under the Fair Campaign Practices Act or any local ordinances concerning fair campaign practices.

1.03 JURISDICTION

The Jurisdiction encompasses territory within Douglas County. This Agreement shall apply only to that portion of the Jurisdiction within Douglas County. Where the Jurisdiction is entirely contained within Douglas County, the Contact Officer has jurisdiction in establishing ballot order and number in accordance with CRS 1-5-407(5). When the Jurisdiction is split among more than one county, the Contact Officer will coordinate with other counties to agree upon ballot order and numbering, per Colorado SOS Election Rule 4.2.

SECTION II.
COUNTY/JURISDICTION RESPONSIBILITIES

The County and the Jurisdiction shall each perform their respective duties and/or functions within the context of this Agreement:

2.01 COUNTY RESPONSIBILITIES:

A. Assist the DEO on any matter related to the election to ensure the smooth and efficient operation of the election (such information shall not include legal advice) by designating a Contact Officer with the specific duty of assisting with the election of the Jurisdiction and acting as the primary liaison between the County and Jurisdiction.

B. Provide an Address Confirmation Form (Appendix A) accompanied by an Address Library Report and Jurisdiction Boundary Map that defines Jurisdictional boundaries in terms of residential street ranges based on County Assessor records. The Address Library Report will include the address report from the Secretary of State voter registration system, which defines street addresses within the Jurisdiction.

C. Verify errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.

D. Contract for the mail ballot packets (ballot(s), voter instructions, and return envelope) and remit payment directly to the vendor.

E. Provide ballot printing layouts compliant with the Code for proofreading and signature approval by the Jurisdiction prior to final ballot printing.

F. Mail the ballot packets as required by the Code.

G. Provide a certified list of the Jurisdiction's registered voters, as requested.

H. Conduct all associated tasks relating to election judges including, but not limited to, eligibility, placement, training, and oversight.

I. Conduct all functions of the Canvass Board to include a canvass of the votes and certification of the results. Additionally, provide the Jurisdiction a copy of all election statements required under the Code.

J. Prepare and conduct the Logic and Accuracy Test.

K. Publish and post the required legal notices. pursuant to § 1-5-205(1), C.R.S.

L. Refer members of the public and press to the DEO regarding specific questions about ballot measures or candidates.

M. Provide all necessary equipment, system programming, and personnel for ballot tabulation.

N. Conduct and oversee the process of counting ballots and reporting results.

O. Conduct a recount of the ballots cast if required by law, requested by the Jurisdiction, or requested by an interested party as allowed by the Code.

P. Prepare and conduct the Risk Limiting Audit before certifying election results.

Q. Provide the Jurisdiction an invoice for all expenses incurred under this Agreement.

R. Archive and maintain all election records as required by the Code.

2.02 JURISDICTION RESPONSIBILITIES:

A. Identify a DEO who shall familiarize themselves with all statutory and regulatory requirements impacting the Jurisdiction.

B. Identify immediately to the Contact Officer if Jurisdiction is shared by additional county(ies).

C. Provide a copy of the Ordinance or Resolution stating that the Jurisdiction has adopted the exclusive use of the Code for the conduct of the election and that the Jurisdiction will participate in the coordinated election in accordance with the terms and conditions of this Agreement.

D. Confirm sufficient funds are available and appropriated in Jurisdiction's approved budget to pay election expenses. The Jurisdiction recognizes that the County cannot accurately predict the exact cost for the election, but represents to the County that it will pay its calculated prorated share and has appropriated sufficient funds to do so.

E. Return this Intergovernmental Agreement with the signature page completed on or before the seventieth (70) day prior to the election per the Code.

F. May appoint one representative to participate in the Canvass Board. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

G. May appoint one representative to participate in the Logic and Accuracy Test. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

H. May choose to appoint an observer for the Risk Limiting Audit. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

I. Certify Jurisdictional boundaries by completing and returning the Address Confirmation Form or the Jurisdiction Boundary Map (Appendix A)

J. Review all petition information, if applicable, and verify the information against the registration records, and, where applicable, the county assessor's records as per § 1-4-908, C.R.S. After review, the DEO shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient, and after the time for protest has passed, the DEO shall certify the candidate to the ballot, and notify the Contact Officer.

K. The DEO shall refer correspondence and calls relating to the election outside of the DEO's expertise to the Contact Officer for response.

L. Determine the ballot title and text. Certify, if applicable, the candidate, how many selections a voter should make (e.g., Vote for One), whether there is a certified write-in candidate, the list of ballot issues and/or ballot questions electronically (with receipt confirmed by the Contact Officer) in a plain text format, on or before the sixtieth (60) day, no later than 5:00 pm. The ballot content must be certified in the order in which it will appear on the ballot and must include specific instructions (e.g., Vote for One, etc.). The certified list of candidates and ballot measures shall be final, and the Contact Officer will not be responsible for making any changes after the certification, except those prescribed by statute. The Contact Officer will not accept text that includes, but is not limited to, bold, italic, underline, bullets, numbering, tables, strikethrough or indentations. The use of all capital letters is reserved for TABOR issues only, per the Code.

M. Provide either directly by the DEO or by the candidate on behest of the DEO, the phonetic pronunciation of each candidate's name to assist in the preparation of the audio ballot at the time ballot content is certified to the County. Record a voice message at (303) 663-6279 and include the candidate name, jurisdiction, and title of office no later than sixty (60) days prior to the election.

N. Indicate whether question(s) are a referred measure or an initiative from a citizen petition. The Jurisdiction understands and agrees that any untimely ballot content submitted may result in candidates, issues, or questions not being on the ballot for the coordinated election.

O. Proofread the layout and the text of the Jurisdiction's portion of the official ballots and TABOR notice (if applicable) and provide written confirmation (electronic format) of acceptance before the printing of the ballots. **Approval or requested changes must be received within two (2) hours of receiving the layout and text from the county.** This may require availability outside of normal business hours. Such acceptance is final, and no changes will be made after written notice (electronic format) is given to the Contact Officer. Failure to respond by the deadline will be considered acceptance "as is". A penalty for delay or rework of the ballot or TABOR notice will result in an additional fee to the Jurisdiction for <u>all</u> associated costs with fixing or correcting Jurisdictional errors.

P. Perform the following tasks (as applicable) where Jurisdictional property owners are eligible to vote:

a. Notify Contact Officer of the Title under which the political subdivision is formed and specifically which property owners are eligible to vote in the election.

b. Provide a certified list of eligible property owners, as determined by the Jurisdiction, who:
    i. Own property within the Jurisdiction, appear on the State of Colorado list of registered voters and reside at an address that is not within the boundaries of Douglas County ("Out of County" property owners); or,
    ii. Own property within the Jurisdiction, appear on the Douglas County list of registered voters, reside at an address that may not match the property address as shown on the County Assessor's list, but is within the boundaries of Douglas County ("In County" property owners).

c. Coordinate directly with the Douglas County Assessor's Office (303-660-7450), or visit their website to obtain the list of all recorded owners of taxable real and personal property at https://apps.douglas.co.us/assessor/advanced-search/.

d. Exclude non-person entities and persons not living in the state of Colorado; any individuals not registered to vote; any person who resides in the district, as they will already receive a mail ballot.

e. Submit the lists as an electronic copy using Microsoft Excel format. The spreadsheet shall contain no more than one (1) eligible elector's name per line. Each line shall consist of the following separated fields: Last name, first name, middle name, mailing address, city, state, zip, parcel number, phone number, if available, and voter identification number. All files provided to the Contact Officer are to be clearly named.

Q. Publish and post any required legal notices for the Jurisdiction's ballot content, other than the notice required by § 1-5-205, C.R.S, which Douglas County will publish. A copy of such published legal notice shall be submitted to the Douglas County Clerk and Recorder, Recording Division for its records.

R. Provide phone support on Election Day from 7:00am – 7:00pm. Designated contact person for Jurisdiction must be provided upon execution of this Agreement. Emergency contact information must also be provided for this purpose.

S. Notify the Contact Officer within 24 hours of the completion of the final ballot tabulation whether a recount is required or desired. The Jurisdiction shall reimburse the County for the full cost of the recount. If other Jurisdictions are included in the recount, the cost will be pro-rated among the participating Jurisdictions as per § 1-10.5-101, C.R.S. Refer to SOS Rule 10.9.5 for Jurisdictions in more than one County.

T. Within thirty (30) days from the date of receipt of such invoice, the Jurisdiction shall remit total payment to the County.

U. Pay any additional or unique election costs resulting from Jurisdiction delays, mistakes, recounts, and/or special preparations or cancellations relating to the Jurisdiction's participation in the coordinated election. Charges are $1.00 per registered voter, with a minimum charge of $1,000, not including publication cost, excess linear ballot column

inches cost ($2,000 for Coordinated over 5"), and TABOR Notice costs with a minimum charge of $500 (if applicable).

Illustrative Pro-Rated Costs Table:

Current Registration Total (Active & Inactive)	% of Total Participants Registration	TABOR registered Voters	TABOR % of total Registration	Current Registration Total X $1.00	**OR** $1k minimum, whichever is greater	**AND** $2k ea. add. column inch over 5	TABOR Notice Cost x % registration or $500 minimum	Public Notice Divided equally by participating entities	Requested Report Fees ($25/report)	Estimated Minimum Cost
43,000	17.38%	21,000	46.5%	$64,500	$0.00	$6,000	$13,953.49	$15.00	$50.00	$ 84,518.49
98,000	39.62%	45,000	99.67%	$147,000	$0.00	$2,000	$29,900.33	$15.00	$50.00	$178,965.33
7,500	3.03%	0	0.00	$11,250	$0.00	$0	$0.00	$15.00	$25.00	$ 11,290.00
300	0.12%	150	0.33%	$450	$1,000	$0	$500.00	$15.00	$25.00	$ 1,990.00

If costs of TABOR Notice were $30,000 and other public notices were $60.

SECTION III. CANCELLATION OF ELECTION

3.01 CANCELLATION OF ELECTION BY THE JURISDICTION.

In the event the Jurisdiction resolves to cancel the election, notice shall be provided to the Contact Officer immediately. The Jurisdiction shall be liable for the full actual costs of the activities relating to the election incurred both before and after the Contact Officer's receipt of such notice. The Jurisdiction shall provide and post notice by publication as defined in the Code. In the event that the Jurisdiction resolves to cancel the election after the last day for the DEO to certify the ballot order and content to the Contact Officer, the text provided by the Jurisdiction cannot be removed from the ballot and/or the TABOR Notice.

(remainder of page intentionally blank)

SECTION IV.
MISCELLANEOUS

4.01 NOTICES.
Any and all notices required to be given by this Agreement are deemed to have been received and to be effective: (1) three days after they have been mailed by certified mail, return receipt requested; (2) immediately upon hand delivery; 3) or by email to the address of a Party as set forth below or to such Party or addresses as may hereafter be designated in writing:

To County:

Merlin Klotz
Douglas County Clerk and Recorder
Elections Division
125 Stephanie Place
Castle Rock, Colorado 80109

Email: Elections@Douglas.co.us

To Jurisdiction:
(Enter Contact and address information)

_____

_____

_____

_____

_____

4.02 TERM OF AGREEMENT.
The term of this Agreement shall continue until all statutory requirements concerning the conduct of the coordinated election are fulfilled.

4.03 AMENDMENT.
This Agreement may be amended only in writing and following the same formality as the execution of the initial Agreement.

4.04 INTEGRATION.
The Parties acknowledge that this Agreement constitutes the sole Agreement between them relating to the subject matter hereof and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

4.05 CONFLICT OF AGREEMENT WITH LAW, IMPAIRMENT.
In the event that any provision in this Agreement conflicts with the Code or other statute, this Agreement shall be modified to conform to such law. No resolution of either party to this Agreement shall impair the rights of the CEO or the Jurisdiction hereunder without the consent of the other party to this Agreement.

4.06 TIME OF ESSENCE.
Time is of the essence for this Agreement. The time requirements of the Code shall apply to completion of the tasks required by this Agreement. Failure to comply with the

terms of this Agreement and/or the deadlines or the Code may result in consequences up to and including termination of this Agreement.

4.07 GOOD FAITH.
The parties shall implement this Agreement in good faith, including acting in good faith in all matters that require joint or general action.

4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.
The Parties hereto understand and agree that they, their commissioners, officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act (the "CGIA"), §§ 24-10-101 to 120, C.R.S., or otherwise available to the County or the Jurisdiction. To the extent the CGIA imposes varying obligations or contains different waivers for cities and counties, both the Jurisdiction and the County agree that they will remain liable for their independent obligations under the CGIA, and neither party shall be the agent of the other or liable for the obligations of the other.

4.09 NO THIRD-PARTY BENEFICIARIES.
The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Jurisdiction, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

(remainder of page intentionally blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the latest date noted below.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO
(Board signature required only if coordination cost will exceed $25,000)

COORDINATED ELECTION OFFICIAL:

By _____ Board of County Commissioners Chairperson

By _____ Clerk and Recorder

Date _____

Date _____

Attest _____ Deputy Clerk to the Board

APPROVED AS TO FISCAL CONTENT:

_____ Director of Finance

APPROVED AS TO LEGAL FORM:

_____ County Attorney

Jurisdiction Signatures:

By: _____

Title: _____
Date: _____

By: _____

Title: _____
Date: _____

Attest _____

Title: _____

Contents

Appendix A – Address Confirmation Form

Appendix B – Contact Information Form

Appendix C – Important Dates

Appendix D – Checklist

Appendix A
Address Confirmation Form

JURISDICTION NAME: _____

The address ranges identified in the **Address Library Report,** provided in addition to the IGA, represent all current addresses within your Jurisdiction according to our Voter Registration System address report. *The Douglas County Elections Office only maintains residential addresses – not business or commercial addresses.* We are sending you the **Address Library Report** to confirm that the address ranges are complete and accurate. These addresses will be used to identify eligible electors within the Jurisdiction. It is the Jurisdiction's responsibility to know all current addresses within its boundaries.

Please verify that the **Address Library Report** includes all residential addresses within your Jurisdiction. If there is an error, please note it on the table below. If there are no errors, omissions, and/or corrections, it is still essential to sign, date, and return this form to the Douglas County Elections Office. Thank you.

PROPOSED DISTRICTS: Provide a certified legal description, map, and street listing (including street ranges).

Section 1

Enter information in table, if applicable. If more space is needed, please create a separate document.

Street Name	Dir.	Street Type	Low/High Range	Odd/ Even	Zip Code	Notes
Example **Main**	**E**	**St.**	**101/603**	**E**	**80104**	

Section 2

Enter other counties shared by Jurisdiction.

County Name(s): _____

___ Not Applicable

I have reviewed the Jurisdiction's Address Library Report provided by the Douglas County Elections Office and certify it to be a true and accurate description of the address ranges defining boundaries of the Jurisdiction, except for any discrepancies, which are noted on this form.

_____ _____

Signature Date

Annexations, Inclusions, Exclusions

This form may be used in conjunction with the provided Jurisdiction Boundary Map, in place of reviewing and verifying the provided Address Library Report.

JURISDICTION NAME: _____

To ensure our office has the most current information, please complete the applicable Section below, pertaining to Annexations, Inclusions, and Exclusions for your Jurisdiction.

Section 1

Since January 1 of the current year, the Jurisdiction has approved (check all that apply):

__ Annexations

__ Inclusions

__ Exclusions

All supporting documents pertaining to the applicable Annexation(s), Inclusion(s), or Exclusion(s) are attached to this form and should be used by the Douglas County Elections Office in order to update address information for the Jurisdiction.

By signing below, I acknowledge and certify that the information is true and accurate.

_____ _____
Signature Date

Section 2

I acknowledge and certify the Jurisdiction has not approved any Annexation(s), Inclusion(s), or Exclusion(s) since January 1 of the current year.

By signing below, I acknowledge and certify that the information is true and accurate.

_____ _____
Signature Date

Appendix B
Contact Information Form

Please enter your Jurisdiction's information:

Jurisdiction: _____

Designated Election Official:

_____
Name

_____
Mailing Address

_____
City, State, Zip

_____
Email

_____
Phone

Represented By:

_____
Attorney / Law Firm

_____
Mailing Address

_____
City, State, Zip

_____
Email

_____
Phone

Per the IGA, please indicate the Jurisdiction representative(s) who will participate in the following activities.

Required Participation

1. **November 2, 2021; 7:00am – 7:00pm**
   Election Day phone support for citizen inquiries

Name: _____

Phone: _____

Email: _____

Optional Participation

2. **September 22, 2021 (Alternate Date = September 23)**
   Logic and Accuracy Test (LAT)

Name: _____

Phone: _____

Email: _____

3. **November 13 – 17, 2021 (Begins Saturday)**
   Risk Limiting Audit (RLA)

Name: _____

Phone: _____

Email: _____

4. **November 19, 2021 (Alternate Date = November 22)**
   Canvass Board and Final Certification of Election

   Name: _____

   Phone: _____

   Email: _____

Note: If a representative is not designated for the optional activities, the Douglas County Elections office will designate a staff member to serve on behalf of the Jurisdiction.

Douglas County Coordinated Election Official:

Merlin Klotz, Clerk and Recorder
Name

301 Wilcox Street, PO Box 1360
Mailing Address

Castle Rock, CO 80104
City, State, Zip

mklotz@douglas.co.us
Email

303-663-7364
Phone

Douglas County Contact Officer:

Kyle Kowalski, Elections Services Manager
Name

125 Stephanie Place
Mailing Address

Castle Rock, CO 80109
City, State, Zip

kkowalski@douglas.co.us
Email

720-643-2410
Phone

Douglas County Deputy of Elections:

Jack Twite Jr
Name

125 Stephanie Place
Mailing Address

Castle Rock, CO 80109
City, State, Zip

jtwite@douglas.co.us
Email

303-814-7618
Phone

Douglas County Senior Assistant Attorney:

Christopher Pratt
Name

100 Third Street
Mailing Address

Castle Rock, CO 80104
City, State, Zip

cpratt@douglas.co.us
Email

303-660-7321
Phone

Appendix C
Important Dates

Event	Date
Last day to provide in writing to the County Clerk & Recorder Notice of Intent to coordinate for the 2020 General Election (-100 days)	July 23 (Friday)
Last day to return signed IGA to the Contact Officer (-70 days)	August 24 (Tuesday)
Last day to return completed Address Confirmation Form (Appendix A) or Boundary Map to ensure accurate voter information (-70 days)	August 24 (Tuesday)
Last day to submit certified ballot order and content to the Contact Officer (-60 days)	September 3 (Friday)
Last day for Secretary of State to certify state ballot order and content to county clerk (-57 days)	September 3 (Friday)
Last day to mail ballots to Uniformed and Overseas electors (UOCAVA) (-45 days)	September 18 (Saturday)
Last day to submit TABOR Notice Language and summarized Pro/Con & Fiscal Impact Statements to Contact Officer (-43 days)	September 20 (Monday)
Logic and Accuracy Test (LAT)	September 22 (Wednesday)
Logic and Accuracy Test (LAT) – Alternate Date	September 23 (Thursday)
Ballots mailed to voters (-22 days)	October 11 (Monday) Possible October 8 (Friday) with SOS Rule
Ballot Drop Boxes open (-15 days)	October 18 - November 2 All boxes close Election Day, November 2 at 7 p.m.
Last day voter can request our office mail a ballot (-8 days)	October 25 (Monday)

Voter Service and Polling Centers (VSPCs) open (-8 days)	**October 25 – November 2 Monday - Friday, 8 a.m. - 5 p.m. Saturday, October 30, 9 a.m. - 1 p.m. Election Day, Tuesday, November 2, 7 a.m. – 7 p.m.**
Election Day	**November 2, 7 a.m. – 7 p.m. (Tuesday)**
Risk Limiting Audit (RLA)	**November 13-17 (Begins Saturday)**
Canvass Board and Final Certification of Election	**November 19 (Friday)**
Canvass Board and Final Certification of Election – Alternate Date	**November 22 (Monday)**
Final Certification of Election deadline	**November 24 (Wednesday)**

Appendix D
IGA Checklist

Dates shown below are either Statute-driven deadline dates or preferred dates of the Douglas County Elections office.

☐ **Friday, July 23**
- Provide in writing to the County Clerk and Recorder notice of intent to coordinate.

☐ **Wednesday, August 4**
- Receive and review IGA and accompanying documents from the Contact Officer, including important District addressing verification.

☐ **Tuesday, August 24**
- Complete and return all required documents of the IGA via USPS mail or email to the Contact Officer, kkowalski@douglas.co.us
- Provide a copy of the Ordinance and/or Resolution that outlines intent to participate in the General Election.
- Provide a statement to confirm sufficient funds to pay election expenses are available and appropriated in the Jurisdiction's approved budget.
- For PROPOSED DISTRICTS:
  - Provide certified legal description, map, and street listing (including street ranges).

☐ **Friday, September 3**
- Provide certified ballot order and content to the Contact Officer. C.R.S 1-5-203(3). Refer to Section 2.02 (L) of the IGA for specific requirements.
- As applicable, provide phonetic pronunciation of each candidate's name via voicemail. Refer to Section 2.02 (M) of the IGA for instructions.
- Proofread ballot layout and text for Jurisdiction's portion of the official ballot and provide written acceptance of content or written notice of necessary changes. Refer to Section 2.02 (O) of the IGA for instructions.

☐ **Monday, September 20**
- Provide Contact Officer with full text of any required ballot issues or ballot questions and all summarized pro/con statements to the Contact Officer.

☐ **Tuesday, September 28 – For elections where property owners are eligible electors:**
- Provide all applicable eligible property owner list(s). Refer to Section 2.02 (P) of the IGA for instructions and requirements.

☐ **Wednesday, October 13 – For elections where property owners are eligible electors:**
- Provide a supplemental list of applicable eligible property owner(s) for eligible voters not submitted in the original list from Monday, September 13. Refer to Section 2.02 (P) of the IGA for instructions and requirements.

☐ **Election Day, Tuesday, November 2**
- Provide phone support for Jurisdiction for hours of voting (7:00 a.m. - 7:00 p.m.) should information be needed from Douglas County Elections office or the general public.

☐ **Post-Election Day**
- Notify Contact Officer within 24 hours of completion of final ballot tabulation if a recount is required.
- Remit payment within 30 days of receipt of billing invoice.

INTERGOVERNMENTAL AGREEMENT

BETWEEN

DOUGLAS COUNTY CLERK AND RECORDER

AND

_____
(Jurisdiction Name)

REGARDING THE CONDUCT AND ADMINISTRATION OF THE

NOVEMBER 2, 2021
COORDINATED ELECTION

MERLIN KLOTZ
DOUGLAS COUNTY CLERK AND RECORDER
ELECTIONS DIVISION
CASTLE ROCK, CO 80109

THIS AGREEMENT is made by and between the Board of County Commissioners of the County of Douglas, State of Colorado, on behalf of the Douglas County Clerk and Recorder (hereinafter referred to as the "County") and _____ (hereinafter referred to as the "Jurisdiction") collectively as the "Parties"; and

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.), governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, pursuant to section 1-7-116, C.R.S. if more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the County Clerk and Recorder is the Coordinated Election Official and, pursuant to section 1–5– 401, C.R.S. shall conduct the elections on behalf of all political subdivisions utilizing the mail ballot procedures set forth in article 7.5 of title 1; and

WHEREAS, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct the Coordinated Election on November 2, 2021; and

WHEREAS, such agreements are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution, and sections 1-7-116 and 29-1-203, C.R.S.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree this election shall be conducted as a coordinated election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.) or any other Title of C.R.S. governing participating Jurisdiction's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules (hereinafter referred to as the "Code"). The election participants will execute agreements with Douglas County for this purpose and may include municipalities, school districts, and special districts within the Douglas County limits and the State of Colorado.

SECTION I.
PURPOSE AND GENERAL MATTERS

1.01 DEFINITIONS:

A. "**Coordinated Election Official**" (hereinafter "CEO") means the County Clerk and Recorder who acts as the "coordinated election official", as defined within the Code and Rules.

B. "**Contact Officer**" means the person who acts as the primary liaison or contact between the Jurisdiction and the CEO. The Contact Officer shall be that person under the authority of the CEO who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.

C. **Canvass Board** is appointed by the major political parties before the election. The canvass is the audit function of the election and the process of reconciling the number of ballots counted to the number of voters who voted. The Canvass Board

will meet no later than the 22nd day after the election to certify the abstract of votes cast.

D. "**Designated Election Official**" (hereinafter "DEO"), means the person identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction, as specified within the Code.

E. **Logic & Accuracy Test** The county must conduct a Logic and Accuracy Test on its voting equipment at least 21 days before the election. Voting devices must be tested before they are used in an election. One registered elector from each major political party is required to serve on the Logic and Accuracy Testing Board.

F. **Risk Limiting Audit** This audit provides strong statistical evidence that the election outcome is correct. The number of ballots required to conduct an RLA will vary based on the smallest margin of the contest selected by the Secretary of State and the risk limit. The smaller the margin, the more ballots to audit. The smaller the risk limit, the more ballots to audit. The Audit Board is appointed by the major political parties and must complete its report no later than 5:00 p.m. one business day before the canvass deadline. At least one member of each major political party's Canvass Board will serve as an observer of the audit.

G. **TABOR** (Taxpayer Bill of Rights) is a constitutional measure that requires voter approval for tax increases.

1.02 JOINT RESPONSIBILITIES

A. All parties shall familiarize themselves with all statutory and regulatory requirements impacting coordinated elections and TABOR notices and shall adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the duties required.

B. Nothing herein shall be deemed to relieve the CEO or the Jurisdiction from their official responsibilities for the conduct of the election, including any of their respective responsibilities under the Fair Campaign Practices Act or any local ordinances concerning fair campaign practices.

1.03 JURISDICTION

The Jurisdiction encompasses territory within Douglas County. This Agreement shall apply only to that portion of the Jurisdiction within Douglas County. Where the Jurisdiction is entirely contained within Douglas County, the Contact Officer has jurisdiction in establishing ballot order and number in accordance with CRS 1-5-407(5). When the Jurisdiction is split among more than one county, the Contact Officer will coordinate with other counties to agree upon ballot order and numbering, per Colorado SOS Election Rule 4.2.

SECTION II.
COUNTY/JURISDICTION RESPONSIBILITIES

The County and the Jurisdiction shall each perform their respective duties and/or functions within the context of this Agreement:

2.01 COUNTY RESPONSIBILITIES:

A. Assist the DEO on any matter related to the election to ensure the smooth and efficient operation of the election (such information shall not include legal advice) by designating a Contact Officer with the specific duty of assisting with the election of the Jurisdiction and acting as the primary liaison between the County and Jurisdiction.

B. Provide an Address Confirmation Form (Appendix A) accompanied by an Address Library Report and Jurisdiction Boundary Map that defines Jurisdictional boundaries in terms of residential street ranges based on County Assessor records. The Address Library Report will include the address report from the Secretary of State voter registration system, which defines street addresses within the Jurisdiction.

C. Verify errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.

D. Contract for the mail ballot packets (ballot(s), voter instructions, and return envelope) and remit payment directly to the vendor.

E. Provide ballot printing layouts compliant with the Code for proofreading and signature approval by the Jurisdiction prior to final ballot printing.

F. Mail the ballot packets as required by the Code.

G. Provide a certified list of the Jurisdiction's registered voters, as requested.

H. Conduct all associated tasks relating to election judges including, but not limited to, eligibility, placement, training, and oversight.

I. Conduct all functions of the Canvass Board to include a canvass of the votes and certification of the results. Additionally, provide the Jurisdiction a copy of all election statements required under the Code.

J. Prepare and conduct the Logic and Accuracy Test.

K. Publish and post the required legal notices. pursuant to § 1-5-205(1), C.R.S.

L. Refer members of the public and press to the DEO regarding specific questions about ballot measures or candidates.

M. Provide all necessary equipment, system programming, and personnel for ballot tabulation.

N. Conduct and oversee the process of counting ballots and reporting results.

O. Conduct a recount of the ballots cast if required by law, requested by the Jurisdiction, or requested by an interested party as allowed by the Code.

P. Prepare and conduct the Risk Limiting Audit before certifying election results.

Q. Provide the Jurisdiction an invoice for all expenses incurred under this Agreement.

R. Archive and maintain all election records as required by the Code.

2.02 JURISDICTION RESPONSIBILITIES:

A. Identify a DEO who shall familiarize themselves with all statutory and regulatory requirements impacting the Jurisdiction.

B. Identify immediately to the Contact Officer if Jurisdiction is shared by additional county(ies).

C. Provide a copy of the Ordinance or Resolution stating that the Jurisdiction has adopted the exclusive use of the Code for the conduct of the election and that the Jurisdiction will participate in the coordinated election in accordance with the terms and conditions of this Agreement.

D. Confirm sufficient funds are available and appropriated in Jurisdiction's approved budget to pay election expenses. The Jurisdiction recognizes that the County cannot accurately predict the exact cost for the election, but represents to the County that it will pay its calculated prorated share and has appropriated sufficient funds to do so.

E. Return this Intergovernmental Agreement with the signature page completed on or before the seventieth (70) day prior to the election per the Code.

F. May appoint one representative to participate in the Canvass Board. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

G. May appoint one representative to participate in the Logic and Accuracy Test. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

H. May choose to appoint an observer for the Risk Limiting Audit. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.

I. Certify Jurisdictional boundaries by completing and returning the Address Confirmation Form or the Jurisdiction Boundary Map (Appendix A)

J. Review all petition information, if applicable, and verify the information against the registration records, and, where applicable, the county assessor's records as per § 1-4-908, C.R.S. After review, the DEO shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient, and after the time for protest has passed, the DEO shall certify the candidate to the ballot, and notify the Contact Officer.

K. The DEO shall refer correspondence and calls relating to the election outside of the DEO's expertise to the Contact Officer for response.

L. Determine the ballot title and text. Certify, if applicable, the candidate, how many selections a voter should make (e.g., Vote for One), whether there is a certified write-in candidate, the list of ballot issues and/or ballot questions electronically (with receipt confirmed by the Contact Officer) in a plain text format, on or before the sixtieth (60) day, no later than 5:00 pm. The ballot content must be certified in the order in which it will appear on the ballot and must include specific instructions (e.g., Vote for One, etc.). The certified list of candidates and ballot measures shall be final, and the Contact Officer will not be responsible for making any changes after the certification, except those prescribed by statute. The Contact Officer will not accept text that includes, but is not limited to, bold, italic, underline, bullets, numbering, tables, strikethrough or indentations. The use of all capital letters is reserved for TABOR issues only, per the Code.

M. Provide either directly by the DEO or by the candidate on behest of the DEO, the phonetic pronunciation of each candidate's name to assist in the preparation of the audio ballot at the time ballot content is certified to the County. Record a voice message at (303) 663-6279 and include the candidate name, jurisdiction, and title of office no later than sixty (60) days prior to the election.

N. Indicate whether question(s) are a referred measure or an initiative from a citizen petition. The Jurisdiction understands and agrees that any untimely ballot content submitted may result in candidates, issues, or questions not being on the ballot for the coordinated election.

O. Proofread the layout and the text of the Jurisdiction's portion of the official ballots and TABOR notice (if applicable) and provide written confirmation (electronic format) of acceptance before the printing of the ballots. **Approval or requested changes must be received within two (2) hours of receiving the layout and text from the county.** This may require availability outside of normal business hours. Such acceptance is final, and no changes will be made after written notice (electronic format) is given to the Contact Officer. Failure to respond by the deadline will be considered acceptance "as is". A penalty for delay or rework of the ballot or TABOR notice will result in an additional fee to the Jurisdiction for <u>all</u> associated costs with fixing or correcting Jurisdictional errors.

P. Perform the following tasks (as applicable) where Jurisdictional property owners are eligible to vote:

a. Notify Contact Officer of the Title under which the political subdivision is formed and specifically which property owners are eligible to vote in the election.

b. Provide a certified list of eligible property owners, as determined by the Jurisdiction, who:
    i. Own property within the Jurisdiction, appear on the State of Colorado list of registered voters and reside at an address that is not within the boundaries of Douglas County ("Out of County" property owners); or,
    ii. Own property within the Jurisdiction, appear on the Douglas County list of registered voters, reside at an address that may not match the property address as shown on the County Assessor's list, but is within the boundaries of Douglas County ("In County" property owners).

c. Coordinate directly with the Douglas County Assessor's Office (303-660-7450), or visit their website to obtain the list of all recorded owners of taxable real and personal property at https://apps.douglas.co.us/assessor/advanced-search/.

d. Exclude non-person entities and persons not living in the state of Colorado; any individuals not registered to vote; any person who resides in the district, as they will already receive a mail ballot.

e. Submit the lists as an electronic copy using Microsoft Excel format. The spreadsheet shall contain no more than one (1) eligible elector's name per line. Each line shall consist of the following separated fields: Last name, first name, middle name, mailing address, city, state, zip, parcel number, phone number, if available, and voter identification number. All files provided to the Contact Officer are to be clearly named.

Q. Publish and post any required legal notices for the Jurisdiction's ballot content, other than the notice required by § 1-5-205, C.R.S, which Douglas County will publish. A copy of such published legal notice shall be submitted to the Douglas County Clerk and Recorder, Recording Division for its records.

R. Provide phone support on Election Day from 7:00am – 7:00pm. Designated contact person for Jurisdiction must be provided upon execution of this Agreement. Emergency contact information must also be provided for this purpose.

S. Notify the Contact Officer within 24 hours of the completion of the final ballot tabulation whether a recount is required or desired. The Jurisdiction shall reimburse the County for the full cost of the recount. If other Jurisdictions are included in the recount, the cost will be pro-rated among the participating Jurisdictions as per § 1-10.5-101, C.R.S. Refer to SOS Rule 10.9.5 for Jurisdictions in more than one County.

T. Within thirty (30) days from the date of receipt of such invoice, the Jurisdiction shall remit total payment to the County.

U. Pay any additional or unique election costs resulting from Jurisdiction delays, mistakes, recounts, and/or special preparations or cancellations relating to the Jurisdiction's participation in the coordinated election. Charges are $1.00 per registered voter, with a minimum charge of $1,000, not including publication cost, excess linear ballot column

inches cost ($2,000 for Coordinated over 5"), and TABOR Notice costs with a minimum charge of $500 (if applicable).

Illustrative Pro-Rated Costs Table:

Current Registration Total (Active & Inactive)	% of Total Participants Registration	TABOR registered Voters	TABOR % of total Registration	Current Registration Total X $1.00	**OR** $1k minimum, whichever is greater	**AND** $2k ea. add. column inch over 5	TABOR Notice Cost x % registration or $500 minimum	Public Notice Divided equally by participating entities	Requested Report Fees ($25/report)	Estimated Minimum Cost
43,000	17.38%	21,000	46.5%	$64,500	$0.00	$6,000	$13,953.49	$15.00	$50.00	$ 84,518.49
98,000	39.62%	45,000	99.67%	$147,000	$0.00	$2,000	$29,900.33	$15.00	$50.00	$178,965.33
7,500	3.03%	0	0.00	$11,250	$0.00	$0	$0.00	$15.00	$25.00	$ 11,290.00
300	0.12%	150	0.33%	$450	$1,000	$0	$500.00	$15.00	$25.00	$ 1,990.00

If costs of TABOR Notice were $30,000 and other public notices were $60.

SECTION III. CANCELLATION OF ELECTION

3.01 CANCELLATION OF ELECTION BY THE JURISDICTION.

In the event the Jurisdiction resolves to cancel the election, notice shall be provided to the Contact Officer immediately. The Jurisdiction shall be liable for the full actual costs of the activities relating to the election incurred both before and after the Contact Officer's receipt of such notice. The Jurisdiction shall provide and post notice by publication as defined in the Code. In the event that the Jurisdiction resolves to cancel the election after the last day for the DEO to certify the ballot order and content to the Contact Officer, the text provided by the Jurisdiction cannot be removed from the ballot and/or the TABOR Notice.

(remainder of page intentionally blank)

SECTION IV.
MISCELLANEOUS

4.01 NOTICES.
Any and all notices required to be given by this Agreement are deemed to have been received and to be effective: (1) three days after they have been mailed by certified mail, return receipt requested; (2) immediately upon hand delivery; 3) or by email to the address of a Party as set forth below or to such Party or addresses as may hereafter be designated in writing:

To County:

Merlin Klotz
Douglas County Clerk and Recorder
Elections Division
125 Stephanie Place
Castle Rock, Colorado 80109

Email: Elections@Douglas.co.us

To Jurisdiction:
(Enter Contact and address information)

_____

_____

_____

_____

_____

4.02 TERM OF AGREEMENT.
The term of this Agreement shall continue until all statutory requirements concerning the conduct of the coordinated election are fulfilled.

4.03 AMENDMENT.
This Agreement may be amended only in writing and following the same formality as the execution of the initial Agreement.

4.04 INTEGRATION.
The Parties acknowledge that this Agreement constitutes the sole Agreement between them relating to the subject matter hereof and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

4.05 CONFLICT OF AGREEMENT WITH LAW, IMPAIRMENT.
In the event that any provision in this Agreement conflicts with the Code or other statute, this Agreement shall be modified to conform to such law. No resolution of either party to this Agreement shall impair the rights of the CEO or the Jurisdiction hereunder without the consent of the other party to this Agreement.

4.06 TIME OF ESSENCE.
Time is of the essence for this Agreement. The time requirements of the Code shall apply to completion of the tasks required by this Agreement. Failure to comply with the

terms of this Agreement and/or the deadlines or the Code may result in consequences up to and including termination of this Agreement.

4.07 GOOD FAITH.
The parties shall implement this Agreement in good faith, including acting in good faith in all matters that require joint or general action.

4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.
The Parties hereto understand and agree that they, their commissioners, officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act (the "CGIA"), §§ 24-10-101 to 120, C.R.S., or otherwise available to the County or the Jurisdiction. To the extent the CGIA imposes varying obligations or contains different waivers for cities and counties, both the Jurisdiction and the County agree that they will remain liable for their independent obligations under the CGIA, and neither party shall be the agent of the other or liable for the obligations of the other.

4.09 NO THIRD-PARTY BENEFICIARIES.
The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Jurisdiction, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

(remainder of page intentionally blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the latest date noted below.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO
(Board signature required only if coordination cost will exceed $25,000)

COORDINATED ELECTION OFFICIAL:

By _____ Board of County Commissioners Chairperson

By _____ Clerk and Recorder

Date _____

Date _____

Attest _____ Deputy Clerk to the Board

APPROVED AS TO FISCAL CONTENT:

_____ Director of Finance

APPROVED AS TO LEGAL FORM:

_____ County Attorney

Jurisdiction Signatures:

By: _____

Title: _____
Date: _____

By: _____

Title: _____
Date: _____

Attest _____

Title: _____

Contents

Appendix A – Address Confirmation Form

Appendix B – Contact Information Form

Appendix C – Important Dates

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Appendix F – TABOR Notice Proof Acceptance Form

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Appendix A
Address Confirmation Form

JURISDICTION NAME: _____

The address ranges identified in the **Address Library Report,** provided in addition to the IGA, represent all current addresses within your Jurisdiction according to our Voter Registration System address report. *The Douglas County Elections Office only maintains residential addresses – not business or commercial addresses.* We are sending you the **Address Library Report** to confirm that the address ranges are complete and accurate. These addresses will be used to identify eligible electors within the Jurisdiction. It is the Jurisdiction's responsibility to know all current addresses within its boundaries.

Please verify that the **Address Library Report** includes all residential addresses within your Jurisdiction. If there is an error, please note it on the table below. If there are no errors, omissions, and/or corrections, it is still essential to sign, date, and return this form to the Douglas County Elections Office. Thank you.

PROPOSED DISTRICTS: Provide a certified legal description, map, and street listing (including street ranges).

Section 1

Enter information in table, if applicable. If more space is needed, please create a separate document.

Street Name	Dir.	Street Type	Low/High Range	Odd/ Even	Zip Code	Notes
Example **Main**	**E**	**St.**	**101/603**	**E**	**80104**	

Section 2

Enter other counties shared by Jurisdiction.

County Name(s): _____

___ Not Applicable

I have reviewed the Jurisdiction's Address Library Report provided by the Douglas County Elections Office and certify it to be a true and accurate description of the address ranges defining boundaries of the Jurisdiction, except for any discrepancies, which are noted on this form.

_____ _____

Signature Date

Annexations, Inclusions, Exclusions

This form may be used in conjunction with the provided Jurisdiction Boundary Map, in place of reviewing and verifying the provided Address Library Report.

JURISDICTION NAME: _____

To ensure our office has the most current information, please complete the applicable Section below, pertaining to Annexations, Inclusions, and Exclusions for your Jurisdiction.

Section 1

Since January 1 of the current year, the Jurisdiction has approved (check all that apply):

__ Annexations

__ Inclusions

__ Exclusions

All supporting documents pertaining to the applicable Annexation(s), Inclusion(s), or Exclusion(s) are attached to this form and should be used by the Douglas County Elections Office in order to update address information for the Jurisdiction.

By signing below, I acknowledge and certify that the information is true and accurate.

_____ _____
Signature Date

Section 2

I acknowledge and certify the Jurisdiction has not approved any Annexation(s), Inclusion(s), or Exclusion(s) since January 1 of the current year.

By signing below, I acknowledge and certify that the information is true and accurate.

_____ _____
Signature Date

Appendix B
Contact Information Form

Please enter your Jurisdiction's information:

Jurisdiction: _____

Designated Election Official:

_____
Name

_____
Mailing Address

_____
City, State, Zip

_____
Email

_____
Phone

Represented By:

_____
Attorney / Law Firm

_____
Mailing Address

_____
City, State, Zip

_____
Email

_____
Phone

Per the IGA, please indicate the Jurisdiction representative(s) who will participate in the following activities.

Required Participation

1. **November 2, 2021; 7:00am – 7:00pm**
   Election Day phone support for citizen inquiries

Name: _____

Phone: _____

Email: _____

Optional Participation

2. **September 22, 2021 (Alternate Date = September 23)**
   Logic and Accuracy Test (LAT)

Name: _____

Phone: _____

Email: _____

3. **November 13 – 17, 2021 (Begins Saturday)**
   Risk Limiting Audit (RLA)

Name: _____

Phone: _____

Email: _____

4. **November 19, 2021 (Alternate Date = November 22)**
   Canvass Board and Final Certification of Election

   Name: _____

   Phone: _____

   Email: _____

Note: If a representative is not designated for the optional activities, the Douglas County Elections office will designate a staff member to serve on behalf of the Jurisdiction.

Douglas County Coordinated Election Official:

Merlin Klotz, Clerk and Recorder
Name

301 Wilcox Street, PO Box 1360
Mailing Address

Castle Rock, CO 80104
City, State, Zip

mklotz@douglas.co.us
Email

303-663-7364
Phone

Douglas County Contact Officer:

Kyle Kowalski, Elections Services Manager
Name

125 Stephanie Place
Mailing Address

Castle Rock, CO 80109
City, State, Zip

kkowalski@douglas.co.us
Email

720-643-2410
Phone

Douglas County Deputy of Elections:

Jack Twite Jr
Name

125 Stephanie Place
Mailing Address

Castle Rock, CO 80109
City, State, Zip

jtwite@douglas.co.us
Email

303-814-7618
Phone

Douglas County Senior Assistant Attorney:

Christopher Pratt
Name

100 Third Street
Mailing Address

Castle Rock, CO 80104
City, State, Zip

cpratt@douglas.co.us
Email

303-660-7321
Phone

Appendix C
Important Dates

Event	Date
Last day to provide in writing to the County Clerk & Recorder Notice of Intent to coordinate for the 2020 General Election (-100 days)	July 23 (Friday)
Last day to return signed IGA to the Contact Officer (-70 days)	August 24 (Tuesday)
Last day to return completed Address Confirmation Form (Appendix A) or Boundary Map to ensure accurate voter information (-70 days)	August 24 (Tuesday)
Last day to submit certified ballot order and content to the Contact Officer (-60 days)	September 3 (Friday)
Last day for Secretary of State to certify state ballot order and content to county clerk (-57 days)	September 3 (Friday)
Last day to mail ballots to Uniformed and Overseas electors (UOCAVA) (-45 days)	September 18 (Saturday)
Last day to submit TABOR Notice Language and summarized Pro/Con & Fiscal Impact Statements to Contact Officer (-43 days)	September 20 (Monday)
Logic and Accuracy Test (LAT)	September 22 (Wednesday)
Logic and Accuracy Test (LAT) – Alternate Date	September 23 (Thursday)
Ballots mailed to voters (-22 days)	October 11 (Monday) Possible October 8 (Friday) with SOS Rule
Ballot Drop Boxes open (-15 days)	October 18 - November 2 All boxes close Election Day, November 2 at 7 p.m.
Last day voter can request our office mail a ballot (-8 days)	October 25 (Monday)

Voter Service and Polling Centers (VSPCs) open (-8 days)	**October 25 – November 2 Monday - Friday, 8 a.m. - 5 p.m. Saturday, October 30, 9 a.m. - 1 p.m. Election Day, Tuesday, November 2, 7 a.m. – 7 p.m.**
Election Day	**November 2, 7 a.m. – 7 p.m. (Tuesday)**
Risk Limiting Audit (RLA)	**November 13-17 (Begins Saturday)**
Canvass Board and Final Certification of Election	**November 19 (Friday)**
Canvass Board and Final Certification of Election – Alternate Date	**November 22 (Monday)**
Final Certification of Election deadline	**November 24 (Wednesday)**

Appendix D
IGA Checklist

Dates shown below are either Statute-driven deadline dates or preferred dates of the Douglas County Elections office.

☐ **Friday, July 23**
- Provide in writing to the County Clerk and Recorder notice of intent to coordinate.

☐ **Wednesday, August 4**
- Receive and review IGA and accompanying documents from the Contact Officer, including important District addressing verification.

☐ **Tuesday, August 24**
- Complete and return all required documents of the IGA via USPS mail or email to the Contact Officer, kkowalski@douglas.co.us
- Provide a copy of the Ordinance and/or Resolution that outlines intent to participate in the General Election.
- Provide a statement to confirm sufficient funds to pay election expenses are available and appropriated in the Jurisdiction's approved budget.
- For PROPOSED DISTRICTS:
  - Provide certified legal description, map, and street listing (including street ranges).

☐ **Friday, September 3**
- Provide certified ballot order and content to the Contact Officer. C.R.S 1-5-203(3). Refer to Section 2.02 (L) of the IGA for specific requirements.
- As applicable, provide phonetic pronunciation of each candidate's name via voicemail. Refer to Section 2.02 (M) of the IGA for instructions.
- Proofread ballot layout and text for Jurisdiction's portion of the official ballot and provide written acceptance of content or written notice of necessary changes. Refer to Section 2.02 (O) of the IGA for instructions.

☐ **Monday, September 20**
- Provide Contact Officer with full text of any required ballot issues or ballot questions and all summarized pro/con statements to the Contact Officer.

☐ **Tuesday, September 28 – For elections where property owners are eligible electors:**
- Provide all applicable eligible property owner list(s). Refer to Section 2.02 (P) of the IGA for instructions and requirements.

☐ **Wednesday, October 13 – For elections where property owners are eligible electors:**
- Provide a supplemental list of applicable eligible property owner(s) for eligible voters not submitted in the original list from Monday, September 13. Refer to Section 2.02 (P) of the IGA for instructions and requirements.

☐ **Election Day, Tuesday, November 2**
- Provide phone support for Jurisdiction for hours of voting (7:00 a.m. - 7:00 p.m.) should information be needed from Douglas County Elections office or the general public.

☐ **Post-Election Day**
- Notify Contact Officer within 24 hours of completion of final ballot tabulation if a recount is required.
- Remit payment within 30 days of receipt of billing invoice.

Appendix E
TABOR Notice Agreement

The Ballot Issue Notice (TABOR Notice) is the publication required by the Colorado State Constitution, Article X, Section 20, for ballot issues and/or ballot questions that call for increases in the tax rate or government debt. It is required that the County produce a mailed notice (TABOR Notice) concerning these ballot issues and/or ballot questions to the electors of the County and the Jurisdiction.

THE COUNTY SHALL PERFORM THE FOLLOWING TASKS IN RELATION TO THE TABOR NOTICE:

A. Determine the least cost method for mailing the TABOR Notice and determine the portion of such cost to be applied to the Jurisdiction.

B. Determine the ballot issue and/or ballot question number.

C. Place the ballot issue and/or ballot question notices received from Jurisdictions participating in the election in the proper order in the TABOR Notice.

D. Mail a TABOR Notice to each address of any registered electors as required by law.

E. Refer calls concerning the substance of the ballot issues and ballot questions or the operations of the Jurisdiction to the designated contact for the Jurisdiction.

THE JURISDICTION SHALL PERFORM THE FOLLOWING TASKS IN RELATION TO THE TABOR NOTICE:

A. Perform such acts as may be required by law including circulation, approval, review, and all other activities, relating to any petition that may concern the Jurisdiction. The DEO shall interact with any Jurisdiction petition representatives, including but not limited to, working to ensure that the Douglas County Elections Contact Officer (Contact Officer) receives the summary of written comments within the time required by law.

B. Determine the ballot title and text within restrictions described by Douglas County in the IGA.

C. Include, within its TABOR Notice, ballot titles in this format: "NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE." See Sample TABOR Notice included in this packet.

D. Prepare the text of the TABOR Notice. See Sample TABOR Notice (Appendix G) included in this packet for use as a template. The TABOR Notice shall include any Jurisdiction voter-approved additions, and:

   a. The election date, hours, and local Jurisdiction contact name, office address and telephone number.
   b. Ballot title, ballot text and written comments.

c. Fiscal information to be included in the TABOR Notice.

E. Accept and summarize the filed comments in favor of and in opposition to the ballot issues and/or questions received from the eligible electors of the Jurisdiction and the public, as required for use in the TABOR Notice.

F. Provide the certified content of the Jurisdiction's completed TABOR Notice to the Contact Officer as a plain text file via email.

G. Proofread the layout and the text of the Jurisdiction's portion of the official TABOR notice and provide written notice (electronic format) of acceptance before the printing of the ballots. Approval or requested changes must be received within two (2) hours after the Douglas County Elections Contact Officer has emailed the draft. This may require availability outside of normal business hours, and no changes will be made after acceptance is given to the Contact Officer. If the deadline is not met, the Contact Officer will consider the proof final "as is". A penalty for delay or rework of the ballot or TABOR notice will result in an additional fee to the Jurisdiction for all associated correction costs. This submission may not be changed by the Jurisdiction without written approval from the Contact Officer and shall be requested no later than the 42nd day before the election.

H. Resolve, at the Jurisdiction's expense, any and all challenges pertaining to TABOR Notices certified to the County.

	Jurisdiction		**County**
By	_____	By	_____
Date	_____	Date	_____

Appendix F
TABOR Notice Proof Acceptance Form

Use this form as an approval document in conjunction with your Jurisdiction's ballot issues/questions ("TABOR Notice") to proof and approve.

Please review this information and identify any necessary corrections. We cannot begin printing the official TABOR Notice until we receive this completed form from each applicable Jurisdiction. **Approval or requested corrections must be received by Douglas County Elections within two (2) hours after the Contact Officer emails the proof.**

The Contact Officer will confirm receipt upon delivery via email.

Approved ___

Approved with revisions noted___

Jurisdiction: _____

DEO Name: _____

DEO Signature: _____

Date: _____ Time: _____

Appendix G
Sample TABOR Notice
(May be used as a template by Jurisdiction)

ALL REGISTERED VOTERS

NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE (Select categories that apply)

ENTER JURSIDICTION NAME HERE

Election Date: November 2, 2021

Election Hours: 7:00 A.M. to 7:00 P.M.

Local Election (DEO) Office Address and Telephone Number:

(Insert) Local Election (DEO) Office Address:
(Insert) Local Election (DEO) Contact Person:
(Insert) Local Election (DEO) Office Telephone Number:

Ballot Title and Text: Ballot Issue and/or Ballot Questions title and text
See Article 10, Sec. 20 – Colorado State Constitution
(TEXT MUST BE WRITTEN IN ALL CAPS)

Fiscal Information:

Fiscal Year	Fiscal Year Spending
2019 (Actual)	$
2020 (Actual)	$
2021 (Estimated)	$

Overall Percentage Change in Fiscal Year Spending %
Overall Dollar Change in Fiscal Year Spending $

Estimated first full fiscal year maximum dollar amount of increase: $
Estimated fist full fiscal year spending without the increase: $

Summary of Written Comments FOR:

See C.R.S. 1-7-903
- OR -
"No comments were filed by the constitutional deadline"

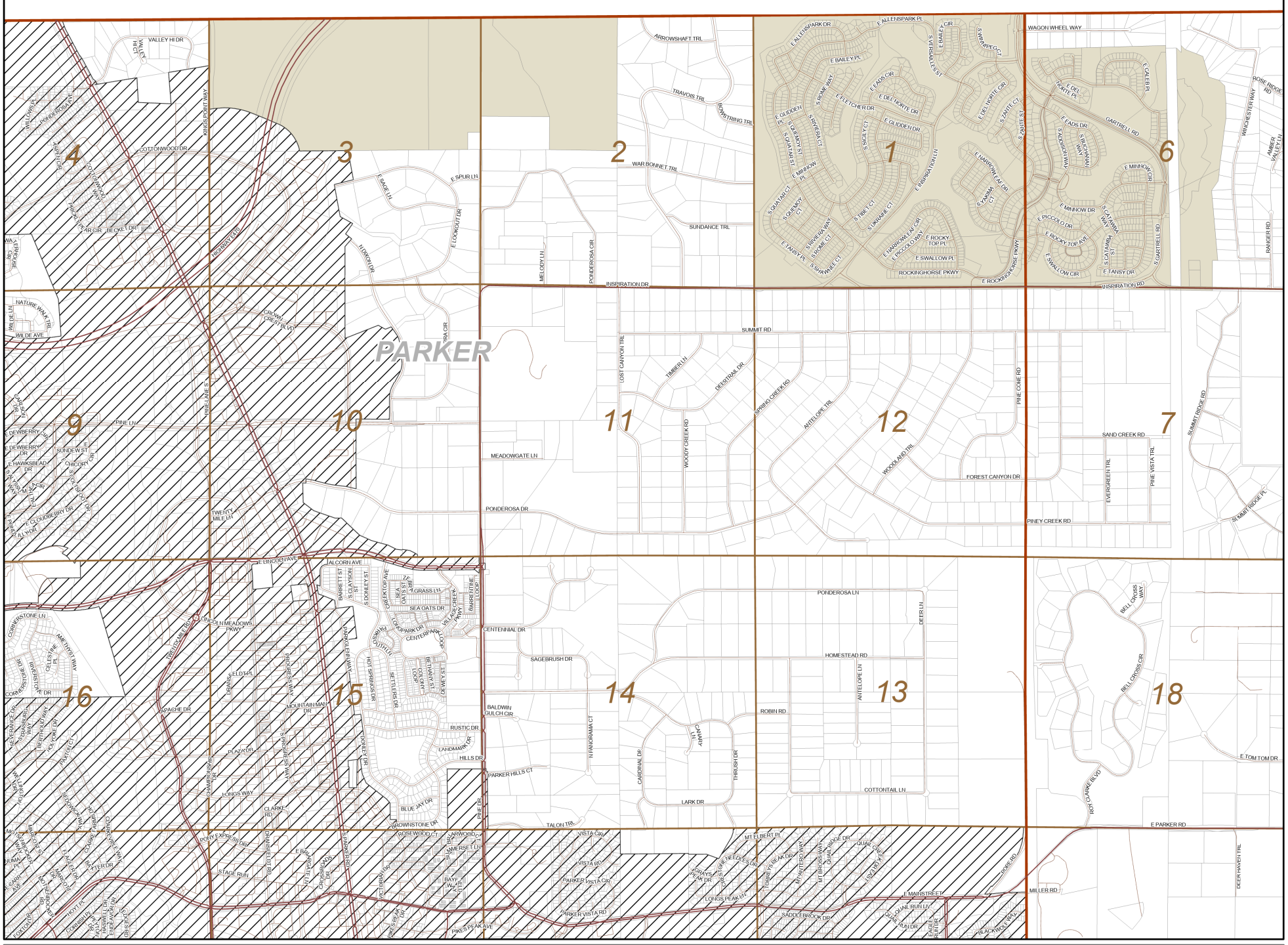
Summary of Written Comments AGAINST:

See C.R.S. 1-7-903
- OR -
"No comments were filed by the constitutional deadline"

SAMPLE

City of Aurora #3005

DOUGLAS COUNTY COLORADO


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PARKER
ARROWSHAFT TRL
TRAVOIS TRL
WAR BONNET TRL
SUNDANCE TRL
E ALLENSPARK DR
E ALLENSPARK PL
E BAILEY PL
E FLETCHER DR
E GUIDEN DR
E DEL NORTE DR
E INSPIRATION LN
E HARBOR LEAF DR
E PICCOLO WAY
E ROCKY TOP PL
E SWALLOW PL
ROCKINGHORSE PKWY
E ROCKINGHORSE PKWY
WAGON WHEEL WAY
CARTWELL RD
E MINNOW DR
E PICCOLO DR
E ROCKY TOP AVE
E SWALLOW CIR
E TANSY DR
INSPIRATION RD
WINCHESTER WAY
ROSE RIDGE RD
AMBER VALLEY LN
RANGER RD
VALLEY HI DR
WILLOW RD
PONDEROSA AVE
COTTONWOOD DR
COTTONWOOD WAY
PINEWOOD AIR CIR
BECKET DR
HIGHWAY 83
E SPUR LN
SAGE LN
E LOOKOUT DR
MIDWAY DR
MELODY LN
PONDEROSA CIR
INSPIRATION DR
NATURE WALK TRL
WILDE LN
WILDE AVE
CROWN CREEK BLVD
PINE CIR
SUMMIT RD
LOST CANYON TRL
TIMBER LN
DEERTRAIL DR
SPRING CREEK RD
ANTELOPE TRL
WOODY CREEK RD
WOODLAND TRL
PINE COVE RD
SUMMIT RIDGE RD
SAND CREEK RD
EVERGREEN TRL
PINE VISTA TRL
FOREST CANYON DR
PINEY CREEK RD
SUMMIT RIDGE PL
MEADOWGATE LN
PONDEROSA DR
PINE LN
DEWBERRY CIR
E DEWBERRY DR
E HAWKSBEAD DR
E CLOUDBERRY DR
SUNDEW ST
CHICORY DR
SPOONBILL DR
TWENTY MILE DR
PINE AVE
BARRETT ST
S CLAYSON ST
S DONLEY ST
GREKTOP AVE
ALCORN AVE
E LINCOLN AVE
GRASS LN
SEA OATS DR
CENTERPARK LOOP
CENTERPARK DR
CENTENNIAL DR
SAGEBRUSH DR
HOMESTEAD RD
DEER LN
ANTELOPE LN
BELL CROSS WAY
BELL CROSS DR
ROBIN RD
CANARY LN
N HAVORAMA CT
CARDINAL DR
THRUSH DR
BALDWIN GULCH CIR
COTTONTAIL LN
LARK DR
E TOM TOM DR
ROY CARNE BLVD
E PARKER RD
MILLER RD
DEER HAVEN TRL
CORNERSTONE LN
AMETHYST WAY
CELESTINE PL
RIVERSTONE DR
HOT SPRINGS DR
SETTLERS DR
COLONY LOOP
BETHANY ST
S VICTORY WAY
PROGRESS WAY
MOUNTAIN MAHOGANY DR
ELDITH PL
APACHE DR
PLAZA DR
LANDMARK DR
HILLS DR
PARKER HILLS CT
PIKE DR
CHAMPIONSHIP DR
LONGS WAY
CLARKE RD
BLUE JAY DR
BROWNSTONE DR
ROSEWOOD CT
BAYBERRY CT
BAYBERRY LN
PONY EXPRESS DR
STAGE RUN
E PARKER RD
CROSSROADS DR
HOT SPRINGS DR
PIKES PEAK AVE
TALON TRL
VISTA CIR
VISTA RD
PARKER VISTA CIR
PARKER VISTA RD
MT ELBERT PL
MT ELBERT DR
MT MASSIVE WAY
MT EVANS DR
MT ANTERO WAY
MT PRINCETON WAY
MT HARVARD WAY
MT OSO DR
MT WHITNEY DR
MT LINCOLN DR
MT LINCOLN CIR
MT LINCOLN WAY
MT LINCOLN CT
MT LINCOLN PL
MT LINCOLN TRL
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MT LINCOLN RUN
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MT LINCOLN RUN DR
MT LINCOLN RUN CIR
MT LINCOLN RUN TRL
MT LINCOLN RUN PL
MT LINCOLN RUN WAY
MT LINCOLN RUN CT
MT LINCOLN RUN LOOP
MT LINCOLN RUN RD
MT LINCOLN RUN BLVD
MT LINCOLN RUN AVE
MT LINCOLN RUN ST
MT LINCOLN RUN PKWY

[NAME] COUNTY BALLOT MEASURE WORKSHEET OVERVIEW & INSTRUCTIONS

1. **Legal requirements:** The [Name of County] County Clerk must layout ballots so that all ballot measures are printed in the order and format required by the Uniform Election Code of 1992 and the Secretary of State's Election Rules, summarized as follows:
   a. The relative order of ballot measures certified by coordinating entities of the same type is determined by the chronological order in which they are certified to the County Clerk
   b. The identifying number and/or letter (e.g., "Ballot Question 5A") for all ballot measures that will appear on the 2021 Coordinated Election ballot must be assigned by the County Clerk in accordance with the conventions specified in Secretary of State Election Rule 4.5.2.
      - **DEOs and governing boards of coordinating entities cannot assign the identifying ballot measure letter or number, and the [Name of County] County Clerk will disregard identifying letters and numbers so assigned.**
      - Please be advised the [Name of County] County Clerk may not be able to finally determine the identifying letter or number for all ballot measures until after the ballot certification deadline for coordinating entities has expired.
   c. If the DEO of a coordinating entity certifies more than one ballot measure, they will appear on the 2021 Coordinated Election ballot in the following order:
      - **Ballot Issues** (i.e., ballot measures arising under TABOR):
        - TABOR issues referred by governing board
          - To increase taxes
          - To retain excess revenues
          - To increase debt
          - Other referred TABOR issues
        - TABOR issues initiated by citizens
          - To increase taxes
          - To retain excess revenues
          - To increase debt
          - Other referred TABOR issues
      - **Ballot Questions** (non-TABOR ballot measures): In the order specified by DEO or governing board
2. **Ballot Measure Contest Names:** The [Name of County] County Clerk will assign contest names for all ballot measures according to the following convention: [Name of District] Ballot [Issue/Question] [Number/Letter]. Governing boards or DEOs may add a few-word summary of the subject matter (e.g., "Retail Marijuana Sales") to the ballot measure's contest name.
3. **Instructions:** Complete one Ballot Measure Worksheet for each ballot measure the DEO certifies for the 2021 Coordinated Election.

BALLOT MEASURE WORKSHEET A

1. **Name of coordinating entity:** _____

2. **Ballot measure type:** ☐ **Ballot issue (TABOR)** ☐ **Ballot Question (non-TABOR)**

3. **Subject matter summary for contest heading – no more than __ words:**

4. **Ballot title:** Enter the ballot measure's text in the form of a question, exactly as it should be printed on the ballot. Please note:

   - **Ballot issues under TABOR must be certified in ALL UPPERCASE LETTERS**
   - **Ballot questions not arising under TABOR must be certified in sentence case (upper & lower case letters)**

BALLOT MEASURE WORKSHEET B

5. **Name of coordinating entity:** _____

6. **Ballot measure type:** ☐ **Ballot issue (TABOR)** ☐ **Ballot Question (non-TABOR)**

7. **Subject matter summary for contest heading – no more than __ words:**

8. **Ballot title:** Enter the ballot measure's text in the form of a question, exactly as it should be printed on the ballot. Please note:

   - **Ballot issues under TABOR must be certified in ALL UPPERCASE LETTERS**
   - **Ballot questions not arising under TABOR must be certified in sentence case (upper & lower case letters)**

CITY OF AURORA
Council Agenda Commentary

Item Title: Consideration to appoint three (3) members to the Aurora Youth Commission
Item Initiator: Brooke Bell, Director of Parks, Recreation and Open Space Department
Staff Source/Legal Source: Kadee Rodriguez, City Clerk, General Management/ Dave Lathers, Senior Asst. City Atty.
Outside Speaker: N/A
Council Goal: 2012: 2.4--Work with our partners to ensure that every child and young person in Aurora have access to fundamental resources

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The purpose of the Aurora Youth Commission is to advise City Council, the City Managera and the Director of Parks, Recreation and Opens Space Deapartment regarding the interests of youth in Aurora.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The AYC is made up of 22 members, 16 members are between 14-20 years of age and 6 members must be 21 years of age or older. The Commission currently has seven vacant youth seats and four vacant adult seats. Four applications were received, and interviews were held June 30th, July 1 and July 6th.

The Aurora Youth Commission respectfully suggests the following individuals to be appointed;

Anvit Sidhu (youth)
Monica Acosta (adult)
Ashley Tryels (adult)

QUESTIONS FOR COUNCIL

Does the City Council wish to move the appointments to the formal agenda?

LEGAL COMMENTS

The City Council recognizes that Aurora youth are important residents of the community. Pursuant to the authority vested in this Code, an Aurora Youth Commission is heaeby created for the purpose of advising council, the city manager, and the director of the department of library and recreation services regarding the interests of the youth in Aurora. (Section 2-900 of the City Code)
The City Concil shall appoint the members of the Aurora Youth Commission. The commission shall consist of 22 voting members, 16 of which shall be between the ages of 14 years through 20 years old, and six members shall be adults of an age of 21 years and over. The the extent possible through the nomination process the composition of the commission shall represent school districts, private schools, and home school participation (Section 2-902 of the City Code)(Lathers).

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain

TO: Members of City Council

THROUGH: Brooke Bell, Director of Parks, Recreation and Open Space Department
Joe Sack, Manager of Recreation

FROM: Jan Hamburg, Superintendent of Youth Services

DATE: July 12, 2021

SUBJECT: Aurora Youth Commission Applicants

The purpose of the Aurora Youth Commission (AYC) is to advise City Council, the City Manager and the Director of Parks, Recreation and Open Space Department regarding the interests of youth in Aurora.

The AYC is made up of 22 members, 16 members are between 14-20 years of age and 6 members must be 21 years of age or older. The Commission currently has seven vacant youth seats and four vacant adult seats. Four applications were received, and interviews were held June 30, July 1 and July 6.

Youth Applicant:
Anvit Sidhu will be a junior at Cherokee Trail High School this school year He volunteers with the Children's Diabetes Foundation, 5K races and a non-profit. He is an advocate for SASA and Swab4USA. He wants to serve his community, develop leadership skills, and create a better environment for the community of Aurora to enjoy and prosper in. He is respectfully suggested to fill an immediate opening.

Adult Applicants:
Monica Acosta obtained a Master's in Social Work and has been involved in non-profits for 17 years. She works at Rocky Mountain Welcome Center as Youth Programs Manager. Her involvement has been with Mile High Youth Corps, Colorado Coalition for the Homeless and Conservation Corps. She advocates for Diversity, Equity and Inclusion, development of youth programs and supports the needs of refugees and immigrant communities. She is respectfully suggested to fill an immediate opening.

Ashley Tryels obtained a BA in Criminal Justice/Psychology. She works for a non-profit, Everyday Improving Youth Lives, as a case manager and addiction counselor in the behavioral health field. She volunteers in the community with families and youth services, shelters and the church. She has a passion for working with youth and finds it important to be involved in matters that affect them and all youth in the city. She advocates for individuals in the community and

worked with many different populations as well as different levels of care. She is respectfully suggested to fill an immediate opening.

Dr. Thomas Reed did not respond to a request for an interview.

In conclusion, the Aurora Youth Commission respectfully submits youth applicant, Anvit Sidhu, and adult applicants, Monica Acosta and Ashely Treyels for appointment.

Thank you.

Date: 05/20/2021
Ward No: 6
Board/Commission Applying For: Aurora Youth Commission

Name: Monica Acosta
Home Address: 18071 E LEHIGH PL
City: AURORA
Zip: 80013
Work Phone:
How Long in Aurora: 6 yrs
Register to Vote: Yes

EDUCATION:

Years Completed:
Degree(s): Bachelor of Science in Agronomy Master of Social Work
Colleges: California Polytechnic Univ., Pomona Metropolitan State Univ. ,Denver

EMPLOYMENT:

Employer Name: Rocky Mountain Welcome Center Employer Address: 1010 S. Joliet St. #205
Position: Youth Programs Manager
How Long?: 2 weeks
Work Experience: Mile High Youth Corps- Case Manager Colorado Coalition for the Homeless - Case Manager Los Angeles Conservation Corps, Prog. Coordinator Los Angeles Neighborhood Land Trust, Garden Programs Manager
Certifications:

COMMUNITY INVOLVEMENT:

Involvement: Aurora Civic Engagement Academy Do you Presently Serve in Any Other Appointed Position on a Board, Commission or Committee?: No If Yes, what position:

INTERESTS/ACTIVITIES:

Interests/Activities: Development of Youth programming, supporting needs of refugee and immigrant communities. Interest in DEI work.

APPOINTMENT:

Why do you desire this appointment?
How much time do you anticipate being able to spend on this appointment each month?: 5-10hrs /month- depends on needs of appointment

PLEASE GIVE THREE REFERENCES:

Name: Rebecca Cohen
Address:
Phone

Name: Jason Vaughn
Address:
Phone:

Name: Jennifer Gueddiche
Address:
Phone

Date: 06/11/2021
Ward No:
Board/Commission Applying For: Aurora Youth Commission

Name: Ashley Tryels
Home Address: 17885 E Tennessee pl
City: Aurora
Zip: 80017
Work Phone:
How Long in Aurora: 11
Register to Vote: Yes

EDUCATION:

Years Completed: 16
Degree(s): BA Criminal Justice/Psychology
Colleges: Metro State

EMPLOYMENT:

Employer Name: Every Day Improving Youth Lives Employer Address: Aurora
Position: Youth Advocate
How Long?: 2 yrs
Work Experience: I have worked as a community servant and advocate for individuals in the community. I've worked with many different populations as well as different levels of care. I have many years of experience as a case manager and addiction counselor in the behavioral health and addiction field.
Certifications: Addiction counselor CAS

COMMUNITY INVOLVEMENT:

Involvement:
Do you Presently Serve in Any Other Appointed Position on a Board, Commission or Committee?: No If Yes, what position:

INTERESTS/ACTIVITIES:

Interests/Activities: Community advocacy, out door activities, reading, art, and family bonding.

APPOINTMENT:

Why do you desire this appointment? I desire this appointment because I have a passion to work with youth. I am a mother of four and raise my children in the city of Aurora. I find it important to be involved in matters that affect them and all children in the city! I feel like my voice at the table due to my experience as a parent, working with, as well as supporting youth is beneficial.
How much time do you anticipate being able to spend on this appointment each month?: Flexible

PLEASE GIVE THREE REFERENCES:

Name: Brian Arnold
Address:
Phone

Name: Bobbie D
Address:
Phone:

Name: Cornilius Dockins
Address:
Phone:

Date: 09/18/2020
Ward No:
Board/Commission Applying For: AURORA YOUTH COMISSION

Name: ANVIT SIDHU
Home Address: 7455 S Coolidge Way
City: AURORA
Zip: 80016
Work Phone:
How Long in Aurora: 14 YR
Register to Vote: No

EDUCATION:

Years Completed: 9
Degree(s): N/A
Colleges: N/A

EMPLOYMENT:

Employer Name: STUDENT Employer Address: 7455 S Coolidge Way
Position: STUDENT
How Long?: N/A
Work Experience: N/A
Certifications: N/A

COMMUNITY INVOLVEMENT:

Involvement: CHILDRENS DIABETES FOUNDATION, SWAB4USA - NONPROFIT BLOOD CANCER, 5K RACES
Do you Presently Serve in Any Other Appointed Position on a Board, Commission or Committee?: No If Yes, what position: N/A

INTERESTS/ACTIVITIES:

Interests/Activities: Competitive Speech, Basketball, IB Minority, SASA, Swab4USA, Children's Diabetes Association, Working and designing cars, and community help at my temple.

APPOINTMENT:

Why do you desire this appointment? TO SERVE MY COMMUNITY AND CREATE A BETTER ENVIRONMENT FOR THE PEOPLE OF AURORA TO ENJOY AND PROSPER IN.
How much time do you anticipate being able to spend on this appointment each month?: 12 HOURS MINIMUM

PLEASE GIVE THREE REFERENCES:

Name: Gurpreet Sidhu Address: 7455 S Coolidge Way Phone:

Name: Sahita Sidhu
Address: 7455 S Coolidge Way Phone:

Name: Ritu Chopra
Address:
Phone:

CITY OF AURORA
Council Agenda Commentary

Item Title: FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE TO UPDATE DEFINITIONS & LICENSING AND TO ALLOW MARIJUANA HOSPITALITY BUSINESSES AND RETAIL MARIJUANA HOSPITALITY AND SALES BUSINESSES WITHIN THE CITY
Item Initiator: Robin Peterson, Manager Marijuana Enforcement Division
Staff Source/Legal Source: Robin Peterson, Manager Marijuana Enforcement /Dan Money, Senior Asst City Attorney
Outside Speaker: N/A
Council Goal: 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration
Why is a waiver needed? N/A

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Amendment 64 Ad Hoc Committee

Policy Committee Date: 3/11/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The Amendment 64 Committee has discussed marijuana consumption/hospitality since 2016. The Marijuana Enforcement Division hosted a focus group in late 2016. Since then, marijuana hospitality discussions have occurred on June 8, 2020, October 8, 2020, November 5, 2020, January 14, 2021 and March 11, 2021. Committee members realize there is a need for a place to consume, especially for tourists.

New regulations at the state MED were published on January 1, 2021 providing the requirements at the state level which, in turn, helped staff prepare a draft ordinance for the Committee's consideration. The draft was presented at the January 14, 2021 meeting. Discussion was robust, and the Committee provided guidance on a number of staff's questions. A revised draft was presented for further discussion at the March 11, 2021 Committee meeting.

The application of the discounted fees for hospitality will be modeled in the same fashion as the social equity for delivery. This has been working smoothly without issue with the execution of the delivery program.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE TO UPDATE DEFINITIONS & LICENSING AND TO ALLOW MARIJUANA HOSPITALITY BUSINESSES AND RETAIL MARIJUANA HOSPITALITY AND SALES BUSINESSES WITHIN THE CITY

The ordinance provides for two types of hospitality license types: 1) Marijuana Hospitality Business (fixed and mobile) and 2) Retail Marijuana Hospitality and Sales Business.

The first option in the ordinance is the marijuana hospitality business. There are two types, one is a fixed location and one is mobile. The fixed location allows for consumption of marijuana on the premises. Both smoking and vaping will be allowed. Each person will be allowed to bring their own product to consume. The product must be packaged with proof of purchase from a licensed regulated marijuana store. No sales of product are allowed in this model. Odor mitigation and all the other requirements, such as no one under 21 will be allowed to enter, no visible consumption from the outside and must operate the business in an orderly, decent and respectable manner must be followed. Staff proposes that only existing stores will be allowed to apply for this type of license. They must present a business plan for review. Staff suggests the hours be set from 8 am to 10 pm to coincide with the store hours. This is consistent with our previous approach of starting slow.

The second type is mobile premises. The definition of a mobile premises is any motor vehicle that is primarily for travel and transports persons over the public highways. This vehicle would be required to have a valid permit issued by the Public Utilities Commission (PUC). The PUC issues permits to business vehicles that are hauling or transporting people for hire. In addition to the state requirements, staff added the mobile premises cannot stop or park and consume for more than 30 minutes, they must log their route noting the origin, destinations and all stops in between, and they cannot stop outside schools, hospitals and in-patient substance abuse facilities.

At the January 14, 2021 Committee meeting, there were many questions regarding the marijuana hospitality – mobile type business. Michael Eymer, owner of Colorado Cannabis Tours, a private marijuana tour company was invited to speak about his business and how he is meeting the state requirements, which are many. He showed a short video showing what these vehicles look like inside, providing the Committee with a visual. He has been operating since 2014 and assisted the state MED in writing the regulations.

Things discussed: An airtight divider is installed between the driver and the passengers to keep the driver from being exposed to secondhand smoke. There are separate ventilation systems, one for the driver and the other for the passengers. The smoke in the passenger area can be released into the outside while the vehicle is moving through a vent in the roof that can be equipped with carbon filters. There is no alcohol or tobacco products consumed in the vehicle which is prohibited by state statute. In jurisdictions that do not allow marijuana, consumption can be suspended by the passengers until they have left that jurisdiction.

The second option is the retail marijuana, hospitality and sales businesses. These are basically a lounge where you can buy limited amounts of marijuana to consume on the premises. These types of businesses would have no restrictions on who could apply. They would be required to follow all state and local requirements that are in place, in addition to the ones specific to retail marijuana, hospitality and sales businesses. Notice to the surrounding property owners is required at least 30 days prior to opening, by certified mail.

Staff is proposing the hospitality and sales businesses are not included in the cap of 24 stores but would have its own limit that will be set by Council. These would be allowed in the same zone districts as the stores. For the first three years, social equity applicants would be guaranteed at least 50% of the licenses granted. A 50% discount on the fees would be afforded to the social equity applicants for the first two years. The discounted fees will be modeled exactly like the delivery social equity aspect which has worked smoothly without issues. A process to determine who would be awarded these licenses is to be determined by staff.

Highlights of the draft ordinance:

- Requires product brought into the Fixed Location Marijuana Hospitality Businesses to be packaged with proof of purchase from a licensed regulated marijuana store.
- All locations are subject to regular inspections by the local licensing authority.
- The number of stores remained capped at 24 but provide a number, yet to be determined by Council, of allowed Retail Marijuana Hospitality and Sales Businesses.
- Hours of operation from 8 am to 10 pm to be consistent with store hours.
- Businesses are a permitted use.
- Notification of adjacent property owners to the location 30 days prior to operations.
- The business must take measures to not interfere with neighboring individuals' quiet enjoyment by requiring measures to mitigate noise, lighting and odor pollution.
- Includes specific places where the mobile marijuana hospitality businesses are prohibited from stopping at during their route.

This commentary should be considered with the commentary asking for the language in the Unified Development Ordinance (UDO) to be amended to allow marijuana hospitality businesses. The UDO must be a public hearing when it goes to full council which is anticipated to be August 23, 2021. This provides time to provide notice in the media as required.

Presentation Time: 20 minutes
Discussion Time: 30 minutes

QUESTIONS FOR COUNCIL

Does Council wish to approve the draft ordinance and move to Regular Council for consideration?

LEGAL COMMENTS

The state licensing authority may issue a marijuana hospitality business license authorizing the licensee to operate a licensed premises in which marijuana may be consumed pursuant to this article 10, rules promulgated pursuant to this article 10, and the provisions of the ordinance or resolution of the local jurisdiction in which the licensee operates. C.R.S. § 44-10-609.

The council shall have all legislative powers of the city and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property.
City Charter § 3-9.

(Money)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: License fees will cover the cost of the administration of the new licenses. A 50% discount on the license fees would be afforded to the social equity applicants for the first two years with the discount covered by the general fund. The application of the discounted fees for social equity applicants will be modeled exactly like the delivery social equity aspect which is working smoothly without issues.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

ORDINANCE NO. 2021-____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE TO UPDATE DEFINITIONS AND LICENSING AND TO ALLOW MARIJUANA HOSPITALITY BUSINESSES AND RETAIL MARIJUANA HOSPITALITY AND SALES BUSINESSES WITHIN THE CITY

WHEREAS, under Colorado Revised Statutes § 44-10-609 through 44-10-610 the state marijuana licensing authority may issue a marijuana hospitality license and retail marijuana hospitality and sales business license authorizing the licensee to operate a licensed premise in which marijuana may be sold and consumed; and

WHEREAS, along with this authorization, the state has enacted regulations upon these businesses; and

WHEREAS, local governments are enabled to license and regulate these businesses within their jurisdictions; and

WHEREAS, the City Council has decided to authorize marijuana hospitality businesses and retail marijuana hospitality and sales businesses within Aurora's jurisdiction.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. In this Ordinance, ellipses indicate materials not reproduced with the intent to leave that material in effect as it now reads.

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended to add definitions to Section 6-302 pertaining to Marijuana Hospitality Business, Mobile Premises and Retail Marijuana Hospitality and Sales Business.

Sec. 6-302 – Definitions.

….

Marijuana Hospitality Business means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to this Code, the Colorado Marijuana Code and the Colorado Regulated Marijuana Rules.

….

Mobile Premises means a licensed premises operated by a marijuana hospitality in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low speed electric

vehicle: but does not include electrical assisted bicycles, electronic scooters, low power scooters, wheelchairs, or vehicles moved solely by human power. A marijuana hospitality mobile premises must abide by this Code the Model Traffic Code, the Colorado Marijuana Code and the Colorado Regulated Marijuana Rules.

….

Retail Marijuana Hospitality and Sales Business means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to this Code, the Colorado Marijuana Code and the Colorado Regulated Marijuana Rules.

….

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended to expand licenses authorized under Section 6-306, which shall read as follows:

Sec. 6-306. – Classes of licensing authorized.

The local licensing authority may issue the following licenses and permits authorized by this Code, the Colorado Marijuana Code and the Colorado Regulated Marijuana Rules ~~the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code~~:

….

(12) Marijuana Hospitality Business License

(13) Retail Marijuana Hospitality and Sales Business License

(14) Store Delivery Permit

(15) Transporter Delivery Permit

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-320, which shall read as follows:

Sec. 6-320 – Marijuana Hospitality Businesses -- Fixed Location.

(a) Marijuana hospitality businesses are authorized in the City.

(b) Marijuana hospitality businesses are limited to existing stores and must present a business operating plan to the local licensing authority and must obtain the proper state and local licensing and pay all applicable fees prior to operation.

(c) A marijuana hospitality business is allowed to operate between the hours of 8:00 a.m. and 10:00 p.m., of which patrons of the business must be off the business premise by 10:00 p.m.

(d) A marijuana hospitality business license may allow smoking and vaping of marijuana indoors.

(e) Marijuana product that is brought into the premises must be packaged with proof of purchase from a licensed regulated marijuana store.

(f) Marijuana smoking indoors must occur in compliance with the city's odor mitigation requirements. An odor mitigation plan shall be submitted to the local licensing authority for review.

(g) A marijuana hospitality business licensee shall not allow outside consumption of regulated marijuana products.

(h) A marijuana hospitality business shall implement all reasonable measures to ensure that the business does not create noise, lighting and odor pollution that would interfere with neighboring individuals' quiet enjoyment of their properties.

(i) A marijuana hospitality business licensee shall not sell, transfer, or distribute, with or without remuneration, or allow the sale, transfer or distribution with or without remuneration of regulated marijuana on the license premises.

(j) A marijuana hospitality business licensee shall not engage in or allow any activity that would require an additional license under this article, including but not limited to planting, growing, harvesting, drying, trimming, processing or manufacturing regulated marijuana on the licensed premises. Nothing in this subsection prohibits a marijuana hospitality business from storing marijuana consumer waste on the licensed premises, in compliance with state law.

(k) All marijuana hospitality business license locations are subject to local licensing authority inspections.

(l) All marijuana hospitality businesses shall notify adjacent property owners prior to the establishment of the business. This notification shall be 30 days prior to operations and shall be by certified mail. Proof of mailing shall be presented to the local licensing authority.

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-321, authorizing marijuana hospitality on mobile premises, which shall read as follows:

Sec. 6-321. – Marijuana Hospitality Mobile Premises.

(a) Marijuana hospitality mobile premises are authorized in the City under the same requirements as marijuana hospitality businesses at a fixed location and

must comply with all local and state laws and regulations that for the mobile premise.

(b) A marijuana hospitality business licensee shall not permit the consumption of marijuana on the mobile premises if the motor vehicle is stopped, standing or parked for more than 30 minutes.

(c) A marijuana hospitality business shall file a route log with the local licensing authority identifying the origin and destination all routes, and all stops in between the origin and the destination at least two days prior to the scheduled departure. A marijuana hospitality business licensee shall not change or deviate from the route log without notifying the local licensing authority before the scheduled departure.

(d) Destinations and stops may not include schools, hospitals, drug treatment centers, City property and City parks and recreation centers, and any other City, State or Federal property that do not allow the consumption of marijuana.

(e) It shall be unlawful to have odor derived from marijuana on the exterior of the premises.

(f) Mobile premises operators will take all reasonable measures to prevent excessive noise from emitting from their vehicle.

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-322, authorizing retail marijuana hospitality and sales, which shall read as follows:

Sec. 6-322. Retail Marijuana Hospitality and Sales Businesses.

(a) Retail marijuana hospitality and sale businesses are authorized in the City.

(b) Retail marijuana hospitality and sales businesses will not be included in the ward count for retail marijuana stores. The number of retail marijuana hospitality and sales businesses will be capped at ____ per ward.

(c) For the first 36-months of this program, a retail marijuana hospitality and sales business license shall be granted to ensure social equity applicants obtain at least 50% of the licenses granted within each ward. For every non-social equity applicant license granted in each ward, there must be at least one license set aside for a social equity applicant within that ward. Social equity license criteria shall be determined under the State determinations within C.R.S. Title 44-10-103.

(d) The City Manager shall establish a grant program to fund 50% of the fees for social equity licensees. This grant will be for a 24-month period following the

permit application. After the 24-month period expires, grant funds shall not be available for this purpose.

(e) Retail marijuana hospitality and sales businesses must present a business operating plan to the local licensing authority and must obtain the proper state and local licensing and pay all applicable fees prior to operation.

(f) A retail marijuana hospitality and sales business license allows the sale, transfer, distribution, use or consumption of regulated marijuana between the hours of 8 a.m. and 10 p.m. Patrons of the business must be off the business premise by 10 p.m.

(g) A marijuana hospitality business license may allow smoking and vaping of marijuana indoors.

(h) A retail marijuana hospitality and sales business licensee shall not allow outside consumption of retail marijuana or retail marijuana products.

(i) Marijuana smoking indoors must occur in compliance with the city's odor mitigation requirements. An odor mitigation plan shall be submitted to the local licensing authority for review.

(j) A marijuana hospitality business shall implement all reasonable measures to ensure that the business does not create noise, lighting and odor pollution that would interfere with neighboring individuals' quiet enjoyment of their properties.

(k) A marijuana hospitality business licensee shall not engage in or allow any activity that would require an additional license under this article, including but not limited to planting, growing, harvesting, drying, trimming, processing or manufacturing regulated marijuana on the licensed premises.

(l) All marijuana hospitality business license locations are subject to local licensing authority inspections.

(m) All marijuana hospitality businesses shall notify adjacent property owners prior to the establishment of the business. This notification shall be 30 days prior to operations and shall be by certified mail. Proof of mailing shall be presented to the local licensing authority.

Section 7. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 8. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 9. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the office of the City Clerk.

INTRODUCED, READ, AND ORDERED PUBLISHED this _____ day of _____, 2021.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Daniel L Money CMcK
_____
DANIEL L. MONEY, Senior Assistant City Attorney

AMENDMENT 64 COMMITTEE
WebEx Meeting
March 11, 2021

Members Present: Council Member Gardner – Chair, Council Member Berzins – Vice Chair, Council Member Johnston, Council Member Coombs

Staff Present: R. Venegas, T. Velasquez, R. Peterson, K. Kreimeyer, D. Allen, D. Money, D. Brotzman, J. Patterson, T. Hoyle

Others Present: A. Palm, A. Stilmock, A. Allen, J. Hamp L. Powers, T. McMoore, S. Mantele, M. Eymer, K. Johnston, J. Megyesy, K. Mazzola, M. Green,

INTRODUCTIONS AND MINUTES
January 14, 2021 minutes were approved.

FOLLOW UP DISCUSSION REGARDING CANNABIS RESEARCH OPPORTUNITES
Summary of Issue and Discussion

Committee members and staff were contacted by Dr. Brooks-Russell from the Colorado School of Public Health/CU Anschutz Medical Campus. She has funding to conduct research to test innovative devices and blood biomarkers that have the potential to assist law enforcement and other stakeholders in identifying and preventing cannabis impaired driving, such as, at the roadside. She is looking for space in Aurora to conduct this research. This is a four-year project. The participants will consume marijuana and then drive using a simulator and data would be collected. The participants will bring their own marijuana and will be required to have someone pick them up.

Planning has provided Dr. Brooks-Russell a letter, which is included in the meeting packet, providing guidance on where this type of use can be included within the existing UDO. No ordinance will be needed to accommodate this use. Consumption within a private space will not be considered public. This project must apply for a general business license. The administrator of the project has agreed to take measures to prevent marijuana odor from being detected from the outside or adjacent units. Inspections will be made by the marijuana licensing authority to ensure the research is being conducted as presented to the City.

Committee Discussion

R. Peterson: Last meeting we discussed this research project, headed up by Dr. Brooks-Russell. She had asked about the possibility of conducting this project in Aurora. Planning, Legal and AMED got together and found a pathway for them to conduct the research in the city without any kind of ordinance change. The letter will be sent to Dr. Brooks-Russell stating where this research can be conducted with a 300-foot buffer from existing residential use. It is private research and only people that are invited will be allowed in this premise. There are a few things that staff has added that they will have to comply with. Any questions?

CM Berzins: I'm looking at the letter from Brandon and the fifth bullet point down. It says, "Research participants will bring their own marijuana from home and take it with them when they

leave." I think it should specify that the marijuana should be brought in a sealed container and before leaving it must be sealed back up again, because that's state law.

R. Peterson: I believe we can do that. That's state law with a regulated marijuana business. This is kind of treating it as if you were going into your apartment or your home or whatever as personal use.

CM Berzins: What would happen if for some reason they got pulled over and they had an open bag of marijuana. I think they would get in trouble.

R. Peterson: They can do that if its less than an ounce. It doesn't have to be sealed if it's less than an ounce. To have my own personal marijuana, I could have it in a baggy or whatever, as long its less than an ounce in my vehicle. I know what you're saying if you would come out of a regulated place, yes it should be packaged. That's what we talked about with the marijuana hospitality that it must be sealed when they leave. Also, I don't think the state is as stringent as ours. We are requiring the product be packaged up when they leave but not when they come in.

CM Berzins: I just don't want to get in trouble. I want us to be correct.

R. Peterson: It's not a bad idea, we can add that if you like.

CM Berzins: What's the rest of the Committee think?

CM Gardner: Part of me understands what you're saying. But then on the other hand, why make it more difficult that it needs to be. I guess I look at it a little differently. So, maybe it's appropriate to have a requirement in place.

CM Coombs: I guess my concern, is that I don't want us to be treating the researchers as if they also now need to enforce marijuana regulations. That's sort of the reason for them not providing anything on site. As they're trying to engage in this research, I don't want to make it more onerous for them, but I also hear you. We don't want people just willy nilly carrying product around. Although I think there's also the further question around personal use. They are entitled to possess the marijuana on their person if they're not consuming it in public. So, I just think it get us into a weird space.

CM Berzins: It could be illegal marijuana, but do the researchers care? I would prefer it to be legal marijuana that they purchased for use in the research. But they won't know that unless it's in a sealed bag with somebody's seal on it, so I think it's just something that we need to think about. But as far as the project goes, I think this is great. I think the more testing we can do the better off we are.

K. Kreimeyer: Mr. Chair if I may. The description provided to us does say that the participants must bring sealed marijuana that was purchased from a regulated store. And they have to have proof of that when they come to do the research. So, they do not have anything in their program that says it has to be sealed when they leave. But it does have to be sealed and proof of purchase when they come to the facility for the research project.

Outcome
Informational only.

Follow-up Action
Include in the letter to Dr. Brooks-Russell the marijuana that is not consumed must be sealed up when they leave the premises.

UPDATE ON THE DELIVERY PROGRAM

Summary of Issue and Discussion
Robin Peterson, Marijuana Manager gave an update. Staff has received many inquiries about the transporter license and delivery permits that are exclusive only to social equity licensees for the first 36 months. The state MED provides a letter with the license type, for example Owner – SE along with the badge number. This is a clear indication this person fits the requirement of a social equity licensee. Once we have this letter then we begin our process. We have had positive feedback regarding our process. Things that were not clear, we corrected to provide clarity.

A pre-licensing meeting is required before application, which has been a requirement before marijuana applications can be submitted. This has been a great success. The applicant knows exactly what is expected from the division so there are no surprises. We also get to know the applicants which fosters the partnership between the city and the applicant/licensee.

Currently, we have received four transporter license/delivery permit applications in for review and four store delivery permit applications. Obtaining the vehicle and meeting all the requirements for the vehicle seem to be taking more time than expected.

I anticipate delivery will begin sometime in March. We will continue to monitor delivery as it unfolds and grows.

Currently, Commerce City and Federal Heights have opted not to have delivery occur in their jurisdiction. Longmont has opted in. Northglenn will begin discussions sometime in April. Boulder is discussing retail delivery. Boulder already allows medical marijuana deliveries. At their committee meeting an initial vote was 3 for and 3 against. Staff will continue to monitor. Denver has released a second draft of their ordinance. Staff will also monitor Denver's progress.

Committee Discussion

No questions from the Committee.

CM Gardner: I would like to bring back the conversation of warehouse deliveries at our next meeting. There is draft legislation that is floating around. I will reiterate what I said last time, I have heard the state will take care of that, and then they don't. I want to make sure we are proactive on this. Once other municipalities are on board and we haven't thought about how we are going to address this topic, might be too late at that point.

CM Coombs: I think it got covered in the Federal, State and Intergovernmental Relations (FSIR) Committee. There are folks wanting to make sure the social equity piece of the legislation gets

properly addressed and that it is not negatively impacting third party transporters as well as the retail businesses.

R. Peterson: I sent out a survey to all our store owners to ask for their comments on this. The few that I have received, they are not in favor of warehouse deliveries. This is an item that I would like to have on the agenda for our next meeting. Hopefully by then I will have received more responses of my survey. I am happy to share my results.

CM Berzins: I support putting this item on the next meeting's agenda.

Outcome
This was informational on the delivery program.
Continue discussion on warehouse deliveries.

Follow-up Action
Staff to provide the results of the survey as responses are received.
Include "Warehouse Deliveries" as an item on the agenda for the next Committee meeting.

CONTINUING DISCUSSION REGARDING DRAFT ORDINANCE FOR HOSPITALITY BUSINESSES IN AURORA

Summary of Issue and Discussion
At the January 14, 2021 Committee meeting there were many questions regarding the marijuana hospitality – mobile type business. I have attached the state requirements from the state MED regulations for your convenience. I have highlighted major areas of the regulations. As you can see there are many. Also, with the permission of Chair Gardner, I have invited Michael Eymer, owner of Colorado Cannabis Tours to speak about his business and how he is meeting the state requirements. He is going to show a short video of what these vehicles look like inside, so the Committee can have a better visual. He has been operating since 2014 and assisted the state MED write the regulations.

Below is a list of questions I asked Michael to address.

What types of vehicles do you use for transporting people?
What would a typical route look like?
Do you hire for tailgating at, for example sports games, concerts, etc.?
Do you allow alcohol to be consumed in the vehicle in addition to marijuana?
Is there a separation between the back and front of the vehicle?
How do you keep secondhand smoke from entering the driver's space?
Is there odor that escapes while driving and people consuming marijuana?
Do you have a filtration system that cleans the air before releasing into the environment?
What are the safety requirements for your driver and customers?
Is a different type of liability insurance needed because of marijuana?

A revised draft ordinance is attached for the Committee's consideration.

Items that are in this draft ordinance:

- Requiring product brought into the Fixed Location Marijuana Hospitality Businesses to be packaged with proof of purchase from a licensed regulated marijuana store.
- Adding all locations are subject to regular inspections by the local licensing authority.
- Keeping the number of stores capped at 24 but provide a number, yet to be determined, of allowed Retail Marijuana Hospitality and Sales Businesses.
- Leaving the hours of operation from 8 am to 10 pm to be consistent with store hours.
- Removing the conditional use hearing and making it a permitted use.
- Including a notification of adjacent property owners to the location 30 days prior to operations.
- Including a requirement for the business to take measures to not interfere with neighboring individuals' quiet enjoyment by requiring measures to mitigate noise, lighting and odor pollution.
- Including specific places where the mobile marijuana hospitality businesses are prohibited from stopping at during their route.

Items that are being considered to accommodate for the zoning aspect of these licenses:

- Updates to Section 3.2, Table 3.2-1, Land Use Categories of "Marijuana Hospitality Businesses" and "Retail Marijuana Hospitality and Sales Businesses."
- Updates to Section 3.3.5.S, Marijuana establishments. Here we will remove the prohibition of "vapor lounges."
- Updates to Section 4.6.3, Table 4.6-1, parking requirements for "Marijuana Hospitality Businesses" and "Retail Marijuana Hospitality and Sales Businesses."

- Updates to Section 6.2, Definitions, adding definitions for "Marijuana Hospitality Businesses" and "Retail Marijuana Hospitality and Sales Businesses."

Outstanding discussion items:

- Consider options of applying social equity to these types of licenses.
- Consider providing requirements different from opening a store for the Retail Marijuana Hospitality and Sales businesses.
- Consider removing the prohibition of off-premises storage facilities.
- Finding examples from other states of hospitality businesses, including social equity that have/have not been successful.

Licensing fees will be required for these types of licenses, yet to be determined. Sales tax will be required to be remitted to the city for the marijuana sales made at the Retail Marijuana Hospitality and Sales Businesses at the current rate.

<u>Committee Discussion</u>

Michael Eymer walked the Committee through a short clip showing a van used in his business.

Mr. Eymer: This is a 2018 Mercedes Sprinter, heavily modified before the passage of the hospitality bill in anticipation of what the bill may contain. These vehicles are very common.

Inside there are modifications. There are two air handling systems; one for the guests in the back and a separate one for the driver cab. The windows are darkly tinted. There is a ventilation fan that was installed as an emergency exit hatch. Currently it lacks a carbon filter which is required under the bill but that can easily be mounted which would comply with the odor reduction requirement. There is a TV screen in the back that is used to summon the driver. There is a smoking and nonsmoking sign that will indicate when consumption is or is not allowed. There are various reasons for doing that. One of them being which jurisdiction they happen to be at the time.

We are registered with the PUC but if we are traveling through a jurisdiction that does not allow consumption, then the no smoking sign would be turned on. The modifications are not overly excessive or burdensome.

Questions?

CM Coombs: It sounds like there is odor mitigation while the vehicle is traveling; separation between the driver and rest of the vehicle. What about when the vehicle is stopped? How do you make sure the odor and the smoke coming out of the vehicle is not disruptive at the location where the people are getting out?

M. Eymer: There is no difference in the odor mitigation when the vehicle is stopped or moving. The odor mitigation as described is essentially a carbon filter that is used in grows to mitigate odor. That would be installed directly over where the fan is, that ventilates the air out.

CM Coombs: Is that effective enough to avoid a buildup of odor and smoke in the vehicle so when it stops, nothing is coming out, it has already been taken care of?

M. Eymer: Yes. You mean while people are exiting the vehicle? The fan clears out the smoke quickly. Most people don't want the smoke in the vehicle anyway, so the air is kept clear.

CM Johnston: What about monitoring the air quality in a formal way? There are standards, like you said in grow facilities and inspections that monitor whether there is odor in the neighboring buildings with a complaint system. Are the mechanisms for the driver to ensure safety and liability if there is an accident?

M. Eymer: In a limousine, you normally have a divider with a window that can be raised and lowered. In the modified van I showed, this was eliminated. A flat screen TV was placed where you would normally have the divider. The compartment was sealed which air proofed the system. All around the edges of the wall that was put in were sealed. It is air proof as to what the air the driver is being exposed to versus the air the guests, that are consuming in the back, are exposed to. The air in the front is never mixed with the air in the back.

It takes an enormous amount of second-hand smoke to intoxicate someone who is not consuming. I have talked with the head of transportation in Colorado and he agrees with these points.

CM Johnston: I am still not convinced. I would still like to see a monitoring system.

M. Eymer: I am willing to explore those options.

CM Coombs: What about the guides and second-hand smoke prevention?

M. Eymer: The guides are all regular marijuana consumers. The ventilation in the back prevents the smoke from building up. Anytime a guide becomes uncomfortable with the smoke, they can turn on the fan and in a short amount of time can vent out the vehicle.

CM Berzins: Is there always a second person?

M. Eymer: There is a seat in the front with the driver if the guests want privacy. Otherwise for the tours stopping at marijuana stores, a guide is in back with the customers providing information and education during the experience.

CM Berzins: Do you have a rule requiring the guest to bring their own product, or can they share?

M. Eymer: This is not my business. Some people bring their own product. We do stop at stores where they make purchases and they are welcome to share with each other during the experience. The sharing is the experience for a lot of the guests.

CM Johnston: Do we have APD in the meeting? I would like feedback on the driver.

D Money: I would like to ask some APD questions as well. We follow the Model Traffic Code under Rule 227; the tint cannot be so dark that it allows less than 27% of lighting. I am wondering how the mobile businesses prevent the visual aspect of seeing people consuming? Once you see it, that is considered public consumption.

The second part, if you were pulled over, how would an officer know this is a legal hospitality business? How do you identify yourself?

M. Eymer: This is a licensed luxury limousine. The front portion where the driver sits cannot be heavily tinted. I don't think that applies to the back of the limousine. Under the Colorado Code, if the driver is for hire, the driver may determine if the passengers can consume marijuana. Any limousine can allow for their private guests to consume.

Your question is how can law enforcement determine if this is a legal operation? Once the hospitality licenses are issued, the vehicle will have that license in it, which is a requirement by the state MED. The tour vehicle, once licensed, will be able to provide these documents to law enforcement. I think it is an important question about the tinting, because the bill specifically says tinting will suffice to provide privacy.

Chair Gardner: I have seen the party buses in Aurora and they are tinted so you cannot see in the back. I was with APD as a ride along and there was an accident involving one of these vehicles.

You could not see in the back, but you could see the driver. There was a separation between the back and front.

CM Berzins: Did we clarify that there would be no alcohol in these marijuana hospitality vehicles?

R. Peterson: I believe the marijuana license hospitality license states there can be no alcohol allowed. Would you like to the second clip? It shows a different type of vehicle that he uses in his business.

Chair Gardner: Yes.

M. Eymer: While Robin is cueing up the video, I can explain what this vehicle is and the differences between this and the last one. It is basically showing how these vehicles come stock and where the modifications would be made.

This is one we recently purchased and have not made many modifications yet. The window is there between the driver and the back, which we will be taking it out, making a solid wall. It comes standard with the separate air handling systems. The emergency hatch on top would be flipped out to one of the fans and install a carbon filter. In the driver cab there is a separate air handling system. The modification would cost about $20,000 to convert a standard vehicle and make it compliant with the law.

CM Johnston: Are we the first jurisdiction in the state to do this?

M. Eymer: We have been operating since 2014 as a licensed limousine company and private club. We worked with the state MED to pass this hospitality bill so that we could have clear rules in which to operate. We were not comfortable operating by simply putting together a series of patchwork rules together. Adams County has passed hospitality licenses. I am not familiar with what they passed. It has been two years since the Governor signed the bill into law. There is no one that is operating at this time.

CM Johnston: I support hospitality. However, Aurora being the first one, I don't feel I have a process or system in place to address the air quality for the driver. ADP is not on the call to address the safety. We have other processes in place, such as inspections of facilities. I am not seeing that formalized in this. I am happy to have more conversations with council. This gives me concern.

Chair Gardner: You said that you have been operating since 2014 but under a private club. How would your operation change under the new hospitality rules? Would it be the same just under a new classification?

M. Eymer: It would be the same in practice because of the standards we operate under. A lot of these standards were taken up into the hospitality bill. There would be additional requirements such as listing our routes and have LoJack installed in the vehicles. Other than that, it would essentially be the same operation. Back to the air quality issue, I understand this being a concern, and where I can, work out a solution to put that fear to rest. In the years that I have operated, it

has never been a real issue. Vehicle owners have gone the extra mile. Regular limousines can allow consumption now privately. Under Colorado law, it is legal.

Chair Gardner: As a follow up to my question, what jurisdictions can you drive into and out of currently?

M. Eymer: We can operate in any jurisdiction we want to. It is a licensed limousine business. These are legal to operate throughout Colorado. The reason the hospitality bill was passed because we did not feel the current framework of law protected the businesses as much as we wanted. As a private club it really comes up to a nuance of law and what the jurisdiction's interpretation of private clubs and cannabis is. It becomes a judgment call of what jurisdications we can or cannot operate in. If the community is strict on them, this would be where the "No Smoking" sign would be turned on as we pass through. We wouldn't allow consumption in those communities.

Chair Gardner: Have you operated in Aurora?

M. Eymer: No.

CM Berzins: Do you rent your limousines out for a lot of different things or are they specifically for marijuana?

M. Eymer: I specifically use my limousines in my company and I am a cannabis tour company. I use them for marijuana tours and do not rent them out for other events.

CM Berzins: We have a lot of limousines in Aurora that are rented for different events that look like yours. I am thinking of the party buses which I have never been on with alcohol that operating all over the city. Robin, do they have special licenses to run through the city with alcohol?

R. Peterson: I don't know.

M. Eymer: I can answer that. They do not need a special license to allow for the consumption of alcohol. No alcohol can be consumed in the front where the driver sits. They can and do consume alcohol in the back. The PUC license allows for the consumption of both marijuana and alcohol.

CM Berzins: Is there a separate license for the limo company if they allow marijuana to be consumed?

M. Eymer: Currently no. This would be for hospitality companies and members of the public instead of private rental. That is the distinction between what is occurring now and has been for seven years.

CM Coombs: Basically, we are further regulating something that is already happening. Are marijuana products specifically called out in the ordinance? Can you consume edibles if you are not driving? Are edibles permitted in these premises where smoking and vaping is happening? Are they explicitly excluded?

M. Eymer: This is up to local ordinances to determine. All forms of consumption are permitted under this license. The license also provides immunity to the Colorado Indoor Clear Air Act.

R. Peterson: The ordinance says marijuana and marijuana products which includes edibles and concentrates.

CM Berzins: I am not sure that I am there yet. At the end of your discussions, and you want to take it to Study Session and discuss with everyone, I would be willing to do that.

R. Peterson: Thank you Michael for being here and helping us understand the mobility aspect.

M. Eymer: If I can be of any further help, please let me know.

R. Peterson: The rest of this in the packet is what staff has included in the draft ordinance and some call outs. Are there any questions?

CM Johnston: Because there is an exemption to the Colorado Indoor Clear Air Act and the health safety issues of workers I would like to have something that addresses this in the ordinance. I love being first with social equity but would like to hear what other jurisdictions are talking about with mobile hospitality, possibly other states as well.

CM Coombs: In talking with other folks and it came up with the Chamber of Commerce, it has come up with health advocacy folks, the issue of making sure that workers are protected from the potential ill effects of second-hand smoke, not only intoxication but also the respiratory effects. I understand there is filtration and ventilation. I have heard from people across the spectrum that have a concern. What are we doing, what exactly are the standards for protecting the health of employees in these businesses.

R. Peterson: Staff will look at what standards can be included in the ordinance to protect the health of the employees.

CM Berzins: Our first responders are concerned with the second-hand smoke too. That is their main complaint. Having to go into one of these places and coming out with second-hand smoke all over them. What would happen to them in the future?

R. Peterson: We do have William Revelle from the police department on the phone.

M. Revelle was unable to speak.

R. Peterson: Staff will follow up on the questions the Committee has for APD and provide responses via email.

CM Coombs: There were a few other items that came up in talking to folks with the Chamber and health advocates. One of the questions was about other jurisdictions and proximity to other jurisdictions such as Centennial. They felt that our operations near their borders, when they are not permitting it, is impacting their neighborhoods and potentially impacting crime into their neighborhoods. When we notice that a business is coming into operation, do we provide notice in

other jurisdictions as well? Not only in the city of Aurora? If not, can we let the Centennial folks know who they can contact to provide input? Centennial is a stone's throw from much of my ward. I want to be respectful in terms of giving them the opportunity to comment. Although we retain the right to make our own decisions after hearing from them what their thoughts are.

R. Peterson: When the store was going in that area you are talking about there was a ward meeting. Centennial was invited, and they voiced their concerns. It is a legal question if there are any alternatives as to notification. I don't think there was any other kind of notification that I can remember.

CM Coombs: Dan, do you know if there is any way that we can get this information out aside from an announcement on Next-door or similar?

D Money: We can always make more stringent notification requirements, such as if they are within so many feet that the next jurisdiction must be noticed by certain types of communication. We would have to figure out who to send the communication to, perhaps City Hall. We do that for planning. For example, when we have comp plans, we must notify adjacent jurisdictions and we can figure something out for marijuana. This then begs the question of whether this becomes a public hearing.

CM Coombs: To be clear, I don't believe we should require a public hearing for every business that opens. I do not support that. I do support providing information and open to suggestions as to how that information gets provided. Just being a good neighbor.

R. Peterson: In our proposed ordinance, staff included notification to adjacent property owners prior to opening. I believe it is 30 days before they begin to operate. Dan, can staff add something to broaden the notification or just provide through ward meetings. Staff would attend and have these conversations if you want.

D. Money: We can always broaden the notification. We have certified mail, we have posted notice, we can notice in the newspapers and leave out the public hearing. The only after affect is why did we get notice if we don't have the opportunity to be heard. It will probably be a question that will come to you, what was the purpose of notice? As for the notice itself, we can add as stringent notification requirements as you want.

CM Coombs: Can we get some options for that for Study Session?

D. Money: Yes. We will provide some more options.

Chair Gardner: If we have a public posting in the Sentinel, who pays for that? The business?

D. Money: I would suggest the business. It depends on how you want to write the requirement. In development, the developer pays for the notice. The city writes the notice.

Chair Gardner: I am not wanting to decide this today. I don't want to give these businesses unnecessary costs because Centennial or any other city might be uncomfortable. I do understand CM Coombs point that we should be good neighbors as much as possible.

CM Johnston: Our neighborhood notification process that we have with Neighborhood Services doesn't always lead to a public hearing. Maybe Dan can look at that.

D. Money: Yes, we can look at that. A public hearing always triggers notice. Notices do not trigger a public hearing. If you want to have notice without a public hearing, you can do that. The notice itself does not require a public hearing.

Chair Gardner: We need to be careful not to be unnecessarily complicated or cumbersome. If there is value in doing something like that, is one thing, but if we are doing this just to give ourselves cover to say that we provided notice, I am not sure that is worthwhile.

CM Coombs: I am comfortable with making my ward meeting be the place where we have the conversation and not having that be a formal notice. Maybe just talking about those options and what Council thinks is good when we talk about this at Study Session.

Another thing that came up in talking about the tourism component is the potential for driving under the influence. We would want to make sure that, for example, hotels have shuttles when we are looking at the tourism component to make sure folks have better support in not driving under the influence. And, making sure people are aware of the requirements and laws at the airport being different in the laws than in the city of Aurora. If they are going to the airport, after attending whatever marijuana tourism event, that they understand any paraphernalia or product on the airport property is a federal crime. That they also understand that being highly intoxicated is not advisable when getting on flights. Somehow, we need to provide public education about how people are making choices regarding marijuana tourism and then going to the airport.

Again, the issue of crime came up. If we have or want to provide data or information at the Study Session, although we have already passed marijuana businesses in the city, just to reiterate that information since this was raised at the Chamber. Specifically, the relationship, if there is any, between marijuana consumption and other types of crimes and that we are not making our decisions on stigma but based on data.

Chair Gardner: To clarify, they were concerned there would be an increase in crime around these locations.

R. Peterson: I want to clarify that we are talking about just the licensing piece of this license type. We do and have the planning and zoning that was not in your packet; the piece that is for the UDO. We have a draft. Do you want to look at this now or later?

Chair Gardner: My preference would be to look at it now.

R. Peterson: This will have to go before the Planning Commission. I am going to share my screen. I would like to have Dan or Kim walk us through this, so you can see what we are proposing.

D. Money: Basically, we have multiple changes. The table has "Ps" which means the land use is permitted in these zone districts. These zone districts are the same zone districts that we have for bars and taverns. We are keeping it the same zone as an entertainment consumption of alcohol. We are not treating it the same manner as alcohol with the conditional use.

We must change some of the requirements. We are removing 1) marijuana membership club and 2) vapor lounge from the prohibited uses. This will leave the off-premises marijuana storage facility which we have had discussions about and then outdoor cultivations, preparation, and packaging of marijuana. These will be the only true prohibitions. Everything else will be licensed under certain categories.

Item 6 will be a discussion item. Under our retail marijuana licenses, we have setbacks from schools and drug rehab places. A 1,000 feet setback from schools and 500 feet from any place that would be a rehab. We are keeping it in here and this may be an issue. We would like your input on this. The reason to keep it is to keep it consistent. The reason to change it is that some marijuana businesses that care to have hospitality may not be able to; they may violate this.

If so, if you want to have the set back and you want to also want some way for someone to appeal to the Council or to a Board, then you must have some sort of variance section. For example, if they are 700 feet from a school, violating the setback, they would have to appear before Council, Planning Commission or a marijuana hearing officer to ask for a variance. We used to call these waivers, they are variances now. We would have to include this.

If you don't want this, we can change the setbacks which is up to Council to decide. You have setbacks from schools, hospitals and parks and open space. The hours of operation are the same as our other marijuana businesses. As discussed in the past, they are open from 8 am to 10 pm, same as our stores. But again, this up to Council.

There is a certain amount of parking spaces required. Marijuana Hospitality Business is being added to the category with other entertainment types businesses.

Next are definitions which staff added the definition of "Marijuana Hospitality Business" and insert hospitality into some of the other definitions. We are removing the "Marijuana Membership Club" and "Vapor Lounge" definitions for the prohibition aspects.

Chair Gardner: What is the best way to proceed, what is the timeline since one piece must go before Planning Commission and other would go straight to Study Session.

R. Peterson: Typically, what we have done in the past, is to get the item on the next available Planning Commission agenda and then we marry them up at Study Session so they both can be discussed.

D. Money: Planning Commission will be next month. We are out of time for this month. It does need public notice to change the code.

Chair Gardner: That is fine. It appears that all the other Committee members agree as to how to move forward.

R. Peterson: It was agreed that the Marijuana Hospitality Business with Sales would not be considered a store to not violate the 24 store cap. Staff left a space holder. Staff would like some input on how the Committee would like to proceed.

Chair Gardner: I am not a fan of caps. We should let the market dictate how many the market can bear. At the same time, I do not want to have too much impact on our brick and mortar locations that they lose business because folks are going to these places to buy, consume and then take whatever they have left with them.

CM Coombs: Since the sales are micro sales, it could have some impact, maybe not a huge impact. I also think that in the same way the number of stores were limited because we were trying to see what happens after implementation. It might be worth having a cap initially.

Can we have this conversation at Study Session and leave it blank for now or propose a possible number now to discuss as Study Session?

Chair Gardner: My recommendation is to have a number as a starting point because we would get several opinions. The more tangible things we bring to Study Session the better. It can always be changed.

CM Johnston: I see both sides.

R. Peterson: If you do place a cap, staff will have to develop a way to pick them like we did with the initial 24 stores. There is always issues that go along with that. However, we have done it in the past, we can do it again.

Chair Gardner: Do we fill in a number or leave it blank and let it go to Study Session to decide?

CM Coombs: We should go ahead and pick a number just as a starting point. Maybe two per ward as a starting point for conversation?

CM Johnston: I agree. I don't believe this is boxing us into this number.

CM Coombs: How hard will it be to change if we have a cap and then we decide later we want to lift the cap and similarly for retail stores. Do we change the ordinance? What are the pitfalls of changing based on this seems to be working and we want to lift the cap?

R. Peterson: For staff we would have to propose an ordinance change. We would also have to look at the store requirements which we have but have removed the points associated with them. The requirement of $400,000 of liquid assets has been an issue. Also, maybe consider social equity as well.

CM Coombs: I forgot to raise the question of social equity. There is nothing here for it in this draft. If we did have caps, then I would also like to see maybe a one to one licensing requirement between social equity and non-social equity businesses rather than exclusivity.

R. Peterson: We could add this into the draft so when it goes to Study Session there could be discussion.

Chair Gardner: If we are going to put something in there, my preference would be a one to one ratio.

All committee members agree to add the one to one licensing requirement for social equity.

D. Money: Do you want to add any fees?

CM Coombs: Can we do the same fee structure that we had in delivery for social equity for hospitality.

All Committee members agree.

Outcome

Move this item on to Study Session.

Follow-up Action

Staff to add a one to one social equity component to the ordinance. Staff to provide a fee schedule like the one proposed for marijuana delivery.

Staff to schedule the hospitality planning and zoning ordinance changes before Planning Commission. Staff to schedule this item for Study Session once Planning Commission has given its opinion.

Staff to provide APD responds to questions presented on the mobile hospitality model.

MISCELLANEOUS MATTERS
Summary of Issue and Discussion

- The next Amendment 64 Committee meeting is scheduled for June 9, 2021 at 1:00 p.m. (WebEx)

THESE MINUTES WERE APPROVED AS SUBMITTED

_____ _____
Curtis Gardner, Chair of the Amendment 64 Committee Date

CITY OF AURORA
Council Agenda Commentary

Item Title: FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING THE UNIFIED DEVELOPMENT ORDINANCE (UDO) IN ORDER TO ADDRESS ZONING CLASSIFICATIONS OF MARIJUANA HOSPITALITY BUSINESSES AND TO UPDATE THE DEFINITIONS ACCORDINGLY
Item Initiator: Robin J Peterson, Manager Marijuana Enforcement Divisoin
Staff Source/Legal Source: Robin J Peterson, Manager Marijuana Enforcement/Dan Money, Senior Asst City Attorney
Outside Speaker: N/A
Council Goal: 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration
Why is a waiver needed?N/A

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Planning and Zoning Commission

Policy Committee Date: 4/28/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached ☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The Amendment 64 Committee has discussed marijuana consumption/hospitality since 2016. The Marijuana Enforcement Division hosted a focus group in late 2016. Since then, marijuana hospitality discussions have occurred on June 8, 2020, October 8, 2020, November 5, 2020, January 14, 2021 and March 11, 2021. Committee members realize there is a need for a place to consume, especially for tourists. New regulations at the state MED were published on January 1, 2021 providing the requirements at the state level which, in turn, helped staff prepare a draft ordinance for the Committee's consideration. The draft was presented at the January 14, 2021 meeting. Discussion was robust, and the Committee provided guidance on a number of staff's questions. A revised draft was presented for further discussion at the March 11, 2021 Committee meeting.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING THE UNIFIED DEVELOPMENT ORDINANCE (UDO) IN ORDER TO ADDRESS ZONING CLASSIFICATIONS OF MARIJUANA HOSPITALITY BUSINESSES AND TO UPDATE THE DEFINITIONS ACCORDINGLY

The ordinance provides for two types of hospitality license types: 1) Marijuana Hospitality Business (fixed and mobile) and 2) Retail Marijuana Hospitality and Sales Business.

The first option in the ordinance is the marijuana hospitality business. There are two types, one is a fixed location and one is mobile. The fixed location allows for consumption of marijuana on the premises. Both smoking and vaping will be allowed. Each person will be allowed to bring their own product to consume. The product must be packaged with proff of purchase from a licensed regulated marijuana store. No sales of product are allowed in this model. Odor mitigation and all the other requirements, such as no one under 21 will be allowed to enter, no visible consumption from the outside and must operate the business in an orderly, decent and respectable manner must be followed. Staff proposes thatonly existing stores will be allowed to apply for this type of license. They must present a business plan for review. Staff suggests the hours be set from 8 am to 10 pm to coinside with the store hours. This is consistent with our previous approach of starting slow.

The second type is mobile premises. The definition of a mobile premises is any motor vehicle that is primarily for travel and transports persons over the public highways. This vehicle would be required to have a valid permit issued by the Public Utilities Commission (PUC). The PUC issues permits to business vehicles that are hauling or transporting people for hire. In addition to the state requirements, staff added the mobile premises cannot stop or park and consume for more than 30 minutes, they must log their route noting the origin, destinations and all stops in between, and they cannot stop outside schools, hospitals and in-patient substance abuse facilities.

At the January 14, 2021 Committee meeting, there were many questions regarding the marijuana hospitality – mobile type business. Michael Eymer, owner of Colorado Cannabis Tours, a private marijuana tour

company was invited to speak about his business and how he is meeting the state requirements, which are many. He showed a short video showing what these vehicles look like inside, providing the Committee with a visual. He has been operating since 2014 and assisted the state MED in writing the regulations.

Things discussed: An airtight divider is installed between the driver and the passengers to keep the driver from being exposed to secondhand smoke. There are separate ventilation systems, one for the driver and the other for the passengers. The smoke in the passenger area can be released into the outside while the vehicle is moving through a vent in the roof that can be equipped with carbon filters. There is no alcohol or tobacco products consumed in the vehicle which is prohibited by state statute. In jurisdictions that do not allow marijuana, consumption can be suspended by the passengers until they have left that jurisdiction.

The second option is the retail marijuana, hospitality and sales businesses. These are basically a lounge where you can buy limited amounts of marijuana to consume on the premises. These types of businesses would have no restrictions on who could apply. They would be required to follow all state and local requirements that are in place, in addition to the ones specific to retail marijuana, hospitality and sales businesses. Notice to the surrounding property owners is required at least 30 days prior to opening, by certified mail.

Staff is proposing the hospitality and sales businesses are not included in the cap of 24 stores, but would have its own limit that will be set by Council. These would be allowed in the same zone districts as the stores. For the first three years, social equity applicants would be guaranteed at least 50% of the licenses granted. A 50% discount on the fees would be afforded to the social equity applicants for the first two years. A process to determine who would be awarded these licenses is to be determined by staff.

Highlights of the draft ordinance:

- Requires product brought into the Fixed Location Marijuana Hospitality Businesses to be packaged with proof of purchase from a licensed regulated marijuana store.
- All locations are subject to regular inspections by the local licensing authority.
- The number of stores remained capped at 24 but provide a number, yet to be determined by Council, of allowed Retail Marijuana Hospitality and Sales Businesses.
- Hours of operation from 8 am to 10 pm to be consistent with store hours.
- Businesses are a permitted use.
- Notification of adjacent property owners to the location 30 days prior to operations.
- The business must take measures to not interfere with neighboring individuals' quiet enjoyment by requiring measures to mitigate noise, lighting and odor pollution.
- Includes specific places where the mobile marijuana hospitality businesses are prohibited from stopping at during their route.

This commentary is to be considered along with the marijuana hospitality businesses ordinance.
This ordinance, along with the marijuana hospitality ordinance which was provided for reference, was presented at the April 28, 2021 Planning Commission. The minutes are attached.

Items considered to accommodate for the zoning aspect of these licenses that are included in the proposed UDO draft are as follows:

- Updated Section 3.2, Table 3.2-1, Land Use Categories of "Marijuana Hospitality Businesses" and "Retail Marijuana Hospitality and Sales Businesses."
- Updated to Section 3.3.5.S, Marijuana establishments. Removing the prohibition of "vapor lounges."
- Updates to Section 4.6.3, Table 4.6-1, providing for parking requirements for "Marijuana Hospitality Businesses" and "Retail Marijuana Hospitality and Sales Businesses."

- Updates to Section 6.2, Definitions, adding definitions for “Marijuana Hospitality Businesses” and “Retail Marijuana Hospitality and Sales Businesses.”

Presentation Time: 20 minutes
Discussion Time: 30 minutes

QUESTIONS FOR COUNCIL

Does Council wish to amend the Unified Development Ordinace to allow marijuana hospitality businesses within the zoning classifications in the city?

LEGAL COMMENTS

Local governments are granted broad authority to plan and regulate the use of land within their jurisdiction. C.R.S. Sec. 29-20-102(a)

An application for an amendment to the text of this UDO or a legislative rezoning of a large area shall only be recommended if the Planning Director and the Planning and Zoning Commission find that the following criteria have been met, and shall only be approved if City Council finds that the following criteria have been met. i. The applicant has demonstrated that the proposed Ordinance amendment is consistent with the spirit and intent of the Comprehensive Plan and with other policies and plans adopted by the City Council; and a. The change to the Ordinance text is required because of changed conditions or circumstances in all or a portion of the city; or b. The change to the Ordinance text is required to address a new or unforeseen threat to the public health, safety, and welfare; or c. The change to the Ordinance text is required to promote economic growth and investment that will not create material risks to the public health, safety, and welfare. UDO § 5.4.1.C.3.B

(Money)

PUBLIC FINANCIAL IMPACT

☒ YES ☒ NO

If yes, explain: Fees licensing fees will be collected to offset administrative costs.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☒ Significant ☐ Nominal

If Significant or Nominal, explain:

ORDINANCE NO. 2021 - ___

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING THE UNIFIED DEVELOPMENT ORDINANCE (UDO) IN ORDER TO ADDRESS ZONING CLASSIFICATIONS OF MARIJUANA HOSPITALITY BUSINESSES AND TO UPDATE THE DEFINITIONS ACCORDINGLY

WHEREAS, under Colorado Revised Statutes §§ 44-10-609 through 44-10-610, the state marijuana licensing authority may issue a marijuana hospitality license and retail marijuana hospitality and sales business license authorizing the licensee to operate a licensed premise in which marijuana may be sold and consumed; and

WHEREAS, along with this authorization, the state has enacted regulations upon these businesses; and

WHEREAS, local governments are enabled to license and regulate these businesses within their jurisdictions; and

WHEREAS, the City Council has decided to authorize these businesses within Aurora's jurisdiction; and

WHEREAS, the Unified Development Ordinance (UDO) must be amended to designate zoning regulations for these new businesses.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. In this Ordinance, ellipses indicate materials not reproduced with the intent to leave that material in effect as it now reads.

Section 2. That UDO Chapter 146-3.2 Permitted Use Table, Table 3.2-1 is hereby amended to add a new business category titled "Marijuana Hospitality Business." This business category and the corresponding land uses shall read:

Table 3.2-1 Permitted Use Table	P = Permitted C = Conditional use A = Accessory to primary use	T = Temporary use V = Permitted if structure vacant for 5 years or more

| Food, Beverage, and Lodging | | |

Land Use	R-R	A&B	C	A&B	C	R-3	R-4	R-MH	A&B	C	MU-OI	MU-C	OA-R1	OA-R2	OA-RMU	OA-MS	AF-G	MU-FB	Core	Edge	MU-R	MU-A	AD	APZ	I-1	I-2	POS	USE SPECIFIC STANDARD
Marijuana Hospitality Business									**P**	**P**	**P**	**P**				**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**		**3.3.5 S**

Section 3. That UDO Chapter 146-3.3.5.S Commercial and Industrial Uses, Marijuana, is hereby amended to remove "marijuana membership club" and "vapor lounge" from prohibited uses, which section shall read as follows:

3.3.5. Commercial and Industrial Uses

. . . .

S. Marijuana Establishments

The following standards shall apply to marijuana establishments:

1. Prohibited Uses

The following uses are not permitted within the city of Aurora:

~~a. Marijuana membership club;~~

~~b. Vapor lounge;~~

~~c~~. **a**. Off-premises marijuana storage facility; and

~~d~~. **b**. Outdoor cultivation, preparation, and packaging of marijuana.

. . . .

6. Marijuana Hospitality Business

a. Distance from Schools

No marijuana hospitality business shall be licensed if located within 1,000 feet of a pre-K-12 public or private elementary, vocational, or secondary school. This distance shall be measured in a straight line from the nearest property boundary of the school property to the address point of the marijuana hospitality business.

b. Distance from Hospitals and Substance Abuse Treatment Center

No marijuana hospitality business shall be licensed if located within 500 feet of a hospital or substance abuse treatment center. This distance shall be measured from the nearest property boundary of the hospital or treatment center property to the address point of the marijuana hospitality business. For purposes of this subsection, the terms "hospital" and "substance abuse treatment center" shall have the same meaning as set forth in Section 6-302 of the Aurora City Code.

c. Distance from POS Zone District

No retail marijuana hospitality business shall be licensed if located within 300 feet of a POS zone district or any government-owned public park, recreation area, or open space. This distance shall be measured from the nearest property boundary of such use or district to the nearest property boundary of the hospitality business.

d. Hours of Operation

It shall be unlawful for any marijuana hospitality business licensed pursuant to this UDO to remain open to the public at any time other than between the hours of 8:00 a.m. and 10:00 p.m. daily.

Section 4. That UDO Chapter 146-4.6.3, Table 4.6-1, is hereby amended to add a new business category called "Marijuana Hospitality Business." The Table's new addition shall read as follows:

146-4.6.3(C). Minimum Required Parking

Unless otherwise provided in this UDO, off-street parking shall be provided in the amounts shown in Table 4.6-1, Required Off-Street Parking below:

Table 4.6-1 Required Off-Street Parking		sf.= square feet gfa = gross floor area
Number Required	Category	Required Parking
4	After House Club or Entertainment Bar and Tavern Brewpub Microbrewery **Marijuana Hospitality Business** Restaurant Medical and Dental Clinic	4 spaces per 1,000 sf. gfa For motor vehicle fuel dispensing station: Fuel pump spaces do not count toward minimum parking requirements.

Section 5. That UDO Chapter 6.2, "Marijuana-Related Definitions" is hereby amended to add and to remove definitions relating to marijuana hospitality businesses. The remaining list of definitions will be reordered in an alphabetical manner.

6.2 DEFINITIONS AND TERMS OF MEASUREMENT

. . . .

Marijuana-Related Definitions

As used in the context of regulating marijuana-related uses in Section 146-3.3.5.S, the following terms have the following meanings:

Marijuana Cultivation Facility

An entity licensed to cultivate, prepare, and package retail or medical marijuana and to sell retail marijuana to retail marijuana stores **and marijuana hospitality businesses,** sell marijuana to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

. . . .

Marijuana Establishment

A marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a retail marijuana store, **a marijuana hospitality business,** a marijuana transporter, or a marijuana research business.

. . . .

Marijuana Hospitality Business

An establishment, which may or may not include sales, licensed to permit the consumption of marijuana pursuant to this Code, the Colorado Marijuana Code and the Colorado Regulated Marijuana Rules.

~~*Marijuana Membership Club*~~

~~Any building or structure wherein two or more people gather for the primary purpose of consuming marijuana or marijuana products, or any building or structure wherein club members meet with the ongoing practice of routinely or regularly consuming marijuana or marijuana products.~~

~~*Vapor Lounge*~~

~~Any building or structure, not open to the general public, wherein two or more people gather for the primary purpose of consuming, inhaling, or ingesting marijuana in smokeless or vapor form, or any vapor consisting of a base (such as, but not exclusively, water, propylene glycol, diethylene glycol, vegetable glycol, or vegetable glycerin), and tetrahydro-cannabinol (THC) or tetrahydrocannabolic acid (THCA).~~

Section 6. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 8. Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the office of the City Clerk.

INTRODUCED, READ, AND ORDERED PUBLISHED this _____ day of _____, 2021.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

CMcK

Daniel L Money
_____
DANIEL L. MONEY, Senior Assistant City Attorney

Minutes of the Regular Meeting of the Planning and Zoning Commission
City of Aurora, Colorado

April 28, 2021

AGENDA ITEM 5a:

Hearing and consideration Unified Development Ordinance – Text Change to Allow Marijuana Hospitality Businesses Within the City Boundaries

Applicant:	City of Aurora Marijuana Enforcement Division
Location:	Within the City Boundaries
DA Number:	DA-2163-04
Case Numbers:	2018-1006-06
Case Manager:	Kim Kreimeyer

In 2019, the state legislation passed House Bill 19-1230, allowing for marijuana hospitality; hospitality is essentially marijuana consumption. Marijuana Hospitality has two different options: “bring your own” and “hospitality and sales.” The bring your own option can have a fixed location, a mobile premise, or both. The hospitality and sales option is similar to a bar, where you purchase and consume the product at a fixed location. Local jurisdictions must opt in to allow these two new businesses types.

State requirements for these businesses are similar to other marijuana businesses. The businesses are required to have a state and local marijuana license, meet state security measure, and product sold at a hospitality and sale business is required to be tracked through the state tracking system. Product brought into the bring your own hospitality is not tracked by the state. Both types of hospitality businesses are also allowed within other businesses such as coffee shops, restaurants without liquor licenses, yoga studios, etc. No liquor or tobacco sales or consumption are allowed in either of the hospitality businesses. Both options require consumption to stop when emergency personnel are required to enter the business and both options allow outdoor consumption.

The Amendment 64 Ad Hoc Committee reviewed this item over the past year, discussing licensing and zoning. The Ad Hoc Committee was created in 2012, to consider marijuana legislation and regulations and includes City Councilmembers Gardener, Johnston, Berzins and Coombs along with industry and staff representatives. The Committee considered regulating marijuana hospitalities like bars and, after some discussion, the Committee recommended no conditional use and no buffer from residential uses. The Committee’s recommendation was to have the hospitality licensing ordinance include notification to abutting property owners prior to establishment of the business, measures to address noise and lighting, limited operating hours, and prohibition of outdoor consumption. The licensing ordinance also includes an odor mitigation plan, security requirements, a supplemental marijuana business license, and regular Marijuana Enforcement Division inspections.

The Committee’s recommendation is to allow the “bring your own” option to the existing retail marijuana stores only and to allow the hospitality and sales option to new businesses and locations. The Committee also is recommending mobile consumption, but this is dealt with through licensing not zoning. At the committee meeting on March 11, 2021, the Committee recommended forwarding the proposed ordinances to Planning Commission and on to Study Session. The licensing and Unified Development Ordinance (UDO) components will be presented to Council together. The hospitality licensing ordinance is attached for your convenience.

Aurora Marijuana Enforcement Division (AMED) staff recommends permitting both types of marijuana hospitality businesses as a single use in the UDO, allowing the use in the same mixed use and special purpose zone districts as marijuana stores and bars, and applying the “marijuana establishments” use specific standards. The limitations relating to “bring your own” are handled through licensing. The Committee also recommended no buffers with residential uses or zones. AMED staff also recommends limiting the hours of operation 8am to 10pm in the UDO. The requirements are explained in detail in the proposed ordinance.

Testimony Given at the Hearing:
Kim Kreimeyer, Case Manager, gave a presentation of the item, including the staff recommendation. Commissioner Turcios asked if this item will be going before the City Council. Commissioner Lyon responded, that this is a recommendation to City Council for the final approval. Dan Money, Senior Assistant City Attorney, confirmed that the only vote before Planning Commission is the recommendation to City Council for the UDO text change.

There was no public comment.

Planning Commission Results

Agenda Item 5a: Unified Development Ordinance Text Change

A MOTION WAS MADE COMMISSIONER BUSH AND SECONDED BY COMMISSIONER JETCHICK.

RECOMMEND APPROVAL TO CITY COUNCIL THE PROPOSED TEXT AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE. APPROVE THE ORDINANCE AMENDMENT BECAUSE THE PROPOSAL COMPLIES WITH THE REQUIREMENTS OF CODE SECTION 146-5.4.1.C.3.B OF UNIFIED DEVELOPMENT ORDINANCE, FOR THE FOLLOWING REASON:

1. THE APPLICATION IS CONSISTENT WITH THE AURORA PLACES PLAN GOALS TO SUPPORT A STRONG ECONOMY BY CONTINUING TO GROW JOB OPPORTUNITIES, TO SUPPORT LOCALLY GROWN BUSINESS STARTUPS AND EXPANSIONS, AND BOLSTER THE LOCAL ECONOMY AND IS REQUIRED TO PROMOTE ECONOMIC GROWTH AND INVESTMENT THAT WILL NOT CREATE MATERIAL RISKS TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.

Further Discussion:
No further discussion occurred.

MOTION PASSED UNANIMOUSLY.

CITY OF AURORA
Council Agenda Commentary

Item Title: Housing and Homeless Services Agreement Outcomes Update
Item Initiator: Jessica Prosser, Director of Housing and Community Services
Staff Source/Legal Source: Jessica Prosser, Director Housing and Community Services, Lana Dalton, Homelessness Programs Manager, Rodney Milton, Community Development Manager; Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☒ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Housing, Neighborhood Services & Redevelopment

Policy Committee Date: 7/8/2021

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

During 2020 several notices of funding were put out to the community to fund homeless services as well as general public assistance. These funds were coming from a varity of sources including HUD COVID fundings, CARES Act funding, Marijuana funds, and general HUD funds. Included in the agreements is a requirement to submit quarterly reports. This presentation will provide an overview of outcomes based on those reports.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Housing and homeless services would like to provide and update on program outcomes as it relates to the agreements the City has with outside agencies and internal programs.

QUESTIONS FOR COUNCIL

N/A

LEGAL COMMENTS

The City has the powers which are necessary, requisite, or proper for the government and administration of its local and municipal matters. (City Charter, art. 1-3). Council shall act by ordinance, resolution, or motion. (City Charter, art. 5-1). Council has the authority to do what is deemed necessary and proper to promote the prosperity, improve the order, comfort and convenience of the City and its inhabitants. (City Code § 2-32) This item is informational only. No formal council action necessary. (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: We are working to be proactive and produce options for the housing and homeless service system in Aurora. If we are not able to produce solution/s for people in our community that are experiencing homelessness, there is the high likelihood that encampments will grow, calls for service will go up, complaints to the City will go up, abatement costs will rise, and most importantly people will not have a safe place to call their "home".

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A



Housing & Homeless Services Update

Housing and Community Services
July 2021

Agenda

- Aurora Flexible Housing Fund Update
- Aggregated Homeless Service Agreement Data
- Aggregated Housing Agreement Data
- Questions

Homeless Services- AFF-Q1-2021

*Started the program in March (due to redesign of program)

(These numbers are from March 1 – May 31)

Total Number of Approved Applicants: 60

Total Spent: $120,517.21

Top Requests:

1. Rental Assistance (35 assisted- $74,485.82)
2. Deposit Assistance (14 assisted- $34,639.19)
3. Motel Assistance (5 assisted- $5,174.74)

Total Number of Households Assisted: 50

Homeless Services- Q1- 2021

10 Non-Profit Agencies were funded through 31 agreements:

- 2020 ESG-Regular Funds
- 2020-22 ESG-COVID Funds
- 2021 Marijuana Funds
- 2021 General Funds

Agencies complete quarterly reports once they began spending their funds

In Q1, 4 agencies, (8 agreements) have spent funds and submitted reports

Homeless Services- Q1-2021

AGENCY/PROGRAM	GRANT SOURCE	WHAT WERE THE DOLLARS SPENT ON?	FUNDS SPENT
Housing Authority of Aurora: Home	MJ	Rapid Rehousing Homelessness Prevention	$71,462.90
Mile High Behavioral Crisis Center	ESG-CV	Street Outreach	$8,318.42
Aurora Mental Health Homelessness Programs	ESG-CV1 ESG-CV2	Street Outreach Mobile Van Street Outreach	$4,302.40 $341.00
Mile High Behavioral Day Resource Center	ESG CV1 MJ	Day Shelter - ADRC	$5,169.91 $43,896.93
Mile High Behavioral Shelter	ESG-CV2	E-Shelter- Temporary	$435,095.47
Servicios de la Raza: Homelessness Programs	ESG-CV2	Rapid Rehousing Homelessness Prevention – Navigation	$1,272.50

Homeless Services- Q1- 2021

Total Number of Individuals Served: **3,114**

Total Number of Households Served: **2,797**

RACIAL GROUPS	INDIVIDUALS
Asian	24
Black/African American	962
Native American/Pacific Islander	36
White	1,612
Multiple Races	182
Client refused or doesn't know	67
Data not collected	231

ETHNICITY	INDIVIDUALS
Latino/Hispanic	90

GENDER	Individuals
Males	2,079
Females	994
Trans Female (MTF or Male to Female)	41

Homeless Services- Q1- 2021

Example of the Services Offered:

Number of Households Who Remained Housed or Obtained Housing: 97
Number of Crisis Calls Answered: 696
Number of Households that Received Counseling Services: 111

Number of Meals Served: 126,239
Number of Hygiene Kits and Care Packages Given: 587

Regular and Cold Weather Shelter beds available this quarter:
259 beds X 90 nights = 23,310

Utilization Rate of the 259 beds: 82% (or 19,140 beds used)

Emergency Rental Assistance – Cumulative Q2/2020 – Q1/2021

Community Development has assisted 766 households to avoid eviction, totaling **$3,225,981.00** since **June 19, 2020** when our first check was sent. Out of the 766 households only 53 have come back at least 1 time for more assistance.

Assistance by Ward	Number of Assistance Awarded
Ward I	178
Ward II	75
Ward III	262
Ward IV	135
Ward V	49
Ward VI	54

Funding Type	# of Applicants Receiving Funding	Amount of Funding
CARES	433	$1,637,104.00
Marijuana	107	$300,000.00
HAP	50	$84,273.00
CDBG-CV	29	$107,731.00
ERA – Treasury Applications processed Jan 29 – April 2	149	$1,096,873.00

Community Development Activities – CDBG – CV Q1- 2021

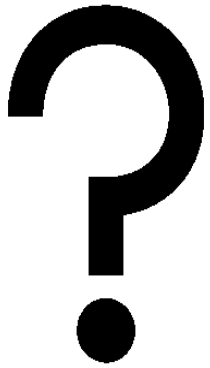
AGENCY	FUNDING	ACTIVITY(IES)	AGREEMENT APPROVED
Archway Housing &	$97,725	Youth Services,	MAY 24, 2021
Asian Pacific	$100,000	Mental Health,	JUNE 28, 2021
Colorado Coalition for	$41,027	Veterans Counseling, Management	MAY 2021
Colorado Oromo Community Center	$45,000	Food Assistance	MAY 2021
Ready to Work	$75,000	Bionic Ionization Units	JUNE 28, 2021
Restoration Christian	$195,000	Safe Parking Spaces	JUNE 28, 2021
Rocky Mountain	$107,028	Food Delivery	MAY 24, 2021
SECORCares	$210,420	Food Delivery	MAY 24, 2021
Village Exchange	$225,000	Food Pantry	JUNE 28, 2021
WeeCycle	$128,800	Baby Formula, Diapers, (supplies)	*HORNS JULY 8*

Housing Activities - Q1- 2021
Community Investment/Gap Financing

Community Development launched its Winter Round of Gap Financing in February 2021 w/ Recommendations and Awards presented in April. Agreements will be executed in July 2021

AGENCY	PROJECT NAME	FUNDING AMOUNT	HHS TO BE SERVED	AFFORDABLE UNITS	AGREEMENTS APPROVED
Aurora Housing Authority	Gateway	$750,000 HOME	30-60% AMI	100	JULY 19, 2021
Community Partners	Eagle Meadows	$500,000 HOME	30-60% AMI	92	JULY 19, 2021
Habitat for	Missing Middle Homeownership	$500,000 HOME	60-80% AMI	8-12	JULY 19, 2021
Elevations Land Trust	Permanently Homeownership	$590,000 GEN FUND	60-80% AMI	8-12	JULY 12, 2021

Questions



Community Development Block Grant
CFDA 14.218 Award B-19-MC-08-0002
BORROWER Agreement
Borrower Name Here

This agreement is entered into by **Borrower Name Here** herein referred to as the **"BORROWER"** and the CITY of Aurora, a municipal corporation, whose principal address is 15151 East Alameda Parkway, Aurora, Colorado 80012, herein referred to as the "**CITY**."

WHEREAS, the CITY has entered into an agreement with the U.S. Department of Housing and Urban Development herein referred to as "HUD" for the purpose of conducting a Community Development Block Grant Program (hereinafter referred to as the "Program"), with Federal financial assistance under Title I of the Housing and Community Development Act of 1974, as revised, (hereinafter called "Act").

WHEREAS, the BORROWER desires to make improvements to their **property located at Address Here**, to reduce the blighted appearance of the building. The property is on an approximate (Example).20 acre lot within the Westerly Redevelopment area. The building and lot have fallen into disrepair and there is much deferred maintenance. It is considered to be a blighted building. Work shall include, parking lot improvements, dumpster enclosure, improved elderly/handicap access, addition of fencing and screen walls, exterior lighting and ADA parking, and other exterior improvements as described in the Scope of Work attached hereto as Exhibit A.

WHEREAS, The Project qualifies as an eligible activity to address slums or blight on a spot basis and meets the national objectives pursuant to 24 CFR 570.208(b)(2) and therefore, the BORROWER is eligible to receive a portion of the CD Grant for the Project.

WHEREAS, The BORROWER desires to obtain a portion of the CD Grant to fund the Project, and subject to the following terms and conditions the CITY desires to utilize a portion of the CD Grant to assist the BORROWER to fund the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein contained, and subject to the terms and conditions and contingent upon receipt of HUD CDBG funding hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. <u>Definitions.</u>

"Program Funds" shall mean any funds disbursed to the BORROWER by the CITY from the Community Development Block Grant (CDBG) Program under this agreement.

“Revolving Fund” shall mean a separate fund with a set of accounts that are independent of other program accounts established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities.

"Program Income" means gross income received by the BORROWER directly generated from the use of CDBG funds. When Program Income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Program Income includes, but is not limited to the following:

a) Any proceeds received from the disposition by sale or long-term lease of real property purchased or improved with CDBG Program Funds;
b) Proceeds received from the disposition of equipment bought with CDBG Program Funds;
c) Gross income from the use or rental of real property acquired by the BORROWER with CDBG Program Funds less costs incidental to generation of the income;
d) Gross income from the use or rental of real property, owned by the BORROWER, that was constructed or improved with CDBG Program Funds, less costs incidental to generation of the income;
e) Payments of principal and interest on loans made using CDBG Program Funds;
f) Proceeds received from the sale of loans made with CDBG Program Funds;
g) Proceeds received from the sale of obligations secured by loans made with CDBG Program Funds;
h) Interest earned on CDBG Program Funds held in a revolving fund account;
i) Interest earned on Program Income pending its disposition; and
j) Funds collected through special assessments that are made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG program fund portion of a public improvement.

"CDBG Funds" shall mean funding received by the CITY from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG) Program.

"Contract Period" shall mean the effective date of this agreement and time given

for performance.

“Project Activity” shall mean the activity therein described in Section 3 of this agreement, Statement of Work.

“Moderate-, Low-, and Very Low-Income” shall mean at or below 80%, at or below 50%, and at or below 30%, of the Area Median Income (AMI) respectively as defined by the U.S. Department of Housing & Urban Development (HUD) for the current agreement period.

2. Purpose.

The purpose of this agreement is to provide funding for project activities approved by the CITY under the Community Development Block Grant Program, for fiscal year 2019.

3. Statement of Work.

The BORROWER shall improve the property to eliminate the blighted appearance of the building. The BORROWER will engage in the following project activities at Address: (Example)parking lot improvements, dumpster enclosure, improved elderly/handicap access, addition of fencing and screen walls, exterior lighting and ADA parking, and other exterior improvements as described in the Scope of Work attached hereto as Exhibit A.

4. Effective Date and Time of Performance.

This agreement takes effect upon execution of the agreement or upon the official Release of Program Funds from the Department of Housing and Urban Development (HUD). The activities to be performed by the BORROWER will be completed on or before **Date**.

5. Project Implementation.

The BORROWER will have responsibility for day-to-day management and implementation of the Project.

6. Unforeseen Delay In Performance.

Neither the BORROWER nor the CITY will be considered in breach or default of its obligations with respect to improvement of the property or the commencement and completion of rehabilitation of the improvements thereon, in the event of delay due to unforeseeable causes beyond its control and without its fault or negligence. The time for performance of the obligations and length of period of restriction on use will be extended for the period of the unforeseen delay if the party seeking the extension requests it in writing of the other party

within ten (10) days after the beginning of the unforeseen delay. The period of unforeseen delay will be determined by the CITY.

7. Loan Terms

The Community Development Block Grant loan (the "LOAN") will be secured with a ten-year (10) lien on the real property as indicated by the Promissory Note and Deed of Trust. The principal sum of **Zero and no/100 dollars ($0.00)** will be due and payable as follows:

Zero and no/100 dollars ($0.00) shall be due, together with interest on the unpaid balance at a rate of zero percent (0.00%) per annum which interest shall accrue annually for a period of **ten (10) years**. The loan is payable in **120 equal monthly payments** in the amount of **$0.00**. The first payment is due at Notice of Final Completion and all other payments are due on the first day of the month starting 30 days after the Notice of Final Completion or **November 20, 2020**, whichever is earlier. In the event that the **$0.00**is paid off prior to **November 20, 2030**, the Deed conditions of this Promissory Note will remain in effect until **November 20, 2030**. At the completion of said payments and after **November 20, 2030**, the remaining balance of **$0.00dollars ($0.00)**, shall be reduced to zero and this Promissory Note shall be deemed paid in full, provided, however, that the borrower(s), Borrower's tenants, assignees and heirs have met the following Deed Conditions for the full term of the Note:
Borrower shall mean tenant, heirs, and assignees-

1. Borrower(s) shall maintain and assure that the secured property is at all times in accordance with Land Use and Ordinances pursuant to the City of Aurora and or governmental entities. Maintenance includes, but is not limited to, landscaping, rubbish and debris, lighting, signage, and general repairs.
2. Borrower(s) shall not install nor affix security bars to the exterior nor interior of any perimeter wall, window, or entry.
3. Borrower(s) shall not display nor allow tenants to display permanent nor temporary window signage in a combined excess of 25%, or policy standards which may be less, of any window's total glazed area in accordance with the Colfax Avenue Main Street Sign Standards as adopted by the City of Aurora Community Development.
4. Borrower(s) shall not alter, nor allow tenants or contractors to alter the appearance of the building after completion of construction under this program without prior written approval of the Community Development Division of the City of Aurora. Said alteration includes, but is not limited to change of color, additions, removals and/or building signage. Approvals for alteration shall be consistent with the initial design of the project.
5. Borrower shall maintain Building Insurance in the amount of building replacement and shall include the City of Aurora, Community Development as additional insured

8. Budget.

The total amount to be awarded to the BORROWER under this agreement shall not exceed $**0.00.** The project budget is attached hereto as **Exhibit B.** The BORROWER may modify this budget only after having requested and received prior written approval of the adjustment from the CITY**.**

9. Payment.

It is expressly agreed and understood that the total amount to be paid by the CITY under this AGREEMENT shall not exceed **$0.00**. Draws for the payment of eligible expenses shall be made against line items budgets specified in **Exhibit B** and in accordance with performance.

10. Restrictions On Use.

a) Service Requirement:
The BORROWER agrees for himself/herself and his/her successors and assigns every successor in interest to the property, or any part thereof, that for a period of **ten (10) years** from the date of the issuance of the Certificate of Completion, if the property use is changed or the property is sold or vacated in less than said period, except as permitted in Section 6(b), the BORROWER shall immediately repay the CITY the outstanding Loan principal and the CITY shall release its lien on the land as evidenced in the Deed of Trust. If the loan is paid prior to the tenth year, the BORROWER will receive payment credits in accordance with the schedule in Section 7. The BORROWER may also pursue the use restriction option in Section 6 (b):

b) Disposition Options:
With the CITY's prior written approval, the BORROWER may use the commercial property for other eligible business uses for the required service term, and in such event, the Loan terms in Section 4 will continue to apply provided BORROWER remains in compliance will all provisions of this AGREEMENT.

11. Notices, Demands and Communications Between the Parties.

Formal notices, demands and communications between the CITY and BORROWER will be deemed sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the CITY and the BORROWER addressed to each party as follows:

CITY:

City of Aurora, Neighborhood Services Department
Community Development Manager
Martin Luther King Jr Library
9898 E Colfax Ave
Aurora, CO 80010

BORROWER: Name

Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section.

12. General compliance.

The BORROWER agrees to comply with the requirements of 1 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards – and Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) including subpart K of these regulations, except that (1) the BORROWER does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the BORROWER does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The BORROWER also agrees to comply with all other applicable Federal, state and local laws, regulations and policies governing the funds provided under this contract. The BORROWER further agrees to utilize funds available under this agreement to supplement rather than supplant funds otherwise available.

13. Independent Property Owner Status.

The BORROWER is an independent entity in the performance of all activities and functions pursuant to this Contract. The BORROWER and the CITY are not and will not be considered as joint ventures, partners or agents of each other and neither will have the power to bind or obligate the other. The BORROWER's officers, employees, agents and subcontractors will not be considered as officers, employees, agents or subcontractors of the CITY. The BORROWER hereby agrees not to represent to anyone that the BORROWER is an agent of the CITY or has any authority to act on behalf of the CITY. The BORROWER will be responsible for all employment compensation claims for Workman's Compensation benefits or other claims by employees arising as a result of activities funded in whole or in part from the proceeds of this Contract, and the BORROWER will hold the CITY harmless for any and all such claims.

14. Hold Harmless.

The BORROWER shall hold harmless, defend and indemnify the Grantee from

any and all claims, actions, suits, charges and judgments whatsoever that arise out of the BORROWER's performance or nonperformance of the services or subject matter called for in this AGREEMENT.

15. Indemnification.

The BORROWER and any and all of its personnel operating under the terms of this agreement are not to be considered agents or employees of the CITY for any purpose and are not entitled to any of the benefits that the CITY provides for the CITY's employees.

The BORROWER, as legally permissible, covenants and agrees to, and does hereby, indemnify and hold harmless, to the extent permitted by law, defend the CITY, its agents, servants, or employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind of character, whether real or asserted, arising out of this agreement for the work to be performed hereunder. The BORROWER hereby assumes all liability and responsibility for injuries, claims or suits for damages to persons or property of whatsoever kind or character, whether real or asserted, arising out of the performance of this agreement.

16. Insurance.

Owner Insurance. During the term of this Agreement, the Developer shall cause the Owner to provide the following insurance coverages:

(1) **Commercial General Liability Insurance.** The Owner shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:
$2,000,000 each occurrence
$4,000,000 general aggregate
$4,000,000 products and completed operations

(2) **Commercial Automobile Liability Insurance**. Owner shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned

and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

(3) **Workers' Compensation and Employers Liability Insurance.** Owner shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of: $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate

Contractor Insurance. The Contractor performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance, as indicated below, covering the Contractor, their employees, subcontractors or representatives, along with the activities of any and all subcontractors retained by the or the activities of anyone employed by any of them, or their representatives or anyone for whose acts they may be liable.

(1) **Commercial General Liability Insurance.** The Contractor shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:
$2,000,000 each occurrence
$4,000,000 general aggregate
$4,000,000 products and completed operations

(2) **Commercial Automobile Liability Insurance**. Contractor shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

(3) **Workers' Compensation and Employers Liability Insurance.** Contractor shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act,

as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of: $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate.

(4) **Umbrella/Excess Liability Insurance.** Contractor shall maintain an Umbrella/Excess Liability insurance policy on an occurrence basis in excess of the general liability and coverages specified above, with minimum limits of $5,000,000 per occurrence. The coverage shall be as broad as the underlying general liability and automobile liability policies set forth above. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

(5) **Pollution Legal Liability Insurance.** The Contractor shall maintain a separate Contractor's Pollution Liability insurance policy covering any bodily injury, liability, and property damage liability, arising out of the collection and disposal of pollutants, including items in transit to a permanent disposal facility, which may arise from activities under or incidental to this agreement. This policy shall be maintained with minimum limits of Two Million Dollars ($2,000,000) per claim or occurrence.

(6) **Builder's Risk.** The Contractor will provide builder's risk insurance coverage with limits equal to the total value of the project. Contractor shall name the Developer/Owner and the City of Aurora as loss payees on the policy.

Subcontractors' Insurance Requirements. Subcontractors are subject to the same insurance requirements as the Contractor. The Contractor is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the project. Any subcontractor which ceases to maintain the insurance coverages set forth above must be removed from the project until such time that insurance coverage can be verified as in full force and effect.

Limits of Insurance. The total limits of general, automobile liability, employer's liability and excess liability insurance set forth above may be provided to the City using a combination of primary and excess liability insurance.

Additional Insured, Waiver of Subrogation and Deductibles. The Owner and Contractor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability, Excess Liability and Pollution Liability insurance policies. The certificate of

insurance will include these specific requirements along with a copy of the relevant endorsements. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Owner and Contractor.

Certificates of Insurance. Upon the execution of this Agreement or as soon as practicable, Owner and its Contractor shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. The name of the bid or the project must appear on the certificate of insurance. Owner and Contractor agree that the required coverages will not be reduced, canceled, non-renewed or materially changed without thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of the Owner's and Contractor's coverages are renewed at any time prior to completion of the services, they, not their insurance carriers, shall be responsible for obtaining updated insurance certificates and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate. If a certificate is not available immediately after renewal, a binder showing the coverages have been renewed will be acceptable until a certificate is available.

The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Owner and Contractor shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances, including increased risk or scope of work. The Owner's and Contractor's policies will be primary and non-contributory with respect to any and all insurance policies of the City.

If any of the insurance coverages required under this Agreement become unsatisfactory at any time to the City as to form or substance or if the carrier's rating is lowered due to financial issues, the Owner shall promptly obtain a new policy, submit the same to the City for approval and thereafter submit a certificate of insurance as herein above provided. Failure of the Owner to comply with any provisions of this contract shall be grounds for immediate suspension or termination of this Agreement. Failure of the Owner to obtain and/or maintain any required insurance shall not relieve the Owner from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Owner concerning indemnification.

Self-Insurance/Deductible. If the Contractor has any self-insured retentions or deductibles under any of the required policies, the Contractor must reflect these amounts on the Certificate(s) of Insurance. If requested, the Contractor will provide satisfactory evidence of financial responsibility for such obligations. In any event, Contractor will be solely responsible for any self-insured retentions or

deductibles.

Owner is required to either ensure that all subcontractors are insured under the Owner's policies or to forward separate mandatory certificates of insurance and endorsements for it to the City. All subcontractors are required to comply with the coverage and limit requirements outlined in this Contract.

Bonding. If this Contract is for the amount of One Hundred Thousand Dollars ($100,000) or more, the Owner shall provide a bid guarantee of in the amount of five percent (5%) of the Contract price. Additionally, the Owner shall secure a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the Contract price, with a corporate surety approved by the City and licensed to do business in the State of Colorado, and said bonds to be released at the sole direction of the City.

17. Suspension or Termination.

In accordance with federal provisions, suspension and termination may occur if the BORROWER materially fails to comply with any term of the award, and that the award may be terminated for convenience. The CITY may suspend or terminate payment for the project in whole, or in part, for cause. Cause shall include but not be limited to the following:

a) Improper use of Program Funds;
b) Failure to comply with either the terms or conditions of this agreement or the services to be provided as described in the Section 3, "Statement of Work", of this agreement;
c) If, for any reason, the carrying out of the agreement is rendered impossible or unfeasible;
d) Non-appropriation of or receipt of funds from the U.S. Department of Housing and Urban Development;
e) Failure to comply with any applicable local, state, and federal laws and regulations.

If the CITY withholds disbursement requests for Program Funds, it shall advise the BORROWER and specify the actions that must be taken, in writing, in case of suspension, as a condition precedent to the resumption of payments and specify a reasonable date for compliance. Prior to terminating this Agreement for cause, the CITY shall advise the BORROWER in writing of its intent, specifying the reasons for such termination and the corrective actions that must be taken by the BORROWER in order to avoid such termination. The CITY will specify the period of time, not to exceed 30 calendar days in any case, within which such corrective action must be taken, during which period all payments of Program Funds to the BORROWER shall be suspended. Any failure of the BORROWER to take corrective action within the time provided will result in the immediate termination of this Agreement and repayment of all Program Funds spent in violation of its

provisions.

The CITY may terminate this Agreement at any time the CITY determines that the purposes of the distribution of CITY CDBG monies under the Agreement would no longer be served by completion of the Project. The CITY shall effect such termination by giving written notice of termination to the BORROWER and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 7 above shall, at the option of the CITY, become the CITY's property. If the Agreement is terminated by the CITY as provided herein, the BORROWER will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the BORROWER covered by this Agreement, less payments of compensation previously made: provided, however, that if less than sixty percent (60%) of the services covered by this Agreement have been performed upon the effective date of such termination, the BORROWER shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by the BORROWER during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of the BORROWER, Paragraph 7 hereof relative to termination shall apply.

Force Majeure – If either party is rendered unable, wholly or in part, by Force Majeure to carry out any or all of its obligations under this Agreement, then the obligations of such party, so far as it is affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied within a reasonable time. “Force Majeure” means acts of God, strikes, lockouts or other major industrial disturbances, acts of public enemies, wars, terrorism, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, unusual and severe weather conditions, delays in work to be performed by others, interruptions by government or utility providers not exclusively due to the fault of the Parties, civil disturbances, explosions, litigation initiated by third parties seeking to overturn or enjoin any approval granted by the CITY, or any other governmental or quasi-governmental agency relating to the Project Activity, or other events beyond the reasonable control of the Parties.

18. Accounting Standards.

The BORROWER agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

19. Cost Principles.

The BORROWER shall administer its program in conformance with 2 CFR Part 200 as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

20. Prohibition Against Transfer of Property.

The BORROWER certifies that it has not made or created and will not make or suffer to be made any sale, assignment, conveyance, lease or transfer in any form of any part of the property subject to or interest created by the Contract without the prior written approval of the CITY, except for matters or record, previously recorded in the Arapahoe County Recorder's Office. This limitation will be in effect for that period of time recited in Section 11 which restricts the use of the subject property.

21. Disbursement of Funds.

Program Funds shall be made available to the BORROWER subject to the terms and conditions of this agreement, and documentation evidencing the propriety of the proposed use of Program Funds with each draw-down request. Program Funds shall be disbursed to the BORROWER in the following manner described:

> After verification of work completed, Program Funds shall be disbursed in the CITY's method of disbursement within 21 days from the receipt of invoice.

22. Disposition of Program Income.

Any Program Income on hand when the agreement expires, or received after the agreement's expiration, shall be paid to the CITY as required by 24 CFR 570.503(b)(7).

The BORROWER shall keep, and make available to the CITY, such records as may be necessary to account for expenditures of all Program Funds and Program Income.

No Program Income will be generated as a result of this activity.

23. Records.

The BORROWER shall keep accurate books and records of accounts in accordance with generally accepted accounting principles of all expenditures made and all costs and liabilities incurred utilizing Program Funds and Program Income. The aforementioned accounts and all project records shall be made available upon request by the CITY, U.S. Department of Housing and Urban

Development (HUD), or any other federal agency for examination and audit. All books and records of accounts must be retained for five (5) years from the date of this agreement.

The BORROWER shall keep accurate books and records as indicated below:

a) The project activity described herein is determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use by a limited clientele consisting exclusively or primarily for use by low- and moderate-income persons.

b) Unless otherwise specified in this agreement, the CITY shall be responsible for bidding and contracting rehabilitation and construction for building or property improvement. The BORROWER shall be responsible for working with the CITY in developing the construction specifications. The BORROWER shall also be responsible for working with appropriate state and local agencies in meeting applicable state and local regulations for building occupancy requirements.

24. Client Data.

The BORROWER shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the CITY or their designees for review upon request.

25. Disclosure.

The BORROWER understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the CITY's or BORROWER's responsibilities with respect to services provided under this agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible adult.

26. Retention and Access to Records.

The CITY, HUD, the Comptroller General of the United States, the Government Accounting Office or any of their duly authorized representatives will have access to any books, documents, papers and records of the AGENCY which are pertinent to any activity performed under this Contract as required under 2 CFR 200.333 et seq. and 24 CFR 570.502(7)(ii) (collectively, the "Records") for the

purpose of making audit, examination, excerpts and transcriptions. The BORROWER will keep and maintain such books, documents, papers and records in accordance with 2 CFR 200.333 et seq. and for a period of at least three (3) years after the expiration or termination of this Agreement or three (3) years after the submission of the annual performance and evaluation report as prescribed in 24 CFR 91.520. The CITY's right of access is not limited to the retention period but lasts so long as the Records are retained by BORROWER. The BORROWER will permit independent auditors' access to its Records and financial statements as necessary to comply with federal audit requirements.

27. Closeout Requirements.

The BORROWER's obligations to the CITY under this Agreement shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to:

a) Making final payments;
b) Submitting final invoices, reports and documentation;
c) Disposing of program assets;
d) Remitting any accounts receivable to the CITY;
e) Determining the custodianship of records; and
f) Other requirements under Uniform Administrative Requirements.

28. Performance Reports, Audits.

The BORROWER will submit the following reports on project performance at the request of, and in the format prescribed by, the CITY:

a) Completion report covering start of all activity through December 31, 2020 due within thirty (30) days of January 1, 2020, (due on or before January 30, 2020). Although no program expenses may be reimbursed until this Agreement is executed, all activity and client records from the start of the activity thru December 31, 2020 shall be included in the Completion report.

b) The BORROWER also will submit such reports as HUD and the CITY may require, including litigation reports, financial management reports required by Federal Management Circular 74-7, equal opportunity reports as may be necessary pursuant to the rules and regulations under Title VI, Civil Rights Act of 1964, Title VIII, Civil Rights Act of 1968, Section 3 of the Housing and Urban Development Act of 1968, Section 109 of the Act, Executive Order 11246, as amended and Executive Order 11053, or any reports as may be further required.

c) The BORROWER will submit a financial audit within ninety (90)

days after the close of the BORROWER's fiscal year during which the aggregate of federal grant funds expended from all sources both inclusive and exclusive of this Contract is Seven Hundred-Fifty Thousand Dollars ($750,000) or more. The audit must be in conformance with the audit requirements of 2 CFR Part 200.501. The BORROWER will also transmit a copy of the audit to the Federal Audit Clearinghouse as required by 2 CFR Part 200.512.

29. Uniform Administrative Requirements.

The BORROWER, as applicable to a governmental or nongovernmental agency, shall comply with the requirements and standards of 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225 and 230, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” aka “Super Circular”; and shall comply with applicable sections of 79 FR 75871, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

The BORROWER shall make accurate, current, and complete disclosure of the financial results of assisted activities from Program Funds and must safeguard and ensure that Program Funds are used solely for authorized purposes. Accounting records must be supported by canceled checks, paid bills, payrolls, time and attendance records, contractual documents, or another acceptable source documentation.

If the BORROWER shall procure services with Program Funds for an authorized use as outlined in this agreement, the BORROWER shall maintain records sufficient to detail the significant history of a procurement of which records shall include a minimum of: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The BORROWER shall have protest procedures to handle and resolve disputes relating to their procurement and shall in all instances disclose information regarding the protest to the CITY. All procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319.

30. Reversion of Assets.

At the expiration of this agreement, the BORROWER shall transfer any Program Funds on hand at the time of expiration and any accounts receivable attributable to the use of Program Funds.

Any real property, under the BORROWER’s control, that was acquired or improved in whole or in part with CDBG Program Funds in excess of $25,000 must meet one of the following criteria:

a) Be used to meet the national objective of “an eligible activity to address slums or blight on a spot basis.” The BORROWER agrees to use any real property acquired for the original authorized purpose as set forth within this agreement for this time period and shall not dispose of or encumber its title or other interests. Or:

b) Be disposed of in a manner that results in the CITY's being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvements to, the property. Funds from this reimbursement will be considered Program Income to the CITY, if less than a five (5) year period from the date of expiration of this agreement. If the BORROWER desires to retain title but no longer will use it for the authorized purpose or specified time period as outlined in this agreement, it must compensate the CITY in an amount computed by applying the CITY’s percentage of participation in the cost of the original purchase price to the fair market value of the property. The BORROWER may also elect to transfer title back to the CITY for disposition or otherwise.

When Program Funds are used for the acquisition of equipment, the BORROWER shall use the equipment for the program or project for which it was acquired as long as it is needed, whether or not the program or project continues to be supported by Program Funds. The BORROWER may not use the equipment acquired with Program Funds to provide services for a fee. The BORROWER shall retain adequate records regarding the description, use, and any disposition of the equipment for five years. If the BORROWER disposes of the equipment within five years from the date of this agreement, it must compensate the CITY in an amount computed by applying the CITY’s percentage of participation in the cost of the original purchase price.

31. <u>Other Program Requirements.</u>

The BORROWER shall carry out the activities under this agreement in compliance with all Federal laws and regulations as described in 24 CFR 570 Subpart K.

No person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded with Program Funds.

All laborers and mechanics employed by contractors or subcontractors for construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in

accordance with the Davis-Bacon Act, as amended.

No Program Funds provided under this agreement shall be expended for acquisition or construction or rehabilitation purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the locality in which the area is situated is participating in the National Flood Insurance Program and flood insurance is obtained in accordance with federal provisions.

The BORROWER shall assure that it has taken all necessary reasonable steps to minimize the displacement of persons, families, individuals, businesses, nonprofit organizations, and farms as a result of activities assisted with Program Funds under this agreement.

To the greatest extent feasible, and in accordance with existing federal, state, and local laws, the BORROWER, under Section 3 of the Housing and Urban Development Act of 1968, shall provide employment and other economic opportunities arising in connection with activities assisted with Program Funds for housing rehabilitation, housing construction, or other public construction, to low- and very-low-income persons.

The BORROWER shall not use lead-based paint for residential structures constructed or rehabilitated with Program Funds.

The BORROWER shall not directly or indirectly employ, award contracts to, or engage the services of, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status.

The BORROWER shall not provide financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available through activities assisted with Program Funds to certain newly legalized aliens as described in 49 CFR 24.208.

The BORROWER does not assume the CITY's environmental responsibilities and the BORROWER does not assume the CITY's responsibility for initiating the environmental review process in accordance with federal provisions.

The BORROWER shall carry out the activities under this agreement in compliance with all federal laws and regulations as described in 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the U.S. Department of Housing and Urban Development.

32. <u>Compliance with Laws and Regulations</u>

a) The BORROWER will give all notices and comply with all laws, ordinances, rules, building codes, regulations and lawful orders of

any public authority bearing on the performance of activities pursuant to this Contract. If the BORROWER observes that any of the Contract documents are in conflict with any laws, statutes, building codes and/or regulations, it will promptly notify the CITY, in writing, and any necessary changes will be accomplished by appropriate written modification.

b) The BORROWER and its contractors will abide by all regulations pursuant to the Immigration and Naturalization Reform Act of 1986, specifically as it relates to employment and client services, and such other provisions as may be applicable.

c) Should the BORROWER perform any work knowing it to be contrary to applicable laws, ordinances, rules, building codes and/or regulations, and not give proper notice to the CITY, it will assume full responsibility therefore and will bear all cost incurred due to its negligence.

d) The BORROWER will comply with and require all contractors paid with funds provided by this Contract to comply with all applicable provisions of federal law and the Housing and Community Development Act of 1974, as amended, 24 CFR Part 570, governing use of federal and CDBG funds including the following:

(1) The BORROWER will comply with the requirements and standards of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as set forth in 24 CFR § 570.502. The BORROWER 's financial management system will include at a minimum accurate, current and complete disclosures of the CDBG program; records which adequately identify the source and application of funds provided for financially assisted activities; effective control over and accountability for grant cash, real and personal property and other assets; comparison of actual outlays with budgeted amounts; and records supported by source documentation.

(2) The BORROWER will carry out its responsibilities in compliance with the Civil Rights Act of 1964 and the Title VIII of the Civil Rights Act of 1968, in order to affirmatively further fair housing; and to comply with the requirements of Executive Order 11063, as amended by Executive Order 12259; Title VI of the Civil Rights Act of 1964 (42 USC 2000d), the prohibitions against age discrimination under the Age Discrimination Act of 1975 (42 USC 6101-07), the prohibitions against discrimination on the basis of religion as

amended in 24 CFR 570.602, and the prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 (19 USC 794), and compliance with the requirements of the Architectural Barriers Act of 1968 (42 USC 4151- 4157).

(3) The BORROWER will comply with the requirements of the Davis-Bacon Act, as amended (40 USC 3141-3148), to include payment of wages as outlined in **Exhibit H** attached hereto and incorporated herein by this reference, and the Contract Work Hours and Safety Standards Act (40 USC 3701-3708). However, these provisions will not apply to residential property rehabilitation unless such property contains eight (8) units or more.

(4) The BORROWER will comply with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4106).

(5) The BORROWER will comply, as applicable, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("URA") and with residential anti-displacement and relocation requirements set forth in 24 CFR 570.606.

(6) The BORROWER will comply with the Affirmative Action requirements of Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR 60); as well as Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u).

(7) The BORROWER will comply with the prohibitions against the use of lead-based paint pursuant to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856) and the implementing regulations set forth at 24 CFR 35.

(8) In accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," the AGENCY agrees that neither it, nor its principals is presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction evidenced by this Contract by any federal department, and agrees to comply with the requirements of 2 CFR 180 and

24 CFR 2424.

(9) The BORROWER agrees to comply with the provisions of the Copeland "Anti-Kick Back" Act (18 USC 874, 40 USC 3145) as supplemented by 29 CFR, part 3.

(10) The BORROWER agrees to comply with Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309), which provides that no otherwise qualified individual with disabilities in the United States shall, solely by reason of his or her race, color, religion, gender, national origin, age or disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in employment, services, housing, building and services accessibility or any other aspects of this program. The discrimination prohibitions in the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1974 are also incorporated herein. If BORROWER employs 15 or more employees, it will comply with the provisions of 24 CFR Part 8 that require AGENCY to adopt a Section 504 grievance procedure, provide notice to its participants, applicants and employees, and perform an annual self-evaluation.

(11) The BORROWER will comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151), the Americans with Disabilities Act (42 USC 12131; 47 USC 155, 201, 218, and 225), and the Uniform Federal Accessibility Standards FED-STD-795 (April 1988) subject to the exceptions contained in 41 CFR, Subpart 101-19.604.

(12) The BORROWER will take reasonable steps to provide meaningful access for all persons with Limited English Proficiency as required by Title VI of the Civil Rights Act of 1964, Executive Order 13166, and HUD's final "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons." The BORROWER will submit documentation to CITY evidencing completion of BORROWER 's responsibilities under this section, including BORROWER 's Language Access Plan, if applicable.

(13) The BORROWER will comply with the Hatch Act, 5 USC 1501-1508, and must ensure that no funds provided, nor personnel employed under this Contract, will be in any way

or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S. Code.

(14) The BORROWER agrees that funds provided under this Contract will not be utilized for inherently religious activities prohibited by 24 CFR 570.2000), such as worship, religious instruction or proselytization.

(15) The BORROWER will comply with all applicable laws, regulations, bulletins, and directions of HUD necessary to assure that the proceeds of the BORROWER Grant are utilized in a manner which is consistent with the HUD Community Development Block Grant Program.

33. <u>Equal Employment Opportunity/Nondiscrimination – City Requirements.</u>

The BORROWER shall not discriminate against any employee, applicant for employment, contractor, or subcontractor because of race, color, religion, sex, national origin, disability, or veteran status. The BORROWER shall adhere to acceptable affirmative action guidelines in selecting employees and contractors and shall ensure that employees and contractors receive fair treatment during employment or agreement, without regard to their race, color, religion, sex, national origin, disability, or veteran status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

34. <u>Equal Employment Opportunity/Nondiscrimination – Federal Requirements.</u>

During the performance of this contract, the BORROWER agrees as follows:

The BORROWER will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, marital status, or national origin. The BORROWER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action will include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The BORROWER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

a) The BORROWER will, in all solicitations or advertisements for

employees placed by or on behalf of the BORROWER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, marital status, or national origin.

b) The BORROWER will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

c) The BORROWER will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the BORROWER's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d) The BORROWER will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e) The BORROWER will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f) In the event of the BORROWER's noncompliance with the nondiscrimination clauses of this contract or with any of the

said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g) The BORROWER will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The BORROWER will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a BORROWER becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The BORROWER hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the BORROWER agrees as follows:

(1) The BORROWER will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex,

sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The BORROWER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The BORROWER will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The BORROWER will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the BORROWER 's legal duty to furnish information.

(4) The BORROWER will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The BORROWER will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The BORROWER will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of

Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the BORROWER's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The BORROWER will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
Provided, however, that in the event a BORROWER becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The BORROWER further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the BORROWER so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The BORROWER agrees that it will assist and cooperate actively with the CITY and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering

agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The BORROWER further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the AGE BORROWER NCY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the BORROWER under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such BORROWER; and refer the case to the Department of Justice for appropriate legal proceedings.

35. Illegal Aliens.

Unlawful Employees, Contractors and Subcontractors – The BORROWER shall not knowingly employ or contract with illegal aliens to perform services funded pursuant to this Agreement. The BORROWER shall not knowingly contract with a subcontractor or vendor that:

a) Knowingly employs or contracts with illegal aliens to perform services funded pursuant to this Agreement; and

b) Fails to certify to the BORROWER that the subcontractor or vendor will not knowingly employ or contract with an illegal alien to perform services funded pursuant to this Agreement.

Verification Regarding Illegal Aliens – By executing this Agreement, the BORROWER confirms the employment eligibility of all employees who are newly hired for employment to perform services funded pursuant to this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

Limitations – The BORROWER shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

Duties of the BORROWER – If the BORROWER obtains actual knowledge that a subcontractor or vendor performing services funded pursuant to this Agreement knowingly employs or contracts with an illegal alien, the BORROWER shall be required to:

a) Notify the subcontractor or vendor and the CITY within three days that the BORROWER has actual knowledge that the subcontractor or vendor is employing or contracting with an illegal alien; and

b) Terminate the subcontract with the subcontractor or vendor if, within three days of receiving the notice, the subcontractor or vendor does not stop employing or contracting with the illegal alien; except that the BORROWER shall not terminate the contract with the subcontractor or vendor if the subcontractor or vendor provides information to establish that the subcontractor or vendor has not knowingly employed or contracted with an illegal alien.

Duty to Comply with State Investigation – The BORROWER shall comply with any request made by the Colorado Department of Labor or the CITY in the course of an investigation that the Department or the CITY is undertaking.

Damages – Notwithstanding any other provisions within this Agreement, if the BORROWER violates any of the above provisions regarding illegal aliens, the CITY may terminate this Agreement for cause and the BORROWER may be liable for consequential damages.

36. Monitoring.

The CITY will monitor and evaluate the AGREEMENT with the BORROWER under the CDBG Program for the effective and efficient utilization of CDBG funds. The AGREEMENT will also be monitored for compliance with the rules, regulations, requirements and guidelines, which the CITY has promulgated or may promulgate. The Project will be monitored to assure compliance with the requirements of the CDBG Program periodically during the operation of the project and upon its completion and during the required period of affordability.

The BORROWER shall notify the CITY upon key staffing changes during the monitoring period.

The AGREEMENT will also be subject to monitoring and evaluation by HUD.

37. Religious Organizations.

In accordance with First Amendment Church/State Principles, Program Funds

may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities subject to the following restrictions and limitations:

a) Program Funds may not be used for the acquisition of property or the construction or rehabilitation of structures to be used for religious purposes or which will otherwise promote religious interests. Property owned by primarily religious entities may be acquired with Program Funds at not more than fair market value for a non-religious use. Program Funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose in accordance with federal provisions.

b) Program Funds may be used for public services (labor, supplies, and materials which are directed toward project activity including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs) to be provided through a primarily religious entity, such that the CITY benefits from these public services, and in connection with the provision of such public services, the primarily religious entity:

(1) Shall not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
(2) Shall not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
(3) Will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.

If Program Funds awarded under this agreement are carried out on property owned primarily by a religious entity, Program Funds may be used for minor repairs to such property which are directly related to the carrying out of a public service project activity where the cost constitutes in dollar terms only an incidental portion of the Program Funds expenditure for the public service project activity.

38. <u>Byrd Anti-Lobbying Certification (31 U.S.C. 1351).</u>

In all contracts in excess of $100,000 the BORROWER hereby certifies, to

the best of his or her knowledge and belief, that:

a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the BORROWER, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.

b) Each BORROWER tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C, 1352.

c) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the BORROWER will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

39. <u>Hatch Act / Political Activities.</u>

The BORROWER agrees that no funds provided, nor personnel employed under this AGREEMENT, shall be in any way or to any extent engaged in the conduct of political activities in violations of Chapter 15 of Title V of the U.S.C.

The BORROWER will not use Community Development Block Grant funds ("CDBG funds") to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. The BORROWER may, however, use a facility financed with CDBG funds on an incidental basis to permit political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are

assessed equal rent or use charges, if any.

40. <u>Conflict of Interest.</u>

The BORROWER is subject to the conflict of interest provisions under 24 CFR 570.611:

a) Applicability.

(1) In the procurement of supplies, equipment, construction, and services by recipients and by Owners, the conflict of interest provisions in 2 CFR 200.317 and 200.318 shall apply.

(2) In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its Owners to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i)).

b) Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of Owners that are receiving funds under this part.

d) Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-

making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

41. Drug-free Workplace Act of 1988.

The BORROWER must comply with drug-free workplace requirements in Subpart B of 2 CFR § 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

42. Fees for Use of Facility.

Because public facilities are assisted under this Contract with the intent of having them be made available to the public, fees charged for the use of these facilities must be reasonable and based on actual costs such as related utilities, cleanup, security and insurance. Excessive charges which will have the effect of precluding low and moderate- income persons from using the facilities are not permitted.

43. Acknowledgment.

The BORROWER will acknowledge during the term of the Contract the contribution of the City of Aurora Community Development Block Grant loan toward the rehabilitation of the facility described in the Scope of Work in all instances where the contributions to the Project are recognized or listed.

44. Procurement Standards and Methods

a) General Standards – With respect to procurement of supplies and other expendable property, equipment, real property and other services with CDBG funds, the Owner shall procure in accordance with 2 CFR 200.318-326.

b) Equipment – Purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built

into a structure) of an eligible project or service. Equipment must have prior approval by the City before any expense is incurred. The Owner shall comply with its own current policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, accounts receivable, etc.) shall revert to the City upon termination of this contract.

c) DEBARRED Contractors – Per Executive Order 12549, "Debarment and Suspension" (24 CFR Part 24), CDBG funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of, any contractor during any period of debarment, suspension or placement of ineligibility status. The Owner shall check all contractors against the Federal publication that lists debarred, suspended, and ineligible contractors.

45. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Disadvantaged Business Enterprises.

Pursuant to national policy to award a fair share of contracts to small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises, BORROWER will take affirmative steps to assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are utilized when possible as sources of supplies, equipment, construction, and services. Such affirmative steps will include the following:

a) Include qualified small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises on solicitation lists.

b) Assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are solicited whenever they are potential sources.

c) When economically feasible, divide total requirements into small tasks or quantities so as to permit maximum participation from small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.

d) Where the requirement permits, establish delivery schedules which encourage participation by small and minority businesses, women's business enterprises, and Disadvantaged Business

Enterprises.

e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required.

f) Include affirmative steps, one through five in any subcontract.

46. Construction. Labor and Material Payment and Performance Bonds.

Prior to the commencement of any rehabilitation, the BORROWER will ensure that the construction contractor posts a construction labor and material payment bond and performance bond for the total amount of the rehabilitation contract in a form as approved by the CITY, which will ensure the payment of all rehabilitation costs of the improvements.

47. Environmental Conditions.

a) Air and Water: The BORROWER agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:
- Clean Air Act, 42 U.S.C. , 7401, et seq.;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

b) Flood Disaster Protection: In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the BORROWER shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

c) Lead-Based Paint: The BORROWER agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of

properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

d) Historic Preservation: The BORROWER agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

e) Energy Efficiency: Owner must ensure compliance with mandatory energy efficiency standards and policies in State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

f) Asbestos: Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding workers exposure, abatement procedures and disposal.

48. <u>Archaeological Remains.</u>

Should archaeological remains be encountered during ground disturbing activities, work will cease in the area of discovery. The Neighborhood Services Community Development Manager will be notified immediately. Work in the area of discovery will not resume until the significance of the discovery has been assessed and the environmental clearance updated.

49. <u>Clean Air Act And Federal Water Pollution Control Act.</u>

Applicable to all contracts in excess of $150,000. The BORROWER will comply

with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC 1251- 1387). Violations must be reported to the CITY, HUD, and the Denver Regional Office of the Environmental Protection Agency (EPA).

50. Procurement Of Recovered Materials.

a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor will procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor will procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable time period; (2) fail to meet reasonable performance standards, which will be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item, or (3) are only available at an unreasonable price.

b) Paragraph (a) of this clause will apply to items purchased under this contract where: (1) the BORROWER purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

51. Labor Standards.

The BORROWER agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The BORROWER agrees to comply with the Copeland AntiKick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The BORROWER shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The BORROWER agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all

contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the BORROWER of its obligation, if any, to require payment of the higher wage. The BORROWER shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

52. <u>"Section 3" Clause.</u>

a) Compliance. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the BORROWER and any of the BORROWER's BORROWERs and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the BORROWER and any of the BORROWER's BORROWERs and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The BORROWER certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The BORROWER further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The BORROWER further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The BORROWER certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b) Notifications. The BORROWER agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c) Subcontracts. The BORROWER will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The BORROWER will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

53. <u>Assignability.</u>

The BORROWER shall not assign any interest in this agreement and shall not transfer any interest in the same without the prior written consent of the **CITY**.

54. Indebtedness to Internal Revenue Service or Other Public Entity.

a) Any judgment, lien, levy or outstanding amount owed to the Internal Revenue Service, State, County, City or other public entity by the BORROWER will constitute an event of default or breach of this Contract for purposes of Section 21, unless previously approved by the CITY in writing, and may constitute sufficient reasons for cancellation of this Contract by the CITY according to the procedures contained in this Contract.

b) Prior to entering into this Contract and during the time period covered by this Contract, the BORROWER will disclose any information related to the preceding paragraph. This will also include the immediate reporting of breaches in payback arrangements or breaches in other agreements related to the above. Failure to comply with any disclosure provision in this Section may also constitute sufficient reason for cancellation of this Contract by the CITY according to the procedures contained in this Contract.

55. Default / Remedies.

a) In the event of any default in or breach of this Contract or any of its terms or conditions by either party hereto, such party will, upon written notice from the other, proceed immediately to cure or remedy such default or breach. In any event such breach or default is remedied within thirty (30) days after receipt of such notice. In case such action to cure or remedy the default or breach is not taken or not diligently pursued, or the default or breach not cured or remedied within thirty (30) days, the aggrieved party may terminate this Contract or institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. In the event of a breach of Contract by the BORROWER, the CITY, in addition to any other remedy, may immediately withhold payment of funds until such default is cured. The CITY will have the further right to declare the Promissory Note as secured by the Deed of Trust immediately due and payable if such breach is not cured within thirty (30) days as provided herein.

b) In the event there are one or more liens on the subject property

which are or will be senior to the lien created under the Deed of Trust referenced above (collectively, the "Senior Lien") and the BORROWER fails to perform any of the obligations secured by any Senior Lien, the BORROWER will, upon written notice from the CITY, immediately proceed to cure or remedy such default or breach, and, in any event, such breach or default must be remedied by the BORROWER within thirty (30) days after receipt of such notice. In the event such failure to perform is not cured within thirty (30) days after receipt of the CITY's notices, the CITY will have all the rights and remedies described in Section 21(a) above.

c) Failure of the CITY to insist upon strict performance of any provision of this Contract or to exercise any right or remedy to which the CITY is entitled hereunder will not constitute a waiver thereof and will not diminish the obligations under this Contract. No waiver of any of the provisions of this Contract will be effective unless it is expressly stated to be such and signed by both the CITY and BORROWER.

56. No Third-Party Beneficiaries.

This Contract is solely between the City and the BORROWER. Nothing in this Contract is intended to establish a right in any third party or create an expectation of benefit in any party other than those specifically named in this Contract. Any person receiving services from the BORROWER, as a result of this Contract is in privity solely with the BORROWER or other parties with whom they contract.

57. Contractor Employee Whistleblower Rights And Requirement To Inform Employees Of Whistleblower Rights (APR 2014).

a) This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

b) The BORROWER will inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

c) The BORROWER will insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

58. Federal Funding Accountability and Transparency Act (FFATA).

The BORROWER will comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The AGENCY must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and have a Data Universal Numbering System (DUNS) number. The BORROWER will also comply with the provisions of FFATA which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

59. Roles and Responsibilities.

(a) Chief Executive Officer

The BORROWER's Chief Executive Officer is responsible for the execution of the BORROWER's activities and obligations enumerated in this Contract. Unless otherwise directed by the BORROWER, the CITY will contact the Chief Executive Officer when communicating with the BORROWER. The CITY will be notified, in writing, of changes of personnel filling this position. The Chief Executive Officer may utilize the professional services of other advisors as his/her agent. Said agent will be responsible to the Chief Executive Officer.

(b) Neighborhood Services Community Development Manager

The CITY's Neighborhood Services Community Development Manager is the CITY's responsible representative to the Project. The BORROWER will contact this individual when communicating with the CITY unless otherwise directed. The BORROWER will be notified of changes of personnel filling this position. The Neighborhood Services Community Development Manager may utilize· the professional services of other advisors as his/her agent. Said agent will be responsible to the Neighborhood Services Director.

60. Certification of Non-Debarment.

The BORROWER certifies, by acceptance and execution of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees, by accepting and executing this Agreement, that it will include this clause without modification in all lower tier transactions, solicitations,

proposals, contracts and subcontracts.

61. CONTRACT DOCUMENTS:

This contract includes the following documents incorporated herein by reference:

- **Exhibit A:** Scope of Work
- **Exhibit B:** Budget
- **Exhibit C:** Promissory Note
- **Exhibit D:** Deed of Trust
- **Exhibit E:** Progress Payment and Retention Schedule -
- **Exhibit F:** Certificate of Completion -
- **Exhibit G:** Section 3 Clause –
- **Exhibit H:** General Wage Decision and Federal Labor Standards Provisions (HUD 4010)

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS AGREEMENT THIS _____ DAY OF _____, 2019.

CITY OF AURORA, COLORADO

_____

Roberto Venegas, Date
Interim Deputy CITY Manager

_____

Nancy Sheffield Date
Interim Neighborhood Services Director

_____

Michael Lawson Date
Interim Community Development Manager

APPROVED AS TO FORM:

_____

Tim Joyce Date
Assistant City Attorney

BORROWER

_____

Name Date

_____

Name Date

IN-FORM OF SURVEY MONKEY- Quarterly Report

* Required

1. Agency Name: *

Enter your answer

2. Quarter: *

Enter your answer

3. HMIS- does your agency input data into the HMIS system? *

- ◯ YES
- ◯ NO

4. #4 Project Type (light RRH) - how many Households *

Light Rapid Housing Rehousing

Enter your answer

5. #5 Project Type (RRH) - how many Households *

Rapid Rehousing

Enter your answer

6. #6 Project Type (HP) - how many Households *

Homelessness Prevention or Eviction Prevention

Enter your answer

7. #7 Project Type (ES) - how many Households *

Emergency Shelter

Enter your answer

8. #8 Project Type (SO) - how many Households *

Street Outreach, Services provided outside of Agency building

Enter your answer

9. #9 Project Type (other services) - how many Households *

Non-Housing Services, Other Services

Enter your answer

10. #10 Number of Households Served *

Total Number of Households Served

Enter your answer

11. #11 Number of Households headed by Single Female (over the age of 18) *

Total Number of Households headed by Single Female (over the age of 18)

Enter your answer

12. #12 Number of Households headed by Male (over the age of 18) *

Total Number of Households headed by Male (over the age of 18)

Enter your answer

13. #13 How many Persons Total served *

Total Number of Persons Served

Enter your answer

14. #14 How many persons under the age of 5 *

Total Ages of Persons: (how many persons are) Under the Age of 5

Enter your answer

15. #15 How many persons are age 5 to 12 *

Ages of Persons: (how many persons are) Age 5 to 12

Enter your answer

16. #16 How many persons are age 13 to 17 *

Ages of Persons: (how many persons are) Age 13 to 17

Enter your answer

17. #17 How many persons are age 18-24 *

Ages of Persons: (how many persons are) Age 18-24

Enter your answer

18. #18 How many persons are age 25-34 *

Ages of Persons: (how many persons are) Age 25-34

Enter your answer

19. #19 How many Persons are age 35-44 *

Ages of Persons: (how many persons are) Age 35-44

Enter your answer

20. #20 How many Persons are age 45-54 *

Ages of Persons: (how many persons are) Age 45- 54

Enter your answer

21. #21 How many persons are age 55-61 *

Ages of Persons: (how many persons are) Age 55-61

Enter your answer

22. #22 How many persons are age 62+ *

Ages of Persons: (how many persons are) Age 62+

Enter your answer

23. #23 How many Persons where the Client doesn't know their age or Client refused *

Ages of Persons: (how many persons are) Client Doesn't know or Client Refused

Enter your answer

24. #24 How many Persons where age was not collected *

Age of Persons: (how many persons are) Data Not Collected

Enter your answer

25. #25 How many households were affected by Domestic Violence *

Number of Households currently being affected by Domestic Violence

Enter your answer

26. #26 How many persons were Veterans *

Number of Persons who are Veterans

Enter your answer

27. #27 How many persons were disabled *

Number of persons who are Disabled

Enter your answer

28. #28 How many households were turned away/could not be served *

Number of Households that were turned away/could not be served

Enter your answer

29. #29 How many Households were referred to other agencies *

Number of Households referred to other agencies

Enter your answer

30. #30 Household Size: One Person *

One Person

Enter your answer

31. #31 Household Size - Two Persons *

Two Person

Enter your answer

32. #32 Household Size - Three Persons *

Three Person

Enter your answer

33. #33 Household Size - Four Persons *

Four Person

Enter your answer

34. #34 Household Size - Five Persons *

Five Person

Enter your answer

35. #35 Household Size - Six Persons *

Six Person

Enter your answer

36. #36 Household Size - More than Six Persons *

Greater than Six Persons

Enter your answer

37. #37 Demographics (AI/AN) *

Number of persons who are American Indians/Alaska-Native?

Enter your answer

38. #38 Demographics (A) *

Number of persons who are Asian?

Enter your answer

39. #39 Demographics (B/AA) *

Number of persons who are Black/African-American?

Enter your answer

40. #40 Demographics (NA/PI) *

Number of persons who are Native-Hawaiian/Pacific-Islander?

Enter your answer

41. #41 Demographics (W) *

Number of persons who are White?

Enter your answer

42. #42 Demographics (Multiple Races) *

Number of persons of Multiple Races?

Enter your answer

43. #43 Demographics (Race client refused or doesn't know) *

Number of persons regarding Race: Client doesn't know or Client Refused?

Enter your answer

44. #44 Demographics (data not collected) *

Number of persons regarding Race: DATA NOT COLLECTED?

Enter your answer

45. #45 Ethnicity - Demographics (Latino/Hispanic) *

Number of persons who are Latino/Hispanic

Enter your answer

46. #46 Ethnicity Demographics (Latino/Hispanic - client doesn't know or refused) *

Number of persons who are Latino/Hispanic---Client doesn't Know/Client Refused:

Enter your answer

47. #47 Ethnicity Demographics (Latino/Hispanic - data not updated) *

Number of persons who are Latino/Hispanic---Data not collected

Enter your answer

48. #48 Gender of Participants – Number of males *

Number of Males

Enter your answer

49. #49 Gender of Participants – Number of females *

Number of Females

Enter your answer

50. #50 Gender of Participants – Tran Female (MTF or Male to Female) *

Number of Trans Female (MTF or Male to Female)

Enter your answer

51. #51 Gender of Participants – Trans Male (FTM or Female to Male) *

Number of Trans Male (FTM or Female to Male)

Enter your answer

52. #52 Gender of Participants – Non-Confirming *

Gender Non-Forming (i.e. not exclusively male or female)

Enter your answer

53. #53 Gender of Participants – Clients Doesn't know/Client Refused *

Number of Client Doesn't Know/Client Refused

Enter your answer

54. #54 Gender of Participants – Data not collected *

Number of 'Data Not Collected'

Enter your answer

55. #55 Expenditures Spent on Rent *

TOTAL amount of this grant spent on rent

Enter your answer

56. #56 Expenditures Spent on Case Management, Navigators *

TOTAL amount of this grant spent on Case Management, Navigators

Enter your answer

57. #57 AVERAGE amount of Rent Spent per Household *

Average amount of Rent

Enter your answer

58. #58 AVERAGE amount of Security Deposit Spent per HOUSEHOLD *

Average amount of Security Deposit

Enter your answer

59. #59 AVERAGE amount of Utility Deposit Spent per HOUSEHOLD *

Average amount of Utility Deposit

Enter your answer

60. #60 Completed VI-SPDATS *

Number of VI-SPDAT surveys that have been done on Households (by your agency)

Enter your answer

61. #61 Number of Referrals made to the Aurora @ Home Collaborative *

Number of Referrals made to the Aurora @ Home Collaborative

Enter your answer

62. #62 Number of Individuals Referred to Government Benefits *

Number of Individuals referred to Government Benefits

Enter your answer

63. #63 Number of Households where Incomes Increased *

Number of Household incomes that increased

Enter your answer

64. #64 Number of Households where Incomes Decreased *

Number of Household incomes that decreased

Enter your answer

65. #65 Length of time a household has been housed *

Average time from Program Entry to being Housed

Enter your answer

66. #66 Household Retention - Number of Households still stably housed at 6 months *

Housing retention - Number of households still stably housed at 6 months

Enter your answer

67. #67 How many Households were diverted from Homelessness *

Number of Households referred to housing (to a rental or permanent housing, transitional housing)

Enter your answer

68. #68 How many Households Received Services *

Number of Households that received Supportive Services from your Agency

Enter your answer

69. #69 Number of Shelter Beds AVAILABLE this Quarter *

Number of BEDS AVAILABLE during this quarter

Enter your answer

70. #70 Number of BED-NIGHTS PROVIDED this Quarter *

Number of BED-NIGHTS PROVIDED during this quarter

Enter your answer

71. #71 Number of Cold-Weather BED-NIGHTS AVAILABLE this Quarter *

Number of cold-weather NIGHTS AVAILABLE during this quarter (beds, matts or other sleeping options available)

Enter your answer

72. #72 Number of Cold-Weather BED-NIGHTS PROVIDED this Quarter *

Number of cold-weather nights PROVIDED during this quarter (beds, matts or other sleeping options available)

Enter your answer

73. #73 Number of Rooms AVAILABLE that can be used for separate households (in shelter) *

Number of Rooms AVAILABLE during this quarter

Enter your answer

74. #74 Number of Rooms PROVIDED for separate households (in shelter) *

Number of Room-Nights PROVIDED during this quarter

Enter your answer

75. #75 Households Referred from Aurora Police Department *

Number of Households referred from Aurora Police Department

Enter your answer

76. #76 Households Referred from Aurora Public Schools or Cherry Creek Schools *

Number of Households referred from Aurora Public Schools

Enter your answer

77. #77 Households Referred from Aurora @ Home Collaborative *

Number of Households referred from Aurora @ Home Collaborative

Enter your answer

78. #78 Households Referred from OneHome Program (Coordinated Entry System-through MDHI) *

Number of Households referred from OneHome program (Coordinated Entry System-through MDHI)

Enter your answer

79. #79 Households Referred from another Non-Profit *

Number of Households referred from another Non-Profit

Enter your answer

80. #80 Households Referred from TANF *

Number of Household referred from TANF

Enter your answer

81. #81 Households Referred to your program that could not be served *

Number of Referred Households that could not be served

Enter your answer

82. #82 Number of Crisis Calls your agency received *

Number of Crisis Calls

Enter your answer

83. #83 Number of Individuals referred from Jail, Prison, Justice System *

Number of Individuals referred from Jail, Prison, Justice System?

Enter your answer

84. #84 Number of households coming from outside of Colorado *

Number from outside of Colorado?

Enter your answer

85. #85 Number of households coming from the Denver Metro Area (not Aurora) *

Number of people from Denver Metro Area (not Aurora)?

Enter your answer

86. #86 Length of time Household lived in Aurora (1-3 years) *

Number of 1-3years

Enter your answer

87. #87 Length of time Household lived in Aurora (4-10 years) *

Number of 4-10 years

Enter your answer

88. #88 Length of time lived in Aurora (10+ years) *

Number of 10+ years

Enter your answer

89. #89 Number of households receiving counseling by your agency *

Number of Households provided counseling by your agency (unduplicated)

Enter your answer

90. #90 Number of Meals Provided by your agency (total meals) *

Number of Meals provided (total meals)

Enter your answer

91. #91 Number of Hygiene Kits Provided (total kits) *

Number of Hygiene Kits provided (total kits)

Enter your answer

92. #92 Other types of care packages/materials (total packages, describe) *

Number of Other types of care packages (total packages)

Enter your answer

93. #93 Number of Households that received case management *

Number of Households that received case management

Enter your answer

94. #94 Number of Households that are waiting for assessment and orientation *

Number of Households that are awaiting assessment and orientation

Enter your answer

95. #95 Number of Households that participated in Housing Search w/Housing Navigator *

Number of Households that participated in Housing Search w/Housing Navigator

Enter your answer

96. #96 Number of Households that found Housing w/Housing Navigator *

Number of Households that found housing w/Housing Navigator

Enter your answer

97. #97 Number of Households currently active *

Number of Households currently active

Enter your answer

98. #98 Number of Households that Exited Housing *

Number of Households that exited program

Enter your answer

99. #99 Number of Households Returned to prior living situation *

Number of Households that return to their prior living situation.

Enter your answer

100. #100 Client are not Compliant *

Number of Households that are not complaint with program

Enter your answer

101. #101 Clients are Involved with FT employment *

Number of Households Full time employment

Enter your answer

102. #102 Clients are Involved with PT employment *

Number of Households Part time employment

Enter your answer

103. #103 Clients are Involved with job search *

Number of Households Job search

Enter your answer

104. #104 Clients are Involved with ADWorks! or other job program *

Number of Households involved ADWorks! Or other Job Program

Enter your answer

105. #105 Clients are Involved with TANF hours *

Number of TANF Required hours

Enter your answer

106. #106 Clients are Involved with FT education *

Number of Full Time education

Enter your answer

107. #107 Clients are Involved with PT education *

Number of Part time Education

Enter your answer

108. #108 Incomes of Households 0-30% AMI *

Number of 0-30% of AMI

Enter your answer

109. #109 Incomes of Households 31-50% AMI *

Number of 31%-50% of AMI

Enter your answer

110. #110 Incomes of Households 51-60% AMI *

Number of 51%-60% of AMI

Enter your answer

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CITY OF AURORA
Council Agenda Commentary

Item Title: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO BE NUMBERED 94-122 TO THE CITY CODE PERTAINING TO PROHIBITING UNAUTHORIZED CAMPING ON PUBLIC OR PRIVATE PROPERTY AND ADDING ARTICLE IV, SECTIONS 114-106 THROUGH 114-
Item Initiator: Michael Coffman, Mayor
Staff Source/Legal Source: Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 6/21/2021

Regular Meeting: 6/28/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☒ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Housing, Neighborhood Services & Redevelopment

Policy Committee Date: 6/3/2021

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☒ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Public Safety, Courts & Civil Service

Policy Committee Date: 6/17/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval ☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation ☐ Recommendation Report Attached

☐ Minutes Attached ☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The city of Aurora is committed to a compassionate and care-focused approach to balancing the needs and security of those experiencing homelessness with the concerns of community members and the need to maintain the safety and health of the city as a whole. The City is currently using the Interim Business Policy Memorandum (IBPM) as the authority to abate unauthorized camps on public property. The IBPM is a temporary measure that will terminate when the current state of disaster ends. The City currently tracks complaints related to encampments and follows a process to abate the encampments when criteria is met related public health and safety concerns. Staff from several departments meet on a routine basis to discuss encampments that meet those criteria.

The city requests the Homeless Service Outreach Team to visit and provide resources and resource information to people living in encampments. In addition, city staff assess whether the encampment is meeting basic safety requirements. Measures will be taken to clear or abate an unsafe encampment if the encampment poses a significant criminal or public health threat to the community or a safety threat within the encampment and surrounding area. In instances where an encampment is determined to reach the level of unsafe conditions and abatement is needed, those individuals in the encampment are given a seven-day notice to leave the property, and the outreach team once again provides them with resources, resource information and an offer of transportation to the Aurora Day Resource Center, where services and counselors are available.

Over the past year more than 900 complaints have been received related to encampments, half of those related to recreational vehicles. Over the past year the City initiated 29 abatements either through City staff or contractor.

At the HoRNS committee meeting on June 3, 2021, the Mayor expressed a concern the draft ordinance needed to be changed. A new draft ordinance was drafted to keep only the basic needs to authorized the abatement of unauthorized camps. The revised draft does not make unauthorized camping unlawful, it only authorizes the City to abate unauthorized camps. The revised draft will be the draft ordinance that will move forward.

An amended ordinance was taken to the Public Safety Committee on June 17, 2021. The committee approved moving the amended ordinance forward to Study Session.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The Mayor asked the City Attorney's office to draft an ordinance to abate unauthorized camps on public property. The ordinance has been drafted to comply with current case law. The ordinance complies with all current Public Health Orders including the CDC, Tri-County and CDPHE. The City is currently using the Interim Business Policy Memorandum (IBPM) as the authority to abate unauthorized camps on public property. The IBPM is a temporary measure that will terminate when the current state of disaster ends. The City needs a permanent solution to authorize the abatement of unauthorized camp sites on public property. Currently Boulder, Arvada, Parker, Centennial and Denver have ordinances authorizing the abatement of camps on public property in the City. The proposed ordinance specifies specific reasons why an unauthorized camp may be abated. The ordinance requires the City to have a shelter option, or shelter space, available for every individual in an unauthorized camp as a condition precedent to abate the camp. If the City does not have a shelter space or shelter option for every individual on the date of the abatement the City cannot abate or clean-up the unauthorized camp. The ordinance

does not discriminate against the homeless or any class of people. The ordinance prohibits the conduct of camping on public property where camping is not specifically allowed.

QUESTIONS FOR COUNCIL

Information Only.

LEGAL COMMENTS

Council has the power to make and publish ordinances not inconsistent with the laws of the state for carrying into effect or discharging the powers and duties conferred by the state constitution, statute or city Charter and such as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the city and the inhabitants thereof. (City Code § 2-32)

Camping bans can be constitutional and lawful if drafted in a manner that is not motivated by a discriminatory purpose, that does not harm a politically unpopular group of people and criminalizes an activity not a status. Denver's camping ban ordinance was ruled to be constitutional criminalizing an activity, not a status. *City and County of Denver v. Burton,* 19 CV34925 (Dist. Court, City and County of Denver, Sept. 3, 2020).

Prohibiting camping targets the conduct of camping, not the status of homelessness. *People of City of Boulder v. Madison,* 10CV716 (Boulder District Court, April 20, 2011).

A city is constitutionally allowed to regulate where "camping" occurs. Prohibiting camping does not criminalize involuntary behavior. *Joel v. City of Orlando,* 232 F.3d 1353, 1362 (11th Cir, 2000).

Imposing a criminal sanction for public behavior which creates substantial health and safety hazards for those involved in the activity and for members of the general public, and which offends the moral and esthetic sensibilities of a large segment of the community does not violate the Eighth Amendment. *Powell v. Texas,* 392 U.S. 514, 532 (1968), (ruling on the issue of public drunkenness.)

When the City seizes property when abating an encampment due process requires law enforcement to take reasonable steps to give notice that property will be taken or has been taken so the owner can recover their property. *Lavan v. City of Los Angeles,* 693 F.3d 1022, 1032 (9th Cir. 2012). (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: Costs related to encampment clean-up will be incurred. Over the past year the City initiated 29 abatements either through City staff or contractor.

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: Type Text Here

ORDINANCE NO. 2021- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO BE NUMBERED 94-122 TO THE CITY CODE PERTAINING TO PROHIBITING UNAUTHORIZED CAMPING ON PUBLIC OR PRIVATE PROPERTY AND ADDING ARTICLE IV, SECTIONS 114-106 THROUGH 114-112 TO CHAPTER 114 PERTAINING TO ABATING UNAUTHORIZED CAMPS ON PUBLIC PROPERTY

WHEREAS, the act of unauthorized camping on public or private property tends to endanger the health and safety of those engaged in such camping as well as the public at large; and

WHEREAS, the unauthorized use of public or private property for camping where the property in question is neither intended nor designed as a camp site, campground, or site for temporary human habitation tends to impair, obstruct, and otherwise detract from the use of the property for its intended purpose; and

WHEREAS, abating unauthorized camps will promote aesthetics, sanitation, public health, and safety for individuals in an unauthorized camp and the citizens of the City; and

WHEREAS, the City has a legitimate governmental purpose in protecting public spaces from environmental damage, as well as the promotion of sanitation, public health, and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 94-122 which section reads as follows:

Sec. 94-122. – Unauthorized camping on public property prohibited.

(1) It shall be unlawful for any person to camp on private property without the express written consent of the property owner or the owner's agent, except in any location where camping has been expressly authorized by the City.

(2) It shall be unlawful for any person to camp on any public property, except in any location where camping has been expressly authorized by the City.

(3) No city employee authorized to issue a citation shall issue a citation, make an arrest, or otherwise enforce this section against a person camping on public property unless:

a. A city employee or a law enforcement official has issued the person in a camp a verbal or written order to move from the camp and take their property with them; and

b. The City has a shelter option available for the person ordered to move from the camp and the person has been offered placement in the shelter option; and

c. The person has refused or failed to move from the camp property and refused the offer for placement in a shelter option.

(4) Any person convicted of violating this section shall not be subject to the General Penalty provisions as provided in section 1-13 of the City Code.

(5) For purposes of this section:

a. *Camp or camping* means the temporary use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell temporarily in a place, with shelter, or the temporary use of property for the purpose of overnight occupancy or longer occupancy. Camping does not include napping during the day or picnicking. The term "shelter" includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, or other structure used for human habitation, or any form of cover or protection from the elements other than clothing, or a fire (except for fires at sites specifically designated or authorized for a fire by the Parks, Recreation and Open Space (PROS) Department), camp stove, or other heating source or cooking device (except for grills and personal grills permitted in designated areas by PROS). Camp or camping can include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates City Code or a City rule or regulation or is not otherwise authorized by the City.

b. *Public property* means, by way of illustration, but not limited to a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway,

public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, trail, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

c. "Watercourse" means a channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake which storm runoff and flood water flows either regularly or infrequently. This includes major drainage ways for carrying storm runoff.

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended by adding an Article, to be numbered IV, to Chapter 114, which Article reads as follows:

Chapter 114. – Solid Waste

Article IV. - Abating Unauthorized Camps from Public Property

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-106 which section reads as follows:

Sec. 114-106. – Definitions.

City **means the City of Aurora, Colorado, its departments, employees, and agents.**

City Manager **means the City Manager of the City of Aurora, Colorado, or designee.**

City owned property **means any property owned, leased, or controlled by the City.**

Camp, camping, or encampment **means the temporary use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell temporarily in a place, with shelter, or the temporary use of property for the purpose of overnight occupancy or longer occupancy. Camping does not include napping during the day or picnicking.**

Evidence of unauthorized camps or unauthorized camping **includes, but is not limited to:**

- **sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s);**
- **erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, other structure used for human habitation, or any form of cover or protection from the elements other than clothing; or**

- **a fire (except for fires at sites specifically designated or authorized for a fire by the Parks, Recreation and Open Space (PROS) Department), camp stove, or other heating source or cooking device (except for grills and personal grills permitted in designated areas by PROS).**

Outreach Team **means a Professional Mental Health Agency, Professional Mental Health Personnel, Service Provider or Agency receiving city funds to reach out to and provide shelter or services to individuals or families experiencing homelessness, or individuals or families in unauthorized camps.**

Public property **means, by way of illustration, but not limited to a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, trail, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.**

Public right-of-way **means an area of land dedicated to the public in fee simple title conveyed to the city for drainage, pedestrian, utility, street lighting, landscaping, roadway, or other purposes.**

Reside or dwell **means and includes, without limitation, conducting such activities as eating, sleeping, making preparation to sleep, or the storage of personal possessions. Residing or dwelling does not include napping during the day or picnicking.**

Shelter**, as used in the definition of camping, means and includes, without limitation, a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing.**

Unauthorized camp **means to use public property for camping or to camp, except on public property where camping has been expressly authorized by the City.**

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-107 which section reads as follows:

Sec. 114-107. – Abatement of unauthorized camps.

The City Manager is authorized to remove or order the removal of any unauthorized camp from public property following the abatement process described under this

article. The City will not use this article to abate unauthorized camping in legally operable vehicles and legally operable recreational vehicles (RVs).

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-108 which section reads as follows:

Sec. 114-108. – Prerequisites for abatement of unauthorized camps.

Available shelter option. The City of Aurora, Colorado, ("City") must have enough shelter options available for all the individuals and families in an unauthorized camp before an unauthorized camp can be abated.

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-109 which section reads as follows:

Sec. 114-109. – Notice requirements.

(1) Verbal and written notices shall be provided to all occupants present in an unauthorized camp advising the occupants of the date and time of the abatement with an order the occupants must immediately leave the camp and remove their property. Any occupant present in the camp on the day of the abatement shall be offered placement in a shelter option and advised that services are available for them.

(2) Written notices shall also be attached to unattended property.

(3) Written notices shall be posted around the camp at intervals sufficient to advise anyone entering the camp of the intended date and time of the camp abatement. The city shall not repost notices if they are removed or destroyed prior to the abatement.

(4) Weather conditions or other acts of God may prevent abatement of the unauthorized camp on the abatement date stated in the notice. Therefore, the date of the abatement may occur on the date in the notice or within the next ten (10) days.

Section 7. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-110 which section reads as follows:

Sec. 114-110. – Minimum notice period before an unauthorized camp may be abated.

(1) 72-hour notice. No unauthorized camp will be abated until a minimum of 72-hours' notice, both verbal and written as required in section 114-109, has been provided to the occupants of a camp.

(2) Exceptions. The 72-hour notice requirement to abate an unauthorized camp does not apply and unauthorized camps may be ordered to immediately move and remove their property in the following situations:

a. The unauthorized camp or camper obstructs or interferes with scheduled maintenance or work at the location by city staff and the

actions of the campers violates City Code section 94-387, obstructing municipal government operations.

b. The unauthorized camp, camper, or camp property blocks, a fire exit, an exit route, or a means of egress in violation of Occupational Safety and Health Administration ("OSHA") Standard Number 1910.37(a)(3), and 29 CFR § 1910.37, as amended.

c. The National Weather Service has issued a flash flood warning, flood warning, or river flood warning for the site where an unauthorized camp or camper is located.

d. When any person, vehicle, vessel, or other thing is ordered to move or be removed from a fire scene by the fire chief or officer of the fire department in charge at the scene of a fire or other emergency involving the protection of life or property, pursuant to International Fire Code § 104.11.

e. It will be unlawful for an occupant of an unauthorized camp or camper in one or more of the imminent life threatening situations described in this subsection to fail to immediately move and remove their property when verbally ordered to move by any city representative or law enforcement personnel. Any person convicted of violating this subsection shall be subject to the penalty provisions in section 1-13 of the City Code.

Section 8. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 10. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ, AND ORDERED PUBLISHED this _____ day of _____, 2021.

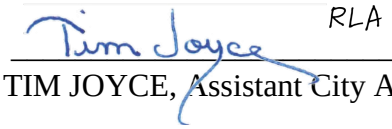
PASSED AND ORDERED PUBLISHED this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



TIM JOYCE, Assistant City Attorney

CITY OF AURORA
Council Agenda Commentary

Item Title: Resolution to Approve a Cooperative Agreement Between Aurora, Denver, Commerce City and Non-Profits
Item Initiator: Pat Schuler, Manager of Open Spaces & Natural Resources (OSNR)
Staff Source/Legal Source: Pat Schuler, Manager Open Space and Natural Resources; Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Parks, Foundations & Quality of Life

Policy Committee Date: 6/24/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

In February 2021 City Council approved the extension of a Grant Agreement with Great Outdoors Colorado (GOCO), who will provide $107,600 for Aurora Naturalists to deliver nature programs to Aurora's underserved children. These programs focus on giving children opportunities to explore and learn about the outdoor spaces in Aurora and other regional locations that these children might never visit otherwise.

Aurora is part of the Northeast Metro Coalition (NEMC) of cities and non-profits that receive funding from GOCO for this purpose. The NEMC members worked together to provide these programs and assist each other to extend reach into the communities within a specific geographic area including parts of Commerce City, Denver and northeast Aurora. The agencies that are part of the NEMC include the three named cities and many non-profit agencies. Commerce City has previously acted as, and will continue to act as, the lead agency in the NEMC and will receive and disburse funds to the non-profits. The City of Aurora and Denver have separate GOCO contracts and are also part of the overall NEMC. The NEMC provides a regional perspective on the collective program success. Each agency in the coalition provides data about participants, programs offered and delivered, an accounting of expenditures that measures the relative success of the NEMC as compared to other coalitions throughout Colorado. The NEMC charges a fee to each member agency to pay for the salary of a contract Executive Director with the responsibility to prepare regular NEMC reports required by GOCO. This information is also provided to each of the member agencies, including Aurora, and helps all members determine how to improve, where to adjust the program’s geographic reach, and allows the information sharing. This effort required a staff person to be hired for the duration of the grant funding which ends in December of 2023, or 2025 if extended by GOCO.

The Parks, Foundations & Quality of Life Council Committee agreed to send this item forward to Study Session at their June 24, 2021 meeting.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Aurora is asked to sign the NEMC Agreement which is attached. This document sets out the terms by which cities and non-profit members of the NEMC will work together to keep records, make payments for goods and services, and share that information with Commerce City as the lead NEMC agency. Denver and Aurora are obligated to share numbers of participants and overall project budget information to Commerce City under this agreement so that the entire NEMC can excel in the delivery of programs based on each member's successes. Aurora's data will be compiled annually and will be shared with Commerce City and the Coalition Executive Director for their roll-up annual reporting to GOCO for the entire NEMC.

Commerce City and the other NEMC partners share in the cost of an NEMC Manager and this agreement obligates the City to pay $5,000 in 2021 for the NEMC's Manager services. This is an annual cost to Aurora and is subject to the approval of an annual appropriation by Aurora's City Council to continue to fund operating costs for naturalist programs and nature centers in Aurora.

QUESTIONS FOR COUNCIL

Does the City Council agree to move this item forward to Regular Council for full Council approval?

LEGAL COMMENTS

The net proceeds of the Colorado Lottery may be distributed, by grants, to municipalities to "preserve, protect, enhance and manage the state's wildlife, park, river, trail and open space heritage." (Colo. Const. Art. 27 Section 1). Council shall provide for the planning and supervision of a community recreation program and for equipping and maintaining city owned or controlled parks, recreation areas, and facilities. (City Charter art. 8-3).

Colorado Constitution, Article XIV, Section 18, Subsection (2)(a) permits the state or any of its political subdivisions in cooperating or contracting with one another or with the government of the United States to provide any function, service, or facility lawfully authorized to each, including the sharing of costs. City Council has the authority and power to promote the prosperity, comfort and convenience of the city and its inhabitants. (City Code § 2-32).

Council may, by resolution, enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. (City

Charter, art. 10-12). The Mayor must sign all intergovernmental agreements to which the city is a party. (City Code § 2-31(b)(2)) (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: Aurora covers the cost of the $5,000 contribution through annually appropriated operating funds for the PROS Naturalist group. This funding is from Arapahoe County Open Space Shareback funds and paid from ORG 61052.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

RESOLUTION NO. R2021- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF THE COOPERATIVE AGREEMENT FOR GENERATION WILD NORTHEAST METRO COALITION, GOCO GRANT PROGRAM IMPLEMENTATION

WHEREAS, a cooperative implementation agreement has been created for the Generation Wild Northeast Metro Coalition – GOCO grant program ("Generation Wild NEMC") for the years 2021 through 2026; and

WHEREAS, the agreement is between the City of Commerce City, the City and County of Denver's Parks and Recreation Department, the City of Aurora, the Sand Creek Regional Greenway Partnership, Inc., the United States Fish and Wildlife Service, Rocky Mountain Arsenal National Wildlife Refuge, the State of Colorado Department of Natural Resources, the Bluff Lake Nature Center, the Boys & Girls Clubs of Metro Denver, Inc., Environmental Learning for Kids, Groundwork Denver, Inc., Year One, Inc., dba Mile High Youth Corps, The Urban Farm dba the Urban Farm at Stapleton, and Friends of the Front Range Wildlife Refuges; and

WHEREAS, the Generation Wild NEMC coalition's vision is that every young person, wherever they live and regardless of resources, has abundant opportunities to connect and engage with the outdoors in ways that are inspirational, transformational, and meaningful to them and will cultivate a new generation of stewards of nature; and

WHEREAS, the Generation Wild NEMC anticipates receiving GOCO grants to fund project expenditures through 2026; and

WHEREAS, each party of this coalition will annually contribute funds this project; and

WHEREAS, the City's contribution will be $5,000.00 annually.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. The Aurora City Council resolves its support for the cooperative agreement for Generation Wild Northeast Metro Coalition, GOCO grant program implementation.

Section 2. The Mayor and City Clerk are hereby authorized to execute the attached agreement in substantially the form presented at this meeting with such technical additions, deletions and variations as may be deemed necessary or appropriate by the City Attorney.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____. 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

_____
TIM JOYCE, Assistant City Attorney

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COOPERATIVE AGREEMENT FOR GENERATION WILD NORTHEAST METRO COALITION - GOCO GRANT PROGRAM IMPLEMENTATION

THIS COOPERATIVE AGREEMENT FOR GENERATION WILD NORTHEAST METRO COALITION - GOCO GRANT PROGRAM IMPLEMENTATION ("Agreement") is entered into and effective as of January 1, 2021 ("Effective Date"), by and between CITY OF COMMERCE CITY ("Commerce City"), CITY AND COUNTY OF DENVER – DENVER PARKS AND RECREATION DEPARTMENT ("Denver"), CITY OF AURORA, COLORADO ("Aurora"), SAND CREEK REGIONAL GREENWAY PARTNERSHIP, INC. "SCRGP"), UNITED STATES FISH AND WILDLIFE SERVICE – ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE ("FWS"), STATE OF COLORADO – DEPARTMENT OF NATURAL RESOURCES ("State"), BLUFF LAKE NATURE CENTER ("BLNC"), BOYS & GIRLS CLUBS OF METRO DENVER, INC. ("BGCMD"), ENVIRONMENTAL LEARNING FOR KIDS ("ELK"), GROUNDWORK DENVER, INC. ("GWD"), YEAR ONE, INC. d/b/a MILE HIGH YOUTH CORPS ("MHYC"), THE URBAN FARM D/B/A THE URBAN FARM AT STAPLETON ("TUF") FRIENDS OF THE FRONT RANGE WILDLIFE REFUGES ("FFRWR") (collectively, the "Parties" or "Generation Wild Northeast Metro Coalition").

WHEREAS, the Parties are members of the Generation Wild Northeast Metro Coalition ("Generation Wild NEMC," formerly known as "GoWild Northeast Metro Coalition" or "GoWild NEMC"), a coalition of government and non-profit entities, whose vision is that every young person – wherever they live and regardless of resources – has abundant opportunities to connect and engage with the outdoors in ways that are inspirational, transformational, and meaningful to them and will cultivate a new generation of stewards of nature.

WHEREAS, the GoWild NEMC previously applied for a grant through the Inspire Initiative of the State Board of the Great Outdoors Colorado Trust Fund ("GOCO") for implementation of a plan to improve youth and family connections with the outdoors in underserved communities near the Rocky Mountain Arsenal National Wildlife Refuge ("Project");

WHEREAS, through Commerce City, the GoWild NEMC was awarded a grant of up to $1,845,918.00 from GOCO to fund the first three years of the Project (2017 through 2019; "Year 3" of the Project was extended through 2020) in accordance with a previous Grant Agreement executed by Commerce City;

WHEREAS, the "Inspire Initiative" grant program is now known and referred to as "Generation Wild;"

WHEREAS, the Generation Wild NEMC anticipates receiving another grant from GOCO of up to $1,991,889.00 ("Grant") as part of the Generation Wild Grant Program, which funds will be used for Project expenditures through 2026 (although "Year 6," the final scheduled Program year, is expected to conclude December 31, 2023, the Parties desire to extend the Agreement through calendar year 2026 to allow for the expenditure of rollover Grant amounts and Project close out costs, if necessary);

WHEREAS, the Generation Wild NEMC desires to establish its understanding of the process and scope of the continuation of the Project for the next three years of the Project (Years 4 through 6; January 1, 2021 through December 31, 2023), and to designate FFRWR to be the facilitator/administrator for completion of the GOCO Generation Wild Grant implementation process.

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NOW THEREFORE, for the purposes detailed above, the Parties agree as follows:

1. Scope of the Project. The scope of the Project will be to implement the Grant awarded to the Generation Wild NEMC--focused on the communities of Commerce City, Montbello, Northeast Park Hill, and Northwest Aurora--surrounding the Rocky Mountain Arsenal National Wildlife Refuge. The Parties will cooperate in implementation of the Grant in substantial conformity with the goals and concepts of the Grant. The Project will engage with our four geographic areas to implement the plan for getting youth immersed into nature and the outdoors. The Project will enable the Parties, individually or collectively, to fulfill the vision of the Generation Wild NEMC. The vision of the Generation Wild NEMC is that every young person – wherever they live and regardless of resources – has abundant opportunities to connect and engage with the outdoors in ways that are inspirational, transformational, and meaningful to them and will cultivate a new generation of stewards of nature. All work under the Project will be subject to all requirements and provisions of the Grant Agreement.

2. Coordination of Activities. The Project will be primarily directed by representatives of FFRWR, Commerce City, Aurora, Denver, a non-profit and FWS ("Coordinating Group"), with input from all the other members of the Generation Wild NEMC.

3. Duties of FFRWR. FFRWR will provide services for the Generation Wild NEMC in connection with the Project. Subject to the direction of the Coordinating Group and in compliance with the Grant Agreement, as defined below, FFRWR will:

a. Provide and employ a Generation Wild NEMC Manager, with the consent of the Coordinating Group, and other personnel to support and facilitate Implementation activities for Pathways, Programs and Capacity.

b. Assist the Generation Wild NEMC in public engagement, researching, and reporting on the implementation activities;

c. Collect matching fund contributions;

d. Establish a separate account to hold and track Grant funds and matching funds and protect all such funds from loss;

e. Issue payments for eligible expenses of the Project, as permitted by the Grant Agreement, to be reimbursed from Grant funds and matching funds.

f. Provide project accounting services as needed to comply with the Grant Agreement, including establishing a project budget, tracking eligible expenses, maintaining expense documentation, providing accounting and recordkeeping services using Generally Accepted Accounting Principles, and providing monthly and quarterly reporting and final audit;

g. Prepare requests for reimbursement or progress payments from GOCO for eligible expenses;

h. Prepare all documents and maintain records as required by the Grant Agreement for five (5) years following the disbursement of any Grant funds;

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i. Prepare publicity and public information in accordance with the Grant Agreement; and

j. Perform additional activities as needed to coordinate and facilitate Project activities.

4. Generation Wild NEMC Manager. The Generation Wild NEMC Manager will be an employee of FFRWR, subject to all applicable employee policies of FFRWR, but will perform duties independent from FFRWR in accordance with this Agreement. FFRWR will receive input on management and performance expectations of the Generation Wild NEMC Manager from the Coordinating Group and will not terminate, reassign, or replace the Generation Wild NEMC Manager without the consent of the Coordinating Group. FFRWR shall be solely responsible for the payment or provision of all compensation, benefits, withholding, taxes, or other items payable with respect to the Generation Wild NEMC Manager. The Generation Wild NEMC Manager shall not be deemed to be an employee of any entity of than FFRWR and shall not be entitled to workers' compensation benefits, unemployment compensation benefits, sick and annual leave benefits, medical insurance, life insurance, or pension or retirement benefits from any entity other than FFRWR by reason of this Agreement.

5. Role of Commerce City.

a. Commerce City will execute the Grant Agreement and serve as the applicant for Grant purposes.

b. Commerce City will provide grant funding to FFRWR on a "Progress Payment" basis, as defined in the Grant Agreement.

c. Commerce City will be permitted to provide any notices, waiver or modification requests, and other submissions to GOCO as required by the Grant Agreement.

6. Role of Generation Wild NEMC. The Parties will use their best efforts to cooperate with each other in the Project. All Parties will designate a representative or representative(s) to serve as a liaison to the Generation Wild NEMC for the Project.

7. Funding.

a. All Grant funding shall be used only for eligible expenses approved by GOCO in accordance with the Grant Agreement. All grant fund eligible expenses shall be documented and receipts submitted to FFRWR for reporting requirements in accordance with the Grant Agreement.

b. As permitted by the Grant Agreement, Commerce City will request Grant funding on a "Progress Payment" basis as defined in the Grant Agreement.

c. The Parties will provide annual contributions of matching funds in the years 2021, 2022 and 2023 to FFRWR substantially as set forth below to be used for the Implementation of Pathways, Programs and Capacity Projects in accordance with this Agreement:

FWS	$5,000.00	BLNC	$2,000.00
Commerce City	$5,000.00	ELK	$2,000.00

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Aurora	$5,000.00	TUF	$2,000.00
Denver	$0.00*	BGCMD	$2,000.00
SCRGP	$2,000.00	MHYC	$2,000.00
GWD	$2,000.00		

*Denver's financial contribution obligations under this Agreement are addressed in section 7(d) below.

d. Denver shall provide a $500,000.00 match to be utilized at the ELK and TUF properties.

8. Effect of Grant Agreement. Nothing in this Agreement will be construed in such a manner that would violate any term of the Grant Agreement. Nothing in this Agreement will be construed to require or to authorize any action in violation of the Grant Agreement. The Grant Agreement is attached to and incorporated in this Agreement as Exhibit A.

9. Responsibility for Regulatory Requirements. Each Party shall be separately responsible for compliance with all applicable regulatory requirements in the performance of individual work under this Agreement or for any implementation grant, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, and other similar requirements.

10. Publicity and Project Information. The Parties will comply with all publicity and project information requirements set forth in the Grant Agreement.

11. Limitations on FFRWR.

a. Independent Contractor. FFRWR's status with respect to the Parties shall be that of a private, nonprofit corporation cooperatively working with the Parties as an independent contractor solely for the purposes set forth in this Agreement.

b. Limited Authority. The scope of authority FFRWR may exercise shall be as expressly delegated, assigned, or allowed under, or necessarily implied in, this Agreement. FFRWR shall have no authority to avoid, modify, or waive any applicable ordinances or regulatory requirements enacted or adopted under the police or taxing powers of any of the Parties. This Agreement is not intended, nor shall this Agreement be construed, to establish or constitute a joint venture between or among any of the parties to the Agreement.

c. Contracts. This Agreement shall not be construed to grant FFRWR the right or power to bind, or to impose liability upon, any Party, through any contracts or agreements FFRWR may make, unless expressly provided in this Agreement or unless the prior, written approval of the affected party is obtained and the contract or agreement is in accordance with all applicable ordinances and regulatory requirements. All contracts or agreements made by FFRWR shall be in its own name and not in the name of any Party.

d. Nonprofit Status. FFRWR shall at all times take such actions as may be necessary to maintain and preserve, and shall refrain from taking such actions as may be detrimental to, its status as a nonprofit

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corporation that qualifies as a tax exempt entity under section 501(c)(3) of the Internal Revenue Code (or any successor provision).

12. Reports. In addition to the audit information specified elsewhere in this Agreement, FFRWR shall, on an annual basis, provide the Parties, if requested, a copy of any written report and/or return it has provided to the Internal Revenue Services with respect to its activities during the preceding year. In addition, FFRWR shall submit a reconciliation statement of its revenues and expenses on or before June 30th of each calendar year in such detail as any of the Parties may require.

13. Inspection & Audit FFRWR shall maintain its books and records in Denver, Aurora, or Commerce City at a place known at all times to the Parties. Representatives of the Parties shall have the right to reasonably inspect and copy such books and records from time to time upon written notice to FFRWR. FFRWR shall maintain its financial records in accordance with generally accepted accounting principles consistently applied. At any time after five (5) business days prior notice to FFRWR of its intention to do so, and only once within any twelve (12) month period and at its own cost, any Party may cause to be made a complete audit of the records of FFRWR for any fiscal period within the preceding five (5) years. However, upon reasonable information of possible violations of this Agreement or misconduct on the part of FFRWR or its officers, employees or agents, a Party may conduct such inspections and/or audit of the records of FFRWR upon notice to FFRWR that is reasonable under the circumstances. If more than one Party wishes to conduct such an inspection or audit, FFRWR has the right to request the Parties to coordinate the timing of such inspection or audit so that FFRWR is not subject to multiple and duplicative inspections/audits concerning the same issues.

14. Political Activity. No moneys provided by any Party that is a governmental entity and no funds raised or grants obtained by FFRWR, including any earnings thereon, shall be used in connection with any activity to further the appointment, election, defeat, or removal of any applicant, incumbent, or candidate for public office or any activity undertaken to influence the passage, defeat, or final content of any legislation or ballot proposal unrelated to furthering or implementing the Project.

15. Insurance. FFRWR will secure and deliver to an appropriate official of each Party that is a governmental entity at or before the time of execution of this Agreement, and to keep in force at all times during the term of this Agreement, as the same may be extended by amendment, an insurance policy or policies which shall include commercial general liability, business automobile liability, worker's compensation, and crime (employee dishonesty) to the following extent and in the following amounts:

a. Commercial General Liability: $1,000,000 for each occurrence; $1,000,000 for each personal and advertising injury claim; $2,000,000 products and completed operations aggregate; and $2,000,000 policy aggregate.

b. Business Automobile Liability: $1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

c. Workers' Compensation: $100,000 per occurrence for each bodily injury claim; $100,000 per occurrence for each bodily injury caused by disease claim; and $500,000 aggregate for all bodily injuries caused by disease claims.

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d. Commercial Crime: $260,000.

e. Professional Liability (Errors & Omissions): $1,000,000 per claim and $1,000,000 policy aggregate limit

FFRWR shall require its contractor(s) to provide commercial general liability, business automobile liability, worker's compensation, and professional liability for any contractor(s) providing professional services in the same amounts as specified above. Each policy shall name each Party that is a governmental entity as an additional insured and shall waive subrogation rights against the Party. Each policy shall contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or should any coverage be reduced before the expiration date thereof, the issuing company shall send written notice to the Risk Manager of each Party by certified mail, return receipt requested. Such written notice shall be sent thirty (30) days prior to such cancellation or reduction unless due to non-payment of premiums for which notice shall be sent ten (10) days prior." Failure to maintain insurance coverage as specified in this section shall be a basis for termination with cause.

16. Immunity. Under no circumstances shall any provision of this Agreement be construed as constituting a waiver of immunity on the part of any Party that is a governmental entity or for any of its facilities under the Colorado Governmental Immunity Act.

17. Indemnification. FFRWR shall hold harmless each Party that is a governmental entity and its respective elected and appointed officials, officers, agents, servants and employees ("Indemnified Parties" or individually, "Indemnified Party"), from and indemnify each and all of them against any and all damages, liabilities, claims or demands arising out of or incident to FFRWR's performance of its duties hereunder and defend any cause of action or claims for relief, of whatsoever type or nature, arising out of such performance; provided, however, that FFRWR need not defend, indemnify or hold harmless any Indemnified Party described herein from damages or liabilities, to the extent resulting from the negligence, gross negligence, or willful misconduct of the indemnified Party or Parties. No Party that is a governmental entity cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of FFRWR or any other persons or entities whatsoever, for any purpose whatsoever. Insurance coverage specified above constitutes the minimum requirements and these requirements do not lessen or limit the liability of FFRWR under this Agreement. FFRWR shall obtain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary. FFRWR shall at once notify each Party of all claims or demands described in this Section 16, or the attaching of any lien or charge.

18. Claims. If any claim, demand, suit, or other action is made or brought in writing by any person, firm, corporation, or other entity against FFRWR related in any way to this Agreement or the actions or activities of FFRWR hereunder, FFRWR shall give written notice thereof to each Party, within five (5) working days after being notified, of such claim, demand, suit, or other action. Such notice shall state the date and hour of notification and shall include a copy of any such claim, demand, suit, or other action received by FFRWR. Such written notice shall be submitted as provided by this Agreement.

19. Release. Each Party that is not a governmental entity hereby releases (and shall provide that any and all of its contractors release) FFRWR and its officers, agents, servants and employees from any and all damages, liabilities, claims or demands arising out of, or related to the allocation and/or disbursement of

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Grant funds or matching funds pursuant to this Agreement (including, without limitation, any decision not to allocate funds to a non-governmental entity), except to the extent resulting from FFRWR's gross negligence or willful misconduct.

20. Term and Termination.

a. Term. The term of this Agreement shall be from January 1, 2021 through December 31, 2026.

b. Termination with Cause. The Parties may, upon consent of at least two-thirds of them (excluding FFRWR), terminate the Agreement, with cause, if they determine FFRWR is in breach of a material obligation or requirement under this Agreement and FFRWR fails to take all of the curative actions set forth in a written notice of breach delivered by such Parties to FFRWR within the period of time set forth in such notice (which shall be no less than thirty (30) days). No assent, express or implied, by a Party to any breach by FFRWR shall be construed as a waiver of any succeeding breach.

c. Discretionary Termination. The Parties, on agreement by two-thirds of them (excluding FFRWR), or FFRWR may unilaterally terminate this Agreement at any time after providing thirty (30) days' prior written notice to all other Parties.

d. Discretionary Withdrawal. Any Party may withdraw from participation in this Agreement by providing written notice to all parties. If a Party withdraws from this Agreement, the Agreement shall continue in full force and effect as to all other Parties unless and until it is terminated or expires as provided herein. A withdrawing Party shall not be entitled to recover funds contributed under this Agreement if such funds have been expended or are committed for payment. In addition, the Coordinating Group, in its discretion, may determine that projects of a Party that has chosen to withdraw may not be included in the Project.

e. Effect (for Dissolution). Upon termination of the Agreement, and if FFRWR is to dissolve within one (1) year of said termination, FFRWR shall promptly and seriatim:

i. Establish a reserve, as deemed sufficient by FFRWR, to cover all outstanding or potential costs and financial obligation of FFRWR under this Agreement;

ii. Return any unexpended funds contributed by any Party that were to be expended in accordance with this Agreement unless such funds have been earned and are due to be paid to or are otherwise approved for payment pursuant to this Agreement;

iii. Pay all other outstanding costs and resolve all financial obligations of FFRWR and dissolve FFRWR, in accordance with Colorado law.

f. Effect (if no Dissolution). Upon termination of the Agreement and if FFRWR is not to dissolve within one year of said termination, FFRWR shall promptly return any unexpended funds that were contributed by a Party for the purposes of this Agreement to such Party unless such funds have been earned and are due to be paid or are otherwise approved for payment pursuant to this Agreement.

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21. Non-Appropriation. Notwithstanding any other term or condition of this Agreement, all obligations of any government entity under this Agreement, including all or any part of any payment or reimbursement obligations, whether direct or contingent, will only extend to payment of monies duly and lawfully appropriated and encumbered for the purpose of this Agreement through such entity's legally required budgeting, authorization, and appropriation process. Further, no government entity, by this Agreement, creates a multiple fiscal year obligation or debt either within or without this Agreement. No government entity, by this Agreement, does not bind future legislatures to make such appropriations.

22. Nondiscrimination. During the performance of this agreement, the Parties will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. The Parties will ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. In addition to the foregoing, FFRWR agrees to comply with all applicable laws concerning non-discrimination against persons because of their race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability in connection with membership on the board of directors of FFRWR and its regular activities and actions. In connection with the performance of work under this Agreement, FFRWR agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts or agreements into which it may enter.

23. Compliance With C.R.S. § 8-17.5-102.

a. Certification. FFRWR hereby certifies that, as of the date of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that FFRWR will participate in the E-verify Program or Department Program as defined in C.R.S. § 8-17.5-101 in order to confirm the eligibility of all employees who are newly hired to perform work under this Agreement.

b. Pre-Employment Screening. FFRWR is prohibited from using either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

c. Contractor Obligations. FFRWR will not knowingly employ or contract with an illegal alien to perform work under this Agreement or contract with a subcontractor that fails to certify to FFRWR that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement. If FFRWR obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, FFRWR will:

i. Notify the subcontractor and all Parties that are governmental entities within three (3) days that FFRWR has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph d the subcontractor does not stop employing or

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contracting with the illegal alien; provided, however, that FFRWR will not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

d. Compliance with Investigation. FFRWR will comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation undertaken by the Department pursuant to Article 17.5 of Title 8, C.R.S.

e. Violation. If FFRWR violates this Section, any Party that is a governmental entity may terminate this Agreement for breach of contract and FFRWR will be liable for actual and consequential damages to any Parties that are governmental entities.

24. Assignment. Except as expressly provided in this Agreement, each Party agrees that this Agreement and the rights and obligations thereunder shall not be assignable or transferrable.

25. Amendments. This Agreement may be modified, changed, or amended only by mutual written agreement of the parties, approved and executed in the same manner as this Agreement.

26. Severability. The Parties agree that, if any provision of this Agreement or any portion thereof is held by a court of competent jurisdiction to be invalid, illegal, unenforceable, or in conflict with any law of the State of Colorado or the federal government, except for the provisions of the Agreement requiring prior appropriation of funds and limiting the liability of Parties that are governmental entities, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

27. Compliance with Laws. The Parties acknowledge and agree that this Agreement shall be governed by and construed, to the extent applicable, in accordance with the laws of the State of Colorado, and all applicable ordinances and regulations, as such may be amended or recodified from time to time, and through Executive Orders and that FFRWR shall perform its obligations hereunder in accordance with applicable laws and those applicable rules and regulations promulgated by the Parties that are governmental entities. Venue for any action arising hereunder shall be exclusively in the District Court for the City and County of Denver, Colorado.

28. Notices. Except for routine communications, written notices required under this Agreement and all other correspondence between the parties will be directed to the following and will be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

SCRGP:
Beth Nobles, Executive Director
Sand Creek Regional Greenway Partnership
7350 East 29th Avenue, Suite 204
Denver, CO 80238

Commerce City:
Carolyn Keith, Director, Department of
Parks, Recreation & Golf
13905 E 112th Ave
Commerce City, CO 80022

Aurora:
Brooke Bell, Director of Parks, Recreation

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& Open Space Department
City of Aurora
15151 E. Alameda Parkway, Suite 4600
Aurora, CO 80012

Denver:
Happy Haynes, Executive Director
Department of Parks and Recreation
City and County of Denver
201 W. Colfax Avenue
Denver, CO 80223

FWS:
Maureen Gallagher, Acting Regional Director
U.S. Fish and Wildlife Service
134 Union Boulevard, Suite 300
Lakewood, CO 80228

State:
Mark Leslie, Northeast Regional Manager
Department of Natural Resources
Colorado Parks and Wildlife
6060 Broadway
Denver, CO 80216

BLNC:
Rachel Crouch, Executive Director
Bluff Lake Nature Center
4760 Oakland St. Suite 200
Denver, CO 80239

BCGMD:
Erin Porteous, Chief Executive Officer
Boys & Girls Clubs of Metro Denver
2017 West 9th Avenue
Denver, CO 80204

GWD:
Cindy Chang, Executive Director
Groundwork Denver
3280 N. Downing St, Unit E
Denver, CO 80205

MHYC:
Antonio Barreiro, Regional Director Metro Denver
Mile High Youth Corps
1801 Federal Boulevard
Denver, CO 80204

ELK:
Loretta E. Pineda, Executive Director
Environmental Learning for Kids
P.O. Box 21679
Denver, CO 80221

TUF:
Michelle Graham, Executive Director
The Urban Farm at Stapleton
10200 Smith Road
Denver, CO 80239

FFRWR
Rene Bullock, President
Rocky Mountain Arsenal National Wildlife Refuge
6550 Gateway Road, Headquarters
Commerce City, CO 80022

If to Aurora, Commerce City, or Denver, notices shall be sent to the address of the respective entity's Mayor as set forth in public record. The address for any Party may be changed at any time by written notice to the other Parties.

29. Conflict of Interest. No employee of any Party that is a governmental entity shall have any personal or beneficial interest whatsoever in the rights and benefits in this Agreement. FFRWR covenants and agrees not to hire or contract for services any employee or officer of a Party that is a governmental entity which would be in violation of relevant ordinances, codes, or regulations of such Party.

30. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement will be strictly reserved to the Parties. Any person other than the Parties will be deemed to be only an incidental beneficiary under this Agreement.

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31. Legal Authority.

a. FFRWR warrants that it possesses the legal authority, pursuant to any proper and official motion, resolution or action passed or taken, to enter into this Agreement.

b. The person(s) signing and executing this Agreement on behalf of FFRWR warrants and guarantees that the signatory(ies) below has been fully authorized by FFRWR to execute this Agreement on behalf of FFRWR and to validly and legally bind FFRWR to the obligation and performance of all the terms and conditions herein set forth.

32. Execution. This Agreement shall not be or become effective or binding on any Party until it has been fully executed by all Parties.

33. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one Agreement.

34. Integration. This Agreement is intended as the complete integration of all understandings on the subjects herein between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied in this Agreement in writing. Any oral representation by any officer or employee of a Party at variance with terms and conditions of this Agreement or any written amendment to this Agreement shall not have any force or effect nor bind the Parties.

IN WITNESS WHEREOF, the Parties have caused this Cooperative Agreement for Generation Wild NEMC – GOCO Grant Program Implementation to be executed as of the Effective Date.

(Signatures contained on following pages.)

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Contract Control Number:
Contractor Name: Generation Wild Northeast Metro Coalition ("Generation Wild NEMC")

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

_____

APPROVED AS TO FORM:

D. Scott Martinez, Attorney for the
City and County of Denver

By _____

REGISTERED AND COUNTERSIGNED:

By _____

By _____

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CITY OF COMMERCE CITY, COLORADO

BY: _____
Roger Tinklenberg, Interim City Manager

ATTEST:

_____
Dylan A. Gibson, CMC, City Clerk

APPROVED AS TO FORM:

_____
Brian Swann, Assistant City Attorney

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CITY OF AURORA, COLORADO

BY: _____
Mike Coffman, Mayor

APPROVED AS TO FORM:

_____
Tim Joyce, Assistant City Attorney

Approved:

_____
Brooke Bell, Director of Parks, Recreation and Open Space

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SAND CREEK REGIONAL GREENWAY

BY: _____
Beth Nobles, Executive Director

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BLUFF LAKE NATURE CENTER

BY: _____
Rachel Crouch, Executive Director

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BOYS & GIRLS CLUBS OFMETRO DENVER

BY: _____
Erin Porteous, Chief Executive Officer

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ENVIRONMENTAL LEARNING FOR KIDS

BY: _____
Loretta E. Pineda, Executive Director

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GROUNDWORK DENVER

BY: _____
Cindy Chang, Executive Director

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MILEHIGH YOUTH CORPS

BY: _____
Brigid McRaith, Chief Executive Officer

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THE URBAN FAM D/B/A/ THE URBAN FARM AT STAPLETON

BY: _____
Michelle Graham, Executive Director

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U.S. FISH AND WILDLIFE SERVICE

BY: _____
Maureen Gallagher, Acting Regional Director

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COLORADO PARKS AND WILDLIFE
DEPARTMENT OF NATURAL RESOURCES

BY: _____
Mark Leslie, Northeast Regional Manager

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FIRST AMENDMENT TO GRANT AGREEMENT

Project Name: GoWILD Northeast Metro aka Generation Wild NEMC
Contract No.: 17884-1
Original Project Completion Date: June 30, 2020
Amended Project Completion Date: June 30, 2026

PARTIES TO AGREEMENT

Board/GOCO:	The State Board of the Great Outdoors Colorado Trust Fund
Address:	1900 Grant Street, Suite 725 Denver, CO 80203
Telephone:	(303) 226-4520
Contact name:	Matt Brady
Grantee:	City of Commerce City
Address:	13905 E 112th Ave, Commerce City, CO 80022
Contact name:	Kate Kramer Lisa Nordholt
Date:	January 26, 2021

EXHIBITS

Exhibit A	Original Grant Agreement
Exhibit B	Interim Planning Documents
Exhibit C	Budget
Exhibit D	Resolution
Exhibit E	Partner Contracts (if applicable)

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THIS FIRST AMENDMENT TO THE GRANT AGREEMENT ("First Amendment") is made as of this ____ day of _____ 2021 (the "Effective Date"), by and between the State Board of the Great Outdoors Colorado Trust Fund ("GOCO" or "Board") and the City of Commerce City ("Grantee").

RECITALS

A. GOCO and Grantee entered into a grant agreement dated effective August 4, 2017 ("Agreement"). The Agreement established the requirements for the delivery of project outcomes as outlined in Grantee's Project Application, as defined in the Agreement.

B. The Board has prioritized continued support of Generation Wild in the GOCO 2020 Strategic Plan to advance equitable access to the outdoors through local coalitions that provide program and pathway opportunities to youth and families.

C. The Board has approved a five-year spending plan allocating $22.8 million of local government and open space purpose funding to Generation Wild coalitions. The Board has approved additional funding for Grantee for fiscal year 2021 and has endorsed a funding strategy to provide further funding, conditioned upon annual approval and authorization, for fiscal year 2022 and beyond.

D. The Grantee is recognized as a formal partner ("Partner") in the Project Application with certain responsibilities for executing various project elements as outlined therein.

E. The parties wish to amend the Agreement as set forth herein to increase grant funding and extend the timeline to complete the project outcomes.

AMENDMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties wish to amend the Agreement as follows:

1. Recitals. The foregoing recitals are incorporated herein by this reference.

2. Time Extension. The parties wish to extend the Agreement until June 30, 2026.

3. Grant Amount. The Board approved additional funding for Grantee for fiscal year 2021 and has endorsed a funding strategy to provide further funding for fiscal years 2022 and 2023 in the amounts show below and totaling $1,991,889 across all three fiscal years. Funding for fiscal years 2022 and 2023 is contingent upon formal Board approval of such funding during each respective fiscal year. Subject to contingency outlined above, the Board expressly acknowledges that $107,832.00 of the total funding shall be paid directly to the City of Aurora (to be disbursed annually in the amount of $35,944.00 per fiscal year). The remaining $1,884,056.00 of the total funding committed shall be disbursed to Grantee pursuant to the following schedule:

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FY21 coalition total: $533,695.00
Commerce City (Grantee): $497,751.00 (Aurora: $35,944.00)

FY22 coalition total: $662,810.00
Commerce City (Grantee): $626,866.00 (Aurora: $35,944.00)

FY23 coalition total: $795,384.00
Commerce City (Grantee): $759,440.00 (Aurora: $35,944.00)

4. Matching Funds. Matching funds in the minimum amount required by GOCO as set forth in the approved Budget, or as modified and approved in compliance with GOCO procedures, must have been received by Grantee, or the status of efforts to secure matching funding was disclosed and has been deemed satisfactory by Staff. Grantee shall provide evidence of matching funds as GOCO may require in its reasonable discretion.

5. Grant Agreement; First Amendment. Except as expressly set forth in this First Amendment, the Agreement shall remain unmodified and in full force and effect and is hereby affirmed and ratified. In the event of any inconsistency between the terms of the Agreement and the terms of this First Amendment, the terms of this First Amendment shall govern and control in all respects. All references to the Agreement shall be deemed references to the Agreement as amended hereby.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Amendment effective as of _____.

STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND	GRANTEE: CITY OF COMMERCE CITY
By:	By:
Chris Castilian Executive Director	Title:

GOCO Program Staff: Route Grant Agreement to Executive Director for signature:

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CITY OF COMMERCE CITY, COLORADO

BY: DocuSigned by: Roger Tinklenberg A1672F8B883F4CD...
Roger Tinklenberg, Interim City Manager

ATTEST:

DocuSigned by: Dylan Gibson 798CD14FB5714B1...
Dylan A. Gibson, CMC, City Clerk

CITY OF COMMERCE CITY SEAL STATE OF COLORADO

APPROVED AS TO FORM:

DocuSigned by: Brian Swann D73D7C2E676445A...
Brian Swann, Assistant City Attorney

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EXHIBIT A

Grant Agreement

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EXHIBIT B

Interim Strategic Planning Documents

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EXHIBIT C

Budget

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EXHIBIT D

Resolution

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EXHIBIT E

Partner Contracts (if applicable)

Parks, Foundations and Quality of Life (PFQL) Meeting
June 24, 2021

Members Present: Council Member Allison Hiltz, Chair; Council Member Crystal Murillo, Vice-Chair; Council Member Juan Marcano

Members Absent: *None.*

Others Present: Bill Levine, Brooke Bell, Doug McNeil, Erin Pulliam, Jessica Bixenman, Joe Sack, John Wesolowski, Nancy Freed, Pat Schuler, Rian French, Tim Joyce, Tracy Young, Lauren Morales.

1. WELCOME AND INTRODUCTIONS

Council Member (CM) Murillo welcomed everyone and called the meeting to order.

2. REVIEW AND APPROVAL OF MINUTES

The April 22, 2021 and May 28, 2021 minutes were approved.

3. ANNOUNCEMENTS

None.

4. AGENDA ITEMS

4c. Resolution to Approve a Cooperative Agreement Between Aurora, Denver, Commerce City, and Non-profits

Summary of Issue and Discussion:

Pat Schuler, Manager of Open Space & Natural Resources, presented an IGA regarding a Cooperative Agreement between Aurora, Denver, Commerce City, and Non-profits. Aurora is a part of the Northeast Metro Coalition (NEMC), which is a collaboration between the three cities and many non-profits that collaborate to share data and collectively report the successes of the Coalition as-a-whole to GOCO for comparison to other statewide Coalitions under the Generation Wild grant and to track how the benefits are reaching underserved children. The City of Aurora is being asked to sign this agreement in order to continue this collaborative partnership for an additional 3 to 5 years.

The Council Members did not have any questions on this IGA item and mentioned how supportive they are of the work the City is doing in coordination with GOCO and Generation Wild to help bring nature programming to children from disadvantaged backgrounds. The committee moved agreed to move the item forward to Study Session.

Outcome:

The Committee approved moving the agenda item forward to City Council Study Session.

Follow-up Action:

None.

5. MISCELLANEOUS MATTERS FOR CONSIDERATION

None.

6. TOPICS FOR NEXT MONTH'S MEETING

-

7. CONFIRMATION OF NEXT MEETING AND ADJOURNMENT

The June 24 meeting was adjourned. The next PFQL meeting will be held Friday, July 23, 2021.

Approved: _____

Allison Hiltz Date
Committee Chair

CITY OF AURORA
Council Agenda Commentary

Item Title: State Legislative 2021 Session Recap
Item Initiator: Luke Palmisano
Staff Source/Legal Source: Luke Palmisano/Rachel Allen
Outside Speaker: none
Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: n/a

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☒ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Use dropdown menu to select committee from list.

Policy Committee Date: 6/11/2021

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The Federal, State and Intergovernmental Relations Committee is the standing committee that oversees Aurora's relationships with our state legislative and federal congressional delegations. As empowered by Council Rules, the FSIR committee shall debate and take positions on proposed state legislation on behalf of the city of Aurora.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The FSIR committee held a regular committee meeting on June 11, 2021 to recap the 2021 legislative session. This item will serve as a final update on the 2021 state legislative session and a report on 2021 interim committee actions.

QUESTIONS FOR COUNCIL

This item is information only.

LEGAL COMMENTS

The city manager shall be responsible to the council for the proper administration of all affairs of the city placed in his charge, and to that end he shall have the power and duty to attend council meetings and participate in discussions with the council in an advisory capacity and inform the public concerning plans and activities of the council and of the city administration. (City Charter Art. 7-4). The Federal, State and Intergovernmental Relations Committee shall recommend objectives and initiatives in the State Legislature. (Council Rules, Appendix A). (Allen)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: n/a

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: n/a

City of Aurora
End of Session Report 2021

The 2021 Colorado legislative session was unlike any other. The legislature convened as scheduled in January, worked for three days and then took a month off while members were vaccinated and conducted SMART Act hearings for the various state executive departments. The legislature reconvened mid-February to begin hearing legislation and conduct the state's business.

With a democratic trifecta, the caucus goals of addressing issues like COVID-19, budget, healthcare, transportation and clean energy were accomplished. As the session progressed, it became clear the state would receive a substantial amount of federal relief dollars. Gov. Polis and the Joint Budget Committee worked to allocate some of this money during the session and will work through an interim committee this summer to address additional relief efforts. In all, legislators introduced more than 600 bills and passed more than 500.

This session was a busy year for the City of Aurora. Several pieces of legislation were of interest to the city, specifically in the areas of police reform, gun control, criminal justice, immigration, transportation and affordable housing.

Legislative task forces and interim committees will resume this summer. Cancelled last year because of COVID-19, the legislators will meet July through October to discuss a number of issues. Each committee may pass legislation out for the 2022 session. Below is a list of the standing committees and task forces that will meet thanks to legislation passed this year.

The following is a list of the statutory committees that are allowed to meet during the 2021 interim based on their statutorily allotted number and frequency of meetings:

- Health and Insurance Exchange Oversight Committee
- Colorado Youth Advisory Council Review Committee
- Early Childhood and School Readiness Legislative Commission
- Legislative Emergency Preparedness, Response, and Recovery Committee
- Pension Review Commission & Pension Review Subcommittee
- Sales and Use Tax Simplification Task Force
- Statewide Health Care Review Committee
- Transportation Legislation Review Committee
- Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems Oversight Committee
- Water Resources Review Committee

- Wildfire Matters Review Committee

While not official interim committees, there are a handful of task forces meeting during the interim. The purpose is to make recommendations on spending portions of the most recent round of federal stimulus money.

- Under the terms of HB21-1329 American Rescue Plan Act Money to Invest Affordable Housing, $550 million will be used for affordable housing. The bill specified the use of approximately $100 million in funds. What to do with the remainder will be the subject of the task force, which will make a recommendation so the legislature can act in the 2022 session. The task force, made up of legislators and non-legislative members, will be appointed by the Executive Committee of the Legislative Council.
- SB21-137 Behavioral Health Recovery Act contains funding for a Task Force to determine the use of approximately $400 million for behavioral and mental health issues. The goal is to have recommendations for legislators to consider in the 2022 session. The task force, made up of legislators and non-legislative members, will be appointed by the Executive Committee of the Legislative Council.
- HB21-1330 Higher Education Student Success directs the Colorado Commission on Higher Education to convene a task force to review and make recommendations concerning uses of federal stimulus money for assistance for populations disproportionately impacted by COVID-19 to address or mitigate the impacts of the public health emergency on educational disparities. By December 15, the general assembly's education committees task force must submit findings and recommendations to the commission and the general assembly's education committees
- Legislative Oversight Committee Concerning Tax Policy and Task Force (from HB21-1077)
- Legislative Interim Committee on School Finance (from HB21-1325)

Key Bills:

Bill: HB21-1025	
Title:	Non-substantive Emails And Open Meetings Law
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: J. Ginal (D) House:

Custom Summary	The bill clarifies that electronic mail between elected officials that does not relate to the merits or substance of pending legislation does not constitute a meeting under Colorado Open Meetings Law. This includes electronic mail communication: regarding scheduling and availability; sent by an elected official for the purposes of forwarding information; responding to an inquiry from an individual who is not a member of the state or local public body; or posing a question for later discussion by the public body.
Position	Support
Status	Governor Signed (04/07/2021)

Bill: HB21-1030

Title:	Expanding Peace Officers Mental Health Grant Program
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: J. Buckner (D) J. Cooke (R) House: H. McKean (R) J. McCluskie (D)
Custom Summary	This bill allows additional public safety agencies and behavioral health entities to apply to the newly renamed Peace Officers Mental Health Support and Community Partnerships Grant Program (grant program) to provide responder community responses, community responses, and counseling services for peace officers and their immediate family members, among other services. In addition, the bill removes the repeal date for the grant program, encourages grant recipients to work with their regional community-based service providers, updates SMART Act reporting requirements, and removes outdated language. Finally, the bill appropriates an additional $1.0 million to the grant program for FY 2021-22 and allows the Department of Local Affairs (DOLA) to use up to 5 percent to pay for direct and indirect costs of administering the program.
Position	Monitor
Status	Governor Signed (6/27/2021)

Bill: HB21-1075

Title:	Replace The Term Illegal Alien
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: J. Gonzales (D) House: S. Lontine (D)
Custom Summary	This bill replaces the term “illegal alien” with “worker without authorization” in public contracts for services.
Position	Support
Status	Governor Signed (04/15/2021)

Bill: HB21-1117

Title:	Local Government Authority Promote Affordable Housing Units
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: R. Rodriguez (D) J. Gonzales (D) House: S. Lontine (D) S. Gonzales-Gutierrez (D)
Custom Summary	The bill clarifies that the state prohibition on local rent control laws is not applicable to local laws that restrict rents on newly constructed or redeveloped housing so long as the local regulation provides options to the property owner or land developer, and creates alternatives to the construction of new affordable housing on the building site.
Position	Support
Status	Governor Signed (05/28/2021)

Bill: HB21-1150

Title:	Create The Colorado Office Of New Americans
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: J. Gonzales (D) House: I. Jodeh (D)
Custom Summary	The bill creates, initially within the department of labor and employment, the Colorado office of new Americans (ONA). The bill sets forth the ONA's duties and responsibilities and provides details regarding funding. The ONA serves as the point of contact for immigrant-serving state agencies, private sector organizations, and the public about immigrant issues in Colorado, and has as one of its central purposes the successful integration and inclusion of immigrants and refugees in our state's communities. As its main priority, the ONA is required to implement a statewide strategy to facilitate economic stability and promote successful economic, social, linguistic, and cultural integration by investing in the success of immigrants in Colorado.
Position	Support
Status	Governor Signed (06/25/2021)

Bill: HB21-1159

Title:	Limitations on Regulated Marijuana Delivery
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: C. Holbert (R) R. Rodriguez (D) House: M. Snyder (D)

Custom Summary	The bill waives initial marijuana transporter application and licensing fees for social equity applicants, and makes the following changes to marijuana delivery: requires that retail marijuana stores be open at least five days per week and at least five hours per day in order to obtain a delivery permit; allows retail marijuana stores to only deliver products that are available for sale at the physical store; specifies that only a licensed marijuana store may hold prepaid customer funds; and prohibits a medical or retail marijuana business operator from providing services to a licensed store or transporter that delivers marijuana. If a retail transporter is found to have committed a delivery-related violation of public safety, the bill requires that the state licensing authority notify the retail store with which the transporter is contracted. If the retail store continues to contract with the transporter and the transporter commits a subsequent delivery-related violation of public safety within a year, the state licensing authority must initiate administrative action against both the retail store and the transporter. By January 1, 2022, the Department of Revenue must promulgate rules related to emergency exemptions to hours of operation requirements for retail stores that hold a delivery permit. The next sunset review of regulated marijuana which will commence in 2027, must review the metrics and impacts of the regulations on retail sales.
Position	Support
Status	House Committee on Finance Postpone Indefinitely (05/06/2021)

Bill: HB21-1186

Title:	RTD District Operations
Full Text	Full Text of Bill
Sponsors	Senate: F. Winter (D) J. Bridges (D) House: M. Gray (D) T. Sullivan (D)
Custom Summary	The bill amends provisions related to the operation of the RTD including Amending a cap on the amount of all vehicular service the district can allow to be provided by third parties under competitive contracts to be measured by platform time or its equivalent; Expanding the types of entities the district can contract with to include nonprofit organizations and local government;

Repealing farebox recovery ratio requirements and requiring the district to include in its annual financial reports information on annual operating costs, ridership numbers, and operating costs divided by ridership as a measure of the cost efficiency of its services;
Repealing a limitation on developments that would reduce parking at a facility or result in a competitive disadvantage to private businesses near the facility; and Repealing limitations on the district's authority to charge fees and manage parking at district parking facilities.

Position Support

Status Governor Signed (5/24/2021)

Bill: HB21-1214

Title: Record Sealing Collateral Consequences Reduction

Full Text Full Text of Bill

Sponsors (House and Senate)
Senate:
P. Lee (D)
J. Coleman (D)
House:
M. Weissman (D)
J. Bacon (D)

Custom Summary	The bill makes several updates to the sealing of criminal records; creates an automatic process to seal eligible drug convictions; and retroactively allows adults and juveniles to petition for relief from collateral consequences. More detail can be found below. Sealing of arrest records. The bill requires arrest records on or after January 1, 2022, to be automatically sealed if no charges have been filed within one year of the arrest. The Colorado Bureau of Investigation (CBI) must seal the record within 60 days after a year has passed. If the CBI receives charges after sealing, the record must immediately be unsealed. The bill establishes the following deadlines for sealing prior arrest records with no convictions for the following years: from 2019 to 2022: within three years after the date of the arrest for qualifying felony offenses and within 18 months after the date of arrest for qualified misdemeanor, misdemeanor traffic, petty offense, municipal ordinance offenses; from 2013 to 2018: January 1, 2023; from 2008 to 2012: January 1, 2024; from 2003 to 2007: January 1, 2025; from 1997 to 2002: January 1, 2026; and before 1997: January 1, 2027. An arrest record for felony offenses with a statute of limitations greater than three years is not eligible for sealing. The CBI must allow treatment providers for sex offenders and domestic abusers access to the sealed arrest record. Sealing with multiple conviction records. The bill allows a defendant with multiple conviction records to petition to seal those records if the record or records are not eligible for sealing because of an intervening conviction. An individual must file a petition and give proper notice to the district attorney and pay a processing fee. After receiving the petition, the district attorney must determine whether to object to the petition and must advise the court of any victim objections. If the district attorney does not object and the crime is not a Victim's Rights Act crime, the court may decide on the petition without a hearing. Otherwise, the court must set the matter to hearing. To order the record sealed, a defendant must not have been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against them. Sealing cannot occur if the petitioner owes restitution, fines, court costs, late fees, or other fees, unless vacated by the court. In addition to those offenses outlined in Table 2, a misdemeanor offense that is listed as ineligible for sealing may be eligible for sealing if the district attorney consents to the sealing or the court finds clear and convincing evidence that: the petitioner's need for sealing is significant and substantial; the petitioner is no longer a threat to public safety; and public disclosure of the record is no longer necessary. Only one misdemeanor crime as defined in the Victim's Rights Act may be eligible for sealing under this section. Sealing for pardoned offenses. After a person receives a full and unconditional pardon, the individual may file a motion to seal their

record for the offense receiving the pardon. The individual does not need to pay a processing fee, but must provide the district attorney notice. The district attorney must decide whether to object to the motion and, if there is an objection, the court must set a hearing to decide if the record should be sealed. State appointed attorney for sealing records. The bill allows the Office of the State Public Defender and the Office of the Alternative Defense Council to seek, accept, and expend gifts, grants, or donations from private or public sources to represent indigent clients in record sealing cases. Sealing of drug convictions. The bill requires the State Court Administrator to compile a list of individuals with drug convictions who are eligible for sealing under Colorado's sealing statute if seven years have passed since the disposition of a petty offense or misdemeanor case, or ten years has passed for a felony. The administrator shall compile an initial list by February 1, 2024. After the initial list is compiled, the State Court Administrator must forward the list to the Colorado Bureau of Investigation (CBI) within the Department of Public Safety (DPS). CBI must compare the list with a criminal history report and complete a comparison based fingerprint review. CBI must remove any convictions from the initial list in which sufficient identification validation cannot be made and if the defendant has an intervening conviction during the seven or ten year waiting period. The CBI must forward the amended list to each district attorney's office. When the amended list is received, district attorneys must remove convictions where a condition of plea was not to seal a defendant's conviction record and convictions in which the defendant has a pending charge. District attorneys must then forward the list to the State Court Administrator who must compile each district attorney's list into one final list sorted by judicial district.

Position Support

Status Governor Signed (05/24/2021)

Bill: HB21-1217

Title: Military Family Open Enrollment in Public Schools

Full Text Full Text of Bill

Sponsors (House and Senate)
Senate:
R.Fields (D)
P. Lundeen (R)
House:
R. Bockenfeld (R)
J. Bacon (D)

The bill permits an inbound active duty military member to use the school liaison office address for the military installation where the member will be assigned to apply for open enrollment in a public school. If an active member is certified mission essential and must live on a military installation, school districts or charter schools must enroll the member's child with a guaranteed enrollment slot of the member's choice. Once the child of an inbound active member is open enrolled, schools must guarantee enrollment while the child remains at the school, and give preference for younger siblings enrolling in subsequent school years.

Position
Support

Status
Governor Signed (5/28/2021)

Bill: HB21-1222

Title: Regulation Of Family Child Care Homes

Full Text	Full Text of Bill
Custom Summary	The bill requires local governments to treat family child care homes as residential property when it comes to zoning, land use, fire and life safety, sanitation, and building code regulations. Local governments cannot impose regulations on family child care homes unless the regulations apply to all residential properties. Finally, the bill requires the Department of Human Services (DHS) to seek advice and assistance from the Department of Public Safety (DPS) and councils and associations representing fire marshals and building code officials when promulgating rules related to fire protection and prevention standards for child care agencies or facilities.
Sponsors (House & Senate)	House: A. Valdez (D) K. VanWinkle (R) Senate: J. Smallwood (R) F. Winter (D)
osition	Support
Status	Governor Signed (06/07/2021)

Bill: HB21-1251

Title:	Appropriate Use Of Chemical Restraints On A Person
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: R. Fields (D) J. Gonzales (D) House: L. Herod (D) Y. Caraveo (D)
Custom Summary	The bill limits the use of ketamine, as detailed below. Limits on use of ketamine. The bill limits the use of ketamine. First, absent a justifiable medical emergency, an emergency medical (EMS) provider must not administer ketamine in a pre-hospital setting to subdue, sedate, or chemically incapacitate an individual suspected of committing a crime. Second, the bill also requires EMS providers who administer ketamine to provide urgent transportation for the

individual receiving ketamine, and record any complaints arising from the administration of ketamine. Finally, if a peace officer is present at the scene of an emergency an EMS provider must only administer ketamine if the provider has: weighed the individual to ensure accurate dosage or estimates the individual's weight with the agreement of two other trained personnel and has attempted to obtain verbal authorization from the provider's medical director; training in the administration of ketamine; training in advanced airway support techniques; equipment available to manage respiratory depression; and equipment available to immediately monitor vital signs.

The medical director of an agency that has a waiver to administer ketamine must develop necessary training for EMS providers when administering ketamine in the presence of a peace officer. Failure to comply with the above requirements is considered misconduct for the EMS provider.

Peace officers use of chemical restraints. The bill prohibits peace officers—unless the officer is also certified as an EMS provider—from using, directing, or unduly influencing the use of chemical restraints upon another person. EMS providers must report to the POST Board within 10 days any instance when this occurs. A peace officer cannot influence medical decisions or diagnoses made by EMS providers and EMS providers cannot make medical decisions based solely on information from peace officers, except that a peace officer may provide critical medical information that may assist the EMS provider's assessment of the need to administer ketamine. A provider directed by a peace officer to assist a peace officer to effect an arrest; to prevent an escape from custody; or to facilitate the ease and convenience in law enforcement must not use ketamine. Misdemeanors. The bill creates two class 1 misdemeanors. First, it is a class 1 misdemeanor for peace officers to not report to the POST Board if they see another peace officer use or direct the use of ketamine. Upon receipt of the report, the POST Board must submit the report to the peace officer's employing agency who must conduct an internal investigation. The employing agency must submit the findings of the investigation to the POST Board. Second, it is a class 1 misdemeanor for a peace officer to not intervene to prevent the use of ketamine. If an administrative law judge (ALJ) finds that an officer failed to intervene, they must forward the findings to the district attorney. If a district attorney chooses not to file charges, they must write an explanatory report.

POST certification revocation. The POST Board shall permanently revoke certification if: an incident involving chemical restraint resulted in serious bodily injury or death; and an ALJ, hearing officer, or investigation finds that a peace officer failed to intervene when an officer used a chemical restraint that resulted in serious injury or death; or an ALJ, hearing officer, or internal investigation finds that a peace officer violated the provisions outlined above on peace officers use of chemical restraints.

If an incident did not result in serious injury or death, a peace officer's certification must be suspended for at least one year. The POST Board shall reinstate the peace officer's certification if the officer is exonerated by an ALJ.

Emergency Medical Practice Advisory Council. The bill adds two members to the Emergency Medical Practice Advisory Council, a clinical psychiatrist who is appointed by the Colorado psychiatric society, and an anesthesiologist appointed by the Colorado Society of Anesthesiologists. In addition, the council must submit to the General Assembly any time the council advises or recommends authorizing the administration of a new chemical restraint.

Report on use of ketamine. Beginning January 1, 2022, and for each January 1 thereafter, the Colorado Department of Public Health and Environment (CDPHE) must submit a report to the General Assembly on the statewide use of ketamine by EMS providers and any complications that arise from its use. The report must be made publicly available.

Position	Monitor
Status	Governor Signed

Bill: HB21-1271

Title:	Department Of Local Affairs Innovative Affordable Housing Strategies
Full Text	Full Text of Bill

Sponsors (House and Senate)	House: J. McCluskie (D) I. Jodeh (D) Senate: J. Gonzales (D)

Custom Summary

The bill creates three programs in the Department of Local Affairs (DOLA) to offer grant money and other forms of state assistance for local governments to promote innovative solutions to the development of affordable housing. These three programs are described below.

The Housing Development Incentives Grant Program is created in DOLA's Division of Local Government (DLG) to offer grants to local governments that adopt at least three policy and regulatory tools from a menu of options enumerated in the bill that incentivize the development of affordable housing. The bill transfers $9.3 million from the General Fund and $30.0 million from the Affordable Housing and Home Ownership Cash Fund to the Colorado Heritage Communities fund to support this grant program.

The Local Government Planning Grant Program is created in DOLA's DLG to provide grants to local governments to assess housing needs or to make changes to local policies to become eligible for a Housing Development Incentives Grant. The DLG is required to update model land use codes for local governments. The bill transfers $2.1 million from the General Fund and $5.0 million from the Affordable Housing and Home Ownership Cash Fund to the Colorado Heritage Communities fund to support this grant program.

The Affordable Housing Guided Toolkit Program is created in DOLA's Division of Housing (DOH) to provide funding and technical assistance to local governments that make changes to provide incentives and reduce barriers to the development of affordable housing. The bill transfers $1.6 million from the General Fund to the Housing Development Grant Fund for this program.

DOLA must create rules for administering the three programs as well as an annual report on the use of assistance awarded. The DLB may use up to four percent and the DOH up to eight percent of the funds for administrative costs. The moneys transferred for the programs must be used by June 30, 2024.

The bill also updates and repeals obsolete statutory provisions concerning the Office of Smart Growth (OSG) and the Colorado Heritage Communities Grant Program within DOLA.

Position	Support
Status	Governor Signed (06/27/2021).

Bill: HB21-1299

Title:	Office Of Gun Violence Prevention
Full Text	Full Text of Bill
Custom Summary	This bill establishes the Office of Gun Violence Prevention (the office) in the Department of Public Health and Environment (CDPHE) with the purpose of coordinating and promoting efforts to reduce gun violence. Office of Gun Violence Prevention. The CDPHE director must appoint the office director, who in turn is required to hire staff. At a minimum, the office is required to have 1 FTE in FY 2021-22 and 2 FTE in FY 2022-23. The office may collaborate with other state agencies to carry out its responsibilities, including the Address Confidentiality Program, the Office of Suicide Prevention, the Safe2Tell program, the School Safety Resource Center, the Department of Education, the Office of Behavioral Health, the Attorney General, and the Division of Criminal Justice, as well as other organizations with expertise in gun violence prevention and gun safety. The office must identify and apply for available federal grants and other funding to further its work, and may seek, accept, and expend these funds. Public awareness campaign. The office is required to conduct an education campaign with the goal of increasing general public awareness of state and federal laws and resources relating to gun violence prevention. The campaign is directed towards gun owners, parents and legal guardians of children, and professions that provide services to communities disproportionately impacted by gun violence. In addition, the office must develop materials and training resources for local law enforcement, healthcare providers, and educators in multiple languages. Grant program. Subject to available money, the office must establish a grant program to award organizations that conduct community-based gun violence intervention initiatives. The office should promulgate rules for awarding grants, including application procedures, grant terms, and reporting requirements. Grant recipients must be able to demonstrate the ability to conduct

effective programs and, in selecting recipients, the office should prioritize organizations working in communities disproportionately impacted by gun violence.

Resource bank. The office is required to create and maintain a resource bank for data, research, and statistics on gun violence in Colorado, and is required to collaborate with researchers to improve data collection, enhance prevention tools, and provide resources to communities.

Reporting. Beginning in November 2021, the office is required to submit annual reports to the CDPHE detailing information about the education campaign, any effective programs or research identified, and any federal grants or other funding procured. The CDPHE must include a summary of this report in their SMART Act hearing.

Position	Support
Status	Governor Signed (06/1892021)

Bill: SB21-062

Title:	Jail Population Management Tools
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: P. Lee (D) House: A. Benavidez (D)
Custom Summary	This bill authorizes peace officers to issue a summons and complaint for most offenses, requires the court to issue a personal recognizance bond when a defendant fails to appear if certain criteria are met, and authorizes sheriffs to manage their jail populations by establishing standards for admission. These provisions are described in more detail below. Summons and complaint. The bill gives a peace officer the authority to issue a summons and complaint for most offenses, unless arrest is statutorily required or the offense is a crime of violence. Arrest prohibitions. The bill prohibits a peace officer from subjecting a person to warrantless, detention-eligible arrest based solely on the alleged

commission of a traffic offense; petty offense; municipal offense; misdemeanor offense; a class 4, 5, or 6 felony; or a level 3 or 4 drug felony unless: a detention-eligible arrest is statutorily required; the officer is unable to verify the individual's identity without the detention-eligible arrest; the officer has probable cause to believe the person is impaired by alcohol and has prior convictions, or a facility is unavailable and there is a safety risk absent detention-eligible arrest; or the offense involves a felony, a victims' rights act crime, illegal possession or use of firearm, unlawful sexual behavior, failure to register as a sex offender, an extreme risk protection order, a threat against a school, or eluding a peace officer, and the arresting officer records in the arrest documents a reasonable suspicion to conclude: • the person poses a threat to the safety of another absent detention-eligible arrest; or • the person has indicated a clear unwillingness to cease and desist in criminal behavior absent detention-eligible arrest.

These arrest prohibitions are an obligation of arresting officers. No court or sheriff is required to perform a review to ensure compliance with these provisions, and no private right of action for violations of these provisions is created, nor do these provisions provide a basis to seek dismissal or suppression of evidence in a criminal case.

"Detention-eligible arrest" is defined to mean taking a person into custody to transport them to a jail or detention facility until the person appears before a court or is released on bond. Detention-eligible arrest does not include transport of a person to a jail for the purpose of fingerprinting, photographing, DNA or blood, breath, saliva or urine testing, nor transport of a person for any other lawful purpose or to any other facility, unless the peace officer intends to have the person held in jail upon discharge from such facility.

Bond prohibitions. The bill prohibits courts from issuing monetary bonds for defendants charged with a class 4, 5, or 6 felony; a level 3 or 4 drug felony; a misdemeanor offense; or a municipal offense unless the court finds on the record that there is a substantial risk that the defendant will flee prosecution or threaten the safety of another person and no other condition of release can reasonably mitigate the risk.

When a defendant appears before the court based on a failure to appear warrant, the court must grant a personal recognizance bond unless the defendant: failed to appear three or more times in the case; failed to appear for any proceeding for which a witness was subpoenaed and appeared or for which a civilian witness was placed on call by the prosecution; or intentionally failed to appear for the purpose of interfering with or deterring victim or witness participation in the case.

The bill requires the court to issue a personal recognizance bond in a probation hearing for failure to comply with conditions unless: the violation was a failure to comply with any court-ordered treatment related to a sex offense or a crime of domestic violence, and the court finds on the record that the failure to comply posts a substantial risk to the safety of another and was not based solely on an inability to pay; or the defendant has already had probation revoked for failure to comply in the case.

The court maintains authority to revoke probation based on failure to comply. These provisions do not prohibit the release of a person pursuant to local pretrial release policies that require payment of a monetary condition of release prior to an individualized decision by a judge, a pretrial officer, a bonding and release commissioner, or any other judicial officer. The court maintains the authority to set a monetary bond when the court finds that a defendant is likely to flee prosecution and that there are no other conditions of release that can reasonably mitigate that risk.

The bill also redefines "flee prosecution" to mean planning or attempting to intentionally evade prosecution by concealing oneself. Simple, past non-appearance in court alone is not evidence of future intent to flee prosecution. Citizenship status alone is not evidence of future intent to flee prosecution.

County jail population management. The bill authorizes sheriffs to actively manage their jail populations in order to keep the population as low as possible while maintaining community safety, including the authority to establish jail admission standards that include offense-based admission standards that limit jail admissions.

Position	Amend
Status	Senate Committee on Appropriations Postpone Indefinitely (05/26/2021)

Bill: SB21-108

Title	Public Utilities Commission Gas Utility Safety Inspection Authority
Sponsors (House and Senate)	Senate: T. Story (D) House: T. Bernett (D) L. Cutter(D)
Custom Summary	The bill declares that, due to recent dramatic increases in both the

extraction and transportation of natural gas and the construction of new homes and businesses in close proximity to these activities, it is appropriate to consolidate, strengthen, and streamline the safety regulations that apply to natural gas pipeline utilities.Section 2 updates and clarifies the duty of the public utilities commission (PUC) to collaborate with the United States department of transportation (DOT) on pipeline safety issues by:

- Formally accepting responsibility to enforce DOT pipeline safety rules; and
- Adopting rules at the state level as needed to comply with federal requirements. The PUC's rules may be more stringent than required by federal standards in specified areas.

Section 3 amends existing penalty provisions for pipeline safety violations by:

- Increasing the penalty cap from $100,000 per violation to $200,000, and increasing the aggregate total from $1 million to $2 million;
- Allowing the PUC to recover court costs if it must sue to recover any penalty assessed against a violator; and
- Requiring any compromise of a penalty to be based on objective metrics and factors, including the severity of the violation, the extent to which the violator has remedied the conditions that led to the violation, and the amount the violator agrees to spend on approved measures to reduce future risk. Any such compromise may not reduce the amount payable as a penalty below $5,000 per violation.

Position	Support
Status	Sent to the Governor

Bill: SB21-118

Title: Alternative Response Mistreatment At-risk Adults

Sponsors (House and Senate)	Senate: J. Ginal (D) House: R. Pelton (R) M. Snyder (D)

Custom Summary

Current law allows for only one type of response for a county department of human or social services (county department) to follow after a report of mistreatment or self-neglect of an at-risk adult, regardless of the level of risk reported. That type of response requires a full investigation, including unannounced initial in-person

interviews, and a finding by the county department

The bill creates, on or after January 1, 2022, an alternative response pilot program (pilot) that a participating county department can utilize when it receives a report, related to an at-risk adult, of mistreatment or self-neglect, (report) and the report has identified the risk as lower risk, as defined by rules promulgated by the state department of human services (state department).
The state department shall select a maximum of 15 rural and urban county departments to participate in the pilot. Upon receipt of a report, a participating county department will not make a finding nor will it be required to complete unannounced initial in-person interviews, so long as the report has identified the risk as lower risk, as defined by rule of the state department. If, upon further review, the participating county department determines the situation is more severe, it shall revert to the process that is currently set forth in law for investigating a report.
The state department shall provide initial training on the pilot to participating county departments, as well as ongoing technical assistance.

Position Support

Status Governor Signed (06/17/2021)

Bill: SB21-148

Title: Creation Of Financial Empowerment Office

Full Text Full Text of Bill

Sponsors (House and Senate)
Senate:
J. Gonzales (D)
C. Kolker (D)
House:
D. Esgar (D)
K. Tipper (D)

Custom Summary	The bill creates the Financial Empowerment Office (office) in the Department of Law (DOL). The office is charged with growing the financial resilience of Coloradans by expanding access to safe and affordable banking and credit, and free individual financial counseling and coaching, as well as developing stronger consumer protections. The office may develop: methods, programs, and policies to increase access to safe and affordable financial products; tools and resources that increase and improve Colorado residents' financial management; community-informed policies and systems that build ownership and wealth; and tools that promote financial stability. The office must: support local organizations that define and lead tailored financial resilience strategies; align, support, and build ties in local communities to help build financial education and well-being; establish a statewide coalition that includes the Office of the State Treasurer, local officials, and others listed in the bill to discuss affordable banking products and help improve the financial stability of the unbanked; work with stakeholders to increase access to low-cost, credit-building loans and financial products, including collaborating with the Office of the State Treasurer on the creation and management of a loan fund; expand access to safe and affordable banking productions with low fees and easy account access; develop technical assistance to launch and expand local financial counseling and coaching, and to raise funds for these efforts; and track community feedback on financial abuses and connect persons with enforcement actors at the DOL and the Department of Regulatory Agencies. By August 1, 2022, and every August 1 thereafter, the DOL must submit a report to the General Assembly regarding the office's work.
Position	Support
Status	Governor Signed (06/24/2021).

Bill: SB21-176

Title:	Protecting Opportunities And Workers' Rights Act
Full Text	Full Text of Bill
Sponsors	Senate: B. Pettersen (D) F. Winter (D) House: S. Lontine (D) M. Gray (D)
Custom Summary	This bill expands protections for Colorado workers by: adding 'marital status' and 'caregiver status' as protected classes under the Colorado Anti-Discrimination Act (CADA); clarifying when independent contractors are considered employees for the purpose of harassment and discrimination claims; broadening the definition of harassment when claiming discrimination or an unfair employment practice; assigning more requirements to employers related to their ability to disprove claims and avoid liability, including requiring employers of twenty or more employees to provide training and maintain records; limiting the ability of an employer to require confidentiality during settlement; requiring the Civil Rights Division (CCRD) in the Department of Regulatory Agencies to develop training and education programs to be made available to employers at no cost; and changing the pathway for claims to be heard in court by allowing claims to be brought in district or county court. Employers who violate the requirements in this bill related to providing training and education, posting written notice and signage, and record keeping may be fined no less than $500 and no more than $10,000.
Position	Monitor
Status	House Committee on Judiciary Postpone Indefinitely (06/07/2021)

Bill: SB21-199

Title:	Remove Barriers To Certain Public Opportunities
Full Text	Full Text of Bill

Sponsors (House and Senate)	Senate: F. Winter (D) S. Jaquez Lewis (D) House: D. Esgar (D) S. Gonzales-Gutierrez (D)
Custom Summary	Upon passage of the bill, verification of lawful presence in the United States is not required for any purposes where lawful presence is not required by law, ordinance, or rule pursuant to a federal stimulus law or rule. Starting on July 1, 2022, this bill repeals the broad prohibition of providing state and local public benefits to individuals not lawfully present, and repeals specific requirements that individuals must be lawfully present when applying for professional licenses, public works contracts, and local business licenses. The bill expands what forms of identifications may be accepted by state agencies and repeals the Secure and Verifiable Identity Act.
Position	Support
Status	Governor Signed (06/25/2021).

Bill: SB21-200

Title:	Reduce Greenhouse Gases Increase Environmental Justice
Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: D. Moreno (D) F. Winter (D) House: D. Jackson (D)

Custom Summary	This bill directs the Air Quality Control Commission (AQCC) within the Department of Public Health and Environment (CDPHE) to promulgate rules related to greenhouse gas (GHG) emissions reductions and GHG emissions fees. It also requires electric utilities to submit plans to the Public Utilities Commission (PUC) that includes GHG emission reductions. Lastly, the bill creates an environmental justice ombudsperson and advisory board to promote environmental justice throughout the state.
Position	Monitor
Status	Deemed lost.

Bill: SB21-238

Title:	Create Front Range Passenger Rail District
Full Text	Full Text of Bill
Custom Summary	The bill creates the Front Range Passenger Rail District, which will extend from Wyoming to New Mexico, including: the cities and counties of Denver and Broomfield; all areas within Adams, Arapahoe, Boulder, Douglas, El Paso, Huerfano, Jefferson, Larimer, Las Animas, Pueblo, and Weld counties that are located within the territory of a metropolitan planning organization; all areas within Huerfano, Las Animas and Pueblo counties that are outside of a metropolitan planning organization but inside a county precinct located within five miles of the Interstate 25 right-of-way; and, all areas within Larimer and Weld counties that are outside of a metropolitan planning organization, but inside a county precinct north of the city of Fort Collins and within five miles of the Interstate 25 right-of-way. District powers. The district is granted authority to plan, design, develop, finance, construct, operate, and maintain a new interconnected passenger rail system. This authority will include the power to exercise taxing authority, levy a sales and use tax of up to 0.8%, collect fares and fees, and issue bonds; exercise imminent domain; create station improvement districts near existing and proposed passenger rail stations; enter into public-private partnerships; provide retail and commercial goods and services at passenger rail stations; and employ its own personnel or contract with other entities for operation and maintenance of the system.

District governance. The new district will be governed by a board of directors with appointees from transportation planning organizations that have jurisdiction in the new district, as well as by the Governor and the Department of Transportation (CDOT). The board must be fully appointed by April 1, 2022, and convene for its first meeting no later than May 15, 2022. The district must work collaboratively with stakeholders identified in the bill, including the Regional Transportation District (RTD) and Amtrak to ensure interconnectivity with their passenger rail systems. By January 31, 2024, the new district must begin publishing annual reports, and present results to the General Assembly.

District taxing proceeds. Upon approval by registered voters within the new district, a sales and use tax may be levied to fund development, financing, construction, operation or maintenance of the new system. The Department of Revenue will collect, administer and enforce any new tax, make monthly distributions from tax collections to the new district, and transmit the rest to the Front Range Passenger Rail District Sales and Use Tax Fund, which will be created by the bill and overseen by the Department of Treasury. No action by the district to create a multiple-fiscal year debt or other financial obligation can take effect unless it is submitted to a vote and approved by a majority of the registered electors of the district. The state auditor must conduct a financial audit of jurisdictions that approve new tax levies once every two years, and the district must pay the state auditor for the costs of each audit.

Repeal of Southwest Chief and Front Range Passenger Rail Commission. The bill repeals the Southwest Chief and Front Range Passenger Rail Commission on May 15, 2022. The State Treasurer is directed to transfer any unencumbered funds remaining in the Southwest Chief Fund to the Front Range Passenger Rail District on July 1, 2022.

Position Monitor

Status Governor Signed (06/30/2021).

Bill: SB21-256

Title: Local Regulation Of Firearms

Full Text Full Text of Bill

Sponsors (House and Senate)	Senate: D. Moreno (D) S. Fenberg (D) House: E. Hooton (D) L. Daugherty (D)
Custom Summary	Current law prohibits a local government from enacting an ordinance, regulation, or other law that prohibits the sale, purchase, or possession of a firearm. This bill permits a local government to enact an ordinance, regulation, or other law governing the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory as long as it is not less restrictive than state laws. In addition, it allows local governments, including a special district or governing board of an institution of higher education to regulate the carrying of concealed handguns in their jurisdiction.
Position	Support
Status	Governor Signed (06/19/2021).

Bill: SB21-260

Title:	Sustainability Of The Transportation System
Full Text	Full Text of Bill
Sponsors	Senate: F. Winter (D) S. Fenberg (D) House: A. Garnett (D) M. Gray (D)
Custom Summary	This bill increases spending for the state's transportation system through General Fund transfers and new fees; creates and modifies state enterprises; and expands authority for transportation planning organizations. Provisions of the bill are described in more detail below. Transfers. The bill makes one-time transfers to fund transportation projects. In the current FY 2020-21, the bill makes one-time transfers totaling $380 million from federal American Rescue Plan Act funds to the State Highway Fund, the Highway Users Tax Fund (HUTF), and the

Multimodal Transportation and Mitigation Options Fund (Multimodal Options Fund). The bill then makes an additional transfer of $170.0 million from the General Fund to the State Highway Fund in FY 2021-22. The bill also makes annual General Fund transfers to provide additional funding to the State Highway Fund, makes a one-time transfer from the Multimodal Options Fund to the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund (Southwest Chief Fund), and repeals annual General Fund transfers to the State Highway Fund that are related to the TRANs ballot measure. Transfers are described in more detail in the State Transfers section on page 10. Creation of and adjustments to state fees and funds. The bill creates new fees for electric motor vehicle registrations, purchases of gasoline and diesel fuel, retail deliveries, passenger ride services, and short-term vehicle rentals. It also indexes new and existing fees either to inflation or to the national highway construction costs index (NHCCI), requires an executive agency review of fees in 2026, and temporarily reduces road safety surcharges on vehicle registrations from 2022 to 2024. These fee and fund activities are discussed in more detail below. Fees on gasoline and diesel fuel. The bill imposes a per gallon fee on gasoline and diesel fuel to pay for road usage, and on diesel fuel only for vehicles' impacts on bridges and tunnels. The fees are phased in from FY 2022-23 through FY 2031-32 and then indexed to the NHCCI. Future NHCCI adjustments for the road usage fees on gasoline and diesel fuel are based on the combined taxes and fees on these fuels, such that the fees will incorporate an annual adjustment for both the tax and fee amounts. All fees will be remitted to the Department of Revenue (DOR) at the same time when excise taxes are remitted by fuel distributors. Road usage fees will be paid into the HUTF, and bridge and tunnel impact fees will be paid into the Statewide Bridge and Tunnel Enterprise Fund. Retail delivery fees. Starting in FY 2022-23, the bill imposes fees on retail deliveries by motor vehicles that transport tangible personal property subject to the state sales tax. The fees must be collected from the purchaser by the retailer, and will be adjusted for inflation in future years. Retail delivery fees are assessed by the state, the Statewide Bridge and Tunnel Enterprise, and four new enterprises created in the bill. Fees are collected by the DOR and distributed to the HUTF, the Multimodal Options Fund, and cash funds for each enterprise. The DOR will retain a portion of the fees to pay for the costs of collecting, administering and enforcing these fees. Passenger ride fees. The bill imposes per-ride fees on passenger rides provided by transportation network companies (TNCs) that use a digital network to connect riders and drivers for the purpose of transportation. Starting in FY 2022-23, the DOR will collect fees from TNCs for the enterprises, and distribute fee revenue to the enterprises. In future years, these fees will be adjusted for inflation. Electric motor vehicle registration fees. Starting in FY 2022-23, the bill requires the existing registration fee of $50 that is charged per electric vehicle to be

annually adjusted for inflation. It also imposes additional road usage equalization registration fees on regular and commercial electric vehicles. These fees are phased in through FY 2031-32, and then adjusted annually using the NHCCI. New fees on electric vehicles will be paid into the HUTF only; current fees are split between the HUTF and the Electric Vehicle Grant Fund. Short-term vehicle rental fee. The bill indexes the existing short-term vehicle daily rental fee of $2 to inflation on or after July 1, 2022, and requires car sharing programs to collect the daily rental fee for any short-term vehicle rental of 24 hours or longer. Fee adjustment. The bill requires certain executive branch agencies to jointly review fees in 2026 and make recommendations to the General Assembly about the appropriateness of current fees, and whether they should be adjusted to ensure equalization of fee collection from owners of electric motor vehicles and vehicles powered exclusively by combustion engines. Road safety surcharge reduction. The bill reduces the amount of each road safety surcharge imposed on motor vehicle registrations by $11.10 for registrations during 2022 and by $5.55 for registrations during 2023. Surcharges for 2024 and later years are unaffected. Multimodal Options Fund. The bill changes the name of the fund, and makes greenhouse gas mitigation projects eligible for grants from the fund. Creation and modification of state enterprises. The bill creates four new state enterprises and modifies an existing enterprise. It authorizes these enterprises to impose fees on retail deliveries, passenger ride services from TNCs, or both, as discussed in the prior section, and to issue revenue bonds. The enterprises are discussed in more detail below: Community Access Enterprise. This enterprise is created within the Colorado Energy Office (CEO) to support widespread adoption of electric vehicles and electric alternatives to motor vehicles, including development of vehicle charging infrastructure, as well as financial incentives for electric vehicle purchases, electric alternatives to motor vehicles, and use of public transit. The bill allows the enterprise to impose a community access retail delivery fee to fund its operations. It also allows the enterprise to invest in transportation infrastructure programs. Clean Fleet Enterprise. This enterprise is created within Colorado Department of Public Health and Environment (CDPHE) to incentivize and support the use of electric motor vehicles and other technologies in private and government vehicle fleets by providing financial assistance for electric motor vehicles to fleet operators, and by providing or supporting related services. The bill allows the enterprise to impose a clean fleet fee on retail deliveries and rides provided by TNCs to fund its operations. It may also issue grants, loans and rebates to incentivize and support the adoption of electric motor vehicles in motor vehicle fleets. Clean Transit Enterprise. This enterprise is created within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor

vehicle charging and fueling infrastructure. The bill allows the enterprise to impose a clean transit retail delivery fee to fund its operations, and to issue grants, loans or rebates to support electrification of public transit. Nonattainment Area Air Pollution Mitigation Enterprise. This enterprise is created within CDOT to mitigate transportation-related emissions in ozone nonattainment areas by funding projects that reduce traffic or directly reduce air pollution through the congestion mitigation and air quality improvement program. The bill allows the enterprise to impose an air pollution mitigation fee on retail deliveries and rides provided by TNCs to fund its operations. Statewide Bridge Enterprise. The bill changes the name of this enterprise to the Statewide Bridge and Tunnel Enterprise, and authorizes it to complete surface transportation projects for tunnels. The enterprise may also impose a bridge and tunnel impact fee on diesel fuel, as well as a bridge and tunnel retail delivery fee, to fund its operations. Annual reporting to the General Assembly. The bill requires the CEO and CDPHE to consult with CDOT and jointly prepare an annual report for the General Assembly about progress being made toward the electric motor vehicle adoption goals set forth in the Colorado Electric Vehicle Plan 2020, and the transportation sector greenhouse gas pollution reduction goals set forth in the Colorado Greenhouse Gas Pollution Reduction Roadmap. These agencies must also use a specified methodology to estimate the social costs of greenhouse gas pollution. New guidelines for regionally significant projects. The bill requires CDOT and the Transportation Commission to implement new procedures and guidelines for regionally significant transportation capacity projects that account for the impacts these projects will have on statewide greenhouse gas emissions and vehicle miles traveled. The new procedures and guidelines must evaluate the environmental and health impacts of significant projects on disproportionately impacted communities, and be incorporated into future ten-year plans. Starting in FY 2022-23, if new procedures and guidelines have not been adopted and incorporated into the current ten-year plan, CDOT is not allowed to make expenditures from the multimodal transportation and mitigation options fund, unless it will help bring CDOT into compliance with these requirements. Creation of the Environmental Justice and Equity Branch. The bill creates a new branch in the CDOT Engineering, Design, and Construction Division to work directly with disproportionately impacted communities and other CDOT programs on the planning, study, and delivery of transportation capacity projects. The new branch will also identify barriers that may prevent these communities from participating in transportation decisions that affect their health, quality of life, and access for disadvantaged and minority businesses in project delivery. Additional CDOT duties and requirements. The bill creates additional requirements for CDOT, which require the department to: comply with specific transparency and contractor short-listing requirements when using the integrated project delivery method of contract procurement for a public project involving

infrastructure that is part of the state highway system; create the Freight Mobility and Safety Branch to implement projects and programs that enhance freight mobility and safety within the state; engage in comprehensive planning, modeling, analysis, community engagement and monitoring for transportation projects with metropolitan planning organizations; and, conduct a road usage vehicle mileage tracking study and an autonomous motor vehicles study, and present results of these studies to the General Assembly. Page 5 June 2, 2021 SB 21-260 Taxi parity report. The bill requires the Public Utilities Commission (PUC) to report on whether there is parity between authorized taxi carriers and TNCs and their contributions to funding the transportation system, taking into account their respective business models, regulatory burdens, and impacts on the sustainability of the transportation system. The PUC must report to the Transportation Legislative Review Committee during the 2023 legislative interim. Transportation planning organizations. The bill authorizes transportation planning organizations to exercise the powers of a regional transportation authority (RTA). The Transportation Commission and CDOT are prohibited from taking any revenue generated by a planning organization exercising the power of an RTA into account when determining the amount of state and federal funding to be allocated within its boundaries, and CDOT must provide evidence that it is abiding by this requirement when submitting its annual proposed budget allocation plan. Vehicle emissions testing exemptions. The bill requires CDPHE to seek approval from the Environmental Protection Agency (EPA) and adopt rules to expand the current emissions testing exemption to 10 model years for new vehicles, and to 12 model years for plug-in hybrid electric motor vehicles. TABOR limit. For the current FY 2020-21, the bill increases the state TABOR limit by $224,957,602, reverting the reduction made by the General Assembly in Senate Bill 17-267. For FY 2021-22 and later years, the limit is adjusted from this higher level for inflation and population growth. TRANs ballot measure. The bill cancels the referral of a 2021 ballot measure to allow the issuance of transportation revenue anticipation notes (TRANs), and repeals state law that would make related fiscal policy changes if the referred measure were approved.

Position Monitor

Status Governor Signed (06/17/2021)

Bill: SB21-273

Title: Pre-trial Reform

Full Text Full Text of Bill

Sponsors (House and Senate)	Senate: P. Lee (D) D. Moreno (D) House: A. Benavidez (D) J. Bacon (D)
Custom Summary	This bill prohibits arrests and monetary bonds in certain cases, and authorizes sheriffs to manage their jail populations by establishing standards for admission. These provisions are described in more detail below. Arrest prohibitions. The bill prohibits a peace officer from arresting a person based solely on the alleged commission of a traffic offense, petty offense, drug petty offense, municipal offense, drug misdemeanor offense, or misdemeanor offense, unless: custodial arrest is statutorily required; the offense is a victim rights crime; the offense includes an element of illegal possession or use of a firearm; or the offense constitutes any of the following: unlawful sexual behavior, failure to register as a sex offender, or is a violation of a temporary or regular extreme risk protection order, a credible threat to a school, eluding in a vehicle, or motor vehicle theft; or the officer is unable to sufficiently verify the individual's identity absent a custodial arrest. Bond restrictions. The bill prohibits a court from issuing a monetary bond for a misdemeanor offense; municipal offense; class 4, 5, or 6 felony; or a drug felony unless the court finds the defendant will flee prosecution or threaten the safety of any other person or persons in the community, whether known or not, and no other condition of release can reasonably mitigate the risk. The bill requires the court to issue a personal recognizance bond when the defendant fails to appear, unless: the defendant failed to appear when a witness was subpoenaed or a civilian witness was on call; the defendant intentionally failed to appear for the purpose of interfering with or deterring victim or witness participation in the case; or the defendant previously failed to appear. standards that include offense-based admission standards that limit jail admissions.
Position	Monitor
Status	House Committee on Finance Postpone Indefinitely (06/07/2021)

Bill: SB21-280

Title:	Bias-motivated Crimes

Full Text	Full Text of Bill
Sponsors (House and Senate)	Senate: R. Fields (D) J. Cooke (R) House: M. Weissman (D) M. Soper (R)
Custom Summary	The bill clarifies that for harassment that is bias-motivated or a bias-motivated crime, the bias motivation only needs to be part of the defendant's motivation in committing the crime. The bill also makes the crime of harassment when the harassment is bias-motivated a Victim Right Act (VRA) crime, which provides a victim certain statutory rights. In addition, the bill creates the Preventing Targeted Violence Training Program in the Department of Public Safety with the purpose of providing grants for training programs and threat assessments and creates a cash fund for the program. Grant recipients must provide targeted violence training or threat assessments to public entities and community organizations.
Position	Support
Status	Governor Signed (06/28/2021).

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CITY OF AURORA
Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, Approving an Intergovernmental Agreement between the City of Aurora, Colorado and the Urban Drainage and Flood control District, d/b/a Mile High Flood District (MH Funding Request - $300,000 from ORG 52364
Item Initiator: Sarah "Sam" Miller, Stormwater Engineer, Aurora Water
Staff Source/Legal Source: Sarah Young, Deputy Director of Planning and Engineering, Aurora Water / Ian Best, Asst. City Attorney
Outside Speaker: N/A
Council Goal: 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Water Policy

Policy Committee Date: 7/14/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

On July 14, 2021, The Water Policy Committee supported moving this item forward to Study Session.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Title:
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, Approving an Intergovernmental Agreement between the City of Aurora, Colorado and the Urban Drainage and Flood control District, d/b/a Mile High Flood District (MH Funding Request - $300,000 from ORG 52364

Background:
Master Drainageway Plans (MDPs) are studies which identify locations where flooding might occur and then projects to mitigate that flooding. They also identify stormwater quality improvements and define channel corridors. An MDP was completed in January 2015 for the Westerly Creek drainage basin located in northwest Aurora. The MDP results generally consist of regional detention and storm sewer system improvements in the portion of Westerly Creek upstream of Westerly Creek Dam. The proposed work of this Intergovernmental Agreement (IGA) is a design for a project identified in that 2015 report. This project was authorized by the Urban Drainage and Flood Control District (UDFCD), now Mile High Flood District (MHFD), and sponsored by the City of Aurora.

Scope:
This scope is to design improvements to the storm sewer along Alameda Ave. and Dakota Ave. in accordance with the recommendations set forth in the Westerly Creek Upstream of Westerly Creek Dam Master Drainageway Plan (2015). Undersized sections of elliptical pipe along Alameda and Dakota Avenue will be replaced with larger capacity box culverts (see attached map). The IGA represents the mechanism that allows MHFD to cost share in the project.

Cost Sharing Process:
The approved design budget within the Aurora Water CIP is $600,000. This IGA details that Aurora Water and the MHFD will share in a 50% cost share for the design phase, each contributing $300,000 in which Aurora will lead and MHFD will contribute. During the design process, the engineer will develop an engineer's estimate for construction. At that time, an addition amendment will be requested for MHFD to contribute additional monies for construction. Any remaining design funds will be allocated to construction.

This Project will be funded from ORG 52364.

QUESTIONS FOR COMMITTEE

Does Council support moving this item forward to Regular Session?

LEGAL COMMENTS
Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve. (Colo. Rev. Stat. §29-1-203(1)). City Council may, by resolution, enter into Intergovernmental Agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. (City Charter §10-12) (Best)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: Funding for this Project will be from the Capital Improvement Program, Wastewater Fund, in the amount of $300,000.

ORG: 52364 (Westerly Creek Future Phases – SD)

This IGA is a mechanism to receive an additional $300,000 from MHFD to supplement our budget. As additional funding for the construction phase is identified, an amendment to this IGA will be issued.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

RESOLUTION NO. R2021- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, d/b/a MILE HIGH FLOOD DISTRICT REGARDING DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR WESTERLY CREEK AT ALAMEDA AND DAKOTA AVENUE

WHEREAS, the City of Aurora, acting by and through its Utility Enterprise ("Aurora") and the Urban Drainage and Flood Control District d/b/a Mile High Flood District ("District") have agreed to fund the design and construction of drainage and flood control improvements for Westerly Creek at Alameda and Dakota Avenues; and

WHEREAS, the project costs funded through this Intergovernmental Agreement include the final design and construction of the drainage and flood plain improvements to service the area ("Project Costs"); and

WHEREAS, Aurora's portion of the Project Costs shall be $300,000.00 or approximately fifty percent (50%) of the $600,000.00 total; and

WHEREAS, the work performed pursuant to this Intergovernmental Agreement is necessary for the health, safety, and welfare of the people of the Aurora; and

WHEREAS, the City is authorized, pursuant to Article XIV of the Colorado Constitution and Section 29-1-203 of the Colorado Revised Statutes, to cooperate and contract with any political subdivision of the State of Colorado, to provide any function, service, or facility lawfully authorized to each of the contracting or cooperating units of government; and

WHEREAS, Section 10-12 of the City Charter authorizes the City by resolution to enter into contracts or agreements with other governmental units, including special districts, for the joint use of buildings, equipment or facilities or for furnishing or receiving commodities and services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. The Intergovernmental Agreement between Aurora and the District regarding drainage and flood control improvements for Westerly Creek at Alameda and Dakota Avenues is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute the attached agreement in substantially the form presented at this meeting with such technical additions, deletions, and variations as may be deemed necessary or appropriate by the City Attorney.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____. 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM: CMcK

Ian J Best
_____
IAN BEST, Assistant City Attorney

AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
WESTERLY CREEK AT ALAMEDA AND DAKOTA AVENUE

Agreement No. 21-01.25
Project No. 108434

THIS AGREEMENT, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF AURORA acting by and through its Utility Enterprise (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted, (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES participated in a joint planning study titled "Westerly Creek (Upstream of Dam) Major Drainageway Plan by CH2M HILL, dated 2015 (hereinafter called "PLAN"); and

WHEREAS, PARTIES now desire to proceed with design and construction of drainage and flood control improvements for Westerly Creek at Alameda and Dakota Avenue (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT has adopted at a public hearing a Five-Year Capital Improvement Program (Resolution No. 67, Series of 2020) for drainage and flood control facilities in which PROJECT was included in the 2021 calendar year; and

WHEREAS, DISTRICT has heretofore adopted a Special Revenue Fund Budget for calendar year 2021 subsequent to public hearing (Resolution No. 64, Series of 2020) which includes funds for PROJECT; and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 17, Series of 2021); and

WHEREAS, the City Council of CITY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT

   This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. SCOPE OF PROJECT

   A. Final Design. PROJECT shall include the final design of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities shall extend from approximately Alameda to Dakota Avenue, as shown on Exhibit A.

B. Construction. PROJECT shall include construction by CITY of the drainage and flood control improvements as set forth in the final design including vegetation establishment.

3. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Final design services;
2. Construction of improvements;
3. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed $600,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

	ITEM		AMOUNT
1.	Final Design	$	250,000
2.	Construction *	$	350,000
3.	Contingency	$	-0-
	Grand Total	$	600,000

* It is anticipated that funds for construction shall be added to this Agreement at a future date.

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest, if applicable.

C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	Percentage Share	Maximum Contribution
DISTRICT	50%	$300,000
CITY	50%	$300,000
TOTAL	100%	$600,000

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may

come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval.

Within 30 days of request for payment by CITY, DISTRICT shall remit to CITY 50% of these costs attributed to PROJECT, up to DISTRICT's full share of $300,000. CITY shall provide a periodic accounting of PROJECT funds as well as a periodic notification to DISTRICT of any unpaid obligations.

6. FINAL DESIGN

The contracting officers for PARTIES, as defined under Paragraph 13 of this Agreement, shall select an engineer mutually agreeable to both PARTIES. DISTRICT shall contract with selected engineer and shall supervise and coordinate the final design including right-of-way delineation subject to approval of the contracting officer for CITY. Payment for final design shall be made by DISTRICT as the work progresses from the PROJECT fund established as set forth above.

Final design services shall consist of, but not be limited to, the following:

A. Preparation of a work plan schedule identifying the timing of major elements in the design;

B. Preparation of detailed construction plans and specifications;

C. Preparation of an estimate of probable construction costs of the work covered by the plans and specifications;

D. Preparation of an appropriate construction schedule.

DISTRICT shall provide any written work product by the engineer to CITY.

7. OWNERSHIP OF PROPERTY AND LIMITATION OF USE

PARTIES acknowledge that CITY owns the property on which PROJECT is constructed either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that shall diminish or preclude its use for drainage and flood control purposes. CITY may not dispose of or change the use of the properties to diminish or preclude its use for drainage and flood control purposes without approval of DISTRICT, which shall not be unreasonably withheld.

If, in the future, CITY disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use to diminish or preclude its use for drainage and flood control purposes of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed to diminish or preclude its use for drainage and flood control purposes pursuant to this Agreement; and CITY has not obtained the written approval of DISTRICT prior to such action, CITY shall take any and all action necessary within their legal authority to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at no expense to DISTRICT. However, CITY shall not be responsible for the actions of third parties that would

violate the provisions of this Paragraph who may have legal rights in the property as long as CITY has taken reasonable action to stop those actions. In the event CITY breaches the terms and provisions of this Paragraph 7 and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against CITY for specific performance of this portion of the Agreement.

8. MANAGEMENT OF CONSTRUCTION

A. Costs. Construction costs shall consist of those costs as incurred by the most qualified contractor(s) including detour costs, licenses and permits, utility relocations, and construction related engineering services as defined in Paragraph 4 of this Agreement.

B. Construction Management and Payment

1. CITY, with the concurrence of DISTRICT, shall administer and coordinate the construction-related work as provided herein.
2. CITY, with concurrence of DISTRICT, shall select and award construction contract(s).
3. CITY shall require the contractor to provide adequate liability insurance that includes DISTRICT. The contractor shall be required to indemnify DISTRICT. Copies of the insurance coverage shall be provided to DISTRICT upon request.
4. CITY, with assistance of DISTRICT, shall coordinate field surveying; staking; inspection; testing; acquisition of right-of-way; and engineering as required to construct PROJECT. CITY, with assistance of DISTRICT, shall assure that construction is performed in accordance with the construction contract documents including approved plans and specifications and shall accurately record the quantities and costs relative thereto. Copies of all inspection reports shall be furnished to DISTRICT on a weekly basis upon request. CITY shall retain an engineer to perform all or a part of these duties.
5. CITY, with concurrence of DISTRICT, shall contract with and provide the services of the design engineer for basic engineering construction services to include addendum preparation; survey control points; explanatory sketches; revisions of contract plans; shop drawing review; as-built plans; weekly inspection of work; and final inspection.
6. PARTIES shall have access to the site during construction at all times to observe the progress of work and conformance to construction contract documents including plans and specifications.
7. CITY shall review and approve contractor billings. CITY shall remit payment to contractor based on billings.
8. CITY, with concurrence of DISTRICT, shall prepare and issue all written change or work orders to the contract documents.
9. PARTIES shall jointly conduct a final inspection and accept or reject the completed PROJECT in accordance with the contract documents.

10. CITY shall provide DISTRICT a set of reproducible "as-built" plans.

C. Construction Change Orders. In the event that it becomes necessary and advisable to change the scope or detail of the work to be performed under the contract(s), such changes shall be rejected or approved in writing by the contracting officers. No change orders shall be approved that increase the costs beyond the funds available in the PROJECT fund, including interest earned on those funds, unless and until the additional funds needed to pay for the added costs are committed by all PARTIES.

9. MAINTENANCE

PARTIES agree that CITY shall own and be responsible for maintenance of the completed and accepted PROJECT. PARTIES further agree that DISTRICT, at CITY's request, shall assist CITY with the maintenance of all facilities constructed or modified by virtue of this Agreement to the extent possible depending on availability of DISTRICT funds. Such maintenance assistance shall be limited to drainage and flood control features of PROJECT. Maintenance assistance may include activities such as keeping flow areas free and clear of debris and silt, keeping culverts free of debris and sediment, repairing drainage and flood control structures such as drop structures and energy dissipaters, and clean-up measures after periods of heavy runoff. The specific nature of the maintenance assistance shall be set forth in a memorandum of understanding from DISTRICT to CITY, upon acceptance of DISTRICT's annual Maintenance Work Program.

DISTRICT shall have right-of-access to right-of-way and storm drainage improvements at all times for observation of flood control facility conditions and for maintenance when funds are available.

10. FLOODPLAIN REGULATION

CITY agrees to regulate and control the floodplain of Westerly Creek within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that CITY cannot obligate itself by contract to exercise its police powers. If CITY fails to regulate the floodplain of Westerly Creek within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and CITY shall cooperate fully.

11. TERM OF AGREEMENT

The term of this Agreement shall commence upon execution and shall terminate three (3) years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 5 herein, except for Paragraph 10. FLOODPLAIN REGULATION, Paragraph 7.C. Ownership of Property and Limitation of Use, and Paragraph 9. MAINTENANCE, which shall run in perpetuity.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. CONTRACTING OFFICERS

A. The contracting officer for CITY shall be Director of Utilities, 15151 E. Alameda Avenue, Aurora, Colorado 80012.

B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.

C. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or CITY. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement. However, in regard to any amendments or addenda to this Agreement, said representative shall be responsible to promptly obtain the approval of the proper authority.

14. RESPONSIBILITIES OF PARTIES

CITY shall be responsible for coordinating with DISTRICT the information developed by the various consultants hired by CITY and for obtaining all concurrences from DISTRICT needed to complete PROJECT in a timely manner. DISTRICT agree to review all concept plans, preliminary design plans, and final plans and specifications; and to provide comments within 21 calendar days after the drafts have been provided by CITY to DISTRICT.

15. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

16. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

17. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Jurisdiction for any and all legal actions regarding this Agreement shall be in the State of Colorado and venue for the same shall lie in the CITY where PROJECT is located.

18. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

19. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

20. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

21. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions.

22. PUBLIC RELATIONS

It shall be at CITY's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical information shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist CITY as needed and appropriate.

23. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, gender identity, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

24. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of CITY and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of CITY and/or DISTRICT.

25. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

26. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. *et seq*. The following language shall be included in any contract for public services:

A. At the time of execution of this Agreement, CONTRACTOR does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

B. CONTRACTOR shall participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

D. CONTRACTOR shall not enter into a contractor with a subconsultant or subcontractor that fails to certify to CONTRACTOR that it shall not knowingly employ or contact with an illegal alien to perform work under this Agreement.

E. CONTRACTOR shall confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in the E-Verify Program.

F. CONTRACTOR is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligation under this Agreement, and that otherwise requires CONTRACTOR to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

G. If CONTRACTOR obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contract with an illegal alien, it will notify such subconsultant or subcontractor and PARTIES within three (3) days. CONTRACTOR shall also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three (3) day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

H. CONTRACTOR shall comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S.

I. CONTRACTOR shall, within twenty days after hiring an employee who is newly hired for employment to perform work under this Agreement, affirms that it has examined the legal work status of such employees, retained file copies of the documents required by 8 U.S.C. Section 1324a, and not altered or falsified the identification documents for such employees. CONTRACTOR shall provide a written, notarized copy of the affirmation to PARTIES.

27. GOVERNMENTAL IMMUNITIES

PARTIES hereto intend that nothing herein shall be deemed or construed as a waiver by any party of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, *et seq*., C.R.S.) as now or hereafter amended or otherwise available at law or equity.

28. INTENT OF AGREEMENT

Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between PARTIES and is not intended to and shall not be deemed to confer rights upon any person or entities not named as PARTIES, nor to limit in any way the powers and responsibilities of CITY, DISTRICT or any other entity not a party hereto.

29. EXECUTION IN COUNTERPARTS – ELECTRONIC SIGNATURES

This Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement, may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. PARTIES approve the use of electronic signatures for execution of this Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement. Only the following two forms of electronic signatures shall be permitted to bind PARTIES to this Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement.

A. Electronic or facsimile delivery of a fully executed copy of a signature page; or

B. The image of the signature of an authorized signer inserted onto PDF format documents.

Documents requiring notarization may also be notarized by electronic signature, as provided above. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to -121.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND FLOOD
CONTROL DISTRICT D/B/A
MILE HIGH FLOOD DISTRICT

By_____

Name Ken A. MacKenzie

Title Executive Director

Date_____

_____
Checked By

CITY OF AURORA, COLORADO,
ACTING BY AND THROUGH ITS
UTILITY ENTERPRISE

_____ _____
Mike Coffman, Mayor Date

ATTEST:

_____ _____
Kadee Rodriguez, City Clerk Date

APPROVED AS TO FORM FOR AURORA:

Ian J Best 5/4/21 _____
_____ _____
Ian Best Date ACS #
Assistant City Attorney

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by Mike Coffman, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora, Colorado.

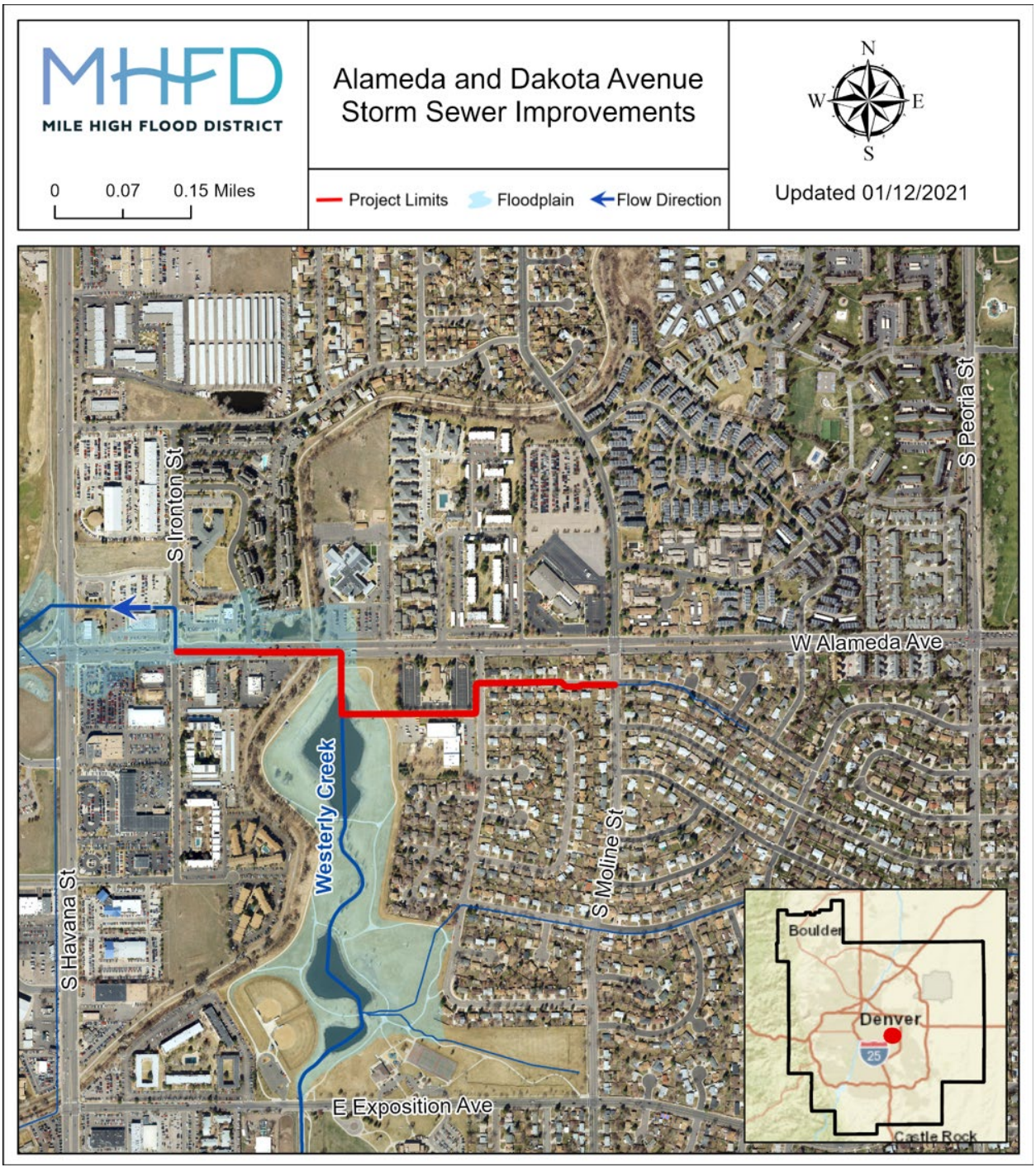
Witness my hand and official seal. _____
Notary Public

My commission expires: _____

AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
WESTERLY CREEK AT ALAMEDA AND DAKOTA AVENUE

Agreement No. 21-01.25

Exhibit A

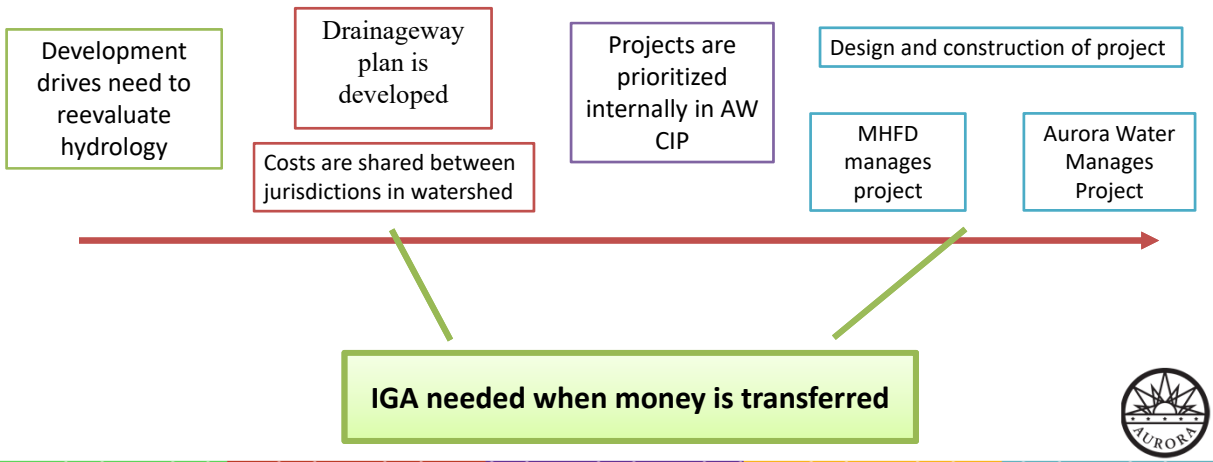


Mile High Flood District IGAs

Agreements between Aurora Water and MHFD 2021

July 14, 2021

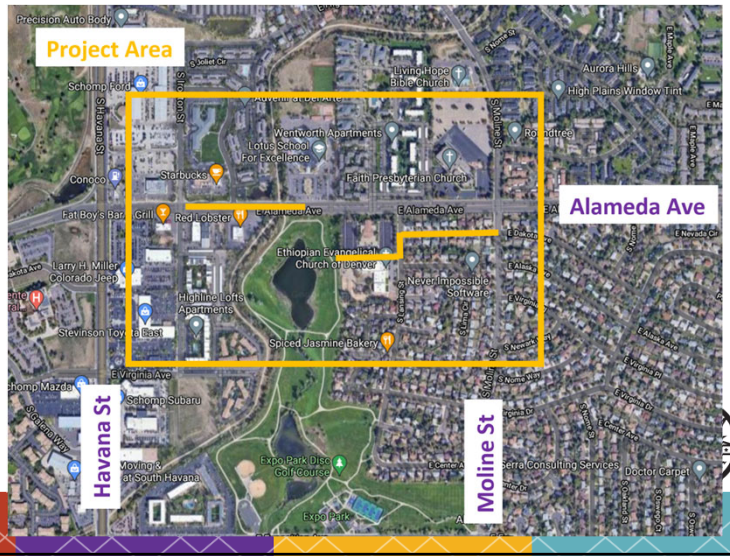
IGA Process



Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenues

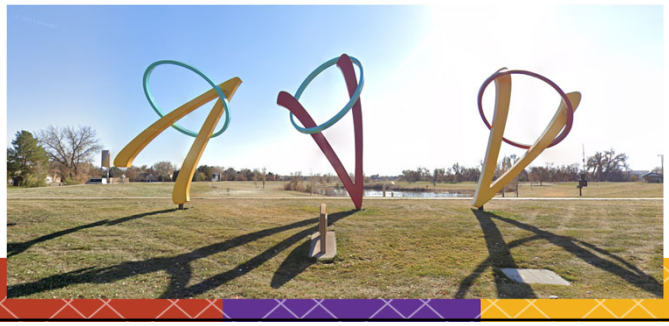
Project Details

- Upsizing undersized elliptical pipe
- Addition of additional pipe to increase capacity
- Installation of box culverts to increase capacity



Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenues

- Cost Details
  - Design is approved for $600,000 with each party contributing 50% of the funds
  - The City of Aurora is managing the project, so Mile High Flood District will pay their share to Aurora Water



Do you support this IGA going to Study Session?

Drainage and Flood Control Improvements for First Creek Detention Upstream of I-70

This is an amendment to a previous IGA

- Project Details
  - The First Creek Major Drainageway Plan (MDP) identified the need for multiple detention ponds along the mainstem channel.
  - They were combined to be one large detention pond serving the portion of first creek upstream of I-70.
  - The final price for the project, including land acquisition, would be too high for one year's capital fund so MHFD and the City will pay in installments reflected in amendments.

Drainage and Flood Control Improvements for First Creek Detention Upstream of I-70

This is an amendment to a previous IGA

- Project Details
  - MHFD and the city will each pay $400,000 to a fund in preparation for eventual pond construction.
  - This is the twelfth amendment to the IGA bringing the current total amount to $8,498,000.
  - The project is anticipated to be fully funded at $14,300,000.



Do you support this IGA going to Regular Council?


Project Area
Alameda Ave
Havana St
Moline St
CommonGround Golf Course
Schomp Collision
Jenny Envios Market
Precision Auto Body
E Highline Dr
Apt Denver
Aurora Hills
High Plains Window Tint
Living Hope Bible Church
Schomp Ford
S Joliet Cir
S Havana St
S Moline St
Wentworth Apartments
Lotus School For Excellence
Faith Presbyterian Church
Conoco
Starbucks
Fat Boy's Bar & Grill
Red Lobster
E Alameda Ave
Ethiopian Evangelical Church of Denver
Never Impossible Software
Larry H. Miller Colorado Jeep
Highline Lofts Apartments
Stevinson Toyota East
Spiced Jasmine Bakery
Kaiser Permanente Highline Behavioral...
The Ridge at Lowry Apartments
E Virginia Ave
Schomp Mazda
Schomp Subaru
S Galena Way
S Fulton St
Moving & at South Havana
Expo Park Disc Golf Course
Ben Bezoff Park
New York Pl
Expo Park
E Exposition Ave
Tynan's AutoGroup
Caliber Collision
Highline Community Elementary School
Masonry Restoration Denver
Tynan's Nissan Aurora
Garhy Mohammad Aviation training
Hoque Building
Serra Consulting Services
Doctor Carpet
E Center Ave
S Nome St
E Virginia Pl
E Alaska Ave
E Nevada Cir
S Oakland St
S Oswego Ct
S Oswego St

Water Policy Committee (WPC) Meeting
July 14, 2021

Members Present: Council Member Allison Hiltz Vice Chair; Council Member Alison Coombs

Others Present: Leiana Baker, Casey Rossman, Greg Baker, Janet Marlow, Jo Ann Giddings, Sarah Young, Swirvine Nyirenda, Sam Miller, Fernando Aranda Perozo, Marshall Brown, Steve Sciba, Alex Davis, Ian Best, Angie Binder, Dan Brotzman, Rory Franklin, John Murphy, Stephanie Neitzel

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4. Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue

Summary of Issue and Discussion: S. Miller gave a presentation. This Agreement details that Aurora Water and the Mile High Flood District (MHFD) will share in a 50% cost share for the design phase, each contributing $300,000 in which Aurora will lead and MHFD will contribute. The approved design budget within the Aurora Water Capital Improvement Projects (CIP) is $600,000. During the design process, the engineer will develop an engineer's estimate for construction. At that time, an additional amendment will be requested for MHFD to contribute additional monies for construction. Any remaining design funds will be allocated to construction.

Outcome: The Committee supports the Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue and forwarded to Study Session for consideration.

Follow-Up Action: The Committee supports the Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue and will forward to Study Session for consideration.

CITY OF AURORA
Council Agenda Commentary

Item Title: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING WEECYCLE WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR PROPOSED ACTIVITIES DURING THE
Item Initiator: Rodney M. Milton, Manager of Community Development
Staff Source/Legal Source: Rodney M. Milton, Manger of Community Development; Time Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 6.1--Ensure the delivery of high quality services to residents in an efficient and cost effective manner

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

In July of 2020 Aurora's Community Development Division received a CDBG COVID grant of $1.7 million from the U.S Department of Housing and Urban Development. Community Development used a portion of that grant to fund a small business loan program to assist local businesses suffering reduced demand due to COVID and a rental assistance program for Aurora residents at risk of eviction due to job losses or reduced working hours due to COVID.

In late 2020 Community Development issued a Notice of Funding Availability to local businesses and non-profits to apply for CDBG COVID funds to assist Aurora residents struggling to make ends meet due to COVID. We received 55 separate applications for funding. In January 2021 a review committee consisting of city of Aurora employees and members of Community Development's Citizens Advisory Committee on Housing and Community Development met to review the applications and select projects to fund. Ten agencies were selected to carry out public service projects with CDBG COVID funds totaling $1.25 million.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Nine of the ten agencies selected to carry out the CDBG COVID-funded projects have returned signed sub-recipient agreements.

The activity to be undertaken is to provide $128,800 in CDBG CV funds for diapers, wipes, and baby formula to underserved children whose families have been affected by the COVID-19 pandemic.

It is staff's recommendation that the signed agreement currently in hand move forward to full Council approval so that the selected agencies can begin their projects in July.

QUESTIONS FOR COUNCIL

Does Council support the recommendation to award funding WeeCycle with Community Development Block Grant COVID-19 funding for the proposed activities during the year 2021 to study session?

.

LEGAL COMMENTS

CDBG funding may be used under the urgent need national objective to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community pursuant to 24 C.F.R. § 570.208(c) and 24 C.F.R. § 570.483(d).

The City has all powers which are necessary, requisite, or proper for the government Colorado Constitution, Article XIV, Section 18, Subsection 2(c) permits the City to contract with private persons, associations, or corporations for the provision of any legally authorized function, service, or facility within or without its boundaries. and administration of its local and municipal matters. (City Charter, art. 1-3). Council has the power to prevent and enforce good government, general welfare, order, and security of the City and its inhabitants. (City Charter, art. 3-9). (TJoyce)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

Community Development Block Grant
CDBG CV
CFDA 14.218 Award B-20-MW-08-0002
Subrecipient Agreement
RE: WeeCycle

This agreement is entered into by WeeCycle (DUNS# 108369540), a 501(c)(3) nonprofit organization, whose principal address is 20 S Havana, Aurora, CO. 80012, herein referred to as the "Subrecipient" and the City of Aurora, a municipal corporation, whose principal address is 15151 East Alameda Parkway, Aurora, Colorado 80012, herein referred to as the "City."

WHEREAS, the City has entered into an agreement with the U.S. Department of Housing and Urban Development herein referred to as "HUD" for the purpose of conducting a Community Development Block Grant Program (hereinafter referred to as the "Program"), with Federal financial assistance under Title I of the Housing and Community Development Act of 1974, as revised, (hereinafter called "Act"); and

WHEREAS, the Subrecipient was granted, through the Program, funds to support their supply of diapers and formula to youth services, services for victim of Domestic violence, dating violence, sexual assault, stalking abused and neglected children and food banks which can include delivering meals on wheels to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein contained, and subject to the terms and conditions and contingent upon receipt of HUD CDBG CV funding hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. Definitions.

"Covered entity" means a person that maintains, owns, or licenses personal identifying information in the course of the person's business, vocation, or occupation; but not a third-party service provider (an entity that has been contracted to maintain, store, or process personal identifying information on behalf of a covered entity).

"Personal identifying information" ("PII") means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data (unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she access an online account); an employer, student, or military identification number; of a financial transaction device (any instrument or device whether known as a credit card, banking card, debit card, electronic fund transfer card, or guaranteed check card, or account number representing a financial account or

affecting the financial interest, standing or obligation of or to the account holder, that can be used to obtain cash, goods, property, or services or to make financial payments, but shall not include a "check, a "negotiable order of withdrawal", and a "share draft".)

"Program Funds" shall mean any funds disbursed to the Subrecipient by the City from the Community Development Block Grant (CDBG) CV Program under this agreement.

"Revolving Fund" shall mean a separate fund with a set of accounts that are independent of other program accounts established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities.

"Program Income" means gross income received by the Subrecipient directly generated from the use of CDBG CV funds. When Program Income is generated by an activity that is only partially assisted with CDBG CV funds, the income shall be prorated to reflect the percentage of CDBG CV funds used. Program Income includes, but is not limited to the following:

a. Any proceeds received from the disposition by sale or long-term lease of real property purchased or improved with CDBG CV Program Funds;
b. Proceeds received from the disposition of equipment bought with CDBG CV Program Funds;
c. Gross income from the use or rental of real property acquired by the Subrecipient with CDBG CV Program Funds less costs incidental to generation of the income;
d. Gross income from the use or rental of real property, owned by the Subrecipient, that was constructed or improved with CDBG CV Program Funds, less costs incidental to generation of the income;
e. Payments of principal and interest on loans made using CDBG CV Program Funds;
f. Proceeds received from the sale of loans made with CDBG CV Program Funds;
g. Proceeds received from the sale of obligations secured by loans made with CDBG CV Program Funds;
h. Interest earned on CDBG CV Program Funds held in a revolving fund account;
i. Interest earned on Program Income pending its disposition; and
j. Funds collected through special assessments that are made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG CV Program Fund portion of a public improvement.

"CDBG CV Funds" shall mean funding received by the City from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG) CV Program.

"Contract Period" shall mean the effective date of this agreement and time given for performance.

"Project Activity" shall mean the activity therein described in Section 3 of this agreement, Statement of Work.

"Moderate, Low, and Very Low Income" shall mean at or below 80%, at or below 50%, and at or below 30%, of the Area Median Income (AMI) respectively as defined by the U.S. Department of Housing & Urban Development (HUD) for the current agreement period.

2. Purpose.

The purpose of this agreement is to provide funding for project activities approved by the City under the Community Development Block Grant CV Program, for fiscal year 2021.

3. Statement of Work.

The Subrecipient will engage in the following activities that are necessary to implement the project: diapers and formula to youth services, services for victim of Domestic violence, dating violence, sexual assault, stalking abused and neglected children and food banks which can include delivering meals on wheels to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities. The eligibility of each recipient must be verified in order for the City to reimburse Subrecipient. Eligible requirements include income verification and proof of residency. The agency should also maintain documentation verifying the critical illness of the qualified participant. The eligibility of program participants must be verified by the Subrecipient prior to providing assistance.

4. Effective Date and Time of Performance.

This agreement takes effect upon execution of the agreement or upon the official Release of Program Funds from the Department of Housing and Urban Development (HUD). The activities to be performed by the Subrecipient will be completed on or before June 30, 2022.

5. Budget.

The total amount to be awarded to the Subrecipient under this agreement shall not exceed $ 128,800.00 .

The project budget is as follows:

Activity	Budget
Diapers	$58,500

Wipes	$13,000
Baby Formula/Baby Food Items	$14,300
Salaries	$28,000
Rent	$9,000
Transportation/Vehicle Expenses	$2,000
Marketing/Website Expenses	$3,000
Utilities	$650
Program Supplies	$350
Total Budget	$128,800

The Subrecipient may modify this budget only after having requested and received prior written approval of the adjustment from the City.

6. Disbursement of Funds.

Program Funds shall be made available to the Subrecipient subject to the terms and conditions of this agreement, and documentation evidencing the propriety of the proposed use of Program Funds with each draw-down request. Program Funds shall be disbursed to the Subrecipient in the following manner described:

After the submission of the following documents: a formal payment reimbursement request letter which details specific dates and amounts for reimbursement and accompanied by appropriate back-up documentation (invoices and bank statements indicating payments have been made), including verification that an eligible family was given assistance; and upon the City's review and approval, the City shall issue a check within its standard accounts payable procedures, 21 days from the receipt of invoice packet.

7. Records.

The Subrecipient shall keep accurate books and records of accounts in accordance with generally accepted accounting principles of all expenditures made and all costs and liabilities incurred utilizing Program Funds and Program Income. The aforementioned accounts and all project records shall be made available upon request by the City, U.S. Department of Housing and Urban Development (HUD), or any other federal agency for examination and audit. All books and records of accounts must be retained for five (5) years from the date of this agreement.

The Subrecipient shall keep accurate books and records as indicated below:

The project activity described herein is determined to benefit low and moderate

income persons because the activity involves a facility or service designed for use by a limited clientele consisting exclusively or primarily for use by low and moderate income persons.

8. Performance Reporting.

The Subrecipient will submit the following reports on project performance at the request of, and in the format prescribed by, the City:

a. Quarterly reports are due within thirty (30) days of the end of each quarter:

1. First Quarter from January 1, 2021 through March 31, 2021, due on or before April 30, 2021.
2. Second Quarter from April 1, 2021 through June 30, 2021, due on or before July 30, 2021.
3. Third Quarter from July 1, 2021 through September 30, 2021, due on or before October 30, 2021.
4. Fourth Quarter from October 1, 2021 through December 31, 2021, due on or before January 30, 2022.
5. Fifth Quarter from January 1, 2022 through March 31, 2022 due on or before April 30, 2022.
6. Sixth Quarter from April 1, 2022 to June 30, 2022 due on or before July 31, 2022.

b. Year End report covering January 1, 2021 through December 31, 2021 due within thirty (30) days of December 31, 2021, (due on or before January 30, 2022). Although no program expenses may be reimbursed until this Agreement is executed, all activity and client records from the start of the activity through December 31, 2021 shall be included in the Year End report.

c. Final report covering January 1, 2021 through June 30, 2022 due withing thirty (30) days of June 30, 2022 (due on or before July 31, 2022). Although no program expenses may be reimbursed until this Agreement is executed, all activity and client records from the start of the activity through June 30, 2022 shall be included in the Final report.

The Subrecipient, which is a non-federal agency, that expends $750,000 or more during the Subrecipient's fiscal year, shall have a single audit conducted for that year in accordance with the provisions 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", "Super Circular", Audit shall be completed within nine (9) months of the Subrecipients audit period and a copy of the most recent audit shall be forwarded to the City within thirty (30) days of completion.

The Subrecipient shall keep accurate books and records on the number of unduplicated beneficiary households or persons served or benefiting from this project activity including these characteristics: Five single - race categories; White, Black/African American, Asian, American Indian / Alaskan native, Native Hawaiian / Pacific Islander.

Multi-race categories: American Indian/Alaskan Native & White; Asian & White; Black/African American & White; American Indian/Alaskan Native & Black/African American; and Other Multi-racial, Ethnicity: Hispanic/Non-Hispanic; extremely low, very low, and low-to-moderate household income (homeless are presumed extremely low-income at 0 – 30% of the Area Median Income); elderly (62 years of age or older); disabled; and female head of household. This report shall be due on or before January 31st of each year of this agreement.

A copy of the most recent Annual Report prepared by the Subrecipient will be forwarded to the City as applicable.

9. Disposition of Program Income.

No Program Income will be generated as a result of this activity.

Any Program Income on hand when the agreement expires, or received after the agreement's expiration, shall be paid to the City as required by 24 CFR 570.503(b)(8).

The Subrecipient shall keep, and make available to the City, such records as may be necessary to account for expenditures of all Program Funds and Program Income.

10. Uniform Administrative Requirements.

The Subrecipient, as applicable to a governmental or nongovernmental agency, shall comply with the requirements and standards of 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225 and 230, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" aka "Super Circular"; and shall comply with applicable sections of 24 CFR Part 84, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

The Subrecipient shall make accurate, current, and complete disclosure of the financial results of assisted activities from Program Funds and must safeguard and ensure that Program Funds are used solely for authorized purposes. Accounting records must be supported by canceled checks, paid bills, payrolls, time and attendance records, contractual documents, or other acceptable source documentation.

If the Subrecipient shall procure services with Program Funds for an authorized use as outlined in this agreement, the Subrecipient shall maintain records sufficient to detail the significant history of a procurement of which records shall include a minimum of: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The Subrecipient shall have protest procedures to handle and resolve disputes relating to their procurement and shall in all instances disclose information regarding the protest to the City. All procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319.

Per, HUD Regulation found at 570.502, 570.610, and 85.36, Small Purchasing Procedures allow recipients to acquire goods and services totaling no more than

$100,000. However, the purchase of goods and services with federal funding provided by the City of Aurora will adhere to the City's Purchasing Policy which is more restrictive and limits these Micro purchases to under $5,000.

11. Other Program Requirements.

The Subrecipient shall carry out the activities under this agreement in compliance with all Federal laws and regulations as described in 24 CFR 570 Subpart K.

No person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded with Program Funds.

All laborers and mechanics employed by contractors or subcontractors for construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

No Program Funds provided under this agreement shall be expended for acquisition or construction or rehabilitation purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the locality in which the area is situated is participating in the National Flood Insurance Program and flood insurance is obtained in accordance with federal provisions.

The Subrecipient shall assure that it has taken all necessary reasonable steps to minimize the displacement of persons, families, individuals, businesses, nonprofit organizations, and farms as a result of activities assisted with Program Funds under this agreement.

To the greatest extent feasible, and in accordance with existing federal, state, and local laws, the Subrecipient, under Section 3 of the Housing and Urban Development Act of 1968, shall provide employment and other economic opportunities arising in connection with activities assisted with Program Funds for housing rehabilitation, housing construction, or other public construction, to low and very low-income persons.

The Subrecipient shall not use lead-based paint for residential structures constructed or rehabilitated with Program Funds.

The Subrecipient shall not directly or indirectly employ, award contracts to, or engage the services of, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status.

The Subrecipient shall not provide financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available through activities assisted with Program Funds to certain newly legalized aliens as described in 24 CFR Part 49.

The Subrecipient, which owns a public facility property, shall operate the facility so as to be open for use by the general public, as appropriate, during all normal hours of operation.

The Subrecipient does not assume the City's environmental responsibilities and the Subrecipient does not assume the City's responsibility for initiating the environmental review process in accordance with federal provisions.

The Subrecipient shall carry out the activities under this agreement in compliance with all federal laws and regulations as described in 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the U.S. Department of Housing and Urban Development; Section 504 of the Rehabilitation Act of 1973; and the American with Disabilities Act of 1990.

12. Care of Personal Identifying Information:

a. Reasonable security practices. If Subrecipient or third-party service providers will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in § 24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§ 24-73-101 *et seq.*, C.R.S.

b. Use of personal identification information. Personal identification information shall only be used for the purpose necessary to provide the services provided by the third-party service provider. Subrecipient and third-party service providers shall not disclose any personal identification information to anyone or any entity that does not need the information to provide services contemplated by this Agreement. Personal identification information shall not be sold or used for commercial purposes.

c. Disposal of personal identifying information. Third-party service providers are required to destroy or arrange to be destroyed all paper or electronic documents that are no longer necessary to provide services.

d. Disclosure of breach. When Subrecipient or a third-party service provider becomes aware that a security breach may have occurred the third-party must follow the procedures in Colorado Revised Statutes (C.R.S.) § 6-1-716 and conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that personal information has been or will be misused in addition to the resident that must be notifies the third-party service provider shall also notify the Community Development Division of the breach.

13. Avoidance of Conflict of Interest.

No person who is an employee, agent, consultant, officer, or elected official or

appointed official of the City or Subrecipient, who exercise or have exercised any functions or responsibilities with respect to activities funded by Program Funds, who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from an activity assisted with Program Funds, or have a financial interest in any contract, subcontract, or agreement with respect to an activity funded with Program Funds, or with respect to the proceeds of the assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The Subrecipient shall comply with all federal provisions and Colorado Revised Statutes, as applicable, regarding the avoidance of conflict of interest.

14. Assignability.

The Subrecipient shall not assign any interest in this agreement and shall not transfer any interest in the same without the prior written consent of the City.

15. Indemnification.

The Subrecipient and any and all of its personnel operating under the terms of this agreement are not to be considered agents or employees of the City for any purpose and are not entitled to any of the benefits that the City provides for the City's employees.

The Subrecipient, as legally permissible, covenants and agrees to, and does hereby, indemnify and hold harmless, to the extent permitted by law, defend the City, its agents, servants, or employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind of character, whether real or asserted, arising out of this agreement for the work to be performed hereunder. The Subrecipient hereby assumes all liability and responsibility for injuries, claims or suits for damages to persons or property of whatsoever kind or character, whether real or asserted, arising out of the performance of this agreement.

16. Suspension or Termination.

In accordance with federal provisions, suspension and termination may occur if the Subrecipient materially fails to comply with any term of the award, and that the award may be terminated for convenience. The City may suspend or terminate payment for the project in whole, or in part, for cause. Cause shall include but not be limited to the following:

a. Improper use of Program Funds.
b. Failure to comply with either the terms or conditions of this agreement or the services to be provided as described in the Section 3, "Statement of Work", of this agreement.
c. If, for any reason, the carrying out of the agreement is rendered impossible or unfeasible.
d. Non-appropriation of or receipt of funds from the U.S. Department of Housing and Urban Development.
e. Failure to comply with any applicable local, state, and federal laws and

regulations.

If the City withholds disbursement requests for Program Funds, it shall advise the Subrecipient and specify the actions that must be taken, in writing, in case of suspension, as a condition precedent to the resumption of payments and specify a reasonable date for compliance. Prior to terminating this Agreement for cause, the City shall advise the Subrecipient in writing of its intent, specifying the reasons for such termination and the corrective actions that must be taken by the Subrecipient in order to avoid such termination. The City will specify the period of time, not to exceed 30 calendar days in any case, within which such corrective action must be taken, during which period all payments of Program Funds to the Subrecipient shall be suspended. Any failure of the Subrecipient to take corrective action within the time provided will result in the immediate termination of this Agreement and repayment of all Program Funds spent in violation of its provisions.

The City may terminate this Agreement at any time the City determines that the purposes of the distribution of City CDBG monies under the Agreement would no longer be served by completion of the Project. The City shall affect such termination by giving written notice of termination to the Subrecipient and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 7 above shall, at the option of the City, become the City's property. If the Agreement is terminated by the City as provided herein, the Subrecipient will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Subrecipient covered by this Agreement, less payments of compensation previously made: provided, however, that if less than sixty percent (60%) of the services covered by this Agreement have been performed upon the effective date of such termination, the Subrecipient shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by the Subrecipient during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of the Subrecipient, Paragraph 7 hereof relative to termination shall apply.

Force Majeure – If either party is rendered unable, wholly or in part, by Force Majeure to carry out any or all of its obligations under this Agreement, then the obligations of such party, so far as it is affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied within a reasonable time. "Force Majeure" means acts of God, strikes, lockouts or other major industrial disturbances, acts of public enemies, wars, terrorism, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, unusual and severe weather conditions, delays in work to be performed by others, interruptions by government or utility providers not exclusively due to the fault of the Parties, civil disturbances, explosions, litigation initiated by third parties seeking to overturn or enjoin any approval granted by the City, the Authority, or any other governmental or quasi-governmental agency relating to the Project Activity, or

other events beyond the reasonable control of the Parties.

17. Reversion of Assets.

At the expiration of this agreement, the Subrecipient shall transfer any Program Funds on hand at the time of expiration and any accounts receivable attributable to the use of Program Funds.

18. Lobbying.

The Subrecipient certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements and that all referenced shall certify and disclose accordingly.

19. Equal Employment Opportunity/Nondiscrimination.

The Subrecipient shall not discriminate against any employee, applicant for employment, contractor, or subcontractor because of race, color, religion, sex, national origin, disability, pregnancy, age, bankruptcy or bad debts, genetic information, or veteran status. The Subrecipient shall adhere to acceptable affirmative action guidelines in selecting employees and contractors and shall ensure that employees and contractors receive fair treatment during employment or agreement, without regard to their race, color, religion, sex, national origin, disability, pregnancy, age, bankruptcy or bad debts, genetic information, or veteran status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Subrecipient shall not discriminate against anyone because of race, color, religion, sex, national origin, disability, pregnancy, age, bankruptcy or bad debts, genetic information, or veteran status in Subrecipient services, activities, accommodations, or facility use. The Subrecipient shall adhere to and assure that employment and activity

programming are conducted such that all individuals and groups, clients, participants, and/or employees will be treated equally without regard to their race, color, religion, sex, national origin, disability, pregnancy, age, bankruptcy or bad debts, genetic information, or veteran status. The Subrecipient understands and agrees that any act of discrimination based upon race, color, religion, sex, national origin, disability, pregnancy, age, bankruptcy or bad debts, genetic information, or veteran status may jeopardize grant funding to the Subrecipient and may be subject to loss of funding, reimbursement of funds allocated, or denial of future funds.

20. Undocumented Workers.

a. Unlawful Employees, Contractors and Subcontractors. Service Provider shall not knowingly employ or contract with individuals not legally authorized to perform work in the United States or workers lacking the documentation required by Section 8-17.5-102, C.R.S. to perform services under this Agreement. Service Provider shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with workers lacking the documentation required by Section 8-17.5-102, C.R.S. to perform services under this Agreement and (b) fails to certify to Service Provider that the subcontractor will not knowingly employ or contract with such person to perform services under this Agreement.

b. Verification Regarding Undocumented or Insufficiently Documented Workers. By executing this Agreement, Service Provider confirms the employment eligibility of all employees who are newly hired for employment to perform services under this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

c. Limitations. Service Provider shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

d. Duties of the Service Provider. If Service Provider obtains actual knowledge that a subcontractor performing services under this Agreement knowingly employs or contracts with workers lacking the documentation required by Section 8-17.5-102, C.R.S., Service Provider shall be required to:

(I) Notify the subcontractor and the City within three days that Service Provider has actual knowledge that the subcontractor is employing or contracting with an insufficiently documented worker; and

(II) Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the insufficiently documented worker; except that Service Provider shall not terminate the contract with the subcontractor if the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with such individual.

e. Duty to Comply with State Investigation. Service Provider shall comply with any request made by the Colorado Department of Labor or the City in the course of an investigation that the Department or the City is undertaking.

f. Damages. Notwithstanding any other provisions within this Agreement, if Service Provider violates any of the above provisions regarding illegal insufficiently documented workers, the City may terminate the Agreement for cause and Service Provider may be liable for consequential damages.

21. Religious Organizations.

In accordance with First Amendment Church/State Principles, Program Funds may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities subject to the following restrictions and limitations:

a. Program Funds may not be used for the acquisition of property or the construction or rehabilitation of structures to be used for religious purposes or which will otherwise promote religious interests. Property owned by primarily religious entities may be acquired with Program Funds at not more than fair market value for a non-religious use. Program Funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose in accordance with federal provisions.

b. Program Funds may be used for public services (labor, supplies, and materials which are directed toward project activity including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs) to be provided through a primarily religious entity, such that the City benefits from these public services, and in connection with the provision of such public services, the primarily religious entity:

1. Shall not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
2. Shall not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
3. Will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.

If Program Funds awarded under this agreement are carried out on property owned primarily by a religious entity, Program Funds may be used for minor repairs to such property which are directly related to the carrying out of a public service project activity where the cost constitutes in dollar terms only an incidental portion of the Program Funds expenditure for the public service project activity.

22. Closeout Requirements.

The Subrecipient's obligations to the City under this Agreement shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to:

a. Making final payments;
b. Submitting final invoices, reports and documentation;
c. Disposing of program assets;
d. Remitting any accounts receivable to the City;
e. Determining the custodianship of records; and
f. Other requirements under Uniform Administrative Requirements.

23. Certification of Non-Debarment.

The Subrecipient certifies, by acceptance and execution of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees, by accepting and executing this Agreement, that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS Agreement THIS _____ DAY OF _____, 2021.

City OF AURORA, COLORADO

_____

Roberto Venegas,
Deputy City Manager

_____

Jessica Prosser
Neighborhood Services Director

_____

Rodney Milton
Community Development Manager

APPROVED AS TO FORM:

Tim Joyce
_____

Tim Joyce
Assistant City Attorney

Subrecipient

Morgan ~~Siebel~~, Executive Director
WeeCycle Seibel MO

WeeCycle

1. **PROJECT DESCRIPTION, OBJECTIVES, AND REQUIREMENTS.**

A. **Project Description WeeCycle**, acting as Program Provider, hereinafter referred to as **Program Provider**, will use CDBG CV funds to assist in the development of a Mobile Baby Assistant Program. This agreement and scope covers diapers and formula for youth services, services for victim of Domestic violence, dating violence, sexual assault, stalking abused and neglected children and food banks which can include delivering meals on wheels to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities to be located at 20 S Havana, Aurora, CO. 80012.

B. **Form of Subsidy.** CDBG CV funds in an amount not to exceed One Hundred and Twenty-Eight Thousand Eight Hundred Dollars ($128.800.00) will be provided for eligible costs as identified in the CDBG CV funding application dated December 18, 2020 The CDBG CV funds will be provided as a grant with terms described in the Program Provider Loan Agreement.

At the end of sixteen **(16) months** from the date of this Agreement, if all of the CDBG CV funds have not been expended, the remaining CDBG CV funds will remain with the City of Aurora.

C. **Project Activities.** Owner has site control for the development of the CDBG CV funded program. Owner shall commence activities on the property listed expeditiously in order to expend all CDBG CV funds in the time provided. Additionally, Owner agrees that these CDBG CV funds are reasonably expected to be expended by June 30, 2022. Work Plan activities include, but are not necessarily limited to, the items specified below:

Activity	Budget
Diapers	$58,500
Wipes	$13,000
Baby Formula/Baby Food Items	$14,300
Salaries	$28,000
Rent	$9,000
Transportation/Vehicle Expenses	$2,000
Marketing/Website Expenses	$3,000
Utilities	$650
Program Supplies	$350
Total Budget	$128,800

2. **ADMINISTRATIVE REQUIREMENTS.**

A. **Financial Management.** The Program Provider shall be responsible for the administration of the program in accordance with the applicable financial management requirements. Owner may subcontract all or part of the administration duties.

3. **INCOME ELIGIBILITY DETERMINATION.** The Program Provider must determine annual income of the project beneficiaries using "Annual Income" as defined under 24 CFR 92.203. The Program Provider must examine at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family. When determining whether a family is income eligible, Owner must use one of the following two definitions of

"annual income":

A. Annual income as defined at 24 CFR 5.609; or
B. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.

Although Program Provider may use either of the definitions of "annual income" permitted above to calculate adjusted income, it must apply exclusions from income established at 24 CFR 5.611. The CDBG CV rents for very low-income families established under § 92.252(b)(2) are based on adjusted income. In addition, the Program Provider may base the amount of tenant-based rental assistance on the adjusted income of the family. The Program Provider may use only one definition for each rental housing project. The Program Provider must calculate the annual income of the family by projecting the prevailing rate of income of the family at the time the Program Provider determines that the family is income eligible. Annual income shall include income from all persons in the household. Income or asset enhancement derived from the CDBG CV-assisted program shall not be considered in calculating annual income. If providing food, diapers, wet wipes, or health counseling/services, recipients may be allowed to self-certify annual income to program provider.

4. **AFFORDABILITY REQUIREMENTS.** This project must meet the affordability requirements for the specified time period outlined below or CDBG CV funds shall be repaid in full to the City of Aurora, per 24 CFR 92.252(e).

A. **CDBG CV Recipient Identification.** The CARES Act made $5 billion available in Community Development Block Grant Coronavirus (CDBG-CV) funds. As a grantee of funds from the U.S. Department of Housing and Urban Development (HUD), the City of Aurora Community Development Division received a special allocation of $3.4 million in CDBG-CV funds to prevent, prepare for, and respond to the coronavirus and meet our community's immediate needs. Federal law requires that these grant funds primarily benefit low-income persons (80% of area median income or below).

Effective July 1, 2020
Median Income 2020

Number of Persons in Household	1	2	3	4	5	6	7	8
Median Average	$70,000	$80,000	$90,000	$100,000	$108,000	$116,000	$124,000	$132,000
80%	$56,000	$64,000	$72,000	$80,000	$86,400	$92,800	$99,200	$105,600
60%	$42,000	$48,000	$54,000	$60,000	$64,800	$69,600	$74,400	$79,200
50%	$35,000	$40,000	$45,000	$50,000	$54,000	$58,000	$62,000	$66,000
30%	$21,000	$24,000	$27,000	$30,000	$32,400	$34,800	$37,200	$39,600

*** Metropolitan Statistical Area (MSA) – Aurora Value Limits
Includes Arapahoe and Adams County
Effective April 1, 2020

Area Median Income levels are published annually by HUD for the Denver-Aurora-Broomfield MSA and are adjusted for family size.
**The example above is based upon 2019 AMI figures adjusted for a household size of 1 person.*
***The example above is based upon 2019 AMI figures adjusted for a household size of 2 persons.*

5. **TIME OF PERFORMANCE.** The program can commence upon the full and proper execution of this Agreement and the completion of the appropriate environmental review and shall be completed **on or before June 30, 2022.** However, the project time of performance may be extended by unilateral amendment, subject to mutual agreement of the City and WeeCycle. To initiate the extension process, the Program Provider shall submit a written request to the City **at least 60 days prior to April 1, 2022** and shall include a full justification for the extension.

6. **PROJECT BUDGET.** The budget for this program is attached to this Agreement as Exhibit B. All Aurora CDBG CV Funds under this Agreement shall be applied strictly to City-approved program items as described in Exhibit B, or otherwise added to the project through a contact addendum mutually executed by the City of Aurora and the WeeCycle.

7. **PAYMENT SCHEDULE.** CDBG CV program funds shall be made available to the Program Provider subject to the terms and conditions of this Agreement, and documentation evidencing the propriety of the proposed use of CDBG CV program funds with each draw-down request. CDBG CV program funds shall be disbursed to the Project Provider in the following manner described:

After the submission of documentation that the funds have been expended properly for eligible CDBG CV costs, including copies of receipts for expenditures and any inspections by the City's Building Department and Community Development Division, and upon the City's review and approval, the City shall issue a reimbursement check within its standard accounts payable procedures within 21 days from the receipt of the complete and accurate reimbursement request packet. Additionally, all required reporting must be up to date at the time of any given reimbursement request or the packet will not be considered complete and payment will be delayed.

9. **REPORTING SCHEDULE.** Owner/Developer shall provide the following reports to the City of Aurora Community Development Division.

   A. **Performance Reports.** Until Final Payment, one copy of the Quarterly Narrative Performance Report shall be submitted within 30 calendar days after the end of the applicable calendar month. No requests for payments shall be processed if the Program Provider has not submitted this quarterly report.

11. **ADMINSTRATOR-IN-CHARGE.** Any change in assignment of the administrator-in-charge is subject to the limitations on Section 2 within the main body of this Agreement. The administrator-in-charge of this Project is:

Name: Morgan Siebel
Title: Executive Director
Address: 20 S Havana
Aurora, CO. 80012

Weecycle Sources & Uses Budget

Program Activities	Total Costs (from DevCosts Tab)	State Funds Requested	Other Funds	Source	Status (Pending or Committed)	Activity Subtotals
Diapers	$58,500			City of Aurora	Committed	$58,500
Wipes	$13,000			City of Aurora	Committed	$13,000
Baby Formula/Baby Food Items	$14,300			City of Aurora	Committed	$14,300
Salaries	$28,000			City of Aurora	Committed	$28,000
Rent	$9,000			City of Aurora	Committed	$9,000
Transportation/Vehicle Expenses	$2,000			City of Aurora	Committed	$2,000
Marketing/Website Expenses	$3,000			City of Aurora	Committed	$3,000

EXHIBIT B – CDBG CV Program Budget

Utilities	$650			City of Aurora	Committed	$650
Program Supplies	$350			City of Aurora	Committed	$350
Total Project Costs	$128,800			City of Aurora		
						$128,800

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING WEECYCLE WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR PROPOSED ACTIVITIES DURING THE YEAR 2021

WHEREAS, the Community Development Division utilizes HUD CDBG CV funding to address the impact of COVID-19 on the City of Aurora and its residents. These funds will assist residents through non-profits organizations such as WeeCycle; and

WHEREAS, WeeCycle will provide diapers and formula to youth services, services to victims of domestic violence, dating violence, sexual assault, stalking, abused and neglected children, and a food bank; and

WHEREAS, WeeCycle's proposed activities qualify for CDBG CV funding and the CDBG CV funding Review Committee evaluated WeeCycle's application for funding and desires to award WeeCycle with One Hundred Twenty-Eight Thousand Eight Hundred ($128,800.00) in CDBG CV funding.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Aurora City Council resolves to approve the Affordable Gap Financing Review Committee's award of $128,800 in a CDBG CV Grant for WeeCycle.

Section 2. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Tim Joyce RLA
_____
TIM JOYCE, Assistant City Attorney

CITY OF AURORA
Council Agenda Commentary

Item Title: A Resolution of the City Council of the City of Aurora, Colorado, Expressing Council's Approval of the Community Development Block Grant Agreement between the City of Aurora, Colorado, and Aurora/Arapahoe Battered Women's Shelter, Inc., dba Gateway Violen
Item Initiator: Rodney M. Milton, Manager of Community Development
Staff Source/Legal Source: Rodney M. Milton, Manger of Community Development; Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 6.1--Ensure the delivery of high quality services to residents in an efficient and cost effective manner

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☐ Approve Item and Move Forward to Study Session

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached ☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The Department of Housing and Community Services provides funding through its Community Development Block Grant (CDBG) annual allocation for Low Mod Limited Clientele (LMC) national objective. The Gateway Domestic Violence Services Renovation project was first submitted to Community Developent and recommended for funding on September 10, 2019. Due to COVID and changes in the organization this renovation project was put on hold. With those issues related to the delay resolved rehabilitation staff in Community Development is now ready to work with Gateway to begin the project.
Gateway assists over 3,500 individuals with low-incomes experiencing domestic violence each year. The funds will be used for renovations to the facility.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The Gateway Domestic Violence Services Renovation project will utilize $300,000 in CDBG funding to enhance building security, renovate office areas, and provide general upgrades for improved service provision at the Aurora shelter.

QUESTIONS FOR COUNCIL

Does council support the agreement and approve $300,000 in CDBG funding for renovations to the Gateway Domestic Violence Shelter?

LEGAL COMMENTS

City Council has authority to designate funding allocations as determined by the Community Development Plan Agreement with U.S. Department of Housing and Urban Development (HUD) which provides for the needs and objectives of the local community. (24 C.F.R. § 570)

Community Development Block Grant (CDBG) funds may be used for rehabilitation or conservation activities. (24 CFR § 5305(a)(1)(B)).

City Council shall act by ordinance, resolution, or motion. (City Charter Art. 5-1) City Council has the authority to promote the health, safety, and welfare of its citizens. (City Code § 2-32) Contracts of at least $50,000 but less than $2,000,000 shall be approved by City Council. (City Code § 2-672) (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: Project will utilize $300,000 in CDBG funds.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

Community Development Block Grant
CFDA 14.218 Award B-19-MC-08-0002
Subrecipient Loan Agreement
Aurora/Arapahoe Battered Woman's Shelter Inc.
RE: Gateway Domestic Violence Services

This agreement is entered into by **Aurora/Arapahoe Battered Woman's Shelter Inc. DBA Gateway Domestic Violence Services (DUNS#184483972), a 501(c)(3) nonprofit organization, whose principal address is Confidential but on file with the Community Development Department, City of Aurora** herein referred to as the **"Subrecipient"** and the City of Aurora, a municipal corporation, whose principal address is 15151 East Alameda Parkway, Aurora, Colorado 80012, herein referred to as the "**City**."

WHEREAS, the City has entered into an agreement with the U.S. Department of Housing and Urban Development herein referred to as "HUD" for the purpose of conducting a Community Development Block Grant Program (hereinafter referred to as the "Program"), with Federal financial assistance under Title I of the Housing and Community Development Act of 1974, as revised, (hereinafter called "Act"); and

WHEREAS, the Subrecipient desires to make facility improvements to their **Gateway Domestic Violence Services building located at: Address is** confidential but on file with the Community Development Department, City of Aurora, to enhance building security, renovate office areas, reconfigure the reception area, plumbing upgrades, replace fencing, upgrade playground area, replace carpet with hard surface floor, make doors more secure, improve elderly/handicapped access (bathroom), and improve building configuration.

WHEREAS, The Project qualifies as an eligible public facilities activity pursuant to 24 CFR 570.201(c) and meets the national objectives pursuant to 24 CFR 570.208(a)(2) and therefore, the Subrecipient is eligible to receive a portion of the CD Grant for the Project.

WHEREAS, The Subrecipient desires to obtain a portion of the CD Grant to fund the Project, and subject to the following terms and conditions the City desires to utilize a portion of the CD Grant to assist the Subrecipient to fund the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein contained, and subject to the terms and conditions and contingent upon receipt of HUD CDBG funding hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. <u>Definitions.</u>

"Covered entity" means a person that maintains, owns, or licenses personal identifying information in the course of the person's business, vocation, or occupation; but not a third-party service provider (an entity that has been contracted to maintain, store, or process personal identifying information on behalf of a covered entity).

"Program Funds" shall mean any funds disbursed to the Subrecipient by the City from the Community Development Block Grant (CDBG) Program under this agreement.

"Revolving Fund" shall mean a separate fund with a set of accounts that are independent of other program accounts established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities.

"Program Income" means gross income received by the Subrecipient directly generated from the use of CDBG funds. When Program Income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Program Income includes, but is not limited to the following:

a) Any proceeds received from the disposition by sale or long-term lease of real property purchased or improved with CDBG Program Funds;
b) Proceeds received from the disposition of equipment bought with CDBG Program Funds;
c) Gross income from the use or rental of real property acquired by the Subrecipient with CDBG Program Funds less costs incidental to generation of the income;
d) Gross income from the use or rental of real property, owned by the Subrecipient, that was constructed or improved with CDBG Program Funds, less costs incidental to generation of the income;
e) Payments of principal and interest on loans made using CDBG Program Funds;
f) Proceeds received from the sale of loans made with CDBG Program Funds;
g) Proceeds received from the sale of obligations secured by loans made with CDBG Program Funds;
h) Interest earned on CDBG Program Funds held in a revolving fund account;
i) Interest earned on Program Income pending its disposition; and
j) Funds collected through special assessments that are made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG program fund portion of a public improvement.

"CDBG Funds" shall mean funding received by the City from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG) Program.

"Contract Period" shall mean the effective date of this agreement and time given for performance.

"Project Activity" shall mean the activity therein described in Section 3 of this agreement, Statement of Work.

"Moderate-, Low-, and Very Low-Income" shall mean at or below 80%, at or below 50%, and at or below 30%, of the Area Median Income (AMI) respectively as defined by the U.S. Department of Housing & Urban Development (HUD) for the current agreement period.

2. Purpose.

The purpose of this agreement is to provide funding for project activities approved by the City under the Community Development Block Grant Program, for fiscal year 2021.

3. Statement of Work.

The Subrecipient shall improve the property to provide services to low- and moderate-income persons. The Subrecipient will engage in the following project activities that are necessary to implement the capital needs improvements at the Gateway facility including: to enhance building security, renovate office areas, reconfigure the reception area, plumbing upgrades, replace fencing, upgrade playground area, replace carpet with hard surface floor, make doors more secure, improve elderly/handicapped access (bathroom), and improve building configuration as described in the Scope of Work attached hereto as Exhibit A. The Subrecipient will continue to provide substantive assistance to the residents of the City of Aurora.

4. Effective Date and Time of Performance.

This agreement takes effect upon execution of the agreement or upon the official Release of Program Funds from the Department of Housing and Urban Development (HUD). The activities to be performed by the Subrecipient will be completed on or before **December 31, 2021**.

5. Project Implementation.

The Subrecipient will have responsibility for day-to-day management and implementation of the Project.

6. Unforeseen Delay in Performance.

Neither the Subrecipient nor the City will be considered in breach or default of its obligations with respect to improvement of the property or the commencement and completion of rehabilitation of the improvements thereon, in the event of delay due to unforeseeable causes beyond its control and without its fault or negligence. The time for performance of the obligations and length of period of restriction on use will be extended for the period of the unforeseen delay if the party seeking the extension requests it in writing of the other party within ten (10) days after the beginning of the unforeseen delay. The period of unforeseen delay will be determined by the City.

7. Loan Terms

The Community Development Block Grant loan (the "Loan") will be secured with a ten-year (10) lien on the real property as indicated by the Promissory Note and Deed of Trust. For **ten (10) years** following the date of issuance of the Certificate of Completion the Subrecipient will meet the service requirement in Section 10 or be subject to the repayment of the Loan unless another acceptable alternative is exercised. Subject to Section 10 Restrictions on Use, if the Loan is paid or is deemed due and payable within the first five (5) years of an incomplete service term, full repayment of the Loan will be required. If the Loan is paid or is deemed payable at any time during years six (6) through ten (10), the Agency will receive repayment credits in accordance with the following schedule, which will reduce the principal amount of the Loan:

Declining Loan Repayment Credits

Years 1-5	0%
Year 6	20%
Year 7	20%
Year 8	20%
Year 9	20%
Year 10	20%

8. Budget.

The total amount to be awarded to the Subrecipient under this agreement shall not exceed **$300,000.00** The project budget is attached hereto as **Exhibit B.** The Subrecipient may modify this budget only after having requested and received prior written approval of the adjustment from the City.

9. Payment.

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed $300,000.00. Draws for the payment of eligible expenses shall be made against line items budgets specified in Exhibit B

and in accordance with performance.

10. Restrictions on Use.

a) Service Requirement:
Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Contract in excess of $25,000 must be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after the expiration of this Contract or such longer period of time as City deems appropriate. The Subrecipient agrees for itself, and its successors and assigns and every successor in interest to the property, or any part thereof, that the Subrecipient and its successors and assigns will devote the Project primarily to the provision of assistance to low and moderate- income persons for the period of ten (10) years from the date of the issuance of the Certificate of Completion. If the property use is changed or the property is sold or vacated in less than the ten (10) year period, except as permitted below, the Subrecipient will immediately repay to the City the higher of (a) the outstanding loan principal in accordance with Section 4 of this Contract or (b) the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG Program funds for acquisition of, or improvement to, the property. The Subrecipient may also utilize one of the following disposition options.

b) Disposition Options

(1) With the City's prior written approval, the Subrecipient may use the facility for other CDBG-eligible program(s) or permit another CDBG-eligible program as determined by the City to use the facility for the required service term. No repayment is required if this disposition option is used. The Subrecipient will not be permitted to earn or retain profit from a replacement provider utilizing the facility.

(2) With the City's prior written approval, the Subrecipient may transfer the facility to the City or an eligible non-City party according to terms approved by the City.

11. Notices, Demands and Communications Between the Parties.

Formal notices, demands and communications between the City and Subrecipient will be deemed sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the City and the Subrecipient addressed to each party as follows:

City:
Rodney M. Milton
Manager of Housing and Community Development
15151 E Alameda Parkway # 4500

Aurora, CO 80010

Subrecipient:
James Gillespie
Executive Director
Gateway Domestic Violence Services
The principal address is Confidential but on file with the Community Development Department, City of Aurora

Such written notices, demands, and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section.

12. General compliance.

The Subrecipient agrees to comply with the requirements of 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards – and Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) including subpart K of these regulations, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this agreement to supplement rather than supplant funds otherwise available.

13. Independent Contractor Status.

The Subrecipient is an independent contractor in the performance of all activities and functions pursuant to this Contract. The Subrecipient and the City are not and will not be considered as joint ventures, partners, or agents of each other and neither will have the power to bind or obligate the other. The Subrecipient's officers, employees, agents, and subcontractors will not be considered as officers, employees, agents, or subcontractors of the City. The Subrecipient hereby agrees not to represent to anyone that the Subrecipient is an agent of the City or has any authority to act on behalf of the City. The Subrecipient will be responsible for all employment compensation claims for Workman's Compensation benefits or other claims by employees arising as a result of activities funded in whole or in part from the proceeds of this Contract, and the Subrecipient will hold the City harmless for any and all such claims.

14. Hold Harmless.

The Subrecipient shall hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

15. Indemnification.

The Subrecipient and all of its personnel operating under the terms of this agreement are not to be considered agents or employees of the City for any purpose and are not entitled to any of the benefits that the City provides for the City's employees.

The Subrecipient, as legally permissible, covenants and agrees to, and does hereby, indemnify and hold harmless, to the extent permitted by law, defend the City, its agents, servants, or employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind of character, whether real or asserted, arising out of this agreement for the work to be performed hereunder. The Subrecipient hereby assumes all liability and responsibility for injuries, claims or suits for damages to persons or property of whatsoever kind or character, whether real or asserted, arising out of the performance of this agreement.

16. Insurance.

Owner Insurance. During the term of this Agreement, the Subrecipient shall cause the Owner to provide the following insurance coverages:

a) **Commercial General Liability Insurance.** The Owner shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

   Minimum limits:
   $2,000,000 each occurrence
   $4,000,000 general aggregate
   $4,000,000 products and completed operations.

b) **Commercial Automobile Liability Insurance.** Owner shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined

single limit each accident.

c) **Workers' Compensation and Employers Liability Insurance.** Owner shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate.

Contractor Insurance. The Contractor performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance, as indicated below, covering the Contractor, their employees, subcontractors or representatives, along with the activities of any and all subcontractors retained by the or the activities of anyone employed by any of them, or their representatives or anyone for whose acts they may be liable.

a) **Commercial General Liability Insurance.** The Contractor shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

   Minimum limits:
   $2,000,000 each occurrence
   $4,000,000 general aggregate
   $4,000,000 products and completed operations.

b) **Commercial Automobile Liability Insurance.** Contractor shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

c) **Workers' Compensation and Employers Liability Insurance.** Contractor shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease

aggregate.

d) **Umbrella/Excess Liability Insurance.** Contractor shall maintain an Umbrella/Excess Liability insurance policy on an occurrence basis in excess of the general liability and coverages specified above, with minimum limits of $5,000,000 per occurrence. The coverage shall be as broad as the underlying general liability and automobile liability policies set forth above. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

e) **Pollution Legal Liability Insurance.** The Contractor shall maintain a separate Contractor's Pollution Liability insurance policy covering any bodily injury, liability, and property damage liability, arising out of the collection and disposal of pollutants, including items in transit to a permanent disposal facility, which may arise from activities under or incidental to this agreement. This policy shall be maintained with minimum limits of Two Million Dollars ($2,000,000) per claim or occurrence.

f) **Builder's Risk.** The Contractor will provide builder's risk insurance coverage with limits equal to the total value of the project. Contractor shall name the Developer/Owner and the City of Aurora as loss payees on the policy.

Subcontractors' Insurance Requirements. Subcontractors are subject to the same insurance requirements as the Contractor. The Contractor is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the project. Any subcontractor which ceases to maintain the insurance coverages set forth above must be removed from the project until such time that insurance coverage can be verified as in full force and effect.

Limits of Insurance. The total limits of general, automobile liability, employer's liability and excess liability insurance set forth above may be provided to the City using a combination of primary and excess liability insurance.

Additional Insured, Waiver of Subrogation and Deductibles. The Owner and Contractor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability, Excess Liability and Pollution Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Owner and Contractor.

Certificates of Insurance. Upon the execution of this Agreement or as soon as practicable, Owner and its Contractor shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are

in effect. The name of the bid or the project must appear on the certificate of insurance. Owner and Contractor agree that the required coverages will not be reduced, canceled, non-renewed or materially changed without thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of the Owner's and Contractor's coverages are renewed at any time prior to completion of the services, they, not their insurance carriers, shall be responsible for obtaining updated insurance certificates and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate. If a certificate is not available immediately after renewal, a binder showing the coverages have been renewed will be acceptable until a certificate is available.

The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Owner and Contractor shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances, including increased risk or scope of work. The Owner's and Contractor's policies will be primary and non-contributory with respect to any and all insurance policies of the City.

If any of the insurance coverages required under this Agreement become unsatisfactory at any time to the City as to form or substance or if the carrier's rating is lowered due to financial issues, the Owner shall promptly obtain a new policy, submit the same to the City for approval and thereafter submit a certificate of insurance as herein above provided. Failure of the Owner to comply with any provisions of this contract shall be grounds for immediate suspension or termination of this Agreement. Failure of the Owner to obtain and/or maintain any required insurance shall not relieve the Owner from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Owner concerning indemnification.

Self-Insurance/Deductible. If the Contractor has any self-insured retentions or deductibles under any of the required policies, the Contractor must reflect these amounts on the Certificate(s) of Insurance. If requested, the Contractor will provide satisfactory evidence of financial responsibility for such obligations. In any event, Contractor will be solely responsible for any self-insured retentions or deductibles.

Owner is required to either ensure that all subcontractors are insured under the Owner's policies or to forward separate mandatory certificates of insurance and endorsements for it to the City. All subcontractors are required to comply with the coverage and limit requirements outlined in this Contract.

Bonding. If this Contract is for the amount of One Hundred Thousand Dollars ($100,000) or more, the Owner shall provide a bid guarantee of in the amount of five percent (5%) of the Contract price. Additionally, the Owner shall secure a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the Contract price, with a corporate surety approved by the City and licensed to do business in the State of Colorado and said bonds to be released at the sole direction of the City.

17. Suspension or Termination.

In accordance with federal provisions, suspension and termination may occur if the Subrecipient materially fails to comply with any term of the award, and that the award may be terminated for convenience. The City may suspend or terminate payment for the project in whole, or in part, for cause. Cause shall include but not be limited to the following:

a) Improper use of Program Funds;
b) Failure to comply with either the terms or conditions of this agreement or the services to be provided as described in the Section 3, "Statement of Work", of this agreement;
c) If, for any reason, the carrying out of the agreement is rendered impossible or unfeasible;
d) Non-appropriation of or receipt of funds from the U.S. Department of Housing and Urban Development;
e) Failure to comply with any applicable local, state, and federal laws and regulations.

If the City withholds disbursement requests for Program Funds, it shall advise the Subrecipient and specify the actions that must be taken, in writing, in case of suspension, as a condition precedent to the resumption of payments and specify a reasonable date for compliance. Prior to terminating this Agreement for cause, the City shall advise the Subrecipient in writing of its intent, specifying the reasons for such termination and the corrective actions that must be taken by the Subrecipient in order to avoid such termination. The City will specify the period of time, not to exceed 30 calendar days in any case, within which such corrective action must be taken, during which period all payments of Program Funds to the Subrecipient shall be suspended. Any failure of the Subrecipient to take corrective action within the time provided will result in the immediate termination of this Agreement and repayment of all Program Funds spent in violation of its provisions.

The City may terminate this Agreement at any time the City determines that the purposes of the distribution of City CDBG monies under the Agreement would no longer be served by completion of the Project. The City shall affect such termination by giving written notice of termination to the Subrecipient and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and

other materials as described in paragraph 23 shall, at the option of the City, become the City's property. If the Agreement is terminated by the City as provided herein, the Subrecipient will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Subrecipient covered by this Agreement, less payments of compensation previously made: provided, however, that if less than sixty percent (60%) of the services covered by this Agreement have been performed upon the effective date of such termination, the Subrecipient shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by the Subrecipient during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of the Subrecipient, Paragraph 7 hereof relative to termination shall apply.

Force Majeure – If either party is rendered unable, wholly or in part, by Force Majeure to carry out any or all of its obligations under this Agreement, then the obligations of such party, so far as it is affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied within a reasonable time. "Force Majeure" means acts of God, strikes, lockouts or other major industrial disturbances, acts of public enemies, wars, terrorism, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, unusual and severe weather conditions, delays in work to be performed by others, interruptions by government or utility providers not exclusively due to the fault of the Parties, civil disturbances, explosions, litigation initiated by third parties seeking to overturn or enjoin any approval granted by the City, or any other governmental or quasi-governmental agency relating to the Project Activity, or other events beyond the reasonable control of the Parties.

18. Accounting Standards.

The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

19. Cost Principles.

The Subrecipient shall administer its program in conformance with 2 CFR Part 200 as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

20. Prohibition Against Transfer of Property.

The Subrecipient certifies that it has not made or created and will not make or

suffer to be made any sale, assignment, conveyance, lease or transfer in any form of any part of the property subject to or interest created by the Contract without the prior written approval of the City, except for matters or record, previously recorded in the Arapahoe County Recorder's Office. This limitation will be in effect for that period of time recited in Section 11 which restricts the use of the subject property.

21. Disbursement of Funds.

Program Funds shall be made available to the Subrecipient subject to the terms and conditions of this agreement, and documentation evidencing the propriety of the proposed use of Program Funds with each draw-down request. Program Funds shall be disbursed to the Subrecipient in the following manner described:

After verification of work completed, Program Funds shall be disbursed in the City's method of disbursement within 21 days from the receipt of invoice.

22. Disposition of Program Income.

Any Program Income on hand when the agreement expires, or received after the agreement's expiration, shall be paid to the City as required by 24 CFR 570.503(b)(7).

The Subrecipient shall keep, and make available to the City, such records as may be necessary to account for expenditures of all Program Funds and Program Income.

No Program Income will be generated as a result of this activity.

23. Records.

The Subrecipient shall keep accurate books and records of accounts in accordance with generally accepted accounting principles of all expenditures made and all costs and liabilities incurred utilizing Program Funds and Program Income. The aforementioned accounts and all project records shall be made available upon request by the City, U.S. Department of Housing and Urban Development (HUD), or any other federal agency for examination and audit. All books and records of accounts must be retained for five (5) years from the date of this agreement.

The Subrecipient shall keep accurate books and records as indicated below:

a) The project activity described herein is determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use by a limited clientele consisting

exclusively or primarily for use by low- and moderate-income persons.

b) Unless otherwise specified in this agreement, the City shall be responsible for bidding and contracting rehabilitation and construction for building or property improvement. The Subrecipient shall be responsible for working with the City in developing the construction specifications. The Subrecipient shall also be responsible for working with appropriate state and local agencies in meeting applicable state and local regulations for building occupancy requirements.

24. Client Data.

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or their designees for review upon request.

The Subrecipient shall keep accurate books and records on the number of unduplicated beneficiary households or persons served or benefiting from this project activity including these characteristics: Five single - race categories; White, Black/African American, Asian, American Indian / Alaskan native, Native Hawaiian / Pacific Islander. Multi-race categories: American Indian/Alaskan Native & White; Asian & White; Black/African American & White; American Indian/Alaskan Native & Black/African American; and Other Multi-racial, Ethnicity: Hispanic/Non-Hispanic; extremely low, very low, and low-to-moderate household income (homeless are presumed extremely low-income at 0 – 30% of the Area Median Income); elderly (62 years of age or older); disabled; and female head of household. This demographic report, of most recent four quarters, shall be due upon completion of this project. Further, a six-month report after completion, is requested which would summarize the successes of the project.

A copy of the most recent Annual Report prepared by the Subrecipient will be forwarded to the City as applicable.

25. Disclosure and Protection of Personal Identifying Information.

"Personal identifying information" ("PII") means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data (unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she access an online account); an employer, student, or military identification number; of a financial transaction device (any instrument or device whether known as a credit card, banking card,

debit card, electronic fund transfer card, or guaranteed check card, or account number representing a financial account or affecting the financial interest, standing or obligation of or to the account holder, that can be used to obtain cash, goods, property, or services or to make financial payments, but shall not include a "check, a "negotiable order of withdrawal", and a "share draft".)

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible adult.

If Subrecipient or third-party service providers will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in § 24-73-103(1)(i), Colorado Revised Statutes (C.R.S.). and shall maintain security procedures and practices consistent with §§ 24-73-101 *et seq.*, C.R.S.

Disposal of personal identifying information. Third-party service providers are required to destroy or arrange to be destroyed all paper or electronic documents that are no longer necessary to provide services.

Disclosure of breach. When a third-party service provider becomes aware that a security breach may have occurred the third-party must follow the procedures in Colorado Revised Statutes (C.R.S.) § 6-1-716 and conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that personal information has been or will be misused in addition to the resident that must be notifies the third-party service provider shall also notify the Community Development Division of the breach.

26. Retention and Access to Records.

The City, HUD, the Comptroller General of the United States, the Government Accounting Office or any of their duly authorized representatives will have access to any books, documents, papers and records of the Agency which are pertinent to any activity performed under this Contract as required under 2 CFR 200.333 et seq. and 24 CFR 570.502(7)(ii) (collectively, the "Records") for the purpose of making audit, examination, excerpts and transcriptions. The Subrecipient will keep and maintain such books, documents, papers and records in accordance with 2 CFR 200.333 et seq. and for a period of at least three (3) years after the expiration or termination of this Agreement or three (3) years

after the submission of the annual performance and evaluation report as prescribed in 24 CFR 91.520. The City's right of access is not limited to the retention period but lasts so long as the Records are retained by Subrecipient. The Subrecipient will permit independent auditors' access to its Records and financial statements as necessary to comply with federal audit requirements.

27. Closeout Requirements.

The Subrecipient's obligations to the City under this Agreement shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to:

a) Making final payments;
b) Submitting final invoices, reports and documentation;
c) Disposing of program assets;
d) Remitting any accounts receivable to the City;
e) Determining the custodianship of records; and
f) Other requirements under Uniform Administrative Requirements.
g) Upon completion the demographic report will be due, see # 24, **Client Data**, for additional required reports.

28. Performance Reports, Audits.

The Subrecipient will submit the following reports on project performance at the request of, and in the format prescribed by, the City:

a) Completion report covering start of all activity through December 31, 2021 due within thirty (30) days of January 1, 2022, (due on or before January 30, 2022). Although no program expenses may be reimbursed until this Agreement is executed, all activity and client records from the start of the activity thru December 31, 2021 shall be included in the Completion report.
b) The Subrecipient also will submit such reports as HUD and the City may require, including litigation reports, financial management reports required by Federal Management Circular 74-7, equal opportunity reports as may be necessary pursuant to the rules and regulations under Title VI, Civil Rights Act of 1964, Title VIII, Civil Rights Act of 1968, Section 3 of the Housing and Urban Development Act of 1968, Section 109 of the Act, Executive Order 11246, as amended and Executive Order 11053, or any reports as may be further required.
c) The Subrecipient will submit a financial audit within ninety (90) days after the close of the Subrecipient's fiscal year during which the aggregate of federal grant funds expended from all sources both inclusive and exclusive of this Contract is Seven Hundred- Fifty Thousand Dollars ($750,000) or more. The audit must be in

conformance with the audit requirements of 2 CFR Part 200.501. The Subrecipient will also transmit a copy of the audit to the Federal Audit Clearinghouse as required by 2 CFR Part 200.512.

29. Uniform Administrative Requirements.

The Subrecipient, as applicable to a governmental or nongovernmental agency, shall comply with the requirements and standards of 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225 and 230, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" aka "Super Circular"; and shall comply with applicable sections of 24 CFR Part 84, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

The Subrecipient shall make accurate, current, and complete disclosure of the financial results of assisted activities from Program Funds and must safeguard and ensure that Program Funds are used solely for authorized purposes. Accounting records must be supported by canceled checks, paid bills, payrolls, time and attendance records, contractual documents, or another acceptable source documentation.

If the Subrecipient shall procure services with Program Funds for an authorized use as outlined in this agreement, the Subrecipient shall maintain records sufficient to detail the significant history of a procurement of which records shall include a minimum of the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The Subrecipient shall have protest procedures to handle and resolve disputes relating to their procurement and shall in all instances disclose information regarding the protest to the City. All procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319.

30. Reversion of Assets.

At the expiration of this agreement, the Subrecipient shall transfer any Program Funds on hand at the time of expiration and any accounts receivable attributable to the use of Program Funds.

Any real property, under the Subrecipient's control, that was acquired or improved in whole or in part with CDBG Program Funds in excess of $25,000 must meet one of the following criteria:

a) Be used to meet the national objective of "a facility or service designed for use by a limited clientele consisting exclusively or primarily for use by low- and moderate-income persons." The Subrecipient agrees to use any real property acquired for the

original authorized purpose as set forth within this agreement for this time period and shall not dispose of or encumber its title or other interests; or

b) Be disposed of in a manner that results in the City's being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvements to, the property. Funds from this reimbursement will be considered Program Income to the City, if less than a five (5) year period from the date of expiration of this agreement. If the Subrecipient desires to retain title but no longer will use it for the authorized purpose or specified time period as outlined in this agreement, it must compensate the City in an amount computed by applying the City's percentage of participation in the cost of the original purchase price to the fair market value of the property. The Subrecipient may also elect to transfer title back to the City for disposition or otherwise.

When Program Funds are used for the acquisition of equipment, the Subrecipient shall use the equipment for the program or project for which it was acquired as long as it is needed, whether or not the program or project continues to be supported by Program Funds. The Subrecipient may not use the equipment acquired with Program Funds to provide services for a fee. The Subrecipient shall retain adequate records regarding the description, use, and any disposition of the equipment for five years. If the Subrecipient disposes of the equipment within five years from the date of this agreement, it must compensate the City in an amount computed by applying the City's percentage of participation in the cost of the original purchase price.

31. Other Program Requirements.

The Subrecipient shall carry out the activities under this agreement in compliance with all Federal laws and regulations as described in 24 CFR 570 Subpart K.

No person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded with Program Funds.

All laborers and mechanics employed by contractors or subcontractors for construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

No Program Funds provided under this agreement shall be expended for acquisition or construction or rehabilitation purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having

special flood hazards unless the locality in which the area is situated is participating in the National Flood Insurance Program and flood insurance is obtained in accordance with federal provisions.

The Subrecipient shall assure that it has taken all necessary reasonable steps to minimize the displacement of persons, families, individuals, businesses, nonprofit organizations, and farms as a result of activities assisted with Program Funds under this agreement.

To the greatest extent feasible, and in accordance with existing federal, state, and local laws, the Subrecipient, under Section 3 of the Housing and Urban Development Act of 1968, shall provide employment and other economic opportunities arising in connection with activities assisted with Program Funds for housing rehabilitation, housing construction, or other public construction, to low and very low-income persons.

The Subrecipient shall not use lead-based paint for residential structures constructed or rehabilitated with Program Funds.

The Subrecipient shall not directly or indirectly employ, award contracts to, or engage the services of, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status.

The Subrecipient shall not provide financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available through activities assisted with Program Funds to certain newly legalized aliens as described in 49 CFR 24.208.

The Subrecipient, which owns a public facility property, shall operate the facility so as to be open for use by the general public, as appropriate, during all normal hours of operation.

The Subrecipient does not assume the City's environmental responsibilities and the Subrecipient does not assume the City's responsibility for initiating the environmental review process in accordance with federal provisions.

The Subrecipient shall carry out the activities under this agreement in compliance with all federal laws and regulations as described in 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the U.S. Department of Housing and Urban Development.

32. Compliance with Laws and Regulations

a) The Subrecipient will give all notices and comply with all laws, ordinances, rules, building codes, regulations and lawful orders of any public authority bearing on the performance of activities

pursuant to this Contract. If the Subrecipient observes that any of the Contract documents are in conflict with any laws, statutes, building codes and/or regulations, it will promptly notify the City, in writing, and any necessary changes will be accomplished by appropriate written modification. https://library.municode.com/co/aurora/codes/code_of_ordinances , chapter 22, Buildings and Building Regulations.

b) The Subrecipient and its contractors will abide by all regulations pursuant to the Immigration and Naturalization Reform Act of 1986, specifically as it relates to employment and client services, and such other provisions as may be applicable.

c) Should the Subrecipient perform any work knowing it to be contrary to applicable laws, ordinances, rules, building codes and/or regulations, and not give proper notice to the City, it will assume full responsibility therefore and will bear all cost incurred due to its negligence.

d) The Subrecipient will comply with and require all contractors paid with funds provided by this Contract to comply with all applicable provisions of federal law and the Housing and Community Development Act of 1974, as amended, 24 CFR Part 570, governing use of federal and CDBG funds including the following:

(1) The Subrecipient will comply with the requirements and standards of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as set forth in 24 CFR § 570.502. The Subrecipient 's financial management system will include at a minimum accurate, current and complete disclosures of the CDBG program; records which adequately identify the source and application of funds provided for financially assisted activities; effective control over and accountability for grant cash, real and personal property and other assets; comparison of actual outlays with budgeted amounts; and records supported by source documentation.

(2) The Subrecipient will carry out its responsibilities in compliance with the Civil Rights Act of 1964 and the Title VIII of the Civil Rights Act of 1968, in order to affirmatively further fair housing; and to comply with the requirements of Executive Order 11063, as amended by Executive Order 12259; Title VI of the Civil Rights Act of 1964 (42 USC 2000d), the prohibitions against age discrimination under the Age Discrimination Act of 1975 (42 USC 6101-07), the prohibitions against discrimination on the basis of religion as amended in 24 CFR 570.602, and the prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and compliance with the requirements of the Architectural

Barriers Act of 1968 (42 USC 4151- 4157).

(3) The Subrecipient will comply with the requirements of the Davis-Bacon Act, as amended (40 USC 3141-3148), to include payment of wages as outlined in **Exhibit H** attached hereto and incorporated herein by this reference, and the Contract Work Hours and Safety Standards Act (40 USC 3701-3708). However, these provisions will not apply to residential property rehabilitation unless such property contains eight (8) units or more.

(4) The Subrecipient will comply with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4106).

(5) The Subrecipient will comply, as applicable, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("URA") and with residential anti-displacement and relocation requirements set forth in 24 CFR 570.606.

(6) The Subrecipient will comply with the Affirmative Action requirements of Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR 60); as well as Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u).

(7) The Subrecipient will comply with the prohibitions against the use of lead-based paint pursuant to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856) and the implementing regulations set forth at 24 CFR 35.

(8) In accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," the Agency agrees that neither it, nor its principals is presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction evidenced by this Contract by any federal department, and agrees to comply with the requirements of 2 CFR 180 and 24 CFR 2424.

(9) The Subrecipient agrees to comply with the provisions of the Copeland "Anti-Kick Back" Act (18 USC 874, 40 USC 3145) as supplemented by 29 CFR, part 3.

(10) The Subrecipient agrees to comply with Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309), which provides that no otherwise qualified individual with disabilities in the United States shall, solely by reason of his or her race, color, religion, gender, national origin, age or disability, be

excluded from the participation in, be denied the benefits of, or be subjected to discrimination in employment, services, housing, building and services accessibility or any other aspects of this program. The discrimination prohibitions in the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1974 are also incorporated herein. If Subrecipient employs 15 or more employees, it will comply with the provisions of 24 CFR Part 8 that require Agency to adopt a Section 504 grievance procedure, provide notice to its participants, applicants and employees, and perform an annual self-evaluation.

(11) The Subrecipient will comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151), the Americans with Disabilities Act (42 USC 12131), and the Uniform Federal Accessibility Standards FED-STD-795 (April 1988) subject to the exceptions contained in 41 CFR, Subpart 101-19.604.

(12) The Subrecipient will take reasonable steps to provide meaningful access for all persons with Limited English Proficiency as required by Title VI of the Civil Rights Act of 1964, Executive Order 13166, and HUD's final "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons." The Subrecipient will submit documentation to City evidencing completion of Subrecipient 's responsibilities under this section, including Subrecipient 's Language Access Plan, if applicable.

(13) The Subrecipient will comply with the Hatch Act, 5 USC 1501-1508, and must ensure that no funds provided, nor personnel employed under this Contract, will be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S. Code.

(14) The Subrecipient agrees that funds provided under this Contract will not be utilized for inherently religious activities prohibited by 24 CFR § 5.109, such as worship, religious instruction or proselytization.

(15) The Subrecipient will comply with all applicable laws, regulations, bulletins, and directions of HUD necessary to assure that the proceeds of the Subrecipient Grant are utilized in a manner which is consistent with the HUD Community Development Block Grant Program.

33. Equal Employment Opportunity/Nondiscrimination – City Requirements.

The Subrecipient shall not discriminate against any employee, applicant for employment, contractor, or subcontractor because of race, color, religion, sex,

national origin, disability, or veteran status. The Subrecipient shall adhere to acceptable affirmative action guidelines in selecting employees and contractors and shall ensure that employees and contractors receive fair treatment during employment or agreement, without regard to their race, color, religion, sex, national origin, disability, or veteran status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

34. Equal Employment Opportunity/Nondiscrimination – Federal Requirements.

During the performance of this contract, the Subrecipient agrees as follows:

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, marital status, or national origin. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action will include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

a) The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, marital status, or national origin.

b) The Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

c) The Subrecipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Subrecipient's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d) The Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e) The Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f) In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g) The Subrecipient will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Subrecipient becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Subrecipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the Subrecipient agrees as follows:

a) The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b) The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c) The Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Subrecipient 's legal duty to furnish information.

d) The Subrecipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) The Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f) The Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g) In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h) The Subrecipient will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
Provided, however, that in the event a Subrecipient becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter

into such litigation to protect the interests of the United States.

The Subrecipient further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the Subrecipient so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Subrecipient agrees that it will assist and cooperate actively with the City and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Subrecipient further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the AGE Subrecipient NCY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Subrecipient under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Subrecipient; and refer the case to the Department of Justice for appropriate legal proceedings.

35. <u>Workers Without Authorization</u>

a) Unlawful Employees, Contractors and Subcontractors. Subrecipient shall not knowingly employ or contract with an individual unable to provide evidence that the individual is legally authorized to perform work or services in the United States, defined as a "worker without authorization" in C.R.S. § 8-17.5-101. Subrecipient shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with a worker without authorization; and (b) fails to certify to Subrecipient that the

subcontractor will not knowingly employ or contract with a worker without authorization.

b) Verification Regarding a Worker Without Authorization. By executing this Agreement, Subrecipient confirms the employment eligibility of all employees who are newly hired for employment to perform services under this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

c) Limitations. Subrecipient shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

d) Duties of the Subrecipient. If Subrecipient obtains actual knowledge that a subcontractor performing services under this Agreement knowingly employs or contracts with a worker without authorization Subrecipient shall be required to:

(i) Notify the subcontractor and the City within three days that Subrecipient has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

(ii) Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with a worker without authorization; except that Subrecipient shall not terminate the contract with the subcontractor if the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with such individual.

e) Duty to Comply with State Investigation. Subrecipient shall comply with any request made by the Colorado Department of Labor or the City in an investigation that the Department or the City is undertaking.

f) Damages. Notwithstanding any other provisions within this Agreement, if Subrecipient violates any of the above provisions regarding a worker without authorization the City may terminate the Agreement for cause and Subrecipient may be liable for consequential damages.

35. Monitoring.

The City will monitor and evaluate the Agreement with the Subrecipient under the CDBG Program for the effective and efficient utilization of CDBG funds. The Agreement will also be monitored for compliance with the rules, regulations,

requirements and guidelines, which the City has promulgated or may promulgate. The Project will be monitored to assure compliance with the requirements of the CDBG Program periodically during the operation of the project and upon its completion and during the required period of affordability.

The Subrecipient shall notify the City upon key staffing changes during the monitoring period.

The Agreement will also be subject to monitoring and evaluation by HUD.

36. Religious Organizations.

In accordance with First Amendment Church/State Principles, Program Funds may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities subject to the following restrictions and limitations:

a) Program Funds may not be used for the acquisition of property or the construction or rehabilitation of structures to be used for religious purposes or which will otherwise promote religious interests. Property owned by primarily religious entities may be acquired with Program Funds at not more than fair market value for a non-religious use. Program Funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose in accordance with federal provisions.

b) Program Funds may be used for public services (labor, supplies, and materials which are directed toward project activity including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs) to be provided through a primarily religious entity, such that the City benefits from these public services, and in connection with the provision of such public services, the primarily religious entity:

(1) Shall not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(2) Shall not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(3) Will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the

provision of such public services.

If Program Funds awarded under this agreement are carried out on property owned primarily by a religious entity, Program Funds may be used for minor repairs to such property which are directly related to the carrying out of a public service project activity where the cost constitutes in dollar terms only an incidental portion of the Program Funds expenditure for the public service project activity.

37. Byrd Anti-Lobbying Certification (31 U.S.C. 1351).

In all contracts in excess of $100,000 the Subrecipient hereby certifies, to the best of his or her knowledge and belief, that:

a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.

b) Each Subrecipient tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C, 1352.

c) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

38. Hatch Act / Political Activities.

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violations of Chapter 15 of Title V of the U.S.C.

The Subrecipient will not use Community Development Block Grant funds ("CDBG funds") to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. The Subrecipient may, however, use a facility financed with CDBG funds on an incidental basis to permit political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

39. Conflict of Interest.

The Subrecipient is subject to the conflict of interest provisions under 24 CFR 570.611:

a) Applicability.
   (1) In the procurement of supplies, equipment, construction, and services by recipients and by Owners, the conflict of interest provisions in 2 CFR 200.317 and 200.318 shall apply.
   (2) In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its Owners to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.456, or 570.703(i)).

b) Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

c) Persons covered. The conflict of interest provisions of paragraph

(b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of Owners that are receiving funds under this part.

d) Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the

affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

40. Drug-free Workplace Act of 1988.

The Subrecipient must comply with drug-free workplace requirements in Subpart B of 2 CFR § 2429, which adopts the government-wide implementation (2 CFR part 182) of the Drug-Free Workplace Act of 1988 (41 U.S.C. Ch. 8, 41 U.S.C. 701-707).

41. Fees for Use of Facility.

Because public facilities are assisted under this Contract with the intent of having them be made available to the public, fees charged for the use of these facilities must be reasonable and based on actual costs such as related utilities, cleanup, security and insurance. Excessive charges which will have the effect of precluding low and moderate- income persons from using the facilities are not permitted.

42. Acknowledgment.

The Subrecipient will acknowledge during the term of the Contract the contribution of the City of Aurora Community Development Block Grant loan toward the rehabilitation of the facility described in the Scope of Work in all instances where the contributions to the Project are recognized or listed.

43. Procurement Standards and Methods

a) **General Standards** – With respect to procurement of supplies and other expendable property, equipment, real property and other services with CDBG funds, the Owner shall procure in accordance with 2 CFR 200.318-326.

b) **Equipment** – Purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built into a structure) of an eligible project or service. Equipment must have prior approval by the City before any expense is incurred. The Owner shall comply with its own current policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, accounts

receivable, etc.) shall revert to the City upon termination of this contract.

c) **Debarred Contractors** – Per Executive Order 12549, "Debarment and Suspension" (24 CFR Part 24), CDBG funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of, any contractor during any period of debarment, suspension or placement of ineligibility status. The Owner shall check all contractors against the Federal publication that lists debarred, suspended, and ineligible contractors.

44. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Disadvantaged Business Enterprises.

Pursuant to national policy to award a fair share of contracts to small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises, Subrecipient will take affirmative steps to assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are utilized when possible as sources of supplies, equipment, construction, and services. Such affirmative steps will include the following:

a) Include qualified small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises on solicitation lists.

b) Assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are solicited whenever they are potential sources.

c) When economically feasible, divide total requirements into small tasks or quantities so as to permit maximum participation from small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.

d) Where the requirement permits, establish delivery schedules which encourage participation by small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.

e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required.

f) Include affirmative steps, one through five in any subcontract.

45. Construction, Labor and Material Payment and Performance Bonds.

Prior to the commencement of any rehabilitation, the Subrecipient will ensure that the construction contractor posts a construction labor and material payment bond and performance bond for the total amount of the rehabilitation contract in a form

as approved by the City, which will ensure the payment of all rehabilitation costs of the improvements.

46. Environmental Conditions.

a) **Air and Water:** The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

(1) Clean Air Act, 42 U.S.C., 7401, et seq.;
Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

b) **Flood Disaster Protection:** In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

c) **Lead-Based Paint:** The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

d) **Historic Preservation:** The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council

on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.
In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

e) **Energy Efficiency:** Owner must ensure compliance with mandatory energy efficiency standards and policies in State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

f) **Asbestos:** Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding workers exposure, abatement procedures and disposal.

47. Archaeological Remains.

Should archaeological remains be encountered during ground disturbing activities, work will cease in the area of discovery. The Neighborhood Services Community Development Manager will be notified immediately. Work in the area of discovery will not resume until the significance of the discovery has been assessed and the environmental clearance updated.

48. Clean Air Act and Federal Water Pollution Control Act.

Applicable to all contracts in excess of $150,000. The Subrecipient will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC 1251- 1387). Violations must be reported to the City, HUD, and the Denver Regional Office of the Environmental Protection Agency (EPA).

49. Procurement of Recovered Materials.

a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor will procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor will procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable time period; (2) fail to meet reasonable performance standards, which will be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item, or (3) are only available

at an unreasonable price.

b) Paragraph (a) of this clause will apply to items purchased under this contract where: (1) the Subrecipient purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

50. Labor Standards.

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland AntiKick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

51. "Section 3" Clause.

a) Compliance. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided

under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the

project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b) Notifications. The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c) Subcontracts. The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

52. Assignability.

The Subrecipient shall not assign any interest in this agreement and shall not transfer any interest in the same without the prior written consent of the **City**.

53. Subcontracts.

a) **Approvals:** The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b) **Monitoring:** The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c) **Content:** The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d) **Selection Process:** The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all

subcontracts shall be forwarded to the City along with documentation concerning the selection process.

54. Indebtedness to Internal Revenue Service or Other Public Entity.

a) Any judgment, lien, levy, or outstanding amount owed to the Internal Revenue Service, State, County, City, or other public entity by the Subrecipient will constitute an event of default or breach of this Contract for purposes of Section 21, unless previously approved by the City in writing, and may constitute sufficient reasons for cancellation of this Contract by the City according to the procedures contained in this Contract.

b) Prior to entering into this Contract and during the time period covered by this Contract, the Subrecipient will disclose any information related to the preceding paragraph. This will also include the immediate reporting of breaches in payback arrangements or breaches in other agreements related to the above. Failure to comply with any disclosure provision in this Section may also constitute sufficient reason for cancellation of this Contract by the City according to the procedures contained in this Contract.

55. Default / Remedies.

a) In the event of any default in or breach of this Contract or any of its terms or conditions by either party hereto, such party will, upon written notice from the other, proceed immediately to cure or remedy such default or breach. In any event such breach or default is remedied within thirty (30) days after receipt of such notice. In case such action to cure or remedy the default or breach is not taken or not diligently pursued, or the default or breach not cured or remedied within thirty (30) days, the aggrieved party may terminate this Contract or institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. In the event of a breach of Contract by the Subrecipient, the City, in addition to any other remedy, may immediately withhold payment of funds until such default is cured. The City will have the further right to declare the Promissory Note as secured by the Deed of Trust immediately due and payable if such breach is not cured within thirty (30) days as provided herein.

b) In the event there are one or more liens on the subject property which are or will be senior to the lien created under the Deed of Trust referenced above (collectively, the "Senior Lien") and the Subrecipient fails to perform any of the obligations secured by any Senior Lien, the Subrecipient will, upon written notice from the

City, immediately proceed to cure or remedy such default or breach, and, in any event, such breach or default must be remedied by the Subrecipient within thirty (30) days after receipt of such notice. In the event such failure to perform is not cured within thirty (30) days after receipt of the City's notices, the City will have all the rights and remedies described in Section 21(a) above.

c) Failure of the City to insist upon strict performance of any provision of this Contract or to exercise any right or remedy to which the City is entitled hereunder will not constitute a waiver thereof and will not diminish the obligations under this Contract. No waiver of any of the provisions of this Contract will be effective unless it is expressly stated to be such and signed by both the City and Subrecipient.

56. No Third-Party Beneficiaries.

This Contract is solely between the City and the Subrecipient. Nothing in this Contract is intended to establish a right in any third party or create an expectation of benefit in any party other than those specifically named in this Contract. Any person receiving services from the Subrecipient, as a result of this Contract is in privity solely with the Subrecipient or other parties with whom they contract.

57. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (APR 2014).

a) This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 and FAR 3.908.

b) The Subrecipient will inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

c) The Subrecipient will insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

58. Federal Funding Accountability and Transparency Act (FFATA).

The Subrecipient will comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The Agency must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and have a Data Universal Numbering System (DUNS) number. The Subrecipient will also comply with the provisions of FFATA which includes

requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

59. Roles and Responsibilities.

a) **Chief Executive Officer**
The Subrecipient's Chief Executive Officer is responsible for the execution of the Subrecipient's activities and obligations enumerated in this Contract. Unless otherwise directed by the Subrecipient, the City will contact the Chief Executive Officer when communicating with the Subrecipient. The City will be notified, in writing, of changes of personnel filling this position. The Chief Executive Officer may utilize the professional services of other advisors as his/her agent. Said agent will be responsible to the Chief Executive Officer.

(a) Housing and Community Services Director
The Director of Housing and Community Services, or designee, is the City's responsible representative to the Project. The Subrecipient will contact this individual when communicating with the City unless otherwise directed. The Subrecipient will be notified of changes of personnel filling this position. The Director of Housing and Community Services, or designee, may utilize the professional services of other advisors as his/her agent. Said agent will be responsible to the Director of Housing and Community Services, or designee.

60. Certification of Non-Debarment.

The Subrecipient certifies, by acceptance and execution of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees, by accepting and executing this Agreement, that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.

61. CONTRACT DOCUMENTS:

This contract includes the following documents incorporated herein by reference:

- **Exhibit A:** Scope of Work
- **Exhibit B:** Budget

- **Exhibit C:** Promissory Note
- **Exhibit D:** Deed of Trust
- **Exhibit E:** N/A
- **Exhibit F:** Certificate of Completion -
- **Exhibit G:** Section 3 Clause -
- **Exhibit H:** General Wage Decision and Federal Labor Standards Provisions (HUD 4010)

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS Agreement THIS _____ DAY OF _____, 2021.

City OF AURORA, COLORADO

_____
Roberto Venegas,
Deputy City Manager

_____
Jessica Prosser
Director of Housing and Community Services

Rodney M. Milton, Jr.
_____
Rodney Milton
Housing and Community Development Manager

APPROVED AS TO FORM:

Tim Joyce
_____
Tim Joyce
Assistant City Attorney

Subrecipient

_____ 4/28/21
Karl Chen, Board Treasurer Date
Gateway Domestic Violence Services

CITY OF AURORA
COMMUNITY DEVELOPMENT DIVISION
HOUSING REHABILITATION PROGRAM
15151 E Alameda Ave #4500
Aurora, Colorado 80012
Phone: 303-739-7900 Fax: 303-739-7925

CONSTRUCTION DOCUMENTS:
"EXHIBIT A"

CLIENT:

Name: Gateway / Aurora/ Arapahoe Battered Woman's Shelter Inc.
Address: Confidential
Aurora, CO
Phone: 303-739-7923 John Ralston

DATES OF WORK:	**CONTRACTOR INFORMATION:**
☒ Initial Inspection:	Company Name: TBD
☒ Initial DOW:	Address:
☒ Revisions:	Phone:
☒ Bid Document:	Contact Person:
☐ Contract / Loan Documents:	

Program Specialist:	Project Number:	
John Ralston	2112 A	

CONTRACTORS NOTE! THIS "EXHIBIT A" IS FOR THE USE BY THE CLIENT IN EVALUATING THE BIDS ONLY. IT IS NOT TO BE USED BY THE CONTRACTOR AS A SCOPE OF WORK TO BE PERFORMED. DIMENSIONS, QUANTITIES AND SCOPE OF WORK TO BE ASSERTAINED FROM DRAWINGS AND SITE OBSERVATIONS.

DESCRIPTION OF WORK

ITEM #:

1a. **01 00**	**Permit, use tax, review fees**	
1b. **01 00, 02 00**	**General conditions, Bonds, misc. costs** 1) Testing	
2. **02 00**	**Demolition:** Existing carpet Complete Demo of front bath Remove existing lighting, playground border, PVC Pipes in playground, 2nd floor deck on Shelter, walls in shelter for addition of interior windows, Window openings in office area	
3. **(Includes Item 5)** **05 10, 06 10, 08 06, 08 11, 08 50, 08 70 09 01, 09 05, 09 06,**	**Interior Rehab:** 1) Flooring- Replace all carpet with vinyl flooring chosen by Gateway 2) Framing/Finish- Blue board/finish/tile/text and paint front bath.	

09 20, 09 24, 09 50, 09 06, 09 65, 09 90, 22 40 **(4644 sf total)**	3) Plumb new stops on all fixture lines. Repair sewer and drain lines in bath. 4) Replace all fixtures, toilet, vanity, flooring, shower stall to bring bath up to handicap standards. Add grab bars where necessary. 5) Temperature Monitors 6) Furnish and install new mirrors, soap, and towel dispensers in all bathrooms.	
4. **26 00, 26 05, 26 50**	**Electrical Work:** 1) Test and ensure safe, replace any device for safe service if necessary. 2) Replace all interior lights with T8 LED. 3) Elec as required by code in kitchen. Install new exhaust fan.	
5. **(See CSI Item 3)**	**Plumbing Work** **1)** Accessible bath fixtures **2)** Water Heaters (4) **3)** New Faucets for baths and kitchen	
	Exterior Work: 1) Ensure proper and easy operation of all fire door including panic hardware. 2) Replace exterior doors and frames with fortified jambs 5) Reinforce window well covers. 6) Prune existing trees in play area. 7) Replace 6' wood fence 8) Replace all exterior lights with LED's 9) Replace sump in lower smoking area 10) Add clean-outs to sewer line from shelter 11) Child Proof electrical boxes 12) Add to retaining wall in playground area 13) New deck over smoking area at shelter building 14) Bike Rack	

CITY OF AURORA
COMMUNITY DEVELOPMENT DIVISION
HOUSING REHABILITATION PROGRAM
15151 E Alameda Ave #4500
Aurora, Colorado 80012
Phone: 303-739-7900 Fax: 303-739-7925

CONSTRUCTION DOCUMENTS: "EXHIBIT B"

Budget

Name: Gateway / Aurora/ Arapahoe Battered Woman's Shelter Inc.
Address: Confidential
Aurora, CO
Phone: 303-739-7923 John Ralston

DATES OF WORK:	CONTRACTOR INFORMATION:
☒ Initial Inspection:	Company Name:
☒ Initial DOW:	Address:
☒ Revisions:	Phone:
☒ Bid Document:	Contact Person:
☐ Contract / Loan Documents:	

Program Specialist:	Project Number:	Estimate Amount:
John Ralston	2112A	$300,000.00

BUDGET

ITEM #:

1a. **01 00**	**Permit, use tax, review fees**	
1b. **01 00, 02 00**	**General conditions, Bonds, misc. costs** 1) Testing	
2. **02 00**	**Demolition:** Existing carpet Complete Demo of front bath Remove existing lighting, playground border, PVC Pipes in playground, 2nd floor deck on Shelter, walls in shelter for addition of interior windows, Window openings in office area	
3. **(Includes Item 5)** **05 10, 06 10, 08 06, 08 11, 08 50, 08 70 09 01, 09 05, 09 06, 09 20, 09 24, 09 50, 09 06, 09 65, 09 90, 22 40**	**Interior Rehab:** 1) Flooring- Replace all carpet with vinyl flooring chosen by Gateway 2) Framing/Finish- Blue board/finish/tile/text and paint front bath. 3) Plumb new stops on all fixture lines. Repair sewer and drain lines in bath. 4) Replace all fixtures, toilet, vanity, flooring, shower	

(4644 sf total)	stall to bring bath up to handicap standards. Add grab bars where necessary. 5) Temperature Monitors. 6) Furnish and install new mirrors, soap, and towel dispensers in all bathrooms.	
4. 26 00, 26 05, 26 50	**Electrical Work:** 1) Test and ensure safe, replace any device for safe service if necessary. 2) Replace all interior lights with T8 LED. 3) Elec as required by code in kitchen. Install new exhaust fan.	
5. (See CSI Item 3)	**Plumbing Work** **1)** Accessible bath fixtures **2)** Water Heaters (4) **3)** New Faucets for baths and kitchen	
	Exterior Work: 1) Ensure proper and easy operation of all fire door including panic hardware. 2) Replace exterior doors and frames with fortified jambs 5) Reinforce window well covers. 6) Prune existing trees in play area. 7) Replace 6' wood fence 8) Replace all exterior lights with LED's 9) Replace sump in lower smoking area 10) Add clean-outs to sewer line from shelter 11) Child Proof electrical boxes 12) Add to retaining wall in playground area 13) New deck over smoking area at shelter building 14) Bike Rack	
	TOTAL	$300,000.00

STATEMENT OF GENERAL CONDITIONS
(The following refers to provisions of the Contract Agreement)

Quality of Work:
The Contractor will assure the work is of good order and quality and performed by skilled workers in the assigned task. Materials and equipment incorporated in the work will be new, of good quality and in conformance with the Contract Documents. All measurements are approximate and must be field verified by the Contractor.

Permits and Licenses:
All work will be performed, inspected and approved in compliance with the IBC and City of Aurora Building Code.

Insurance:
The Contractor must maintain in effect Liability Insurance and Workers Compensation as required by paragraph 10 of the Contract Agreement and must submit proof of such insurance prior to the signing of the Contract Documents.

Time:
The Contractor will commence work, submit schedules of work and complete the work within the parameters of the Contract and the Notice to Proceed. Justification for any delays must be submitted for written approval.

Guarantee:
If, within one year of Completion, any of the work or materials are found to be defective or not in accordance with the Construction Documents, the Contractor will upon written notice, promptly correct or replace the defective work or materials. The Contractor will also provide the Owner with any extended material or appliance warranties from the manufacturer.

Profit and Overhead:
The Contractor will include profit, overhead and costs of permits in the cost of each line item.

Clean Up:
The Contractor will at all times and at Completion keep and leave the work site clean in accordance with the Contract Agreement. Also, the area will be free from any hazardous condition during the construction.

Lien Waiver:
The Contractor will at Completion, provide lien waivers in accordance with the Contract Documents.

Lead Paint:
If any existing surface is disrupted in the work process that may contain lead-based paint, the surface will be treated as set forth in the Contract Agreement.

Addition Services:
Should any additional drawings, engineer reports, field tests, or other professional services be required for the Aurora Building Department or other Authority, such costs of these services will be the responsibility of the Contractor.

Changes:
Any changes or deviations of the work, materials, appliances, time or costs from these Contract Documents must have written approval in the form of a Change Order or Field Order issued by the rehabilitation Specialist prior to installation. Colors, patterns and equipment not specified must be approved by the rehabilitation specialist prior to installation.

Surface Finishes:
All areas damaged or disrupted in the course of the work must be repaired and finished to match adjoining surfaces as close as possible. Any colors, patterns, styles or textures not specified in these Contract Documents will be as selected by the Owner.

TOTAL COST SUM OF THE DESCRIPTION OF EXTERIOR WORK:

_____

(Including General Condition costs, overhead, permit, fees, taxes, and profits)

CONTRACTOR:

_____

Name of Company **Address** **Phone**

By: _____ /_____

Print Name **Signature**

Authorized to proceed: _____

Name Title Date

EXHIBIT C
PROMISSORY NOTE
(CDBG Funds)

$300,000.00 04/28/ 2021

FOR VALUE RECEIVED,Aurora/Arapahoe Battered Woman's Shelter Inc. Agreement (the "Borrower"), promises to pay to the order of **CITY OF AURORA, COLORADO**, whose address is c/o Community Development Division, 15151 E. Alameda Parkway #4500, Aurora, Colorado, 80012 (the "Lender"), the principal sum of **THREE HUNDRED THOUSAND and 00/100 DOLLARS ($300,000.00)**, from the date hereofuntil paid as follows:

This Note is secured by a Deed of Trust, dated of even date herewith by the Borrower for the benefit of the Lender (the "Deed of Trust") and further is evidenced by a Sub-recipient Agreement dated 04/28/2021 herewith between the Sub-recipient and the Lender (the "Sub-recipient Agreement"). All of the terms, covenants, conditions, provisions, and agreements of the Deed of Trust and the Sub-recipient Agreement are made a part of this Note to the same extent, and with the same force and effect, as if they were set forth fully in this Note.

Upon the occurrence of an Event of Default (as defined in the Deed of Trust or the Sub-recipient Agreement) with respect to any amount becoming due hereafter, then the full amount of the balance of principal unpaid upon this Note shall at once become due and payable at the option of the legal holder hereof, without demand or notice, said demand or notice being expressly waived, and failure to exercise said option at any time shall not constitute a waiver of the right to exercise the same at any subsequent time.

Neither the Borrower nor any of its partners shall have any personal liability for the payment of any sums due under this Note or the performance of any obligations of the Borrower hereunder, it being recognized by the Lender that the obligations of the Borrower hereunder are non recourse obligations and that the remedies of the Lender are limited to the security provided in the Deed of Trust. In any action to realize upon any security furnished under any instrument now or hereafter securing the indebtedness evidenced by this Note or to collect any amounts payable hereunder, neither the Borrower nor any partner of the Borrower or any partner, officer, director, shareholder, employee or agent of any partner of the Borrower shall have any personal liability for the repayment of this Note and no judgment for the repayment of this Note or interest thereon or any other sums due under this Note or for damages for failure to perform any obligations owed to the Borrower hereunder will be enforced against the Borrower personally or against any property of the Borrower other than the security furnished under the Deed of Trust or any other instrument securing this Note.

The Lender agrees that it shall not assign or transfer this Note (or any interest therein)

It is intended that this Note is made with reference to and shall be governed by and construed in accordance with the laws of the State of Colorado.

The provisions of this Note shall be binding upon the undersigned, its heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed by its authorized representative, all on the date and year first above written.

Gateway Domestic Violence Shelter

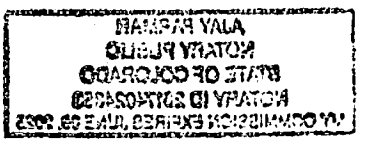
By: _____
Karl Chen, Board Treasrer
Gateway Domestic Violence Shelter

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 28th day of April, 2021, by Karl Chen Board Treasurer Gateway Domestic Violence Shelter

_____
Notary Public

AJAY PARMAR
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174024353
MY COMMISSION EXPIRES JUNE 08, 2025


ALAY RAJAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174024659
MY COMMISSION EXPIRES JUNE 09, 2025

WHEN RECORDED MAIL TO:
City of Aurora
Neighborhood Services Department
Community Development Division
15151 East Alameda Parkway 4500
Aurora, CO 80012

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

EXHIBIT D
DEED OF TRUST

This Agreement is made this 28th day of April, 2021 between **Aurora/ Arapahoe Battered Woman's Shelter Inc.** ("Grantor"),, and the **PUBLIC TRUSTEE FOR THE COUNTY OF ARAPAHOE** ("Trustee"), for the benefit of the **CITY OF AURORA, COLORADO** ("Beneficiary"), whose address is c/o Community Development Division, 15151 East Alameda Parkway, Aurora, Colorado, 80012.

The Grantor, in consideration of the loan hereinafter described, has granted, bargained, sold, transferred, assigned, and conveyed, and by these presents does grant, bargain, sell, transfer, assign, and convey to the Trustee in trust with power of sale all of that certain property located in the County of Arapahoe, Colorado, and described on Exhibit A hereto (the "Property"), together with all of Grantor's right, title and interest in and to (i) all privileges, easements, rights of way, licenses, franchises, tenements and appurtenances belonging or in any way appertaining to the Property; (ii) all rents, issues, profits, condemnation awards, and option payments in regard to the Property; (iii) all furniture, furnishings, fixtures, maintenance equipment, and all other personal property owned by Grantor now or hereafter located in, or on, used, or intended to be used in connection with the Property (excluding, however, personal property owned by tenants occupying space in the Property); (iv) all of the estates, rights and interests of the Grantor, whether now owned or hereafter acquired, in the Property; and (v) the proceeds of any of the above. All of the foregoing are hereinafter referred to as the "Mortgaged Property".

This conveyance is made in trust, however, in consideration of, and to secure (a) all sums advanced by Beneficiary to Grantor under that certain Promissory Note of even date herewith, as it may be amended, payable to the order of Beneficiary in the original principal amount of **Three Hundred Thousand and No/100 dollars ($300,000.00)**, (the "Note"), and to secure Grantor's obligation to pay interest as set forth in Note, including interest at the "default Rate" as set forth therein all of which sums are payable as provided therein, with final payment or performance due on December 31, 2030; (b) prompt and complete performance and/or observing of all covenants and conditions to be performed by Grantor under that certain Owner/Developer Subrecipient Agreement dated April 23rd, 2021, made by and between Grantor and Beneficiary (the " Subrecipient Agreement"); (c) the payment of all other sums with interest at the Default Rate thereon as may be advanced or expended by Beneficiary in accordance with this Deed of Trust or any other instrument or agreement securing the Note (the indebtedness of Grantor evidenced by the Note and all such other sums are hereinafter collectively referred to as the "Indebtedness"); and (d) the performance of all the covenants and agreements of the Grantor contained herein.

This Deed of Trust is given upon the express condition that if all of the Indebtedness is paid to Beneficiary, then, this Deed of Trust and the estate hereby granted shall cease and become void and shall be released of record at the expense of the Grantor; otherwise this Deed of Trust shall be and remain in full force and effect.

Grantor represents, warrants, and covenants to and with the Beneficiary and the Trustee that it is the lawful owner of the Mortgaged Property in fee simple and has good right and full power and authority under all applicable provisions of law and under its certificate of limited partnership to execute this Deed of Trust and to convey the Mortgaged Property pursuant hereto; that the Mortgaged Property is free from all monetary liens and charges, security interests, and encumbrances except as listed in Exhibit B attached hereto; that the Grantor will warrant and defend the lien and priority of this Deed of Trust against all claims and demands of all persons whomsoever, whether now existing or hereafter arising, not listed in Exhibit B; and that no claims or liens are outstanding or threatened against the Mortgaged Property arising out of any oil or hazardous waste or materials legislation. The covenants and warranties of this paragraph shall survive foreclosure of this Deed of Trust and shall run with the land.

The Grantor further covenants and agrees with the Beneficiary and the Trustee as follows:

1. Note, Application of Payments. Grantor will duly and punctually pay any and all amounts due and payable under the Note in accordance with the terms of the Note and all other Indebtedness, when and as due and payable. The provisions of the Note are hereby incorporated by reference into this Deed of Trust as fully as if set forth at length herein. All payments received by the Beneficiary from Grantor under the Note or this Deed of Trust shall be applied by the Beneficiary in such order of application as the Beneficiary deems appropriate.

2. Payment of Taxes, Assessments, Other Charges, and Liens. Grantor shall pay before a penalty might attach for nonpayment thereof, all taxes and assessments, utility charges, and all other charges whatsoever levied upon or assessed or placed against the Mortgaged Property, and shall give to Beneficiary, upon demand, a receipt or receipts evidencing such payment. Grantor shall not create, incur, or suffer to exist any lien, security interest, encumbrance, or charge on the Mortgaged Property or any part thereof, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable, and any permitted encumbrance listed in Exhibit B hereto. The Grantor shall likewise pay any and all governmental levies or assessments of any kind which create, may create or appear to create a lien upon the Mortgaged Property, or any part thereof.

3. Liens. The Grantor shall not create, incur or suffer to exist any lien, or charge on the Mortgaged Property or any part thereof, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable, and any permitted lien listed in Exhibit B hereto.

4. Mechanics' Liens. The Grantor shall pay, when due, the claims of all persons supplying labor, materials or equipment to or in connection with the Mortgaged Property, and Grantor will keep the Mortgaged Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen and other such persons arising out of the work, construction, development, operation or maintenance of the Mortgaged Property

(collectively, "Mechanic's Lien(s)"). If any suit or proceeding shall be brought to foreclosure or enforce any such Mechanic's Lien, Grantor shall, at its sole cost and expense, promptly pay, satisfy and discharge any final judgment entered therein, and if Grantor fails to do so, the Beneficiary, at its option, may do so.

5. Compliance with Laws. The Grantor shall comply promptly and fully with all present and future statutes, laws, rules, orders, regulations, and ordinances, and any easements, protective covenants or other private restrictions affecting the Mortgaged Property, any part thereof or the use thereof; including, without limitation, laws, ordinances, rules or regulations relating to hazardous wastes, hazardous materials, or oil.

6. Payment of Utility Charges. The Grantor shall pay all charges (exclusive of which are the obligations of tenants to pay) made by utility companies, whether public or private, for electricity, gas, heat, water, or sewer, furnished or used in connection with the Mortgaged Property or any part thereof, and will, upon written request of Beneficiary, furnish proper receipts evidencing such payment.

7. Insurance.

a) During the term of this Agreement, the Grantor shall provide the following insurance coverages:

(1) Commercial Property Insurance. Grantor shall procure and maintain a commercial property insurance policy, providing coverages for perils including, but not limited to: fire, flood, earthquake, wind, hail and vandalism, with limits not less than 100% of the property's replacement cost, including all improvements, on a per occurrence basis. Beneficiary shall be named as a loss payee on the policy.

(2) Commercial General Liability Insurance. The Grantor shall maintain commercial general liability insurance covering all operations on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use), and products and completed operations. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The Beneficiary, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:

$2,000,000 each occurrence
$4,000,000 general aggregate
$4,000,000 products and completed operations

(3) Commercial Automobile Liability Insurance. Grantor shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle

(including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

(4) Workers' Compensation and Employers Liability Insurance. Grantor shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Grantor shall maintain Employers' Liability Insurance with minimum limits of: $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate

(5) Professional Liability Insurance. The Grantor shall maintain professional liability insurance with minimum limits of One Million Dollars ($1,000,000), covering those claims which arise out of the negligent acts or omissions of the Grantor, its Subcontractor and any other parties for whom it may be liable including without limitation, bodily injury, personal injury, property damage arising from its development activities or operations. Professional Liability Insurance may be carried on a claims-made basis maintained in full force and effect for the term of this Agreement and, to the extent possible, for a minimum period of Three (3) years after repayment of the loan hereunder. Any retroactive date or prior acts exclusions to which such coverage is subject shall pre-date the date of this Agreement. In the event that coverage is renewed during the original term of any subsequent term of this agreement, endorsement(s) for the new policy(ies) and/or a binder shall be delivered within five (5) days after renewal.

(6) Subcontractors' Insurance Requirements. Subcontractors are subject to the same insurance requirements as the Contractor. The Contractor is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the project. Any subcontractor which ceases to maintain the insurance coverages set forth above must be removed from the project until such time that insurance coverage can be verified as in full force and effect.

(7) Limits of Insurance. The total limits of general, automobile liability, employer's liability and excess liability insurance set forth above may be provided to the Beneficiary using a combination of primary and excess liability insurance.

(8) Additional Insured, Waiver of Subrogation and Deductibles. The Grantor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability, Excess Liability and Pollution Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Grantor.

(9) Certificates of Insurance. Upon the execution of this Agreement or as soon as practicable, Grantor shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. Grantor agrees that the required coverages will not be reduced, canceled, non-renewed or materially changed without thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of the Grantor's coverages are renewed at any time prior to completion of the services, they, not their insurance carriers, shall be responsible for obtaining updated insurance certificates and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate. If a certificate is not available immediately after renewal, a binder showing the coverages have been renewed will be acceptable until a certificate is available.

(10) The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Grantor shall provide copies of insurance policies to the City Risk Manager upon request.

(11) Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances, including increased risk or scope of work. The Grantor's policies will be primary and non-contributory with respect to any and all insurance policies of the Beneficiary.

(12) If any of the insurance coverages required under this Agreement become unsatisfactory at any time to the City as to form or substance or if the carrier's rating is lowered due to financial issues, the Grantor shall promptly obtain a new policy, submit the same to the Beneficiary for approval and thereafter submit a certificate of insurance as herein above provided. Failure of the Grantor to comply with any provisions of this contract shall be grounds for immediate suspension or termination of this Agreement. Failure of the Grantor to obtain and/or maintain any required insurance shall not relieve the Grantor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Grantor concerning indemnification.

(13) Self-Insurance/Deductible. If the Grantor has any self-insured retentions or deductibles under any of the required policies, the Grantor must reflect these amounts on the certificate(s) of insurance. If requested, the Grantor will provide satisfactory evidence of financial responsibility for such obligations. In any event, Grantor will be solely responsible for any self-insured retentions or deductibles.

(a) Policy Provisions. All insurance policies and renewals thereof maintained by Grantor pursuant to subsection (a) 1-13 above shall be written by an insurance carrier satisfactory to Beneficiary with an A.M. Best rating as noted above (with the exception of flood insurance provided by the National Flood Insurance Program), contain a standard

mortgagee clause and a loss payee clause and other endorsements in favor of and in form and content acceptable to Beneficiary.

(b) Application of Insurance Proceeds. Subject to the rights of any lender with a superior interest under a recorded Deed of Trust or similar document or instrument, all sums paid under any insurance policy required in subsection (a) 1-13 above shall be paid to the Beneficiary (after application of such proceeds to prior lienholders, to the extent of the indebtedness secured by their liens). Beneficiary shall apply such amounts (after first deducting therefrom its expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) to the restoration of the Mortgaged Property pursuant to such conditions as the Beneficiary shall in its reasonable discretion require, unless the senior lien holder has applied such proceeds solely to the payment of its lien, in which case Beneficiary may do likewise. No application of insurance proceeds shall extend or postpone the due dates of the installments payable under the Note or change the amount of such installments.

8. Preservation and Maintenance of Mortgaged Property; Indemnity. The Grantor (i) shall keep the Mortgaged Property in safe and good repair and condition; (ii) shall, upon damage to or destruction of the Mortgaged Property or any part thereof by fire or other casualty, restore, repair, replace or rebuild the Mortgaged Property that is damaged or destroyed to the condition it was in immediately prior to such damage or destruction, whether or not any insurance proceeds are available or sufficient for such purpose; (iii) shall not commit waste or permit impairment or deterioration of the Mortgaged Property; and (iv) shall not remove any of the fixtures or personal property included in the Mortgaged Property unless the same is immediately replaced with property of at least equal value and utility, and this Deed of Trust becomes a valid lien on such property.

9. Inspection. The Grantor shall permit the Beneficiary or its agents to enter upon the Mortgaged Property at all reasonable times during ordinary business hours after reasonable notice for the purposes of inspecting the Mortgaged Property or any part thereof. The Beneficiary shall, however, have no duty to make such inspection.

The Grantor shall keep and maintain at all times at the Grantor's address stated below or at the Mortgaged Property or at such other place as the Beneficiary may approve in writing, complete and accurate books of accounts and records in sufficient detail to reflect correctly the results of the operation of the Mortgaged Property and copies of any and all written contracts, leases, and other instruments which affect the Mortgaged Property. The Grantor shall permit the Beneficiary or its representatives to examine and inspect such books, records, contracts, leases, and other instruments during ordinary business hours after reasonable notice.

10. Protection of the Beneficiary's Security. Subject to the rights of any lender with a superior interest under any prior recorded Deed of Trust or similar document or instrument, if the Grantor fails after thirty (30) days written demand from Beneficiary therefor, to perform or comply with any of the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which affects the Mortgaged Property or the interest of the Trustee or the Beneficiary therein, or the title thereto, then the Beneficiary, at the Beneficiary's option, may perform such covenants and agreements, defend against and/or investigate such action or proceedings, and/or take such other action as the Beneficiary reasonably deems necessary to protect its interests. The Beneficiary shall be the sole judge of the legality, validity, and priority of any claim, lien, encumbrance, tax, assessment, charge, and premium paid by it and of the amount necessary to be

paid in satisfaction thereof. The Beneficiary is hereby given the irrevocable power of attorney (which power is coupled with an interest) to enter upon the Mortgaged Property as the Grantor's agent in the Grantor's name to perform any and all covenants and agreements to be performed by the Grantor as herein provided. Any amounts or expenses disbursed or incurred by the Beneficiary pursuant to this paragraph, or to otherwise enforce any provisions of this Deed of Trust or to preserve any of the rights, powers, or privileges of the Beneficiary granted or created hereby, including, without limitation, costs incurred in any appeal, with interest thereon as hereinafter stated, shall become additional Indebtedness of the Grantor secured by this Deed of Trust. Unless the Grantor and the Beneficiary agree in writing to other terms of repayment, such amounts shall be immediately due and payable, and shall bear interest from the date of disbursement at the default rate of interest stated in the Note. The Beneficiary shall, at its option, be subrogated to the lien of any mortgage or other lien, discharged in whole or in part by the Indebtedness or by the Beneficiary under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Deed of Trust. Nothing contained in this paragraph shall require the Beneficiary to incur any expense or do any act hereunder, and the Beneficiary shall not be liable to the Grantor for any damages or claims arising out of action taken by the Beneficiary pursuant to this paragraph except as a result of the Beneficiary's willful misconduct or gross negligence.

11. Condemnation. Subject to the rights of any lender with a superior interest under a recorded Deed of Trust or similar document or instrument and the obligations of Grantor thereunder, the Grantor hereby irrevocably assigns to the Beneficiary any award or payment up to the amount of the Grantor's Indebtedness under the Note which becomes payable by reason of any taking of the Mortgaged Property, or any part thereof, whether directly or indirectly or temporarily or permanently, in or by condemnation or other eminent domain proceedings or the settlement thereof (hereinafter called "Taking"). All awards or payments payable as a result of a Taking shall be paid to the Beneficiary (in order of the priority of liens encumbering the Mortgaged Property), which after first deducting the Beneficiary's expenses incurred in the collection thereof shall be applied to the repair or restoration of the Mortgaged Property, pursuant to such conditions as the Beneficiary in its reasonable discretion may require unless the senior lien holder has applied same solely to payment of its lien, in which case Beneficiary may do likewise. No application of any Taking award or payment to repayment of Indebtedness shall postpone the due dates of the payments due under the Note or change the amount of such payments.

12. No Secondary Financing. The Grantor shall not create or permit to be created any subordinate lien on the Mortgaged Property or any part thereof for borrowed money without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld. Notwithstanding the above, no consent shall be required for any subordinate liens set forth on Exhibit B.

13. Transfers. The Grantor will not, without the prior written consent of Beneficiary having been first obtained, and which such consent shall not be unreasonably withheld, sell, assign, transfer, convey, or otherwise dispose of or alienate all or part of the Mortgaged Property, other than the sale of obsolete or worn-out furnishings or equipment (collectively a "Transfer"). Nothing herein shall be deemed to preclude transfers of partnership interests in the Grantor.

14. Security Interest. This Deed of Trust shall constitute a security agreement with respect to (and the Grantor hereby grants the Trustee and the Beneficiary a security interest in) all fixtures, and personal property included in the Mortgaged Property as more specifically described in

the granting clause above. The Grantor will from time to time, at the request of the Beneficiary, execute any and all financing statements or other documents covering such fixtures or personal property (in a form satisfactory to the Beneficiary) which the Beneficiary may consider necessary or appropriate to confirm, evidence, or perfect the Trustee's and/or the Beneficiary's security interest.

15. Notice of Default; Books and Records. The Grantor will prepare or cause to be prepared at its expense and will deliver to the Beneficiary, immediately upon becoming aware of the existence of any condition or event which constitutes an Event of Default, written notice specifying the nature and period of existence thereof and what action the Grantor has taken or proposes to take with respect thereto.

16. Events of Default. Each of the following occurrences shall constitute an event of default hereunder (herein called an "Event of Default"):

(a) Grantor fails to pay any portion of the Indebtedness when due or payable.

(b) Grantor fails to duly perform or observe any of the covenants or agreements contained in the Loan Agreement or in this Deed of Trust.

(c) A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on, issued or levied against, the Mortgaged Property or any part thereof and shall not be released, vacated, or fully bonded within thirty (30) days after its entry, issue, or levy and Beneficiary's written notice and demand therefor.

(d) Grantor shall admit in writing its general inability to pay its debts as they become due, or shall make an assignment for the benefit of creditors; or the Grantor shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such a receiver, trustee or similar officer shall be appointed without the application or consent of the Grantor, and such appointment shall continue undischarged for a period of ninety (90) days; or the Grantor shall institute (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceedings under the laws of any jurisdiction; or any such proceeding shall be instituted against the Grantor; or the Grantor shall terminate or dissolve.

(e) (i) Any representation of the Grantor made herein or made by Grantor or employee of the Grantor in any submission or document delivered by or on behalf of Grantor in connection with the Indebtedness shall prove to be materially untrue, when made or (ii) a default or an "Event of Default," however defined, shall occur under any other document or instrument now or hereafter securing repayment of the Note or issued in connection therewith, or evidencing or securing a loan made by any other lender with regard to the Mortgaged Property.

(g) Grantor transfers or causes a transfer of the Mortgaged Property or any interest therein without the written consent of Beneficiary having been first obtained as provided in paragraph 13.

17. Cure of Defaults. There shall be no Event of Default unless Beneficiary shall have delivered written notice of the default to Grantor and its limited partners and said event of default is not cured within the time period stated or, if later, within fifteen (15) days after the receipt of such

written notice in the event of a monetary default or within thirty (30) days after such written notice in the event of a non-monetary default; provided however, in the event of a non-monetary default that cannot be reasonably cured within such thirty (30) day period, such default shall not be an Event of Default if Grantor commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion (not to exceed 90 days). An Event of Default that can be cured by Grantor may also be cured by the Grantors limited partners and Beneficiary shall accept such cures as though they were made by Grantor.

18. Power of Sale, Remedies. If an Event of Default shall occur hereunder, the Grantor hereby authorizes and empowers the Trustee and/or the Beneficiary as follows:

(a) The Beneficiary may by written notice to the Grantor declare all amounts payable under the Note and all other Indebtedness to be immediately due and payable and the same shall be immediately due and payable without further notice or demand of any kind.

(b) The Beneficiary is authorized and empowered, without further notice, to file a written Notice of Election and Demand for Sale with Trustee, as provided by law, it being then lawful for said Trustee to foreclose, and the Trustee shall foreclose this Deed of Trust. The Trustee shall apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including, without limitation, reasonable Trustee's and attorneys' fees and costs of evidence of title, (ii) to the Indebtedness, and (iii) the excess, if any, to the person or persons legally entitled thereto.

(c) If any of the Indebtedness hereby secured shall become due and payable, the Trustee or the Beneficiary shall have the right and power to proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction, or under executory or other legal process, or for the enforcement of any other appropriate legal or equitable remedy. Beneficiary also shall have the right to the appointment of a receiver, whether before or after maturity of the Indebtedness hereby secured, as a matter of strict right and regardless of the value of the security for the amount of the Indebtedness or of the solvency of Grantor or any party obligated for the payment of the Indebtedness. Such receiver may be appointed on Beneficiary's ex parte application, by any court of competent jurisdiction, to manage, preserve, protect, and operate the Mortgaged Property and any business or businesses located thereon, to collect the rents, issues, profits, and income thereof, to make all necessary repairs, and to pay all taxes and assessments against the Mortgaged Property and insurance premiums for insurance thereon, and after the payment of the expenses of the receivership, including reasonable attorneys' fees, to apply the net proceeds in reduction of the Indebtedness or in such manner as the court or receiver shall direct. In the exercise of any of the foregoing rights and powers the Beneficiary shall not be liable to the Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of the Beneficiary.

(d) The Beneficiary may exercise with respect to all fixtures and personal property which are part of the Mortgaged Property, all the rights and remedies accorded upon default to a secured party under the Uniform Commercial Code, as in effect in the State of Colorado. If notice to the Grantor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to the Grantor at least ten

written notice in the event of a monetary default or within thirty (30) days after such written notice in the event of a non-monetary default; provided however, in the event of a non-monetary default that cannot be reasonably cured within such thirty (30) day period, such default shall not be an Event of Default if Grantor commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion (not to exceed 90 days). An Event of Default that can be cured by Grantor may also be cured by the Grantors limited partners and Beneficiary shall accept such cures as though they were made by Grantor.

18. Power of Sale, Remedies. If an Event of Default shall occur hereunder, the Grantor hereby authorizes and empowers the Trustee and/or the Beneficiary as follows:

(a) The Beneficiary may by written notice to the Grantor declare all amounts payable under the Note and all other Indebtedness to be immediately due and payable and the same shall be immediately due and payable without further notice or demand of any kind.

(b) The Beneficiary is authorized and empowered, without further notice, to file a written Notice of Election and Demand for Sale with Trustee, as provided by law, it being then lawful for said Trustee to foreclose, and the Trustee shall foreclose this Deed of Trust. The Trustee shall apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including, without limitation, reasonable Trustee's and attorneys' fees and costs of evidence of title, (ii) to the Indebtedness, and (iii) the excess, if any, to the person or persons legally entitled thereto.

(c) If any of the Indebtedness hereby secured shall become due and payable, the Trustee or the Beneficiary shall have the right and power to proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction, or under executory or other legal process, or for the enforcement of any other appropriate legal or equitable remedy. Beneficiary also shall have the right to the appointment of a receiver, whether before or after maturity of the Indebtedness hereby secured, as a matter of strict right and regardless of the value of the security for the amount of the Indebtedness or of the solvency of Grantor or any party obligated for the payment of the Indebtedness. Such receiver may be appointed on Beneficiary's ex parte application, by any court of competent jurisdiction, to manage, preserve, protect, and operate the Mortgaged Property and any business or businesses located thereon, to collect the rents, issues, profits, and income thereof, to make all necessary repairs, and to pay all taxes and assessments against the Mortgaged Property and insurance premiums for insurance thereon, and after the payment of the expenses of the receivership, including reasonable attorneys' fees, to apply the net proceeds in reduction of the Indebtedness or in such manner as the court or receiver shall direct. In the exercise of any of the foregoing rights and powers the Beneficiary shall not be liable to the Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of the Beneficiary.

(d) The Beneficiary may exercise with respect to all fixtures and personal property which are part of the Mortgaged Property, all the rights and remedies accorded upon default to a secured party under the Uniform Commercial Code, as in effect in the State of Colorado. If notice to the Grantor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to the Grantor at least ten

(10) calendar days prior to the date of intended disposition. The Grantor shall pay on demand all reasonable costs and expense incurred by the Beneficiary in exercising such rights and remedies, including without limitation, reasonable attorneys' fees and legal expenses.

(e) To the fullest extent permitted by law, the Beneficiary may request, and the Grantor agrees that the Beneficiary shall as a matter of right be entitle to, the appointment of a receiver or receivers for all or any part of the Mortgaged Property, whether such receivership be incident to a proposed sale of the Mortgaged Property or otherwise, and the Grantor does hereby consent to the appointment of such receiver or receivers without notice to the Grantor and Grantor further agrees not to oppose any application therefor by the Beneficiary.

(f) The Grantor shall pay on demand all costs and expenses incurred by the Beneficiary in exercising such rights and remedies, and in the collection of the Indebtedness or foreclosure of this Deed of Trust, including without limitation, a reasonable attorneys' fees, costs and legal expenses. All such cost expenses, with interest thereon as hereinafter stated, shall become additional Indebtedness of the Grantor secured by this Deed of Trust with same effect and priority as if disbursed on or before the date this Deed of Trust is recorded. Unless the Grantor and the Beneficiary agree in writing to other terms of repayment, such amounts shall bear interest from the date of disbursement at the default rate of interest payable on the Note, unless collection from the Grantor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from the Grantor under applicable law.

19. Forbearance not a Waiver; Rights and Remedies Cumulative. No delay by the Trustee or the Beneficiary in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by the Trustee or the Beneficiary of any particular provision of this Deed of Trust shall be deemed effective unless in writing signed by the party making such waiver. All such rights and remedies provided for herein or which the Trustee or the Beneficiary may have otherwise, at law or in equity, shall be distinct, separate, and cumulative.

20. Successors and Assigns Bound; Number; Gender; Agents; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the benefit of, the respective successors and assigns of the Beneficiary and the Grantor. References herein to the Grantor or the Beneficiary are deemed to include such successors and assigns. Wherever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall apply to all genders. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

21. Waiver of Marshalling. The Grantor, any party who consents to this Deed of Trust and any party who now or hereafter acquires a lien on the Mortgaged Property and who has actual or constructive notice of this Deed of Trust, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

22. Environmental Matters. Grantor covenants and represents that, to the best of its knowledge, there are no Hazardous Materials (as hereinafter defined) generated, released, incorporated, stored, buried or deposited over, beneath, in or upon the Property, nor will there be, for so long as any of the Indebtedness secured hereby remains outstanding. For purposes of this Deed of Trust, "Hazardous Materials" shall mean and include any flammable explosives, petroleum (including crude oil) or any fraction thereof, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of toxic or hazardous substances, wastes, or materials under any federal or applicable state or local laws, ordinances or regulations dealing with or otherwise pertaining to toxic or hazardous substances, wastes or materials. Such laws, ordinances and regulations are hereinafter collectively referred to as the "Hazardous Materials Laws."

Grantor shall be solely responsible for, and shall indemnify and hold harmless Beneficiary, its directors, officers, employees, agents, successors and assigns from and against, any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence (whether prior to or during the term of the Loan or otherwise and regardless of by whom caused, whether by Grantor or any predecessor in title or any owner of land adjacent to the Mortgaged Property or any other third party, or any employee, agent, contractor or subcontractor of Grantor or any predecessor in title or any such adjacent land owner or any third person) of Hazardous Materials in, on, under or about the Mortgaged Property.

23. Further Assurances. At any time and from time to time until payment in full of the Indebtedness, Grantor will, at the request of the Beneficiary, promptly execute and deliver to the Beneficiary such additional instruments as may be reasonably required further to evidence the lien of this Deed of Trust and further to protect the security interest of the Beneficiary with respect to the Mortgaged Property.

24. Notice. Any notice from the Beneficiary or the Trustee to the Grantor, or from the Grantor to the Beneficiary, under this Deed of Trust shall be deemed to have been given by the party giving the notice and received by the Grantor or the Beneficiary, as the case may be, when mailed by certified mail, return receipt requested, or by overnight express mail or courier service, to the addresses of the Grantor or the Beneficiary, as the case may be, set out in the first paragraph of this Deed of Trust.

25. Governing Law; Severability. This Deed of Trust shall be governed by the substantive laws of the State of Colorado. In the event that any provision or clause of this Deed of Trust conflicts with applicable law or the application thereof under any particular circumstance to any particular person or entity conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provisions or the applicability of such provisions to other persons or entities or to such persons or entities under other circumstances and to this end the provisions of the Deed of Trust are declared to be severable.

26. The provisions of Section 10 of Note are hereby incorporated in this Deed of Trust by reference as if fully stated herein.

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be duly executed as of the day and year first above written.

Aurora/Arapahoe Battered Woman's Shelter Inc.

By: _____

Karl Chen Board Treasurer Gateway Domestic Violence Services

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing DEED OF TRUST was acknowledged before me this 28th day of April, 2021 by, Karl C Chen.

Witness my hand and official seal.

My commission expires: June 08 2025.

_____
Notary Public

AJAY PARMAR
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174024353
MY COMMISSION EXPIRES JUNE 08, 2025

EXHIBIT A
TO
DEED OF TRUST

Legal Description:

EXHIBIT B
TO
DEED OF TRUST

The following monetary liens and charges in order of priority:

NEIGHBORHOOD SERVICES DEPARTMENT

Community Development Division
15151 E Alameda Pkwy #4500
Aurora, Colorado 80012
303-739-7900

NOTICE OF FINAL COMPLETION:

NAME OF CONTRACTOR: _____
ADDRESS OF CONTRACTOR: _____
_____
City State Zip Code

Rehabilitation Program: _____

Project Name: _____
Project Address: _____
_____
City State Zip Code

Project #: _____ **P.O. #:** _____ **Date Issued:** _____

1. The City of Aurora, Community Development Division has reviewed the work performed under this contract and found it to be complete as of _____.

2. The one-year warranty period which started on _____ (the date of Substantial Completion) shall expire on _____ with the exception of the following items, on which the one-year warranty period stated and will expire as follows:

ITEM	WARRANTY STARTED	WARRANTY EXPIRES
N/A		

APPROVALS:

By: _____ Date: _____
(Rehabilitation Specialist)

By: _____ Date: _____
(Rehabilitation Supervisor)

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)

The following certifications are self-identified, but the City reserves to right to require additional information for further verification of status.

QUALIFICATION AS A

LOCAL BUSINESS CONCERN

BUSINESS NAME_____

BUSINESS ADDRESS_____

INDICATE TYPE OF BUSINESS (CHECK ONE)

☐ Sole Proprietorship

☐ Partner or Joint Venture

☐ Corporation

INDICATE RESIDENTIAL ZIP CODE OF PRINCIPLE OWNER(S)

Name and Zip Code	% of Ownership

<ADD LINES AS NEEDED>

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)

SELF-CERTIFICATION

AS A

SMALL BUSINESS ENTERPRISE (SBE)

For more information on size requirements, please see:

http://www.sba.gov/content/table-small-business-size-standards

The North American Industry Classification System (NAICS) code for this award:

_____

The small business size standard the Small Business Administration designates for this award:

$_____ ☒ **U.S. dollars** ☐ **Employees**

Identify the business size status of your firm based on the above small business size standard: (CHECK ONE)

☐ Small Business Enterprise

☐ Large Business/Not an SBE

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)

SELF-CERTIFICATION

AS A

MINORITY BUSINESS ENTERPRISE (MBE)

or

WOMEN'S BUSINESS ENTERPRISE (WBE)

A **Minority Business Enterprise (MBE)** is an independent business concern that is at least 51% owned and controlled by one or more minority persons who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the US or its territories; and whose management and daily operation is controlled by one or more of the minority owners. (Minority Eligibility: A person who is Black or African-American, American Indian or Alaska Native, Asian, and/or Hispanic.)*

A **Women's Business Enterprise (WBE)** is an independent business concern that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the US or its territories; and whose management and daily operation is controlled by one or more of the women owners.*

Please identify the status of your firm based on the definitions above:

(CHECK ONE)

☐ Minority-owned business

[___ African American ___ Native American ___ Hispanic American ___ Asian/Pacific American ___ Hasidic Jew]

☐ Woman-owned business

☐ Not a MBE or WBE

**NOTE: If your firm qualifies under both categories, please check Woman-owned business only*

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)

SELF-CERTIFICATION

AS A

SECTION 3 BUSINESS CONCERN

A Section 3 Business Concern is one:

- That is at least 51 percent or more owned by Section 3 residents,
- Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
- That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to a Section 3 business concern.

Section 3 Residents are:

- Residents of Public Housing in the Denver-Metro Area
- Low and very-low income persons who live in the metropolitan area where a HUD-assisted project for housing or community development is located, i.e. the Denver-Aurora Metropolitan Statistical Area (Denver-Metro region).
    - See attached income chart

Please identify the status of your firm based on the definitions above: (CHECK ALL APPLICABLE)

☐ Section 3 Business Concern

☐ Meets ownership criteria

☐ Meets employment criteria

☐ Meets subcontracting criteria

☐ Not a Section 3 Concern

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)

I certify that to the best of my knowledge, all statements made on this document are true and correct. I understand that it may be a federal crime to knowingly make any false statements concerning any of the above facts as applicable under the provisions of the United States Criminal Code.

Name (Print): _____

Title: _____

Signature: _____ Date: _____

2018 80% AMI Household Income Limits
(Effective June 1, 2018)

HOUSEHOLD SIZE (# of persons)	MAXIMUM INCOME
1	$50,350
2	$57,550
3	$64,750
4	$71,900
5	$77,700
6	$83,450
7	$89,200
8	$94,950

CERTIFICATIONS OF STATUS
(LOCAL / SBE / MBE/WBE / SECTION 3)
SECTION 3 RESIDENT SELF-CERTIFICATION

PROJECT NAME AND ADDRESS:

_____

HIRING CONTRACTOR:

_____

_____

I qualify as a Section 3 Resident because:

☐ I am a resident of public housing in the Denver-Metro Area

Or

☐ I live within the Denver-Metro Area and my household income is at or below the 80% AMI limit for my household size as listed in the scale provided below.*

** Report income level at time of application, not after hire.*

2018 80% AMI Household Income Limits
(Effective June 1, 2018)

HOUSEHOLD SIZE (# of persons)	MAXIMUM INCOME
1	$50,350
2	$57,550
3	$64,750
4	$71,900
5	$77,700
6	$83,450
7	$89,200
8	$94,950

_____

☐ **I am not a Section 3 Resident.**

_____

I certify that to the best of my knowledge, all statements made on this document are true and correct. I understand that it may be a federal crime to knowingly make any false statements concerning any of the above facts as applicable under the provisions of the United States Criminal Code.

Employee Name (Print): _____

Employee Residential Address: _____

City_____ Zip_____

Employee Signature: _____ Date: _____

"General Decision Number: CO20200016 08/28/2020

Superseded General Decision Number: CO20190016

State: Colorado

Construction Type: Building

County: Arapahoe County in Colorado.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to

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the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the
Davis-Bacon Related Acts, including those set forth at 29 CFR
5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available
at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020
1	01/10/2020
2	01/24/2020
3	08/28/2020

CARP0055-001 11/01/2019

	Rates	Fringes
CARPENTER (Acoustical Ceiling Installation and Drywall Hanging Only)	$ 29.95	10.99

* CARP1607-001 06/01/2020

	Rates	Fringes
MILLWRIGHT	$ 35.50	14.68

ELEC0068-013 06/01/2019

	Rates	Fringes
ELECTRICIAN (Excludes Low Voltage Wiring)	$ 36.50	16.18

ELEV0025-001 01/01/2020

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	Rates	Fringes
ELEVATOR MECHANIC	$ 46.53	35.245

FOOTNOTE:
a.Vacation: 6%/under 5 years based on regular hourly rate for all hours worked. 8%/over 5 years based on regular hourly rate for all hours worked.
b. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.

ENGI0009-017 05/01/2018

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane)		
141 tons and over	$ 31.07	10.70
50 tons and under	$ 28.40	10.70
51 to 90 tons	$ 28.57	10.70
91 to 140 tons	$ 29.55	10.70

IRON0024-009 11/01/2019

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 30.85	11.92

IRON0024-011 11/01/2019

	Rates	Fringes
IRONWORKER, STRUCTURAL	$ 30.85	11.92

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PAIN0079-006 08/01/2017

	Rates	Fringes
PAINTER (Brush, Roller and Spray; Excludes Drywall Finishing/Taping)	$ 20.50	8.41

PAIN0079-007 08/01/2017

	Rates	Fringes
DRYWALL FINISHER/TAPER	$ 21.20	8.41

PAIN0419-001 07/01/2016

	Rates	Fringes
SOFT FLOOR LAYER (Vinyl and Carpet)	$ 20.00	10.83

PAIN0930-002 07/01/2019

	Rates	Fringes
GLAZIER	$ 31.92	10.49

PLUM0003-009 06/01/2018

	Rates	Fringes
PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation)	$ 35.48	15.94

PLUM0208-008 06/01/2018

	Rates	Fringes
PIPEFITTER (Includes HVAC		

Pipe and Unit Installation; Excludes HVAC Duct Installation)	$ 37.55	14.95

SFCO0669-002 04/01/2017

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers)	$ 36.73	20.47

SHEE0009-004 07/01/2019

	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation; Excludes HVAC Pipe and Unit Installation)	$ 34.62	17.95

SUCO2013-002 07/31/2015

	Rates	Fringes
BRICKLAYER	$ 21.96	0.00
CARPENTER (Metal Stud Installation Only)	$ 17.68	0.00
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Hanging, and Metal Stud Installation	$ 23.83	5.63
CEMENT MASON/CONCRETE FINISHER	$ 20.33	6.76
ELECTRICIAN (Low Voltage Wiring)	$ 31.60	7.38
INSULATOR - MECHANICAL		

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(Duct, Pipe & Mechanical System Insulation)	$ 23.12	7.97
LABORER: Common or General	$ 15.21	4.54
LABORER: Mason Tender - Brick	$ 15.99	0.00
LABORER: Mason Tender - Cement/Concrete	$ 16.00	0.00
LABORER: Pipelayer	$ 16.96	3.68
OPERATOR: Backhoe/Excavator/Trackhoe	$ 20.78	5.78
OPERATOR: Bobcat/Skid Steer/Skid Loader	$ 19.10	3.89
OPERATOR: Grader/Blade	$ 21.50	0.00
ROOFER	$ 16.96	0.00
TRUCK DRIVER: Dump Truck	$ 17.34	0.00
WATERPROOFER	$ 16.94	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

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Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local),

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a survey rate (weighted average rate) or a union average rate
(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed
in dotted lines beginning with characters other than ""SU"" or
""UAVG"" denotes that the union classification and rate were
prevailing for that classification in the survey. Example:
PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of
the union which prevailed in the survey for this
classification, which in this example would be Plumbers. 0198
indicates the local union number or district council number
where applicable, i.e., Plumbers Local 0198. The next number,
005 in the example, is an internal number used in processing
the wage determination. 07/01/2014 is the effective date of the
most current negotiated rate, which in this example is July 1,
2014.

Union prevailing wage rates are updated to reflect all rate
changes in the collective bargaining agreement (CBA) governing
this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that
no one rate prevailed for this classification in the survey and
the published rate is derived by computing a weighted average
rate based on all the rates reported in the survey for that
classification. As this weighted average rate includes all

rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates
the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates
the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007
in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion
date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a
new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union
average rate. OH indicates the state. The next number, 0010 in
the example, is an internal number used in producing the wage
determination. 08/29/2014 indicates the survey completion date
for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of
each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is
based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can
be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on
  a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests
for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted
because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial
contact is not satisfactory, then the process described in 2.)
and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator
(See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION"

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RESOLUTION NO. R2021- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF THE COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND AURORA/ARAPAHOE BATTERED WOMAN'S SHELTER, INC. DBA GATEWAY VIOLENCE SERVICES

WHEREAS, the Community Development Division utilizes an Affordable Gap Financing application that aligns with the CHFA tax credit application deadline, to simplify and streamline the application process for the entities interested in building or rehabilitating a structure used for affordable housing as well as other capital needs; and

WHEREAS, Aurora/Arapahoe Battered Woman's Shelter, Inc., dba Gateway Violence Services ("Gateway") has applied for a Community Development Block Grant ("CDBG") loan to renovate their facility; and

WHEREAS, the 2020 Affordable Housing Gap Financing Review Committee evaluated the application from Gateway and recommends a CDBG loan amount of $300,000 for this project; and

WHEREAS, CDBG funds may be used to rehabilitate facilities, 24 CFR § 5305(a)(1)(B).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. The Aurora City Council resolves to approve the 2020 Affordable Housing Gap Financing Review Committee's award of $300,000 in a CDBG Loan for Aurora/Arapahoe Battered Woman's Shelter, Inc., dba Gateway Violence Services for renovation of their facilities.

Section 2. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

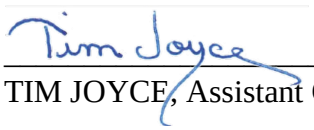
RESOLVED AND PASSED this _____ day of _____. 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



TIM JOYCE, Assistant City Attorney

CITY OF AURORA
Council Agenda Commentary

Item Title: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE 2020 AFFORDABLE HOUSING GAP FINANCING PROGRAM FUNDING RECOMMENDATION FOR THE HABITAT FOR HUMANITY MOUNTAIN VIEW PROJECT
Item Initiator: Rodney M. Milton, Manager of Community Development
Staff Source/Legal Source: Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The purpose of the Affordable Gap Financing Application is to simplify the process for developers or service providers who are interested in building or rehabilitating a structure used for housing as well as other capital needs. Projects that address housing needs from permanent supportive housing for homeless individuals to for sale products will be considered. All applicants will be asked how their proposals help achieve goals and recommendations within the Housing Strategy and this will be established as one of the evaluation criteria. This process will build upon an existing application process establishing new and efficient ways to evaluate developments which will insure an equitable and systematic process to select projects that will fit the city's need. By streamlining applications, it will reduce the need for developers to produce duplicate information when utilizing multiple funding sources including State and Colorado Housing and Finance Authority (CHFA). Creating one application form will also allow for staff to operate with greater efficiency, decreasing the time needed for evaluation. In order to align with CHFA's tax credit application process the City's application process will take place on a bi-annual basis ahead of CHFA's application deadlines. CHFA funding will not apply to all applicants but will allow for a review process for all types of application on a routine basis.
Housing Strategy Alignment: The Aurora Housing Strategy focuses on the most effective, efficient, and outcome-proven methods to expand housing options in the city, with a focus on:

1) Increase and leverage existing resources to address housing needs
2) Set housing goals and manage housing investments to achieve those goals
3) Preserve existing housing while increasing the supply of housing for households across the income spectrum
4) Improve regulatory processes as needed to reduce the cost of housing development
types of Projects Funded: New rental or for-sale affordable housing, rehabilitation of existing affordable housing, permanent supportive housing, homeless program providers with capital needs.

Funding Sources: Amounts will vary from year to year based on changing federal grant allocations, program income received, and funding needs for other programs. Sources will include some or all of the following: HOME (Home Investment Partnership Program) funds and CDBG (Community Development Block Grant) funds. The city currently holds approximately $2.5 million in HOME funds and $400,000 of CDBG funds that were included in the 2020 gap financing round. Due to COVID 19 the entitlement process for this development and this agreement were slowed down so that is why it is coming forward in 2021.

Application Components/Evaluation Criteria: Alignment with Housing Strategy, meets an identified housing need in the community, demographics to be served by the project, average median income to be served by the project, cost effectiveness, leveraging of funding, review of sources and uses, funding sustainability, available city funding sources based on project type, developer or organization experience, surrounding compatible uses.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Habitat Metro Denver intends to enter into Ground Lease and Development Agreement with Mountain View United Church to develop a 20-home affordable for-sale community in Aurora. As a part of the Development Agreement, Habitat will work to partner with a local nonprofit provider to match 2-5 homebuyers who will serve as hosts to Individuals with Developmental Disabilities. The proposed development creates a balance between affordability, livability and neighborhood context by creating a medium density development centered around a cul-de-sac typology that is common in the area. The project is currently going through a rezoning process and engaging with the community. The Habitat Real Estate Team is confident that the current plan is consistent with the rezoning review criteria and supported by the Aurora Places Comprehensive Plan. Upon obtaining entitlement approvals Habitat will close on the Ground Lease. This development is a great opportunity to provide affordable housing in a high opportunity area of Aurora.

QUESTIONS FOR COUNCIL

Does council support awarding $450,000 in HUD HOME funds to Habitat for Humanity of Metro Denver for the creation of permanently affordable homeownership opportunities in Aurora?

LEGAL COMMENTS

City Council has authority to designate funding allocations as determined by the Community Development Plan Agreement with U.S. Department of Housing and Urban Development (HUD) which provides for the needs and objectives of the local community pursuant to guidelines and regulations in 24 C.F.R. § 570.

Home Investment Partnership Program (HOME) funds may be used to provide incentives to develop and support affordable rental housing and homeownership affordability through acquisition, new construction, reconstruction or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. (24 C.F.R. §92.205(a)(1))

City Council has the authority to promote the health, safety, and welfare of its citizens. (City Code § 2-32) City Council shall act by ordinance, resolution, or motion. (Charter Art. 5-1) Contracts of at least $50,000 but less than $2,000,000 shall be approved by City Council. (City Code § 2-672) (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: The city currently holds approximately $2.5 million in HOME funds. The HFH Mountain View project will utilize $4500,000 in HOME funds.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

RESOLUTION NO. R2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE 2020 AFFORDABLE HOUSING GAP FINANCING PROGRAM FUNDING RECOMMENDATION FOR HABITAT FOR HUMANITY OF METRO DENVER

WHEREAS, the Community Development Division and the Homelessness Division uses an Affordable Gap Financing application to simplify and streamline the application process who are interested in building or rehabilitating a structure used for housing as well as other capital needs; and

WHEREAS, the City uses Affordable Gap Financing for projects that address housing needs including providing permanent supportive housing for individuals experiencing homelessness; and

WHEREAS, the City currently has $2.5 million in Home Investment Partnership Program (HOME) funds and $400,000 in Community Development Block Grant (CDBG) funds to allocate for its Gap Financing 2020; and

WHEREAS, Habitat for Humanity of Metro Denver submitted a proposal to create up to twelve permanent affordable housing home ownership opportunities using HOME funds; and

WHEREAS, the 2020 round of Affordable Housing Gap Funding Review Committee evaluated the application and recommends a HOME Grant amount of $450,000 for Habitat for Humanity's proposed project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Aurora City Council resolves to approve the 2020 round of Affordable Gap Financing Review Committee's award of $450,000 in a HOME Grant for Habitat for Humanity of Metro Denver.

Section 2. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this_____day of_____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Tim Joyce RLA

TIM JOYCE, Assistant City Attorney

HOME INVESTMENT PARTNERSHIPS PROGRAM
CFDA 14.239 Award M-20-MC-08-0201
Owner/Developer Loan Agreement

THIS AGREEMENT is entered into by and between the City of Aurora, Colorado, a municipal corporation, (the "City"), and Habitat for Humanity of Metro Denver, Inc., 3245 Eliot Street, Denver, Colorado 80211-3287, DUNS # 19-893-7666, acting as Owner and Developer of Mountain View, a portion of the vacant Parcel No. 1973-26-2-05-012, located approximately at 10810 East Evans Avenue, Aurora, Colorado, 80014, hereinafter to as "Owner/Developer".

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, the United States Government, through the National Affordable Housing Act of 1990 ("NAHA") Pub. L. No. 101-625 has established the Home Investment Partnership Act Program (HOME) and has designated the City of Aurora as a Participating Jurisdiction (PJ) to administer such federal funds, subject to certain conditions, for the purpose of expansion and rehabilitation of the supply of decent, safe, sanitary, and affordable housing. One hundred percent (100%) of the total households assisted with HOME funds for homeownership must be used to benefit persons whose income is equal to or less than eighty percent (80%) of area median income (AMI).

WHEREAS, the City has elected to administer such federal funds for its entitlement areas through the Office of Community Development; and

WHEREAS, the City has a desire to expand the supply of affordable housing by means of an Acquisition Program, New Housing Construction, a Rehabilitation Program for owners, a Multi-Family Rehabilitation Program, Tenant Based Rental Assistance (TBRA) and the use of a Community Housing Development Organization (CHDO), and

WHEREAS, the Owner/Developer is to receive HOME funds;

NOW THEREFORE it is hereby agreed that:

1. Scope of Services / Use of Funds – In consideration for the monies to be received from the Home Investment Partnership Act Program, the Owner/Developer shall do, perform, and carry out, in a satisfactory and proper manner, as determined by the City, all work elements as indicated in the "Scope of Services," set forth in Exhibit A, which is attached hereto and is incorporated herein by reference, and is hereinafter referred to as the "Project." Work performed prior to the execution of this Agreement shall not be considered part of this Project.

2. Responsible Administrator – The performance of the services required hereunder shall be under the direct supervision of the person named in the Scope of Services and shall be an employee or agent of the Owner/Developer, and who is hereby designated as the administrator-in-charge of this Project. At any time the administrator-in-charge is not assigned to this Project, all work shall be suspended until the Owner/Developer assigns a mutually acceptable replacement administrator-in-charge and the City receives notification of such replacement assignment.

3. Time of Performance – This Agreement shall become effective upon proper execution of this Agreement. The Project contemplated herein shall commence as soon as practicable after the execution of this Agreement and shall be undertaken and performed in the sequence set forth in the attached Scope of Services. The Owner/Developer agrees that time is of the essence in the performance of its obligations under this Agreement, and that completion of the Project shall occur no later than the termination date set forth in the Scope of Services.

4. Form of Subsidy - HOME funds in the amount not to exceed Four Hundred Fifty Thousand Dollars and 00/100 ($450,000.00) will be provided for eligible construction costs and soft costs as identified in the HOME funding application. The HOME funds will be provided as a loan with terms described in this Agreement and attached Exhibits.

5. Eligible Activities – All Project activities shall be eligible under and in compliance with 24 CFR Part 92, of the Home Investment Partnership Act Program, Section 212 of the National Affordable Housing Act of 1990, as amended, and all related regulations.

6. Obligation, Expenditure and Disbursement of Funds

a) Prior Expenses – All Project related expenses must be reasonable and necessary. The following prior expenses incurred up to 24 months prior to the date that HOME funds are committed, eligible for reimbursement include: Professional Fees – architect, attorney, and consultant fees.

b) Environmental Review Procedures – Funds shall not be obligated or utilized for any activities requiring a release of funds by the City and the U.S. Department of Housing and Urban Development (HUD) under the Environmental Review Procedures for the HOME program at 24 CFR Parts 50 and 58 until such release is issued in writing by the City and HUD. Administrative costs, reasonable engineering and design costs, and costs of other exempt activities identified in 24 CFR 58.34 (a) (1) through (10) do not require a release of funds by HUD. For categorically excluded activities listed in 24 CFR 58.35 (a) determined to be exempt because there are no circumstances which require compliance with any other federal laws and authorities cited at 24 CFR 58.50 the City must make and document such a determination of exemption prior to the Owner/Developer incurring costs for such activities.

c) Environmental Review Specifics

The Owner/Developer agrees that no HOME funds will be legally obligated to any Project activity before the City has completed environmental review procedures, as required by 24 CFR Part 58.

The City is responsible for environmental review of this Project. However, the Owner/Developer will assemble and make available all information as required by the City to complete the environmental assessment and/or statutory checklist, as applicable.

The Owner/Developer must ensure that any project over $100,000 complies with standards, orders and requirements issued under 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations at 40 C.F.R. Part 15.

i. Flood Insurance – For acquisition, rehabilitation, or construction in special flood hazard areas (as determined by FEMA), property must have flood insurance. Program administration procedures of such funded activities must provide the City with proof this flood insurance has been obtained and remains in effect for the life of work.

ii. Energy Efficiency – Owner/Developer must ensure compliance with mandatory energy efficiency standards and policies in State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

iii. Lead-Based Paint – Per section 24 CFR.570.608, Owner/Developer must comply with prohibition on use of lead-based paint in residential structures. This requires notification of occupants. Implementing procedures shall provide for inspection, testing and abatement in specified circumstances.

iv. Asbestos – Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding workers exposure, abatement procedures and disposal.

7. Consolidated Plan – Prior to receiving an award of HOME funds from the City, and if a Consolidated Plan certification is required, the City shall certify that this Project is consistent with the City's approved Consolidated Plan.

8. Displacement, Relocation, and Acquisition – The Owner/Developer shall follow the requirements of 24 CFR 92.353. The Owner/Developer must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms), as a result of the activities of its Project as required by federal regulations: 24 CFR Part 24; Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4665); 49 CFR Part 24; 24 CFR Part 42 (subpart B); and Section 104(d) "Barney Frank Amendments". Notice shall be given by the Owner/Developer of the actions to be undertaken and shall advise the tenants that displacement or relocation may be required on their part. If displacement should occur the Owner/Developer shall ensure that:

a) relocation benefits shall be provided for all families whose occupied housing is demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and, in the case of displaced persons of low and moderate income, provide either:

    i. compensation sufficient to ensure that, for a 42-month period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

    ii. if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under sub-clause (i) to permit the household to secure participation in a housing cooperative or mutual housing association;

b) persons displaced shall be relocated into comparable replacement housing that is:

    i. decent, safe, and sanitary;

    ii. adequate in size to accommodate the occupants;

    iii. functionally equivalent to the displacement dwelling; and,

    iv. in an area not subject to unreasonably adverse environmental conditions from either natural or human sources.

Persons displaced shall have the right to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, if such persons determine that it is in their best interest to do so; and, where a claim for assistance under subparagraph (b) is denied by the Owner/Developer, the claimant may appeal to the City and then to HUD, and that the decision of the City shall be final unless HUD or a court determines the decision was arbitrary and capricious.

9. Affordability Requirements – The Owner/Developer shall ensure that housing units produced through the activities of new construction and/or through rehabilitation of existing units remain affordable for the period required under 24 CFR Part 92, Section 254(a) (b) (c) (d) and Section 252(a) (b) (c) (d) (e), respectively and will require repayment of funds if the housing does not meet the affordability requirements for the specified time. Affordability requirements specific to this Project are further defined and described in Exhibit A "Scope of Services". The City's interest in the Affordability Requirements shall be secured by a recorded Deed of Trust, Deed Restriction, Land Covenant, or Affidavit.

10. Affirmatively Furthering Fair Housing – The Owner/Developer shall affirmatively further fair housing in addition to conducting and administering its Project in conformity with the equal opportunity requirements of Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, as required herein. Affirmative Marketing requirements apply throughout the affordability period.

11. Affirmative Marketing Plan – The Owner/Developer shall prepare and follow an affirmative marketing plan if the HOME assisted rental or homeowner Project contains five (5) or more HOME assisted housing units.

a) Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. If the Owner/Developer limits tenant eligibility or to have a tenant preference in accordance with 24 CFR 92.253(d)(3), the Owner/Developer must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the Project. The plan must have provisions to annually assess the affirmative marketing program to determine the success of affirmative marketing actions and any necessary corrective actions.

b) The affirmative marketing requirements and procedures adopted must include:

i. Methods for informing the public, owners, and potential tenants about federal fair housing laws and the Owner/Developer or Contractors affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);

ii. Requirements and practices each Owner/Developer or Contractor must adhere to in order to carry out the Owner/Developer or Contractor's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);

iii. Procedures to be used by Owner/Developers or Contractors to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing program or the housing without special

outreach (e.g., through the use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);

iv. Records that will be kept describing actions taken by the Owner/Developer or Contractor to affirmatively market the program and units and records to assess the results of these actions; and

v. A description of how the Owner/Developer or Contractor will assess the success of affirmative marketing actions.

Affirmative Marketing requirements apply throughout the affordability period. The City reserves the right to review records that document the Owner/Developer's affirmative marketing actions on an annual basis. The Owner/Developer must take corrective actions when the affirmative marketing requirements are not met, in accordance with 24 CFR 92.351(a)(2)(v). The City reserves the right to amend the affirmative marketing procedures, and notify the Owner/Developer of the changes, without an amendment to this Agreement.

12. Minority Outreach – The Owner/Developer must prescribe to the City the procedures it will use to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal service. Affirmative steps, to be taken are the following:

a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

b) Assuring that small and minority businesses, and women's business enterprises are solicitated whenever they are potential sources;

c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

e) Using the services and assistance of the Small Business Development Agency of the Department of Commerce; and,

f) Requiring the prime contractor, if subcontracts are to be let, to take all of the above-mentioned affirmative steps.

13. Financial Management – At all times from the effective date of this Contract until completion of Project activities under this Agreement, the Owner/Developer shall comply with the administrative requirements, cost principles and other requirements consistent with 2 CFR Part 200.

14. Compensation and Payment – The City has allocated for the Owner/Developer in the City's allocation of HOME funds, in consideration for the work and services to be performed, a total amount not to exceed the amount listed in the Scope of Services. The method and time of payment shall be made in accordance with the "Payment Method" set forth herein.

15. Payment Method – The Owner/Developer shall request payments from the City.

a) Payment – Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in the Scope of Service and in accordance with performance. Appropriate documentation (copies of invoices, billings, time and activity cards, proof of payments including checks and/or bank statements, etc.) must be attached to drawdowns and approved by staff. Reimbursements may be held up for monitoring of activities.

b) Expenditure Restrictions – All HOME funds that are approved by HUD for expenditure under the City's loan agreement may be allocated to the specific activities described and listed in the Scope of Services. The allocated funds shall be used and expended only for the Project and activity to which the funds are identified. Accordingly, the Owner/Developer agrees that, as to its Project or activity performed or conducted under any agreement regarding the HOME Program, the City shall have the necessary administrative control required to meet HUD requirements.

c) Reimbursement of Expenses – The Owner/Developer agrees that before the City can distribute any HOME funds to them, the Owner/Developer must submit to the City's Office of Community Development documentation of expenses in the form required by that office. After verification of work completed, HOME funds shall be disbursed in the City's method of disbursement within 21 days from approval of invoice. Additionally, the Owner/Developer agrees that the City shall retain five percent (5%) of the City's award amount specified in Exhibit A until all final payment requirements are met.

16. Program Income – Under 24 CFR 92.2, "Program income" is defined as gross income received by the participating jurisdiction (PJ), State recipient, or Subrecipient directly generated from the use of HOME funds or matching contributions. "Subrecipient" means a public agency or nonprofit organization selected by the participating jurisdiction to administer all or a portion of the participating jurisdiction's HOME program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The Owner/Developer is not a PJ, State recipient, or subrecipient, and therefore HOME Program Income requirements are not applicable to this Project.

17. Asset Management – Upon completion of an Owner/Developer Project, the Owner/Developer shall transfer to the City any HOME funds on hand and any accounts receivable, which are attributable to the use of HOME funds, if applicable.

18. Reporting Requirements – The Owner/Developer shall file all reports and other information necessary to comply with applicable federal laws and regulations as required by the City and HUD. This shall include providing to the City information necessary to complete the Annual Performance Reports in a timely fashion. The City reserves the right to revise reporting requirements for the Project, as needed and without formal written amendment to this Agreement.

a) Each Owner/Developer Drawdown Request will include an invoice detailing expenditure for the period that payment is being requested.
b) Quarterly Reports are due until Project completion as follows:

1. January 1 to March 31 – due April 30
2. April 1 to June 30 – due July 31
3. July 1 to September 30 – due by October 31
4. October 1 to December 31 – due by January 31

c) Annual Reports (covering January 1, - December 31, of each year) are due by January 31st.
d) Project Completion Reports are due thirty (30) days upon completion of Project.
e) Annual Audit Reports that comply with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" aka "Super Circular" are due within nine (9) months of the audit period and a copy of the most recent audit shall be forwarded to the City within thirty (30) days of completion.
f) Quarterly reporting of Subrecipient Proceeds including payments received, consisting of any principal or interest and any interest earned from funds being on deposit, if applicable.
g) Reports as required in the Scope of Services.

19. Documentation and Recordkeeping

a) <u>Records to be Maintained</u> –

The Owner/Developer shall maintain adequate Project records as required by the federal regulations specified in 24 CFR Part 92.508(a)(3) and that are pertinent to the activities to be funded under this Agreement, including, but not limited to:

i. A full description of each activity undertaken;
ii. Records demonstrating that the activity undertaken meet the requirements of the HOME Program;
iii. Records required determining the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance;

v. Records documenting compliance with the federal fair housing and equal opportunity components of the HOME program;
vi. Records documenting compliance with the affirmative marketing and minority outreach requirements of the HOME program;
vii. Financial records of vouchers and reimbursements;
viii. Records concerning other Federal requirements as per 24 CFR 92.508(a)(7).
ix. Other records necessary to document compliance with applicable sections of Subpart H of 24 CFR 92; and,
x. Reports as required in the Scope of Services.

b) Retention – The Owner/Developer shall retain all records pertinent to expenditures incurred under this contract for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this contract shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Records related to affordability compliance must be kept for five (5) years after expiration of the affordability period.

c) Client Data – The Owner/Developer shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, family size, family type, race, ethnicity, number of bedrooms in each unit, total rent paid by tenant, and description of service provided. Such information shall be made available to the City monitors or their designees for review upon request. Client data pertaining to loans generating Program Income will also be transferred, along with the asset, to the City upon Project closeout, if applicable.

d) Disclosure – The Owner/Developer understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Owner/Developer's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such persons receiving service and, in the case of a minor, that of a responsible parent/guardian.

e) Property Records – If applicable, the Owner/Developer shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "*Affordability Requirements*" restrictions specified in Section 9 of this Agreement.

f) Final Payment – Final payment to the Owner/Developer by the City under this Agreement shall not be made until all final payment requirements are completed. Activities for final payment shall include, but are not limited to:

i. Making final payments;

ii. Submitting final invoices, reports and documentation;

iii. Disposing of program assets, if applicable;

iv. Remitting any accounts receivable to the City;

v. Determining the custodianship of records; and

vi. Owner/Developer shall comply with the guidelines for financial and compliance audits of federally assisted programs per 2 CFR Part 200.

Nothing in this section shall be construed as relieving the Owner/Developer of its documentation and reporting requirements related to compliance with the Project's long-term affordability period as detailed in the Scope of Services.

g) Audits & Inspections – All Owner/Developer records with respect to any matters covered by this Agreement shall be made available to the City, HUD, their designees or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. The Owner/Developer hereby agrees to have an annual financial audit conducted and a copy provided to the City. Any deficiencies noted in audit reports relevant to this Project must be fully cleared by the Owner/Developer within 30 days after receipt by the Owner/Developer. Failure of the Owner/Developer to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments.

h) Access to Records – The Owner/Developer shall furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

20. Contract Suspension – If the Owner/Developer fails to comply with any contractual provision, the City may, after notice to the Owner/Developer, suspend the contract and withhold further payments or prohibit the Owner/Developer from incurring additional obligations of contractual funds, pending corrective action by the Owner/Developer or a decision to terminate in accordance with provisions herein. The City may determine to allow such necessary and proper costs, which the Owner/Developer could not reasonably avoid during the period of suspension provided such costs were necessary and reasonable for the conduct of the Project.

21. Contract Termination – This contract may be terminated as follows:

a) Termination Due to Loss of Funding – The parties hereto expressly recognize that the Owner/Developer is to be paid, reimbursed, or otherwise compensated with federal HOME funds, which may include program income, provided to the City for the purpose of contracting for the services provided for herein, and therefore, the Owner/Developer expressly understands and agrees that all its rights, demands and claims to compensation arising under this Agreement are contingent upon receipt of such funds by the City. In the event that the City thereof does not receive such funds or any part, the City may immediately terminate or amend this Agreement.

b) Termination for Cause – If, through any cause, the Owner/Developer shall fail to fulfill, within ten (10) days of written notice from the City, its obligations under this Agreement, or if the Owner/Developer shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement for cause by giving written notice to the Owner/Developer of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Owner/Developer under this Agreement shall, at the option of the City, become the City's property, and the Owner/Developer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, the Owner/Developer shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of the Agreement by the Owner/Developer, and the City may withhold any payments to the Owner/Developer for the purpose of setoff until such time as the exact amount of damages due the City from the Owner/Developer is determined.

c) Termination for Convenience – The City may terminate this Agreement at any time the City determines that the purpose of the distribution of City HOME monies under the Agreement would no longer be served by completion of the Project. The City shall affect such termination by giving written notice of termination to the Owner/Developer and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in subparagraph 18b above shall, at the option of the City, become the City's property. If the Agreement is terminated by the City as provided herein, the Owner/Developer will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Owner/Developer covered by this Agreement, less payments of compensation previously made: provided, however, that if less than sixty percent (60%) of the services covered by this Agreement have been performed upon the effective date of such termination, the Owner/Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by the Owner/Developer during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of the Owner/Developer, Paragraph 18b hereof relative to termination shall apply.

22. Modification and Amendment

a) Modification by Operation of Law – This Agreement is subject to such modifications as may be required by changes in federal or City law or regulations. Any such required modification shall be incorporated into and be part of this Agreement as if fully set forth herein.

b) Programmatic or Budgetary Modifications – The Owner/Developer shall follow the revision procedures outlined below if programmatic or budgetary modifications are desired:

i. The Owner/Developer must submit a written request to the City and obtain prior written approval from the City, which shall not be unreasonably withheld, under the following circumstances:

(1) when any budget transfers to or between budget categories are proposed;

(2) when the scope, objective, eligibility or completion date of the Project changes;

(3) when additional or less HOME funding is needed;

(4) when revisions pertaining to the addition of other activities are proposed; and

(5) when revisions to approved building/construction or site plans are being made.

ii. Under the following circumstances and in addition to the foregoing procedure, prior approval for changes must be authorized by the City in an amendment to this contract properly executed and approved in accordance with applicable law:

(1) when the scope, objective, eligibility or completion date of the Project changes substantially, as determined by the City; or

(2) when any additional or less HOME funding is needed.

Under such circumstances, the City's approval is not binding until memorialized in the contract amendment.

iii. Other Modifications – If either the City or the Owner/Developer desires to modify the terms of this Agreement, other than as set forth in subparagraphs a and b above, written notice of the proposed modification shall be given to the other party. Except for certain unilateral modification rights expressly reserved by the City within this Agreement, no such modification shall take effect unless agreed to in writing by both parties in an amendment to this Agreement properly executed and approved in accordance with applicable law.

23. Integration – This Agreement, as written, with attachments and references, is intended as the complete integration of all understanding between the parties at this time and no prior or contemporaneous addition, deletion or amendment hereto shall have any force or effect whatsoever, unless embodied in a written authorization or contract amendment incorporating such changes, executed and approved pursuant to applicable law.

24. Conflict of Interest – The Owner/Developer is subject to the conflict of interest provisions under 24 CFR Part 92.356(f):

a) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in a project during the required period of affordability specified in 24 CFR 92.252(e) or 92.254(a)(4). This provision does not apply to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

b) Exceptions. Upon written request of a housing owner or developer, the City may grant an exception to the provisions of paragraph (a) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted Project. In determining whether to grant a requested exception, the participating jurisdiction shall consider the following factors:

i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;

iii) Whether the tenant protection requirements of Sec. 92.253 are being observed;

iv) Whether the affirmative marketing requirements of Sec. 92.351 are being observed and followed; and

v) Any other factor relevant to the participating jurisdiction's determination, including the timing of the requested exception.

25. Compliance with Applicable Laws – At all times during the performance of this Agreement, the Owner/Developer shall strictly adhere to all applicable federal and City laws, orders, and all applicable standards, regulations, interpretations, or guidelines issued pursuant thereto. The applicable federal laws and regulations include:

a) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title III, Real Property Acquisition (Pub. L. 91-646 and implementing regulations at 24 CFR Part 24, 24 CFR Part 42 (subpart B) and Section 104(d) "Barney Frank Amendments", providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally- assisted programs and establishing uniform and equitable land acquisition policies for federal assisted programs. Requirements include bona fide land appraisals as a basis for land acquisition, specific procedures for selecting contract appraisers and contract negotiations, furnishing to owners of property to be acquired a written summary of the acquisition price offer based on the fair market price, and specified procedures connected with condemnation.

b) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title II, Uniform Relocation Assistance (Pub. L. 91-646 and implementing regulations at 24 CFR Part 42), providing for fair and equitable treatment of all persons displaced as a result of any federal or federally assisted program. Relocation payments and assistance, last-resort housing replacement by displacing agency, and grievance procedures are covered under the Uniform Act. Payments and assistance will be made pursuant to state or local law, or the Owner/Developer must adopt a written policy available to the public describing the relocation payments and assistance that will be provided.

c) Davis-Bacon Fair Labor Standards Act (40 USC 276(A)-7), 24 CFR part 92(92.354), 24 CFR Part 70 (volunteers) requiring that, on all contracts and subcontracts where 12 or more HOME-Assisted Units are a part of the budget, laborers and mechanics employed by Owner/Developer shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor. (This requirement applies to the rehabilitation of residential property only if such property is designed for use of twelve (12) or more families.)

   i. Volunteers – The prevailing wage provisions of this Act do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

   ii. Sweat equity – The prevailing wage provisions of this Act do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

d) Contract Work Hours and Safety Standards Act as amended (40 USC 327-333) requiring that mechanics and laborers employed on Home funded projects, that exceed 11 HOME-Assisted Units shall be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work week.

e) Copeland "Anti-Kickback" Act of 1934 (40 USC 276 (c)) prohibiting and prescribing penalties for "kickbacks" of wages in federally-financed or assisted construction activities.

f) The Lead-Based Paint Poisoning Prevention Act of 1971 (42 USC 4821), 24 CFR Part 92 (92.355), 24 CFR Part 35 982,401(j) (except paragraph 982.401(j)(1)(i)) prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance, and requiring notification to purchasers and tenants of such housing of the hazards of lead-based paint and of the symptoms end treatment of lead-based paint poisoning.

g) Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701 (u)), as amended, and 24 CFR part 135 providing that, to the greatest extent feasible, opportunities for training and employment that arise through projects receiving HUD assistance, will be directed to low or very-low income persons of the project area, and that contracts be awarded to Section 3 businesses concerns located in the project area. The Owner/Developer shall certify the Section 3 status of all contractors and shall abide by and include the following Section 3 clause in all applicable Project contracts:

> § 135.38 Section 3 clause.
>
> A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
>
> B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

h) Section 109 of the Housing and Community Development Act of 1974 (42 USC 5309), as amended, providing that no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin or sex under any program or activity funded in whole or in part under Title I (Community Development) of the Act.

i) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 USC 2000 (d)), 24 CFR Part 1 prohibiting discrimination on the basis of race, color, religion or religious affiliation, or national origin in any program or activity receiving federal financial assistance.

j) The Fair Housing Act (42 USC 3601-20), as amended, and 24 CFR Part 100-115 prohibiting housing discrimination on the basis of race, color, religion, sex, national origin, handicap and familial status.

k) Executive Order 11246 (1965), as amended by Executive Orders 11375, and 41 CFR Part 60 prohibiting discrimination on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted contracts.

l) Executive Order 11063 (1962), as amended by Executive Order 12259, and 24 CFR Part 107 requiring equal opportunity in housing by prohibiting discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of housing built with federal assistance.

m) Executive Order 12372, Special Contract Condition Water or Sewer Facilities. Notwithstanding any other provision of this Agreement, no funds provided under this Agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt or written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The City shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this Agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

n) Section 504 of the Rehabilitation Act of 1973 (29 USC 793), as amended, providing that no otherwise qualified individual shall, solely by reason of a handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal funds.

o) Age Discrimination Act of 1975, (42 USC 6101), as amended, and 24 CFR Part 146 providing that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

p) Conditions for Religious Organizations – Religious organizations must comply with CFR Part 24, Subpart C, 570.200 (j) and 24 CFR Part 92 (92.257).

26. Monitoring and Evaluation – The City will monitor and evaluate the Agreement with the Owner/Developer under the HOME program for the effective and efficient utilization of HOME funds. The Agreement will also be monitored for compliance with the rules, regulations, requirements, and guidelines, which the City has promulgated or may promulgate. The Project will be monitored to assure compliance with the requirements of the HOME program

periodically during the operation of the Project and upon its completion and during the required period of affordability.

The Owner/Developer shall notify the City upon key staffing changes during the monitoring period.

The Agreement will also be subject to monitoring and evaluation by HUD.

27. Severability – To the extent that this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term.

28. Binding on Successor – Except as herein otherwise provided, this Agreement shall take effect to the benefit of and be binding upon the parties or any sub-awardees hereto, and their respective successors and assigns.

29. Subletting, Assignment or Transfer – Neither party hereto may sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its rights, title, interest or duties therein, without the prior written consent of the other party. No subcontract or transfer of Agreement shall in any case release the Owner/Developer of liability under this Agreement.

30. Lobbying – The Owner/Developer assures and certifies that:

a) no federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of a federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

b) if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an offer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federally funded contract, grant, loan, or cooperative agreement, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

c) it shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-awardees shall certify and disclose accordingly.

d) it understands that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

31. Survival of Certain Contract Terms – Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Agreement and the exhibits and attachments hereto which may require continued performance or compliance beyond the termination date of the contract shall survive such termination date and shall be enforceable by the City as provided herein in the event of such failure to perform or comply by the Owner/Developer or its subcontractors.

32. Indemnification – To the extent authorized by law, the Owner/Developer shall indemnify, save and hold harmless the City, its employees and agents, for, from and against all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Owner/Developer, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

33. Special Provisions – Because the Owner/Developer is responsible for the direct supervision and administration of its Project or activity, the City shall not be liable or responsible for cost overruns by the Owner/Developer on any project or activity. The City shall have no duty or obligation to provide any additional funding to the Owner/Developer if its Project or activity cannot be completed with the funds allocated by the City to the Owner/Developer. Any cost overruns shall be the sole responsibility of the Owner/Developer.

a) The Owner/Developer agrees that all funds allocated to it for an approved project or activity shall be used solely for the purposed approved by the City. Said funds shall not be used for any non-approved purposes.

b) The Owner/Developer agrees that the funds allocated for any approved project or activity shall be sufficient to complete said project or activity without any additional HOME funding.

34. Construction Insurance and Bonding Requirements

a) Owner/Developer Insurance. During the term of this Agreement, the Owner/Developer shall provide the following insurance coverages:

(1) Commercial General Liability Insurance. The Owner/Developer shall maintain

commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:
$2,000,000 each occurrence
$4,000,000 general aggregate
$4,000,000 products and completed operations

(2) Commercial Automobile Liability Insurance. Owner/Developer shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

(3) Workers' Compensation and Employers Liability Insurance. Owner/Developer shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of: $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate.

b) Contractor Insurance. The Contractor performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance, as indicated below, covering the Contractor, their employees, subcontractors or representatives, along with the activities of any and all subcontractors retained by the or the activities of anyone employed by any of them, or their representatives or anyone for whose acts they may be liable.

(1) Commercial General Liability Insurance. The Contractor shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a minimum period of three (3) years after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted, XCU (Underground, Collapse & Explosion) coverage endorsed and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:

$2,000,000 each occurrence

$4,000,000 general aggregate
$4,000,000 products and completed operations

(2) Commercial Automobile Liability Insurance. Contractor shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of $1,000,000 combined single limit each accident.

(3) Workers' Compensation and Employers Liability Insurance. Contractor shall maintain Worker's Compensation Insurance in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of: $1,000,000 bodily injury for each accident, $1,000,000 bodily injury by disease each employee and $1,000,000 bodily injury disease aggregate.

(4) Umbrella/Excess Liability Insurance. Contractor shall maintain an Umbrella/Excess Liability insurance policy on an occurrence basis in excess of the general liability and coverages specified above, with minimum limits of $5,000,000 per occurrence. The coverage shall be as broad as the underlying general liability and automobile liability policies set forth above. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

(5) Pollution Legal Liability Insurance. The Contractor shall maintain a separate Contractor's Pollution Liability insurance policy covering any bodily injury, liability, and property damage liability, arising out of the collection and disposal of pollutants, including items in transit to a permanent disposal facility, which may arise from activities under or incidental to this agreement. This policy shall be maintained with minimum limits of Two Million Dollars ($2,000,000) per claim or occurrence.

(6) Builder's Risk. The Contractor will provide builder's risk insurance coverage with limits equal to the total value of the Project. Contractor shall name the Developer/Owner and the City of Aurora as loss payees on the policy.

Subcontractors' Insurance Requirements. Subcontractors are subject to the same insurance requirements as the Contractor. The Contractor is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the Project. Any subcontractor which ceases to maintain the insurance coverages set forth above must be removed from the Project until such time that insurance coverage can be verified as in full force and effect.

Limits of Insurance. The total limits of general, automobile liability, employer's liability and excess liability insurance set forth above may be provided to the City using a combination of primary and excess liability insurance.

Additional Insured, Waiver of Subrogation and Deductibles. The Owner/Developer and Contractor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability, Excess Liability and Pollution Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Owner/Developer and Contractor.

Certificates of Insurance. Upon the execution of this Agreement or as soon as practicable, Owner/Developer and its Contractor shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. The name of the bid or the Project must appear on the certificate of insurance. Owner/developer and Contractor agree that the required coverages will not be reduced, canceled, non-renewed or materially changed without thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of the Owner/Developer's and Contractor's coverages are renewed at any time prior to completion of the services, they, not their insurance carriers, shall be responsible for obtaining updated insurance certificates and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate. If a certificate is not available immediately after renewal, a binder showing the coverages have been renewed will be acceptable until a certificate is available.

The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Owner/Developer and Contractor shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances, including increased risk or scope of work. The Owner/Developer's and Contractor's policies will be primary and non-contributory with respect to any and all insurance policies of the City.

If any of the insurance coverages required under this Agreement become unsatisfactory at any time to the City as to form or substance or if the carrier's rating is lowered due to financial issues, the Owner/Developer shall promptly obtain a new policy, submit the same to the City for approval and thereafter submit a certificate of insurance as herein above provided. Failure of the Owner/Developer to comply with any provisions of this contract shall be grounds for immediate suspension or termination of this Agreement. Failure of the Owner/Developer to obtain and/or maintain any required insurance shall not relieve the Owner/Developer from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Owner/Developer concerning indemnification.

Self Insurance/Deductible. If the Contractor has any self-insured retentions or deductibles under any of the required policies, the Contractor must reflect these amounts on the Certificate(s) of Insurance. If requested, the Contractor will provide satisfactory evidence of financial responsibility for such obligations. In any event, Contractor will be solely responsible for any self-insured retentions or deductibles.

Owner/Developers are required to either ensure that all subcontractors are insured under the Owner/Developer's policies or to forward separate mandatory certificates of insurance and endorsements for it to the City. All subcontractors are required to comply with the coverage and limit requirements outlined in this Contract.

c) Bonding – If a Contract/Subcontract funded under this Agreement is for the amount of Two Hundred Fifty Thousand Dollars ($250,000) or more, the Owner/Developer shall provide a bid guarantee of in the amount of five percent (5%) of the Contract price. Additionally, the Owner/Developer shall secure a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the Contract price, with a corporate surety approved by the City and licensed to do business in the State of Colorado, and said bonds to be released at the sole direction of the City.

35. Procurement Standards and Methods

a) General Standards – With respect to procurement of supplies and other expendable property, equipment, real property and other services with HOME funds, the Owner/Developer shall procure in accordance with the City of Aurora HOME Policies and Procedures for Subrecipients, Owners, Developers or Sponsors, as approved by the City.

b) Equipment – Purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built into a structure) of an eligible project or service. Equipment must have prior approval by the City before any expense is incurred. The Owner/Developer shall comply with its own current policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, accounts receivable, etc.) shall revert to the City upon termination of this contract.

c) DEBARRED Contractors – Per 24 CFR Part 5, HOME funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of, any contractor during any period of debarment, suspension or placement of ineligibility status. The Owner/Developer shall check all contractors against the Federal publication that lists debarred, suspended, and ineligible contractors.

36. Grantor Recognition – The Owner/Developer shall ensure recognition of the role of the City of Aurora Community Development Division HOME Program funds in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Owner/Developer will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

37. State and City Law Compliance – All responsibilities of the Owner/Developer enumerated herein shall be subject to applicable Federal and State statutes and City ordinances, resolutions, rules and regulations.

38. Illegal Aliens

a) Unlawful Employees, Contractors and Subcontractors – The Owner/Developer shall not knowingly employ or contract with illegal aliens to perform services funded pursuant to this Agreement. The Owner/Developer shall not knowingly contract with a subcontractor or vendor that:

i. Knowingly employs or contracts with illegal aliens to perform services funded pursuant to this Agreement; and
ii. Fails to certify to the Owner/Developer that the subcontractor or vendor will not knowingly employ or contract with an illegal alien to perform services funded pursuant to this Agreement.

b) Verification Regarding Illegal Aliens – By executing this Agreement, the Owner/Developer confirms the employment eligibility of all employees who are newly hired for employment to perform services funded pursuant to this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

c) Limitations – The Owner/Developer shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

d) Duties of the Owner/Developer – If the Owner/Developer obtains actual knowledge that a subcontractor or vendor performing services funded pursuant to this Agreement knowingly employs or contracts with an illegal alien, the Owner/Developer shall be required to:

i. Notify the subcontractor or vendor and the City within three days that the Owner/Developer has actual knowledge that the subcontractor or vendor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor or vendor if, within three days of receiving the notice, the subcontractor or vendor does not stop employing or contracting with the illegal alien; except that the Owner/Developer shall not terminate the contract with the subcontractor or vendor if the subcontractor or vendor provides information to establish that the subcontractor or vendor has not knowingly employed or contracted with an illegal alien.

e) Duty to Comply with State Investigation – The Owner/Developer shall comply with any request made by the Colorado Department of Labor or the City in the course of an investigation that the Department or the City is undertaking.

f) Damages – Notwithstanding any other provisions within this Agreement, if the Owner/Developer violates any of the above provisions regarding illegal aliens, the City may terminate this Agreement for cause and the Owner/Developer may be liable for consequential damages.

39. Certification of Non-Debarment.

The Owner/Developer certifies, by acceptance and execution of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees, by accepting and executing this Agreement, that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT THIS _____DAY OF _____ , 20____ .

CITY OF AURORA, COLORADO

_____
James M. Twombly
City Manager

_____
Jessica Prosser, Director
Housing and Development Services Department

_____
Rodney M. Milton, Manager
Community Development Division

APPROVED AS TO FORM:

_____
Tim Joyce, Assistant City Attorney

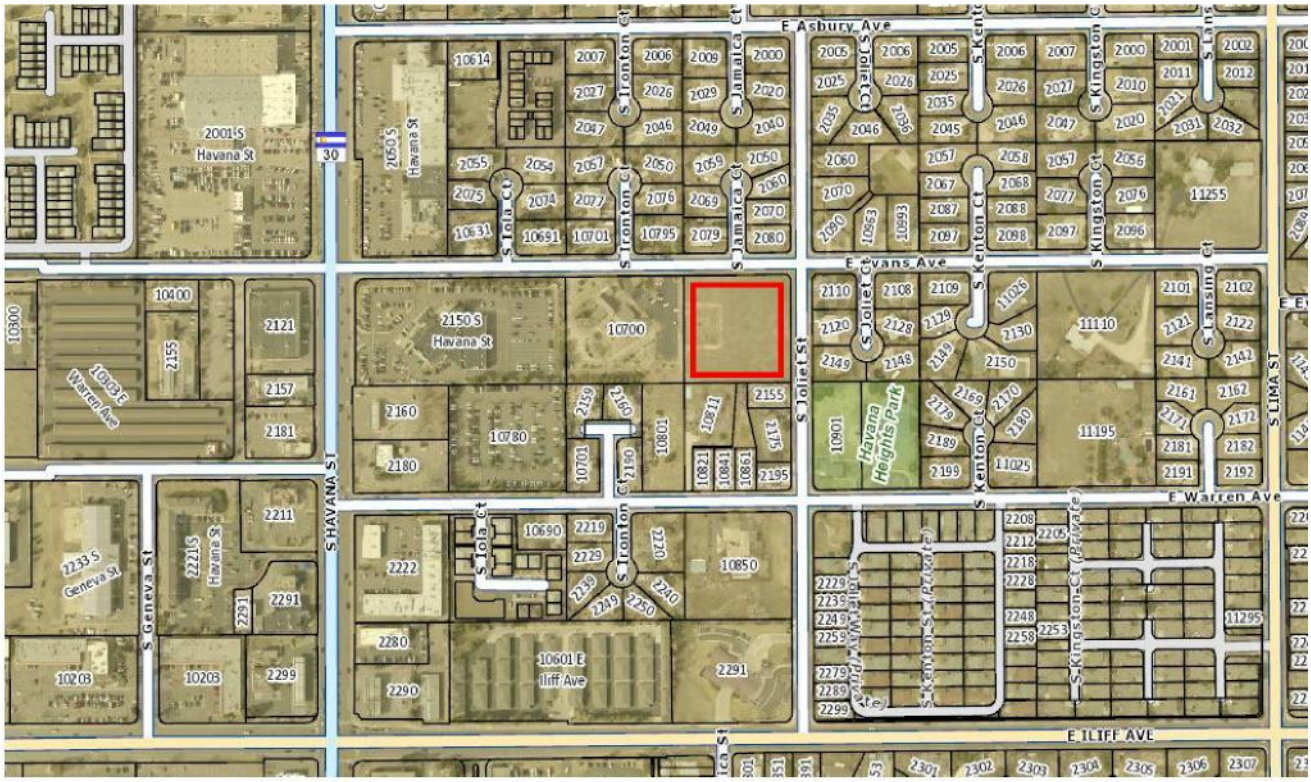
HABITAT FOR HUMANITY OF METRO DENVER
OWNER/DEVELOPER



Heather Lafferty
Habitat for Humanity of Metro Denver, Inc
3245 Eliot Street
Denver, Colorado 80211-3287
Phone: 303-534-2929
E-Mail: hlafferty@habitatmetrodenver.org

EXHIBIT A – Scope of Services

Mountain View-Habitat for Humanity



Project: Habitat at Mountain View United Church

Address: Parcel No. 1973-26-2-05-012 less that portion known as "Denver Urban Garden Area" with approximate address of 10810 E Evans Ave, Aurora, CO 80014 (vacant land)

Project Summary: Habitat Metro Denver intends to enter into Ground Lease and Development Agreement with Mountain View United Church to develop a 20-home affordable for-sale community in Aurora. As a part of the Development Agreement, Habitat will work to partner with a local nonprofit provider to match 2-5 homebuyers who will serve as hosts to Individuals with Development Disabilities. The proposed development creates a balance between affordability, livability and neighborhood context by creating a medium density development centered around a cul-de-sac typology that is common in the area. The project will need to go through a rezoning process prior to beginning building design and permitting. The Habitat Real Estate Team is confident that the current plan is consistent with the rezoning review criteria and supported by the Aurora Places Comprehensive Plan. Upon obtaining entitlement approvals Habitat will close on the Ground Lease. This development is a great opportunity to provide affordable housing in a high opportunity area of Aurora.

Project Partners: Mountain View United Church – Current Landowner
EV Studio – Lead Design

EXHIBIT A – Scope of Services
Mountain View-Habitat for Humanity

Key Milestones:

April 2019	RFP Published
June 2019	Habitat selected as MVUC development partner
November 2019	1st Community Meeting
November 2019	Community Walk
February 2020	Pre-App with Aurora
July 2020-Feb 2021	Continued Community Engagement
Feb-Sept 2021	Rezoning
Jan-June 2022	Design & Permit
Jan 2023	Begin Construction
June 2025	Complete Sales

Project Completion Date: December 31, 2025

Considerations: Current Zoning: R-1
Census Income Tract: Middle (2019)
School District: Cherry Creek

EXHIBIT A – Scope of Services
Mountain View-Habitat for Humanity



Plan:	Number of Homes:	20
Home Size:	3 & 4 bedrooms	
	Building Type:	Duplex
	Parking:	2 dedicated surface spaces / per house
	Ownership:	99-year Ground Sublease with Fee Simple Ownership of Improvements (details below)
	HOA:	No

House Cost & Affordability				
House Type	1st Mortgage	PITI	Min Mo Income	Min AMI
3 Bedroom	$250,000	$1,204	$4,013	4 Person: 49%
4 Bedroom	$275,000	$1,297	$4,324	4 Person: 53%

**Assuming 2.000% rate / $90 land lease fee – SUBJECT TO CHANGE*

EXHIBIT A – Scope of Services
Mountain View-Habitat for Humanity

Ownership:

Habitat buyers will sign a 99-year land sublease with Habitat and enjoy Fee Simple ownership of the improvements on the land (their home).

Habitat will enter a 99-year land lease with MVUC

- Term: 99-years with option for an additional 99-years

Habitat will sublease each of 20 parcels to homebuyers

- Term: 99-years with option for an additional 99-years

Buyers will have Fee Simple ownership of the home (improvements on the land)

- Habitat's lending arm Affordable Mortgage Solutions will provide the below-market rate mortgage (currently 2.000% interest, 360-month term)
- PITI plus Land Lease Fee will not exceed 30% of the buyer's gross monthly income

Prior to closing, Habitat will place a Long-Term Affordability Covenant on each parcel's leasehold interest and improvements.

- 99-year term
- Secured by a non-monetary Deed of Trust
- Habitat has Right of Repurchase prior to any resale
    - Habitat will resell to a new buyer at or below 80% AMI
- Restricts market (non-Habitat) resales to no more than 100% AMI
- Restricts Resale Price growth to 2% annually based upon the initial buyer's first mortgage amount

Loan Amount: $450,000

Source: HOME

Loan Terms:

- **Deed of Trust and Promissory Note**
- **Deferred Loan, forgiven upon sale of all homes to qualified buyers**
- **0% Interest**
- **Collateral:** Leasehold Deed of Trust on the real property located at 10810 East Evans Avenue, Aurora CO 80014 and improvements (affordable for-sale single-family units) to be built thereon. Partial releases of deed of trust will occur as each unit is sold. Habitat will record the 99-year covenant, as approved by the City of Aurora, on the leasehold interest.
- **Maturity:** The Promissory Note will be forgiven by the City upon the sale of all homes to qualified homebuyers. Habitat must remain in compliance with the terms and conditions of the Loan Agreement and recorded covenant(s) until the expiration of the covenant term.
- **Restrictive Use of Funds:** Expenses incurred before December 21, 2020 are not eligible for reimbursement.
- **Retainage:** If funds are used for hard construction costs, 10% percent of the draw amount will be retained by the City and not released until the conditions and contingencies listed in the Loan

Agreement are satisfied. Additionally, $10,000 will be retained and not released until receipt from Habitat of all program reporting information.

Line-Item Budget:

Projected Sources	
Govt Grants	$ 1,158,015
State/ArapCo/HFHI	*$ 708,015*
Aurora Forgivable Loan	*$ 450,000*
Community Support	$ 2,434,768
Fundraising	*$ 1,739,120*
Restores	*$ 695,648*
Donated Materials	$ 208,400
Earned Revenue	$ 3,108,100
% of Mortgages Sold	*65%*
Total Sources	**$ 6,909,283**

Projected Uses	
Total Site Acquisition	$ 77,924
Total Soft Costs	$ 1,091,731
Fees	*$ 485,216*
Consultants	*$ 223,335*
Indirect Staff Cost	*$ 383,180*
Total Hard Costs	$ 5,235,876
Site Development	*$ 851,496*
Construction	*$ 4,384,380*
Developer/Admin Fee	$ 503,752
Total Uses	**$ 6,909,283**

Uses of the Aurora HOME funds are Acquisition and Soft Cost Fees such as Water and Sewer Taps, Permits, Parks & Schools Impact Fees.

HOME Affordability Requirements:

- **Number of HOME units:** Eleven (11)
- **HOME Affordability Period:** 15-years
- **HOME Resale Covenant:** Habitat will record a City-approved HOME Resale Covenant against all HOME-assisted units. Initial sales and all Resales within the HOME Affordability Period are restricted to income-eligible buyers at or below 80% AMI.

Administrator-in-Charge:

Maria Sepulveda
Vice President of Community & Government Partnerships
Habitat for Humanity of Metro Denver
3245 Eliot Street
Denver, CO 80211
303-534-2929
msepulveda@habitatmetrodenver.org

CITY OF AURORA
Council Agenda Commentary

Item Title: 2021 Median Project
Item Initiator: Tracy Young, Manager, PROS Planning, Design & Construction
Staff Source/Legal Source: Tracy Young, Manager, PROS Planning, Design & Construction/Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☒ Approve Item as proposed at Study Session

☐ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration
Why is a waiver needed?

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Parks, Foundations & Quality of Life

Policy Committee Date: 5/28/2021

Action Taken/Follow-up: ***(Check all that apply)***

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

Since 2015, PROS has implemented a median landscaping enhancement program based upon lower capital cost, water conservation, and reduced maintenance. The sites for funding are chosen by City Council annually.

On May 28, 2021, the proposed 2021 median improvement project list was presented to Parks, Foundations & Quality of Life Council Policy Committee. Council policy committee members approved this item to move forward for full City Council consideration at Study Session.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The design, construction and maintenance of median improvements on major arterial roads is generally the responsibility of the Parks, Recreation and Open Space (PROS) Department. Although there have been many types of median improvements over the years, currently there are over 40 miles of unimproved or partially improved medians on Aurora's major arterials.

In 2015 PROS's staff received approval to move toward a lower construction cost, water conscious, and low maintenance design. The new design uses a variety of colors and sizes of rock material with drought tolerant plant material. Plants are established with periodic watering from truck applications for 2-3 years. Contractor pricing has been favorable over the last several years and resulted in a carry forward budget balance from 2020 of $335,000. The 2021 budget for median improvements is $$609,500. The resulting total available budget and estimated project cost is $945,000.

Staff has provided a list of recommended projects to move forward with the 2021 funding. Criteria used to prioritize sites includes existing condition, safety concerns, citizen requests, economic development factors, and completing gaps.

Recommended sites and estimated costs will be presented at the meeting. (Attached).

QUESTIONS FOR COUNCIL

Does the Council approve the recommended list of median improvements?

LEGAL COMMENTS

The City has the powers which are necessary, requisite, or proper for the government and administration of its local and municipal matters. (City Charter, art. 1-3). Council shall act by ordinance, resolution, or motion. (City Charter, art. 5-1). Council has the authority to do what is deemed necessary and proper to promote the prosperity, improve the order, comfort and convenience of the City and its inhabitants. (City Code § 2-32). (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: Median landscaping has been funded through the capital budget process. New sites will require additional maintance.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

Parks, Foundations and Quality of Life (PFQL) Meeting
May 28, 2021

Members Present: Council Member Allison Hiltz, Chair; Council Member Crystal Murillo, Vice-Chair; Council Member Juan Marcano

Members Absent: *None.*

Others Present: Nancy Freed, Brooke Bell, Tim Joyce, Doug McNeil, Tracy Young, John Wesolowski, Pat Schuler, Derrick Tripp, Curt Bish and Sarah Maier.

1. WELCOME AND INTRODUCTIONS

Council Member (CM) Hiltz welcomed everyone and called the meeting to order.

2. REVIEW AND APPROVAL OF MINUTES

The April 22, 2021 minutes did not appear in the May packet. CM Hiltz requested to have the April minutes approval deferred to the June meeting for review and approval.

3. ANNOUNCEMENTS

Brooke Bell, PROS Director, announced that the City's outdoor pools will be opening for the 2021 season. The pools open with drop-in style admissions with no reservations needed. However, there is a need to stagger outdoor pool schedules due to a lifeguard shortage. This shortage is an issue across all of Colorado and nationwide, and the City is implementing several strategies to attract young workers to the lifeguard program. These strategies include heavy marketing online, talking with local schools and displaying banners, and increasing the lower end wage to be more competitive. Staff are introducing a cash-based incentive program that allows lifeguards to accrue points for working certain shifts (such as weekends), which they can then redeem for physical prizes, such as gift cards. Brooke also shared the 2021 outdoor pool schedule, which has been posted on the City website as well as on Facebook. She mentioned that the two largest outdoor pools, Del Mar and Meadow Hills, will be open 7 days a week. Capacity will be dependent on the number of guards on duty. Pheasant Run and Del Mar pools will have Free Friday access. The Parklane pool is currently closed for renovations. The City hopes to have Parklane open as soon as possible; hopefully around July 4th. The renovation was delayed by the particularly wet winter and spring weather.

CM Hiltz inquired what the lower end wage for lifeguards is. Brooke said she did not know off the top of her head but thought it might be around $14 an hour. CM Murillo requested that the PROS department send along anything they could pass out to constituents to help with lifeguard recruitment efforts. Brooke agreed, and said the department is currently working on a flyer. She also mentioned that the City has a program that allows kids to take lifeguard lessons and will cover the cost of the lessons if they come to work for the City. CM Marcano noted that the minimum wage in Denver is $14.77 and wondered if the City would consider bumping up the starting wage to $15. He noted that being a lifeguard has a bit of a risk and that raising the pay may help to fill the vacancies quicker. Brooke said that she would check on the current wage being offered and get back to the Committee on that.

4. AGENDA ITEMS

4a. 2021 Median Projects Overview

Summary of Issue and Discussion:

Tracy Young, Manager of Planning Design & Construction, gave the Committee an overview of the City's 2021 Proposed Median Projects. The City of Aurora has been landscaping medians for over 30 years, and is currently focused on providing low-maintenance, economic and water-conscious median landscaping. Materials include rock of various types and drought-resistant plant material. There is no irrigation on newer City medians, so median plants are hand-watered for the first 1 to 3 years to establish the drought-resistant plants. The City currently has around 40 miles of undeveloped or partially developed medians. Tracy explained the difference between undeveloped, partially developed, and landscaped medians, and shared a map of the current state of the City's medians. Due to some funding carryover from 2020 and favorable bids last year, the available median funding for 2021 is $945,000. Tracy also noted that alternative funding such as Arapahoe County and Adams County open space and lottery funds cannot be applied to medians. For the selection process, a matrix is used to rank the median needs and prioritize projects using a scoring system. Median projects will then be eliminated from consideration if there are conflicts due to other construction projects in PROS or Public Works. Special consideration is also given to areas with a high amount of citizen and council requests, and the City focuses on Wards not previously addressed in median improvements. This process allows the department to create a project list, which is then presented to the PFQL Committee and Council for approval. Tracy presented some information and photos about the five recommended project locations for this year. These projects span across the City and total just over two miles of work for roughly $907,000.

CM Murillo asked Tracy to expand a bit on how these projects were determined specifically according to the criteria of prioritizing Wards that have been overlooked in the past. Tracy replied that a lot of emphasis was given this year to citizen complaints and safety issues, such as sloping medians that can lead to gravel washing into the roads when it rains. With respect to Ward I, a project for median development along Montview was funded last year and is currently under contract. Additionally, Ward I does not have very many medians in general. Other wards, such as Ward VI, had numerous undeveloped medians and therefore have seen more attention. CM Murillo mentioned that she still had the lingering thought that while Ward VI may have more undeveloped medians, it is still much newer overall and older areas such as Ward I might be developed but are more aging. She asked if there are any proposed projects in Ward III. Tracy responded that there are no proposed projects in Ward III in 2021. CM Murillo asked if medians are mainly along arterial roads, which Tracy confirmed. CM Murillo commented that as the newer wards have more arterial roads in general, that accounts for some of the discrepancy. Tracy agreed with that and mentioned that even some of the larger arterial roads in older wards did not have raised medians and were more likely to be just painted streets. Nancy Freed, Deputy City Manager, added that when looking at the historical development of the City, a lot of older neighborhoods had different street and median standards than we see today. In the 2000s, discussions began about standardizing the median design. Development stalled around 2008 and has since begun to pick up once again. Additionally, each Ward will have different needs based on how the area was initially developed and maintained. An example of this would be the alleys in Ward I, which no other Ward has. CM Murillo thanked Nancy for pointing that out and mentioned that unfortunately the federal funding for Ward I alleys had gone away, which is another worry. Nancy replied that the City Manager recommendation for the alleys will be to put them back in the capital fund, which should hopefully help alleviate that concern. She also added that even 10 years ago, median standards were very different. Today's standards allow the City to do twice as much with the medians and use far less water, and this is meant to be a standard for other cities to hopefully follow.

CM Marcano commented that some of his constituents at Heather Ridge will be very excited about one of the proposed projects, as they had been asking for some years for the removal of some dead Russian Olive trees and stumps from that area. Tracy responded that this will be an improvement on that, and that the stumps have already been removed. Brooke confirmed their removal, and added that for now, the median projects are only focused on undeveloped and partially developed medians. Some older medians have very old plant material or could use an update. Unfortunately, the primary need for now is to focus on the unfinished medians.

Tracy Young asked if the committee would move to approve the 2021 Proposed Median Projects and forward the item to Study Session. The council members moved to do so. CM Hiltz also mentioned that she felt CM Murillo brought up some great points regarding how the City prioritizes new versus existing development projects. CM Marcano agreed.

Outcome**:**
Council members moved to approve the item be brought to Study Session.

Follow-up Action:
Item will move forward to Study Session.

4b. Basketball Courts at Utah Park and Havana Heights
Summary of Issue and Discussion:
In a previous PFQL meeting, CM Marcano asked the PROS department to examine the possibility of adding basketball courts at Utah Park or Havana Heights Park, and what that would entail. This was in response to some requests from the citizens in his Ward. Tracy Young and her team took a brief look at the possibility and presented these findings to the Committee. Some considerations when examining the possibility to add in basketball courts include the park master plan, potential future uses, parking, traffic, user conflicts, neighborhood input, noise, and location. At Utah Park, a primary feature is the detention pond, which holds water and protects nearby neighborhoods and downstream neighbors from flooding. As such, the park has a significant amount of grading and slopes. Basketball courts require a flat area and only one section of the park was identified as a potential location for basketball courts; in the Southwest corner of the park. Currently the area is a soccer practice field. Tracy noted a potential future conflict concerning the Utah Aquatic Center. In the past, it has been proposed that the Aquatic Center be expanded to include a gym and fitness area. The building expansion would be in the existing parking area and the parking lot would be relocated to the area identified for the basketball courts. The Utah Aquatics Center expansion idea is not funded nor is it part of any current plan. Tracy showed a graphic depicting how three full basketball courts may look in the potential space in Utah Park. She also noted that parking is already stretched a bit thin at Utah Park, and additional parking would likely be needed.

CM Marcano asked where the additional parking might go if the City were to move forward with the basketball courts. Tracy responded that they had not examined it in depth yet, but possibly near the courts and existing parking now. CM Marcano suggested doing a neighborhood survey to see what residents would prefer, and if they would like to try to move forward with basketball courts. The CM mentioned he heard requests for basketball courts frequently while knocking on doors in the neighborhood. Tracy offered to have PROS staff look at how the neighborhood could best be surveyed on this and to start moving forward.

Tracy also shared information on Havana Heights Park. There was previously a half-court available for basketball, that is still somewhat there. However, she noted that there were frequent noise complaints. She also mentioned that Havana Heights is currently set for renovations. The City has sent out a survey to the neighborhood to ask how they would like to see the space be used. Basketball is a listed option on the survey, as well as fitness equipment or other write-in options. The results of this survey are not in yet.

CM Marcano asked about pickleball being a possibility at Havana Heights as well and if there would be enough room. Tracy replied that staff had looked at the possibility and agreed the space is too small to accommodate pickleball. CM Murillo asked if Tracy had been able to connect with a nonprofit organization that was interested in putting up some pickleball courts in Ward I. Tracy said yes, they have been in contact, and the City is

recommending pickleball courts at Fulton Park, as part of an ongoing project right now. There is currently a survey out to residents regarding this as well. CM Murillo was very happy to hear that. CM Hiltz also commented that she has been hearing more comments regarding pickleball in recent months, and interest seems to be picking up.

Outcome:
Information only.

Follow-up Action:
PROS staff will look at how to survey residents near Utah Park regarding basketball courts and other possible options.

4c. 2021 Recreation Overview & Updates
Summary of Issue and Discussion:
Brooke Bell introduced Derrick Tripp, the PROS Sports & Aquatics Superintendent. He started with the City right as COVID was shutting things down and has done great work during a challenging time. Derrick provided the Committee with an overview of PROS 2021 Recreation Programs and Updates. This overview covered the City's preschool programs and summer camps, remote learning centers, the COMPASS afterschool program, full summer day youth camps, recreation programs (ACAA, ARISE, cooking classes, and fitness programs), recreation centers, SERC, cleaning and sanitizing procedures, sports programs, eSports, and aquatics (swim camps, lessons, staffing, and facility renovations). This overview covered how things were handled virtually during COVID-19, and updates on how things are reopening now.

CM Hiltz asked if Derrick was anticipating any of these challenges when he first applied to the position. Derrick mentioned that at the time, it was not really being talked about, but he saw the past year's experiences as a positive in a lot of ways, by bringing the team together and uniting them as they figured out best new approaches. CM Hiltz added that he has done a great job and that a lot was accomplished by the team. CM Marcano asked how the signup for eSports is progressing, and if there is much interest. Derrick replied that signup is currently still a bit slow, but that is normal when establishing new sports and that the team is confident that the in-person hub will help to continue to spur interest. CM Marcano said he expects the in-person Smash Brothers events will be a huge success. CM Murillo mentioned that she has loved the extra cleaning and sanitizing processes during COVID and asked if staff has any idea how that might change going forward. Derrick replied that he doesn't anticipate much changing with cleaning procedures, and that this might be a more permanent change going forward.

Outcome**:**
Information only.

Follow-up Action:
None.

4d. IGA with Arapahoe County for Construction Cost Sharing for the High Plains Trail & Bridge
Summary of Issue and Discussion:
Curtis Bish, Planning Supervisor in Planning, Design and Construction (PD&C) in PROS, presented an IGA regarding sharing construction costs of the High Plains Trail with Arapahoe County. The newly constructed part of the trail would connect to a regional trail link which would extend over Parker Road and connect to the Cherry Creek Trail. The City of Aurora will contribute $500,000 to the total construction funding of $7,563,000

that is funded from multiple sources. The IGA also defines future maintenance roles with the project being divided into segments with the county, city and metro district maintaining parts. Curtis shared a map of the segmented trail and a rendering of the future bridge over Parker Road. The members of the committee announced their support of the project.

Outcome:
The Committee approved moving the agenda item forward to City Council Study Session.

Follow-up Action:
None.

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5. MISCELLANEOUS MATTERS FOR CONSIDERATION
None.

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6. TOPICS FOR NEXT MONTH'S MEETING
-2021 Golf Operations Overview
-2021 PROS Marketing Overview
-IGA High Plains Trail Maintenance Agreement
-PROS Parks RTD Accessibility Map Update

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7. CONFIRMATION OF NEXT MEETING AND ADJOURNMENT
The April 22 meeting was adjourned. The next PFQL meeting will be held Thursday, June 24, 2021.

Approved: _____

Allison Hiltz Date
Committee Chair

2021 Medians



Median Development Legend



Undeveloped



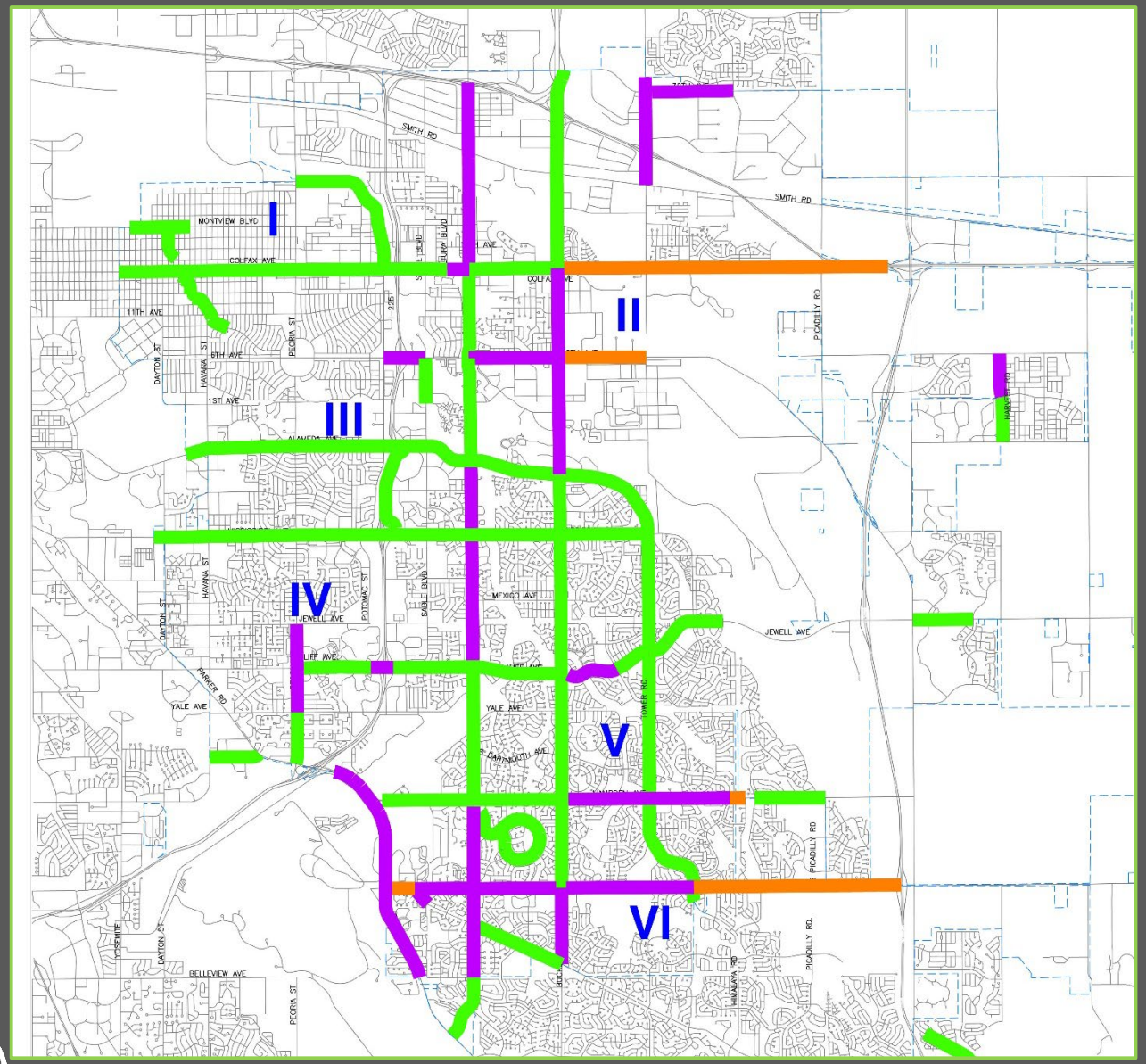
Partially



Landscaped

Current Median Development

(including 2020 Improvements)



LEGEND

- LANDSCAPED
- PARTIALLY
- UNDEVELOPED



Median Budget and Selection Process

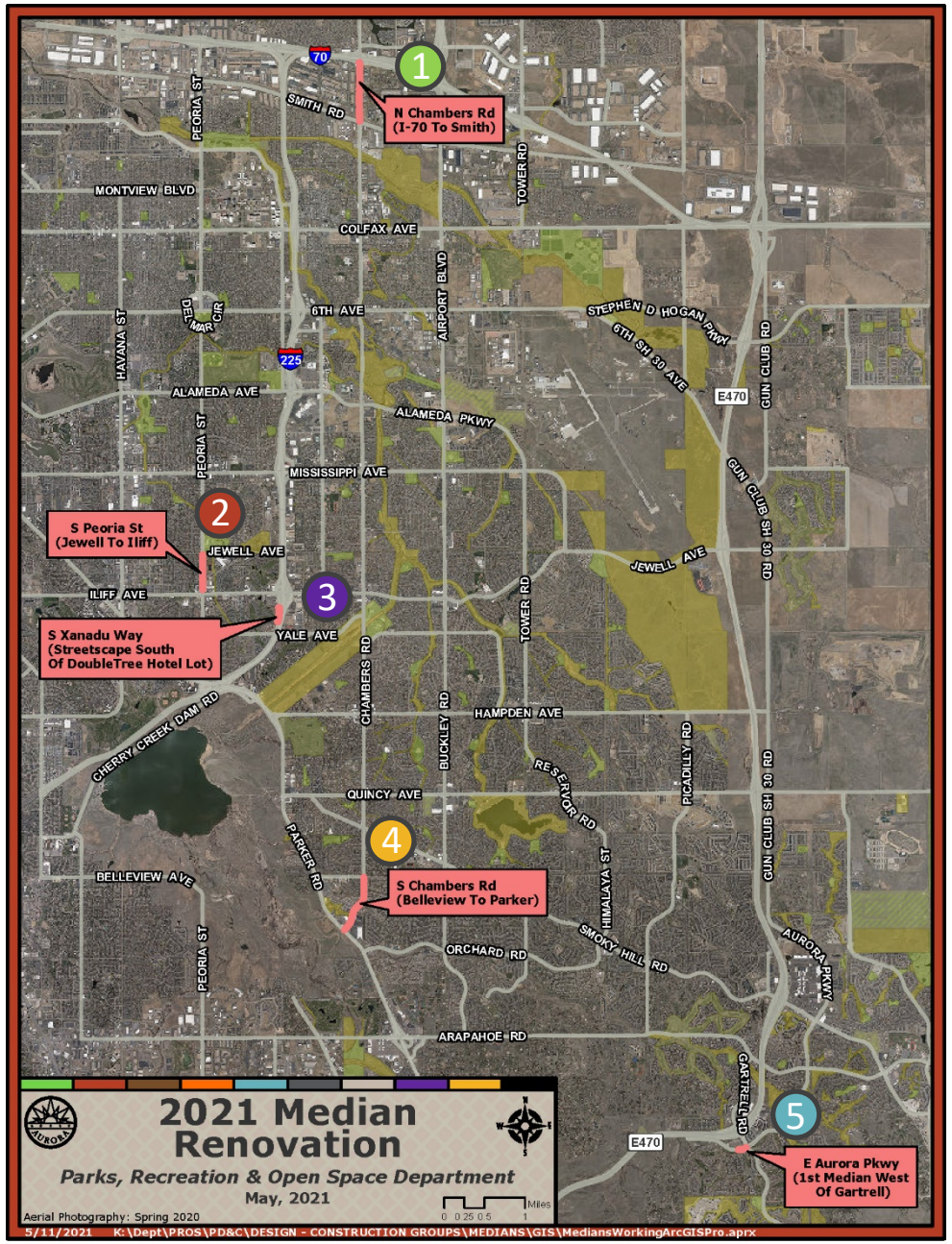
Money Available

2020 Carryforward	$ 335,000
2021 Median Development	$ 610,000
TOTAL BUDGET	$ 945,000

Selection Process

- Selected medians with highest need scores
- Eliminated those with scheduling conflicts (other construction projects)
- Filtered list by Citizen and Council requests
- Focused on Wards not previously addressed in median improvements

Score	Median	Ward	Status	Citizen Request	Economic Development	Complete Section	Estimate	Other Projects in Area / Notes
5	E. Aurora Pkwy (1st median west of Gartrell)	VI	undeveloped	yes	Commercial	no	$130,000.00	PW is building it
4	Peoria St. (Jewell to Iliff)	IV	partially	yes	Commercial	yes	$262,000.00	no conflicts
3	S. Xanadu Way (lot@ I225 to triangle I225)	IV	undeveloped	yes	Residential	no	$124,000.00	no conflicts; Council Request
2	Chambers (Belleview to Parker)	V	partially	yes	Comm/Res	yes	$200,000.00	no-conflicts
2	Chambers (I-70 to Smith Rd)	II	partially	yes	Commercial	yes	$191,000.00	no conflicts
							$907,000.00	



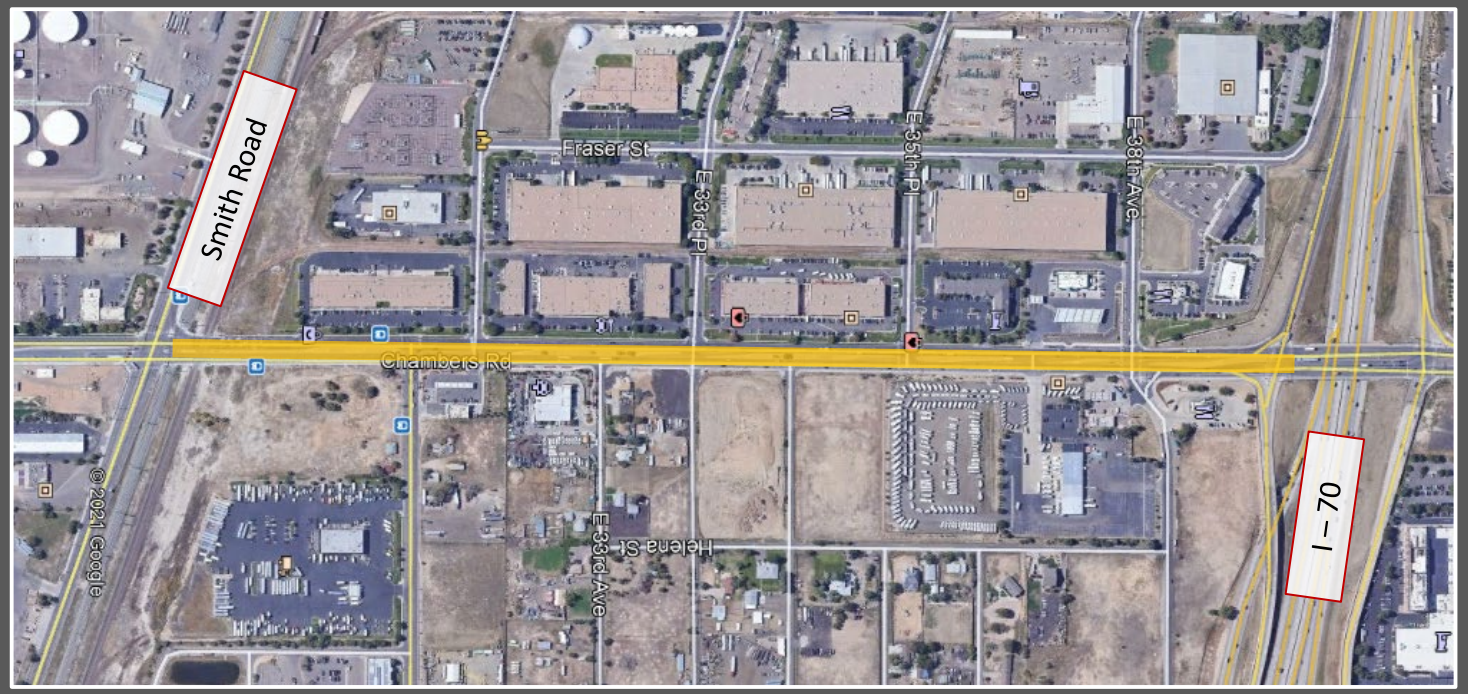
Recommended Project Locations & Cost Estimates

1	**N. Chambers Rd.** (I-70 to Smith Road)	**$ 191,000**
2	**S. Peoria St.** (Jewell to Iliff)	**$ 262,000**
3	**S. Xanadu Way & I225** (streetscape south of hotel)	**$ 124,000**
4	**S. Chambers Rd.** (Belleview to Parker)	**$ 200,000**
5	**E. Aurora Pkwy.** (1st median west of Gartrell)	**$ 130,000**
	TOTAL	**$ 907,000**

Budget

2020 Carryforward	**$ 335,000**
2021 Median Development	**$ 610,000**
TOTAL BUDGET	**$ 945,000**

N. Chambers Rd. (I-70 to Smith Road)



NORTH

The medians in the highlighted area are 0.59 miles long and approximately 18' wide. Improvements can be completed for about $191,000.



S. Peoria St. (Jewell to Iliff)

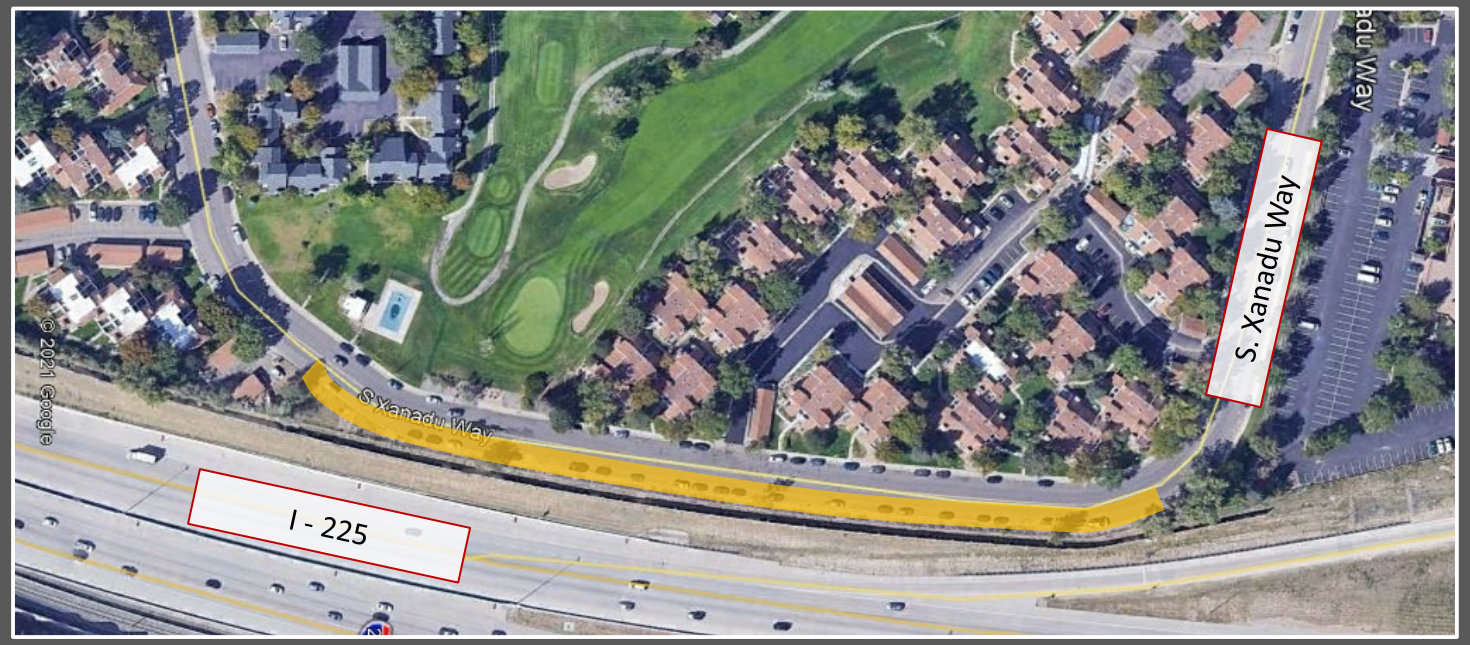


NORTH

The medians in the highlighted area are 0.39 miles long and approximately 19' wide. Improvements can be completed for about $262,000.



S. Xanadu Way & I225 (streetscape south of hotel)

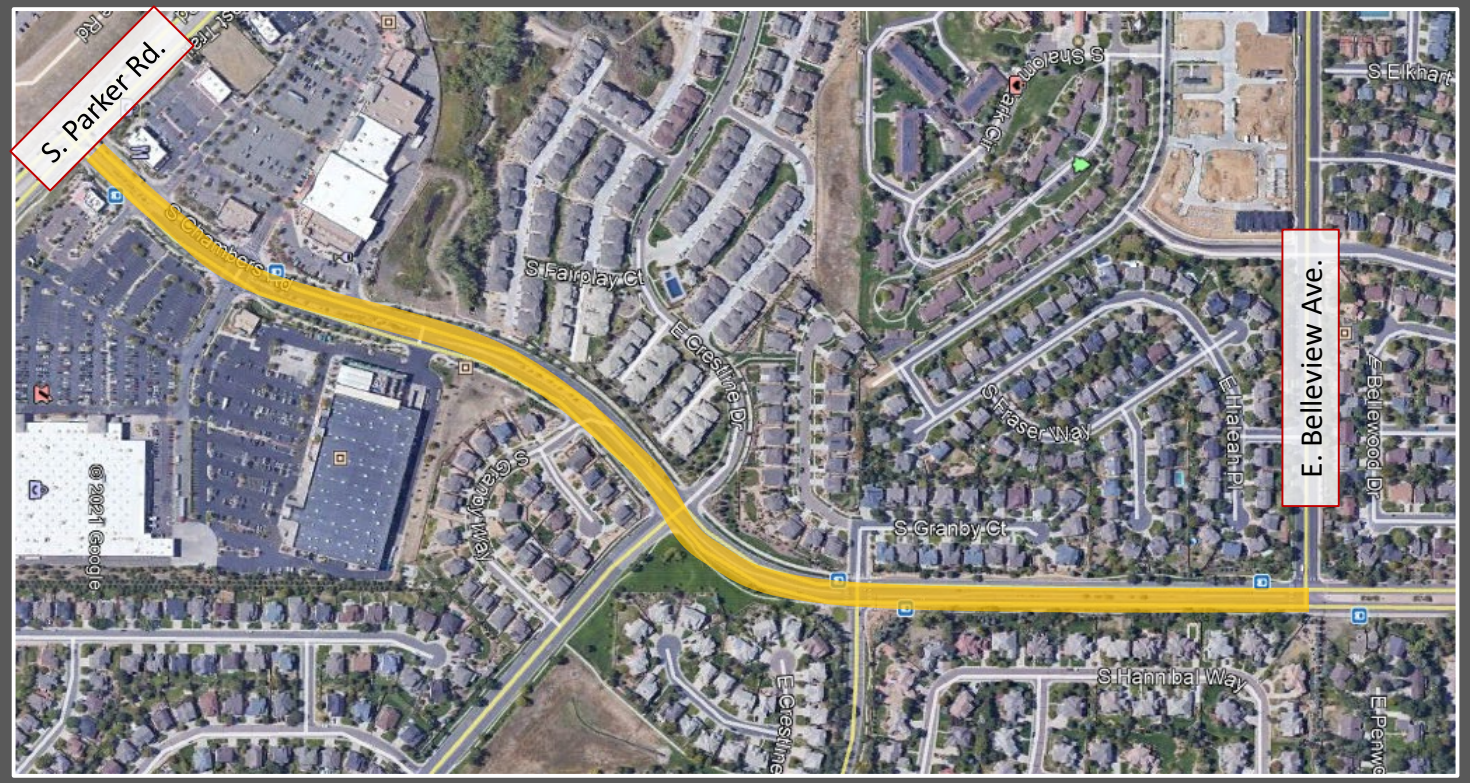


NORTH

The streetscape in the highlighted area is 0.18 miles long and approximately 15' wide. Improvements can be completed for about $124,000.

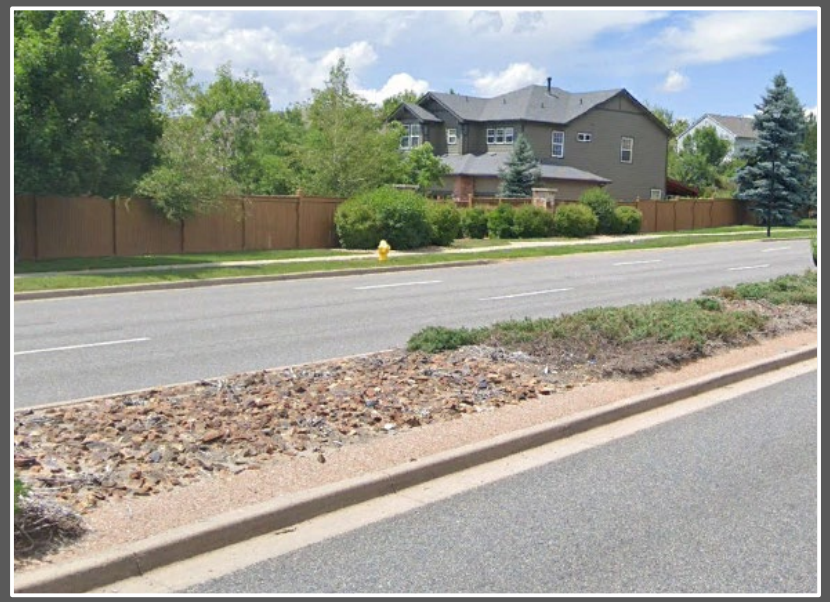


S. Chambers Rd. (Belleview to Parker)



NORTH

The medians in the highlighted area are 0.72 miles long and approximately 17' wide. Improvements can be completed for about $200,000.



E. Aurora Pkwy. (1st median west of Gartrell)



NORTH

The median in the highlighted area is 0.10 miles long and approximately 30' wide. Improvements can be completed for about $130,000.

PROS is coordinating with Public Works on the timing of their curb and gutter construction and our median improvements.



Summary

Budget

2020 Carryforward	$ 335,000
2021 Median Development	$ 610,000
TOTAL BUDGET	$ 945,000

Recommended Projects Locations

Score	Median	Ward	Status	Citizen Request	Economic Development	Complete Section	Estimate	Other Projects in Area / Notes
5	E. Aurora Pkwy (1st median west of Gartrell)	VI	undeveloped	yes	Commercial	no	$130,000.00	PW is building it
4	Peoria St. (Jewell to Iliff)	IV	partially	yes	Commercial	yes	$262,000.00	no conflicts
3	S. Xanadu Way (lot@ I225 to triangle I225)	IV	undeveloped	yes	Residential	no	$124,000.00	no conflicts; Council Request
2	Chambers (Belleview to Parker)	V	partially	yes	Comm/Res	yes	$200,000.00	no-conflicts
2	Chambers (1-70 to Smith Rd)	II	partially	yes	Commercial	yes	$191,000.00	no conflicts
							$907,000.00	

CITY OF AURORA
Council Agenda Commentary

Item Title: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY BOND ALLOCATION FOR 2021 TO THE HOUSING AUTHORITY OF THE CITY OF AURORA,DBA AURORA HOUSING AUTHORITY
Item Initiator: Rodney M. Milton, Manager of Community Development
Staff Source/Legal Source: Rodney M. Milton, Manager of Community Development; Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The purpose of the Community Investment Financing application is to provide resources for developers and service providers interested in creating and/or preserving affordable housing opportunities in the city of Aurora. The city's housing priorities are established in the recently adopted Housing Strategy and guided by six policies informed by best practices and extensive community input. Applications will be evaluated based on alignment with the policies and goals of the Housing Strategy.

Types of Projects Funded: New rental or for-sale affordable housing, rehabilitation/preservation of existing affordable housing, permanent supportive housing, and homelessness service providers with infrastructure needs related to housing.

Funding Sources: Amounts will vary from year to year based on changing federal grant allocations, program income received, and funding needs for other programs. Sources will include some or all of the following: HOME (Home Investment Partnership Program) funds and CDBG (Community Development Block Grant) funds. The city currently has approximately $21,050,797 in Private Activity Bonds (PAB), $2.5 million in HOME funds, and $1.5 million of CDBG funds for this spring round of financing.

General Application Components/Evaluation Criteria:
• Alignment with Housing Strategy
• Meets an identified housing need in the community
• Demographics to be served by the project reflect the principles of diversity, equity, and inclusion
• Average median income to be served by the project
• Cost-effectiveness: leveraging of funding, review of sources and uses, and funding sustainability
• Available city funding sources based on project type, developer or organization experience, and surrounding compatible uses.
Review Committee: City staff including Community Development, Homelessness Program, Finance, Planning, and Urban Renewal, and members of the Community Housing and Development (CHD) Committee.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

Applications for the City of Aurora's Community Investment Investment Financing round were received on Friday, May 28, 2021 and reviewed by a committee consisting of City staff and members of the Community Housing and Development Committee. A total of eight (8) applications were received including four (4) multi-family new construction projects (total request $71.6M in PAB); two (2) multi-family preservation projects (total request $13M in PAB); one (1) commercial acquisition project (total request $250K CDBG); one (1) application deemed ineligible.

Recommendations for PAB funding:
- Peoria Crossing II (Aurora Housing Authority): $13M in PAB;
- Greenleaf – Villa Verde (Archway Investment Corp.): $4M in PAB
- 15 S Sable (Zocalo Community Development): $4M in PAB

PAB Basics:

A Private Activity Bond (PAB) is a special class of tax-exempt bond that benefits private (non-governmental borrowers) that can be issued by states, local governments or housing authorities. These "state or local issuers" are bound by very specific restrictions as to the use of the bonds and the compliance requirements related to those bonds. The benefit of the PABs are that the interest paid to

the bondholders is exempt from Federal income tax, which generally results in a lower borrowing cost the eligible project or a lower interest rate mortgage in the case of single family bonds. A population-based formula establishes the maximum amount of PABs that a state can issue annually, which amount is referred to as "cap" or "volume cap."

Eligible Uses for PABs

- **Affordable multifamily housing including new construction or acquisition and rehabilitation for low- and moderate-income individuals and families**.
- Single Family Mortgage Revenue Bonds (SFMRBs) used to finance the purchase of mortgages made to income-qualified first-time homebuyers.
- Mortgage Credit Certificates (MCCs), a financing enhancement for income eligible first-time homebuyers (can't be combined with SFMRB financing).
- Industrial Development Bonds for smaller manufacturing projects (less than $10 million) that produce any type of goods.
- Qualified Redevelopment Bonds used to acquire and redevelop blighted areas (typically not used in Colorado).
- Solid Waste Disposal Bonds used to finance certain disposal facilities utilizing certain waste disposal processes.

QUESTIONS FOR COUNCIL

Does the City Council support the assignment of the City's Private Activity Bond allocation for 2021 to the Housing Authority of the City of Aurora, DBA Aurora Housing Authority, Archway Investment Corporation and Zocalo Community Development?

LEGAL COMMENTS

Pursuant to the Colorado Private Activity Bond Ceiling Act, § 24-32-1701. *et seq.*, C.R.S., the City has received a direct allocation of the State of Colorado' Private Activity Bond Ceiling of 2021 in the amount of $21,050,797.00. As a designated local issuing authority, the City may assign all or a portion of its allocation to the Housing Authority of the City of Aurora, dba Aurora Housing Authority, for the purpose of financing the development of a multi-family rental housing project and updating existing rental units. (C.R.S. § 24-32-1706(2)). (TJoyce)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: The city currently has $21,050,797 in Private Activity Bonds (PAB).

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

ASSIGNMENT OF ALLOCATION

THIS ASSIGNMENT OF ALLOCATION (the "Assignment"), dated as of _____, 2021, is between the City of Aurora, a Colorado, a home rule municipal corporation (the "Assignor"), and the Housing Authority of the City of Aurora, dba Aurora Housing Authority, a business entity registered with the Colorado Secretary of State (the "Assignee").

RECITALS

A. The Assignee intends to finance or assist in the financing of qualified residential rental projects including, but not limited to, the costs of the acquisition, construction, rehabilitation, renovation and equipping of (i) an approximately 72-unit multifamily affordable rental housing project for families, to be known as the Peoria Crossing II, to be located at 3002 Peoria Street, all in the City of Aurora, Colorado, (ii) a preservation project Archway for approximately 84-unit multifamily affordable rental units known as Greenleaf and Villa Verde located at Beeler Street and 1642 Alton Street respectively, , and (iii) an approximately 154-unit multifamily affordable rental housing project to be known as 15 S Sable, to be located at 15 S Sable Blvd, all in the City (collectively, the "Project").

B. Each Project will be designed to qualify as a "project" within the meaning of Title 29, Article 4, Part 2, Colorado Revised Statutes, as amended (the "Act").

C. The Assignee intends to provide for the issuance of its multifamily housing revenue bonds, notes or other obligations, in one or more series (the "Proposed Bonds"), pursuant to the provisions of the Act for the purpose of financing the Project.

D. The Assignee has requested that the Assignor assign to the Assignee all of the Assignor's 2021 allocation in the amount of $21,050,797 (the "Allocation") under the bond ceiling for the State of Colorado and its issuing authorities (the "State Ceiling") computed under Section 146(d) of the Internal Revenue Code of 1986, as amended (the "Code"), as provided for the Assignor as a "designated local issuing authority" under part 17 of article 32 of title 24, Colorado Revised Statutes, as amended (the "Allocation Act"), for use in connection with the financing of the Project.

E. Subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept, the Allocation in the amount of $21,050,797 from the State Ceiling.

ASSIGNMENT

In exchange for the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Assignor hereby assigns and transfers to the Assignee all of the Assignor's 2021 Allocation from the State Ceiling for private activity bonds in an amount equal to $21,050,797. The Assignor and the Assignee understand that such assigned allocation shall automatically be relinquished to the "Statewide Balance" as defined under the Allocation Act

unless (a) the Proposed Bonds are issued by the Assignee on or before September 15, 2021, or (b) Section 24-32-1706(3)(c) of the Allocation Act, pertaining to the carryforward of the assigned allocation, applies.

2. The Assignor represents that it has received no monetary consideration for the assignment set forth above.

3. The Assignee hereby:

(a) accepts the assignment of $21,050,797 of the Assignor's Allocation from the State Ceiling described above;

(b) agrees to use its best efforts to issue and use the Proposed Bonds for the purpose of financing the Project, and further agrees to use its best efforts to deploy the Allocation to finance a portion of the costs of (i) Peoria Crossing II, which is expected to use approximately $13,000,000 of the Allocation, (ii) the Greenleaf-Villa Verde preservation project, which is expected to use approximately $4,000,000 of the Allocation, and (ii) the 15 S Sable Zocalo Development project, which is expected to use approximately $4,000,000 of the Allocation, provided that each such project receives an award of tax credits in CHFA's 2021 Round 2, 4% federal and State Credit award cycle; and

(c) agrees to abide by each of the terms and conditions of this Assignment in connection with the use of such Allocation.

4. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for any project with a carryforward purpose within the meaning of the Allocation Act.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multifamily rental housing project located in the City of Aurora or elsewhere, provided that any Proposed Bond proceeds attributable to the Allocation shall be subject to paragraph 3 above.

6. This Assignment shall not constitute the debt or indebtedness or financial obligation of the Assignor within the meaning of the constitution or statutes of the State of Colorado, nor give rise to a pecuniary liability or charge against the general credit or taxing power of the Assignor.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this Assignment of Allocation to be executed to be effective as of the date and year first written above.

CITY OF AURORA, COLORADO as Assignor

By:_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIQUEZ,
City Clerk

APPROVED AS TO FORM:

_____
TIM JOYCE,
Assistant City Attorney

HOUSING AUTHORITY OF THE CITY OF AURORA, COLORADO, as Assignee

By: _____
Chair

ATTEST:

By: _____
Clerk to the Board

(Signature Page to Assignment of Allocation)

CERTIFICATE OF CITY OF AURORA, COLORADO CONCERNING ASSIGNMENT OF PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION TO THE HOUSING AUTHORITY OF THE CITY OF AURORA, COLORADO

We, the undersigned, hereby certify that we are the duly sworn, qualified and acting Mayor (the "Mayor") and City Clerk (the "City Clerk") of the City of Aurora, Colorado (the "City"), and that:

1. The City is a Colorado home rule municipal corporation, duly organized and existing under the constitution and laws of the State of Colorado.

2. The City has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), it has an allocation of a portion of the State ceiling (as defined in the Allocation Act) for 2021 in the amount of $21,050,797 (the "2021 Allocation").

3. Attached hereto as Exhibit A is a true and correct copy of a resolution (the "Resolution") authorizing the assignment to the Housing Authority of the City of Aurora, Colorado (the "Authority") of all of the City's 2021 Allocation (the "Assigned Allocation"), and authorizing the execution and delivery of an Assignment of Allocation dated September 15, 2021 (the "Assignment of Allocation") between the City and the Authority in connection therewith, which Resolution was duly adopted by the City Council of the City (the "City Council") at a meeting thereof held on August 9, 2021, at which meeting a quorum was present and acting throughout and which Resolution has not been revoked, rescinded, repealed, amended or modified and is in full force and effect on the date hereof.

4. The meeting of the City Council at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.

5. With respect to the Assigned Allocation, the City has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another "issuing authority," as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carryforward purpose, as defined in the Allocation Act.

6. The Assignment of Allocation, attached hereto as Exhibit B, is in substantially the form presented to and approved by the City Council at the meeting thereof held on August 9, 2021.

7. On or before the date hereof, the Mayor of the City and the City Clerk officially executed counterparts of the Assignment of Allocation.

8. The City has authorized the execution, delivery and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the City with the provisions thereof, will not, to the best of my knowledge, conflict with or constitute on the part of the City a breach of or a default under any existing Colorado law, City resolution, court or administrative regulation, decree or order or any agreement or other instrument to which the City is subject or by which it is bound.

9. To the best of the undersigned's knowledge, there does not exist any action, suit, proceeding or investigation pending, or threatened against the City, contesting (a) the corporate existence of the City, (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the City Council, (c) the validity of the Assignment of Allocation or (d) the power of the City to execute, deliver or perform the Assignment of Allocation.

10. No referendum petition has been filed concerning the Resolution; and to the best of my knowledge none is being circulated or planned for circulation.

EXECUTED this _____ day of _____, 2021.

_____
Mike Coffman, Mayor

ATTEST

_____
KADEE RODRIGUEZ, City Clerk

EXHIBIT A
RESOLUTION

EXHIBIT B
ASSIGNMENT OF ALLOCATION

RESOLUTION NO. R2021- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING THE ASSIGNMENT OF THE CITY'S 2021 PRIVATE ACTIVITY BOND ALLOCATION TO THE HOUSING AUTHORITY OF THE CITY OF AURORA, DBA AURORA HOUSING AUTHORITY

WHEREAS, the Internal Revenue Code of 1986, as amended, (the "IRC"), restricts the amount of tax-exempt bonds (the "Private Activity Bonds") which may be issued in the State to provide for mortgage loans, and for certain other purposes; and

WHEREAS, pursuant to the IRC, the State of Colorado passed the Private Activity Bond Ceiling Act, constituting Title 24, Article 32, Part 17, Colorado Revised Statutes (the "Allocation Act"), and the City of Aurora, Colorado (the "City") has received a direct allocation of the State of Colorado's Private Activity Bond Ceiling for the year 2021 (the "2021 Allocation") in the amount of $21,050,797; and

WHEREAS, the Allocation Act provides for the allocation of the State Ceiling among the Colorado Housing and Finance Authority, and other governmental units in the State, including the City and the Housing Authority of the City of Aurora, dba Aurora Housing Authority (the "Authority"), and further provides for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, the Authority has requested that the City assign all of the 2021 Allocation in the amount of $21,050,797 (the "Assigned Allocation") to the Authority pursuant to Section 24-32-1706 of the Allocation Act, to be used to issue bonds to finance qualified residential rental projects including but not limited to the costs of the acquisition, construction, rehabilitation, renovation and equipping of (i) an approximately 72-unit multifamily affordable rental housing project for families, to be known as the Peoria Crossing II, to be located at 3002 Peoria Street, all in the City of Aurora, Colorado, (ii) the Greenleaf – Villa Verde preservation project for approximately 84-unit multifamily affordable rental units known as Greenleaf and Villa Verde located at Beeler Street and 1642 Alton Street respectively, and (iii) an approximately 154-unit multifamily affordable rental housing project to be known as the Zocalo Development/15 S Sable, to be located at 15 S Sable Blvd, all in the City; and

WHEREAS, the City desires to assign the 2021 Allocation to the Authority; and

WHEREAS, the City Council of the City has determined it is in the best interest of the City to assign its 2021 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority in the form presented at this meeting (the "Assignment")

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. Authorization of Assignment. The Aurora City Council hereby authorizes the assignment of the City's allocation of the State of Colorado's Private Activity Bond Ceiling for the year 2021 (the "2021 Allocation") to the Housing Authority of the City of Aurora, dba Aurora Housing Authority (the "Authority").

Section 2. Approval of Assignment of Allocation. The form, terms and provisions of the Assignment hereby are approved, and the officers of the City hereby are authorized, and the Mayor and City Clerk are hereby authorized to execute the attached Assignment of Allocation in substantially the form presented at this meeting with such technical additions, deletions and variations as may be deemed necessary or appropriate by the City Attorney.

Section 3. Further Action. The officers of the City shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution and the Assignment.

Section 4. Ratification. All actions not inconsistent with the provisions of this Resolution taken by City Council and the officers of the City directed toward the assignment of the 2021 Allocation and the authorization of the Assignment are hereby ratified, approved and confirmed.

Section 5. Severability. If any section, paragraph, clause or provision of this resolution is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

Section 6. Rescission. All resolutions of the City, or parts thereof, inconsistent with this resolution are hereby rescinded only to the extent of such inconsistency.

RESOLVED AND PASSED this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

_____ RLA
TIM JOYCE, Assistant City Attorney



Community Investment Funding Recommendations

August 2, 2021







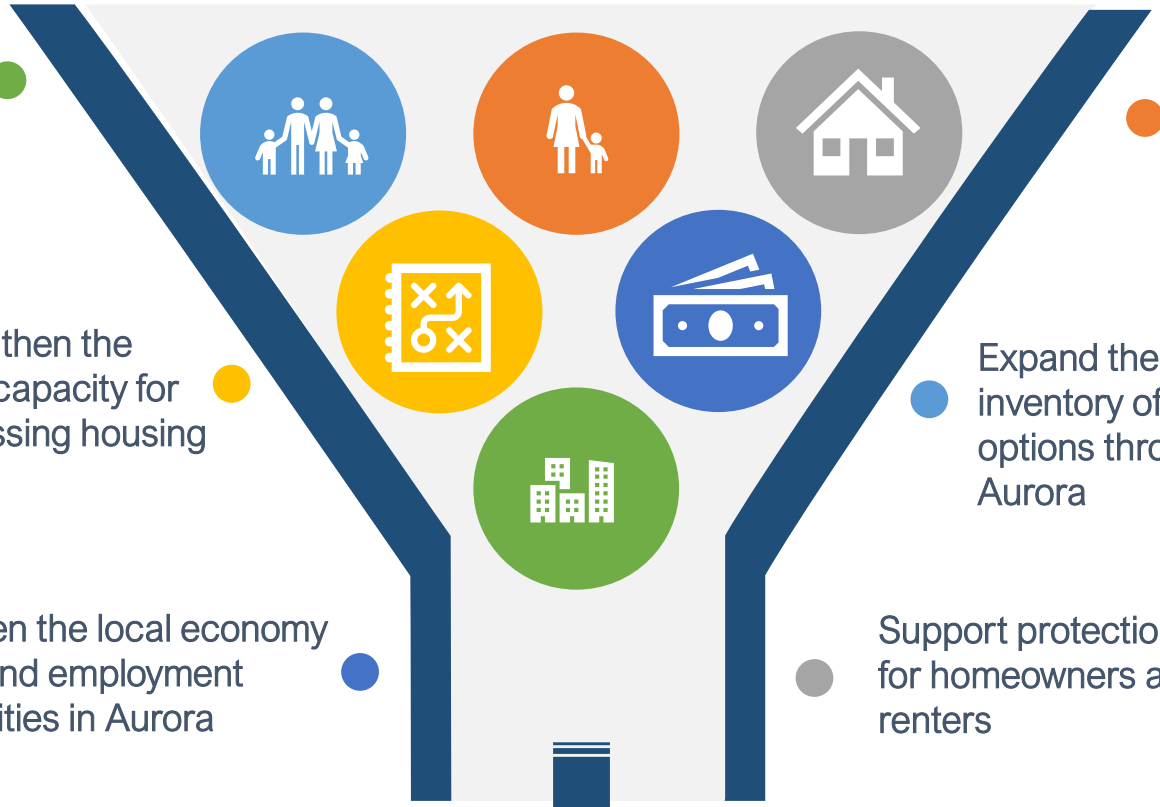
Community Vision Statement

Aurora is a welcoming and safe community and a city of opportunities where people of all backgrounds can prosper. Aurora is known for its unique places, strong economy, community involvement, quality and attainable housing, integrated and healthy neighborhoods, smart ways to get around and a thriving natural and cultural environment.



HOUSING STRATEGY POLICIES

FRAMEWORK



Foster a balanced and sustainable housing portfolio in Aurora

Preserve the long-time affordability of existing housing stock

Strengthen the City's capacity for addressing housing issues

Expand the inventory of housing options throughout Aurora

Strengthen the local economy and expand employment opportunities in Aurora

Support protections for homeowners and renters

HOUSING FOR ALL

INCLUSIVE CITY W/ HOUSING AT ALL INCOME LEVELS

APPLICANT	PROJECT TYPE	FUNDS REQUESTED	PROJECT ADDRESS/SITE	INCOME TARGET	EST. UNITS
Community Housing Partners (CHP) (legal name Aurora Housing Corporation)	New Construction/ Multifamily	PAB: Needs $15.3M Secured $500K in HOME Rd1	Address: 14875 E. 2nd Avenue, Aurora, CO, 80011	0-30% 40-70%	93 units in Phase I, with a total of 162 units in two phases.
Yosemite Townhomes LLC	New Construction/ Multifamily	NEED TO INCLUDE	Address: 1388 N Yosemite St,	Above 100%	60
AHA- Peoria Crossing II	New Construction/Multifamily	PAB: $13M HOME/CDBG: $650K	Address: TBD 3002 Peoria St., Aurora, CO 80010	0-30% 40-70%	72
AHA – Willow Park	Multifamily Rehab/Preservation	PAB: $9M	Address: 14001 E COLORADO DR	0-30% 40-70%	68
Urban Land Conservancy	Commercial/Econ Development	CDGB: $250K	Address: 10660 E COLFAX AVE A	40-70%	N/A
Mile High Development and BMC Investments – Fitzsimons Gateway Apts.	New Construction/ Multifamily	PAB: $19.5M	Address: Southeast corner of E. Colfax Avenue and Peoria Street	40-70%	116
Archway Investment Corporation – Greenleaf-Villa Verde	Multifamily Rehab/Preservation	PAB: $4M	Address: 1571 Beeler St & 1642 Alton St	0-30% 40-70%	84 units rehabilitated; Development Team is currently exploring creating an additional 4 units
Zocalo Community Development: 15 S Sable LIHTC	New Construction/ Multifamily	PAB: $24M HOME: $1.5M	15 S Sable Blvd, Aurora, CO 80012	40-70%	154 units
TOTAL:		PAB: $84.6M CDBG: $900K HOME: $1.5M			555(created)/152 (preserved)

COMMUNITY INVESTMENT FUNDING

APPLICATION SUMMARY

APPLICANT	PROJECT NAME	PROJECT ADDRESS/SITE	INCOME TARGET	EST. UNITS
MULTI-FAMILY – NEW CONSTUCTION				
Aurora Housing Authority	Peoria Crossing II	E. 35th Place & Walden St. Aurora, Co 80011	40-70% AMI	100
Community Housing Partners (CHP) (legal name Aurora Housing Corporation)	Eagle Meadows	14875 E. 2nd Avenue, Aurora, CO, 80011	0-30% 40-70% AMI	93 units in Phase I, with a total of 162 units in two phases.
Yosemite Townhomes LLC	Yosemite Townhomes	1388 N Yosemite St,	Above 100% AMI	60
Mile High Development and BMC Investments	Fitzsimons Gateway Apts.	Southeast corner of E. Colfax Avenue and Peoria Street	40-70% AMI	116
Zocalo Community Development	15 S Sable LIHTC	15 S Sable Blvd Aurora, CO 80012	50% - 60% AMI	154

COMMUNITY INVESTMENT FUNDING

APPLICATION SUMMARY

APPLICANT	PROJECT NAME	PROJECT ADDRESS/SITE	INCOME TARGET	EST. UNITS
MULTI-FAMILY – PRESERVATION				
Archway Investment Corp.	Greenleaf – Villa Verde	1571 Beeler St & 1642 Alton St Aurora, CO 80010	0-30% 40-70% AMI	84 units rehabilitated; Development Team is currently exploring creating an additional 4 units
Aurora Housing Authority	Willow Park	14001 E. Colorado Dr. Aurora, CO 80012	0-30% 40-70% AMI	68
COMMERCIAL ACQUISITION				
Urban Land Conservancy	Citywide Building	10660 E. Colfax Avenue Aurora, CO 80010	N/A	N/A

COMMUNITY INVESTMENT FUNDING

APPLICATION SUMMARY

Community Investment Funding

RECOMMENDATIONS

Community Investment Funding Recommendation

- Peoria Crossing II (Aurora Housing Authority): $13M in PAB; $650K in HOME Funds | WARD I
- Greenleaf – Villa Verde (Archway Investment Corp.): $4M in PAB | WARD I
- 15 S Sable (Zocalo Community Development): $4M in PAB; *$1.5M in HOME* | WARD III
- Citywide (Urban Land Conservancy): $250K CDBG | WARD I

THANK YOU



Rodney M. Milton
Manager of Community Development | City of Aurora
Rmilton@auroragov.org

THE CORE 4
Integrity • Customer Service
Respect • Professionalism

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CITY OF AURORA
Council Agenda Commentary

Item Title: 2021 Fireworks Follow-Up
Item Initiator: Steven Wright, Commander, Aurora Fire Rescue
Staff Source/Legal Source: Steven Wright, Commander/Angela Garcia, Senior Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: N/A

ITEM DETAILS: Enter all applicable information from following list in the highlighted area below:

Fireworks follow up from 2021 enforcement

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☒ Information Only

☐ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration
Why is a waiver needed?

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

N/A

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

2021 Fireworks enforcement follow-up

QUESTIONS FOR COUNCIL

N/A

LEGAL COMMENTS

This item is informational only. There is no formal council action necessary.
The City Manager shall be responsible to the Council for the proper administration of all affairs of the city placed in his charge and, to that end, shall have the power and duty to make written or verbal reports at any time concerning the affairs of the City. (City Charter, Art. 7-4(e)) (Garcia)

PUBLIC FINANCIAL IMPACT

☐ YES ☐ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

CITY OF AURORA
Late Submission Approval for Agenda Item

Item Title: Fireworks Follow Up
Item Initiator: Steven Wright, Commander AFR
Staff Source/Legal Source: Steven Wright
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

CRITERIA - PLEASE CONSIDER ITEM FOR LATE SUBMISSION FOR THE FOLLOWING REASON:

☐ There is a time-sensitive legal requirement that must be met and cannot be met by a future meeting date

☐ The delay will result in an adverse financial impact to the city

☒ The item is related to a disaster and must be addressed before the next available meeting

COUNCIL MEETING DATES FOR LATE SUBMISSION:

Study Session: 8/2/2021

Regular Meeting: N/A

EXPLANATION: ***(Please provide a detailed explanation as to why the item falls into one or more of the above criteria and why it may not be set for a future meeting date.)***

This is a Council request for a presentation of enforcement, education, and metrics from fireworks

I understand the agenda item will not be added to the agenda without submitting this completed form as an attachment in e-Scribe. The agenda item will not be added to the agenda if the workflow is not completed by the WORKFLOW COMPLETED date indicated on the agenda deadline calendar.

Steven Wright	Jason Batchelor
Agenda Item Initiator Name	Late Submission Approver Name
Steven Wright	Jason D Batchelor 7/22/21
Agenda Item Initiator Signature Date	Late Submission Approver Signature Date

FIREWORKS FOLLOW UP 2021

Presented By:

Inspections & Investigations Division

PROCESS 2021

- Enforcement meetings began in Feb.
- AFR met with fireworks vendors
- AFR, APD, Dispatch
- AFR presented to PSCC in May 2021
- AFR presented to study session in June 2021

COMPLAINT PROCESS

- Communications center non emergent line
- Access Aurora online form
- 911
- The crime of illegal fireworks is being charged as a misdemeanor crime punishable by up to $2600 and or a year in jail.
- The witness shall fill out a witness statement identifying the specific person who was lighting the fireworks

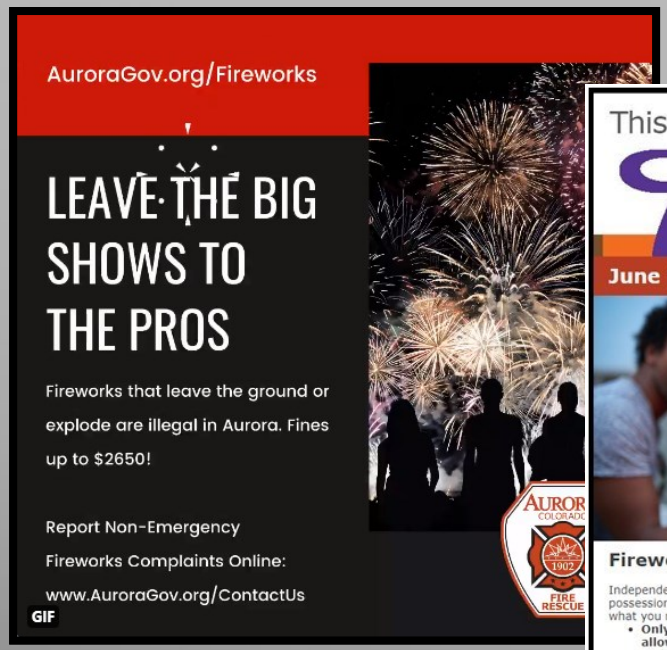
ENFORCEMENT 2021

- 6 civilian Inspectors, 3 Fire Investigators, Deputy Chief, Commander, and Lieutenant along with APD
- 3-5 (1530-0130) Patrols of APD and AFR July 1-5
- One unit in each district, July 4 two per district
- Enforcement is education to the citizens, confiscating any illegal fireworks found and issuing of summons when possible

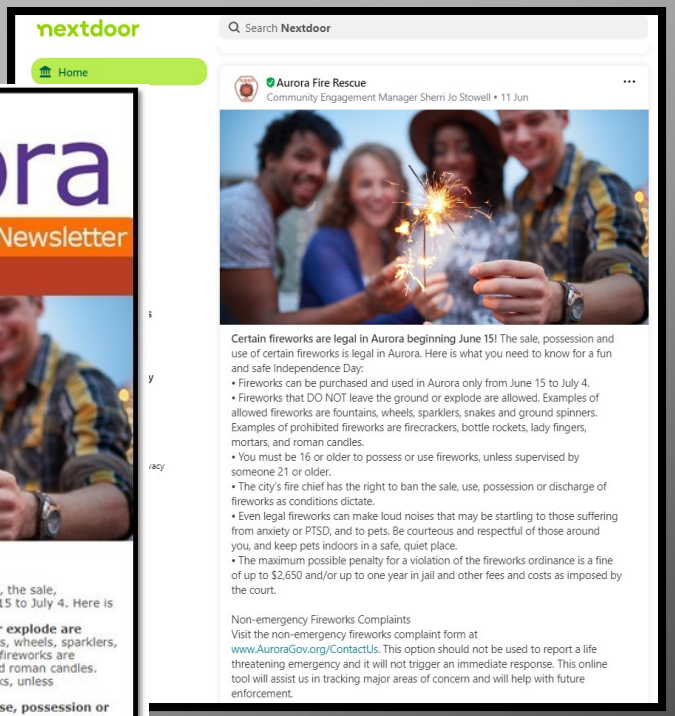
EDUCATION

- Community Engagement messaging
- Determine if the firework is allowable
- Inform the citizen of the ordinance
- Heat maps of high complaint neighborhoods
- Roadway sign messages

PUBLIC NOTIFICATIONS







AURORA COLORADO 1902 FIRE RESCUE

2020/2021 FIREWORKS DATA COMPLAINTS

- 1548 Online
- 1569 Phone Line
- 2 Summons

- 369 Online-76% decrease
- 944 Phone line-40% decrease
- 6 Summons issued-200% increase

2021 FIREWORKS DATA

- Patrols responded to 167 incidents/addresses July 3,4,5
- June 15 and continuing follow ups are occurring
- 250 Lbs. confiscated



THANK YOU

REFERENCES

Section 2: This ordinance will return to the public safety committee, or successor committee, after July 4, 2019 but before the end of 2019 for the committee members to review the impacts of this ordinance."

This ordinance temporarily allowed the legal use of certain types of fireworks within the city during June 15 and July 4.

Relevant Data have been gathered and compared from 2016 – 2019 over the enforcement dates of June 29 – July 5. recommendations are based upon the analysis of the data.

This ordinance was not in effect prior to 2016. the fire chief instituted a fire ban during the permissible timeframe of 2018 due to climatic conditions. This resulted resulted in no fireworks sales data for the affected peri

CITY OF AURORA
Council Agenda Commentary

Item Title: AMENDMENT TO CAMPAIGN FINANCE ORDINANCE
Item Initiator: Daniel L. Brotzman, City Attorney
Staff Source/Legal Source: Rachel Allen, Client Group Manager
Outside Speaker: Mark Grueskin, Recht Kornfeld
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

The City Council passed Ordinance 2020-58 in late 2020 that repealed and replaced Section 54-2 and Sections 54-101 to 54-110 of the City Code related to the Financing of Electoral Campaigns.

ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

The City was sued in March 2021 challenging Ordinance 2020-58, and the Arapahoe County Judge granted an injuction on May 28, 2021 from the City enforcing certain provisions of the Ordinance. This amendment to the Ordinance seeks to provide clarification and clear direction for candidates running in the upcoming election that will be held on November 2, 2021.

QUESTIONS FOR COUNCIL

Does Council wish to amend the City Code to provide clarity on the Campaign Finance Ordinance for candidates running in the election on November 2, 2021?

LEGAL COMMENTS

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Art. 5-1). (Allen)

PUBLIC FINANCIAL IMPACT

☐ YES ☐ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

ORDINANCE NO. 2021- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 54-2 AND SECTIONS 54-101, 54-103, 54-104.5 AND 54-110 OF THE CITY CODE RELATED TO THE FINANCING OF ELECTORAL CAMPAIGNS

WHEREAS, in 2020, the City adopted a comprehensive campaign finance ordinance in order to provide transparency about sources of money that influence municipal elections in the City of Aurora and to prevent corruption and the appearance of corruption in City government; and

WHEREAS, the United States Supreme Court, lower federal courts, and many state courts including the Colorado Supreme Court have previously recognized the critical importance of disclosure in informing voters about the sources of campaign contributions and expenditures as well as the funding of independent expenditures and electioneering communications which advocate the election or defeat of certain candidates; and

WHEREAS, any disclosure about the sources of campaign spending should allow voters to learn about which individuals, businesses, labor unions, non-profit organizations, and special interests seek to influence Aurora's elections; and

WHEREAS, among the many important issues addressed by Aurora's campaign finance ordinance is the need for a dividing line between candidates' campaigns and independent spenders who seek to affect the results in those candidate elections to ensure that contributors and candidates do not evade applicable contribution limits and do not create an environment that allows for corruption and the appearance of corruption in City government; and

WHEREAS, such a dividing line is critically important to ensuring the actual independence of those who pay for electioneering communications and independent expenditures from the candidates whose elections they seek to impact; and

WHEREAS, in light of the upcoming 2021 municipal election, currently pending litigation over Aurora's campaign finance ordinance could create uncertainty for contributors, candidates, political committees, issue committees, independent expenditure committees, and other independent spenders about the legal requirements governing contributions, spending, disclosure, and disclaimers on political advertisements; and

WHEREAS, the City seeks to resolve any such uncertainty in the most timely way possible for this election cycle and all following election cycles by means of an amendment to the 2020 campaign finance ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Section 54-2 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by a newly adopted Section 54-2, which shall read as follows:

Sec. 54-2. - Definitions.

(a) *Active voter* means a registered voter who has not been marked inactive by the clerk and recorder of the voter's county of residence according to §1-2-605(1)(b)(i), C.R.S. Any registered elector whose registration record is marked "inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements.

(b) *Ballot* means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on in an election.

(c) *Ballot issue* means a non-recall, citizen-initiated petition or legislatively-referred measure which concerns local government matters arising under section 20 of Article X of the State Constitution, i.e., matters of taxes, debt, and other financial matters. Ballot issues may only be voted on at general elections held each November.

(d) *Ballot question* means any local government matter involving a citizen-initiated petition, including a petition to recall a public officeholder, or a legislatively-referred measure other than a ballot issue.

(e) *Ballot title* means the official, short summary of a ballot measure that appears on the ballot.

(f) *Candidate* means any person who seeks nomination or election to any public office of the City of Aurora that is to be voted on at a municipal election. A person is a candidate if the person has publicly announced an intention to seek election to public office; has circulated, or authorized another person to circulate, nomination petitions on behalf of their candidacy for public office; or has received a contribution or made an expenditure, or authorized another person to receive a contribution or make an expenditure, to support the person's election to public office. As used in the preceding sentence, "publicly announced" means organizing a candidate committee under section 54-103 of this Code or announcing an intention to seek public office through a speech, statement, or other public communication. Unless the context clearly indicates otherwise, "candidate" includes:

    (1) An incumbent public officeholder, an unsuccessful candidate for public office, or former public officeholder, any of whom have not filed a termination report for their candidate committee with the city clerk. A public officeholder who is the subject of a recall election. For purposes of this provision, a public officeholder becomes the subject of a recall election when the city clerk has authorized the circulation of a petition for recall of the public officeholder under section 54-68(a) of this Code.

    (2) An agent of a candidate.

(g) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.

(h) *City clerk* means the city clerk or the city clerk's designated representative.

(i) *Committee* means any the following:

    (1) *Candidate committee* means a committee organized by or on behalf of a candidate under section 54-103(a).

    (2) *Independent expenditure committee* means a political committee that

only makes independent expenditures and that does not make contributions to any candidate committee or to another political committee that makes contributions to any candidate committee.

(3) *Issue committee* means a person or a group of persons that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount of one thousand dollars ($1,000) or more during an election cycle to support or oppose the qualification or passage of a ballot issue or ballot question. "Issue committee" includes a petition representative or other person that receives contributions or makes expenditures to support or oppose the recall of a public officeholder.

(4) *Political committee* means a person or a group of persons that is organized to support or oppose the nomination or election of one or more candidates and that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount exceeding four hundred dollars ($400.00) during an election cycle.

a. "Political committee" includes an independent expenditure committee, small donor committee, political party, or a separate segregated fund established by a covered entity pursuant to section 54-lOl(e) of this Code.

b. "Political committee" does not include a candidate committee, issue committee, or recall defense committee.

(5) *Small donor committee* means a political committee that accepts contributions only from natural persons who each contribute no more than fifty dollars ($50.00) in the aggregate per calendar year.

(6) *Recall defense committee* means a committee organized under section 54-103(t) of this City Code to oppose the recall of a public officeholder. A recall defense committee is separate from but subject to the same limits and restrictions on contributions as a candidate committee of the public officeholder on whose behalf the recall defense committee is organized.

(7) Unless the context clearly indicates otherwise, "committee" includes an agent of the committee.

(j) *Conduit* means a person who transmits a contribution from another person to a committee. "Conduit" does not include the candidate or the treasurer of the committee receiving the contribution, a volunteer fundraiser hosting an event for a committee, or a professional fundraiser if the fund raiser is compensated at the usual and normal charge.

(k) *Contribution* means a gift, subscription, transfer, loan, payment, advance, or deposit of money or other thing of value made to a person to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.

(1) "Contribution" includes: _

a. A written contract, promise, or agreement to make a contribution.

b. Anything of value given, directly or indirectly, to a recall defense

committee to oppose the recall of a public officeholder.

c. The payment by another person for goods or services rendered to a candidate or committee without charge or at a charge that is less than the usual and normal charge.

d. A loan, other than a commercial loan made in the ordinary course of the lender's business, to a candidate or committee, up until the time when the loan is fully paid. An unsecured loan is a contribution from the lender. A secured or guaranteed loan is a contribution from the guarantor or person whose property secures the loan.

e. An unpaid financial obligation which is forgiven.

f. A contribution in kind.

g. A payment or transfer of money or other thing of value received by a committee from another committee.

h. A coordinated expenditure.

(2) "Contribution" does not include:

a. Services provided without compensation by individuals volunteering their time on behalf of a committee.

b. Costs associated with the establishment, administration, and solicitation of contributions for a separate segregated fund established by a covered entity under section 54-lOl(e) of this Code.

c. Payment of compensation for legal and accounting services rendered to a committee if the person paying for the services is the regular employer or client of the individual rendering the services and the services are solely to ensure compliance with the provisions of Article IV of this Chapter.

(I) *Contribution in kind* means a contribution of goods, services, or other thing of value provided without charge or at a charge that is less than the usual and normal charge. Examples of such goods or services include, but are not limited to, securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.

(1) If goods or services are provided at less than the usual and normal charge, the amount of the contribution in kind is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount, if any, charged to the recipient.

(2) "Contribution in-kind" does not include an endorsement of a candidate or an issue by any person.

(m) *Coordinated election* means an election where more than one political subdivision with overlapping boundaries or some electors in common holds an election on the same day, and the eligible electors are all registered electors. The county clerk and recorder is

the coordinated election official who conducts the election on behalf ofthe political subdivisions.

(n) *Coordinated expenditure* means any of the following:

(1) Payment for a public communication that republishes, disseminates, or distributes, in whole or part, any video, audio, written, graphic, or other form of campaign material, created or prepared by a candidate or **candidate** committee, unless the payment is made by the candidate or **candidate** committee that created or prepared the material, or the republished material is used to oppose the candidate or **candidate** committee that created or prepared the material.

(2) An expenditure or electioneering communication made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or **candidate** committee **to support or oppose, or to influence voters about, any candidate who seeks election to that office during that election cycle**. An expenditure or electioneering communication is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or candidate committee under any of the following conditions:

a. The expenditure or electioneering communication is made according to any expressed or implied agreement with, any general or particular understanding with, or according to any request by or communication with the candidate or **candidate** committee.

b. During the election cycle in which the expenditure or electioneering communication is made, the person making the expenditure was directly or indirectly established, maintained, controlled, or principally funded by the candidate or committee, or by an immediate family member of the candidate.

c. During the **six months before an individual becomes a candidate and for the remainder of that** election cycle, the candidate or **candidate** committee **actively** solicited funds ~~for, provided nonpublic fundraising information or strategy to, appeared as a speaker or featured guest at a fund raiser for, or gave permission to be featured in fundraising efforts~~ for the person ~~making the expenditure~~ **to support or oppose, or influence voters about, any candidate who seeks election to the office sought by the candidate soliciting such funds through an independent expenditure or an electioneering** communication.

d. ~~The expenditure or electioneering communication is based on nonpublic information about the candidate's or committee's campaign needs or plans that the candidate or committee provided to the person making the expenditure directly or indirectly, such as information about campaign messaging, strategy, fundraising, planned expenditures, or polling data.~~ Communications between the person **making the expenditure or electioneering communication** and the candidate or **candidate** committee only to discuss with the candidate the person's **or the candidate's** position on a policy matter or whether the person will

endorse the candidate~~, and that include no nonpublic information about the candidate's or committee's campaign needs or plans,~~ do not result in a coordinated expenditure under this paragraph.

e. ~~During the election cycle in which the expenditure or electioneering communication is made, the~~ **A coordinated expenditure does not result if a** person, making the expenditure or **electioneering** communication, **has** employed or otherwise retained the services~~, other than~~ **of a provider of** accounting or legal **services as long as that provider only delivers those professional services that are within the scope of the legal or accounting professions.**~~, of a person who at any prior point in the election cycle met one or more of the following conditions:~~

~~(i) Had executive or managerial authority for the candidate or committee, whether paid or unpaid.~~

~~(ii) Was authorized to raise or expend funds for the candidate or committee and who had nonpublic information from the candidate or committee about the campaign's plans or needs.~~

~~(iii) Provided the candidate or committee with professional services, other than accounting or legal services, related to campaign or fundraising strategy.~~

(o) *Corporation* means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act," Articles 101 to 117 of Title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act," Articles 121 to 137 of Title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this Article, "domestic corporation" means a for-profit or nonprofit corporation incorporated under and subject to the laws of the State of Colorado, and "foreign corporation" means a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this Article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent. "Subsidiary" means a business entity of which more than half of its stock is owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(p) *Councilmember* means a duly elected member of the governing body of the municipality. Councilmember will also include the office of mayor unless specifically noted otherwise.

(q) *Covered entity* means any of the following:

(1) An organization or enterprise operated for profit, including a corporation, association, proprietorship, firm, partnership, business trust, holding company, limited liability company, limited liability partnership, or similar legal entity through which business is conducted.

(2) A labor organization.

(3) An organization or corporation that is tax-exempt under section 501(c) of the Internal Revenue Code of 1986.

(4) A political organization that is tax-exempt under section 527 of the Internal Revenue Code of 1986 and that is primarily operated for purposes other than to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.

(r) *Designated election official* means the city clerk or other person contracting for or engaged in the performance of election duties as required by this Code.

(s) *Donation* means a payment, transfer, loan, pledge, gift, advance of money, or other thing of value made to an independent spender.

(1) "Donation" does not include:

a. A payment received by a person in a commercial transaction in the regular course and scope of the person's business, trade, or investments.

b. Membership dues or fees paid to an organization by its members to the extent the dues or fees do not exceed five thousand dollars ($5,000) per member in a calendar year.

c. A payment or transfer of money or other thing of value made by a person if the person prohibited the recipient of the payment or transfer from directly or indirectly using the transferred money or thing of value for independent expenditures or electioneering communications, and the recipient agreed in writing to follow the prohibition and deposited the transferred money or thing of value in an account that is segregated from other funds directly or indirectly used for independent expenditures or electioneering communications.

(t) *Donor* means a person that makes a donation to an independent spender.

(u) *Election cycle* means one of the following:

(1) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the next general election for that office.

(2) The period of time beginning when petitions are approved for a recall election
and ending thirty days following the termination of the recall election, either by election, failure to collect sufficient signatures for recall petitions, or resignation of the incumbent who is the subject of the recall.

(v) *Electioneering communication* means a public communication that meets all of the following conditions:

a. Refers to a clearly identified candidate~~, ballot issue, or ballot question~~.

b. Is distributed within one hundred twenty (120) days of a municipal election in which the candidate~~, ballot issue, or ballot question~~ is on the ballot.

c. Can be received by members of the constituency eligible to vote for the candidate~~, ballot issue, or ballot question~~.

(2) "Electioneering communication" does not include:

a. A news story, editorial, or commentary distributed by a broadcasting station, including a cable television operator, programmer, or

producer, or satellite television or radio provider, newspaper, magazine, website, or other periodical publication, including an online or electronic publication, that is not owned or controlled by a candidate or committee.

b. A communication made by a person, other than a candidate or committee, that proposes a commercial transaction in the regular course and scope of the person's business or trade.

c. A communication that constitutes a candidate debate or forum, or communication that solely promotes a candidate debate or forum made by the sponsor of such debate or forum.

d. A membership communication.

(3) An electioneering communication is made when the actual spending occurs or when there is a contractual agreement requiring such spending, and the amount is determined.

(4) For purposes of this Article,~~:~~

~~a.~~ "clearly identified candidate" means the candidate's name or nickname is used in the communication; a picture, drawing, or likeness of the candidate appears in the communication, or the identity of the candidate is otherwise apparent from reference in the communication.

~~b. "Clearly identified ballot issue or ballot question" means the number, official title, or popular name of the issue or question is used in the communication; or there is a reference to the subject matter of the issue or question and the communication either states the issue or question is on the ballot or when taken as a whole and in context, makes an unambiguous reference to the issue or question.~~

(w) *Expenditure* means the purchase, payment, distribution, loan, advance, deposit or gift of money or other thing of value made by a person to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question. An expenditure occurs when the actual payment is made or when there is consideration received, whichever occurs first.

(1) "Expenditure" includes:

a. A purchase or payment made by a candidate or committee.

b. A payment, distribution, loan, or advance of any money or anything of value made by a person for the benefit of a candidate or committee that is made with the prior knowledge and consent of the candidate or committee.

c. A payment or transfer of money or other thing of value made by a committee to another committee.

d. An independent expenditure.

e. An electioneering communication made by a committee.

(2) "Expenditure" does not include:

a. A payment made by a person, other than a committee, in a commercial transaction in the regular course and scope of the

person's business or trade.

b. A news story, editorial, or commentary distributed by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, newspaper, magazine, website, or other periodical publication, including an online or electronic publication, that is not owned or controlled by a candidate or committee.
c. A candidate debate or forum, or communication that solely promotes a candidate debate or forum and is made by the sponsor of such debate or forum.
d. A payment for nonpartisan voter registration or get-out-the-vote efforts made by a person other than a committee.
e. A membership communication.

(x) *Final determination of sufficiency* means a statement issued by the city clerk or designee following a protest hearing or the expiration of the time allowed for filing a protest, as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.

(y) *Foreign-influenced corporation* means a corporation or other entity to which any of the following applies:

(1) A foreign national or foreign owner holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares equal to or greater than five percent (5%) of total equity or outstanding voting shares in the corporation or entity.
(2) Two or more foreign nationals or foreign owners hold, own, control, or otherwise have directly or indirectly acquired beneficial ownership of equity or voting shares in total equal to or greater than twenty percent (20%) of the total equity or outstanding voting shares in the corporation or entity.
(3) Any foreign national or foreign owner participates in any way, directly or indirectly, in the process of making decisions about the corporation's or entity's contributions, expenditures, or electioneering communications.

(z) *Foreign national* means a foreign national as defined by 52 U.S.C. § 30121(b), or a foreign-influenced corporation.

(aa) *Foreign owner* means a corporation or other entity in which a foreign national hold, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares equal to or greater than fifty percent (50%) of total equity or outstanding voting shares.

(bb) *General election* means the statewide election held on the Tuesday following the first Monday of November of each even-numbered year.

(cc) *Independent expenditure* means an expenditure to support or oppose one (1) or more candidates that is not controlled by or coordinated with any candidate or candidate committee.

(dd) *Independent spender* means a person, other than a committee registered with the city clerk under section 54-103, that makes an independent expenditure or electioneering communication.

(ee) *Initial determination of sufficiency* means a statement issued by the city clerk or designee as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.

(ft) *Initiative* means the right of registered electors to originate legally permissible municipal legislation by obtaining signatures on a petition resulting in the enactment of an ordinance by the city council or in a vote by the general electorate.

(gg) *Labor organization* means an organization of any kind, or an agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(hh) *Membership communication* means a communication made by an organization, including a covered entity, that is limited in circulation to principal owners, members, stockholders, or executive or administrative employees of the organization, unless the organization is organized to support or oppose the nomination or election of one or more candidates or the qualification or passage of a ballot issue or ballot question.

(1) "Membership communication" does not include a public communication or a communication that is distributed to persons who are not principal owners, members, stockholders, or executive or administrative personnel of the organization making the communication.

(2) For purposes of this Article:

a. "Member" means a person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or officer of the organization, or on the disposition of all or substantially all of the assets of the organization, or on a merger or dissolution of the organization; or any person who is designated in the articles or bylaws of an organization as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or who pays or has paid membership dues or fees in an amount predetermined by the organization so long as the organization is tax-exempt under section 501(c) of the Internal Revenue Code of 1986. A member of a local union or labor organization is considered to be a member of any national or international union or labor organization of which the local union or labor organization is a part and of any federation with which the local, national, or international union or labor organization is affiliated.

b. "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock will be voted if it is voting stock, and has the right to receive dividends.

c. "Executive or administrative personnel" means an individual employed by an organization who is paid on a salary rather than an hourly basis, and who has policy-making, managerial, professional, or supervisory responsibilities. "Executive or administrative personnel" includes an

individual who runs an organization's business, such as officers, executives, and plant, division, and section managers, and individuals following the recognized professions, such as attorneys and engineers.

(ii) *Municipal election* means a regular municipal election, special municipal election, or recall election.

(jj) *Non-municipal political organization* means any of the following:

(1) A candidate committee, political party, or political committee that is registered and filing reports pursuant to the Fair Campaign Practices Act,§§ 1-45-101 to 1-45- 118, C.R.S., or the law of another municipality in the state of Colorado.

(2) A political committee or political organization organized under the law of another state.

(3) A federal political committee that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971, 52 U.S.C. §§ 30101 to 30146.

(kk) *Person* means a natural person, partnership, committee, association, firm, corporation, company, labor organization, political party, or other entity or group of persons, however organized.

(II)*Petition representative* means the person or persons representing the proponents on all matters affecting a petition.

(mm) *Petition section* means the stapled or otherwise bound package of documents containing the warning, proposed summary or statement, signature pages, and affidavit of the circulator.

(nn) *Political advertisement* means any of the following:

a. An expenditure or independent expenditure that is public communication.

b. An electioneering communication.

(1) "Political advertisement" does not include:

a. Bumper stickers, pins, buttons, pens, or similar small items upon which a disclaimer statement required by section 54-104.5 cannot be conveniently printed.

b. Skywriting, water tower, wearing apparel, or other means of advertising of a nature such that the inclusion of a disclaimer statement required by section 54-104.5 would be impracticable.

(oo) *Principal owner* means a person that owns or controls ten percent (10%) or more of an entity.

(pp) *Principal place of operations* means the primary location where the managers, officers, owners, or leadership personnel of an entity direct or control its activities and operations.

(qq) *Public communication* means a communication to the general public through broadcast, cable, satellite, internet or another digital method, newspaper, magazine, outdoor advertising facility, mass mailing, telephone bank, robocall, or any other form of general public advertising or marketing regardless of medium.

(rr) *Public office* means the office of mayor or city council of the city of Aurora. (ss) *Public officeholder* means a person who holds public office.

(tt) *Referendum* means the right of registered electors, within 30 days after final publication of an ordinance, and by obtaining signatures on a petition, to require the city council to reconsider the Ordinance or to submit it to the electorate for a vote.

(nu) *Referred measure* means a ballot issue or ballot question placed on the ballot by the city council for a vote by the eligible electors of the city.

(vv) *Registered elector* means a resident of the city who is qualified to vote under the constitution and the statutes of the state and who is registered to vote.

(ww) *Regular municipal election* means an election held on the first Tuesday in November in odd-numbered years.

(xx) *Special municipal election* means an election held in conjunction with the statewide general election in November of even-numbered years, except as otherwise provided under section 3-7 of the Charter relating to city council vacancies, under section 4-2 of the Charter relating to recall petitions, as provided under section 6-2 of the Charter relating to initiative petitions, and as provided under sections 14-10 and 15-10 of the Charter relating to time frames for collective bargaining issues.

(yy) *Standalone candidate* means a candidate without a committee who does not accept contributions.

(zz) *Support* or *oppose* means any of the following:

(1) To expressly advocate for or against the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.

(2) To aid or promote the success or defeat of a candidate, ballot issue, or ballot question.

(aaa) *Unexpended campaign funds* means the balance of funds on hand in the campaign account of a committee after a municipal election that is in excess of the amount necessary to pay remaining debts or financial obligations incurred by the committee with respect to the election.

(bbb) *Volunteer* means any person who freely gives time on behalf of a candidate or a candidate, issue, political, small donor, or independent expenditure committee for purposes of municipal election matters.

(ccc) *Usual and normal charge* means:

(1) For goods, the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

(2) For services, the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

Section 2. That Section 54-101 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by Sections to read as follows:

Sec. 54-101. - Prohibited contributions.

(a) An issue committee or independent expenditure committee may not make a contribution to a ~~candidate committee,~~ recall defense committee, or political committee, other than an independent expenditure committee. A **candidate,** candidate committee**,** recall defense committee, or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from an issue committee or independent expenditure committee.

(b) A candidate committee or recall defense committee may not make a contribution to a political committee, issue committee, or **another candidate's** candidate committee or recall defense committee of another candidate. A political committee, issue committee, recall defense committee, or candidate committee may not solicit or accept a contribution from a ~~candidate committee or~~ recall defense committee **or another candidate's candidate committee.**

(c) Neither an issue committee nor an independent expenditure committee may make a contribution to a candidate committee.

(d) No contribution is made through a candidate's personal participation or physical presence at an organizational, planning, policy, or strategy meeting or fundraising or other event for any candidate or issue committee or, with the exception of coordinated expenditures described in section 54-2(n)(2), an independent expenditure committee or independent spender that makes an electioneering communication or independent expenditure.

(e) No committee may accept any contribution in cash, currency, or coin that exceeds one hundred dollars.

Section 3. That Section 54-103(a) of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced to read as follows:

Sec. 54-103. - Requirements for registration and initial filings by candidates and committees;
recordkeeping; campaign accounts.

(a) Except as provided in subsection (b) of this section, an individual must organize a candidate committee pursuant to subsection (c) upon becoming a candidate under this Article. A candidate may not organize, maintain, or control more than one candidate committee at any time. ~~A candidate may not organize, maintain, control, or serve as an officer or treasurer of a political committee or issue committee.~~

(b) A standalone candidate must, within five (5) business days of becoming a candidate, submit an affidavit to the city clerk certifying that the candidate has reviewed and is familiar with the requirements of this Chapter [Chapter 54]. If a standalone candidate subsequently accepts a contribution at any point in the election cycle, the candidate must organize a candidate committee within five (5) business days pursuant to this section.

(c) A committee must, within five (5) business days of becoming a candidate committee, issue committee, or political committee under this Article, do all of the following:

(1) Appoint an individual as its treasurer. A candidate may serve as the treasurer of the candidate's own candidate committee if no other individual is appointed treasurer. In the event that the treasurer of a committee is vacated for any reason, the committee must promptly appoint a new treasurer, who must file the affidavit required under paragraph (7) ofsubsection (d) of this section with the city clerk within ten (10) business days of the vacancy by the prior treasurer.

(2) Open or designate a bank account with a financial institution in the state of Colorado to serve as its campaign account, which must include the full name of the committee in the title of the account.

(3) File a registration statement with the city clerk that includes the information required by subsection (d) of this section.

(d) The registration statement filed by a committee with the city clerk must include:

a. The full name and mailing address of the committee; the street address for the principal place of operations of the committee, if different from the mailing address; telephone number for the principal place of operations of the committee; an email address for the committee that is actively monitored; and the URL of the committee's official website, if any.

b. The full name, mailing address, telephone number, and email address of the treasurer of the committee.

c. The full name of any other committee or a non-municipal political organization that is organized, financed, maintained, or controlled by the same person or group of persons as the committee filing the registration statement, and in the case of a non-municipal political organization registered with the Colorado Secretary of State's campaign finance system, the organization's state-assigned Committee ID number.

d. A description of the purpose of the committee.

i. For a candidate committee, the description must include the full name and public office sought by the candidate on whose behalf the committee is organized.

ii. For a political committee, the description must include the full name and public office sought by each candidate the committee is supporting or opposing.

iii. For an issue committee, the description must include the official title and number of the ballot issue or ballot question the committee is organized to support or oppose if known, and whether the committee supports or opposes that issue or question.

iv. For a separate segregated fund sponsored by a covered entity pursuant to section 54-101(e)(2) of this Code, the description must include the full name and the address of the principal place of operations of the sponsoring entity.

e. The full name, mailing address, and telephone number of the financial institution with which the committee has opened or designated its campaign account, and the title of the campaign account.

f. An affidavit signed by the treasurer of the committee certifying that the treasurer has reviewed and is familiar with the provisions of this chapter, and, in the case of a candidate committee, the registration statement must also include an affidavit from the candidate on whose behalf the committee is organized certifying that the candidate has reviewed and is familiar with the requirements of this chapter.

(e) The city clerk must review all submitted registration statements within five (5) business days and reject any that do not meet all of the requirements of this section. Rejected registrations may be corrected and resubmitted within five (5) business days.

(f) Registration statements must be filed electronically with the city clerk. The city clerk must make all submitted registration statements available to the public online within three (3) business days of determining the statements that meet all requirements of this section.

(g) A public officeholder who is the subject of a recall must organize a recall defense committee in accordance with this section before soliciting or accepting a contribution or making an expenditure to oppose the recall. The public officeholder must file a registration statement for the recall defense committee with the city clerk that includes the information described in subsection (d) of this section, appoint a treasurer of the recall defense committee, and designate a bank account with a financial institution in the state of Colorado to serve as the defense committee's campaign account, which must be separate from any other account of the officeholder or the officeholder's campaign committee.

(h) If any of the information required in subsections (c) or (d) of this section subsequently changes, the committee must file an amendment to its registration statement within five (5) business days. A committee that has registered under this section in connection with a prior municipal election must file an amended registration statement with the city clerk for each subsequent election cycle until the committee submits a termination report.

(i) The treasurer of a committee must preserve copies of all filings and reports required by this article and complete records of all transactions of the committee's campaign account for no less than five (5) years after a

termination report for the committee is submitted to the city clerk or until the final disposition of any complaint or consequent litigation involving the committee, whichever is later. The filings, reports, and records of the committee are subject to inspection at any hearing held under this Article.

(j) All contributions received by a committee must be deposited in its campaign account within ten (10) days of their receipt. All expenditures made by a committee must be paid from its campaign account. A committee may not deposit a contribution to or make an expenditure from its campaign account without the express authorization of its treasurer or the treasurer's designee. The campaign account must be segregated from any other funds or bank accounts of the person that organized the committee, and funds in the campaign account may not be commingled with the personal funds of any person.

(k) The treasurer of a committee and the candidate, in the case of a candidate committee, are jointly and severally responsible for all of the following:

(1) Filing all statements and reports required by this Article in full and accurate detail.

(2) Except as otherwise provided in this Article, all other actions of the committee.

Section 4. That Section 54-104.5 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by Sections to read as follows:

Sec. 54-104.5. - Disclaimers for political advertisements.

(a) A political advertisement must include a disclaimer, as specified in this section. The disclaimer required for a political advertisement must include:

(1) The full legal name of the person or committee who paid for the advertisement.

(2) **The name of the committee's treasurer and the word, "treasurer."**
~~If the political advertisement is authorized by a candidate, a statement that the advertisement is authorized by the candidate~~.

(3**) For independent spenders other than indendepent expenditure committees, the name of the person filing campaign finance reports for that entity and the words, "filing agent".**
~~If the political advertisement is not authorized by a candidate, a statement that the advertisement is not authorized by any candidate~~ OR ~~**CANDIDATE COMMITTEE.**~~

(b) **In addition to complying with subsection (a) of this section regarding disclaimers, a political advertisement, not addressed by subsection (c) of this section, that supports or opposes the election of a candidate or supports or opposes a municipal ballot issue or ballot question, referred measure, or measure for recall of any elected officer, must clearly and conspicuously state it is authorized by the committee that paid for the advertisement.**

(1) If the political advertisement is a television, cable, radio, online or digital audio, telephone, or other audio communication, a person must verbalize at the beginning of such advertisement in a clearly audible and intelligible

manner the following statement: "This political advertisement is authorized by (name of committee)."

(2) If the political advertisement is a text or graphic communication, including an online or digital text or graphic communication, the beginning of such advertisement must state in a manner that is clearly readable: "This political advertisement is authorized by (name of committee)."

(c) In addition to **complying with** ~~the requirements of~~ subsection (a) of this section **regarding disclaimers**, ~~the disclaimer required for~~ a political advertisement that is an independent expenditure or electioneering communication must clearly and conspicuously **that it is not authorized by any candidate or candidate committee.**~~:~~ ~~include the full names of the five (5) donors who have made the largest aggregate contributions or donations of one thousand dollars ($1,000.00) or more during the election cycle to the person who paid for the advertisement.~~

(1) **If the political advertisement is a television, cable, radio, online or digital audio, telephone, or other audio communication, a person must verbalize at the beginning of such advertisement in a clearly audible and intelligible manner the following statement: "This political advertisement is not authorized by any candidate or candidate committee."** ~~If multiple donors have made aggregate contributions or donations in identical amounts of one thousand dollars ($1,000.00) or more to the sponsor of a political advertisement during the election cycle, the advertisement must include the full name of the donor or donors who made the contributions or donations most recently~~.

(2) **If the political advertisement is a text or graphic communication, including an online or digital text or graphic communication, the beginning of such advertisement must state in a manner that is clearly readable by the recipient of the communication: "This political advertisement is not authorized by any candidate or candidate committee."** ~~If no donor has made aggregate contributions or donations of one thousand dollars ($1,000.00) or more to the sponsor of a political advertisement during the election cycle, the advertisement may exclude the statement required by this subsection.~~

(d) A political advertisement disclaimer required by this section must be presented clearly and conspicuously. ~~A disclaimer is not presented clearly and conspicuously if it is difficult to read or hear, or if its placement is easily overlooked~~.

(1) If the political advertisement is a radio, online or digital audio, telephone, or other audio communication, the disclaimer must be spoken in a clearly audible and intelligible manner at the beginning or end of the communication.

(2) If the political advertisement is a television, **cable television,** on line or digital video, or other video communication:

a. The disclaimer must be written and spoken at the beginning or end of the communication.
b. The written disclaimer must appear in the communication in a conspicuous size and style.
c. The spoken disclaimer must be spoken in a clearly audible and intelligible manner.

(3) If the political advertisement is a text or graphic communication, including an online or digital text or graphic communication, the disclaimer must be:

a. Of sufficient size to be clearly readable by the recipient of the communication.
b. Contained in a text box set apart from the other contents of the communication.
c. Displayed with a reasonable degree of color contrast between the background and the disclaimer statement.

(e) If the size, format, or display requirements of an online or digital political advertisement make it technologically impossible to include a disclaimer required by this section on the advertisement, the advertisement must clearly and conspicuously provide to the recipients a direct link to immediately obtain the complete disclaimer with minimal effort and without viewing any additional information other than the required disclaimer.

(f) In addition to complying with subsection (a) of this section regarding disclaimers, an independent spender that expends or spends $3,000 or more in the aggregate during an election cycle on production and distribution of independent expenditures or electioneering commuinications must clearly and conspicuously include in the political advertisement, under the heading of "contributors," the full names of the three donors who made the largest aggregate contributions or donations as of the date the political advertisement is produced for distribution. If there are multiple donations that qualify as being among the top three donation amounts, the most recent donor or donors are the ones to be listed in the political advertisement written and verbalized as part of the required disclaimer.

Section 4. That Section 54-110 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by Sections to read as follows:

Sec. 54-110. - Municipal elections activity—Limitations on municipal officers and elected officials.

(a) **Neither the city nor any** ~~No city~~ **city** agency, **city** department, **city** board, **city** division, **city** bureau, **or city** commission~~, or City Ccouncil~~ shall **use any public moneys from any source to** make any contribution in campaigns involving the nomination, retention, election, or recall of any person to any public office, **nor shall any such entity use any public moneys from any source to make any contribution or donation to any other person for the purpose of making any independent expenditure or any electioneering communication,** nor shall any such entity expend any public moneys from any source to urge electors to vote in favor of or against any:
(1) Municipal ballot issue or ballot question that has been submitted and has had a title fixed;
(2) Referred measure; or
(3) Measure for the recall of any elected officer, upon the final determination of sufficiency.

(b) However, **the city as well as any** ~~a~~ city agency, **city** department, **city** board, **city** division, **city** bureau, **or city** commission~~, or City Ccouncil~~ may respond to questions about any such issue described in subsection (a) if the member, employee, or public

entity has not solicited the question. A member or employee of any such agency, department, board, division, bureau, commission, or **the city** council who has policy-making responsibilities may expend not more than $50.00 of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subsection (a).

(c) Nothing in subsection (a) shall be construed as prohibiting **the city or any** ~~a~~ city agency, **city** department, **city** board, **city** division, **city** bureau, **or city** commission~~, or council~~ from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the city. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on a municipal election ballot.

(d) Nothing in subsection (a) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(e) Nothing in subsection (a) shall be construed as prohibiting **the city or any** ~~a~~ city agency, **city** department, **city** board, **city** division, **city** bureau, **or city** commission~~, or **City C**council~~ from:

(1) Passing a resolution or taking a position of advocacy on any issue described in subsection (a); or

(2) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such city agency, department, board, division, bureau, commission, or council thereof is regularly provided to the public.

(f) Nothing in subsection (a) shall be construed as prohibiting a member **of the city council, any elected or appointed city official.** or **any** ~~any~~ employee of **the city or** ~~a~~ city agency, **city** department, **city** board, **city** division, **city** bureau, **or city** commission~~, or council~~ from expending **one's** personal funds, making contributions **or donations from one's personal funds**, or using personal time to urge electors to vote in favor of or against **any candidate or** any issue described in subsection (a).

(g) Any violation of this section shall be subject to the sanctions authorized in section 54-108.

Section 6. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 8. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2021.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

_____
RACHEL ALLEN, Client Group Manager

CITY OF AURORA
Council Agenda Commentary

Item Title: ORDINANCE AMENDING SECTION 54-31 OF THE CITY CODE - ELECTORS ELIGIBLE TO HOLD MUNICIPAL OFFICE
Item Initiator: Daniel L. Brotzman, City Attorney
Staff Source/Legal Source: Rachel Allen, Client Group Manager/Dave Lathers, Senior Assistant City Attorney
Outside Speaker: Jerry Dahl, Murray Dahl Beery & Renaud
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 8/2/2021

Regular Meeting: 8/9/2021

ACTIONS(S) PROPOSED ***(Check all appropriate actions)***

☐ Approve Item as proposed at Study Session

☐ Information Only

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as proposed at Regular Meeting

☐ Approve Item with Waiver of Reconsideration

Why is a waiver needed?Click or tap here to enter text.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: ***(Check all that apply)***

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY ***(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)***

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ITEM SUMMARY ***(Brief description of item, discussion, key points, recommendations, etc.)***

On May 27, 2021, the City was sued by a registered elector who desires to run for municipal elected office, she meets all of the qualifications to run for office, except that she was convicted of a felony over 20 years ago.

The City's Charter Section 3–3 and Code Section 54–31 require that to be eligible for office in Aurora, candidates must meet five requirements:

- Registered elector in Aurora
- United States citizen
- Resident of the City for at least a year before the election
- Be 21 years or older before the date of election.
- Have no felony convictions

The Colorado Constitution Article VII, Section 10 provides that while confined in prison, prisoners are not entitled to vote but if they were a qualified elector prior to imprisonment and are released by virtue of pardon or for having served out the full term of imprisonment, the rights of citizenship are returned to them.

This proposed ordinance would codify the provisions of the State Constitution into the Aurora Municipal Code.

QUESTIONS FOR COUNCIL

Does Council wish to amend the City Code to allow registered electors with a prior felony conviction to run for office in compliance with the Colorado Constitution Article XII, Section 4?

LEGAL COMMENTS

No person hereinafter convicted of embezzlement of public monies, bribery, perjury, solicitation of bribery, or subordination of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in the state. (Colo. Const. Art. XII, Sec. 4). Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Art. 5-1). Each councilmember when elected shall be a registered elector, shall be a citizen of the United States of America, and shall have resided in the City of Aurora for at least one year prior to the date of the election and shall have reached their twenty-first birthday prior to the date of the election. Councilmembers elected from wards shall also be one-year residents and registered electors of the respective wards from which they were elected. A person who has been convicted of a felony shall not become a candidate for nor hold elective office. No councilmember shall hold any other elective public office nor be a salaried employee of the City of Aurora. (City Charter Art. 3-3). Every registered elector who is 21 years of age or older on the date of the next election, who has resided within the city for at least one year prior to the date of the election, and who is a citizen of the United States is qualified to hold elective office within the city. Candidates for ward seats are also required to be one-year residents of the respective wards from which they are elected. Persons convicted of a felony shall not become a candidate and are not qualified to hold elective office. Candidates, if elected, shall not hold any other elective public office or be a salaried employee of the city. (City Code Sec. 54-31). (Allen)

PUBLIC FINANCIAL IMPACT

☐ YES ☐ NO

If yes, explain: Type Text Here

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: Type Text Here

ORDINANCE NO. 2021- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 54-31 OF THE CITY CODE PERTAINING TO ELECTORS ELIGIBLE TO HOLD MUNICIPAL OFFICE

WHEREAS, Article VII, §10 of the Colorado Constitution generally restores felons who have completed the terms of their sentence to their civil rights; and

WHEREAS, Article XII, §4 of the Colorado Constitution provides that no person convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subordination of perjury shall be capable of holding any office of public trust; and

WHEREAS, Aurora City Council is an office of public trust within the meaning of Article XII, §4 of the Colorado Constitution:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City hereby amends Section 54-31 of the City Code pertaining to Electors eligible to hold municipal office as follows:

Sec. 54-31. – Electors eligible to hold municipal office.

Every registered elector who is 21 years of age or older on the date of the next election, who has resided within the city for at least one year prior to the date of the election, and who is a citizen of the United States is qualified to hold elective office within the city **subject to the remaining conditions of this Section.** Candidates for ward seats are also required to be one-year residents of the respective wards from which they are elected. Persons convicted of a ~~felony~~ **embezzlement of public money, bribery, perjury, solicitation of bribery, or subordination of perjury** shall not become a candidate and are not qualified to hold elective office. Candidates, if elected, shall not hold any other elective public office or be a salaried employee of the city.

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2021.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2021.

_____
MIKE COFFMAN, Mayor

ATTEST:

_____
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

David Lathers RLA
_____
DAVID LATHERS, Senior Assistant City Attorney