



NOTICE OF COUNCIL MEETING

STUDY SESSION

TELECONFERENCE (Open to the Public)

October 18, 2021

6:30 p.m.

TELECONFERENCE/ELECTRONIC PARTICIPATION PROCEDURES

Members of the Aurora City Council will participate in the October 18, 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, October 18, 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 visit www.auroragov.org



REVISED AGENDA

Study Session of the
Aurora City Council

Monday, October 18, 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.b. Issue Update

2. CONSENT CALENDAR

2.a. Consideration to reappoint one (1) member to the Citizens Advisory Committee for Housing & Community Development

6

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

2.b. Consideration to appoint one (1) member to the Election Commission

13

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

2.c. Parkside at City Centre BID 2022 Operating Plan and Budget (Resolution)

22

Jennifer Orozco, Dev Project Mgr – PDS / Hans Hernandez Perez, Assistant City Attorney

2.d. Painted Prairie No. 1 BID 2022 Operating Plan and Budget (Resolution)

47

Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney

2.e. Painted Prairie No. 2 BID 2022 Operating Plan and Budget (Resolution)

69

Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney

2.f.	Porteos BID 2022 Operating Plan and Budget (Resolution)	91
	Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney	
2.g.	Tower BID 2022 Operating Plan and Budget (Resolution)	117
	Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney	
2.h.	Windler No. 1 BID 2022 Operating Plan and Budget (Resolution)	143
	Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney	
2.i.	Windler No. 2 BID 2022 Operating Plan and Budget (Resolution)	165
	Carol Toth, Manager of Accounting – Finance / Hans Hernandez Perez, Assistant City Attorney	
2.j.	2022 Operating Plan and Budget for the Citadel on Colfax Business Improvement District (Resolution)	187
	Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney	
2.k.	2022 Operating Plan and Budget for the Fitzsimons Business Improvement District (Resolution)	210
	Chad Argentar – Senior Development Project Manager / Hans Hernandez, Assistant City Attorney	
2.l.	Havana Business Improvement District - Operation Plan and Budget (Resolution)	232
	Chad Argentar – Senior Development Project Manager / Hans Hernandez – Assistant City Attorney	
	Outside Speaker: Chance Horiuchi – Executive Director – Havana BID	

3. ITEMS FROM THE POLICY COMMITTEES

3.a.	2022 Federal Lobbying Contract Renewal	286
	Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager	
	Estimated time: 5 min.	

- 3.b. 2022 State Lobbying Contract Renewal** 322
- Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager
- Estimated time: 5 min.
- 3.c. Aurora Water State Lobbying Services Contract Renewal** 352
- Kathy Kitzmann, Water Resources Principal / Ian Best, Assistant City Attorney
- Estimated time: 5 min.
- 3.d. Renaming the Aurora Water Building at the Southeast Area Maintenance Facility the Daniel P. Mikesell Water Operations Facility (Resolution)** 358
- Marshall Brown, General Manager, Aurora Water / Christine McKenney, City Attorney
- Estimated time: 20 min.
- 3.e. Acknowledgement of the Supporters of the Aurora Armed Forces Treatment Court Resolution** 375
- Jason Batchelor, Deputy City Manager/ Angela Garcia, Senior Assistant City Attorney
- Estimated time: 15 min.
- 3.f. Battery Operated Alarmed Electric Fence Ordinance** 379
- Jason Batchelor, Deputy City Manager / Tim Joyce, Assistant City Attorney
- Sponsor: Council Member Gardner
- Estimated time: 20 minutes.
- 3.g. Gartrell Rd. Interchange Expansion Design Project IGA with E470 (Resolution)** 397
- Bret Banwart, Transportation Project Delivery Engineering Supervisor / Michelle Gardner, Sr. Assistant City Attorney
- Estimated time: 10 min.

3.h. IGA with E-470 for the Temporary Traffic Signals at Gartrell Road and E-470 (Resolution) 424

Carlie Campuzano, Traffic Manager / Michelle Gardner, Sr. Assistant City Attorney

Estimated time: 10 min.

3.i. I70 Picadilly Funding IGA with CDOT (Resolution) 451

Matt Kozakowski- Transportation Project Delivery Manager/ Michelle Gardner - Senior Assistant City Attorney

Estimated time: 10 min.

3.j. I70 Picadilly Grant Agreement with USDOT (Resolution) 543

Matt Kozakowski - Transportation Project Delivery Manager / Michelle Gardner – Senior Assistant City Attorney

Estimated time: 10 min.

4. ITEMS FROM THE CITY MANAGER

4.a. Colorado Opioids Settlement Memorandum of Understanding (Resolution) 580

Kerstin Claspell, Lead Financial Analyst; Kendall Koca, Manager of Special Projects / Isabelle Evans, Litigation Manager

Estimated time: 20 min.

4.b. Update on the Evaluation and Assessment of Transportation (Road) Impact Fees on Development in the City 661

Cindy Colip, Director of Public Works / Michelle Gardner, Sr Assistant City Attorney

Outside Speakers: Brian Duffany, Economic & Planning Systems (EPS) & Elliot Sulsky, Felsburg, Holt & Ullevig

Estimated time: 45 min.

***4.c. Civil Service Commission Vacancy 698**

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Asst. City Attorney

5. ITEMS FROM THE CITY COUNCIL

5.a. Aurora Mental Health Funding Ordinance

708

Terri Velasquez, Director Of Finance / Hans Hernandez, Assistant City Attorney

Sponsored: Council Member Gardner

Estimated time: 15 min.

5.b. Proposed Amendments to Article 3-5(A) of the City Charter Pertaining to Partisanship of Elections (Ordinance)

718

<https://www.jstor.org/stable/449205>

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Asst. City Attorney

Sponsor: Council Member Marcano

Estimated time: 40 min.

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: Consideration to reappoint one (1) member to the Citizens Advisory Committee for Housing & Community Development

Item Initiator: Teri Marquantte, Chair, Citizens Advisory Committee on Housing and Community Development

Staff Source/Legal Source: Kadee Rodriguez, City Clerk, General Management

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: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

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

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

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 Citizens Advisory Committee on Housing and Community Development's role is to assist City Council in the development, implementation and evaluation of the City's Community Development Block Grant (CDBG) Programs, including but not limited to the HOME Investment Act Program (HOME), Emergency Solutions Grant Program (ESG); review and formulate recommendations for Council's approval for annual and one-time program/project grant/loan allocations for affordable housing; maintain consistency in achieving the Aurora City Council Goals, and review applicable consolidated, annual and/or other plans for submission to the U.S. Department of Housing and Urban Development (HUD).

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

Charlene Wisher-Howard has been on the Citizens Advisory Committee on Housing and Community Development since May of 2017. Charlene currently resides in Ward III. Charlene has experience in leadership administration and a Bachelor of Science degree in Business Administration. Charlene enjoys servicing and helping others. Charlene is actively involved in her community through different organizations. She is currently employed with the State of Colorado as a program assistant. Charlene looks forward to continuing to serve on this committee. In conclusion, the Citizens Advisory Committee on Housing and Community Development respectfully supports the reappointment of Charlene Wisher-Howard to the CHD committee

QUESTIONS FOR COUNCIL

Does Council wish to move this item forward to the formal agenda?

LEGAL COMMENTS

City Council established the Citizens Participation Committee under the Housing and Community Development Act of 1974 by approving Resolution R74-125. Pursuant to Resolution 79-104, City Council determined the Citizens Participation Committee should consist of 15 residents of the City and appointments to the Committee are made by a majority vote of City Council for a period of four years. The Citizens Participation Committee's name was changed to Citizens Advisory Committee in 2019 by resolution. (TJoyce) Section 2-766 of the City Code authorizes City Council to establish Boards or Commissions by ordinance or by resolution. (Lathers)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

MEMORANDUM



City of Aurora

Worth Discovering • auroragov.org

TO: Mayor Mike Coffman
Members of City Council

THROUGH: Kadee Rodriguez, Boards and Commissions Coordinator
Jessica Prosser, Director of Housing and Community Services
Rodney Milton, Manager of Community Development Division

FROM: Teri Marquantte, Chair, Citizens Advisory Committee on Housing and Community Development

DATE: September 23, 2021

SUBJECT: Citizens Advisory Committee on Housing and Community Development Re-Appointment

The Citizens Advisory Committee on Housing and Community Development's role is to assist City Council in the development, implementation and evaluation of the City's Community Development Block Grant (CDBG) Programs, including but not limited to the HOME Investment Act Program (HOME), Emergency Solutions Grant Program (ESG); review and formulate recommendations for Council's approval for annual and one-time program/project grant/loan allocations for affordable housing; maintain consistency in achieving the Aurora City Council Goals, and review applicable consolidated, annual and/or other plans for submission to the U.S. Department of Housing and Urban Development (HUD).

Charlene Wisner-Howard has been on the Citizens Advisory Committee on Housing and Community Development since May of 2017. Charlene currently resides in Ward III. Charlene has experience in leadership administration and a Bachelor of Science degree in Business Administration. Charlene enjoys servicing and helping others. Charlene is actively involved in her community through different organizations. She is currently employed with the State of Colorado as a program assistant. Charlene looks forward to continuing to serve on this committee.

In conclusion, the Citizens Advisory Committee on Housing and Community Development respectfully supports the reappointment of Charlene Wisner-Howard to the CHD committee.

The Honorable Mayor Coffman
Aurora City Council
15151 E. Alameda Parkway
Aurora, CO 80012-1553

RE: Application for reappointment to Citizens Advisory Committee on Housing and Community Development
Charlene A. Wisner-Howard

Dear Mayor and Members of the Aurora City Council:

My term of office on the above-named board has recently expired or will expire soon. I am interested in serving an additional term;

I hope you will sincerely consider my application and reappointment.

Sincerely,

Signature

Charlene A. Wisner-Howard

Printed name

Citizens Advisory Committee on Housing and Community Development

Name of Board/Commission

Date

9/23/2021

Date:

9-23-2021

City of Aurora
APPLICATION FOR APPOINTMENT
 PLEASE TYPE OR PRINT CLEARLY

Ward No.

Board/Commission Applying For:

Citizens Advisory Committee on Housing and Community Development

PERSONAL INFORMATION:

Name:

Charlene A. Wishek-Howard

How long in Aurora?:

10 years

Home Address:

887 South Evanston Circle

Zip: 80012

Date of:

11 / 1

Home Phone:

Work Phone:

8 / 1

HIGHEST LEVEL OF EDUCATION OR DEGREE EARNED:

Yrs. Completed:

20

Degree(s):

Master's of Divinity

Colleges:

Golden Beacom College, Univ. of Phoenix-Colorado, Triff School of Theology

EMPLOYMENT:

Employer Name/Address:

State of Colorado - Labor & Employment

Position:

Program Assistant II

How long?

12 years

Work Experience:

Administrative

Certifications:

COMMUNITY INVOLVEMENT:

Serve pastor of a non denominational church serving and meeting
 the basic needs within the community

If yes, what position:

INTERESTS/ACTIVITIES:

Reading, walking, serving-helping people

WHY DO YOU DESIRE THIS APPOINTMENT:

I enjoy the commission work on community, housing equity
 and engagement.

PLEASE GIVE THREE REFERENCES:

Name:

Therese Ellis

Address:

1155 E. Kora St Denver 80220

Phone:

40 978

Name:

Derelle Gillom

Address:

16294 E. Alameda Pl # 105 Aurora 80017

Phone:

Name:

Debbie Osborne

Address:

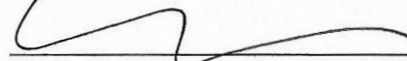
1072 S. Granby Way Aurora 80012

Phone:

4

I certify that the foregoing information is true and correct.

Charlene A. Wishek-Howard
 (Volunteer's name printed)


 (Volunteer's signature)

9/23/2021
 (Date)

SEND COMPLETED FORM TO:

CITY CLERK'S OFFICE, 15151 E. Alameda Parkway, Suite 1400, Aurora, CO 80012
 PHONE: 303-739-7094 FAX: 303-739-7520.

(-OVER-)

How did you hear about us: <input type="checkbox"/> Newspaper: _____ <input type="checkbox"/> Channel 8 <input type="checkbox"/> Word of Mouth <input checked="" type="checkbox"/> Other: <u>6 years ago website</u>	Ethnic Background: <input type="checkbox"/> White <input checked="" type="checkbox"/> Black/African American <input type="checkbox"/> Hispanic/ Latino <input type="checkbox"/> Asian <input type="checkbox"/> Native Hawaiian or other Pacific Islander <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Two or more races
	Gender: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female

FOR OFFICE USE ONLY:

Date Received: _____ Excel Entry Date: _____ Initials: _____	
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CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to appoint one (1) member to the Election Commission
Item Initiator: Carolyn Boller, Chair, Election Commission
Staff Source/Legal Source: Kadee Rodriguez, City Clerk, General Management/Dave Lathers, Senior Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 1.2--Develop neighborhood and community relationships

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

Kadee Rodriguez, City Clerk, General Management/Dave Lathers, Senior Assistant City Attorney

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 Election Commission is comprised of five members all of whom can serve two consecutive four-year terms. Members shall be an Aurora and a registered elector and cannot hold any elective federal, state, county or City office, be a candidate for any elective office in the City or be employed by the City.

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

The Election Commission conducted interviews with Debra Johnson, Arnie Schultz and Eric Mulder to fill the position of Jessica Chauvin who has resigned from the Election Commission in June 2021. Interviews were conducted on August 18, 2021. With Debra Johnson's knowledge of Boards and Commissions, after having past experience with City Council and having served on the board, the Election Commission felt her knowledge and experience with the City of Aurora would allow her to be the best candidate for a position on the Election Commission.

The Aurora Election Commission strongly supports the appointment of Debra Johnson as a member on the Aurora Election Commission.

QUESTIONS FOR COUNCIL

Does City Council wish to move this item forward to the regular scheduled Council meeting?

LEGAL COMMENTS

The five members of the Commission shall be qualified electors of the City. Members shall be appointed by City Council to four-year staggered terms. During their term of office, members shall not hold any elective federal, state, county or city office, nor be employed by the City, nor shall they be candidates for any elective office in the City. (Article 2-2, City Charter) (Lathers)

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

- ☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

Date: 07/28/2021

Ward No: 3

Board/Commission Applying For: Election Commission

Name: Debra Johnson

Home Address: 10330 E Ohio Place

City: Aurora

Zip: 80247

Work Phone:

How Long in Aurora: 2

Register to Vote: Yes

EDUCATION:

Years Completed: 6

Degree(s): BS Human Services Master Public Administration

Colleges: Lake Superior State University American University

EMPLOYMENT:

Employer Name: Retired Employer Address:

Position:

How Long?:

Work Experience: 10 years Aurora City Clerk 8 years Denver Clerk and Recorder

Certifications:

COMMUNITY INVOLVEMENT:

Involvement: Former Board member of a Chamber, Former Commissioner of Independent Ethics Do you Presently Serve in Any Other Appointed Position on a Board, Commission or Committee?: No If Yes, what position:

INTERESTS/ACTIVITIES:

Interests/Activities: Outdoor activities: gardening, pickleball, camping

APPOINTMENT:

Why do you desire this appointment? The several years of experience administrating, managing elections for the City of Aurora and City and County of Denver will assist in being an Election Commissioner. Elections are very important to the democracy of Aurora. I want to share my knowledge and experience with the City I live in.

How much time do you anticipate being able to spend on this appointment each month?: 10 hours

PLEASE GIVE THREE REFERENCES:

Name: Carolyn Boller

Address:

Name: Matt Crane

Address:

Name: Julie Heckman

Address:

Date: 03/14/2021

Ward No: IV

Board/Commission Applying For: Election Commission

Name: Eric Mulder

Home Address: 15462 E Evans Ave

City: Aurora

Zip: 80013

How Long in Aurora: 10 yr

Register to Vote: Yes

EDUCATION:

Years Completed: 4

Degree(s): Bachelor's

Colleges: Rocky Mountain College of Art + Design

EMPLOYMENT:

Employer Name: Parkview Congregational Church UCC Employer Address: 12444 E Parkview Drive

Position: Communications Coordinator

How Long?: 7 months

Work Experience:

Certifications:

COMMUNITY INVOLVEMENT:

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

INTERESTS/ACTIVITIES:

Interests/Activities:

APPOINTMENT:

Why do you desire this appointment? To support open and fair elections in the city of Aurora How much time do you anticipate being able to spend on this appointment each month?: 10-20 hours per week

PLEASE GIVE THREE REFERENCES:

Name: Kevin Gulbranson

Address: 21079 E Mineral Dr, Aurora CO 80016

Phone:

Name: Michele Poague

Address: 21079 E Mineral Dr, Aurora CO 80016

Phone:

Name: Kat Martin

Address: 919 S Peoria St, Aurora, CO 80012

Phone:

Date:
April 12, 2021

City of Aurora
APPLICATION FOR APPOINTMENT
PLEASE TYPE OR PRINT CLEARLY

Ward No.

IV

Application kept for One Year. May Attach Resume.

Board/Commission Applying For:

Election Commission

PERSONAL INFORMATION:

Name: ARNOLD (ARNIE) SCHULTZ		How long in Aurora: 45 years	
Home Address: 1137 S. Oakland St. Aurora CO 80012		Registered to Vote: Yes	
	Date of Birth:	Home Phone:	Work Phone:

EDUCATION: **Required to verify voter registration

Yrs. Completed: 23	Degree(s): BS. MS. Ph.D.
Colleges: Adelphi College (BS) University of Colorado (MS & Ph.D.)	

EMPLOYMENT:

Employer Name/Address: VA Med. Ctr. 1055 Clermont St. Denver (retired) Dumb Friends League 2080 S Quebec St, Denver (current, part-time)	Clinical Chemist Adoptions Associate	How long? VA 32 yrs. DFL 14 yrs.
Work Experience: VA with appointment as Assist. Prof Pathology Univ. CO, managed VA chemistry lab. with 25 FTEE and taught residents	Certifications: American Board of Clinical Chemists	

COMMUNITY INVOLVEMENT:

Served on CABC & Parks&Rec. Board Village East Neighborhood Assoc. Board Member – over 25 years & currently	
DO YOU PRESENTLY SERVE IN ANY OTHER APPOINTED POSITION ON A BOARD, COMMISSION OR COMMITTEE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If yes, what position:	

INTERESTS/ACTIVITIES:

Local, state, & Nat'l politics, hiking, fishing, cycling, wood working, Recreational Opportunities for Aurora Residents Foundation (ROAR) President/Chair 501(c)(3) provides 100% financial assistance to underserved youth in Aurora
--

WHY DO YOU DESIRE THIS APPOINTMENT:

I have been interested in Aurora elections since the 1980's and ran for Ward IV in 2015, dropped out because of knee replacement. With my knowledge of Aurora elections. I would be an asset to the Election Commission
How much time do you anticipate being able to spend on this appointment each month? 20 hours during busv times of the year

PLEASE GIVE THREE REFERENCES:

Name: Molly Markert	Address: 2551 S. Macon Way Aurora CO 80014	Phone:
Name: Terry Campbell Caron	Address: 10700 E. Evans Ave. Aurora, CO 80301	Phone:
Name: Terry Todd	Address: 11293 E Harvard Dr. Aurora, CO 80014	Phone:

I certify that the foregoing information is true and correct.

Arnie Schultz
(Volunteer's name printed)


(Volunteer's signature)

April 12, 2021
(Date)

SEND COMPLETED FORM TO:
CITY CLERK'S OFFICE, 15151 E. Alameda Parkway, Suite 1400, Aurora, CO 80012
PHONE: 303.739.7094 FAX: 303.739.7520.

(-OVER-)

How did you hear about us: <input type="checkbox"/> Newspaper: _____ <input type="checkbox"/> News Aurora (water bill newsletter) <input type="checkbox"/> Channel 8 <input type="checkbox"/> Word of Mouth <input checked="" type="checkbox"/> Other: <i>Always knew</i> _____	

FOR OFFICE USE ONLY:

Date Received: _____ Excel Entry Date: _____ Initials: _____	Registered Voter: ____ Yes ____ No ____ N/A County: _____ As of: _____ Volunteer Agreement Signed?: ____ Yes ____ No Incumbent? ____ Renewal Letter Attached? ____ New Volunteer Agreement? ____
--	--

Date Interviewed:	Comments:	Appointed?
Date Interviewed:	Comments:	Appointed?
Date Interviewed:	Comments:	Appointed?
Date Postcard Sent:	Response:	
Date Postcard Sent:	Response:	



MEMORANDUM

TO: Mayor Coffman and Members of City Council

FROM: Carolyn Boller, Board Chair, Election Commission

THROUGH: Kadee Rodriguez, City Clerk, General Management

DATE: October 11, 2021

SUBJECT: New Appointment to the Election Commission

The Election Commission is comprised of five members all of whom can serve two consecutive four-year terms. Members shall be an Aurora and a registered elector and cannot hold any elective federal, state, county or City office, be a candidate for any elective office in the City or be employed by the City. The Aurora Election Commission consists of five voting members appointed by the Aurora City Council.

Summary

The Election Commission conducted interviews with Debra Johnson, Arnie Schultz and Eric Mulder to fill the position of Jessica Chauvin who has resigned from the Election Commission in June 2021. Interviews were conducted on August 18, 2021. With Debra Johnson's knowledge of Boards and Commissions, after having past experience with City Council and having served on the board, the Election Commission felt her knowledge and experience with the City of Aurora would allow her to be the best candidate for a position on the Election Commission.

The Aurora Election Commission strongly supports the appointment of Debra Johnson as a member on the Aurora Election Commission.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Parkside at City Centre Business Improvement District

Item Initiator: Jennifer Orozco, Development Project Manager – Planning and Development Services

Staff Source/Legal Source: Jennifer Orozco, Dev Project Mgr – PDS / Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE PARKSIDE AT CITY CENTRE BUSINESS IMPROVEMENT DISTRICT

Staff Source/Legal Source: Jennifer Orozco, Dev Project Mgr – PDS / Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 9/28/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Parkside at City Centre Business Improvement District (BID) in 2017 (Ord. No. 2017-18). The BID is located at the northeast corner of E. Alameda Avenue and S. Sable Boulevard. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Parkside and City Centre Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. (Sec. 31-25-1211, C.R.S.) (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Parkside at City Centre Business Improvement District. Funding is projected at \$729,510 primarily from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside at City Centre Metropolitan District.

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE PARKSIDE AT CITY CENTRE BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2017-38 organizing the Parkside at City Centre Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Parkside at City Centre Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

2022 OPERATING PLAN AND BUDGET

PARKSIDE AT CITY CENTRE BUSINESS IMPROVEMENT DISTRICT

City of Aurora, Arapahoe County, Colorado

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EXHIBIT A - Director Contact Information

EXHIBIT B - BID Budget 2022

 General Fund

 Capital Projects Fund

 Debt Service Fund

EXHIBIT C – District Boundary Map

2022
OPERATING PLAN FOR THE
PARKSIDE AT CITY CENTRE BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically Section 31-25-1211, C.R.S., requires that the Parkside at City Centre Business Improvement District (the “District”) file an operating plan and budget with the City Clerk no later than September 30 of each year.

Under the statute, the City is to approve the operating plan and budget within 30 days of the submittal of all required information.

The District will operate under the authorities and powers allowed under the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District; and (5) such other information as the City may require.

The District’s original 2017 Operating Plan and subsequent Operating Plans, previously approved by the City, are incorporated herein by reference and shall remain in full force and effect except as specifically or necessarily modified hereby.

C. Purposes. As may be further articulated in prior years’ Operating Plans, the ongoing and/or contemplated purposes of this District for 2022 include financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts.

D. Ownership of Property or Major Assets. The District will own public improvements as constructed if such improvements are not otherwise dedicated to other public entities for operation and maintenance.

E. Contracts and Agreements. It is anticipated that the District will enter into various agreements as required to facilitate the funding, construction, operation and maintenance of public improvements. The District is currently a party to the Public Finance and Reimbursement Agreement with the Aurora Urban Renewal Authority, Parkside Aurora, LLC, and Parkside at City Centre Metropolitan District, dated March 4, 2019. The District entered into an Intergovernmental District Facilities Construction and Service Agreement with the Parkside at City Centre Metropolitan District on August 4, 2020, whereby the District is responsible for constructing,

operating, and maintaining certain public improvements benefitting both Districts and the Metropolitan District contributes to the costs related to such construction, operation, and maintenance. The District may also enter into agreements with the City and other districts encompassing adjacent developments in order to cooperate on infrastructure projects.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

- A. Organization. The Parkside at City Centre Business Improvement District was organized by the City of Aurora, Colorado by Ordinance No. 2017-38 on October 28, 2017.
- B. Governance. The District is governed by an elected Board of Directors.
- C. Current Board. The current Board members are:
 - 1) Donald J. Marcotte
 - 2) Chase LaFrano
 - 3) Tim Fredregill
 - 4) Jason Marcotte
 - 5) Darren Hinton

Director and other pertinent contact information is provided in Exhibit A.

- D. Term Limits. A ballot question was included to eliminate term limits for the November 7, 2017 special election. The question passed.
- E. Advisory Board. The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. No advisory boards have yet been appointed.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

A map of the District's boundaries following the exclusion of certain property anticipated to be completed by the end of 2021 is attached as **EXHIBIT C**. The District may have inclusion or exclusion requests in the coming year. The District will obtain the City's approval of any inclusion or exclusion of property in the event such action is necessary.

4. PUBLIC IMPROVEMENTS

The District will be primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances to provide improvements or services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial improvements and services shall be as limited by state law.

The public improvements that the District anticipates it will construct, install or cause to be constructed and installed include those public improvements the costs of which may, in accordance with the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscaping and storm and wastewater management facilities and associated land acquisition and remediation.

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

The District shall provide for ownership, operation, and maintenance of District facilities as activities of the District itself or by contract with other units of government or the private sector.

6. FINANCIAL PLAN AND BUDGET

1. 2022 Budget. The proposed 2022 Budget for the District is attached as **EXHIBIT B**. The adopted 2021 Budget differed from the 2021 Budget attached to the 2021 Operating Plan to revise the anticipated amount of property tax revenue the District would receive from the Parkside at City Centre Metropolitan District and to adjust the amount of developer advances the District anticipated it would receive.
2. Authorized Indebtedness. The District held an election on November 7, 2017, for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Art. X., Sec. 20 of the Colorado Constitution, and the Operating Plan. The initial maximum debt authorization for the District shall be \$50,000,000.
3. Property Tax and Debt Service Mill Levy Cap. The District taxing ability shall be constrained to a mill levy limitation of up to 50 mills for debt service, provided, however, that if, on or after January 1, 2004, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the mill levy limitation may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after

January 1, 2004, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

4. **District Revenues.** The District anticipates receiving property tax revenue, public improvement fee revenue, sales tax revenue, developer advances, and property tax revenue from the Parkside at City Centre Metropolitan District in accordance with the Intergovernmental District Facilities Construction and Service Agreement the District and Parkside at City Centre Metropolitan District entered into on August 4, 2020. The District is the beneficiary of revenues derived from a privately imposed public improvement fee, which are used to support public improvement construction and existing bonds. See proposed 2022 Budget attached as **EXHIBIT B**.
5. **Existing Debt Obligations.** On April 9, 2019, the District issued its \$13,990,000 Special Revenue and Tax Supported Senior Bonds Series 2019 A (“2019 Bonds”) for the purpose of constructing capital improvements with a public purpose necessary for development. The City Council approved this issuance by Resolution No. R2019-06, as required by the 2019 Operating Plan. Following the issuance of the 2019 Bonds, the District has \$36,010,000 in remaining debt authorization. The District did not make any principal payments on the 2019 Bonds in 2020 or 2021.
6. **Future Debt Obligations.** The District does not anticipate issuing debt in 2022.
7. **Other Financial Obligations.** The District may enter into agreements including reimbursement or similar agreements and leases, as well as agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.
8. **Non-Default Provisions.** Limited tax general obligation bonds issued by the District shall be structured and/or credit enhancements provided such that the bonds cannot default as long as the District is imposing the required maximum allowed mill levy.
9. The debt of the District will not constitute a debt or obligation of the City in any manner. The faith and credit of the City will not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District

7. 2022 ACTIVITIES, PROJECTS AND CHANGES

(a) Activities

The District provided operation and maintenance services in 2021, including, but not limited to, parking and street maintenance and operations, including snow removal, landscaping, stormwater, marketing, and common area maintenance. The District anticipates it will continue to provide such operation and maintenance services in 2022.

(b) Projects and Public Improvements

The District anticipates completing construction of the public improvements to serve the project by the end of 2021.

(c) Summary of 2022 Activities and Changes from Prior Year.

The District is anticipated to complete construction of the public improvements intended to serve the property within and without the District's boundaries by the end of 2021. The District's activities will largely consist of district administration, payment of its existing bonds, and providing the operation and maintenance services listed above.

Boundary changes: The District may have boundary changes in 2022.

Changes to board or governance structure: No changes are anticipated in 2022.

Mill levy changes: In 2021, the District imposed 50 mills for debt service, 13 mills for operations and maintenance, and 1 mill for ARI mill levy. In 2022, the District anticipates imposing 50 mills for debt service, 13 mills for operations and maintenance, and 1 mill for ARI mill levy.

New, refinanced or fully discharged debt: The District does not anticipate issuing debt for 2022.

Elections: Regular election on May 3, 2022.

Major changes in development activity or valuation: The District anticipates completing construction of the public improvements by the end of 2021.

Ability to meet current financial obligations: See 2022 Budget attached as **EXHIBIT B**.

8. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate perpetual existence. If the District no longer has such obligations the District will seek to dissolve pursuant to C.R.S. § 31-25-1225.

9. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
Director and Other Contact Information

BOARD OF DIRECTORS:

Donald J. Marcotte 1999 Broadway, Suite 770 Denver, Colorado 80202	303.893.9500 dmarcotte@northstarcp.com
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Jason Marcotte 1999 Broadway, Suite 770 Denver, Colorado 80202	303.893.9500 jason@summitcvg.com
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Tim Fredregill 12655 W. 54 th Drive Arvada, Colorado 80002	303.216.0420 tfredregill@milenderwhite.com
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Chase LaFrano 1150 Galapago Street, #701 Denver, Colorado 80204	303.216.0420 clafrano@milenderwhite.com
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Darren Hinton 5390 Lakeshore Drive Bow Mar, Colorado 80123	303.216.0420 dhinton@milenderwhite.com
--	---

DISTRICT CONTACT:

Russell W. Dykstra
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
303-839-3845
rdykstra@spencerfane.com

INSURANCE AND DIRECTORS' BONDS:

T. Charles Wilson Insurance Service
384 Inverness Parkway
Centennial, Colorado 80112
303-368-5757

ACCOUNTANT:

Diane Wheeler

Simmons & Wheeler, P.C.
304 Inverness Way South, Suite 490
Englewood, Colorado 80112
303-689-0833
diane@simmonswheeler.com

AUDITOR:

Wipfli LLP
14143 Denver W Parkway #450
Lakewood, CO 80401
303-988-1900

EXHIBIT B

**2022 BID Budget
General Fund
Capital Projects Fund
Debt Service Fund**

Parkside at City Centre Business Improvement District
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Actual 2020	Adopted Budget 2021	Actual 6/30/2021	Estimated 2021	Proposed Budget 2022
Beginning fund balance	\$ -	\$ -	\$ 2,188	\$ 2,188	\$ -
Revenues:					
Property taxes	1,375	19,175	18,013	19,175	32,184
Specific ownership taxes	97	1,534	656	1,534	2,575
PIF revenue	-	8,679	-	8,679	28,036
2020 Tax abatement	-	-	-	-	(9,000)
Transfer from Parkside Metro District	7,699	16,592	15,298	17,001	31,696
Interest income	18	-	9	25	25
Developer advances	60,059	65,305	27,397	75,534	63,709
Total revenues	69,248	111,285	61,373	121,948	149,225
Total funds available	69,248	111,285	63,561	124,136	149,225
Expenditures:					
Accounting/audit	27,409	15,000	11,883	20,000	20,000
Election	-	-	-	-	-
Insurance/ SDA Dues	546	1,500	20,876	20,876	1,500
Legal	39,059	20,000	9,838	20,000	20,000
Trash	-	911	-	911	-
Utilities	-	750	-	750	2,400
Engineering	-	-	-	-	-
Water	-	-	-	-	9,300
Maintenance	-	11,800	-	11,800	13,200
Lot sweeping	-	6,200	-	6,200	3,800
Janitorial/Porter	-	15,000	-	15,000	19,200
Landscaping	-	14,000	-	14,000	13,320
Snow removal	-	7,000	-	7,000	15,000
Miscellaneous	25	2,000	56	100	2,400
Security	-	3,595	-	3,595	6,450
Management	-	-	-	-	12,000
Contingency	-	10,000	-	-	6,000
Treasurer's Fees	21	288	270	288	483
Emergency Reserve	-	3,241	-	3,616	4,172
Total expenditures	67,060	111,285	42,923	124,136	149,225
Ending fund balance	\$ 2,188	\$ -	\$ 20,638	\$ -	\$ -
Assessed valuation		\$ 1,475,033			\$ 2,475,698
Mill Levy		13.000			13.000

Parkside at City Centre Business Improvement District
Proposed Budget
Capital Projects Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>6/30/2021</u>	Estimated <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ 2,907,597	\$ -	\$ -	\$ -	\$ -
Revenues:					
Interest income	7,201	-	-	-	-
Developer advances	207,678	257,173	529,436	529,436	-
Bond Proceeds	-	-	-	-	-
Total revenues	<u>214,879</u>	<u>257,173</u>	<u>529,436</u>	<u>529,436</u>	<u>-</u>
Total funds available	<u>3,122,476</u>	<u>257,173</u>	<u>529,436</u>	<u>529,436</u>	<u>-</u>
Expenditures:					
Issuance costs	-	-	-	-	-
Capital expenditures	3,122,476	257,173	529,436	529,436	-
Transfer to Debt Service	-	-	-	-	-
Total expenditures	<u>3,122,476</u>	<u>257,173</u>	<u>529,436</u>	<u>529,436</u>	<u>-</u>
Ending fund balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Parkside at City Centre Business Improvement District
Proposed Budget
Debt Service Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>6/30/2021</u>	Estimated <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ 3,469,019	\$ 2,622,803	\$ 2,617,512	\$ 2,617,512	\$ 1,885,796
Revenues:					
PIF Revenue	-	78,113	-	78,113	252,326
Sales tax revenue	-	-	-	-	191,347
Property taxes	13,755	73,752	69,279	73,752	123,785
Specific ownership taxes	975	5,900	2,523	5,900	9,903
Property taxes - ARI	275	1,475	1,386	1,475	2,476
Specific ownership taxes - ARI	19	118	50	118	198
Interest Income	11,844	35,000	126	500	250
Total revenues	<u>26,868</u>	<u>194,358</u>	<u>73,364</u>	<u>159,858</u>	<u>580,285</u>
Total funds available	<u>3,495,887</u>	<u>2,817,161</u>	<u>2,690,876</u>	<u>2,777,370</u>	<u>2,466,081</u>
Expenditures:					
Bond interest expense	874,375	874,375	437,188	874,375	874,375
Treasurer's fees	206	1,106	1,039	1,106	1,857
ARI Treasurer fees	4	22	21	22	37
Authority fee	-	11,000	11,000	11,000	11,000
Trustee / paying agent fees	3,500	10,000	3,500	3,500	3,500
ARI Mill levy	290	1,571	1,415	1,571	2,637
Total expenditures	<u>878,375</u>	<u>898,074</u>	<u>454,163</u>	<u>891,574</u>	<u>893,406</u>
Ending fund balance	<u>\$ 2,617,512</u>	<u>\$ 1,919,087</u>	<u>\$ 2,236,713</u>	<u>\$ 1,885,796</u>	<u>\$ 1,572,675</u>
Assessed valuation		<u>\$ 1,475,033</u>			<u>\$ 2,475,698</u>
Mill Levy		<u>50.000</u>			<u>50.000</u>
ARI Mill Levy		<u>1.000</u>			<u>1.000</u>
Total Mill Levy		<u>64.000</u>			<u>64.000</u>

EXHIBIT C

District Boundary Map

Parkside at City Centre Business Improvement District:

24,985 SF of Stand-Alone Retail Buildings:

Parkside Retail A: 14505 E. Alameda

Parkside Retail B: 14515 E. Alameda

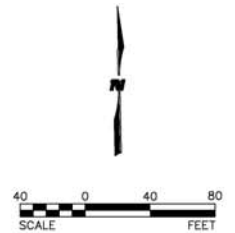
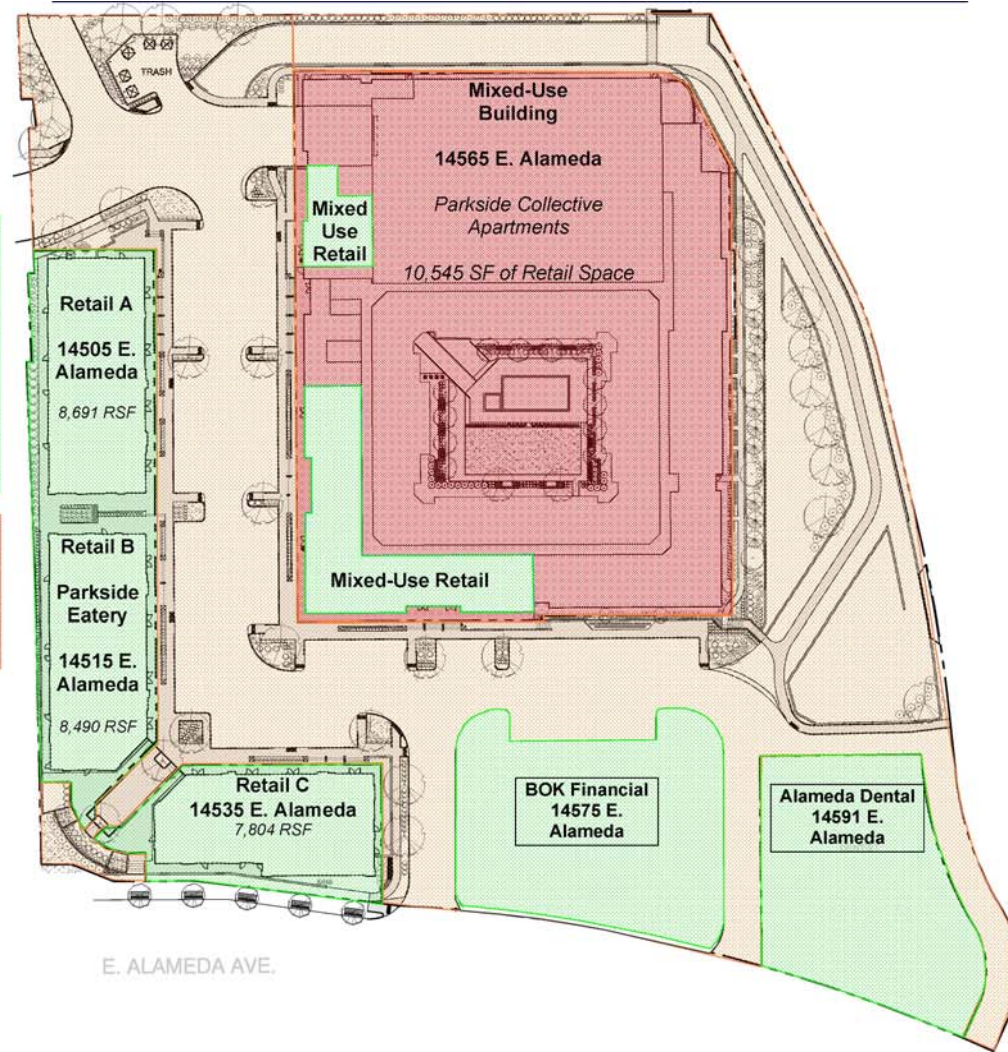
Parkside Retail C: 14535 E. Alameda

Ground Floor Retail Portion of Parkside Collective
Mixed-Use Building:
14565 E. Alameda

BOK Financial Building: 14575 E. Alameda
Alameda Dental Building 14591 E. Alameda

Parkside at City Centre Metro District:

Mixed-Use Building, Excluding the 10,545 SF of Ground
Floor Retail Portion of the Mixed-Use Building:
14565 E. Alameda





Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

Feet
0 250 500

City of Aurora, Colorado

Parkside at City Centre
Business Improvement District

September 23, 2021



*Aurora is
Worth Discovering!*



Legend

- Water Lines
- Lakes
- Parcels
- Parkside at City Centre BID

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Parkside at City Centre Business Improvement District

Item Initiator: Jennifer Orozco, Development Project Manager – Planning and Development Services

Staff Source/Legal Source: Jennifer Orozco, Development Project Manager – Planning and Development Services /Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Jennifer Orozco

Agenda Item Initiator Name

Jessica Prosser, for Roberto Venegas

Late Submission Approver Name

Jennifer Orozco

10/5/2021

Agenda Item Initiator Signature

Date

Late Submission Approver Signature

10/5/21

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District No. 1

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NO. 1

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 9/28/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Painted Prairie Business Improvement District No. 1 (BID) in 2017 (Ord. No. 2017-36). The BID is located in the southeast corner of E 64th Avenue and N Himalaya Road. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Painted Prairie Business Improvement District No. 1 to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. (Sec. 31-25-1211, C.R.S.) (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Painted Prairie Business Improvement District No. 1. Funding is projected at \$30,003 primarily from developer advances.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District No. 1

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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
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COUNCIL MEETING DATES FOR LATE SUBMISSION:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth
Agenda Item Initiator Signature

10/5/2021

Date

Roberto Venegas
Late Submission Approver Signature

10/5/21

Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER ONE

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2017-36 organizing the Painted Prairie Business Improvement District Number One (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District Number One are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, in conflict herewith are hereby rescinded.

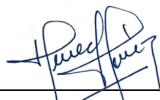
RESOLVED AND PASSED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER ONE

2022 OPERATING PLAN AND BUDGET

(City of Aurora, Adams County, Colorado)

Submitted: September 13, 2021

Prepared by:



2154 E. Commons Ave., Suite 2000
Denver, CO 80122

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EXHIBIT LIST

EXHIBIT A	District Legal Description and Map
EXHIBIT B	Budget and Financial Statements
EXHIBIT C	District Contact Information

I. PURPOSE AND SCOPE OF DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically § 31-25-1211, C.R.S., requires that the Painted Prairie Business Improvement District Number One (the “**District**”) file an operating plan and budget with the City of Aurora City Clerk no later than September 30 of each year.

1. Under the statute, the City of Aurora (the “**City**”) is to approve the operating plan and budget within thirty (30) days of submittal of all required information.

2. The District will operate under the authorities and powers allowed under §§ 31-25-1201, *et seq.*, C.R.S., as amended (the “**Business Improvement District Act**”), as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the Business Improvement District Act, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of bonds to be issued by the District; and (5) such other information as the City may require.

C. Purposes. As may be further articulated in succeeding year’s operating plans, the ongoing and contemplated purposes of the District include the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all the services and public improvements allowed under Colorado law for business improvement districts.

II. COMPOSITION OF THE DISTRICT’S CURRENT BOARD OF DIRECTORS

A. Current Board of Directors. The composition of the District’s current board of directors (“**Board of Directors**”) is:

1. Christopher H. Fellows
2. Timothy P. O’Connor
3. Dustin M. Anderson
4. Vacant
5. Vacant

Vacancies on the Board are to be filled by appointment by resolution of the City Council to serve until the next regular election. Therefore, the Board will be requesting the City Council appoint successor board members.

B. Term Limits. Ballot Question W of the November 7, 2017 election eliminated term limits.

C. Director Compensation. The Board of Directors shall receive compensation up to \$100 per meeting attended for their services as directors.

III. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The current District boundaries are 0.250 acres as depicted in **Exhibit A**. The District anticipates boundary adjustments to occur in 2021. Therefore, the Board will be requesting the City Council approve boundary adjustments in 2021. In subsequent years, the District anticipates inclusion requests for additional property as additional property owners participate in the District.

IV. SERVICES, ACTIVITIES, PROJECTS AND PUBLIC IMPROVEMENTS

The District will primarily be concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances where the District will provide public improvements and services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these public improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial public improvements and services shall be as limited by state law. The public improvements that the District anticipates it will construct, install or cause to be constructed or installed, include those public improvements the cost of which may, in accordance with the Business Improvement District Act, lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscape and storm and wastewater management facilities and associated land acquisition and remediation (collectively, the “**Public Improvements**”). The costs of such Public Improvements includes the costs of design, acquisition, construction and financing.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Business Improvement District Act, and other applicable statutes, common law and the Constitution. The District may provide for ownership, operation, and maintenance of Public Improvements and District facilities as activities of the District itself or by contract with other units of government or the private sector.

The property owners of the District request that the City designate the territory within the District as a location for new business or commercial development pursuant to § 31-25-1203(10), C.R.S.

A. Current Year (2021) Services, Activities, Projects and Public Improvements.

As the development within the District is still in the planning stages, the District only undertook administrative functions during 2021.

B. Future Year (2022) Services, Activities, Projects and Public Improvements.

During 2022, the District intends to undertake the planning of Public Improvements necessary for the development of property within the District.

V. SOURCES OF REVENUE

A. Current Year (2021) Sources of Revenue. The primary source of revenue for the District in 2021 was developer advances. The District imposed a 10.000 mill levy on all property within the District for collection in 2021, all of which was dedicated to the General Fund.

B. Future Year (2022) Sources of Revenue. The primary source of revenue for the District in 2022 will be developer advances. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund. The District may also be the beneficiary of revenues derived from a privately imposed public improvement fee.

VI. PROPERTY TAX AND MILL LEVY

A. Mill Levy Caps. The maximum debt mill levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District, and shall be 50 mills as may be adjusted so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes, for purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

B. Current Year (2021) Mill Levy. The District imposed a 10.000 mill levy on all property within the District for collection in 2021, all of which was dedicated to the General Fund.

C. Future Year (2022) Mill Levy. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund.

VII. AUTHORIZED INDEBTEDNESS AND EXISTING DEBT OBLIGATIONS

A. Maximum Debt Authorization. The District held an organizational election on November 7, 2017 for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Article X, Section 20 of the Colorado Constitution (“TABOR”). The initial maximum debt authorization for the District shall be \$100,000,000.

B. Current Year (2021) Debt Outstanding. The District has no outstanding debt obligations.

C. Future Year (2022) Debt Outstanding. The District does not anticipate issuing debt in 2022.

VIII. BUDGET AND FINANCIAL STATEMENTS

A. 2022 Budget. The proposed 2022 Budget for the District is attached as **Exhibit B**.

C. 2021 Budget. The District’s 2021 Budget is attached as **Exhibit B**.

B. 2020 Financial Statements. The District’s December 31, 2020 financial statements are attached as **Exhibit B**. The District was exempt from audit during 2020.

IX. DISTRICT CONTACT INFORMATION

A. Contact Information. Contact information for the District's accountant and District's representative where follow-up inquiries and questions should be directed is set forth on **Exhibit C**.

X. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate a perpetual existence. If the District no longer has such obligations, the District may seek to dissolve pursuant to § 31-25-1225, C.R.S.

XI. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act, the Colorado Constitution, and the additional information required by the City. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
DISTRICT LEGAL DESCRIPTION AND MAP

LEGAL DESCRIPTION – PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NO. 1

A PARCEL BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 11, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 11, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 00°13'50" WEST, A DISTANCE OF 2658.83 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE NORTH 18°41'27" WEST, A DISTANCE OF 227.38 FEET TO A POINT BEING 72.00 FEET, BY PERPENDICULAR MEASUREMENT, WESTERLY OF THE EAST LINE OF SAID SOUTHEAST QUARTER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE SOUTH 89°46'10" WEST, A DISTANCE OF 105.00 FEET;

THENCE NORTH 00°13'50" WEST, A DISTANCE OF 105.00 FEET;

THENCE NORTH 89°46'10" EAST, A DISTANCE OF 105.00 FEET TO A POINT BEING 72.00 FEET, BY PERPENDICULAR MEASUREMENT, WESTERLY OF THE EAST LINE OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 00°13'50" EAST PARALLEL WITH SAID EAST LINE, A DISTANCE OF 105.00 FEET TO THE POINT OF BEGINNING,

SAID PARCEL CONTAINING A CALCULATED AREA OF 11,025 SQUARE FEET OR 0.253 ACRE, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THESE DESCRIPTIONS IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

I, WILLIAM F. HESSELBACH JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.



WILLIAM F. HESSELBACH JR., P.L.S. 25389
FOR AND ON BEHALF OF
CVL CONSULTANTS OF COLORADO, INC.
10333 E. DRY CREEK ROAD, SUITE 240
ENGLEWOOD, CO 80112



ILLUSTRATION FOR EXHIBIT

SE 1/4
SEC 11

E 1/4 COR. SEC. 11
REBAR & 3-1/2" ALUM. CAP
"LS 38003 2007"

E. LINE, SE 1/4, SEC. 11
N00°13'50"W 2658.63'
(BASIS OF BEARINGS)

BUSINESS IMPROVEMENT
DISTRICT #1
11,025 S.F.
0.253 AC.

N89°46'10"E
105.00'

N00°13'50"W
105.00'

72.00'
S00°13'50"E
105.00'

S89°46'10"W
105.00'

POINT OF
BEGINNING

N18°41'27"W
227.38' (TIE)

S LINE, SE 1/4, SEC. 11
N89°43'32"E 2653.23'

S 1/4 COR. SEC. 11
REBAR & 3-1/4" ALUM. CAP
"LS 17666 2002"

POINT OF COMMENCEMENT
SE COR. SEC. 11
REBAR & 3-1/4" BRASS CAP
"LS 16398 1986"

OWNER:
WF PRAIRIE LLC
5600 GREENWOOD PLAZA BLVD., STE 220
GREENWOOD VILLAGE, CO 80111

200 100 0 200 400

SCALE: 1" = 200'

THE ABOVE DESCRIBED PARCEL CONTAINS 11,025 SQUARE FEET OR (0.253 ACRE) MORE OR LESS.
This illustration does not represent a monumented survey. It is intended only to depict the attached legal description.

PAINTED PRAIRIE BUSINESS IMPROVEMENT
DISTRICT NO. 1

A PARCEL OF LAND SITUATED WITHIN THE
SOUTHEAST QUARTER OF SECTION 11, T3S,
R66W, 6TH P.M., CITY OF AURORA, ADAMS
COUNTY, COLORADO.

DRAWN BY: WJP	SCALE: 1" = 200'	R.O.W. FILE NUMBER
CHECKED BY: WFH	DATE: 4/25/2017	JOB NUMBER: 30175604

EXHIBIT B
BUDGETS AND FINANCIAL STATEMENTS

Painted Prairie Business Improvement District #1
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>06/30/21</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Property taxes	-	4	-	-	229
Specific ownership taxes	-	-	-	-	18
Developer advances	<u>17,429</u>	<u>29,996</u>	<u>8,312</u>	<u>20,000</u>	<u>29,756</u>
Total revenues	<u>17,429</u>	<u>30,000</u>	<u>8,312</u>	<u>20,000</u>	<u>30,003</u>
Total funds available	<u>17,429</u>	<u>30,000</u>	<u>8,312</u>	<u>20,000</u>	<u>30,003</u>
Expenditures:					
Accounting / audit	3,197	5,000	1,719	5,000	5,000
Engineering	-	5,000	-	-	5,000
Insurance/SDA dues	4,312	2,500	4,192	4,200	2,500
Legal	9,720	15,000	2,401	10,000	15,000
Miscellaneous	200	1,000	-	800	1,000
Treasurer fees	-	-	-	-	3
Contingency	-	645	-	-	645
Emergency reserve (3%)	-	855	-	-	855
Total expenditures	<u>17,429</u>	<u>30,000</u>	<u>8,312</u>	<u>20,000</u>	<u>30,003</u>
Ending fund balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 420</u>			<u>\$ 22,870</u>
Mill Levy		<u>10.000</u>			<u>10.000</u>

EXHIBIT C
DISTRICT CONTACT INFORMATION

District Representative Contact:

Clint C. Waldron, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: cwaldron@wbapc.com

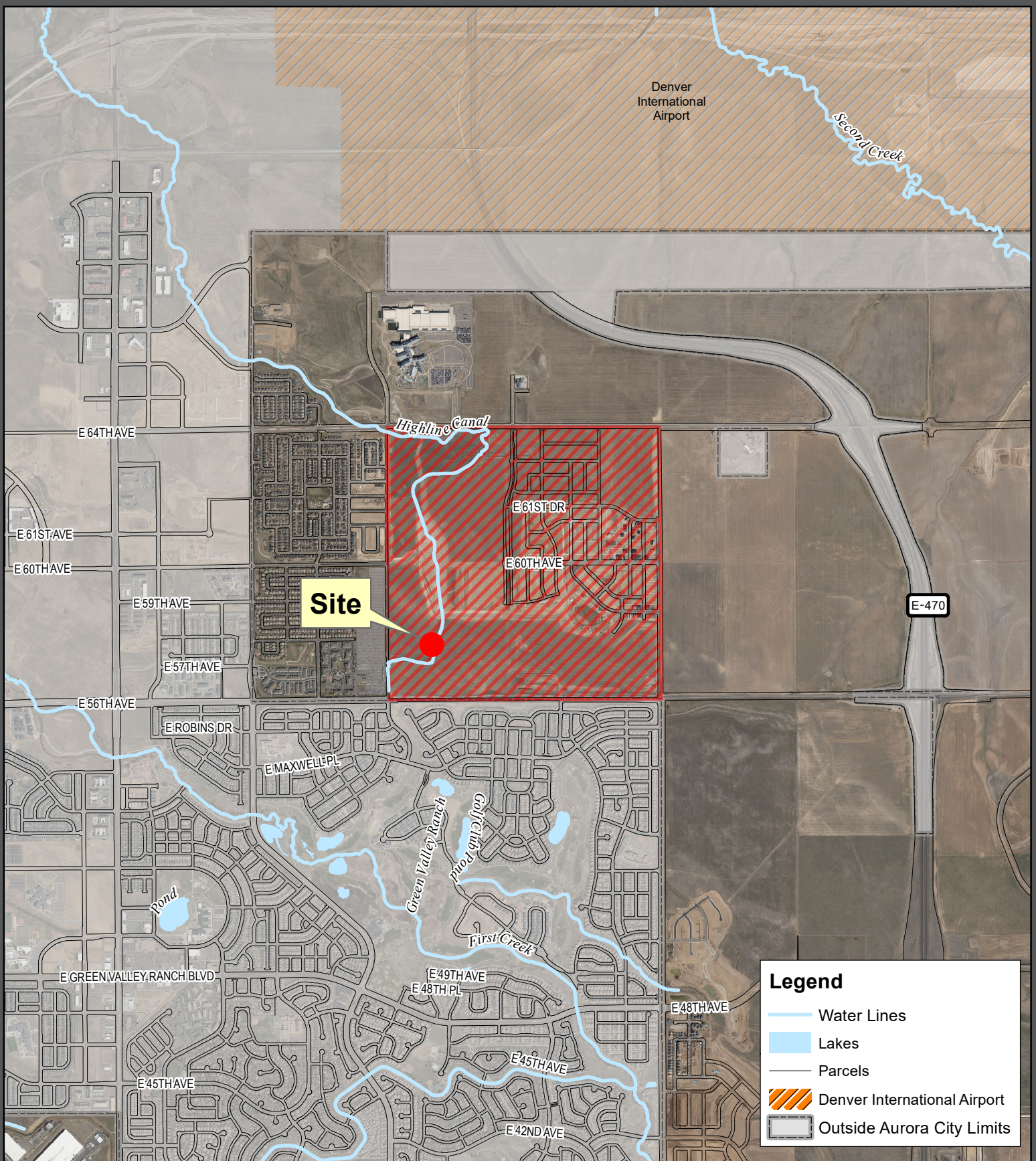
Megan J. Murphy, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: mmurphy@wbapc.com

District Accountant:

Diane Wheeler
304 Inverness Way South
Suite 490
Englewood, CO 80112
Work: 303-689-0833
Email: diane@simmonswheeler.com

District Auditor:

Not applicable



Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

Feet
0 1,250 2,500

City of Aurora, Colorado

Painted Prairie Business Improvement District #1



September 23, 2021

Aurora is
Worth Discovering!



MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District No. 2

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NO. 2

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Painted Prairie Business Improvement District No. 2 (BID) in 2017 (Ord. No. 2017-37). The BID is located generally south of E 64th Avenue and west of N Picadilly Road. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Painted Prairie Business Improvement District No. 2 to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Painted Prairie Business Improvement District No. 2. Funding is projected at \$25,000 from developer advances.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District No. 2

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth

Agenda Item Initiator Signature

10/5/2021

Date

Roberto Venegas

Late Submission Approver Signature

10/5/21

Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER
TWO

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2017-37 organizing the Painted Prairie Business Improvement District Number Two (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Painted Prairie Business Improvement District Number Two are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

A handwritten signature in blue ink, appearing to read 'Hanosky Hernandez', is written over a horizontal line.

RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER TWO

2022 OPERATING PLAN AND BUDGET

(City of Aurora, Adams County, Colorado)

Submitted: September 13, 2021

Prepared by:



2154 E. Commons Ave., Suite 2000
Denver, CO 80122

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EXHIBIT LIST

EXHIBIT A	District Legal Description and Map
EXHIBIT B	Budget and Financial Statements
EXHIBIT C	District Contact Information

I. PURPOSE AND SCOPE OF DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically § 31-25-1211, C.R.S., requires that the Painted Prairie Business Improvement District Number Two (the “**District**”) file an operating plan and budget with the City of Aurora City Clerk no later than September 30 of each year.

1. Under the statute, the City of Aurora (the “**City**”) is to approve the operating plan and budget within thirty (30) days of submittal of all required information.

2. The District will operate under the authorities and powers allowed under §§ 31-25-1201, *et seq.*, C.R.S., as amended (the “**Business Improvement District Act**”), as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the Business Improvement District Act, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of bonds to be issued by the District; and (5) such other information as the City may require.

C. Purposes. As may be further articulated in succeeding year’s operating plans, the ongoing and contemplated purposes of the District include the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all the services and public improvements allowed under Colorado law for business improvement districts.

II. COMPOSITION OF THE DISTRICT’S CURRENT BOARD OF DIRECTORS

A. Current Board of Directors. The composition of the District’s current board of directors (“**Board of Directors**”) is:

1. Christopher H. Fellows
2. Timothy P. O’Connor
3. Dustin M. Anderson
4. Vacant
5. Vacant

Vacancies on the Board are to be filled by appointment by resolution of the City Council to serve until the next regular election. Therefore, the Board will be requesting the City Council appoint successor board members.

B. Term Limits. Ballot Question W of the November 7, 2017 election eliminated term limits.

C. Director Compensation. The Board of Directors shall receive compensation up to \$100 per meeting attended for their services as directors.

III. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The current District boundaries are 0.250 acres as depicted in **Exhibit A**. The District anticipates boundary adjustments to occur in 2021. Therefore, the Board will be requesting the City Council approve boundary adjustments in 2021. In subsequent years, the District anticipates inclusion requests for additional property as additional property owners participate in the District.

IV. SERVICES, ACTIVITIES, PROJECTS AND PUBLIC IMPROVEMENTS

The District will primarily be concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances where the District will provide public improvements and services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these public improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial public improvements and services shall be as limited by state law. The public improvements that the District anticipates it will construct, install or cause to be constructed or installed, include those public improvements the cost of which may, in accordance with the Business Improvement District Act, lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscape and storm and wastewater management facilities and associated land acquisition and remediation (collectively, the “**Public Improvements**”). The costs of such Public Improvements includes the costs of design, acquisition, construction and financing.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Business Improvement District Act, and other applicable statutes, common law and the Constitution. The District may provide for ownership, operation, and maintenance of Public Improvements and District facilities as activities of the District itself or by contract with other units of government or the private sector.

The property owners of the District request that the City designate the territory within the District as a location for new business or commercial development pursuant to § 31-25-1203(10), C.R.S.

A. Current Year (2021) Services, Activities, Projects and Public Improvements.

As the development within the District is still in the planning stages, the District only undertook administrative functions during 2021.

B. Future Year (2022) Services, Activities, Projects and Public Improvements.

During 2022, the District intends to undertake the planning of Public Improvements necessary for the development of property within the District.

V. SOURCES OF REVENUE

A. Current Year (2021) Sources of Revenue. The primary source of revenue for the District in 2021 was developer advances. The District imposed a 10.000 mill levy on all property within the District for collection in 2021, all of which was dedicated to the General Fund.

B. Future Year (2022) Sources of Revenue. The primary source of revenue for the District in 2022 will be developer advances. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund. The District may also be the beneficiary of revenues derived from a privately imposed public improvement fee.

VI. PROPERTY TAX AND MILL LEVY

A. Mill Levy Caps. The maximum debt mill levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District, and shall be 50 mills as may be adjusted so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes, for purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

B. Current Year (2021) Mill Levy. The District imposed a 10.000 mill levy on all property within the District for collection in 2021, all of which was dedicated to the General Fund.

C. Future Year (2022) Mill Levy. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund.

VII. AUTHORIZED INDEBTEDNESS AND EXISTING DEBT OBLIGATIONS

A. Maximum Debt Authorization. The District held an organizational election on November 7, 2017 for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Article X, Section 20 of the Colorado Constitution (“TABOR”). The initial maximum debt authorization for the District shall be \$100,000,000.

B. Current Year (2021) Debt Outstanding. The District has no outstanding debt obligations.

C. Future Year (2022) Debt Outstanding. The District does not anticipate issuing debt in 2022.

VIII. BUDGET AND FINANCIAL STATEMENTS

A. 2022 Budget. The proposed 2022 Budget for the District is attached as **Exhibit B.**

B. 2021 Budget. The District’s 2021 Budget is attached as **Exhibit B.**

B. 2020 Financial Statements. The District’s December 31, 2020 financial statements are attached as **Exhibit B.** The District was exempt from audit during 2020.

IX. DISTRICT CONTACT INFORMATION

A. Contact Information. Contact information for the District's accountant and District's representative where follow-up inquiries and questions should be directed is set forth on **Exhibit C**.

X. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate a perpetual existence. If the District no longer has such obligations, the District may seek to dissolve pursuant to § 31-25-1225, C.R.S.

XI. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act, the Colorado Constitution, and the additional information required by the City. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
DISTRICT LEGAL DESCRIPTION AND MAP

LEGAL DESCRIPTION - PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NO. 2

A PARCEL BEING A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11, AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°55'04" EAST, A DISTANCE OF 2845.51 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 84°23'46" EAST, A DISTANCE OF 726.68 FEET TO A POINT BEING 72.00 FEET, BY PERPENDICULAR MEASUREMENT, SOUTHERLY OF THE NORTH LINE OF SAID NORTHWEST QUARTER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE NORTH 89°55'04" EAST PARALLEL WITH SAID NORTH LINE, A DISTANCE OF 105.00 FEET;

THENCE SOUTH 00°04'56" EAST, A DISTANCE OF 105.00 FEET;

THENCE SOUTH 89°55'04" WEST, A DISTANCE OF 111.32 FEET TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 527.00 FEET, A CENTRAL ANGLE OF 08°48'40", AN ARC LENGTH OF 80.74 FEET, THE CHORD OF WHICH BEARS NORTH 04°23'20" EAST, 80.66 FEET;

THENCE NORTH 00°00'00" EAST, A DISTANCE OF 24.69 FEET TO THE POINT OF BEGINNING,

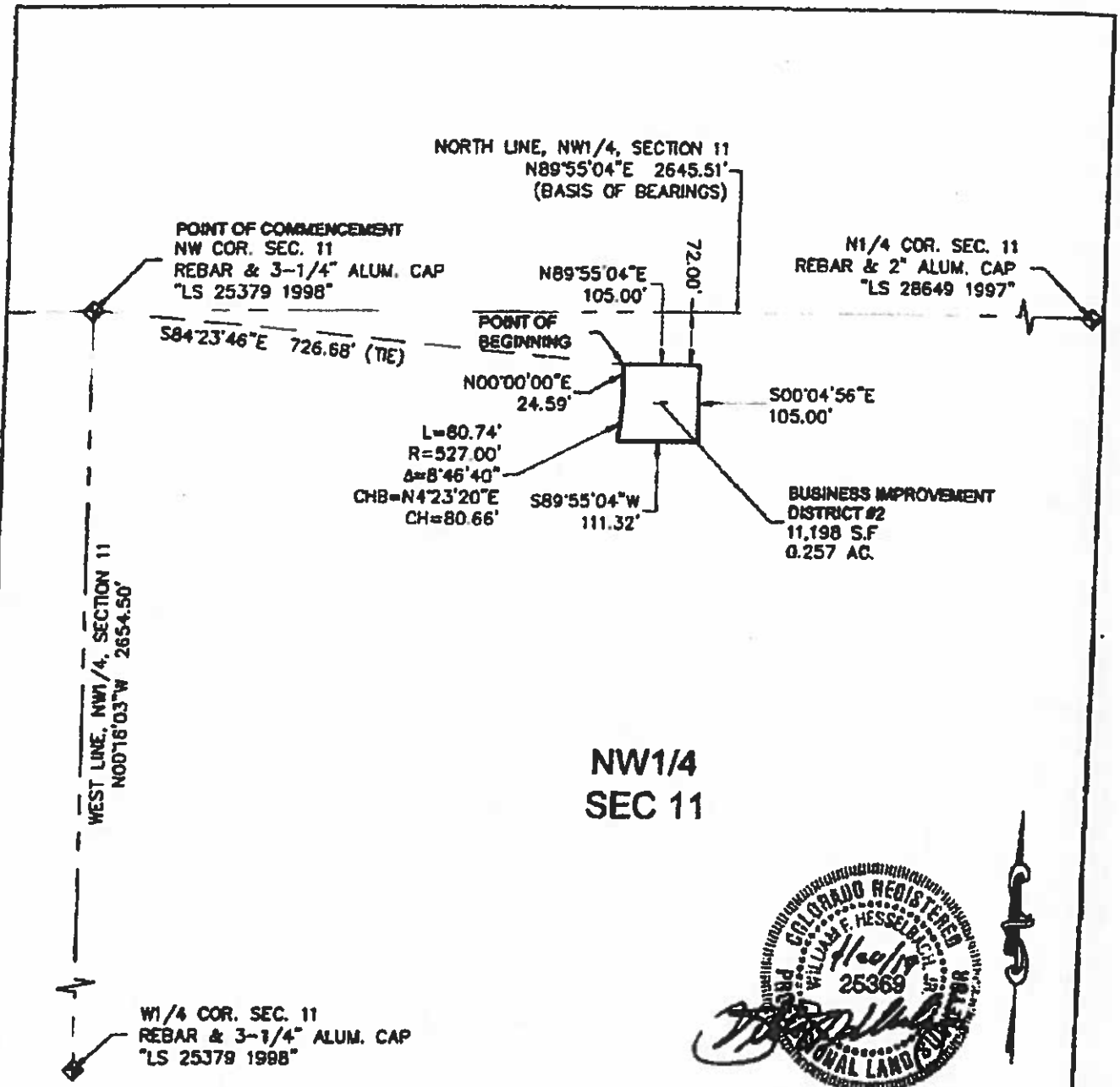
SAID PARCEL CONTAINING A CALCULATED AREA OF 11,198 SQUARE FEET OR 0.257 ACRE, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THESE DESCRIPTIONS IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

I, WILLIAM F. HESSELBACH JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

**WILLIAM F. HESSELBACH JR., P.L.S. 25369
FOR AND ON BEHALF OF
CVL CONSULTANTS OF COLORADO, INC.
10333 E. DRY CREEK ROAD, SUITE 240
ENGLEWOOD, CO 80112**





OWNER:
WF PRAIRIE LLC
5800 GREENWOOD PLAZA BLVD., STE 220
GREENWOOD VILLAGE, CO 80111

200 100 0 200 400

SCALE: 1" = 200'

THE ABOVE DESCRIBED PARCEL CONTAINS 11,198 SQUARE FEET OR (0.257 ACRE) MORE OR LESS.
This illustration does not represent a monumented survey. It is intended only to depict the attached legal description.

PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NO. 2			A PARCEL OF LAND SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 11, T3S, R66W, 6TH P.M., CITY OF AURORA, ADAMS COUNTY, COLORADO.	
DRAWN BY:	MLP	SCALE:	R.O.M. FILE NUMBER	
		1" = 200'		
CHECKED BY:	WFM	DATE:	JOB NUMBER:	
		4/25/2017	30175804	

EXHIBIT B
BUDGETS AND FINANCIAL STATEMENTS

Painted Prairie Business Improvement District #2
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>06/30/21</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Developer advances	2,010	25,000	2,010	2,010	25,000
Total revenues	2,010	25,000	2,010	2,010	25,000
Total funds available	2,010	25,000	2,010	2,010	25,000
Expenditures:					
Accounting / audit	-	2,500	-	-	2,500
Engineering	-	2,500	-	-	2,500
Insurance/SDA dues	2,010	2,500	2,010	2,010	2,500
Legal	-	10,000	-	-	10,000
Management	-	1,500	-	-	1,500
Miscellaneous	-	2,000	-	-	2,000
Contingency	-	3,370	-	-	3,370
Emergency reserve (3%)	-	630	-	-	630
Total expenditures	2,010	25,000	2,010	2,010	25,000
Ending fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Assessed valuation		\$ 10			\$ 10
Mill Levy		10.000			10.000

EXHIBIT C

DIRECTOR AND OTHER CONTACT INFORMATION

District Representative Contact:

Clint C. Waldron, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: cwaldron@wbapc.com

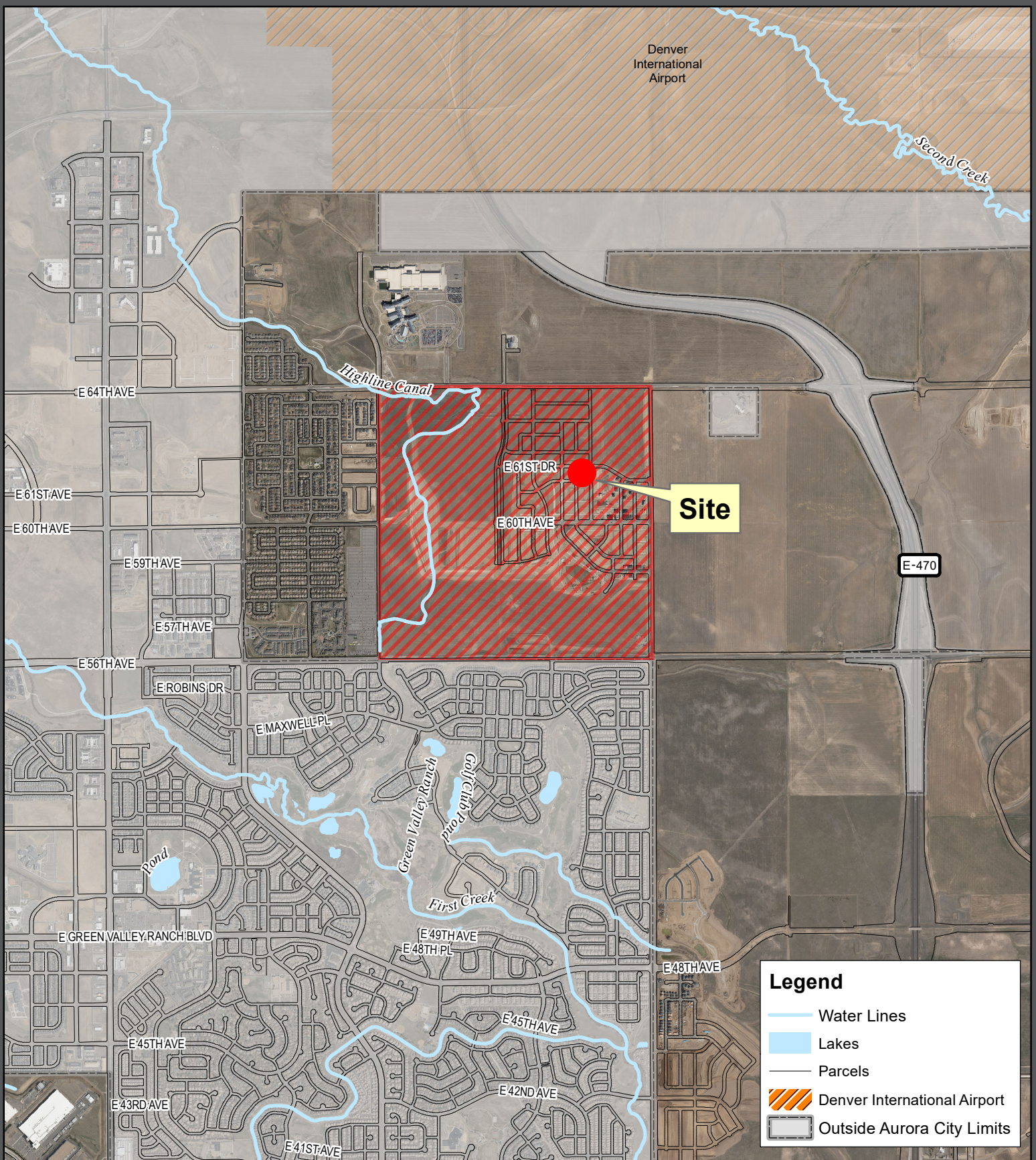
Megan J. Murphy, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: mmurphy@wbapc.com

District Accountant:

Diane Wheeler
304 Inverness Way South
Suite 490
Englewood, CO 80112
Work: 303-689-0833
Email: diane@simmonswheeler.com

District Auditor:

Not applicable



Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

City of Aurora, Colorado

Painted Prairie Business Improvement District #2



September 23, 2021

Aurora is
Worth Discovering!



Feet
0 1,250 2,500

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Porteos Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE PORTEOS BUSINESS IMPROVEMENT DISTRICT

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 9/28/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Porteos Business Improvement District (BID) in 2016 (Ord. No. 2016-43). The BID is located generally east of Harvard Road between 56th and 68th Avenue. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Porteos Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Porteos Business Improvement District. Funding is projected at \$502,426 primarily from developer advances received in prior years, property taxes and public improvement fees.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Porteos Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth 10/5/2021
Agenda Item Initiator Signature Date

Roberto Venegas 10/5/21
Late Submission Approver Signature Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE PORTEOS BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2016-43 organizing the Porteos Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Porteos Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, in conflict herewith are hereby rescinded.

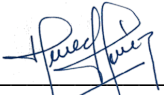
RESOLVED AND PASSED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

2022 OPERATING PLAN AND BUDGET

**PORTEOS
BUSINESS
IMPROVEMENT
DISTRICT**

City of Aurora, Adams County, Colorado

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EXHIBIT A – Director & District Contact Information

EXHIBIT B – 2022 BID Budget and Additional Financial Information

EXHIBIT C – District Map

2022
OPERATING PLAN FOR THE
PORTEOS BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically Section 31-25-1211, C.R.S., requires that the Porteos Business Improvement District (the “District”) file an operating plan and proposed budget with the City Clerk no later than September 30 of each year.

Pursuant to the Business Improvement District Act, Sections 31-25-1201, *et seq.*, C.R.S., as amended (the “Act”), the City of Aurora (the “City”) is to approve the operating plan and budget within 30 days of the submittal of all required information.

The District will operate under the authorities and powers allowed under the Act as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the provisions of the Act, this Operating Plan specifically identifies (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District and (5) such other information as the City may require.

The District’s original 2017 Operating Plan subsequent Operating Plans, previously approved by the City, are incorporated herein by reference, and shall remain in full force and effect except as specifically or necessarily modified hereby.

C. Purposes. As may be further articulated in prior years’ Operating Plans, the ongoing and/or contemplated purposes of this District for 2022 include financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts.

D. Ownership of Property or Major Assets. The District will own public improvements as constructed if such improvements are not otherwise dedicated to other public entities for operation and maintenance.

E. Contracts and Agreements. It is anticipated that the District may enter into agreements as required to facilitate the funding, construction, ownership, operation and maintenance of public improvements. The District, together with the Velocity Metropolitan District Nos. 1-9, is currently party to an Amended and Restated Intergovernmental Agreement Concerning District Improvements and Operations dated December 10, 2020. The District may also enter into agreements with the City and other districts encompassing adjacent developments in order to cooperate on infrastructure projects.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

A. Organization. The District was organized pursuant to Ordinance No. 2016-43 adopted by the City of Aurora City Council with an effective date of October 29, 2016 and recorded with the office of the Adams County Clerk and Recorder on December 2, 2016 at Reception Number 2016000104551.

B. Governance. The District is governed by an elected board of directors consisting of five electors who are all voting members.

C. District Board. The District's Board members and their terms of office are:

Mark A. Adams	(May 2022)
Kristen Adams	(May 2023)
Yuriy Gorlov	(May 2023)
Seth C. Rollert	(May 2023)
Melissa M. Shea	(May 2022)

Director contact information is provided in **EXHIBIT A**.

D. Term Limits. Term limits were eliminated at the District's November 2016 election.

E. Advisory Board. The District's Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. No advisory boards have been appointed.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

A map of the District's boundaries is attached as **EXHIBIT C**. In 2022 and subsequent years, the District may receive requests for inclusion of additional property into the boundaries of the District. However, no requests for boundary adjustments are anticipated at this time.

4. PUBLIC IMPROVEMENTS

The District is primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances to provide improvements or services outside the boundaries of the District as part of the Porteos project. The District shall have the authority to provide these improvements and services, and the revenue-raising powers of the District to recoup the costs of extraterritorial improvements and services shall be as limited by state law.

The public improvements that the District anticipates it will construct, install, own, operate,

and maintain, include those public improvements the costs of which may, in accordance with the Act, lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscaping and storm and wastewater management facilities and associated land acquisition and remediation.

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

The District will provide for ownership, operation, and maintenance of public improvements itself or by contract with other units of government or the private sector.

6. FINANCIAL PLAN AND BUDGET

A. 2022 Budget and Additional Financial Information. The District's proposed 2022 Budget, adopted 2021 Budget, and financial statements for the year ended December 31, 2020, are attached in **EXHIBIT B**. The District's proposed 2021 Budget was revised after it was submitted to the City with the District's 2021 Operating Plan pursuant to the Act to account for and reflect updated assessed valuations, changes in developer funding, changes to transfer amounts from the Velocity Metropolitan Districts based on updated assessed valuations, and adjustments to operating costs to account for additional accounting legal and accounting expenses.

B. Authorized Indebtedness. In November 2016, the District held an election for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters necessary or convenient for the implementation of Art. X., Sec. 20 of the Colorado Constitution, and the Operating Plan. As provided in prior years' Operating Plans, the District's initial maximum debt authorization was \$50,000,000. In 2020, pursuant to the District's 2021 Operating Plan as approved by the City on November 16, 2020, the District determined it to be in the best interests of the District to increase the maximum authorized indebtedness from the initial maximum debt authorization of \$50,000,000 to \$100,000,000 to provide the District with the financial flexibility to efficiently finance the development and construction of the projected public improvements considering the pace of development and phasing within the District and to best serve the economic interests of the District and its current and future property owners. Accordingly, the maximum debt authorization of the District is \$100,000,000.

C. Property Tax and Mill Levy Caps. The District's taxing ability is constrained to mill levy limitations of up to 50 mills for debt service, general operations and administrative expenses due to the on-going operations and maintenance activities to be undertaken by the District within its boundaries. In 2020, for collection in 2021, the District levied a tax of 5.00 mills for general operating expenses on each dollar of the total valuation of assessment of all taxable property in the District. As indicated in the proposed 2022 Budget, it is anticipated at the District will impose a levy of 5.00 mills for general operating expenses for collection in 2022.

D. District Revenues. District revenues derive from developer funding, property taxes, transfers from the Velocity Metropolitan Districts pursuant to the Intergovernmental

Agreement described in Section 1.E. above, and a privately imposed public improvement fee.

E. *Existing Debt Obligations.* The District has no current debt.

F. *Future Debt Obligations.* The District does not currently anticipate the issuance of any debt in 2022.

G. *Other Financial Obligations.* The District has entered into agreements including reimbursement and facilities funding and acquisition agreements, as well as agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.

H. *Non-Default Provisions.* Limited tax general obligation bonds issued by the District shall be structured and/or credit enhancements provided such that the bonds cannot default as long as the District is imposing the required maximum allowed mill levy.

I. *No City Obligation.* The debt of the District will not constitute a debt or obligation of the City. The faith and credit of the City will not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District.

7. 2021 AND 2022 SERVICES, ACTIVITIES, PROJECTS AND CHANGES

A. *Services and Activities.* In 2021 and continuing in 2022, the District operated and will continue its operations in accordance with its adopted budget.

B. *Projects and Public Improvements.* The District may undertake projects or public improvements as development needs require.

8. DISSOLUTION

The District is anticipated to have ongoing ownership, operations and maintenance obligations that will necessitate perpetual existence. If the District no longer has such obligations, the District will seek to dissolve pursuant to C.R.S. § 31-25-1225.

9. CONCLUSION

It is submitted that this 2022 Operating Plan and Budget for the District meets the requirements of the Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of the Act. Inquiries and questions may be directed to the District's legal counsel and accountant. Contact information is provided in **EXHIBIT A**.

EXHIBIT A
Director and District Contact Information

BOARD OF DIRECTORS:

Mark A. Adams
5859 S. Galena Street
Greenwood Village, CO 80111
markaadams@mac.com

Kristen Adams
5859 S. Galena Street
Greenwood Village, CO 80111
kristen@roganadams.com

Yuriy Gorlov
19512 East Lasalle Place
Aurora, CO 80013
gorlov@auroraedc.com

Seth C. Rollert
17757 East Crestridge Place
Centennial, CO 80015
sethrollert@rollertavery.com

Melissa M. Shea
1530 E. Nichols Drive
Centennial, CO 80122
beinspired.mms@hotmail.com

DISTRICT CONTACTS:

Legal Counsel:

Alan D. Pogue
Icenogle Seaver Pogue, P.C.
4725 S. Monaco St, Suite 360
Denver, CO 80237
303-292-9100
apogue@isp-law.com

Accountant:

Diane Wheeler
Simmons & Wheeler, P.C.
304 Inverness Way South, Suite 490
Englewood, CO 80112
303-689-0833
diane@simmonswheeler.com

EXHIBIT B

2022 BID Budget & Additional Financial Information

Porteos Business Improvement District
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>06/31/2021</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ 55,191	\$ 21,089	\$ 150,900	\$ 150,900	\$ 280,565
Revenues:					
Property taxes	212	52,380	49,843	52,380	100,453
Specific ownership taxes	16	4,190	8	30	8,036
Developer advances	116,091	-	37,626	37,626	-
Transfer from Velocity	-	70,915	25,474	70,915	43,372
Public Improvement Fees	<u>124,528</u>	<u>70,000</u>	<u>113,892</u>	<u>130,000</u>	<u>70,000</u>
Total revenues	<u>240,847</u>	<u>197,485</u>	<u>226,843</u>	<u>290,951</u>	<u>221,861</u>
Total funds available	<u>296,038</u>	<u>218,574</u>	<u>377,743</u>	<u>441,851</u>	<u>502,426</u>
Expenditures:					
Accounting / audit	18,555	30,000	6,227	20,000	30,000
Engineering	13,290	10,000	-	10,000	10,000
Insurance/SDA dues	20,487	30,500	4,598	30,500	30,500
Legal	41,764	75,000	10,166	40,000	75,000
Management	-	1,500	-	-	1,500
Director's Fees	14,400	6,000	5,000	15,000	20,000
Miscellaneous	-	2,000	-	-	2,000
Utilities	8,351	20,000	5,288	15,000	30,000
Landscape Maintenance	28,288	30,000	11,579	30,000	40,000
Treasurer's fees	3	786	748	786	1,507
Repay developer advances	-	-	-	-	175,000
Contingency	-	6,614	-	-	74,454
Emergency reserve (3%)	<u>-</u>	<u>6,174</u>	<u>-</u>	<u>-</u>	<u>12,465</u>
Total expenditures	<u>145,138</u>	<u>218,574</u>	<u>43,606</u>	<u>161,286</u>	<u>502,426</u>
Ending fund balance	<u>\$ 150,900</u>	<u>\$ -</u>	<u>\$ 334,137</u>	<u>\$ 280,565</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 10,476,030</u>			<u>\$ 20,090,570</u>
Mill Levy		<u>5.000</u>			<u>5.000</u>

PORTEOS BUSINESS IMPROVEMENT DISTRICT
2021
BUDGET MESSAGE

Attached please find a copy of the adopted 2021 budget for the Porteos Business Improvement District.

The Porteos Business Improvement District has adopted a budget for one fund, a General Fund to provide for general operating expenditures.

The District's accountants have utilized the modified accrual basis of accounting and the budget has been adopted after proper postings, publications and public hearing.

The primary source of revenue for the District in 2021 will be, property taxes, public improvement fees and transfer from Velocity Metropolitan District. The District intends to impose a 5.000 mill levy on all property within the District for 2021.

Porteos Business Improvement District
Adopted Budget
General Fund
For the Year ended December 31, 2021

	<u>Actual 2019</u>	<u>Final Budget 2020</u>	<u>Actual 07/31/20</u>	<u>Estimate 2020</u>	<u>Adopted Budget 2021</u>
Beginning fund balance	\$ -	\$ 671	\$ 16,808	\$ 16,808	\$ 21,089
Revenues:					
Property taxes	87	212	212	212	52,380
Specific ownership taxes	8	17	9	17	4,190
Developer advances	71,670	152,244	35,490	35,490	-
Transfer from Velocity	93,363	10,285	-	41,290	70,915
Public Improvement Fees	-	-	39,721	70,000	70,000
Total revenues	<u>165,128</u>	<u>162,758</u>	<u>75,432</u>	<u>147,009</u>	<u>197,485</u>
Total funds available	<u>165,128</u>	<u>163,429</u>	<u>92,240</u>	<u>163,817</u>	<u>218,574</u>
Expenditures:					
Accounting / audit	10,682	10,000	5,227	10,000	30,000
Engineering	-	10,000	11,725	11,725	10,000
Insurance/SDA dues	16,441	20,000	20,487	20,500	30,500
Legal	72,617	40,000	24,655	50,000	75,000
Management	-	1,500	-	1,500	1,500
Director's Fees	9,450	6,000	5,200	6,000	6,000
Miscellaneous	738	2,000	-	1,000	2,000
Utilities	7,778	20,000	3,055	12,000	20,000
Landscape Maintenance	30,613	30,000	13,157	30,000	30,000
Treasurer's fees	1	3	3	3	786
Contingency	-	19,606	-	-	6,614
Emergency reserve (3%)	-	4,185	-	-	6,174
Total expenditures	<u>148,320</u>	<u>163,294</u>	<u>83,509</u>	<u>142,728</u>	<u>218,574</u>
Ending fund balance	<u>\$ 16,808</u>	<u>\$ 135</u>	<u>\$ 8,731</u>	<u>\$ 21,089</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 42,490</u>			<u>\$ 10,476,030</u>
Mill Levy		<u>5.000</u>			<u>5.000</u>

Porteos Business Improvement District
Financial Statements

December 31, 2020


ACCOUNTANT'S COMPILATION REPORT

Board of Directors
Porteos Business Improvement District

Management is responsible for the accompanying financial statements of each major fund of Porteos Business Improvement District, as of and for the period ended December 31, 2020, which are comprised of the Balance Sheet and the related Statement of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – Governmental Funds and account groups for the twelve months then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with the Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit the Statement of Net Position, Statement of Activities, Management Discussion and Analysis and all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the District's financial position and results of operations. Accordingly, the financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to Porteos Business Improvement District because we performed certain accounting services that impaired our independence.

Handwritten signature of Simmons & Wheeler P.C.

February 17, 2021
Englewood, Colorado

Porteos Business Improvement District
Balance Sheet - Governmental Funds and Account Groups
December 31, 2020

See Accountant's Compilation Report

	<u>General Fund</u>	<u>Account Groups</u>	<u>Total All Funds</u>
Assets			
Current assets			
Cash in checking	\$ 150,203	\$ -	\$ 150,203
Taxes Receivable	1	-	1
Prepaid Expenses	2,037	-	2,037
Receivable PIFs	15,488	-	15,488
Accounts receivable - developer	-	-	-
	<u>167,729</u>	<u>-</u>	<u>167,729</u>
Other assets			
Amount to be provided for retirement of debt	-	305,959	305,959
	<u>-</u>	<u>305,959</u>	<u>305,959</u>
	<u>\$ 167,729</u>	<u>\$ 305,959</u>	<u>\$ 473,688</u>
Liabilities and Equity			
Current liabilities			
Accounts payable	\$ 16,830	\$ -	\$ 16,830
Deferred taxes	-	-	-
	<u>16,830</u>	<u>-</u>	<u>16,830</u>
Developer Advance - Principal	-	282,290	282,290
Developer Advance - Interest	-	23,669	23,669
	<u>16,830</u>	<u>305,959</u>	<u>322,789</u>
Total liabilities			
	<u>150,899</u>	<u>-</u>	<u>150,899</u>
	<u>150,899</u>	<u>-</u>	<u>150,899</u>
Fund Equity			
Fund balance (deficit)	150,899	-	150,899
	<u>150,899</u>	<u>-</u>	<u>150,899</u>
	<u>\$ 167,729</u>	<u>\$ 305,959</u>	<u>\$ 473,688</u>

Porteos Business Improvement District
Statement of Revenues, Expenditures and Changes in Fund Balance
Governmental Funds
Budget and Actual
For the Twelve Months Ended December 31, 2020
General Fund

See Accountant's Compilation Report

	Annual <u>Budget</u>	<u>Actual</u>	Variance Favorable (Unfavorable)
Revenues			
Property taxes	\$ 212	\$ 212	\$ -
Specific ownership taxes	17	16	(1)
Developer advance	152,244	116,091	(36,153)
Transfer from Velocity	10,285	-	(10,285)
Public Improvement Fees	-	124,527	124,527
Interest income	-	-	-
	<u>162,758</u>	<u>240,846</u>	<u>78,088</u>
Expenditures			
Accounting	10,000	9,768	232
Audit	-	8,787	(8,787)
Engineering	10,000	13,290	(3,290)
Insurance	20,000	20,487	(487)
Legal	40,000	41,764	(1,764)
District Management	1,500	-	1,500
Director's Fees	6,000	14,400	(8,400)
Miscellaneous	2,000	-	2,000
Utilities	20,000	8,351	11,649
Landscape Maintenance	30,000	28,288	1,712
Treasurer's Fees	3	3	-
Contingency	19,606	-	19,606
Emergency Reserve	4,185	-	4,185
	<u>163,294</u>	<u>145,138</u>	<u>18,156</u>
Excess (deficiency) of revenues over expenditures	(536)	95,708	96,244
Fund balance - beginning	<u>671</u>	<u>55,191</u>	<u>54,520</u>
Fund balance - ending	\$ <u><u>135</u></u>	\$ <u><u>150,899</u></u>	\$ <u><u>150,764</u></u>

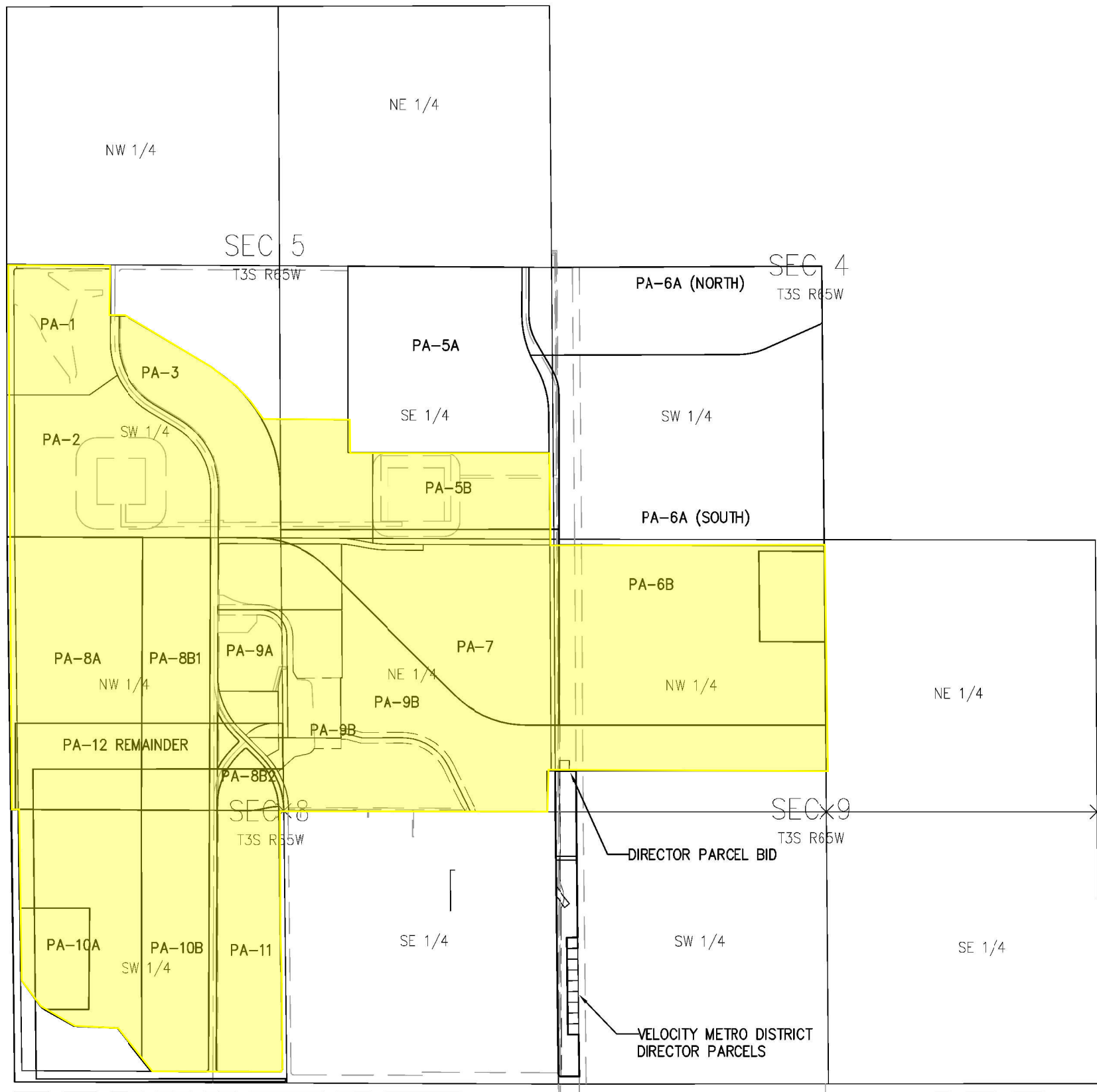
EXHIBIT C

District Map

THIS MAP IS A PRELIMINARY DESIGN. ANY INFORMATION OR DATA PROVIDED IN THIS MAP IS FOR INFORMATION ONLY. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION AND DATA FOR THE PROJECT. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION AND DATA FOR THE PROJECT. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION AND DATA FOR THE PROJECT.

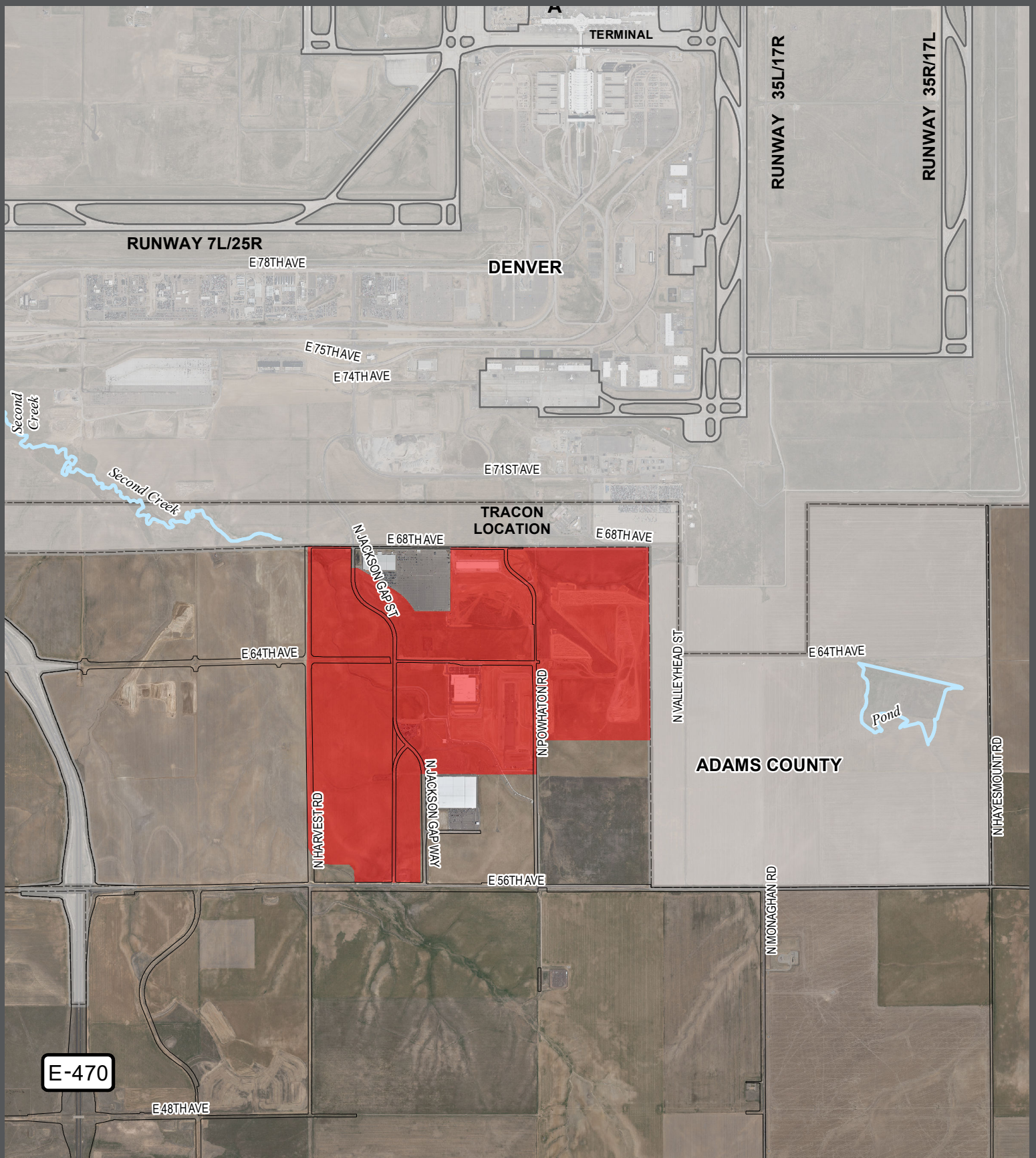
File: \\caltrans\cadd\projects\8434\03\Velocity Metro District\District Boundaries\Velocity Metro District and BID Map.dwg Plot Date: 9/4/2019 2:58 PM Last Saved By: CALIPRAY

 BID



BID MAP

DATE: 09/04/19
SHEET: 1 OF 1



Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

City of Aurora, Colorado

2021 Porteos
Business Improvement District

September 20, 2021

*Aurora is
Worth Discovering!*



Legend

- Water Lines
- Parcels
- Porteos BID
- Other Jurisdictions

Feet
0 1,500 3,000

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Tower Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE TOWER BUSINESS IMPROVEMENT DISTRICT

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Tower Business Improvement District (BID) in 2019 (Ord. No. 2019-71). The BID is located generally at the southeast corner of 38th Avenue and Picadilly Road. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Tower Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Tower Business Improvement District. Funding is projected at \$75,000 from developer advances.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Tower Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth
Agenda Item Initiator Signature

10/5/2021

Date

Roberto Venegas
Late Submission Approver Signature

10/5/21

Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE TOWER BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2019-71 organizing the Tower Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Tower Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

2022 OPERATING PLAN AND BUDGET

TOWER BUSINESS IMPROVEMENT DISTRICT

City of Aurora, Adams County, Colorado

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EXHIBITS

EXHIBIT A – Director Contact Information
EXHIBIT B – BID Budget 2022
EXHIBIT C – District Boundary Legal Description
EXHIBIT D – District Boundary Map

2022
OPERATING PLAN FOR THE
TOWER BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically Section 31-25-1211, C.R.S., requires that the Tower Business Improvement District (the “District”) file an operating plan and budget with the City Clerk no later than September 30 of each year.

Under the statute, the City is to approve the operating plan and budget within 30 days of the submittal of all required information.

The District operates under the authorities and powers allowed under the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended (“Business Improvement District Act”), this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District; and (5) such other information as the City may require.

C. Purposes. As may be further articulated in prior years’ Operating Plans, the ongoing and/or contemplated purposes of this District for 2022 include principally the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of sources of power that will serve the development within the District, including without limitation natural gas, electricity and solar installations, but the District shall also be empowered to provide the services and public improvements allowed under Colorado law for business improvement districts. **The provision of these services will be coordinated with the Tower Metropolitan District (“Tower”) which the boundaries of the District overlap in part. The District’s activities will neither interfere with nor duplicate those undertaken by Tower.**

D. Ownership of Property or Major Assets. The District will own public improvements, easements and land as required if they are not otherwise dedicated to the City or other public entities or public utilities for operation and maintenance.

E. Contracts and Agreements. It is anticipated that the District will enter into various agreements as required to facilitate the funding, construction, operation and maintenance of public improvements. The District is not currently a party to any significant active contracts or agreements. The District may enter into agreements with the City and the Tower Metropolitan District to accommodate the provision of improvements and services.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

A. Organization. The Tower Business Improvement District was organized by the City of Aurora pursuant to Ordinance No. 2019-71 on October 21, 2019.

B. Governance. Pursuant to Section 31-25-1209(1)(b), C.R.S., the City of Aurora appointed the board of directors for the District, which shall have up to five members. Each member shall be an elector of the District.

C. Current Board. The District is managed by a Board of Directors consisting of five electors all of whom shall be voting members. The current Board members are:

1. Randall C. Hertel
2. Timothy J. D'Angelo
3. Michael M. Wafer
4. Jack "Skip" Bailey, Jr.
5. Michael V. Kapoor

Director and other pertinent contact information are provided in **EXHIBIT A**.

D. Term Limits. The District's election on November 5, 2019 included a ballot question to eliminate term limits pursuant to Article 18, Section 11 of the Colorado Constitution. The question passed.

E. Advisory Board. The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. No advisory boards have yet been appointed.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District includes approximately 539 acres within its boundaries as described in **EXHIBIT C** and depicted in **EXHIBIT D**. In 2022 and subsequent years, the District may receive inclusion requests for additional property as boundaries are established and additional property owners participate in the District.

4. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

The District shall have the power and authority to provide the public improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Business Improvement District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein. The District

shall have the authority to provide these improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial improvements and services shall be as limited by state law and as limited by this Operating Plan. The District will only provide improvements and services within the boundaries of the District and directly adjacent property to the extent required to facilitate the construction and operation of the District improvements. The District will not provide improvements or services that duplicate any improvements or services provided by Tower though the two entities will have the authority to cooperate in the extension of facilities and improvements beneficial to both, or where efficiencies in the development process may be gained.

Subject to the foregoing limitation concerning cooperation with Tower, the public improvements that the District anticipates it will construct, install or cause to be constructed and installed, include those public improvements the costs of which may, in accordance with the Business Improvement District Act, lawfully be paid for by the District, including, without limitation safety protection devices, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscaping and storm and wastewater management facilities and associated land acquisition and remediation (the “Public Improvements”).

A. Operations and Maintenance Limitation. Included within the District’s boundaries is 538 acres owned by MCCII that is also included within Tower’s boundaries. The proposed development will contain significant industrial and warehouse and distribution facilities. Associated with all of the new development is the need for the financing of power sources and facilities that will serve the development, including without limitation natural gas, electricity and solar installations.

Tower does not have the statutory authority to pay for such improvements. The District does, and its creation is intended to fund those improvements in addition to the services and public improvements allowed under Colorado law for business improvement districts, generally. The provision of these improvements and services will be coordinated with Tower which the boundaries of the District overlap in part. The District’s activities will neither interfere with nor duplicate those undertaken by Tower though the two entities will have the authority to cooperate in the extension of facilities and improvements beneficial to both, or where efficiencies in the development process may be gained.

The appropriate limitations contained in the City’s metro district model service plan have been incorporated in the proposed Operating Plan that operates in many of the same ways to guide the District’s activities. However the fifty mill cap included in this Operating Plan is inclusive of operations and administration costs in addition to debt service. The initial maximum debt authorization is \$10,000,000.

B. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain

the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

C. Privately Placed Debt Limitation. Prior to the issuance of any privately placed debt for capital related costs, the District shall obtain the certification of an External Financial Advisor regarding the fairness and feasibility of the interest rate and the structure of the debt substantially as follows:

We are [I am] an external financial advisor. [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

D. Fee Limitation. The District may impose and collect fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from taxable property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any taxable property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any fee imposed upon or collected from taxable property for the purpose of funding operation and maintenance costs of the District. For purposes of this section, "End User" shall mean any owner, or tenant of any owner, of any taxable improvement within the District who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy (as defined below).

E. Bankruptcy Limitation. All of the limitations contained in this Operating Plan have been established under the authority of the City to approve an Operating Plan with conditions pursuant to Section 31-25-1211, C.R.S. It is expressly intended that such limitations:

- (a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent an amendment to the Operating Plan; and
- (b) Are, together with all other requirements of Colorado law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any debt, issued with a pledge or which results in a pledge, shall not be an authorized issuance of debt unless the City has approved the operating plan and budget for the District.

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

The District shall provide for ownership, operation, and maintenance of District facilities as activities of the District itself or by contract with other units of government or the private sector.

6. FINANCIAL PLAN AND BUDGET

A. 2022 Budget. The proposed 2022 Budget for the District is attached as **EXHIBIT B.**

B. Authorized Indebtedness. The District held an election on November 5, 2019 for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Art. X., Sec. 20 of the Colorado Constitution, and the Operating Plan. The initial maximum debt authorization for the District shall be \$10,000,000.00.

C. Property Tax and Mill Levy Caps. The District's taxing ability shall be constrained to mill levy limitations of up to 50 mills for debt service, general operations and administrative expenses due to the on-going operations and maintenance to be undertaken by the District within its boundaries.

D. District Revenues. The District continues to anticipate developer funding for initial revenue sources and thereafter revenues derived from property taxes. The District may also be the beneficiary of revenues derived from a privately imposed public improvement fee and any other lawful revenue source.

E. Existing Debt Obligations. The District does not have any existing debt obligations.

F. Future Debt Obligations. The District does not anticipate issuing debt in 2022.

G. Other Financial Obligations. The District may enter into agreements including reimbursement or similar agreements and leases; as well as agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.

H. Non-Default Provisions. Limited tax general obligation bonds issued by the District shall be structured and/or credit enhancements provided such that the bonds cannot default as long as the District is imposing the required maximum allowed mill levy.

I No City Obligations. The debt of the District will not constitute a debt or obligation of the City of Aurora in any manner. The faith and credit of the City of Aurora will not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectuses, or disclosure statements associated with any securities issued by the District.

7. 2022 ACTIVITIES, PROJECTS AND CHANGES

(a) Activities, Projects, and Public Improvements

The District will be undertaking projects or Public Improvements as development needs require in 2022.

(b) Summary of 2022 Activities and Changes from Prior Year

As in 2021, the District will undertake projects and activities in 2022 as development needs require.

Boundary changes: Boundary changes may occur in 2022.

Changes to board or governance structure: No changes to board or governance structure are anticipated in 2022.

Mill levy changes: The District did not impose a mill levy in 2021 and does not anticipate imposing a mill levy in 2022.

New, refinanced or fully discharged debt: The District does not anticipate issuing debt in 2022.

Elections: None anticipated.

Major changes in development activity or valuation: No major changes in development activity or valuation are anticipated in 2022.

Ability to meet current financial obligations: See 2022 Budget attached as **EXHIBIT B**.

8. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate perpetual existence. However, the District may be dissolved under the conditions of Section 31-25-1225, C.R.S.

9. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
Director and Other Contact Information

BOARD OF DIRECTORS:

Randall C. Hertel
Timothy J. D'Angelo
Michael M. Wafer
Jack "Skip" Bailey, Jr.
Michael V. Kapoor

DISTRICT CONTACT:

Matt Dalton
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
303-839-3800
mdalton@spencerfane.com

DISTRICT ACCOUNTANT:

Paul Niedermuller
CliftonLarsonAllen LLP
8390 E. Crescent Parkway Suite 300
Greenwood Village, CO 80111
303-779-5710
Paul.niedermuller@claconnect.com

AUDITOR: Not applicable

EXHIBIT B
District Budget 2022

GENERAL FUND

	<u>Proposed</u> <u>2020</u>	<u>Actual</u> <u>2020</u>	<u>Proposed</u> <u>2021</u>	<u>Actual</u> <u>2021</u>	<u>Proposed</u> <u>2022</u>
Beginning Fund Balance	-	-	-	-	-
REVENUES					
Property Taxes	-		-	-	-
Specific Ownership Taxes	-		-	-	-
Public Improvement Fees	-		-	-	-
Developer Advance	75,000		75,000		75,000
Net Investment Income	-		-		-
Intergovernmental Revenue	-		-		-
Total Revenues	75,000		75,000		75,000
EXPENDITURES					
Accounting	10,000		10,000		10,000
Audit	-		-		-
Contingency	-		-		-
District Management	-		-		-
Dues and Membership	1,000		1,000		1,000
Insurance	4,000		4,000		4,000
Legal	50,000		50,000		50,000
Miscellaneous	5,000		5,000		5,000
Total Expenditures	70,000		70,000		70,000
ENDING FUND BALANCE	5,000		5,000		5,000
Emergency Reserve	5,000		5,000		5,000
Total Reserve	5,000		5,000		5,000

CAPITAL PROJECTS FUND

	<u>Proposed</u> <u>2020</u>	<u>Actual</u> <u>2020</u>	<u>Proposed</u> <u>2021</u>	<u>Actual</u> <u>2021</u>	<u>Proposed</u> <u>2022</u>
Beginning Fund Balance	-		-		-
REVENUES					
Property Taxes	-		-		-
Public Improvement Fees	-		-		-
Developer Advance	\$3,204,000	\$0.00	-	-	-
Net Investment Income	-		-		-
Intergovernmental Revenue	-		-		-
Bond Issuance	-		-		-
Total Revenues	\$3,204,000	\$0.00	-	-	-
EXPENDITURES					
Electric Utility Extensions (East 38 th Ave)	\$576,000	\$0.00	-	-	-
Gas Utility Extensions (East 38 th Ave)	\$864,000	\$0.00	-	-	-
Electric Utility Extensions (Picadilly Rd)	\$1,364,000	\$0.00	-	-	-
Total Expenditures	\$2,804,000	\$0.00	-	-	-
ENDING FUND BALANCE	\$400,000	\$0.00	-	-	-

DEBT SERVICE FUND

	<u>Proposed</u> <u>2021</u>	<u>Actual 2021</u>	<u>Proposed</u> <u>2022</u>
Beginning Fund Balance	-		-
REVENUES			-
Bond Issue	-		
Public Improvement Fees	-		-
Developer Advance	-		-
Net Investment Income	-		-
Intergovernmental Revenue	-		-
Total Revenues	-		-
EXPENDITURES			
Costs of Issuance	-		-
Capitalized Interest Fund	-		
Debt Service Reserve	-		-
Miscellaneous	-		-
Contingency	-		-
			-
Total Expenditures	-		-
ENDING FUND BALANCE	0		0

EXHIBIT C
The Property Legal Description

A PARCEL OF LAND IN SECTION 25, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 25 AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 25 TO BEAR NORTH 89°33'37" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO: THENCE NORTH 89°33'37" EAST ALONG SAID NORTH LINE A DISTANCE OF 30 FEET TO THE EAST RIGHT-OF-WAY LINE OF PICADILLY ROAD AND THE POINT OF BEGINNING.

THENCE NORTH 89°33'37" EAST CONTINUING ALONG SAID NORTH LINE A DISTANCE OF 2611.78 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 25;

THENCE NORTH 89°32'32" EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 25 A DISTANCE OF 1321.75 FEET;
THENCE SOUTH 00°13'08" EAST A DISTANCE OF 1324.11 FEET;
THENCE NORTH 89°32'39" EAST A DISTANCE OF 931.29 FEET TO THE WESTERLY RIGHT-OF-WAY OF HIGHWAY E-470 AS DESCRIBED IN BOOK 5414 AT PAGE 645 OF THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING FOUR (4) COURSES:

- 1) SOUTH 03°48'50" EAST A DISTANCE OF 427.14 FEET;
- 2) SOUTH 00°00'02" WEST A DISTANCE OF 3372.10 FEET;
- 3) SOUTH 83°34'42" WEST A DISTANCE OF 1006.75 FEET;
- 4) SOUTH 00°29'32" EAST A DISTANCE OF 40.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF EAST 26TH AVENUE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 89°30'28" WEST A DISTANCE OF 1267.94 FEET;
- 2) SOUTH 89°31'54" WEST A DISTANCE OF 745.69 FEET;

THENCE NORTH 00°10'59" WEST A DISTANCE OF 361.50 FEET;
THENCE SOUTH 89°31'54" WEST A DISTANCE OF 1867.71 FEET TO SAID EAST RIGHT-OF-WAY LINE;

THENCE NORTH 00°11'05" WEST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 2258.23 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 15;

THENCE NORTH 00°10'52" WEST CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 462.51 FEET;

THENCE NORTH 89°34'28" EAST A DISTANCE OF 300.36 FEET;

THENCE NORTH 00°11'05" WEST A DISTANCE OF 862.50 FEET;

THENCE SOUTH 89°32'44" WEST A DISTANCE OF 300.31 FEET TO SAID EAST RIGHT-OF-WAY LINE;

THENCE NORTH 00°10'52" WEST ALONG EAST RIGHT-OF-WAY LINE A DISTANCE OF 1324.68 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS AN AREA OF 23,453,361 SQUARE FEET, OR 538.415 ACRES, MORE OR LESS.

EXHIBIT D
The Property Map

ANNEXATION MAP

A PORTION OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH
PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO

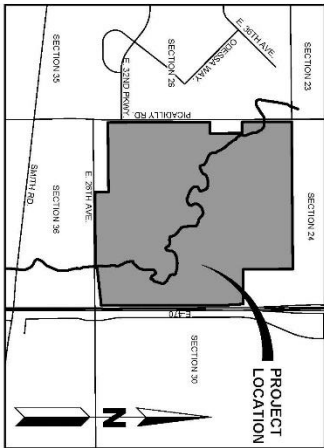
LEGAL DESCRIPTION

A PARCEL OF LAND IN SECTION 25, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH
PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 25 AND CONSIDERING THE
NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 25 TO BEAR NORTH 89°33'37"
EAST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO
AND BEING 1324.88 FEET TO THE POINT OF BEGINNING, AND BEING 30 FEET TO
THE EAST RIGHT-OF-WAY LINE OF PLOCHLY ROAD AND THE **POINT OF BEGINNING**;
THENCE NORTH 89°33'37" EAST CONTINUING ALONG SAID NORTH LINE A DISTANCE OF
261.78 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 25;
THENCE SOUTH 89°33'37" EAST A DISTANCE OF 1321.71 FEET;
THENCE SOUTH 00°13'08" EAST A DISTANCE OF 1924.11 FEET;
THENCE SOUTH 89°33'37" EAST A DISTANCE OF 891.29 FEET TO THE WESTERNLY
RIGHT-OF-WAY LINE OF HIGHWAY 4140 AS DESCRIBED IN BOOK 5414 AT PAGE 046 OF THE
PLAT OF RECORDS IN THE PUBLIC RECORDS OF THE COUNTY OF ADAMS, STATE OF
COLORADO, BEING THE PLAT OF RECORDS IN THE PUBLIC RECORDS OF THE COUNTY OF
ADAMS, STATE OF COLORADO, BEING THE PLAT OF RECORDS IN THE PUBLIC RECORDS OF THE
THENCE ALONG SAID WESTERNLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:
1) SOUTH 03°48'57" EAST A DISTANCE OF 427.14 FEET;
2) SOUTH 00°00'00" WEST A DISTANCE OF 3337.10 FEET;
3) SOUTH 89°33'37" EAST A DISTANCE OF 4000.19 FEET;
4) SOUTH 89°33'37" EAST A DISTANCE OF 4000.19 FEET TO THE NORTHERLY
RIGHT-OF-WAY LINE OF EAST 26TH AVENUE;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:
1) SOUTH 89°33'37" WEST A DISTANCE OF 1267.94 FEET;
2) SOUTH 89°33'37" WEST A DISTANCE OF 1897.71 FEET TO SAID EAST
RIGHT-OF-WAY LINE;
THENCE NORTH 00°11'03" WEST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF
2293.97 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 00°10'57" WEST CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE A
DISTANCE OF 482.31 FEET;
THENCE NORTH 89°34'28" EAST A DISTANCE OF 300.36 FEET;
THENCE SOUTH 89°34'10" WEST A DISTANCE OF 802.50 FEET;
THENCE SOUTH 89°34'44" WEST A DISTANCE OF 300.51 FEET TO SAID EAST
RIGHT-OF-WAY LINE;
THENCE NORTH 00°10'57" WEST ALONG EAST RIGHT-OF-WAY LINE A DISTANCE OF
1324.88 FEET TO THE **POINT OF BEGINNING**;
SAID PARCEL CONTAINS AN AREA OF 23,463.361 SQUARE FEET, OR 538.415 ACRES,
MORE OR LESS.

GENERAL NOTES

- 1) FIELD WORK FOR THIS ANNEXATION MAP WAS PERFORMED DURING THE MONTH OF
JULY 2018.
- 2) THE LINEAL DISTANCE UNIT USED IN THE PREPARATION OF THIS LEGAL
DESCRIPTION IS THE INTERNATIONAL METRIC SYSTEM OF UNITS, AND THE
DEPARTMENT OF COMMERCE NATIONAL INSTITUTE OF STANDARDS AND
TECHNOLOGY DEFINES THE UNITED STATES SURVEY FOOT AS 1200/3937 METERS.



CONTIGUITY TABLE

TOTAL PERIMETER = 20,766.35 FEET
MINIMUM REQUIRED CONTIGUITY = 3,464.38 FEET
ACTUAL CONTIGUOUS BOUNDARY = 3,992.58 FEET
PERCENT CONTIGUOUS BOUNDARY = 48.07%
TOTAL AREA = 538.415 ACRES ±

RECORDER'S CERTIFICATE

STATE OF COLORADO)
COUNTY OF ADAMS) SS
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR
RECORD IN MY OFFICE ON
THE _____ DAY OF _____, 201____ AT
_____ O'CLOCK _____ M.,
RECEPTION NO. _____
CLERK AND RECORDER
BY _____
DEPUTY
BY _____

5500 South Broadway #8
Suite 230
Denver, CO 80209
P 303.567.3333
www.malcomb.com

WARE, MALCOMB

CIVIL ENGINEERING & SURVEYING

ANNEXATION MAP STATEMENT:

I, THOMAS D. STRAB, A FULLY LICENSED PROFESSIONAL LAND SURVEYOR,
REGISTERED IN THE STATE OF COLORADO DO HEREBY CERTIFY THAT NOT
LESS THAN ONE-SIXTH (1/6) OF THE PERIMETER OF THE AREA PROPOSED TO
BE ANNEXED TO THE CITY OF AURORA, COLORADO IS CONTIGUOUS WITH
THE BOUNDARIES OF THAT ANNEXING MUNICIPALITY, AND THAT THIS
ANNEXATION MAP IS IN ACCORDANCE WITH THE RELEVANT COLORADO
REVISED STATUTES AND THE CITY OF AURORA, COLORADO CODES
APPLICABLE THERETO.

THOMAS D. STRAB
COLORADO P.L.S. NO. 25465
FOR & ON BEHALF OF: WARE, MALCOMB
5500 SOUTH BROADWAY, SUITE 230
DENVER, CO 80209
303.567.3333

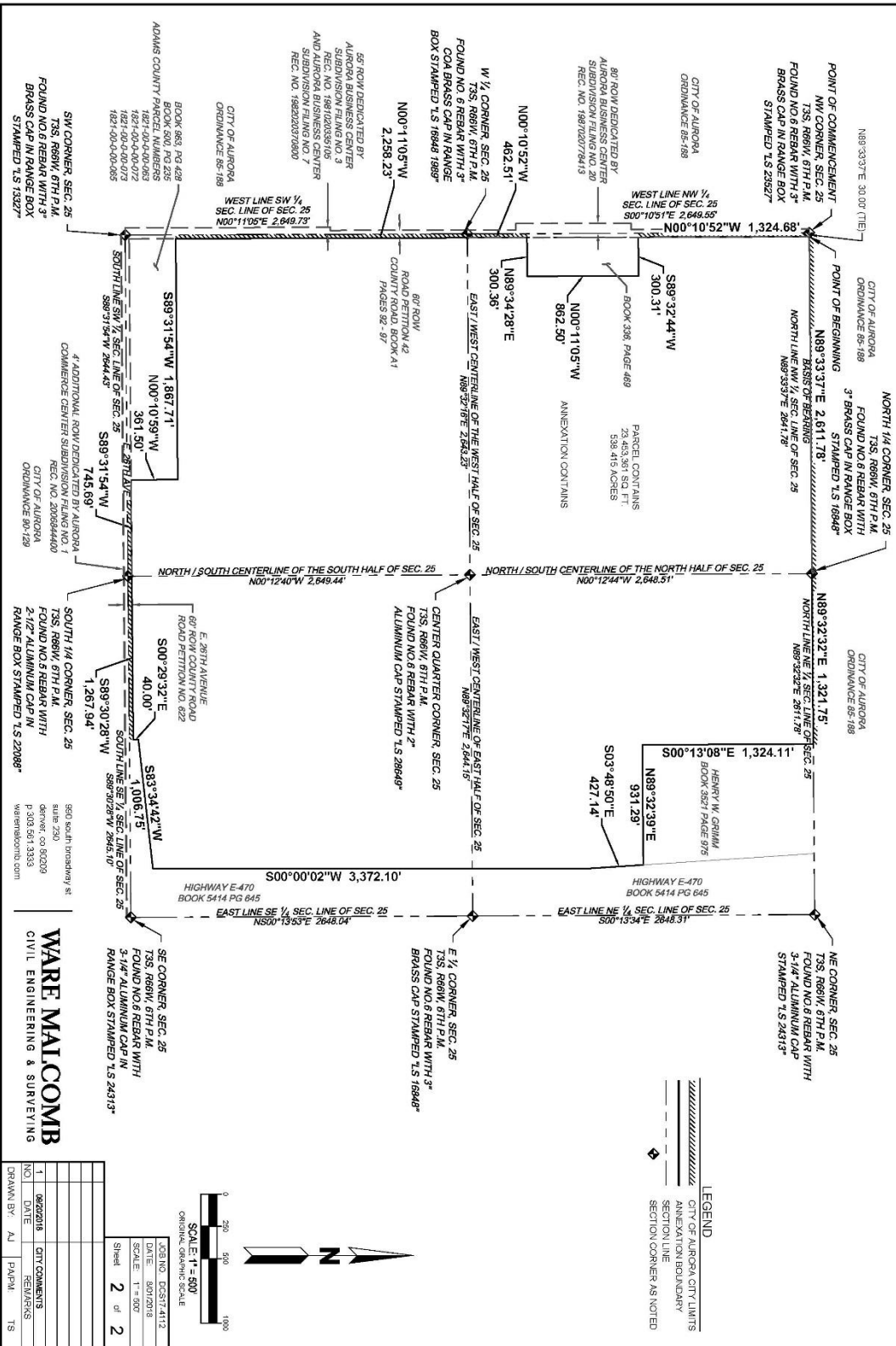
CITY OF AURORA APPROVALS:

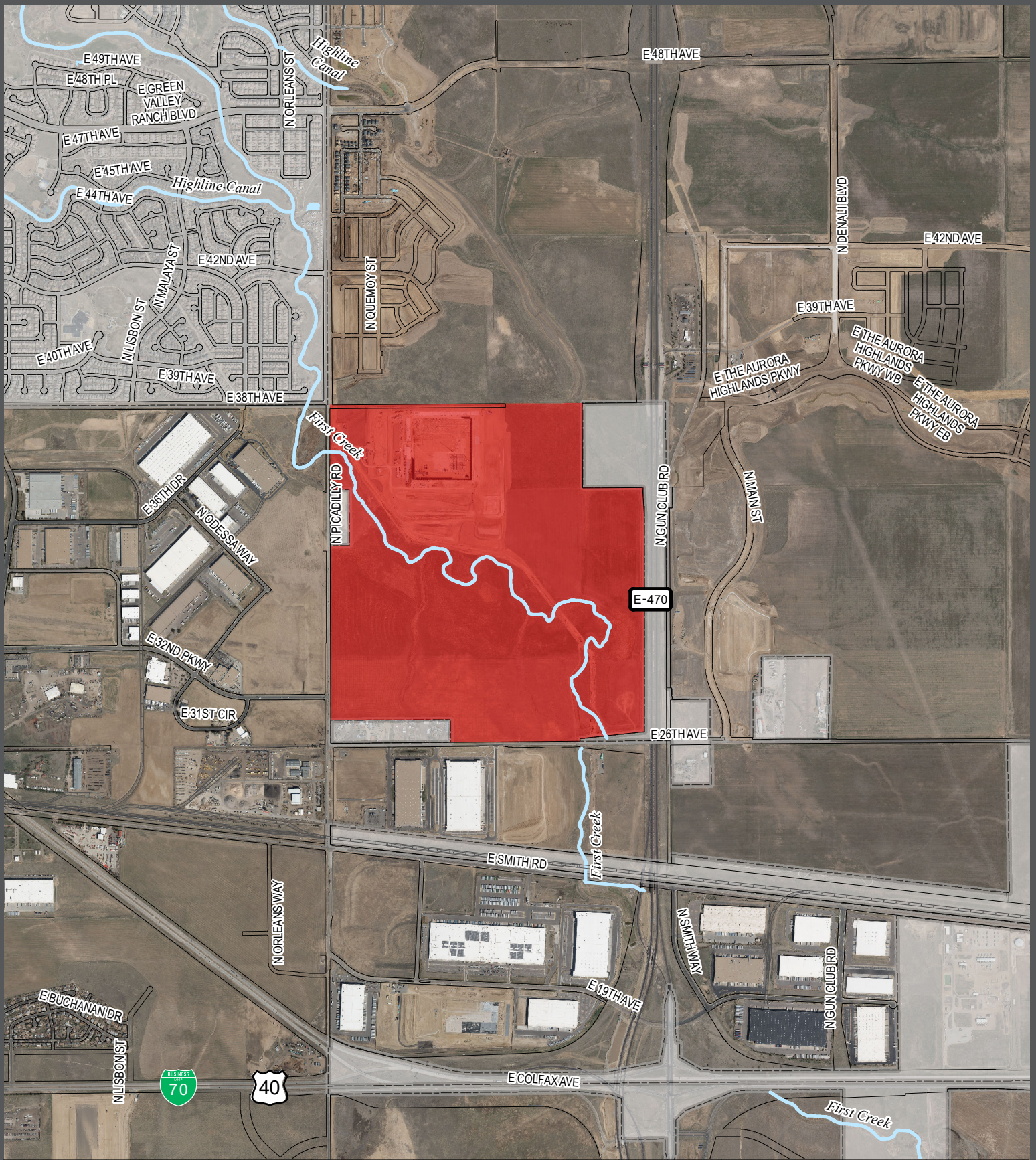
MAYOR _____ DATE _____
CITY CLERK _____ DATE _____
CITY ENGINEER _____ DATE _____
CITY ATTORNEY _____ DATE _____
CITY COUNCIL ORDINANCE NO. _____
EFFECTIVE DATE _____

JOB NO. DC517-4112	
DATE: 08/10/2018	
SCALE: N/A	
Sheet 1 of 2	
1	08/20/2018
CITY COMMENTS	
REMARKS	
DRAWN BY: AJ	PARCH: TS

ANNEXATION MAP

A PORTION OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH
PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO





Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

City of Aurora, Colorado

Majestic Commercenter II Vicinity Map

September 20, 2021



Legend

- Railroad Lines
- Water Lines
- Parcels
- Lakes
- Tower Business Improvement District
- Other Jurisdictions

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Windler Business Improvement District No. 1

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 1

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)*

City Council approved the establishment of the Windler Business Improvement District No. 1 (BID) in 2021 (Ord. No. 2021-32). The BID is located generally west of Harvest Road, north of E 42nd Avenue, south of E 56th Avenue and east of E-470. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Windler Business Improvement District No. 1 to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Windler Business Improvement District No. 1. Funding is projected at \$50,000 from developer advances.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Windler Business Improvement District No. 1

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth 10/5/2021
Agenda Item Initiator Signature Date

Roberto Venegas 10/5/21
Late Submission Approver Signature Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO.1

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2021-32 organizing the Windler Business Improvement District No.1 (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Windler Business Improvement District No.1 are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 1

2022 OPERATING PLAN AND BUDGET

(City of Aurora, Adams County, Colorado)

Submitted:

September 13, 2021

Prepared by:



2154 E. Commons Ave., Suite 2000
Denver, CO 80122

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EXHIBIT LIST

EXHIBIT A	District Legal Description and Map
EXHIBIT B	Budget and Financial Statements
EXHIBIT C	District Contact Information

I. PURPOSE AND SCOPE OF DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically § 31-25-1211, C.R.S., requires that the Windler Business Improvement District No. 1 (the “**District**”) file an operating plan and budget with the City of Aurora City Clerk no later than September 30th of each year.

1. Under the statute, the City of Aurora (the “**City**”) is to approve the operating plan and budget within thirty (30) days of submittal of all required information.

2. The District will operate under the authorities and powers allowed under §§ 31-25-1201, *et seq.*, C.R.S., as amended (the “**Business Improvement District Act**”), as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the Business Improvement District Act, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of bonds to be issued by the District; and (5) such other information as the City may require.

C. Purposes. As may be further articulated in succeeding year’s operating plans, the ongoing and contemplated purposes of the District include the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all the services and public improvements allowed under Colorado law for business improvement districts.

II. COMPOSITION OF THE DISTRICT’S CURRENT BOARD OF DIRECTORS

A. Current Board of Directors. The composition of the District’s proposed board of directors (“**Board of Directors**”) is:

1. Christopher H. Fellows
2. Timothy P. O’Connor
3. Dustin M. Anderson
4. Vacant
5. Vacant

Vacancies on the Board are to be filled by appointment by resolution of the City Council to serve until the next regular election. Therefore, the Board will be requesting the City Council appoint successor board members.

B. Term Limits. A ballot question will be included in the District’s November 2, 2021 ballot to eliminate term limits.

C. Director Compensation. The Board of Directors shall receive compensation up to \$100 per meeting attended for their services as directors.

III. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District's proposed boundaries are approximately one (1) acre as depicted in **Exhibit A**. In subsequent years, the District anticipates inclusion requests for additional property as additional property owners participate in the District.

IV. SERVICES, ACTIVITIES, PROJECTS AND PUBLIC IMPROVEMENTS

The District will primarily be concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances where the District will provide public improvements and services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these public improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial public improvements and services shall be as limited by state law. The public improvements that the District anticipates it will construct, install or cause to be constructed or installed, include those public improvements the cost of which may, in accordance with the Business Improvement District Act, lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscape and storm and wastewater management facilities and associated land acquisition and remediation (collectively, the "**Public Improvements**"). The costs of such Public Improvements includes the costs of design, acquisition, construction and financing.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Business Improvement District Act, and other applicable statutes, common law and the Constitution. The District may provide for ownership, operation, and maintenance of Public Improvements and District facilities as activities of the District itself or by contract with other units of government or the private sector.

The property owners of the District request that the City designate the territory within the District as a location for new business or commercial development pursuant to § 31-25-1203(10), C.R.S.

A. Current Year (2021) Services, Activities, Projects and Public Improvements. The District anticipates undertaking only administrative functions during 2021.

B. Future Year (2022) Services, Activities, Projects and Public Improvements. The District intends to undertake the planning of Public Improvements necessary for the development of property within the District during 2022.

V. SOURCES OF REVENUE

A. Current Year (2021) Sources of Revenue. The District anticipates developer funding for its initial revenue source.

B. Future Year (2022) Sources of Revenue. The primary source of revenue for the District in 2022 will be developer advances. The District intends to impose a 10.000 mill levy on

all property within the District for collection in 2022, all of which will be dedicated to the General Fund. The District may also be the beneficiary of revenues derived from a privately imposed public improvement fee.

VI. PROPERTY TAX AND MILL LEVY

A. Mill Levy Caps. The maximum debt mill levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District, and shall be 50 mills as may be adjusted so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes, for purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

B. Current Year (2021) Mill Levy. The District does not intend to impose a mill levy for 2021.

C. Future Year (2022) Mill Levy. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund.

VII. AUTHORIZED INDEBTEDNESS AND EXISTING DEBT OBLIGATIONS

A. Maximum Debt Authorization. The District intends to hold an organizational election for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Article X, Section 20 of the Colorado Constitution (“TABOR”). The initial maximum debt authorization for the District shall be \$100,000,000.

B. Current Year (2021) Debt Outstanding. The District has no outstanding debt obligations.

C. Future Year (2022) Debt Outstanding. The District does not anticipate issuing debt in 2022.

VIII. BUDGETS AND FINANCIAL STATEMENTS

A. 2022 Budget. The proposed 2022 Budget for the District is attached as **Exhibit B**. The District is anticipated to be organized pursuant to Ordinance 2021-032 proposed for adoption on second reading on September 13, 2021 with an effective date of October 13, 2021. After organization, the District intends to adopt a 2021 Budget and 2022 Budget. The District did not exist prior to October 13, 2021, therefore no 2020 or 2021 financial statements are available.

IX. DISTRICT CONTACT INFORMATION

A. Contact Information. Contact information for the District's accountant and District's representative where follow-up inquires and questions should be directed is set forth on **Exhibit C**.

X. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate a perpetual existence. If the District no longer has such obligations, the District may seek to dissolve pursuant to § 31-25-1225, C.R.S.

XI. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act, the Colorado Constitution, and the additional information required by the City. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of C.R.S. §§ 32-25-1201, *et. seq.*

EXHIBIT A
DISTRICT LEGAL DESCRIPTION AND MAP

NW 1/4, SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST 6th P.M.
 ----CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO----

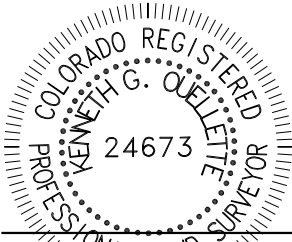
PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE ASSUMED AND ARE BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN AS BEARING N89°19'42"E A DISTANCE OF 2608.00 FEET BETWEEN THE NORTHWEST CORNER OF SAID SECTION 18 BEING MONUMENTED BY A #6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED: PLS 24313 AND THE NORTH QUARTER CORNER OF SAID SECTION 18 BEING MONUMENTED BY A #6 REBAR WITH A 2-1/2" ALUMINUM CAP STAMPED: PLS 38058.

COMMENCING AT SAID NORTH QUARTER CORNER OF SECTION 18;
 THENCE S70°13'55"W A DISTANCE OF 2697.02 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470 RECORDED IN BOOK 5849 AT PAGE 596 IN THE OFFICE OF THE ADAMS COUNTY CLERK AND RECORDER, SAID POINT BEING THE **POINT OF BEGINNING**;
 THENCE S85°53'59"E A DISTANCE OF 75.00 FEET;
 THENCE S04°06'01"W A DISTANCE OF 100.00 FEET;
 THENCE N85°53'59"W A DISTANCE OF 75.00 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470;
 THENCE N04°06'01"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470 A DISTANCE OF 100.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 7,500 SQUARE FEET (0.172 ACRES), MORE OR LESS.



KENNETH G. OUELLETTE, P.L.S. 24673

DATE: MAY 6, 2021

JOB NO. 65420899

FOR AND ON BEHALF OF MERRICK & COMPANY



MERRICK®

5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111
 Telephone: 303-751-0741

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 1
 EXHIBIT A

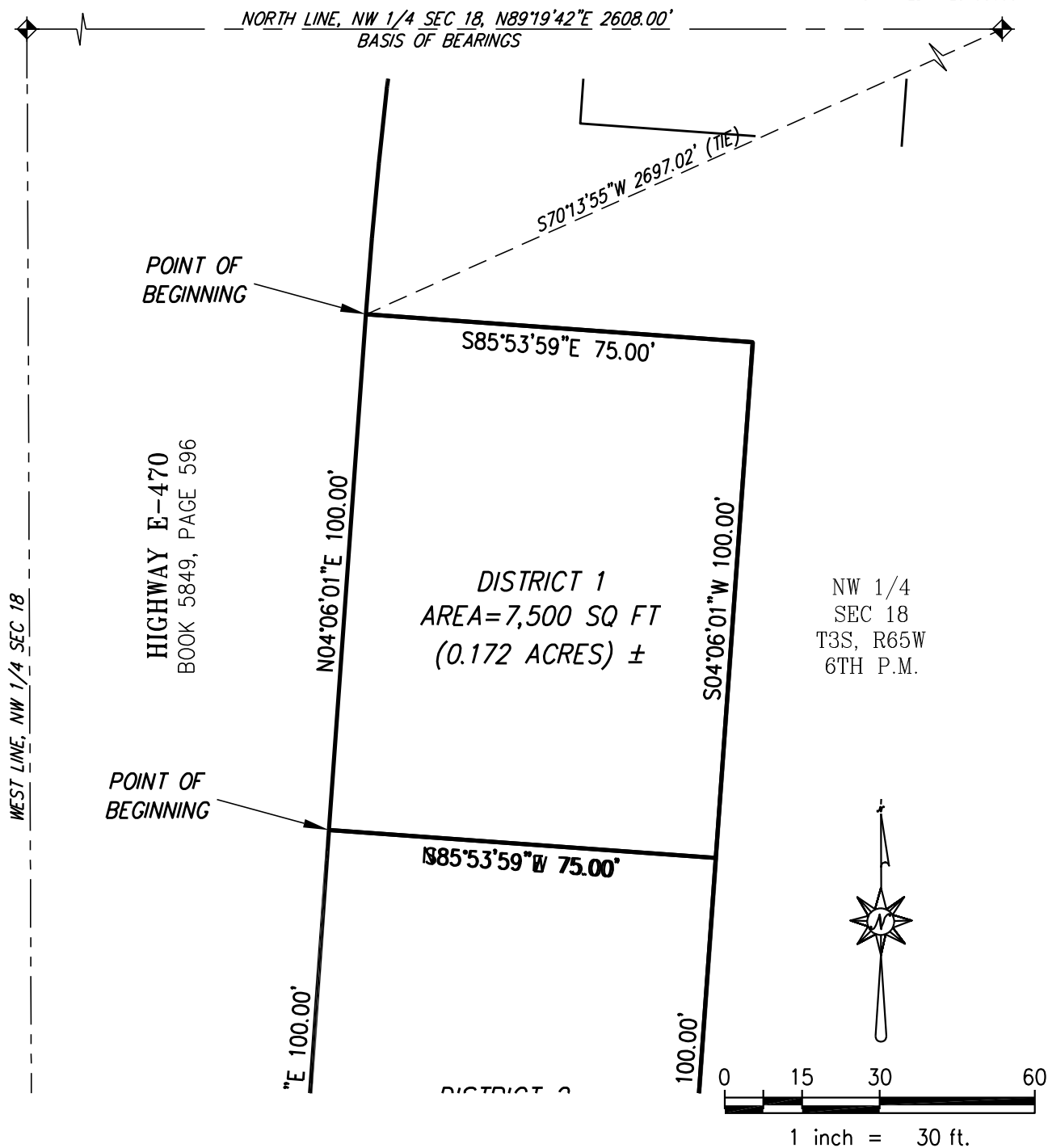
DATE: 5/6/21

SHEET: 1 OF 1

ILLUSTRATION FOR
A-2

NW COR SEC 18
#6 REBAR WITH 3-1/4" ALUM. CAP
STAMPED: PLS 24313

POINT OF COMMENCEMENT
N 1/4 CORNER SEC 18
#6 REBAR WITH 2-1/2" ALUM. CAP
STAMPED: PLS 38058



This illustration does not represent a monumented survey. It is intended only to depict the attached legal description.

**MERRICK®**

5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111
Telephone: 303-751-0741

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 1
EXHIBIT C-1

DATE: 5/6/21

SHEET: 1 OF 1

EXHIBIT B
BUDGETS AND FINANCIAL STATEMENTS

Windler Business Improvement District No. 1
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Inactive <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>06/30/21</u>	Estimated <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Property taxes	-	-	-	-	-
Specific ownership taxes	-	-	-	-	-
Developer advances	-	50,000	50,000	29,400	50,000
Total revenues	-	50,000	50,000	29,400	50,000
Total funds available	-	50,000	50,000	29,400	50,000
Expenditures:					
Accounting / audit	-	5,000	-	1,500	5,000
Directors fees	-	900	-	900	900
Insurance/SDA dues	-	2,500	-	2,500	2,500
Legal -	-	22,500	-	22,500	22,500
Management	-	3,500	-	-	3,500
Miscellaneous	-	2,000	-	2,000	2,000
Contingency	-	12,508	-	-	12,508
Emergency reserve (3%)	-	1,092	-	-	1,092
Treasurer fees	-	-	-	-	-
Total expenditures	-	50,000	-	29,400	50,000
Ending fund balance	\$ -	\$ -	\$ 50,000	\$ -	\$ -
Assessed valuation	\$ -	\$ -			\$ -
Mill Levy	-	-			10.000

EXHIBIT C

DISTRICT CONTACT INFORMATION

District Representative Contact:

Clint C. Waldron, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: cwaldron@wbapc.com

Megan J. Murphy, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: mmurphy@wbapc.com

District Accountant:

Diane Wheeler
304 Inverness Way South
Suite 490
Englewood, CO 80112
Work: 303-689-0833
Email: diane@simmonswheeler.com

District Auditor:

Not applicable



<p>Planning & Development Services</p> <p>15151 E. Alameda Pkwy Aurora CO 80012 USA www.auroragov.org 303-739-7250 GIS@auroragov.org</p>	<p>City of Aurora, Colorado</p> <p>Windler Homestead No. 2 Business Improvement District</p> <p>September 20, 2021</p>	<p>Legend</p> <ul style="list-style-type: none"> Windler Homestead No. 1 Railroad Lines Water Lines Parcels Lakes Other Jurisdictions
<p>Feet 0 412.5 825</p>		<p>161</p>

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Windler Business Improvement District No. 2

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 2

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)*

City Council approved the establishment of the Windler Business Improvement District No. 2 (BID) in 2021 (Ord. No. 2021-33). The BID is located generally west of Harvest Road, north of E 42nd Avenue, south of E 56th Avenue and east of E-470. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Windler Business Improvement District No. 2 to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Windler Business Improvement District No. 2. Funding is projected at \$50,000 from developer advances.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Windler Business Improvement District No. 2

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth 10/5/2021
Agenda Item Initiator Signature Date

Roberto Venegas 10/5/21
Late Submission Approver Signature Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO.2

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2021-33 organizing the Windler Business Improvement District No.2 (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Windler Business Improvement District No.2 are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 2

2022 OPERATING PLAN AND BUDGET

(City of Aurora, Adams County, Colorado)

Submitted:

September 13, 2021

Prepared by:



2154 E. Commons Ave., Suite 2000
Centennial, CO 80122

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EXHIBIT A	District Legal Description and Map
EXHIBIT B	Budget and Financial Statements
EXHIBIT C	District Contact Information

I. PURPOSE AND SCOPE OF DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically § 31-25-1211, C.R.S., requires that the Windler Business Improvement District No. 2 (the “**District**”) file an operating plan and budget with the City of Aurora City Clerk no later than September 30th of each year.

1. Under the statute, the City of Aurora (the “**City**”) is to approve the operating plan and budget within thirty (30) days of submittal of all required information.

2. The District will operate under the authorities and powers allowed under §§ 31-25-1201, *et seq.*, C.R.S., as amended (the “**Business Improvement District Act**”), as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the Business Improvement District Act, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of bonds to be issued by the District; and (5) such other information as the City may require.

C. Purposes. As may be further articulated in succeeding year’s operating plans, the ongoing and contemplated purposes of the District include the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all the services and public improvements allowed under Colorado law for business improvement districts.

II. COMPOSITION OF THE DISTRICT’S CURRENT BOARD OF DIRECTORS

A. Current Board of Directors. The composition of the District’s proposed board of directors (“**Board of Directors**”) is:

1. Christopher H. Fellows
2. Timothy P. O’Connor
3. Dustin M. Anderson
4. Vacant
5. Vacant

Vacancies on the Board are to be filled by appointment by resolution of the City Council to serve until the next regular election. Therefore, the Board will be requesting the City Council appoint successor board members.

B. Term Limits. A ballot question will be included in the District’s November 2, 2021 ballot to eliminate term limits.

C. Director Compensation. The Board of Directors shall receive compensation up to \$100 per meeting attended for their services as directors.

III. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District's proposed boundaries are approximately one (1) acre as depicted in **Exhibit A**. In subsequent years, the District anticipates inclusion requests for additional property as additional property owners participate in the District.

IV. SERVICES, ACTIVITIES, PROJECTS AND PUBLIC IMPROVEMENTS

The District will primarily be concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances where the District will provide public improvements and services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these public improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial public improvements and services shall be as limited by state law. The public improvements that the District anticipates it will construct, install or cause to be constructed or installed, include those public improvements the cost of which may, in accordance with the Business Improvement District Act, lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscape and storm and wastewater management facilities and associated land acquisition and remediation (collectively, the **"Public Improvements"**). The costs of such Public Improvements includes the costs of design, acquisition, construction and financing.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Business Improvement District Act, and other applicable statutes, common law and the Constitution. The District may provide for ownership, operation, and maintenance of Public Improvements and District facilities as activities of the District itself or by contract with other units of government or the private sector.

The property owners of the District request that the City designate the territory within the District as a location for new business or commercial development pursuant to § 31-25-1203(10), C.R.S.

A. Current Year (2021) Services, Activities, Projects and Public Improvements. The District anticipates undertaking only administrative functions during 2021.

B. Future Year (2022) Services, Activities, Projects and Public Improvements. The District intends to undertake the planning of Public Improvements necessary for the development of property within the District during 2022.

V. SOURCES OF REVENUE

A. Current Year (2021) Sources of Revenue. The District anticipates developer funding for its initial revenue source.

B. Future Year (2022) Sources of Revenue. The primary source of revenue for the District in 2022 will be developer advances. The District intends to impose a 10.000 mill levy on

all property within the District for collection in 2022, all of which will be dedicated to the General Fund. The District may also be the beneficiary of revenues derived from a privately imposed public improvement fee.

VI. PROPERTY TAX AND MILL LEVY

A. Mill Levy Caps. The maximum debt mill levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District, and shall be 50 mills as may be adjusted so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes, for purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

B. Current Year (2021) Mill Levy. The District does not intend to impose a mill levy for 2021.

C. Future Year (2022) Mill Levy. The District intends to impose a 10.000 mill levy on all property within the District for collection in 2022, all of which will be dedicated to the General Fund.

VII. AUTHORIZED INDEBTEDNESS AND EXISTING DEBT OBLIGATIONS

A. Maximum Debt Authorization. The District intends to hold an organizational election for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Article X, Section 20 of the Colorado Constitution (“TABOR”). The initial maximum debt authorization for the District shall be \$100,000,000.

B. Current Year (2021) Debt Outstanding. The District has no outstanding debt obligations.

C. Future Year (2022) Debt Outstanding. The District does not anticipate issuing debt in 2022.

VIII. BUDGETS AND FINANCIAL STATEMENTS

A. 2022 Budget. The proposed 2022 Budget for the District is attached as **Exhibit B**. The District is anticipated to be organized pursuant to Ordinance 2021-033 proposed for adoption on second reading on September 13, 2021 with an effective date of October 13, 2021. After organization the District intends to adopt a 2021 Budget and 2022 Budget. The District did not exist prior to October 13, 2021, therefore no 2020 or 2021 financial statements are available.

IX. DISTRICT CONTACT INFORMATION

A. Contact Information. Contact information for the District's accountant and District's representative where follow-up inquires and questions should be directed is set forth on **Exhibit C**.

X. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate a perpetual existence. If the District no longer has such obligations, the District may seek to dissolve pursuant to § 31-25-1225, C.R.S.

XI. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act, the Colorado Constitution, and the additional information required by the City. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of C.R.S. §§ 32-25-1201, *et. seq.*

EXHIBIT A
DISTRICT LEGAL DESCRIPTION AND MAP

A-3

NW 1/4, SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST 6th P.M.
-----CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO-----

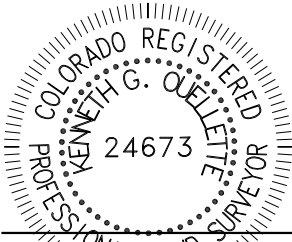
PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE ASSUMED AND ARE BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN AS BEARING N89°19'42"E A DISTANCE OF 2608.00 FEET BETWEEN THE NORTHWEST CORNER OF SAID SECTION 18 BEING MONUMENTED BY A #6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED: PLS 24313 AND THE NORTH QUARTER CORNER OF SAID SECTION 18 BEING MONUMENTED BY A #6 REBAR WITH A 2-1/2" ALUMINUM CAP STAMPED: PLS 38058.

COMMENCING AT SAID NORTH QUARTER CORNER OF SECTION 18;
THENCE S68°19'07"W A DISTANCE OF 2739.01 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470 RECORDED IN BOOK 5849 AT PAGE 596 IN THE OFFICE OF THE ADAMS COUNTY CLERK AND RECORDER, SAID POINT BEING THE **POINT OF BEGINNING**;
THENCE S85°53'59"E A DISTANCE OF 75.00 FEET;
THENCE S04°06'01"W A DISTANCE OF 100.00 FEET;
THENCE N85°53'59"W A DISTANCE OF 75.00 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470;
THENCE N04°06'01"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY E-470 A DISTANCE OF 100.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 7,500 SQUARE FEET (0.172 ACRES), MORE OR LESS.



KENNETH G. OUELLETTE, P.L.S. 24673

DATE: MAY 6, 2021

JOB NO. 65420899

FOR AND ON BEHALF OF MERRICK & COMPANY



MERRICK®

5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111
Telephone: 303-751-0741

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 2
EXHIBIT A

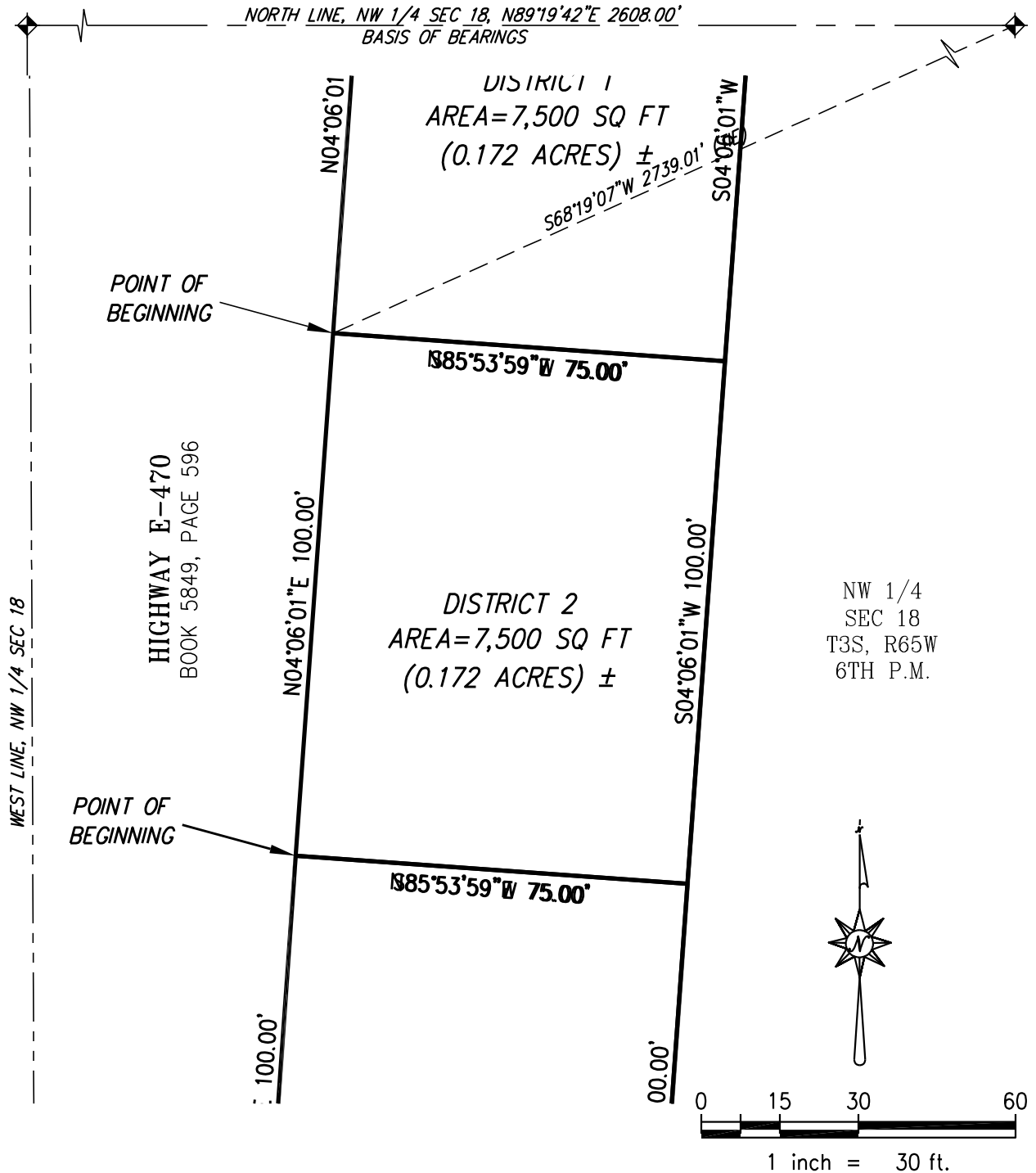
DATE: 5/6/21

SHEET: 1 OF 1

ILLUSTRATION FOR A-3

NW COR SEC 18
#6 REBAR WITH 3-1/4" ALUM. CAP
STAMPED: PLS 24313

POINT OF COMMENCEMENT
N 1/4 CORNER SEC 18
#6 REBAR WITH 2-1/2" ALUM. CAP
STAMPED: PLS 38058



This illustration does not represent a monumented survey. It is intended only to depict the attached legal description.



MERRICK®

5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111
Telephone: 303-751-0741

WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 2
EXHIBIT C-1

DATE: 5/6/21

SHEET: 1 OF 1

EXHIBIT B
BUDGETS AND FINANCIAL STATEMENTS

Windler Business Improvement District No. 2
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Inactive <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>06/30/21</u>	Estimated <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Property taxes	-	-	-	-	-
Specific ownership taxes	-	-	-	-	-
Developer advances	-	50,000	50,000	29,400	50,000
Total revenues	-	50,000	50,000	29,400	50,000
Total funds available	-	50,000	50,000	29,400	50,000
Expenditures:					
Accounting / audit	-	5,000	-	1,500	5,000
Directors fees	-	900	-	900	900
Insurance/SDA dues	-	2,500	-	2,500	2,500
Legal -	-	22,500	-	22,500	22,500
Management	-	3,500	-	-	3,500
Miscellaneous	-	2,000	-	2,000	2,000
Contingency	-	12,508	-	-	12,508
Emergency reserve (3%)	-	1,092	-	-	1,092
Treasurer fees	-	-	-	-	-
Total expenditures	-	50,000	-	29,400	50,000
Ending fund balance	\$ -	\$ -	\$ 50,000	\$ -	\$ -
Assessed valuation	\$ -	\$ -			\$ -
Mill Levy	-	-			10.000

EXHIBIT C
DISTRICT CONTACT INFORMATION

District Representative Contact:

Clint C. Waldron, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: cwaldron@wbapc.com

Megan J. Murphy, Esq.
2154 E Commons Avenue, Suite 2000
Centennial, CO 80122
Work: 303-858-1800
Email: mmurphy@wbapc.com

District Accountant:

Diane Wheeler
304 Inverness Way South
Suite 490
Englewood, CO 80112
Work: 303-689-0833
Email: diane@simmonswheeler.com

District Auditor:

Not applicable



Planning & Development Services
 15151 E. Alameda Pkwy
 Aurora CO 80012 USA
www.auroragov.org
 303-739-7250
GIS@auroragov.org

City of Aurora, Colorado
 Windler Homestead No. 2
 Business Improvement District
 September 20, 2021

Legend

- Windler Homestead No. 2
- Railroad Lines
- Water Lines
- Parcels
- Lakes
- Other Jurisdictions

Feet
 0 412.5 825

183

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Citadel on Colfax Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hanosky Hernandez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT

Staff Source/Legal Source: Carol Toth, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 9/28/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

City Council approved the establishment of the Citadel on Colfax Business Improvement District (BID) in 2017 (Ord. No. 2017-35). The BID is located generally at the southeast corner of E Colfax Avenue and N Sable Boulevard. State statute requires that the BID file its proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

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

The attached resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Citadel on Colfax Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. *See* Sec. 31-25-1211, C.R.S. (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Citadel on Colfax Business Improvement District. Funding is projected at \$1,810,121 primarily from remaining bond proceeds, property taxes and a transfer from the Colfax Sable Metropolitan District.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Citadel on Colfax Business Improvement District

Item Initiator: Carol Toth, Manager of Accounting - Finance

Staff Source/Legal Source: Carol Toth, Manager of Accounting - Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Carol Toth

Agenda Item Initiator Name

Roberto Venegas

Late Submission Approver Name

Carol Toth 10/5/2021
Agenda Item Initiator Signature Date

Roberto Venegas 10/5/21
Late Submission Approver Signature Date

RESOLUTION NO. R2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2017-35 organizing the Citadel on Colfax Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Citadel on Colfax Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

2022 OPERATING PLAN AND BUDGET

CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT

City of Aurora, Arapahoe County, Colorado

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EXHIBIT A - Director Contact Information

EXHIBIT B - BID Budget 2022

 General Fund

 Debt Service Fund

 Capital Projects Fund

EXHIBIT C – District Legal Description

2022
OPERATING PLAN FOR THE
CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Requirement for this Operating Plan. The Business Improvement District Act, specifically Section 31-25-1211, C.R.S., requires that the Citadel on Colfax Business Improvement District (the “District”) file an operating plan and budget with the City Clerk no later than September 30 of each year.

Under the statute, the City is to approve the operating plan and budget within 30 days of the submittal of all required information.

The District will operate under the authorities and powers allowed under the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District; and (5) such other information as the City may require.

The District’s original 2017 Operating Plan and subsequent Operating Plans, previously approved by the City, are incorporated herein by reference, and shall remain in full force and effect except as specifically or necessarily modified hereby.

C. Purposes. As may be further articulated in prior years’ Operating Plans, the ongoing and/or contemplated purposes of this District for 2022 include financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts.

D. Ownership of Property or Major Assets. The District will own public improvements as constructed if such improvements are not otherwise dedicated to other public entities for operation and maintenance.

E. Contracts and Agreements. It is anticipated that the District will enter into various agreements as required to facilitate the funding, construction, operation and maintenance of public improvements. The District is currently party to an Intergovernmental Agreement with the City of Aurora dated August 21, 2017 and is currently party to an Intergovernmental District Facilities Construction and Service Agreement with the Colfax Sable Metropolitan District. The District may also enter into agreements with other districts encompassing adjacent developments in order to cooperate on infrastructure projects.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

- A. Organization. The Citadel on Colfax Business Improvement District was organized by the City of Aurora, Colorado by Ordinance No. 2017-35 on October 28, 2017.
- B. Governance. The District is governed by an elected Board of Directors.
- C. Current Board. The persons who currently serve on the Board of Directors are:
 - 1) Donald J. Marcotte
 - 2) Jazzmine Clifton
 - 3) Vacant
 - 4) Vacant
 - 5) Vacant

Director and other pertinent contact information is provided in **EXHIBIT A**.

- D. Term Limits. The District's election on November 7, 2017, included a ballot question to eliminate term limits pursuant to Article 18, Section 11 of the Colorado Constitution. The question passed.
- E. Advisory Board. The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. No advisory boards have yet been appointed.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The legal description of the District's current boundaries is attached as **EXHIBIT C**. In 2022 and subsequent years, the District anticipates inclusion requests for additional property as boundaries are established and additional property owners participate in the District.

4. PUBLIC IMPROVEMENTS

The District will be primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances to provide improvements or services outside of the boundaries of the District as part of the project. The District shall have the authority to provide these improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial improvements and services shall be as limited by state law.

The public improvements that the District anticipates it will construct, install or cause to be constructed and installed, include those public improvements the costs of which may, in accordance with the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscaping and storm and wastewater management facilities and associated land acquisition and remediation.

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

The District shall provide for ownership, operation, and maintenance of District facilities as activities of the District itself or by contract with other units of government or the private sector.

6. FINANCIAL PLAN AND BUDGET

1. 2022 Budget. The proposed 2022 Budget for the District is attached as **EXHIBIT B**. The adopted 2021 Budget differs from the 2021 Budget attached to the 2021 Operating Plan to account for the final assessed valuation of the property within the District, to include a transfer of property tax revenue from the Colfax Sable Metropolitan District, to adjust the amount of developer advances the District anticipated it would receive, to adjust the expenditure amounts the District anticipated incurring, and to adjust the amounts related to the bonds issued in 2020.
2. Authorized Indebtedness. The District held an election on November 7, 2017 for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as are necessary or convenient for the implementation of Art. X., Sec. 20 of the Colorado Constitution, and the Operating Plan. The initial maximum debt authorization for the District shall be \$50,000,000.
3. Property Tax and Debt Service Mill Levy Cap. The District taxing ability shall be constrained to a mill levy limitation of up to 50 mills for debt service, provided, however, that if, on or after January 1, 2004, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the mill levy limitation may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.
4. District Revenues. The District anticipates receiving revenues derived from property taxes and tax revenue from the Colfax Sable Metropolitan District in accordance with the Intergovernmental District Facilities Construction and Service

Agreement and the Capital Pledge Agreement the District and Colfax Sable Metropolitan District entered into as part of the District's bond issuance in 2020. The District also anticipates utilizing public improvement fees to support public improvement construction.

5. Existing Debt Obligations. The District issued its \$11,600,000 Special Revenue and Tax Supported Senior Bonds Series 2020A and \$930,000 Special Revenue and Tax Supported Subordinate Bonds Series 2020B on November 25, 2020.
6. Future Debt Obligations. The District does not anticipate issuing debt in 2022.
7. Other Financial Obligations. The District may enter into agreements including reimbursement or similar agreements and leases; as well as agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.
8. Non-Default Provisions. Limited tax general obligation bonds issued by the District shall be structured and/or credit enhancements provided such that the bonds cannot default as long as the District is imposing the required maximum allowed mill levy.
9. The debt of the District will not constitute a debt or obligation of the City in any manner. The faith and credit of the City will not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District

7. 2022 ACTIVITIES, PROJECTS AND CHANGES

(a) Activities

The District will continue with development activity in 2022.

(b) Projects and Public Improvements

The District anticipates undertaking projects related to public improvements in the upcoming year.

(c) Summary of 2022 Activities and Changes from Prior Year

In 2021, the District did not complete construction of any public improvements. In 2022, the District will focus on constructing and installing the public improvements to serve the project in 2022, including street improvements, landscaping, traffic signalization, and site furnishings.

Boundary changes: Boundary changes may occur in 2022.

Changes to board or governance structure: Appointments may be made to the Board of Directors to fill the vacancies, however, no individuals have been identified to fill the current vacancies.

Mill levy changes: The District imposed 10 mills for operations and maintenance, 50 mills for debt service, and 1 mill for ARI mill levy in 2021. The District anticipates imposing 10 mills for operations and maintenance, 50 mills for debt service, and 1 mill for ARI mill levy in 2022.
New, refinanced or fully discharged debt: The District does not anticipate issuing debt in 2022.

Elections: Regular election to occur on May 3, 2022.

Major changes in development activity or valuation: Development activity is anticipated to continue for the upcoming year.

Ability to meet current financial obligations: See 2022 Budget attached as **EXHIBIT B**.

8. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate perpetual existence. If the District no longer has such obligations the District will seek to dissolve pursuant to C.R.S. § 31-25-1225.

9. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
Director and Other Contact Information

BOARD OF DIRECTORS:

Donald J. Marcotte
1999 Broadway, Suite 770
Denver, Colorado 80202

303.893.9500
dmarcotte@strategicstoragepartners.com

Jazzmine Clifton
16921 E. Wyoming Drive
Aurora, CO 80017

720.249.2249
jclifton@strategicstoragepartners.com

Vacant

Vacant

DISTRICT CONTACT:

Russell W. Dykstra
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
303-839-3845
rdykstra@spencerfane.com

INSURANCE AND DIRECTORS' BONDS:

T. Charles Wilson Insurance Service
384 Inverness Parkway
Centennial, Colorado 80112
303-368-5757

ACCOUNTANT:

Diane Wheeler
Simmons & Wheeler, P.C.
304 Inverness Way South, Suite 490
Englewood, Colorado 80112
303-689-0833
diane@simmonswheeler.com

AUDITOR:

Annie Fitzsimmons
Hiratsuka & Associates
4251 Kipling Street, Suite 410
Wheat Ridge, CO 80033
970-778-2518
annief@cpa-hs.com

EXHIBIT B
2022 BID Budget

Citadel on Colfax BID
Proposed Budget
General Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>6/30/2021</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ 29,962	\$ 29,962	\$ 23,209
Revenues:					
Property taxes	29,894	5,268	1,092	2,000	17,243
Specific ownership taxes	2,119	421	418	800	1,379
Property taxes ARI	-	527	108	2,000	1,724
Specific ownership taxes ARI	-	42	13	80	138
Transfer From Colfax Sable MD	-	34,477	34,477	34,477	161
Developer advances	1,662	9,265	-	-	-
Total revenues	<u>33,675</u>	<u>50,000</u>	<u>36,108</u>	<u>39,357</u>	<u>20,645</u>
Total funds available	<u>33,675</u>	<u>50,000</u>	<u>66,070</u>	<u>69,319</u>	<u>43,854</u>
Expenditures:					
Accounting/audit	2,567	8,000	9,604	15,000	12,000
Election	-	-	-	-	-
Insurance/ SDA Dues	276	2,500	290	3,500	2,500
Legal	372	25,000	14,492	25,000	25,000
Engineering	-	-	-	-	-
Miscellaneous	25	1,000	-	500	950
Management	-	1,000	-	-	-
Contingency	-	10,708	-	-	7
Aurora Regional Mill levy	-	561	429	2,080	1,836
Treasurer's Fees	473	79	16	30	259
Treasurer's Fees - ARI	-	8	2	-	26
Emergency Reserve	-	1,144	-	-	1,276
Total expenditures	<u>3,713</u>	<u>50,000</u>	<u>24,833</u>	<u>46,110</u>	<u>43,854</u>
Ending fund balance	<u>\$ 29,962</u>	<u>\$ -</u>	<u>\$ 41,237</u>	<u>\$ 23,209</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 526,788</u>			<u>\$ 1,724,263</u>
Mill Levy		<u>10.000</u>			<u>10.000</u>
ARI Mill levy		<u>1.000</u>			<u>1.000</u>

Citadel on Colfax BID
Proposed Budget
Capital Projects Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>6/30/2021</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ 1,168,374	\$ 1,168,374	\$ 1,138,874
Revenues:					
Developer advances	8,042,967	-	-	-	-
Bond Proceeds	12,530,000	-	-	-	-
Interest	99	-	391	500	500
Total revenues	<u>20,573,066</u>	<u>-</u>	<u>391</u>	<u>500</u>	<u>500</u>
Total funds available	<u>20,573,066</u>	<u>-</u>	<u>1,168,765</u>	<u>1,168,874</u>	<u>1,139,374</u>
Expenditures:					
Issuance costs	608,400	-	-	-	-
Capital expenditures	8,042,967	-	28,120	30,000	1,139,374
Repay developer advances	8,042,967	-	-	-	-
Transfer to Debt Service	<u>2,710,358</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total expenditures	<u>19,404,692</u>	<u>-</u>	<u>28,120</u>	<u>30,000</u>	<u>1,139,374</u>
Ending fund balance	<u>\$ 1,168,374</u>	<u>\$ -</u>	<u>\$ 1,140,645</u>	<u>\$ 1,138,874</u>	<u>\$ -</u>

Citadel on Colfax BID
Proposed Budget
Debt Service Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>6/30/2021</u>	Estimate <u>2021</u>	Proposed Budget <u>2022</u>
Beginning fund balance	\$ -	\$ 2,705,358	\$ 2,710,593	\$ 2,710,593	\$ 2,105,467
Revenues:					
Transfer from Colfax Sable	-	77,975	16,949	23,200	66,198
Property taxes	-	26,339	5,418	5,500	86,213
Specific ownership taxes	-	2,107	669	1,200	6,897
Transfer from Capital Projects	2,710,358	-	-	-	-
Interest Income	235	-	911	1,000	-
Total revenues	<u>2,710,593</u>	<u>106,421</u>	<u>23,947</u>	<u>30,900</u>	<u>159,308</u>
Total funds available	<u>2,710,593</u>	<u>2,811,779</u>	<u>2,734,540</u>	<u>2,741,493</u>	<u>2,264,775</u>
Expenditures:					
Bond interest expense	-	675,000	320,643	630,943	620,600
Treasurer's fees	-	395	83	83	1,293
Trustee / paying agent fees	-	5,000	-	5,000	5,000
Total expenditures	<u>-</u>	<u>680,395</u>	<u>320,726</u>	<u>636,026</u>	<u>626,893</u>
Ending fund balance	<u>\$ 2,710,593</u>	<u>\$ 2,131,384</u>	<u>\$ 2,413,814</u>	<u>\$ 2,105,467</u>	<u>\$ 1,637,882</u>
Assessed valuation		<u>\$ 526,788</u>			<u>\$ 1,724,263</u>
Mill Levy		<u>50.000</u>			<u>50.000</u>
Total Mill Levy		<u>61.000</u>			<u>61.000</u>

EXHIBIT C

District Legal Description and Map

LOT 1, BLOCK 1, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOT 1, BLOCK 2, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOT 3, BLOCK 2, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOT 1, BLOCK 7, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOT 2, BLOCK 7, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOTS 1 – 4, BLOCK 8, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

LOT 1, BLOCK 4, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

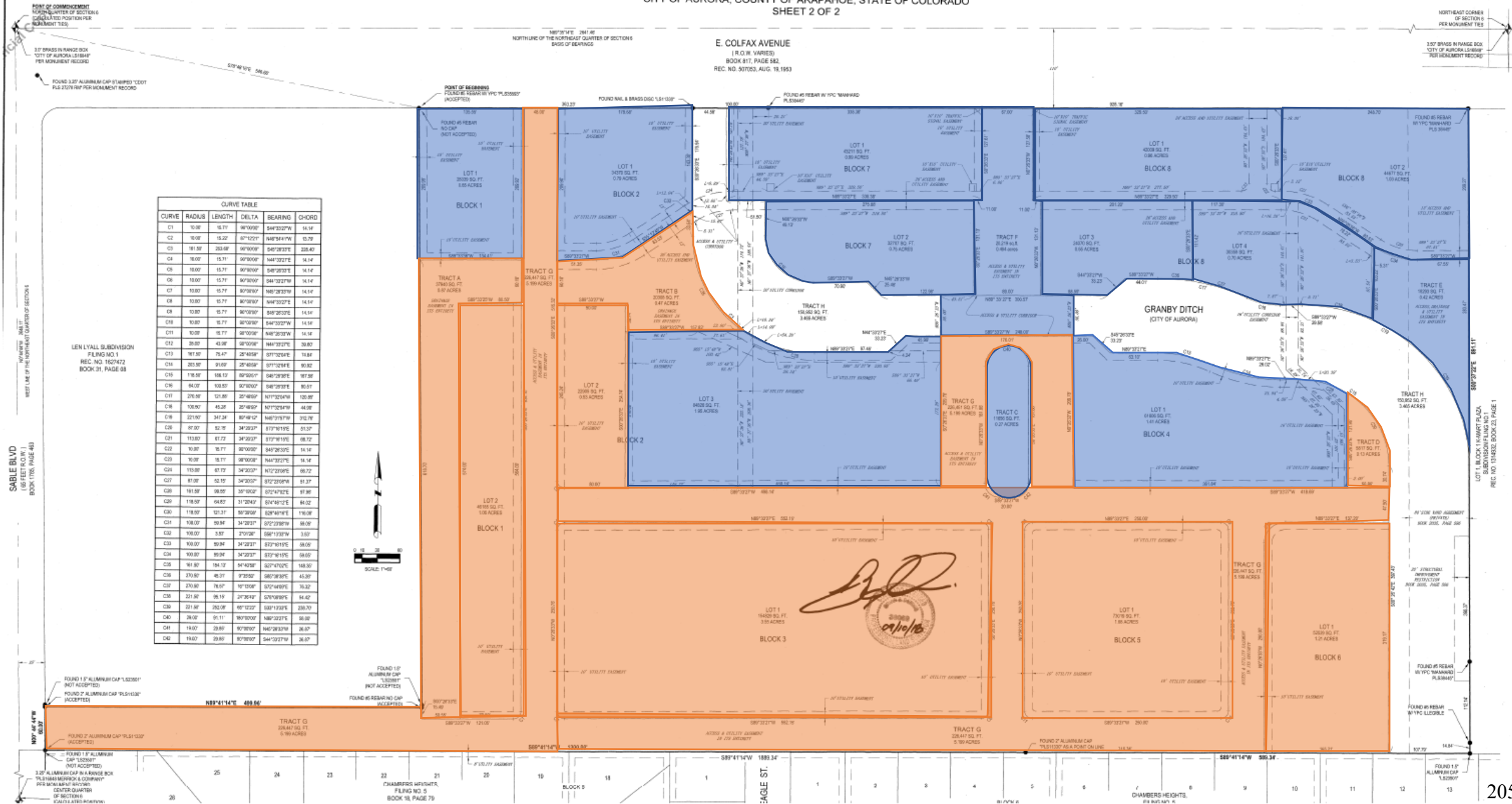
TRACTS C, E, F, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

Business Improvement District
Metropolitan District

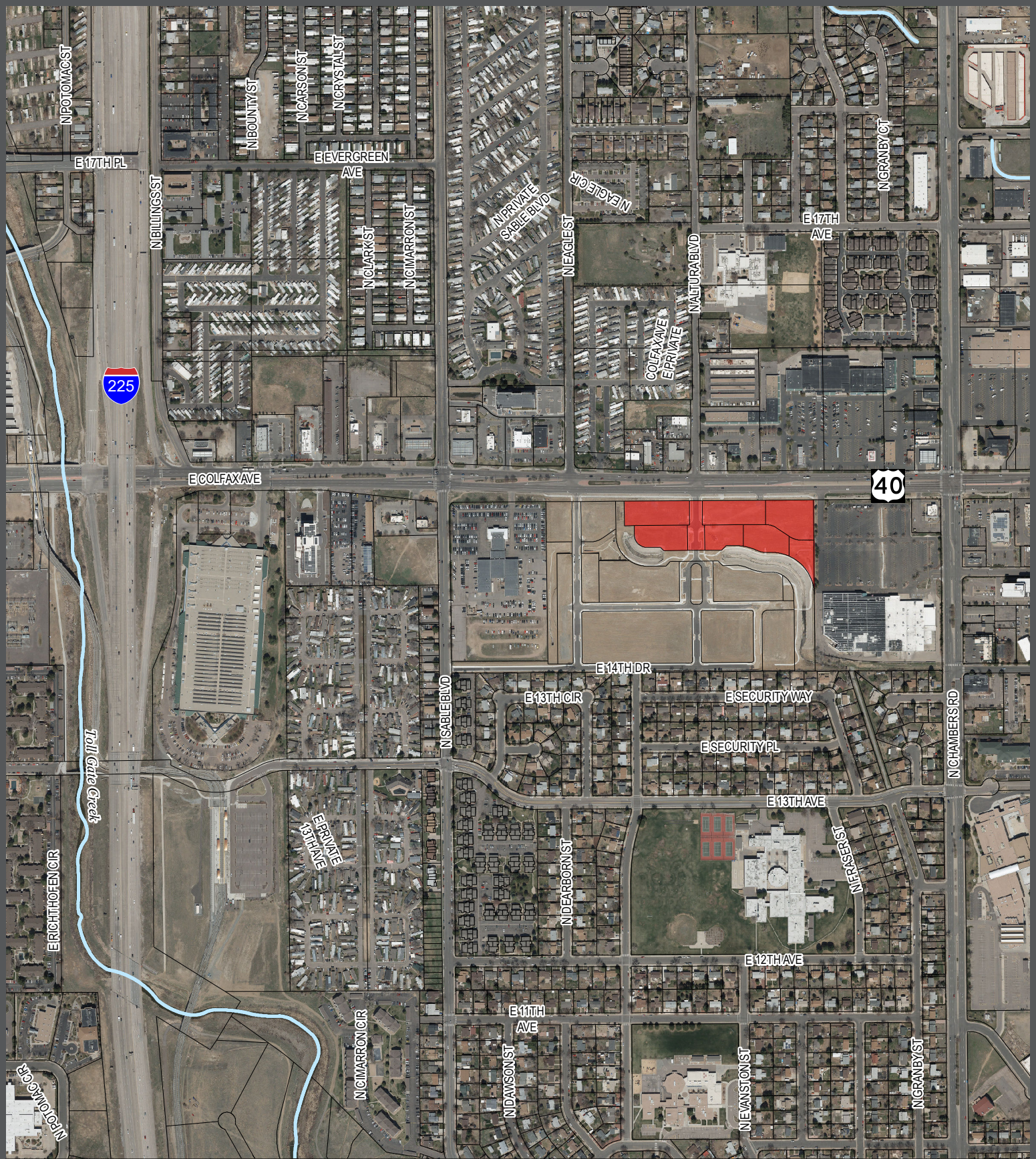
CITADEL ON COLFAX SUBDIVISION FILING NO. 1

A RESUBDIVISION OF TRACT A, MONTEREY POINTE SUBDIVISION FILING NO. 1 AND LOT 1, BLOCK 1, MONTEREY POINTE SUBDIVISION FILING NO. 2 AND LOT 1, BLOCK 1, MONTEREY POINTE SUBDIVISION FILING NO. 3
SITUATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN
CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO
SHEET 2 OF 2

LEGEND
ALLOT MONUMENT (AS NOTED)
FOUND MONUMENT (AS NOTED)
PROPERTY LINE
LOT LINE
EASEMENT LINE



CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	10.00	18.77	88°00'00"	S44°23'27"W	14.14
C2	10.00	18.77	87°42'11"	N48°54'41"W	15.79
C3	181.50	263.48	88°00'00"	S48°23'27"E	238.47
C4	10.00	18.77	88°00'00"	N48°23'27"E	14.14
C5	10.00	18.77	88°00'00"	S48°23'27"E	14.14
C6	10.00	18.77	88°00'00"	S48°23'27"E	14.14
C7	10.00	18.77	88°00'00"	N48°23'27"E	14.14
C8	10.00	18.77	88°00'00"	N48°23'27"E	14.14
C9	10.00	18.77	88°00'00"	S48°23'27"E	14.14
C10	10.00	18.77	88°00'00"	S48°23'27"E	14.14
C11	10.00	18.77	88°00'00"	N48°23'27"E	14.14
C12	20.00	43.98	88°00'00"	N48°23'27"E	30.80
C13	187.50	274.67	27°45'59"	S77°32'54"E	178.84
C14	203.50	310.69	27°45'59"	S77°32'54"E	200.82
C15	178.50	268.13	88°00'00"	S48°23'27"E	187.88
C16	84.00	130.63	88°00'00"	S48°23'27"E	93.51
C17	270.00	420.00	27°45'59"	N77°32'54"E	120.89
C18	100.00	157.08	27°45'59"	N77°32'54"E	44.98
C19	221.00	347.24	88°00'00"	N48°23'27"E	312.78
C20	87.00	132.76	34°23'27"	S77°32'54"E	51.32
C21	113.00	172.73	34°23'27"	S77°32'54"E	68.72
C22	10.00	18.77	88°00'00"	S48°23'27"E	14.14
C23	10.00	18.77	88°00'00"	N48°23'27"E	14.14
C24	113.00	172.73	34°23'27"	N77°32'54"E	68.72
C25	87.00	132.76	34°23'27"	S77°32'54"E	51.32
C26	181.50	263.48	35°10'02"	S72°47'02"E	171.86
C27	118.00	164.83	31°28'42"	S74°40'12"E	84.02
C28	118.00	164.83	31°28'42"	S74°40'12"E	84.02
C29	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C30	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C31	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C32	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C33	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C34	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C35	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C36	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C37	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C38	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C39	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C40	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C41	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C42	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C43	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C44	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C45	100.00	157.08	34°23'27"	S77°32'54"E	44.98
C46	100.00	157.08	34°23'27"	S77°32'54"E	44.98



Planning & Development Services

15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7250
GIS@auroragov.org

City of Aurora, Colorado

Citadel on Colfax
Business Improvement District

September 23, 2021

*Aurora is
Worth Discovering!*



Legend

- Water Lines
- Parcels
- Citadel on Colfax BID

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration of A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Fitzsimons Business Improvement District

Item Initiator: Chad Argentar, Senior Development Project Manager

Staff Source/Legal Source: Chad Argentar – Senior Development Project Manager / Hans Hernandez – Assistant City Attorney

Outside Speaker: None

Council Goal: 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

Consideration of A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Fitzsimons Business Improvement District

Chad Argentar – Senior Development Project Manager /Hans Hernandez – Assistant City Attorney

Estimated Presentation/Discussion Time: 2 minutes

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 Fitzsimons Business Improvement District was approved for organization by City Council in 2011. It is generally located Ursula Street between 23rd Street and Montview Boulevard. The 2022 operation plan and budget was approved at the September 28, 2021 Management & Finance Policy Committee meeting.

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

The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for the Havana Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. (Sec. 31-25-1211, C.R.S.) (Hernandez).

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

- ☐ Not Applicable ☐ Significant ☒ Nominal

If Significant or Nominal, explain: The attached item sets out the 2022 operating plan and budget for the Fitzsimons Business Improvement District. The BID is projected to generate \$5,859 in revenue through charges per square foot of commercial buildings from within the BID. Fees are based on costs of BID administration, services and improvements.

2022 OPERATING PLAN AND BUDGET

**FITZSIMONS
BUSINESS
IMPROVEMENT
DISTRICT**

Spencer Fane LLP

**FITZSIMONS BUSINESS IMPROVEMENT
DISTRICT
2022 OPERATING
PLAN**

I. SUMMARY

The Fitzsimons Business Improvement District (“BID”) is an assessment district designed to improve the economic vitality, value and overall commercial appeal of the Ursula Street commercial area through public parking management, signage, enforcement and streetscape improvements between 23rd Street and the southern boundary of The Square at Fitzsimons Filing No. 1, Adams County, in the City of Aurora, Colorado. The BID is financed through charges based on the costs of its improvements and services and the building square footage of commercial property.

BID services are in addition to the services in the area currently provided by the City of Aurora.

Name: Fitzsimons Business Improvement District

Boundaries: The Service Area is The Square at Fitzsimons Filing No. 1, Adams County, City of Aurora, Colorado, and the streets as shown on the BID Service Area and boundary map attached as Exhibit A, Pages 1 and 2.

BID Programs: The overall goal of the BID is economic development of the commercial property within the BID’s service area. BID functions are as follows:

Parking services and public improvements including:

- * Parking management
- * Signage, including designation of parking spaces for business, parking times, and restrictions

Establishing a District Identity and Image including:

- * Signage, wayfinding and gateways
- * Design and/or implementation of streetscape and landscape improvements

**Basis of
Accounting:**

The basis of accounting utilized in preparation for the 2022 budget for the BID is cash basis. The BID’s budget includes projected revenues and expenditures for its general operation fund.

Budget: Approximately \$5,859 will be raised in 2022

through charges per square foot of commercial buildings in the BID based upon the costs of BID administration, services, and improvements.

- Methodology:** In order to allocate the costs of the services and improvements to be furnished by the BID in a way that most closely reflects its benefits, the BID will collect charges per square foot levied on commercial property. The estimated annual charge for 2022 will be \$0.3302/sq. ft.
- Term:** The BID is a perpetual BID with a City Council review period every five years if desired by the Council. The review will allow for appropriate adjustments to the charge methodology and/or programming, and will allow business and property owners to address and respond to changes as they occur in the BID.
- City Service:** BID services will be in addition to any City services currently provided.
- Governance:** The BID is managed by a 3-member Board of Directors, all of whom are voting members. The Board represents a diverse mix of commercial properties. The BID does not have plans to fill any vacancies at this time.
- Dissolution:** The BID may be dissolved if property owners representing more than 50% of total commercial acreage and assessed value submit a petition to dissolve it or if the BID fails to submit an operating budget for two successive years and dissolution is approved by City Council.

II. RECAP OF 2021 BID ACTIVITIES

In 2021, the BID monitored parking activities.

III. FITZSIMONS BID 2022 OPERATING PLAN

As determined by area property owners and business owners, the top priorities for improvements and activities within the BID include the below listed items. In addition, the BID is continuing to work cooperatively with the Fitzsimons Redevelopment Authority (“FRA”) to coordinate access to future FRA projects with the need to maintain and maximize available parking within the BID.

- BID Programs:** The following narrative lists BID programs for operating year 2022. The Board may amend program activities in the

subsequent years within the general categories authorized by state law and in future approved annual operating plans and budgets. Final programs and budgets will be subject to the annual review and approval of the BID Board of Directors.

**Parking
Management:**

The commercial area in the BID has limited parking. The property owners and tenants have identified problems with parking spaces being used for long-term purposes and for distant destinations. There are approximately 108 on-street parking spaces available. The primary purposes of the BID are to obtain the ability to control the parking spaces so they may be better utilized for the commercial businesses near the spaces, to develop and implement a parking management program, and to take steps to improve parking utilization and turnover. The expectation is that BID parking management may include signs, space designations, and parking duration limits.

The BID may furnish:

- * Design, planning, financing, installation, operation, maintenance, removal and replacement of signs along the City streets within the BID, or placement in parking lanes, and/or on sidewalks in and adjacent to the premises (i.e. the defined on-street parking space areas as shown on a map attached as Exhibit B). The signs may limit parking times and/or designate allowable uses of parking spaces or areas for particular purposes, and/or words to the effect that parking restrictions will be enforced, potentially including the violators' vehicles will be towed at vehicle owner's expense,
- * Removing cars at the vehicle owner's expense in substantially the same manner as a private property owner may remove vehicles when parked in violation of comparable signs,
- * Creation of parking management plans,
- * Promotion of special events,
- * Parking striping.

District Identity: In order to create a greater sense that the area is a cohesive commercial district, the following initiatives are recommended:

Visual Identity intended to promote the overall economic health and attractiveness of the area and augment a sense of visual identity, including:

- * Gateway signs and/or treatments
- * Street furniture and amenities
- * Streetscape and landscape design and implementation
- * Seasonal banners and decorations
- * Maintenance

Capital Improvements such as streetscape, sidewalk and curb improvements. The BID can issue bonds to pay for capital improvements if the BID voters approve the bonds in an election, the Board chooses to do so, and the use of bonds is approved by the City Council in a future Operating Plan. There are no bonds authorized by this Operating Plan. BID funds can be used to match and leverage funds and other resources. There is public interest and necessity for the improvements described herein.

BID Operations: In order for the BID to effectively work for a more successful commercial area, it is recommended that BID contract personnel, with guidance from the BID Board, should implement the following tasks and activities:

- * Maintain communication with City Council, City staff and other civic leaders, other BID's and constituencies as needed;
- * Manage and support BID programs; and
- * Be a point of contact for BID property owners and commercial lessees through periodic discussions, email, in-store visits, and meetings and forums to keep them apprised of the BID's activities.

There are several ways in which the BID Board can determine to manage and staff its programs, including hiring staff and/or contracting with professional(s) to carry out BID programs. Currently, BID tasks are performed by private contractors paid by the BID.

IV. BID 2022 BUDGET

The BID Board will hold a public hearing and adopt the final budget as required by the Colorado Local Government Budget Law.

As shown in Exhibit C, the proposed 2022 budgeted expenditures will be approximately \$5,859 as shown in the budget, and budgeted revenue of \$5,859 to be raised through an estimated \$0.3302 (thirty-three cents) per square foot charge on commercial uses/buildings within the BID.

The BID will operate in accordance with the terms of the Business Improvement District Act. The last sentence of Section 31-25-1203(10) states: "Property which is not commercial property and which is within the "service area" of a district shall not be subject to the revenue-raising powers of the district until it becomes commercial property and is included within the district's boundaries, as provided in Section 31-23-1208." Therefore, residential properties within the BID will not pay the BID's per square foot charges.

Charge Methodology: Under Colorado statutes, business improvement districts can generate revenues through several methods, including charges for services rendered by the district, taxes, special assessments, or a combination of any of these. In order to allocate the costs of the improvements and services to be furnished by the BID in a way that most closely reflects the benefits conferred upon the businesses and commercial properties in the BID, the BID shall be authorized to determine, impose and collect charges based upon costs and the square footage of commercial property located in the District. The charges will continue to be a flat rate per square foot, but may vary in the future based on parking and service-related factors.

V. BID GOVERNANCE AND PROGRAM MANAGEMENT

The BID is managed by a Board of Directors consisting of three (3) electors, all of whom are voting members. The BID Board has the following responsibilities:

- * Prepare and file the annual BID operating plan and budget with the City in accordance with state legal requirements and ensure compliance with other state laws.
- * Provide direction and coordination in carrying out BID funded improvements and services.

VI. CITY SERVICES

BID services are in addition to any City services currently provided in the area.

VII. TERM

The BID has perpetual existence with a review period every five (5) years. The review will allow for appropriate adjustments to the BID boundary, charge methodology and/or programming. The review also allows business and property owners to address and respond to changes as they occur in the area.

VIII. CONTACT INFORMATION

BID Contact Person:

Spencer Fane LLP
Attn: Matt Dalton
1700 Lincoln Street, Suite 2000
Denver, CO 80203
303-839-3800
mdalton@spencerfane.com

BID Accountant:

Michelle Smith
4582 S. Ulster Street, Suite 1700
Denver, CO 80237
303-691-4550

Auditor: Not Applicable

EXHIBIT A
(SERVICE AREA AND BOUNDARY MAP)

EXHIBIT B
(PARKING SPACE MAP)

EXHIBIT C
(2022 Budget)

Fitzsimons Business Improvement District											
2022 Budget											
September 16, 2021											
INCOME STATEMENT	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021	2022
	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actual	Budget	Estimated	Budget
REVENUE											
BID Fee Revenue	8,039	8,039	9,766	4,947	9,766	5,889	10,162	3,926	9,859	1,857	5,859
Fund Advance											
Other											
Interest											
Total Revenue	8,039	8,039	9,766	4,947	9,766	5,889	10,162	3,926	9,859	1,857	5,859
EXPENSES											
Accounting	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	0	(1,000)
Administration									0	0	0
Advance Reimbursement									0	0	0
Audit	0	0	0		0		0	0	0	0	0
Bank Service Charge	0	0	0		0		0	0	0	0	0
Dues & Memberships	0	(236)	(236)	(235)	(236)	(320)	(320)	(236)	(320)	(236)	(320)
Insurance	(1,525)	0	(1,337)	(1,337)	(1,337)	(1,337)	(1,337)	(1,339)	(1,339)	(1,341)	(1,339)
Legal	(4,012)	(2,900)	(2,900)	(3,493)	(2,900)	(4,131)	(3,200)	(2,230)	(3,000)	(2,230)	(3,000)
Marketing & Promotions	0	0	0	0	0	0	0	0	0	0	0
Emergency Reserves (3% of expense)		0	(293)	0	(293)	0	(305)	0	(200)	0	(200)
Other Purchased Services	0	0	0	0	0	0	0	0	0	0	0
Total Expenses	(7,537)	(5,136)	(6,766)	(7,065)	(6,766)	(7,788)	(7,162)	(5,805)	(6,859)	(3,807)	(5,859)
CAPITAL EXPENDITURES											
Parking Enforcement	0	0	0	0	0	0	(3,000)	0	(3,000)	0	0
Landscaping	0	0	0	0	0	0	0	0	0	0	0
Parking Striping	(500)	0	(3,000)	0	(3,000)	(3,095)	0	0	0	0	0
Signs	0	0	0	0	0	0	0	0	0	0	0
Sign Posts/Installation	0	0	0	0	0	0	0	0	0	0	0
Total Capital Spending	(500)	0	(3,000)	0	(3,000)	(3,095)	(3,000)	0	(3,000)	0	0
Total Expenditures	(8,037)	(5,136)	(9,766)	(7,065)	(9,766)	(10,883)	(10,162)	(5,805)	(9,859)	(3,807)	(5,859)
NET REVENUES	2	2,903	(0)	(2,118)	0	(4,994)	(0)	(1,879)	0	(1,950)	0
Fund Balance - Beginning of Year	5,005	5,005	7,889	12,913	5,772	10,795	5,801	5,844	3,965	3,965	0
Fund Balance - End of Year	10,012	12,913	7,889	10,795	5,772	5,801	5,801	3,965	3,965	2,015	0
			* Parking enforcement estimated at \$17,000 a year. We budgeted \$3,000 being back through the BID in 2020 but did not receive the payments to support this so full expense was billed to 21 Fitzsimons								

Fitzsimons Business Improvement District
 Attn: Carole Olite
 4582 South Ulster St., Suite 1700
 Denver, CO 80237
 (303) 691-4550

The Fitzsimons Business Improvement District (BID) was formed to improve the economic vitality, value and overall commercial appeal of the Ursula Street and E. 22nd Avenue commercial area thru public parking management, signage, enforcement and streetscape improvements between 23rd Street and the southern boundary of The Square at Fitzsimons Filing No. 1, Adams County.

In order to allocate the costs of the services and improvements to be furnished by the BID in a way that most closely reflects its benefits, the BID will collect charges per square foot levied on commercial property on an annual basis.

2022 Calculation of Charges			2022 Budgeted Expenses		\$5,859	\$0.3302	
Bldg. No.	Ste. No.	Address	Tenant Name	Bill To:	Retail S.F.	Charge PSF	Charge
1	20	2100 North Ursula	Cedar Creek Pub	Cedar Creek Pub	4,400	\$0.3302	1,452.88
1	30	2100 North Ursula	Lost Coffee	Lost Coffee	1,170	\$0.3302	386.33
1	2100-45	2100 North Ursula	Vacant	21 Fitz	682	\$0.3302	225.20
2	23	2101 North Ursula	Ursula Brewery	Ursula Brewery	2,740	\$0.3302	904.75
2	25	2101 North Ursula	Ambli Mexico at Fitz	Ambli Mexico at Fitz	2,830	\$0.3302	934.47
3	35	2103 North Ursula	ProCare Pharmacy	ProCare Pharmacy	2,578	\$0.3302	851.26
3	45	2103 North Ursula	Vacant	21 Fitz	1,683	\$0.3302	555.73
3	55	2103 North Ursula	Vacant	21 Fitz	1,660	\$0.3302	548.13
Total					17,743		5,859

Revenue Notes:

- 2018 miss in revenue by \$4,818.52 due to Cedar Creek, Ursula Brewery and J&M Liquor not paying fee
- 2019 projected to miss budget by \$3,877.16 due to Cedar Creek and Ursula Brewery not paying yearly dues.
- 2020 Missed revenue due to only Reverie and Aimco paying dues (Cedar Creek, Ursula, Lost Coffee, CVS total \$6,262.60 in unpaid dues)
- 2021 Only payment we anticipate receiving for 2021 is 21 Fitz portion. Other tenants did not pay this year due to the struggles with COVID and Cedar Creek and the brewery still refusing to pay since they do not feel the BID is beneficial.

RESOLUTION NO. R2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE FITZSIMONS BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2011-31 organizing the Fitzsimons Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act; and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Fitzsimons Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

MANAGEMENT FINANCE POLICY COMMITTEE

September 28, 2021

2022 BID OPERATING PLANS AND BUDGETS

Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer

advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what

they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Fitzsimons Business Improvement District

Item Initiator: Chad Argentar, Sr. Development Project Manager – P&DS

Staff Source/Legal Source: Chad Argentar, Sr. Development Project Manager, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Chad Argentar

Agenda Item Initiator Name


Agenda Item Initiator Signature

10/5/21

Date

Roberto Venegas

Late Submission Approver Name


Late Submission Approver Signature

10/5/21

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration of A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Havana Business Improvement District

Item Initiator: Chad Argentar, Senior Development Project Manager

Staff Source/Legal Source: Chad Argentar – Senior Development Project Manager /Hanosky Hernandez – Assistant City Attorney

Outside Speaker: Chance Horiuchi, Executive Director – Havana BID

Council Goal: 2012: 5.4--Improve the health of the city's small business community

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

Consideration of A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Havana Business Improvement District

Chad Argentar – Senior Development Project Manager /Hans Hernandez – Assistant City Attorney

Chance Horiuchi – Executive Director – Havana BID

Estimated Presentation/Discussion Time: 5 minutes

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

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 Havana Business Improvement District was approved for organization by City Council in 2007. It comprises of approximately 209 properties along a 4.5 mile stretch of the Havana Street corridor from 6th Avenue to Dartmouth Avenue.

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

On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

QUESTIONS FOR COUNCIL

Does the Council wish to forward the resolution approving the 2022 operating plan and budget for Havana Business Improvement District to the November 22, 2021, regular meeting of the City Council for formal consideration?

LEGAL COMMENTS

No business improvement district shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the municipality within which it is located has approved an operating plan and budget for the district. (Sec. 31-25-1211, C.R.S.) (Hernandez).

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☐ Not Applicable ☒ Significant ☐ Nominal

If Significant or Nominal, explain: The attached item sets out the 2002 operating plan and budget for the Havana Business Improvement District with \$1.210 million in expenditures from approximately \$624K in new revenues and \$586K in board reserves.

2022 BUDGET MESSAGE

2022 PRELIM. BUDGET

8.25.2021 Certification of Valuation by Arapahoe County Assessor

HAVANA BUSINESS IMPROVEMENT DISTRICT

DISTRICT SERVICES:

The Havana Business Improvement District (the District) d.b.a. On Havana Street, is a special global business district (Colorado Revised Statutes 31-25-1203) in Aurora/Arapahoe County Colorado created in 2007 by business and neighborhood leaders and Aurora city staff working together to build a stronger and better community. The District actively engages, manages and promotes On Havana Street as a global business corridor and a premier destination for shopping, dining, living, working and visiting. The District works in alliance with business and community partnerships to develop and implement programs that will strengthen the physical and economic vitality of On Havana Street and empower our 209 District properties, 20+ shopping centers and 2,100 diverse business stakeholders.

The District provides programming and benefits to business and commercial property owners located in the District boundaries for 4.3-miles from 6th Avenue to Dartmouth Avenue in Aurora, Colorado, Arapahoe County. Programming includes economic development activities such as keeping an available properties list for the District, working with the city on redevelopment projects and urban renewal opportunities within the District, regular stakeholder communication, hosting monthly meetings to keep everyone informed, and being the liaison between the District, its businesses, the City of Aurora and other public and private partnerships. Programming also includes business advocacy, district identity/corridor image improvements, the biennial public art program, marketing, advertising, and branding efforts for the corridor. The District organizes and hosts monthly events and promotions to stimulate a sense of community and involvement, publishes a monthly e-newsletter, markets/advertises the District and supports monthly promotions through social media, digital/print ads, TV and hotel key card marketing. The District is a diverse and premier destination through day-to-day maintenance and operations, annual local and tourism marketing and advertising, merchant outreach, signature events and other initiatives.

In addition to the promotion of the District and its businesses in the corridor the District provides advocacy, communication, connections to opportunities, resources, and relief funding during the Covid-19 recovery. In 2022, we will continue to host a hybrid of in-person and virtual events. We will continue to collaborate with diverse industries in the District, non-profits, and the many community partners. Our focus will be on stimulating the economy and supporting our businesses in every way possible through the Covid-19 pandemic. Our programming will switch from promoting large community gathering events to advocacy and workforce development/training workshops, and outreach efforts to help understand the changing regulations and mandates. We will continue lobbying for resources and support services for our business community and connecting our stakeholders to city, state, federal, public health, and community leaders that can impact change during the uncertain times of Covid-19.

BASIS OF ACCOUNTING:

The basis of accounting utilized in the preparation of the 2022 budget for the District is a **cash basis** method. The District's 2022 budget includes projected revenues and expenditures for its general operating fund. The District has no debt service fund, capital projects fund, or any other fund.

IMPORTANT FEATURES OF THE BUDGET:

The 2022 budget and mill levies do not result in a violation of any applicable property tax or fiscal year spending limitations. Emergency reserves have been provided in 2022 (3% of the District's fiscal year spending per TABOR).

***2022 Preliminary Budget:** This preliminary budget was created using the preliminary 2022's AV received on August 25, 2021. The final 2022's AV assessments will not be received until late November 2021 from Arapahoe County. Due to Covid-19 challenges and receiving the Certification of Assess Valuations in the beginning of September 2021, the City of Aurora allowed for an extension to present the preliminary 2022 budget to the City of Aurora's Management and Finance.

*Approximately \$583,477 in 2022 is to be raised through a 4.5 mill levy based upon the assessed value of real commercial property which includes the "current year's net total taxable assessed valuation" from page 2, line 4 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) AV's (\$111,355,880 x .0045) = \$501,101, plus the preliminary 2022 URA property tax increment from page 2, line 3 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) ("total TIF area increment" - URA Property Tax Increment (\$18,305,712 x .0045) = \$82,376 as well as an estimated \$40,088 in specific ownership tax.

Please see the attached *preliminary 2022 budget on page 14.

After this report was submitted to the City of Aurora for the Manage & Finance Committee, City Council Study Session and regular City Council Meeting the District will receive the Final AV's for 2022 in late November 2021. The final AV's for 2022 will be received and added to this document to submit to Arapahoe County and the State of Colorado by 12/15/2021.

GENERAL OPERATING EXPENDITURES:

1. **Marketing Budget Expenditures - \$157,000:** Paid out of the District's General Fund, the Marketing budget includes both business attraction and support accounting **code 65040** and consumer marketing accounting **code 65050**. Consumer marketing includes all TV, digital and print marketing for the Havana Motor Mile, our monthly events, and promotions, and as well as the Havana Motor Mile Tool Incentive Workforce program (see more below).

In 2021, the board reserved our funds and decreased the pre-pandemic budget of 2020 at \$180,000 to \$124,000 to prepare for the possible deficit in revenues for future years due to the Covid-19 pandemic. We expected our AV's, Accessed Valuations, for the District to decline from 2021 and on due to the pandemic and closures of businesses. However, our AV's for the District increased despite the pandemic challenges of the corridor. Therefore in 2022, the District felt that it was important to continue the marketing and return the event's budget back to the 2019 pre-pandemic budget at \$157,000. This is \$56,000 more than the 2020 budget and \$33,000 more than 2019 pre-pandemic budget in hopes to do more marketing of the corridor during recovery efforts and host in-person/hybrid events that attract shoppers and investments to the District.

Havana Motor Mile Workforce Program - \$20,000: In addition, The District wanted to continue the automotive technician tool incentive workforce program and increased this allocation \$1,000 from \$19,000 to \$20,000 to account for the increased costs in shipping the tools and tool chests. We budgeted for \$20,000 for the tool incentive workforce program and will continue to allocate \$137,000 to the Havana Motor Mile marketing budget.

The tool incentive workforce program is vital to the Havana Motor Mile. Our District's automotive workforce values this program and especially needs this support during the Covid-19 recovery. We want to stimulate the economy and create jobs in our corridor for our 20+ auto dealerships and 100+ auto service and parts businesses in the District. The auto industry is in constant need for automotive technician jobs. Due to the success of the workforce program, the District will set aside \$20,000 out of the General Fund for scholarships to attract qualified auto technicians to come to work in the dealerships and repair shops on the Havana Motor Mile. The Havana Motor Mile is challenged with finding quality workforce and this program's success has helped our auto industry stakeholders immensely.

Background on the Tool Workforce Program: The service managers in the Havana Motor Mile worked with the instructors at Pickens Technical College to place qualified auto technicians who successfully completed the Pickens's auto technician program. The \$20,000 will allow the District to sponsor the students to be hired/placed in Havana Motor Mile shops or dealerships. One of the requirements to work in the auto industry is that auto technicians need to provide their own set of tools on the job. Most students cannot afford to purchase their own set of tools right out of school. The number of students sponsored by our program depends on the cost of the tool cabinets and tools every year. Typically, through a collaborative partnership with Pickens Technical College, Gary's Automotive Repair, and Snap-On Tools; the District's receives each set of tools and the tool cabinet for each student from Snap-On at cost – about \$3,000+ each. The cost of the tool package changes yearly due to the increased costs of tools every year and shipping.

With the successful completion of 2 years of employment on the Havana Motor Mile, the student is awarded the ownership of the tool package. If the student leaves the job placement before the completion of the 2 years of employment on the Havana Motor Mile, then the tools go back to Pickens Tech to be awarded to a future student who accepts a job on the Havana Motor Mile. There is a severe shortage of qualified auto technicians in the metro area, and we are hoping that this tool incentive program will continue to attract and retain qualified technicians to work in our dealerships and shops. 2021 was the 3rd year that the program delivered the ownership keys to each student that completed the 2-year employment and commitment to the Havana Motor Mile. **Due to the huge success of this tool incentive program, we have budgeted \$20,000 in the 2022 budget for at least six students to be awarded the tool incentive packages and job placements at Havana Motor Mile businesses.**

The Havana Motor Mile marketing budget was increased to \$137,000 vs \$105,000 in 2021. We understand that even though we need to reserve funds for future recovery efforts of Covid-19 challenges, the marketing of the corridor's Havana Motor Mile is vital to our branding and support of the automotive industry stakeholders. The \$137,000 is contracted through Fox Media and Marketing who has assisted the District in purchasing and negotiating contracts for media productions, creative content and commercials to promote the corridor. We create commercials for 9NEWS platforms and host digital campaigns throughout the year promoting our Havana Motor Mile, retail, and restaurants. The Havana Motor Mile and its stakeholders are huge part of The District's identity and success. We want to continue to market our Havana Motor Mile and On Havana Street stakeholders as the destination for all your auto needs and more.

2. **Special Events Budget Expenditures - \$125,000:** Paid out of the District's General Fund, the special events budget includes all print ads, event related printing and flyers, entertainment expenses, prizes associated with event drawings, porta potties, trash removal, temporary events staffing, and other event expenses like signage, stages, barricades, cones, etc. The special events heading includes accounting codes **47430, 47440, 47450, 47460, 47470, 47490 and 47400. The \$125,000 accounts for \$75,000 for events and \$50,000 for marketing of the events and the District.**

The District board and executive director reviewed the 2022 events budget and decided to add additional events to support the on-going Havana Street Corridor Multi-Modal Study, Covid-19 recovery efforts, and promote more business development and outreach with stakeholders through networking events and other relationship building opportunities with community leaders and partners. On Havana Street wants to support our stakeholders by helping them foster and strengthen their relationships with one another and local government. In 2022, the District replaced large gathering signature events with updated virtual/hybrid events due to the uncertainty of gathering sizes in 2022.

Through community events and networking, the District wants to connect key stakeholders, residents, employees, and local organizations together for cross-promotional opportunities. We will host more opportunities to help distribute resources and programming. We have worked hard to strengthen our

community partnerships and communication to ensure On Havana Street and its stakeholders are represented in decisions that could impact the business environment.

The Special Events budget will increase from \$61,000 in 2021 to \$125,000 in 2022. In 2022, we will spend \$50,000 on event and promotions with over 15+ local and diverse publications and \$75,000 on events. We will be exploring other avenues for marketing exposure and increase our presence in publications that reflect more of the diversity of the District's stakeholders and community. We will also host more virtual events and other promotions online to attract shoppers safely to the area. We plan to host gatherings in early 2022 with limited capacity limits and large gatherings in late 2022 as they are permitted by the state and health department. Many of our past signature events in the District drew audiences from 50 to 10,000 attendees. Unfortunately, with the uncertainty of Covid-19, the board and executive director decided it would be best to host virtual/hybrid smaller events until public health mandates allow large gatherings safely without the concern of a Covid-19 outbreak.

NEW allocations for 2022 Events: The District will continue to support stakeholder hosted events and promotions and existing events in the corridor. We are hoping the events come back in 2022 and budgeted for many smaller gathering events with limited capacity limits with more networking for stakeholders. The District budgeted to host holiday themed events, a marketing event campaign with community partners like Buckley Space Force, two concerts in late 2022, and many giveaways to promote the businesses and "things to do" in the corridor.

Due to the uncertainty of the Covid-19 recovery the District also budgeted \$4,000 for other community events that stakeholders valued in 2021. Some the recovery events the District budgeted for include: business recovery and outreach events, workshops, public meeting discussions, and business round tables with elected officials, city and county management and leadership. This budget will also allow the District to support other community events in the corridor like a festival at The Stampede or Minimum Wage Discussion and Forum with business leaders and stakeholders. The District also budgeted \$5,000 for any Covid-19 Recovery related events to support the stakeholders. For example, the District can help to host community and workforce vaccine clinics, testing centers, booster vaccine clinics, food drives, grant forums/workshops, outreach and round tables on the Covid-19 pandemic recovery programming. The District also felt it was important to budget \$5,000 to support workforce related events to support our stakeholders with hiring efforts, job fairs and more workforce training programming. This budget may also allow for the District to partner with local workforce centers to host a job fair for companies hiring On Havana Street. Lastly, we added a budget for \$1,000 for On Havana Street giveaways, prizes, and promotions for the BID businesses at community events or BID business hosted events. In 2022, we expect to support over 15 new business grand openings and redevelopments in the corridor. For example: If a new stakeholder opens in the District, then the District could host a small gift card giveaway or share promotions at their grand openings and ribbon cuttings. During the Covid-19 recovery the District hosted giveaways to promote new openings or promotions online and on social media. We received lots of engagement and would like to continue these marketing efforts in 2022.

"We Made It to 2022" Stakeholder Networking: In 2022, we budgeted \$2,500 a "Happy New Year!" Networking event to celebrate 2022 with our stakeholders in hopes gathering in groups will be permitted in the beginning of 2022. The District added this event because we wanted to celebrate our many stakeholders that made it through the roller coaster of 2020-2021. The District board also added this celebration because stakeholders shared that they wanted more opportunities to connect and network with other stakeholders. The District's board felt it would be a great start to the new year to host a networking event at an On Havana Street restaurant. If there are limited party sizes for restaurants in early 2022, then the District plans to host multiple smaller networking groups at an On Havana Street restaurant with Board members.

Rock it Sock it Event with APD & MHBH – Marketing & Fundraiser Support: In January-February 2022, the District will continue to support our community partners Aurora Police Department On Havana Street PAR officers and Mile High Behavioral Health/ARDC/Comitis Crisis Center and help to host donation collection boxes

at stakeholder locations in the corridor for the Rock it Sock it fundraiser and sock drive. The District supports the stakeholders participating in the sock drive, helps to promote and market the sock drive, and volunteers at the hygiene kit assembly event.

- **February GIVEAWAY - \$600:** In February 2022, the District will continue to host a Date Night On Havana Street Giveaway. In 2021, we had about 300 entries to the online giveaway and increased our newsletter subscriptions and social media traffic was up 217.39%.
 - Facebook up 53.66% driving 43.15% of social media traffic
 - Instagram Stories up 4,800%, driving 33.56% of social media traffic
 - Instagram up 1,300%, driving 19.18% of social media traffic

Due to 2021's success, the District felt it would be valuable to continue in 2022. This event will be in collaboration with our marketing and social media campaigns with local partners. We will do online and social media promotions showcasing date night spots and highlights in the corridor. The Board allocated \$600 to cover the expense of the giveaway and social media promotions of the giveaway. The giveaway package will include \$500 in gift cards to a dinner at an On Havana Street restaurant, spa, manicure/pedicure nail spa, barber shop, small business retail shops, a dessert business, and a local florist. The other \$100 will be spent on the gift basket and social media boosts for the giveaway. We will also highlight great places to shop for Valentine's gifts in the corridor. We plan to feature On Havana Street favorites like Colpar HobbyTown USA, Lucy's Flowers & Designs, Fascinations, Heirloom Antiques, the 100+ diverse restaurants, Massage Envy, and the Havana Spa & Sauna. We will also advertise this giveaway with ongoing Valentine's Day promotions, discounts, and marketing the promotions our stakeholders.

Celebrate Small Businesses On Havana Street Month - \$2,000: In March 2022, we budgeted \$2,000 to continue to host the Celebrate Small Businesses On Havana Street. This month-long promotion allows the District to post blogs, newsletters, social media, and ads highlighting small businesses in the District. With the \$2,000 we budgeted \$500 for a \$500 Support Small Business Giveaway online. We will purchase gift cards from small businesses in the corridor and highlight their services or products in the giveaway's marketing. We did host this giveaway in March 2020 & 2021 during the Covid-19 pandemic state-wide Stay at Home Order and during restaurant seating limitations. The campaign saw a significant increase of 41% in traffic to our website and over 200 actively participated in the giveaway. For 2022, in addition to the giveaway we budgeted \$300 to host a small gathering of less than 30 businesses at Snowl or other boba shops for the "Boba & Business Networking" event. At this event we will have resources and local partners that support small business development and growth. We were not able to host the event in 2020 & 2021, but in 2019 we had a great response from our small businesses and many requested small group networking to build better relations with their fellow stakeholders in the area. Due to Covid-19 statewide restrictions in March 2021, we were not able to host our blogger and influencer dinner with our board. However, in 2022 we budgeted \$1,000 to allow for the District to host a dinner with media, local influencers and bloggers to promote and network with our small businesses in our corridor. Many of the media publications, bloggers and influencers create content, write articles, blogs and provide high quality photography and video to our small businesses at an affordable cost and often for FREE. After engaging with local influencers, we found an increase in traffic to our social media, website, newsletter, and press. Also, the board has asked to be a part of the small business celebrations and wanted to host a small gathering with the 9 board members and about 10 media or influencers. They felt it would be a great opportunity for board bonding and community networking while supporting our small businesses On Havana Street.

Eat On Havana Street - \$7,000: In May 2022, we budgeted \$7,000 for the "Eat On Havana Street" event. We will host giveaways online/social media and collaborate with partners to promote our 100+ restaurants, 20+ international markets with over 30 international cuisines in the corridor. We increased the Eat On Havana Street budget from \$5,000 in 2021 to \$7,000 to allow for a \$500 giveaway and plan to host multiple dining events with local food bloggers and influencers to support the restaurant promotions for dine-in, takeout, delivery or pick up incentives during the week of the event. We will be partnering with the Colorado Restaurant Association, Colorado Korean Restaurant Association, the City of Aurora's Aurora TV, the re-branded Yum Guide, Colorado

YELP, Denver Eater, Dining Out Colorado, Westword, local Chambers, Visit Aurora, local food bloggers, local hotels in the metro area, retirement communities, residential complexes and neighborhoods and the community colleges in the Eastern Metro Area.

June 2022 Stakeholder Networking Events \$2,500: The District added budgets for BID stakeholder networking for golf foursomes (\$2,000) and a board and stakeholder networking lunch (\$500). The Common Ground Golf Course in the corridor is working to redevelop and relocate the Colorado Golf Association from Greenwood Village to Aurora On Havana Street. The BID stakeholders expressed that they would enjoy networking at the nearby golf course with fellow board members and BID stakeholders. The District added the budget for the golf networking in hopes to host local leadership, city council, board members and BID stakeholders for a round of golf and/or “Breakfast Before Hours” or “Coffee with a Cop” at the course. The June 2022 lunch networking is something the District wanted to add in the mix of networking opportunities. In 2021, the District hosted monthly small lunches with board members and many loved the opportunity to network more with their fellow business stakeholders in the corridor. We learned that our diverse stakeholders prefer small group networking events.

National Ice Cream Day Giveaway - \$600: On Havana Street celebrates National Ice Cream Day annually and hosts a \$500 Frozen Treats Giveaway on our social media platforms to highlight the many frozen treats businesses in our corridor. We also budgeted \$100 to host social media boosts and promotions with the giveaway. We will attract families into the District and have them explore the many options for ice cream, frozen yogurt, and frozen custard shops on their own. This giveaway replaces the many summer events we would typically host for the National Ice Cream Day. In the past we hosted an ice cream social at one of the concerts, a Yappy Hour with GoodTimes Pawbenders at Petco, and the Progressive Frozen Treats event where about 1,000 families would visit 7-8 frozen treats shops in the corridor in 4 hours. Due to Covid-19 uncertainty in the summer of 2022, the District decided it was best to continue the event in a giveaway format. The District hosted this giveaway in 2020 and 2021 and had an outstanding increase in website and social media traffic. We had over 300 entries and increased our newsletter signups to 4,400 emails in 2021.

June to July 2022 Summer Eat On Havana Street Giveaway - \$600: Due to Covid-19 the District hosted this \$500 giveaway during the summer months to drive traffic to the website and social media platforms. The \$600 allocated to this giveaway will purchase \$500 of an assortment of gift cards from local BID businesses and \$100 for a social media boost. The board felt it was a good strategy to continue this promotion in 2022 and promote the local shops, restaurants, and summer happenings.

Optional Event Pending Stakeholder Participation: July to September 2022 – the District budgeted \$1,500 to support a Fitness or Wellness event On Havana Street. Some stakeholders suggested that the BID could support stakeholders that host a series of summer fitness events. Some of the suggested events included: group fitness classes in the shopping centers, yoga and meditation at Babi Yarr Memorial or nearby corridor parks, Barre Fitness at Infiniti of Denver, group biking, golfing, dance lessons at stakeholder businesses, etc.

Havana Motor Mile Summer Promotion Event - \$5,000: In August 2022, the District budgeted \$5,000 for a Havana Motor Mile themed event that would support and promote our automotive stakeholders. The event details are not determined yet. However, the board would like to host a giveaway and host a social media campaign. There was discussion on hosting a giveaway to highlight our auto dealers, services, and parts businesses in the corridor. The \$1,000 giveaway would ask participants to like and follow all 20+ auto dealers and comment on the post, “Where would they spend the \$1,000 On Havana Street?” Many of the auto dealers expressed wanting more presence and engagement on social media. This giveaway could allow for more followers and likes on Havana Motor Mile business pages. In addition to promoting Havana Motor Mile businesses, we plan to collaborate with the auto stakeholders on their summer events and auto sale promotions. We plan to use the monies in this budget to support the existing events in the Havana Motor Mile

during the summer months. This budget can also be used to work with our media partners to do commercials highlighting our Havana Motor Mile businesses.

In 2021, the District supported the dealerships summer sales and new 2022 car showcases and previews. Many of the dealerships and shops scaled back their summer events and limited capacity limits due to Covid-19 restrictions. We hope in 2022, summer auto sales and promotions of the 2023 new models will be back and that the District will be able to support our stakeholders with this allocated budget.

The Havana Motor Mile themed budgeted event will replace the Cruzin' Havana Classic Car Show and Poker Run event for 2022. Unfortunately, due to Covid-19 challenges, public health orders, permitting, property owner permissions, vulnerable volunteers, and the logistics of hosting large gathering events; the District's board did not approve the budget for Cruzin' Havana in 2022.

August 2022 Stakeholder Networking Events - \$2,500: The District added budgets for BID stakeholder networking for golf foursomes (\$2,000) and a board and stakeholder networking lunch (\$500) like the June 2022 networking. In 2021, the District hosted small lunch meetings with board members and other community partners and many loved the opportunity to network in the corridor.

Late 2022 Concerts at The Stampede - \$11,000: In 2022, we will not host any community concerts in the rose garden during the summer months of June, July, & August, but budgeted for two concerts at \$5,500 each at the Stampede in late September & October. The \$5,500 is budgeted to cover the costs of the venue, equipment rentals, AV equipment, band/entertainment costs, giveaways during intermission, PPE, Covid-19 safety related signage, online registrations costs and other event related expenses. In 2020 & 2021 we experienced challenges with contracts and rescheduled dates due to the uncertainty of the Covid-19 pandemic and local, state, and federal mandates or restrictions. Typically, prior to Covid-19, we hosted four concerts a year in the corridor. However, due to limitations for large gathering indoors, masking requirements and proof of vaccination challenges the board decided to only budget for two concerts in 2022 in hopes that the pandemic restrictions for concerts will be completely lifted in late 2022.

Grocery Cart Races - \$500: For September 2022, the District budgeted \$500 to support the virtual or in-person Comitis Grocery Cart Race. Safeway on Havana was not able to host the in-store race in 2020 or 2021 due to the pandemic restrictions and staffing challenges but hopes to host the in-person race in 2022. The \$500 was budgeted to still purchase the coveted grocery cart trophies and other expenses for the event if the event is permitted to occur.

October 2022 BID Stakeholder Networking - \$1,000: The District budgeted \$1,000 to host a networking event with a Halloween theme. The District would like to support a BID restaurant, host a Halloween Costume Contest with a \$100 gift card prize and provide light appetizers for the stakeholders to network with other community leaders.

Halloween/Trick or Treat On Havana Street 2022 - \$10,000: The Trick or Treat On Havana Street, Costume Contests, Trunk or Treat and professional photos in the garden, Petco Costume Contests, and many other Halloween events in the District are one of our most popular and well attended events. These events attracted more than 1,000 families from the metro area and supported many businesses in the corridor. In pre-pandemic years, we purchased pallets of candy from the Havana Costco for the 30+ shops at the Gardens on Havana. However, due to Covid-19, budget cuts, property owner permission, business participation challenges and the large number of participants in the many Halloween events the District did not budget \$5,000, but \$1,000 for 2021. In 2021, the District will spend \$1,000 to support Rocket Fizz's Halloween Costume Contest with gift card prizes and 50+ mystery candy goody bags. In 2022, the District wanted to budget \$10,000 to bring back the pre-pandemic Trick or Treat event On Havana Street. The District hopes that the District can safely host a trick or treat at shops, a costume contest in-person, a professional photographer and promotions for Halloween 2022.

Leading up to the holiday month the District will promote the businesses selling the holiday's décor, candy and locations to purchase costumes.

Annual Stakeholders Meeting - \$3,000: The Annual Stakeholders Meeting at the Stampede in the past had an attendance of about 60-80 businesses. In 2021, we budgeted \$2,500 to host lunch for 60-80 people, venue costs, AV/projector rental screen costs, costs of marketing, printing, flyers, postage and mailing the invitations to each stakeholder and lease in the District. This event may be in-person or virtual in November 2021 and the board increased the budget \$500 to accommodate for unexpected increased costs of hosting virtually or in-person with Covid-19 conditions. In 2022, the District increased the budget to \$3,000 to accommodate for an in-person meeting with additional costs for the venue and event rentals for an attendance of 100.

Holiday Shopping Promotions with Buckley Space Force - \$8,000: In 2021, we budgeted for \$4,500 to host the Black Friday Weekend Holiday Caroling and Secret Santa Gift Card Giveaway event. In the past we hired the Aurora Singers for \$500 to sing songs from shop to shop during the Black Friday shopping weekend. The Aurora Singers, community holiday carolers, board members and volunteers would walk store to store in the Gardens on Havana singing holiday songs and giving out free thank you gift cards to shoppers. However, due to Covid-19 variant concerns of the shopping center and ownership of the property, challenges with approval from tenants, and scheduling challenges with the Aurora Singers, the District decided to be safe it would be best to host a holiday promotion campaign with Buckley Space Force instead in 2021.

The District will be hosting a holiday shopping social media promotion on the Buckley Space Force's social media platforms and highlighting On Havana Street for the 12 Days of Reindeer Games On Havana Street. For each of the 12 days Buckley will highlight On Havana Street shopping centers, restaurants, retail businesses, and the Havana Motor Mile. In 2021, the District will be hosting about \$3,000 in gift card giveaways and prizes each of the 12 days and \$1,000 towards the costs of the Air Force videographer that will create short clips highlighting businesses to post on social media. In 2022, the District Budgeted \$8,000 to cover the costs of the \$4000 towards the 12 Days On Havana Street gift card giveaways and prizes, \$2,000 towards videography costs, commercials, and graphics to promote each day and \$2000 towards other holiday events and partnerships with the base. Some of the other holiday promotions may include a Breakfast with Santa event and a Honey Baked Ham Company gift card giveaway promotion. In 2022, we wanted to strengthen our partnership and relationship with the Defense Council/Military/Veterans/Buckley Space Force. We understand that Buckley Space Force has a workforce of over 15,000, contributes over \$1 Billion to our economy in Colorado and that Team Buckley shops On Havana Street regularly.

We want to continue our great relationship with Buckley Space Force and understand that their future growth will truly be a positive impact on the growth of On Havana Street's success. The base's workforce has many primary incomes that are shoppers in our District. In 2020 and 2021, the board did re-allocate monies to sponsor events and promotions with the hospitals and Buckley Space Force, however due to Covid-19 we were not allowed to host or execute the proposed events. For example, the board allocated monies to support the community concerts and giveaways at the Buckley's Panther Den. However, due to Covid-19 the base was on locked down and restrictions were in place for visitors, which made hosting a public event limiting and challenging.

Support Other Community Events for Stakeholders in 2022: In addition to the scheduled events in 2022, we plan to add a few other NEW events to the line up to attract and support a new audience of shoppers to the District. The board would like to add events and collaborate with community partners to support our major workforce engines located near the District. We would like to collaborate more with the 30,000+ workers at the Anschutz Medical Campus, which includes the VA Eastern Colorado Health Care System, UCHHealth University of Colorado Hospital (UCH), Children's Hospital of Colorado and the 184-acre Fitzsimons Life Science District.

Due to Covid-19 the District felt it was best to not allocate 2022 funds in the budget and wait until 2022 to allocate monies when opportunities arise. If there is an opportunity to host a new community event in 2022, then the board would vote and re-allocate board reserves to support a new event addition in 2022. The event's details would be determined by the board of directors and the board Event & Marketing Committee.

The 2022 events budget is \$75,000 with \$74,000 allocated to about 22+ events and about 10+ giveaways. We reserved \$1,000 in the events budget to accommodate for any additional event costs that may arise with the uncertainty of how Covid-19 will impact 2022's event's schedule. The District decided that we not need high reserves in this budget because historically we budgeted for \$5,000 every year in HOLD for RESERVES & often had over \$5,000 in extra monies that end up cushioning the last event of the year event – Holiday Shopping Promotions. If additional funds or event opportunities arise then the board can conduct a board vote during the year for more funds from reserves for the events and marketing budget if necessary.

Media/Print/Marketing of Events & On Havana Street - \$50,000: The marketing budget for 2022 is \$50,000. Due to the changes in the events schedule and expecting price increases with the 15+ publications and media companies we increased our budget for print, digital ads, advertising, and marketing for 2022. **We increased this budget from \$36,000 in 2021 to \$50,000. The \$50,000 event ads budget is included in the overall \$125,000 events budget.** We increased the ads budget to market the events to accommodate for the costs increases in the current and future ads we plan to purchase with 15+ contracts and the \$1,560 for the event equipment storage locker. We budgeted for \$2,300 with the Glendale Cherry Creek Chronicle, \$3,000 for Visit Aurora's Visitors Guide, \$1,000 for the Aurora Chamber Directory ad and website digital ads, \$4,000 to include purchasing ads on Buckley Space Force's Orbiter Magazine, computer labs and television monitors, and \$10,500 to continue the local hotel key card ads that include three runs a year at three local hotels. The District budgeted \$2,500 for Asian Avenue Magazine, \$2,000 with foodie and restaurant related publications and platforms like Yelp Colorado, Door Dash, Grub Hub, Uber Eats and more, \$2,500 for Hispanic Media opportunities like Estrella Media TV Denver, \$2,500 for the African Community Media/Newspapers/Newsletters, \$3,000 for three Korean media publications (Weekly Focus, Colorado Times, & Oz Magazine), \$2,500 with Living Well in Lowry, \$2,500 for social media ads, promotions and boosts, and \$5,000 for 5280 to feature On Havana Street businesses and special edition ads. The District also budgeted \$5,140 to explore purchasing OTHER ads throughout the year, reserved that amount to allow for room to accommodate contract negotiations with the current publications and price increases and hold the funds for additional expenses.

We continued to host the \$1,000 ads in The Chamber's directory and website to include banner ads and digital pop-ups on their website that receives over one million visits annually. We continued the 2021 budgeted amount of \$4,000 with Buckley Space Force because of a major discounted 2020 contract and that the Air Force did not charge us in 2021 for our ads and promotions since in 2020 Buckley was not able to print and distribute their Orbiter Magazine with our ads due to Covid-19. We also expect an increase in marketing ads now that Buckley Garrison AFB's is the host unit, Buckley Garrison, which falls under the direction of the United States Space Force. Buckley Garrison AFB/Buckley Space Force truly represents a joint, Total Force and coalition base. This includes 3,100 active-duty members from every service, 4,000 National Guard personnel and Reservists, four commonwealth international partners, 2,400 civilians, 2,500 contractors, 36,000 retirees and approximately 40,000 veterans and dependents. The base contributes an estimated \$1 billion annually to the local economy.

In 2021, the District decided to cut the \$10,000 contract with the Aurora Sentinel/Aurora Media Group and diversify the publications we advertise with. The District reallocated the \$10,000 to explore contracting with publications in the Korean, African, and Hispanic communities. Due to the incredible response from our diverse stakeholders, we decided it was best to continue to highlight On Havana Street with the diverse publications in 2022.

Regarding the Lowry community publication, we negotiated a contract with Living Well in Lowry for \$2,500 in 2022 to include a 1/4 page ad for the year (12 months, Jan-Dec) + a free 1/4 page ad in December and a cover

story for you in 2022. We also have the option of a 1/2 page ad for six months (every other month) + a free ¼ page ad in December and a cover story in 2022. The Living Well in Lowry (LWIL), is Lowry's longest-running print newsletter, serving the community around the corner from On Havana Street since 2002. The publication is still hand-delivered at the beginning of each month to over 3,000 homes in the Lowry neighborhood - reaching those from Lowry East Park to Boulevard One, Alameda to 11th Avenue.

In 2021, the District budgeted \$2,000 for Asian Avenue Magazine. We negotiated the \$2,000 for 4 months of quarter size ads (normally \$400 per ads), 4 editorial features (promoting businesses/restaurants a part of On Havana Street), 12 social media posts, 1 per month - promoting businesses/restaurants, 6 months of a web banner ad on Asian Avenue website. In addition, Asian Avenue Magazine often hosts events in our corridor throughout the year that attract new audiences to shop, eat and explore our diverse businesses. We increased this budget to \$2,500 in 2022 to accommodate for the increases in ad pricing in 2022.

3. **Program Management Budget Expenditures - \$16,500:** Paid out of the District's General Fund, the program management budget includes overhead including meeting room rental fees, cell phone, business meeting expenses by the executive director and board directors, copies of backup for board meetings, internet/wifi/mifi, as well as office supplies. Expenses from the District's Business Watch Program and professional fees are also included. This budget category also included renewal of the trademarks. Accounting codes included in the program management budget are **61090, 61080 and 61040**. This budget for 2022 was increased to \$16,500 from \$15,000 in 2021 to accommodate for the additional expenses to this budget in 2021 for overhead expenses, office supplies and miscellaneous program management expenses. We added additional expenditures like our virtual meeting platform costs with Go to Meeting, the BID cell phone and wifi costs, memberships to Canva for graphic designs, and memberships to Microsoft Office 360. We have never used the \$10,000 for emergency snow removal budget, but felt it was still necessary to continue to reserve in 2022.
4. **District Identity Budget Expenditures - \$70,000:** In 2022, the District allocated \$70,000 with \$40,000 for Art 2C program and \$30,000 for three additional district marker improvements. Paid out of the District's General Fund, the District Identity budget includes ratepayer communication expenses, district banners, district identity markers, district marker improvements/stipends paid to property owners, and expenses for our Art 2C on Havana public art program. The District Identity budget includes **accounting codes 65070, 67060, 67090 and 67050**.

In 2021, the District allocated \$70,000 to the District Identity's budget for \$15,000 for Art 2C and \$55,000 for district markers or other branding opportunities. In 2021, the District updated and replaced district markers that needed replacement at 17 locations in the corridor and approved the install of two new district markers at Birchtree Shopping Center at Havana & Jewel (installed in August 2021) and two district panels at Sam's No 3 at Parker and Havana (to be installed in November 2021).

The Art 2C budget was decreased from \$39,000 in 2020 to \$15,000 in 2021 to allow for any unexpected expenses and unexpected insurance claims to the existing 13 sculptures on the corridor. The District did not host a gala or spent any funds on artist stipends in 2021. The District felt that it was necessary to allocate \$15,000 to cover any unexpected expenses for the public art program. In 2021, the District unexpectedly had to remove a sculpture and place the sculpture in storage with our art contractor. The property sold midway through the program contract and the sculpture had to be removed prior to the redevelopment of the property. Unfortunately, due to Covid-19 the District was not able to add a concrete pad to re-install the sculpture at another location. The artist stipend was paid in full for the two-year contract and the sculpture will be returned to the artist prior to the September 2022 de-install date. The Art 2C program now has 12 stakeholder locations with concrete art pads and only 12 sculptures in the program for 2020-2022. The District felt that in 2022 that we would do a call for art for only 12 locations and that the 13th location in the future would be Argenta.

2022 Art 2C Public Art Program - \$40,000: In 2022, the District budgeted \$40,000 to cover the costs of de-installing the 12 2020-2022 sculptures and installing of the 12 2022-2024 new sculptures at the 12 locations, 12 artist stipends of \$2,500 each artist for two years (\$30,000), and \$10,000 to cover the cost of the Art 2C gala's invitations, event rentals, venue, catering, AV, flowers/décor, awards ceremony artist prizes for 1st, 2nd and 3rd, hotels for the visiting artists, and any other gala event related expenses.

District Markers & On Havana Street Panels - \$30,000: In 2022, we have budgeted \$30,000 to add additional district markers at existing monuments. Each opportunity for a district marker is up to \$10,000 per location, therefore the District budgeted for at least 3 district marker improvements in 2022. The District also wants to explore the City of Aurora's 2019 proposal to canvas wrap and brand the existing electric boxes along the corridor. If the City allows for the install of canvas wraps on the electrical boxes then the District plans to reallocate reserves to support the improvement in the corridor.

5. **Audit & Accounting Budget Expenditures - \$18,000:** Paid out of the District's General Fund, this budget includes all monthly accounting fees and the annual government audit. This budget is **accounting code 61030**. The District decided to increase our \$14,000 budget in 2021 to \$18,000 in 2022 due to the board's request to update our current account codes, update the format of financials/ledger and track signature event budgets with codes per event, continue the bill.com payment system, account for the cost increase of a new BID auditor and accountant in 2022. Unfortunately, our accountant will be leaving at the end of September 2021 and the BID will need a new auditor in 2022 since our current accounting firm in 2021 used to be our auditor accounting firm in 2020. The District is currently receiving BIDs for new special district auditors to audit our 2021 financials for early 2022. The District also plans to continue with the current accountant company through 2021 even though the assigned accountant through the company is leaving. In 2022, the District will explore a new accountant if necessary, but plan to remain with the current accounting company.
6. **Website/Branding Budget Expenditures - \$30,000:** Paid out of the District's General Fund, this budget includes all of the website hosting, maintenance, mobile website, SEO on all pages and the business directory listings for all of the District's businesses, new pages, press releases, social media including our Facebook Page, Twitter Account and Instagram account. This budget also includes monthly marketing/branding/website development with Webolutions to uphold our brand, help with event planning and marketing strategy. The board decided to budget the same \$30,000 in 2021 for 2022. \$25,000 of the \$30,000 budget will be designated to the Webolutions contract to manage and create campaigns and \$5,000 will be spent on social media ad purchases, event boosts and other digital marketing online for the corridor and BID businesses.
7. **Insurance Budget Expenditures - \$7,500:** Paid out of the District's General Fund, this includes Colorado Special District Association Membership, Special District Pool Insurance including general liability coverage for all District events and activities, public officials' liability, excess liability, comprehensive crime and fraud coverage, cyber liability, fiduciary liability, property coverage on our district markers and condo newspaper racks. This budget also includes retention of T. Charles Wilson Insurance as our agent working the Special District Pool. This budget includes **accounting code 61050** and the budget for 2022 remain at \$7,500. The District reviewed the \$7,500 budget and felt that the budget would be sufficient for 2022 even with expected premium increases.
8. **Legal Budget Expenditures - \$7,500:** Paid out of the District's General Fund, this budget includes legal consult by Spencer Fane, LLP, a Colorado Special District Attorney Firm. This budget includes **accounting code 61035** and the budget for 2022 will increase to \$7,500 from \$5,000 to account for more legal consult due to new board member appointments, trademark renewals, transitions with new accountants and auditors expected in 2022, and Covid-19 related correspondence.

Salary & Staff Consulting Budget - \$98,250: Paid out of the General Fund, this budget covers payroll, an increased staff salary of \$80,000 and a consultant/1099 budget of \$18,250 to be used as needed by the Executive Director and Board. The District Board voted to increase the Executive Director's salary and add a

consulting staff budget to be used as needed in 2022. The board decided that in 2021, the Executive Director salary would get a raise from the 2021 Budget Year salary of \$70,000 to \$80,000 and a \$5,000 bonus in 2021 for supporting the District through the two pandemic years. All other dependent payroll costs (Worker's Compensation, Retirement Savings Match, ADP, and Payroll Taxes) shall adjust automatically to the new salary amount.

9. **Medical Insurance & PTO - \$7,000:** The district no longer has a group medical plan with one employee and does not provide a medical insurance benefit for the executive director or staff. It was not legal for the District to offer Group Health Insurance for a group of 1 employee, and the District was advised by the health insurance broker to pursue an ICHRA benefit program through Wage Works and Health Equity for the executive director's compensation. In 2021, the District contributed \$5,000 to the ICHRA for the Executive Director. The Individual Coverage HRA was announced in 2019 and is a company-funded, tax-advantaged health benefit used to reimburse employees for personal health care expenses. Unlike other HRAs, the ICHRA is available to businesses of any size, which allows for the District to qualify with one full time equivalent on staff. Due to Covid-19, the District was advised that health insurance premiums in 2021 will significantly increase. The board approved allocating \$6,000 towards an ICHRA account and \$1,000 towards the administration fees for the ICHRA to support medical insurance with Kaiser Permanente and plans for vision and dental. The ICHRA can also include covering all eligible medical expenses. The board likes that the District is supporting a BID stakeholder like Kaiser Permanente in the corridor. In 2020, The District Board also voted to increase the staff's Paid Time Off (PTO) from 10 days to 15 days in 2021. This PTO is still honored for the Executive Director for 2022.
10. **Retirement Savings options - \$2,400:** Paid out of the District's General Fund. The board will provide an optional 3% retirement savings match for employees. \$2,400 is allocated for the Executive Director's retirement savings match in 2022 and estimated \$2400 is 3% of the 2022's salary.
11. **ADP Fees - \$1,700:** This budget includes accounting code 61035 and the budget for 2022 will remain the same \$1,700 budgeted in 2020 and 2021. In 2021, we budgeted for \$1,700 due to the rising costs of ADP and estimated the ADP fee cost for less than 5 FTE's is about the same as the 2FTE or 1FTE that we have been budgeting for.
12. **Staff Professional Development/Training - \$1,500:** The board continued to allocate \$1,500 in 2022 for staff professional development and training. The board budgeted \$1,500 to allow for the executive director to attend special district conferences, training, workshops, and networking in 2022.
13. **Staff Mileage - \$3,200:** Paid out of the District's General Fund. This is the standard federal mileage allowance for businesses for employees, estimated to be \$3,200 in 2022, based upon past years' expenses and less driving due to Covid-19 restrictions. This budget was decreased from \$6,400 in 2021.
14. **Stakeholder & Community Relations - \$5,000:** The board wanted to increase this budget to allow for more stakeholder relations and hosting opportunities for the board and Executive Director. In 2021, due to the pandemic and hosting of the Governor and business round tables the board wanted to budget more to cover the costs of the tours and hosting for stakeholders. For example this budget would support stakeholder engagement opportunities like if future state legislators visit and tour the businesses, then the District can host the accommodations for the lunch. This budget can also support opportunities with hosting the Aurora Police Academy tour with 35 recruits at various businesses or networking and community relations events like, "Coffee with a Cop" at LaMar's Donuts. This budget is also to be used as a petty cash fund and/or expenses for the board and executive director to spend as required to support day-to-day BID business.
15. **Board Development/Strategic Planning - \$10,000:** This is paid out of the District's General Fund. The board has budgeted for \$10,000 in 2022 to account for any board training, development, networking opportunities and the District's strategic planning.

16. **Board Reserves - \$618,489:** This is the estimated and preliminary 2022 budgeted amount. \$618,489 was set aside for the board reserves. This is the unallocated money in the bank account that can be reallocated by the board throughout the year as the need arises. The board reserves will be significantly more in 2022 to reserve funds for future deficits to the Assessed Value collections from our 4.5 mil levy and reserve funds for future years due to Covid-19 challenges. The board also reserved more funds for the transition of the public art program going from annually to every two-years and the many anticipated improvement projects to be explored in 2022. This budget item will increase or decrease based on the final 2022 AV's that are shared with the District after the October 2021 submission of the budget to the City of Aurora. Typically, after the final AV's are shared with the District, any additional funds not allocated or budgeted for are added to the board reserves. For example, in past years if the BID's preliminary AV's were \$550,000 and the final AV's were \$600,000 then the District would re-allocate the additional \$50,000 of unexpected funds to the board reserves. By adding additional funds to the board reserves allows for the District to not have to re-approve any other budget line items at a public meeting.
17. **Reserves Fund (3% Reserved Required through TABOR) - \$17,229:** The emergency fund for fiscal year 2022 will be equal to 3% of the District's fiscal year spending.

DEBT SERVICES FUND/EXPENDITURES: None. N/A. The District currently does not anticipate seeking the approval of the District's electors for the authorization and issuance of additional debt.

ANTICIPATED PROJECTS: The board budgeted for the cost of construction of a few District Markets in 2022 and a possible addition of a concrete art pad for the Art 2C public art program as the projects are approved by the City of Aurora. The board plans to continue the Havana Motor Mile Auto Technician Tool Incentive program in May of 2022, as described above. The District wants to support the continuation of the Havana Multi Modal Study proposed improvements as the opportunities arise. The study shared opportunities for more District branding at certain intersections. The District also anticipates exploring a contract with the City of Aurora's traffic to add public art canvas wraps to the electric boxes along the corridor. The City proposed this opportunity in 2019 prior to Covid-19 budget restrictions and in 2022 the District would like to explore implementing these additional improvements with the board reserves. **See the Preliminary 2022 Operational Plan for additional details.**

2022 PRELIMINARY GENERAL FUND OF THE HAVANA BUSINESS IMPROVEMENT DISTRICT												
2022 PRELIM. BUDGET	Original	Actual	Original	Estimated	Actual	Estimated W/2020 CERT AV AS OF 11.27.2019	*PRELIM 2021 CERT AV AS OF 10.8.2020	FINAL 2021 CERT AV AS OF 11.25.2020	12/2020 NOTES: BOTW: \$201,948 & 1st Bank: \$299,671 as of 12/2/2020 = TOTAL \$501,619	As of 8/2021 w/ 8.25.2021 Estimated Prelim. AV: \$129,661,592, Financials by Simmons & Wheeler	Estimated 2021	*PRELIM 2022 approved by BID BOD w/ 8.25.2021 Estimated Prelim. AV: \$129,661,592
REVENUES	2019 Budget	End of 2019	2020 Budget	End of 2020	End of 2020	EST. *PRELIM 2021 W/2020'S AV'S: \$113,901,131	*PRELIM 2021 CERT AV: \$115,423,393	FINAL 2021 CERT AV: \$114,648,028	AS OF 1/2021	AS OF 8/2021	Estimated 2021	*PRELIM 2022
Est. BEGINNING FUND BALANCE	232,778	214,360	347,159	266,979	266,979	453,426	453,426	453,427	453,427	441,364	441,364	586,260
Property Taxes (4.5 mills): PRELIM 2022 AV's: (\$111,355,880 x .0045) = \$501,101 2021 FINAL AV's (97,715,270 x .0045) = \$439,718.72, PRELIM 2021 AV's (\$98,476,867 x .0045) = \$443,146, 2020 AV's (\$97,663,367 x .0045) = \$439,485	402,201	395,908	439,485	433,161	433,161	439,485	443,146	439,719	439,719	438,099	439,719	501,101
URA Property Tax Increment: PRELIM 2022 AV's: (\$18,305,712 x .0045) = \$82,376 2021 FINAL AV's (\$16,932,758 x .0045) = \$76,197.41, PRELIM 2021 AV's \$16,946,526 x .0045) = \$76,269, 2020 AV's (\$16,237,764 x .0045) = \$73,069	69,258	82,757	73,069	84,877	84,877	73,069	76,259	76,197	76,197	89,706	89,706	82,376
Specific Ownership Taxes: Est. (Total Prop. Tax \$111,355,880 (4.5 mills) x 8%)	28,000	36,942	37,000	36,322	36,322	37,000	37,000	37,000	37,000	23,674	37,000	40,088
Interest	50	278	60	-	-	60	60	60	60	201	300	200
Sponsorships and other revenues	8,000	10,523	10,000	-	-	-	-	-	-	20,621	21,000	-
TOTAL REVENUES	507,509	526,408	559,614	554,360	554,360	549,614	556,465	552,976	552,976	572,301	587,725	623,765
TOTAL REVENUE AND FUND BALANCE	740,287	740,768	906,773	821,339	821,339	1,003,040	1,009,891	1,006,403	1,006,403	1,013,665	1,029,089	1,210,025
EXPENDITURES	Original 2019	End 2019	Original 2020	Est. End of 2020	End 2020	PRELIM 2021	*PRELIM 2021 CERT AV AS OF 10.8.2020 \$115,423,393	FINAL 2021 CERT AV AS OF 11.25.2020: \$114,648,028	AS OF 1/2021	AS OF 8/2021	Estimated 2021	PRELIM. 2022
Marketing (inc tool incentive workforce prog. \$20,000 + HMM \$137,000)	157,000	158,071	180,000	130,000	143,648	124,000	124,000	124,000	124,000	58,523	124,000	157,000
Special Events (inc media print ads, marketing w/Buckley, local print, hotel key card, VA, GDCC, AAM, Lowry, other for \$50,000 + \$75,000 event budget)	100,000	68,204	115,000	44,000	49,852	61,000	61,000	61,000	61,000	31,175	61,000	125,000
Program Management (inc \$10,000 snow)	20,000	37,514	15,000	6,000	41,123	15,000	15,000	15,000	15,000	4,088	15,000	16,500
District Identity - \$30K for district markers & \$40,000 Art2C program	66,000	24,112	70,000	44,000	6,636	70,000	70,000	70,000	70,000	37,610	70,000	70,000
Audit & Accounting	9,000	7,700	12,000	8,722	9,197	14,000	14,000	14,000	14,000	9,231	16,000	18,000
Website/Branding + Social Media	30,000	29,410	30,000	27,000	28,458	30,000	30,000	30,000	30,000	21,787	30,000	30,000
Special District Insurance	10,000	5,475	10,000	4,200	4,446	7,500	7,500	7,500	7,500	7,625	7,625	7,500
Legal	5,000	1,970	5,000	3,200	4,321	5,000	5,000	5,000	5,000	3,137	7,000	7,500
Payroll Taxes (Est. 7.5% of Payroll)	12,000	5,772	5,500	6,036	4,541	6,000	6,000	6,000	6,000	3,902	6,000	6,000
ED Salary	108,287	112,709	93,350	74,936	74,617	70,000	70,000	70,000	70,000	50,570	70,000	80,000
Labor/1099/Consultant						18,250	18,250	18,250	18,250	-	-	18,250
3% retirement savings match	1,950	1,796	2,201	2,200	2,282	2,200	2,200	2,200	2,200	1,638	2,100	2,400
Worker's Comp .003% of Employees Salary	400	338	280	450	224	450	450	450	450	152	210	240
ICHR/Employee medical insurance/Wage Works/Health Equity Admin Fees	8,000	4,142	-	-	-	5,000	5,000	5,000	5,000	-	5,500	7,000
ADP Payroll Fees	1,200	1,616	1,700	1,670	1,689	1,700	1,700	1,700	1,700	1,270	1,700	1,700
Stakeholder & Community Relations	1,000	-	1,000	500	-	1,000	1,000	1,000	1,000	502	1,000	5,000
Staff Prof Development/Training	500	-	1,500	100	-	1,500	1,500	1,500	1,500	109	1,000	1,500
Board Development/Strat Planning	3,000	1,599	3,000	650	45	3,000	3,000	3,000	3,000	481	3,000	10,000
Mileage	6,400	7,419	6,400	3,000	2,399	6,400	6,400	6,400	6,400	16	2,200	3,200
Other - Tax Revenue - Treasurer's Fee (1.5% ON \$583,477 \$ W/ PRELIM 2022 AV's)	7,072	5,942	7,688	6,592	6,497	7,688	7,791	7,739	7,739	6,574	6,596	7,517
Reserves (3% Tabor on total expenditures w/o the treasurer's fee w/ 2022 PRELIM AV's)	14,144	-	15,377	15,377	-	15,377	15,582	15,477	15,477	-	12,898	17,229
TOTAL EXPENDITURES:	560,953	473,789	574,996	378,633	379,975	465,065	465,373	465,216	465,216	238,390	442,829	591,536
BID Reserves - plan to set up sep. bank acct. for reserves for 2022)												416,541
BOARD RESERVES (Bank Balance of BOTW account	155,687	-	192,612	192,612	-	537,975	544,518	541,187	541,187	-		201,948
TOTAL EXPENDITURES w/ Board Reserves	716,640	473,789	767,608	571,245	379,975	1,003,040	1,009,891	1,006,403	1,006,403	238,390	442,829	1,210,025
ENDING FUND BALANCE	23,647	266,979	139,165	250,094	441,364	-	0	(0)	(0)	775,275	586,260	-
2022 BUDGET NOTES: This is a preliminary budget from the AV's presented on 8.25.2021												
2022 Prelim CERT OF AV INCREASED FROM \$114M to \$129M which is about \$15M IN ONE YEAR AFTER COVID-19, (\$129,661,592-\$114,648,028) = \$15,013,564												15,013,564

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RESOLUTION NO. R2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE 2022 OPERATING PLAN AND BUDGET FOR
THE HAVANA BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”), is vested with jurisdiction to create one or more districts within City boundaries pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S. (the “Act”); and

WHEREAS, pursuant to the Act, the Council has adopted Ordinance No. 2007-36 organizing the Havana Business Improvement District (the “District”) and appointing the District’s initial Board of Directors (the “Board”); and

WHEREAS, Section 31-25-1211, C.R.S., provides that no district created under the Act shall issue bonds, levy taxes, fees, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Board has approved a 2022 District operating plan and budget (the “2022 Operating Plan and Budget”) for submittal to the City, which Operating Plan and Budget are in full compliance with the requirements of the Act: and

WHEREAS, the Council finds and determines that the approval of the 2022 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of both the City and the District.

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

Section 1. The 2022 Operating Plan and Budget for the Havana Business Improvement District are hereby approved, including the declaration of public interest and necessity for improvements contained therein.

Section 2. All resolutions or parts of resolutions of the City of Aurora, Colorado, 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:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

HAVANA BUSINESS IMPROVEMENT DISTRICT



2022 PRELIMINARY OPERATING PLAN & BUDGET

I. SUMMARY: *THIS OPERATING PLAN & BUDGET FOR 2022 WAS CREATED WITH THE 2022'S AV'S TO BE SUBMITTED BY 9/20/2021 TO THE CITY OF AURORA'S MANAGEMENT AND FINANCE.

*The District received the preliminary assessed valuation for the current year from the county assessor on August 25, 2021 but due to COVID-19 and related Executive Orders the final assessed valuation will not be received until after the City of Aurora's Management and Finance and Study Session meetings on 9/28/2021 and 10/28/2021.

This is a preliminary plan and budget to present to the City of Aurora. The District will update this preliminary budget for 2022 after they receive the final assessed valuation. The District has requested an extension for submission, but while waiting for approval The District is preparing a Preliminary Operational Plan and Budget for 2022 with the preliminary assessed values from August 25, 2021.

Our District attorney Tom George at Spencer Fane LLP advised the District that due to the delay in receiving the assessed valuation certifications from the Assessor, the District can use previous year's AV certifications and the preliminary assessed valuations presented on August 25, 2021, as a reasonable estimate for 2022's budget year. The Final Budget is due on December 15, 2021.

The Havana Business Improvement District (the District) is an assessment district designed to improve the economic vitality, value, and overall commercial appeal of the Havana corridor between East 6th Avenue and East Dartmouth Avenue. The District is financed through a mill levy based on the assessed value of real commercial property. The District received its first funding in 2008. The District provides programming and benefits to business and commercial properties located along the corridor including economic development, establishing a district identity for the area and advocacy programs. The District services are in addition to the services along the corridor currently provided by the City of Aurora.

Name: Havana Business Improvement District dba On Havana Street

Boundaries: The District's boundary encompasses the commercial property on both sides of Havana Street and South Havana Street from East 6th Avenue to the north and East Dartmouth Avenue to the south in the City of Aurora in Arapahoe County. A map of the BID boundary is on page 32.

BID Programs: Our overall goal continues to be economic development of the Havana Corridor. The District has defined three major program areas, listed below. The general goals for each program area for 2021 are as follows. **More details about the specific projects and activities under each of the programs can be found in the "Recap of 2021 BID Activities" starting on page 4 of this operational plan.**

General Goals by Program:

Project Management/Stakeholders' Communication/Governance:

- Keep an open line of communication with our stakeholders' and our Havana District neighbors, engaging them in our plans and economic development activities to promote the prosperity of the Havana Corridor and adjacent neighborhoods.
- Hold monthly BID board meetings which are open to stakeholders and the public & host an annual stakeholders' meeting in November.

- Publish our monthly E-newsletter, post important announcements on the homepage of the OnHavanaStreet.com website and social media as the need arises.
- Continue regular email communication with stakeholders', regular in-store visits and connect/promote via social media platforms.
- Continue relationships with the City of Aurora, CDOT, RTD and RTD contractors, Arapahoe County and other entities that interact with the Havana BID.
- Continue to coordinate BID efforts and day-to-day project management.
- Encourage board members and stakeholders to provide input and take the lead on projects and committees.
- Continue to utilize and improve our Business Watch Program.

Economic Development & Marketing/Business Consulting & Advocacy:

- Continue to advocate for our stakeholder businesses by acting as a liaison between our stakeholders and the city, county, and other entities; continue to work with the City of Aurora on efforts and programs to help small business.
- Provide new and existing businesses support
- Continue to maintain an available properties list and respond to requests from business owners and developers looking to expand or locate to the Havana Corridor.
- Continue to focus the budget and our efforts on economic development and marketing/branding of the District.
- Continue special events & promotions to attract people into the District and highlight our businesses.
- Continue to track the effectiveness of marketing efforts and measure successes as possible through sales tax revenue data, website statistics, and TV/radio statistics and other means.
- Continue to support the stakeholders during the Covid-19 recovery and other city, state and federal mandates and regulations.

District Identity & Image/Community Sense & Involvement:

- Continue to promote a sense of community & involvement through the monthly Life On Havana Street E-Newsletter, our TV, print, digital promotions, the OnHavanaStreet.com website and our social networking sites like Facebook, Instagram, Yelp, Google, and You Tube.
- The Executive Director will continue to attend Ward III and IV town meetings to keep the neighbors and consumers informed about BID activities and plans.
- Continue District marker sign maintenance and replacements as needed.
- Continue assisting the stakeholders with maintenance, code enforcement issues and the graffiti removal program.
- Continue to define our brand by creating a sense of belonging through marketing and special events, portraying On Havana Street as the place to come for your everyday purchases, as well as for unique, high-quality experiences in shopping, dining, and living and more.
- Continue to brand and market the Havana Motor Mile as the premiere destination for everything automotive.
- Continue to brand and market the Eat On Havana Street brand of 100+ diverse restaurants and food services as a destination for global eats, & attract diners and foodies all over the world.
- Continue to work with the city, the property owners, and Dillon Place to move forward on redevelopment of the former Fan Fare property and soon to be Argenta to create a sense of community and a gathering place, in accordance with the Havana North Urban Renewal Plan.

- Continue the Art 2C On Havana, public art program in coordination with the Aurora's Art in Public Places Commission and install *12 new sculptures biennially.
- *The Art 2C On Havana originally had 13 sculptures and concrete art pads at 13 District stakeholder properties; however, in May 2021 the Autawash/AutaLube properties were sold to Cobblestone Auto Spa and are now under redevelopment. The 2020-2022 sculpture at Autawash was removed, placed in storage on 5/19/2021 and the concrete pad will be demolished in the redevelopment of the property. Autawash closed, sold to new car wash company, Cobblestone Auto Spa, took ownership on 6/2/2021 and they plan to demolition of building for redevelopment for a grand opening this winter season.
- The District and the City of Aurora's Art in Public Places attempted to relocate the 13th sculpture and install a new concrete art pad at another property. However, due to COVID-19 challenges, concrete costs, wear and tear on the sculpture and not being able to contract a concrete contractor for a small concrete pad install, the District decided it was best to not re-install the 13th sculpture for the 2020-2022 Art 2C program. Due to these unforeseen circumstances and challenges in 2021, the District plans to continue the Art 2C program with the 12 existing locations and that the 13th location will be at Argenta when the housing development is complete.

Basis of Accounting: The basis of accounting utilized in preparation of the 2022 budget for the District is the cash basis. The District's budget includes projected revenues and expenditures for its general operation fund. (Please see the attached proposed 2022 budget on page 33).

Budget: This operational plan was created using the preliminary 2022's AV received on August 25, 2021. The final 2022's AV assessments will not be received until late November 2021 from Arapahoe County. Due to Covid-19 the State of Colorado allowed for an extension.

*Approximately \$583,477 in 2022 is to be raised through a 4.5 mill levy based upon the assessed value of real commercial property which includes the "current year's net total taxable assessed valuation" from page 2, line 4 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) AV's (\$111,355,880 x .0045) = \$501,101, plus the preliminary 2022 URA property tax increment from page 2, line 3 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) ("total TIF area increment" - URA Property Tax Increment (\$18,305,712 x .0045) = \$82,376 as well as an estimated \$40,088 in specific ownership tax.

After this report was submitted to the City of Aurora for the Manage & Finance Committee, City Council Study Session and regular City Council Meeting the District will receive the Final AV's for 2022 in late November 2021. *The final AV's for 2022 will be received in late November 2021 and added to this document to submit to Arapahoe County and the State of Colorado by 12/15/2021.

Methodology: In order to allocate the costs of the services and improvements to be furnished by the BID in a way that most closely reflects its benefits, the BID will collect a property tax levied on real commercial property. The BID mill levy is 4.5 mills, as approved by BID stakeholders in the Tabor Election in November of 2007. One mill is equal to \$1 per \$1000 of assessed value.

Bonding: Any bonding would require a vote of electors. The BID shall be authorized to issue bonds in the future at the discretion of and in such amounts as may be determined by the BID board of directors. Approval of a majority of BID electors who vote at an election called for the purpose of authorizing such bonds would be required. **No bonding is planned at this time.**

Term: The Havana BID is a perpetual BID with a mandatory ratepayer and City Council review period every 5 years. The review will allow for appropriate adjustments to

the BID boundary, assessment methodology and/or programming, and will allow business and property owners to address and respond to changes as they occur along the corridor.

City Services: BID services will be in addition to any City services currently provided.

Governance: The BID is managed by a 9-member Board of Directors, all of whom are voting members. At least two-thirds of the board seats shall consist of owners of real property or their representatives within the district. At least one board member shall be an elector located in the following geographic segments of the district:

- North of Alameda Avenue
- South of Alameda Avenue and North of Mississippi Avenue
- South of Mississippi Avenue and North of Parker Road
- South of Parker Road

The board will also consist of both large and small property owners and will represent a diverse mix of property use types.

Dissolution: The BID may be dissolved if property owners representing more than 50% of total acreage and assessed value submit petitions to dissolve it or if the BID fails to submit an operating budget for two successive years.

II. RECAP OF 2021 BID ACTIVITIES BY PROGRAM:

2021 Project Management: In 2021, the Executive Director worked with BID board members to manage major ongoing projects including:

1. COVID-19 Recovery Assistance Continued in 2021:

2020 Challenges Rolled into 2021 Challenges: On Havana Street experienced over 112+ closures reported in March 2020 during the State of Colorado Stay at Home orders and closures. 90 out of our 100+ restaurants remained open as essentials businesses for take-out, delivery, drive thru and Colorado Curbside only. However, many of the 90 restaurants struggled operating only on take out revenue and sourcing inventory of PPE and products. In early 2020, our 20+ auto dealers did close for in-person auto sales for a short period; however online sales and auto repair and services remained opened as essential businesses. The other automotive businesses remained opened during the mandate/shutdowns as essential businesses. Although in 2021, there were no mandated shutdowns, but the limited capacity limits, vaccine challenges and changing restrictions did challenge the many diverse industries in the District's corridor.

The District did its best to support the corridor through any resources, funding, programming, and communications in 2020 and 2021. Although the shutdowns and closures remained less severe and restrictive as compared to 2020's industry shutdowns, mandates, and in-store/in-door dining closures, 2021's challenges included other limiting and restrictions that strained the recovery efforts of the District. The continuation of the public safety protocols and limitations on business operations were extremely difficult for so many businesses. Some examples of the constraints on business recovery included: the constant changing of health orders, mandates or recommendations for the limited capacity limits, mask mandates/recommendations, vaccine mandates/recommendations, social distancing requirements, workforce shortages, hiring challenges, supply chain challenges, access to capital and funding, access to inventory, price increases, vaccination hesitancy,

vaccine access for workforce and lots of uncertainty with the pandemic for many of the industries along the corridor.

Due to the roller coaster of the uncertainty of the pandemic re-opening, recovery, and the sustainability of many businesses along the corridor struggled to re-open or operate at full capacity or with limited hours of operation due to social distancing, staff shortages and limited customers dining out or patronizing shops.

One of the major contributions the District did to support our businesses, stakeholders and community members was to help host and support equity vaccine community clinics in the corridor and in the nearby communities of On Havana Street.



The District hosted Equity Vaccine Clinics at The Stampede and at other community organizations for the District's workforce and community at large. The District co-hosted, organized, sponsored, promoted and volunteered at over 20 equity vaccine clinics On Havana Street and in the community. These equity clinics distributed over 10,000 vaccines. The District, the City of Aurora, City Council, the NAACP, African Leadership Group, Aurora Asian Pacific Community Partnership, Second Chance Center and Aurora Sister Cities International and many other partner organizations co-hosted various COVID-19 Equity Vaccine Clinics.

Second Chance Center and Aurora Sister Cities International and many other partner organizations co-hosted various COVID-19 Equity Vaccine Clinics.

Figure 1: The equity clinics helped the Havana BID's workforce have access to vaccines. Executive Director Chance H. with Bridget O. (owner of Nana African Market).

- Over 10,000 vaccines were provided through the State of Colorado's CDPHE at over 20 equity community clinics at various On Havana Street businesses and community partners near the District included: The Stampede, Mariscos El Rey Dos, M-Mart, Colorado Rapids Youth Soccer Club, and Western Centers. Some of the other community partners near the District included the Colorado Alliance for Health Equity and Practice – Family Medicine Clinic (CAHEP – FMC - Dr. Alok Sarwal), the Colorado Primary Care Clinic (Dr. Dawn Fetzko), H-Mart, Colorado Muslim Society/Masjid Abu Bakr, Second Chance Center, City of Aurora – AMC, Anschutz Medical Campus, Denver Hamere Noah Kidane-Mihret Ethiopian Orthodox Tewahedo Cathedral Church, the African Leadership Group, African Chamber of Commerce, El Salvadorean Consulate, a few Korean churches, businesses at The Pavilion Towers (Parker Rd. near H-Mart), Mango House, and Mountain View Church).
- Pre-registration for the equity vaccines were often filled in the first 24 hours in early 2021 when access was limited to certain populations.
- The District partnered with two small community clinics to host large equity clinics at The Stampede: Colorado Alliance for Health Equity and Practice – Family Medicine Clinic (CAHEP – FMC - Dr. Alok Sarwal) and the Colorado Primary Care Clinic (Dr. Dawn Fetzko).
- Many of the equity clinics provided translators, fluent in about 20+ different languages to aid recipients, in the process of receiving vaccines.
 - Spanish
 - Amharic
 - Tigray
 - Korean
 - Vietnamese
 - Mandarin
 - Cantonese
 - German
 - Dutch
 - French
 - Italian
 - Turkish
 - Azari/Azerbaijani
 - Farsi
 - Somali
 - Oromo
 - Arabic
 - English
 - Hindi
 - American Sign Language
- Translators were recruited through personal networks and local organizations including the District, the Stampede, the NAACP, Western Centers, Second Chance Center, CMe Catering & Events, the Ethiopian Community, the City of Aurora, Aurora City Council Members and the Mayor, City of Aurora's Office of

International and Immigrant Affairs, City of Aurora's Planning & Development Services, City of Aurora's Business Advisory Board, Aurora Asian Pacific Community Partnership, The Colorado Health Foundation, Colorado Event Traffic, Arc Document Solutions, Falck Rocky Mountain Ambulance, El Salvadorean Consulate, Aurora/South Metro SBDC, Colorado Korean Restaurant Association, Korea Town Aurora, the Korean Committee of Aurora Sister Cities, Lee, Myers and O'Connell, LLP, M- Mart, H-Mart, LLC, Bella Vita Senior Living, the Colorado Filipino Nurse Association, Denver Hamere Noah Kidane-Mihret Ethiopian Orthodox Tewahedo Cathedral Church, African Leadership Group, African Chamber of Commerce, The Kim & Haines Family, Colorado Rapids Youth Soccer Club, and GEICO Aurora – John & Christina Sanchez.

- The District is forever grateful to Chris Swank with The Stampede. Many of the first mass vaccination equity clinics for 200-900+ patients a day were hosted at the event center/dance club building at Parker Road and Havana. The Stampede generously donated the space and staff to help with the logistics and facilities. Chris also allowed the District and other community partners to host clinics, store their supplies at the building in between clinic dates and even allowed partners to deliver equipment and supplies before and after each clinic to prepare for the next clinic.
- Community volunteers sponsored the volunteer/medical staff lunches, refreshments, snacks, first aid station's snacks, water, and juices. Other PPE and event supplies were donated by the District, Amazon, Falk Rocky Mountain Ambulance, ARC Document Solutions, H-Mart, the City of Aurora, the Aurora Asian Pacific Community Partnership, The Colorado Health Foundation, and many others.
- Over 100 volunteers dedicated their time and their efforts towards the many clinics.

- Translators
- Facility set up and take down crews
- Traffic Management Specialists
- Covid-19 Safety & Sanitation Specialists
- Technology Specialists
- Business and Community Organization leaders
- City Council and Staff
- Medical professionals



- The first equity clinics On Havana Street were used as a model for future equity clinics to serve the diverse Aurora community and metro area. Many of our stakeholders and their workforces were grateful for the access and opportunity to have clinics in the District. The Clinic partners shared that 10,000+ vaccines were distributed and administered to our community through the equity clinic partners that the District supported. Many of the first clinics allowed our diverse corridor with access which was very limited in February to May 2021.

Other COVID-19 Recovery Efforts in 2021:

- Assisted businesses and their workforce along Havana to sign up for appointments for a Covid-19 vaccine in the community.



- Organized pallets of Amazon donated PPE and distribution to community partners. Thank you to the Aurora City Council for connecting Brittany Morris Saunders, Amazon's Senior Manager, External Affairs (Denver) with the District. On 5/10/2021 we coordinated and distributed pallets of AMAZON donated PPE at the Second Chance Center to over 20 community organizations. **Amazon generously delivered 120,000 masks, 48,000 gloves, and 540 sanitizer bottles.**

- **Grant assistance and advocacy: The District was an active advocate for the relief programming and funding for Aurora and Colorado businesses.** The District shared, promoted and assisted businesses in sourcing funding and relief programming. Many of the small businesses in the District depended on the relief programming to survive the continuing roller coaster of 2020 into 2021. **Many of the District's business testimonies for relief efforts created additional programming and relief funding for Aurora businesses.** The District is very grateful to the City of Aurora's Mayor and City Council for advocating for the District

and the diverse corridor. The [Aurora Economic Relief Programming](#) was a integral part of the District's pandemic recovery.

- Advocated and shared [Child Care Assistance Program](#) resources and funding with the BID workforce. The [Child Care Assistance Program by Arapahoe County](#) is the Low-Income Child Care Assistance Program (CCAP) that helps eligible families with the costs of child care for children from birth to age 12 while the parents work toward self-sufficiency.
- Promoted the [Upcoming City of Aurora Tax and Licensing Classes](#) shared with the BID businesses
- **PPE Distribution to Small Businesses:** Distributed 500 donated and sponsored masks to On Havana Street businesses from the Colorado Health Foundation and Aurora Asian Pacific Community Partnership.
- **Promoted & assisted property managements and stakeholders with fulfilling empty and available leases:** We continued to receive inquiries from other businesses wanting to relocate and open in Aurora, On Havana Street. Chance began hosting in-person driving tours of available properties and virtual Google map tours on Zoom of the District to community partners, hotels, city management, prospects, marketing companies, city council candidates and developers.
- **Hosted and promoted Covid-19 resources and workshops to the BID** and partnering with the SBA, SBDC, CRA, local chambers, Mile High United Way, Arapahoe/Douglas Works!, The Chamber's Diversity & Inclusion Council, CWEE & many more.
- The District worked with The Chamber and Visit Aurora to support a new program with [Emily Griffith's FREE Culinary Workshops](#) - No cost to students and no experience required.
- The District worked with **Mile High United Way's United for Business** and utilized their resources and advocacy programming to help businesses with lease negotiations, legal, accounting, website development improvements and much more.
- The District worked with **Village Exchange Center, CRA Foundation and the Long Community Workforce Program** to help our restaurant and marketplace stakeholders engage in a unique opportunity for workforce training and running their own food truck. The Long CWP's mission is "be the stepping stone towards the American Dream. We will empower people with food and hospitality training, we will assist in meaningful job placement. We will build community through acceptance, exchanging ideas with food and service."
- Introduced the Covid-19 Recovery Workforce programming to our businesses and their property owners.
- Shared business resources by [Arapahoe County](#) and the [City of Aurora](#) & promoting the vaccination awareness campaign in various languages to the BID and community.
- Promoted Covid-19 legal help from the [Colorado Restaurant Association](#) and [Mile High United Way's United for Business](#) programming.
- Hosted weekly and monthly [Tri County Health Dept. Business Outreach](#): The District promoted, posted updates, hosted weekly business round tables for specific industries & shared COVID-19 timely resources and data. The District connected stakeholders to COVID-19 Call Centers where the call centers were available Monday-Friday from 8 a.m. - 5 p.m. to answer questions from providers, businesses, and the public.
- Researched, hosted, and promoted every funding campaign and workshop available to the business community.
- **Continued the Eat On Havana Street promotions for our 100+ restaurants:** We continued to promote take out, curbside pick-up, outdoor/patio dining, and delivery for our restaurants and international markets. We also worked with the City of Aurora, Visit Aurora and community partners to feature our restaurants on the online [Yum Guide](#) and an [Aurora takeout webpage](#) featuring our restaurants.
- We also created a [Covid-19 resource page](#) that shared updates, closures and special hours, [Ways to Support On Havana Street](#), How to Stay Safe & Support On Havana Street Businesses, a Take-out list of Restaurants with links and special accommodations. The Covid Update webpage continues to rank in the top 10 webpages of the District's website visits.
- **Resource Sharing & Updates:** The District shared resources from the state and their many departments, Tri-County Health Department, the Colorado Restaurant Association, & SBDC regarding mandates, resources, and funding opportunities. The District did its best to share blogs and news updates on ways to help small businesses or shared access resources during this crisis. We collaborated with hospitals at the Anschutz Medical Campus and Children's Hospital of Colorado and shared resources and flu vaccines/Covid-19 testing opportunities.
- **District Gift Card Support and Marketing:** We purchased over \$10,000 in gift cards from BID businesses to support them during the challenging months and especially during the restrictions with limited capacities. These gift cards were purchased from the event Visit Aurora Relief Fund, the District's giveaways budget and the Holiday Promotions/Secret Santa gift card giveaways. Typically, we do not purchase the event gift cards until the summer months or during the holidays, but the District and board felt that the businesses in the corridor needed the additional support throughout the year. Our District shared that gift card purchases and support helped many of them get through challenging weeks where revenue was down over 60% in sales.
- **Active Engagement and Daily Posts on Social Media Platforms:** We shared daily Covid-19 updates, blogs, and social media support for the businesses. During the pandemic, we continued to post multiple times day to

promote the BID businesses. We created social media stories, highlights, reels and shared them with collaborators so that the posts would go viral with more engagement and impressions. In 2021, the District collaborated with social media influencers, auto You Tubers to promote the Havana Motor Mile, food bloggers to promote our restaurants, social media content creators to promote our retail and BID businesses. The collaboration and promotions continue to be a huge success for the District. Many of the influencers and bloggers created content for some small businesses and even shared promotions to support our corridor daily.

- **Corridor Safety Outreach:** The District actively worked with stakeholders regarding safety and crime concerns. APD regularly attended the District's monthly board meetings and stakeholder outreach events. APD also provided a crime analyst, data reports and security/safety audits of properties for the District's stakeholders. The District co-hosted the APD's academy for District tours for more diverse business and community engagement. The tours and positive engagement with our diverse business owners have been well received and hope to engage more of the District in 2022.
 - **Business Check-In's:** The Executive Director regularly checked in with our businesses with in-person visits, phone calls, texts, emails and through direct messages on social media. The Director asked how the BID could help, shared resources, updates, and grant funding opportunities.
 - The District continued to work Fox Media and Marketing's Kim Fox to create new creative for our March Commercial roll out and promoted the Havana Motor Mile dealerships, parts & services, plus updated the Eat On Havana Street restaurant and destination shopping commercials to encourage take away/ColoradoCurbside and shopping along the corridor.
 - **Business Outreach & Engagement:** Monthly we hosted round table discussions, On Havana Street district tours, small business outreach events and phone calls with the Governor Polis, Representative Jason Crow, local Chambers, Tri-County Health Department, Mayor Coffman, and city council members. The one-on-one calls, in-person coffee meetings and regular updates with city council members and the mayor truly went a long way with the BID businesses during the uncertain times. It was also a great opportunity to hear the pulse of what the businesses are experiencing and share testimonials with other partners to create more programming for the businesses in need of additional support.
2. **Havana Street Overlay District Project:** As opportunities arose in 2021, we assisted and encouraged commercial property owners in the BID to update their landscapes according to the Havana Street Overlay District guidelines and improved the overall look and appeal of the District. We also helped property owners work with the City of Aurora regarding site plan updates and improvements. We helped properties connect with City of Aurora planners, landscape architects, code enforcement, Aurora Police Department, and other partners to ease the process of improvements along the corridor.
 3. **NEW Accountant and implementation of Bill.com for payments to vendors:** In January-March 2021, we transitioned our bookkeeping and accounting from James Moore & Associates to Bill Flynn at Simmons & Wheeler. James Moore & Associates informed the District in mid-December 2020 that their CPA firm would no longer do public state entity accounts and referred the District to other accountants that manage special district financials and bookkeeping. The board received several bids and voted for the District's financials to be managed by our former auditor Bill Flynn with Simmons & Wheeler and understanding that then in 2022 we would require a new auditing company to take on the District's annual audit. The board felt that Bill Flynn with Simmons & Wheeler understood our financials the best, as the District's former auditor, and also had a great reputation with other special districts as an accountant.

Transitioning from James Moore to Simmons & Wheeler in early 2021: After the transition from our first accountant, James Moore with Moore & Associates, to our former auditor Bill Flynn with Simmons & Wheeler, the District moved our payment system to Bill.com to streamline the payments for vendors. Bill.com allowed for the accountant, BID President and BID Vice President to approve all payments for vendors online without having the executive director drive to each check signer for dual signatures on each physical check. Due to Covid-19 challenges, Simmons & Wheeler advised that the Bill.com platform would help the executive director and board members manage the District's invoices in a timely manner with less complication, more accountability and more convenience.

NEW Auditor in 2021: The District is receiving bids for a new auditor for 2021's financials in early 2022. Also, on September 30, 2021, our accountant, Bill Flynn with Simmons & Wheeler will be leaving Simmons & Wheeler; however, the District decided it would be best to remain with another accountant (Dianne Wheeler) from Simmons & Wheeler for the rest of 2021 for our accounting and bookkeeping. The board will explore a new accountant in 2022 if necessary.

4. **NEW District Markers in the District in 2021:** On Havana Street Logo panels and district markers, help to brand the District. We currently have 54 logo panels in place at various locations along Havana (46 total in 2020 + 2 at KIMCO's Village on the Park & added 6 more at three NEW locations in 2021). We continued with maintenance of existing signs and in early 2021 we conducted a district marker audit of each sign, location and completed a significant replacement project of the original district marker panels throughout the corridor. 21 district marker panels at 12 locations are to be installed in 2021. In June 2021, the District replaced 15 district markers of the original district markers at 9 locations that were in poor condition and added 4 new district marker panels at 2 NEW locations in the corridor in August and November 2021 at Birchtree Shopping Center with the Dae Gee and Katsu Ramen monument sign and at Sam's No 3 – Aurora. In late September 2021, a new stakeholder The Better Mattress joined the District and the BID board approved to support the addition of The Better Mattress in the district marker improvements for 2021, which will also be installed before the end of 2021.


(21) horizontal panels and (1) vertical panel were installed at the following locations:

1. Buckingham Village Shopping Center – x2 panels
2. Discount Tire – x2 panels
3. 7-11 Phillips – x2 panels
4. Crestone #3 & #4 – x2 panels
5. First Bank #1 – x1 panel
6. Good Times – x2 panels
7. Schomp Ford – x2 panels
8. Jiffy Lube – x1 panel
9. Burger King – x1 panel (vertical)
10. NEW - Birchtree Shopping Center at Havana & Jewel – x2 panels (NEW location installed in August 2021)
11. NEW - *Sam's No 3 at Havana & Parker – x2 panels (NEW location expected to be installed in early *November 2021)
12. NEW - *The Better Mattress near Havana & Dartmouth (Lyft Denver) – x2 panels and new monument sign to be installed in *late 2021 (GRAND OPENING – WINTER 2021).



KIMCO's District Markers Include On Havana Street panels: KIMCO's Village on the Park Shopping Center at Havana & Parker and their developer improved the landscape plans, added curbside pick-up parking stalls, new benches, and gateway district markers for the NW corner of Parker and Havana. These new additional markers were purchased and installed in 2020. These district signs will be maintained by KIMCO and are not a part of the District's maintenance.

Future District Markers for the District: We are also working with the future Argenta redevelopment and other future redevelopments on establishing district marker signs on their properties as new developments arise. In 2022, the District will budget to improve and replace the existing markers that need maintenance and allocated \$30,000 in the budget to support 3 new additional district marker locations up to \$10,000 for each location/stakeholder.

5.  **Havana Motor Mile:** The Havana Motor Mile committee selected KUSA/9News/KTVD for our TV commercials and digital banner ads in 2021. We updated the [commercials with the new dealership names/logos, rebranded and redesigned the commercials to fit the Covid-19 recovery messaging](#). We ran four two-week flights of TV commercials for the Havana Motor Mile and did social media and website banner promotional ads with 9News. We updated the brand and voice overs for the four TV commercials with a voice designed for the Colorado market. [All four commercials for the auto dealerships, auto parts, auto services and restaurants](#) along the Havana Motor Mile had a fresh voice that engaged more viewers. We received great feedback and response from viewers on the updated 2021 commercials.

We ran the updated commercials in March, June, and July. Fox Media and Marketing also helped negotiate a buy two get one free promotion for our ad spots to stretch our budget to support the District. The flights of commercials had a total of about 6 million television impressions. Due to Covid-19, March, June, and July commercials were targeted times during the Olympics, local news, Ellen, & Saturday Night Live. These commercial runs were very important because at that time the dealerships, restaurants and retail were still at limited capacities. We also promoted that all parts and services were open as essential businesses. In addition to the Havana Motor Mile specific commercials, we also ran the restaurant commercial in the same series of flights encouraging the community to safely order take out, pickup and delivery services to our 100+ restaurants in the

corridor. We also have additional commercial flights scheduled to run in November after the election to promote holiday shopping, end of the 2021-year for auto sales and support for our Eat On Havana Street campaigns.

Translated commercials in Spanish Campaign: In addition, we translated the 9NEWS commercials with [Spanish voiceovers with Estrella Media/Estrella TV in June-July 2021](#) during the Father's Day and Fourth of July weekends. We ran [34,15-second commercials with a reach of 93,500 viewers reached for only a \\$500 investment](#). In addition to bonus spots, we also received a 2x per week social media posts on the EstrellaTV Denver Facebook page for 2 weeks. Estrella Media provided the production and editing at no cost with our partnership. In 2022, we hope to do more commercials and spots in Spanish to continue our diverse marketing efforts to promote the District in our communities.

6. **Promoting/marketing our businesses and events:** To gain a better return on investment with our marketing budget on KUSA & KTVD, we combined the Havana Motor Mile and Event TV budgets again in 2021. We ran commercial flights in March, July, August, and September. We also have scheduled promotions for November and December 2021. We strategically selected times during the Olympics, local news, Ellen, & Saturday Night Live. We are scheduled for two appearances on Colorado & Company on 9News in the winter season, ran digital ads, home page takeovers for promotions, events, and giveaways, which are always well received on the 9NEWS platforms.

In 2021, we continued to establish new relationships and strengthened relationships with various marketing partners that offered free opportunities to promote our district and events. We continued to run regular ads in print, social, web and newsletter ads with media partners: **Glendale Cherry Creek Chronicle, Living Well in Lowry, Asian Avenue Magazine, Rocky Mountain Chinese Weekly, Weekly Focus, Oz Magazine, Colorado Times, 5280 Magazine, Aurora Guide, Aurora Chamber Directory/Website, Buckley Space Force's website, Orbiter Magazine & monitors on base, Community Campus Partnership/CU Anschutz Medical Campus - Weekly Community and Campus Connections Newsletter, and Estrella Media.**

We partnered with the [Asian Avenue Magazine](#) throughout the year with 4 months of half page ads, 2 editorial features - On Havana Street events, programs, history, etc., 12 social media posts (1 per month) and 6 months of a web banner ads on Asian Avenue Magazine's website for \$2000. This magazine "connects culture and links lives" in the Denver/Boulder area to over 240,000 readers a year and distributed at 400 locations. We have a very diverse community in the District and this magazine featured our businesses, cultural celebrations, dining, shopping, travel, arts and lifestyle. Their most recent reader surveys showed that half of the readers are Caucasians and half Asian Americans, 75% of the readers have college and graduate degrees and over half of the readers have an annual income above \$60,000. The magazine showcased our businesses and events in their articles and social media at no cost.

Many of the features were [multiple page spreads](#) on Eat on Havana Street, Boba Drinks, Best of 2021 (many BID businesses won 1st place or were honorable mentions), Lunar New Year, Support Small Businesses, Support Businesses Owned by People of Color, Get Vaccinated Campaigns, Equity Clinic campaigns and stories, Seoul Mandoo New Business full page feature, 100 Asian, Native Hawaiian, Pacific Islanders, & Desi to Know in Denver (#88 Chance Horiuchi), Asian Food Edition, Asian American Hero of Colorado: Chance Horiuchi, Asian Eats To-Go events featuring On Havana Street businesses, grand openings of new businesses, food trends, and highlights of hidden gems to visit in the District.

Another marketing partner was the **Community-Campus Partnership**. This partnership fosters, promotes and supports mutually beneficial collaborations between the Anschutz Medical Campus and the surrounding Aurora community neighborhoods to improve the health and economic well-being of the Aurora community. This relationship allowed us to promote our district and events to over 30,000 in their workforce at the Anschutz Medical Campus. This campus includes **UCHealth University of Colorado Hospital (UCH), Children's Hospital of Colorado, the Rocky Mountain Regional VA Medical Center - VA Eastern Colorado Health Care System and the Bioscience/Fitzsimons Innovation Community**. The District continued to partner and share

weekly District ads and features in their newsletters. Also, in 2021 the District is helping to create a program for 2022 where the campus and partners do more procurement locally and with diverse businesses in the District.

During Covid-19 recovery, we collaborated with **Children's Hospital Colorado's Corporate, and Community Relations, Marketing and Communication** and they offered their free virtual talks with their Children's Hospital Colorado experts to the workforce in the District. This partnership offered programs that helped engage employees in educational and volunteer opportunities. The program also offered digital resources available for various topics that could be shared in newsletters, social channels, company websites, etc.

In 2021, **Visit Aurora** hosted numerous marketing campaigns, blogs, videos, photographers, social media promotions, giveaways and featured On Havana Street restaurants and businesses in their marketing. Visit Aurora was a crucial part of the Covid-19 recovery marketing of the special district. Visit Aurora has been an extraordinary partner and promoted our businesses to regional visitors and the local Colorado market.

Visit Aurora continued to highlight our restaurants in the corridor and created a takeout and delivery webpage that featured our 100+ restaurants: [VISIT AURORA'S LIST OF TAKEOUT & DELIVERY LIST](#). The District continued to market and promote the features of their website that highlighted many of On Havana Street businesses as local destination experiences in food and shopping. Their website's statistics YTD January 2021 - Sept 30, 2021: Visitor guide pageviews: 4,002, Restaurants pageviews: 7,133, and Takeout pageviews: 1,593.

An On Havana Street half-page ad was in the [2021 Visit Aurora Guide – Bring Your Appetite](#) at no cost by Visit Aurora to support the advertisers during the pandemic recovery. Many of the District's businesses were featured in Visit Aurora's 2021 Guide, Aurora's Savings Pass, blogs, stories, features, advertisements, and marketing campaigns. The Visit Aurora's [complimentary ad space to support the District](#) during these challenging times allowed for the District to use other funds to support the stakeholders with other visitor and local marketing promotions. Visit Aurora's [2021 Visitors Guide](#) was met with great success from locals and visitors. Last year, Visit Aurora brought the project in-house and doubled down on their efforts while expanding the 2021 Visitor Guide distribution to 150,000 copies to reach more people than ever before. A direct mail copy was delivered to 90,000 Aurora residents with a welcome letter from our President and CEO, Bruce Dalton. The 2021 Guide received an outpour of support from the local community and plans to aim even higher in 2022. **This guide continues to be the definitive resource and most requested item for the 77.7 million visitors arriving annually to the state and has a year-long distribution of 150,000 copies.** This is also a highly trusted and relied upon resource for important buying decisions in our community. We are grateful that the District and its stakeholders are consistently highlighted and celebrated in every feature and article.

This marketing partner continued to **share all the content**, photos, video footage, commercials, and press captured at On Havana Street businesses at no cost. The businesses used the same content in their own marketing to update their menus, website, and social media for additional exposure. The District plans to continue to collaborate and co-host **social media giveaways** to promote our destination restaurants and businesses. Visit Aurora continues to host successful campaigns. For example, in the partnership for Home for the Holidays and Love Your Local, Visit Aurora's social media campaigns feature the District and had about 1.2M impressions, 292K reached, 26K clicks with 395 partner referrals. In addition to partner campaigns, Visit Aurora also assisted the District in discounted ads with other local publications. For example, for the upcoming November 2021 Aurora Edition in the 5280 Magazine, Visit Aurora and the City of Aurora helped to discount ads for Aurora partners to be included in the magazine feature. The District was able to purchase two half page ads for the special edition highlight On Havana Street and the Havana Motor Mile.

In addition to the social media promotions, free online and print marketing campaigns, Visit Aurora hosted the Savings Pass featuring our businesses in the District at no cost. Many of our businesses struggled to market during the Covid-19 challenges and [Visit Aurora Savings Pass](#) allowed our merchants and businesses to include a discount and promote their business. Visit Aurora's annual

contract with a company called, “Bandwango” created the pass for the participating businesses. The Savings Pass was typically provided to convention and tournament attendees staying in Aurora or at one of their Denver partner hotels nearby. However, due to Covid-19 Visit Aurora used the Savings Pass to market regionally and locally to support our local economy during the uncertain times. As more hotels and travelers return to visiting Colorado, The Savings Passes will be distributed to the Gaylord Rockies convention groups and several other visiting groups throughout the year. Visit Aurora also marketed the pass to locals and promoted stay-cation options while featuring our diverse, small business restaurants.

Strengthened local hotel partnerships with The District: The District also partnered with Visit Aurora to connect the 65 hotel partners and member hotels in Aurora, Denver, Denver Tech Center and Central Park to the District’s stakeholders. The District hosted the local hotel **Group Sales Teams and hotel management** to showcase restaurants, things to do, venues and other locations in the District. These hosted visits and tours helped set up hotel site visits to On Havana Street and made reservations for travelers and groups at our restaurants and businesses. Groups of 10-30 visitors/conference groups from partner hotels hosted “offsite” meals and entertainment activities in the District. The hotel shuttled the visitors to Havana to experience our global options of cuisines and entertainment. This partnership connected visitors and travelers to “Things to do On Havana Street” and attracted more diners and shoppers to the District during their stay in Colorado. Due to safety and with group gathering limitations in the District also promoted the catering options and delivery options that our 100+ restaurants offered. The Executive Director regularly sent images of establishments, menus, articles highlighting On Havana Street and lists of businesses that are great destinations for local travelers to the local hotel partners.

Due to the challenges of Covid-19 Visit Aurora generously supported the District with community relief funds of about \$20,000 to support the businesses in the corridor with marketing and advertising. These monies aided in stimulating the economy and supporting local businesses during the uncertain times of Covid-19. In late September 2020, The District and Visit Aurora were in the process of collaborating and determining how those funds would be most effective in helping the business district during the future recovery of Covid-19. In early 2021, Visit Aurora \$20,000 in relief funds were used to support gift card purchases, marketing campaigns and content creation for the District. A videographer was hired with the funds to create social media promotions and commercials highlighting the corridor’s businesses and the Havana Motor Mile. The content will be used in the holiday 2021 Shop On Havana Street/Love Your Local campaigns. The breakdown of the \$20,000 will be allocated to filming of various businesses and public spaces throughout the BID for social media and advertisements (Vendor: Josh Berendes Media \$8,500), audio and voiceover for :15 and :25 commercials, models @ \$50/hr (\$500), media buys from Facebook, Instagram, and YouTube (\$6,000), and Website enhancements (\$5,000). We are very grateful to the partnership with Visit Aurora and plan to collaborate more in 2022 with regional and local marketing of Aurora, CO.

In 2021, we continued to focus on strengthening our partnerships with the local Chambers (Asian Chamber, Aurora Chamber, Hispanic Chamber, African Chamber of Commerce, African Leadership Group, and Diversity, Inclusion and Equity councils, the National Restaurant Association, Colorado Restaurant Association, Colorado Restaurant Foundation, Colorado Korean Restaurant Association, the Korea Town Aurora committee, the Aurora South Metro SBDC, Colorado Enterprise Fund, GAP Fund, Mile High United Way – United for Business, Kaiser ICC, CEDS Finance, Colorado Minority Business Office, the Colorado Korean Association, Rocky Mountain K-Pop, Aurora Sister Cities International, Aurora Asian Pacific Development Center, Aurora Asian Pacific Community Partnership, 5280 Dragon, Asian Avenue Magazine, Korean Daily, City of Aurora’s Office of International and Immigrant Affairs, Aurora Pride, Consulado de El Salvador en Aurora by promoting, collaborating and hosting virtual/hybrid events with On Havana Street businesses. The partnerships with Covid-19 recovery efforts allowed us to strengthen our partnerships by co-hosting and collaborating on resources, grants, and recovery efforts.

Throughout the year the Executive Director also collaborated on projects, shared updates, presented and hosted economic development and business tours along the corridor to the City of Aurora’s Business Advisory Board, Ward 3 & Ward 4 meetings, City of Aurora Department of

Communications & Marketing, City of Aurora Traffic Department, Arapahoe County, Arapahoe County Workforce Development, Aurora TV segments regarding Covid-19, events, public meetings and support of the corridor, City of Aurora Planning & Economic Development (PED) meetings, Neighborhood Services (Horns) meetings, Governor Polis, HD 42 Domonique Jackson, Senator Hickenlooper, Rep. Jason Crow, the African Leadership Group, Tri-County Health Department Business Task Force, Visit Aurora, Colorado Retail Council, Rocky Mountain Shopping Centers Association, Colorado food bloggers, 303 Magazine, 5280 Magazine, Colorado Yelp, Westword, Denver Post, Aurora Day Resource Center/Comitis Crisis Center/Aurora Street Outreach, Downtown Colorado Inc, Aurora Police Department, Cops Fighting Cancer, Aurora Rotary Club, Buckley Space Force Public Affairs, Marketing, Community Relations & the Panther Den (Buckley community center on base), Buckley Spouses, Hearts Apart, and the Veteran Affairs Commission.

Aurora TV: The City of Aurora featured and collaborated with the District in their monthly newsletters, Aurora TV – Aurora 8, and the Yum Guide. Aurora TV continued to do features of our corridor and businesses. Here is the list stories featuring On Havana Street or sharing stories of resources for the Havana corridor: [How Would You Spend Funds from the American Rescue Plan Act to Help Aurora?](#), [PSA #1: Eat on Havana Street](#), [Aurora's Art in Public Places Program Benefits Businesses & All of Us](#), [International Food](#), [Free Covid Testing Still Available in Aurora](#), [PSA #1 #StopAsianHate](#), [Aurora Gearing Up for "Global Fest"](#), [COVID Testing Still Available at the Aurora Center for Active Adults](#), [Get Ready for "Global Fest" 2021](#), [Celebrate "National Ice Cream Day" with On Havana Street](#), [Register to Take Part in Virtual Public Meeting about Havana Corridor \(also, Weigh in on 13th Avenue Study\)](#), [State Health Department Issues Revised Mask Guidelines](#), [PSA #1 - Aurora's Graffiti Patrol](#), [Aurora Housing Authority Strives to Create Affordable Rental Housing](#), [RTD Hosting Virtual Town Hall on Fare Equity Study](#), [Buckley AFB is Now Buckley Space Force Base](#), [Neighborhood Safety Tips from Our PAR Officers](#), [Aurora Vaccination Clinics Continue](#), [The Importance of Buckley Garrison](#), [Veteran Services Office in Aurora Offers Free Help to Vets](#), [Aurora Summer Kick-Off & Future Food/Resource Events](#), [Schedule Changes for Aurora Vaccination Equity Clinic](#), [Residents Encouraged to Share Thoughts on Alternative Housing Options for Homeless](#), [Bird E-Scooters Land in Aurora](#), [Aurora Hosting Vaccination Equity Clinics on Weekends](#), [Doctors & Community Leaders Encourage Aurora's African Americans to Get Vaccinated](#), [Tri-County Health Explains Localization of COVID Restrictions & What it Means for Aurora](#), [Visit the City's COVID-19 Resources Page](#), [AMC Public Vaccination Clinic](#), [STRIDE Community Health Works on Providing Vaccinations & Healthcare to Aurora's Most Vulnerable](#), [Dine Around the World at "Eat on Havana Street"](#), [Schomp Subaru Donates \\$30,000 to APS to Support Financial Education](#), [You're Invited to the Aurora Virtual Business Recognition Awards](#), ["Restaurant Week" Features Some Aurora Restaurants](#), ["Eat on Havana" Street is Coming Soon](#), [Aurora Launches a New Campaign to Stop Asian Discrimination](#), [On Havana Hosts Another Equity Vaccination Clinic](#), [Support Aurora's Asian Businesses with On Havana's "Asian Eats to Go" Event](#), [Aurora-South Metro Small Business Development Center Helps Businesses Survive & Thrive](#), [2020 Business Recognition Award Winners Announced](#), [Arapahoe County Reopens Small Business Relief Grant](#), [Apply for Arapahoe County Small Business Relief](#), [Support Asian Small Businesses on Havana with "Asian Eats to Go"/Community Conversation Event](#), [Buckley Garrison Brings in \\$1 Billion to Local Economy](#), [A Tour of Aurora's "Art in Public Places" Program](#), [An Update on COVID in Aurora One Year Later](#), [Take Part in the Havana Mobility Survey](#), [On Havana Street & Partners Host Vaccination Equity Clinic](#), [Aurora's COVID-19 Resources Page Available in Many Languages](#), [New COVID Vaccination Campaign Aimed at Aurora's International Residents](#), [Understanding the New COVID Dial 2.0](#), [Share Your Thoughts on the Havana Street Corridor Study](#), [PSA #3 - Safe Dining On Havana Street](#), [Check Out "Art2C" for Free On Havana Street](#), [The Aurora-South Metro Small Business Development Center Offers Webinars on How to Get Funding](#), [Adams & Arapahoe Counties Offering Small Business Grants](#), [Aurora Providing Rental Assistance Program](#), [Colorado Health Department Launches COVID Vaccine Campaign](#), [Visit Aurora's 2021 Visitor Guide Is Now Available](#), [Arapahoe, Adams & Douglas Counties Offer Small Business Grants](#), [PSA #1 - Check Out On Havana's Restaurants](#), [Help Our Homeless with the "Rock It, Sock It - Sock Drive"](#), [Update on COVID Vaccine in Aurora](#), [Aurora Offers Rental Assistance Program](#), [More on City's Restaurant Relief Grant Program](#), [Aurora Now Inspirational Stories 2020](#), [New Ordinance Caps Food Delivery Fees](#), [Aurora Sister Cities Encourages Us to "Engage Globally to Thrive Locally"](#), and [Visit Aurora Changes Course During Pandemic](#).

In 2022, the District will budget \$5,000 to ask Aurora TV to produce stories highlighting On Havana Street stakeholders and things to do On Havana Street.



Hotel Key Card Marketing to locals and travelers:

This year we continued to market to travelers and hotel guests with the Parakalo Media. Unfortunately, the previous partner Capture Those Travelers closed due to Covid-19 challenges and referred us to Parakalo Media. This marketing effort allowed the District to continue to market with hotel partners despite the decrease in out of state travelers and conventions. We marketed the hotel key card marketing and promotions of On Havana Street and the Havana Motor Mile with **aloft Denver International Airport, Hilton Garden**

Inn Denver Airport, and TownPlace Suites By Marriott Denver Airport at Gateway Park. In previous years: The Aloft hotel had 144 rooms and saw about 80,000 guests annually (about 60,000 impressions), but in 2021 up until October 2021 our key card campaign had ~40,000 guests. In previous years, The Hilton hotel had 157 rooms and saw about 90,000 guests annually (about ~60,000 impressions), but in 2021 up until October 2021 our campaign had 44,000 guests. In previous years, The TownPlace Suites Marriott had 99 rooms and saw about 65,000 guests annually (about 40,000 impressions), but up until October 2021 our campaign had about 28,000 guests. 2021 did see less impressions, but this meant that our key cards would stay in circulation from May to December 2021 vs May to August 2021 to achieve the full number of impressions at each hotel. The

District has one more run of hotel key cards promotions this October through December 2021 and hope the final impressions increase due to more holiday travel and less Covid-19 restrictions. We plan to continue this marketing strategy in 2022 and negotiated the contract down from a value of \$15,000-20,000 to \$10,000 due to decline in travelers to local hotels due to Covid-19.

7. **City of Aurora Sales Tax Revenue History:** We have seen percentage increases in all three city sales tax categories since we started tracking the sales tax in 2010, except for the 2020 year due to the Covid-19 pandemic's challenges. Since 2015, the District continued to contribute over \$20 Million in Sales Tax for the City of Aurora. The District continued to be one of the major sales tax drivers for the City's revenue and historically contributes about 9-12% to the City of Aurora's budget in Sales Tax revenue.

City of Aurora Sales Tax Revenue History continued: In early 2021, a comparison from 2020's Sales Tax to the District's sales tax was only down -1.8% for Total Sales Tax, down -14.7% for Food & Dining, down -11.6% for Auto Dealers & Parts, and -12.6% for Total Use Tax. In comparison to other special districts, the District was surprisingly still holding strong with only a decrease of -1.8%. Many other Colorado special districts were experiencing sales tax declines from 10-50%. The bounce back in sales tax by industry for the District was incredible in Spring 2021 to early Summer 2021. The Covid-19 recovery continues for the corridor and the sales tax revenue continued to increase despite reported challenges from tenants and property owners of the District.

Percent Change from Prior Year by Month													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019
Total Sales Tax	-7.8%	-1.2%	-8.0%	-11.9%	31.0%	4.7%	3.8%	4.0%	4.9%	-8.6%	6.1%	-0.9%	0.2%
Food and Dining	32.0%	27.1%	11.1%	6.5%	10.6%	0.0%	12.2%	-4.9%	3.3%	-11.2%	0.6%	-2.0%	5.7%
Auto Dealers & Parts	-17.3%	-11.0%	-14.2%	-11.1%	-6.3%	-1.3%	-2.1%	2.4%	8.4%	-19.2%	3.0%	-9.3%	-6.6%
Total Use Tax	-27.7%	-11.6%	-3.2%	-5.5%	60.3%	-23.6%	-28.4%	-43.3%	3.2%	-29.5%	-57.7%	9.8%	-22.2%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020
Total Sales Tax	4.6%	7.5%	4.7%	-13.0%	-28.3%	-4.3%	2.5%	0.8%	0.2%	2.4%	5.8%	-4.6%	-1.8%
Food and Dining	-3.5%	4.4%	-5.5%	-29.9%	-32.5%	-27.8%	-26.5%	-2.2%	-7.7%	-10.8%	-6.8%	-23.5%	-14.7%
Auto Dealers & Parts	8.0%	5.2%	6.9%	-27.0%	-39.7%	-11.8%	-9.7%	-18.2%	-19.9%	-0.2%	-8.8%	-17.4%	-11.6%
Total Use Tax	20.5%	3.3%	-13.9%	9.0%	-24.0%	-12.7%	-28.6%	-9.1%	-2.7%	-38.3%	-21.6%	-21.7%	-12.6%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021
Total Sales Tax	-0.4%	-2.6%	2.5%	24.7%	67.2%	18.0%							15.3%
Food and Dining	-30.7%	-13.5%	-3.8%	33.9%	46.4%	47.2%							8.9%
Auto Dealers & Parts	-8.3%	-11.4%	-6.7%	26.0%	117.0%	4.1%							12.5%
Total Use Tax	-7.2%	24.3%	-18.3%	17.6%	-32.7%	-1.6%							-3.3%

Data based on Area Report 18-25 Crystal report and GenTax generated data for Havana BID
Reports provided by the City of Aurora's Finance Department's Revenue Analyst Bill Levine in July 2021.

- As of July 2021, the District received the sales tax updates for January through June 2021. YTD in June 2021, the District was up 15.3% in Total Sales Tax, up 8.9% in Food & Dining, up 12.5% in Auto Dealers & Parts, and only down -3.3% in Total Use Tax due to online shopping.
- We saw the District's recovery in sales tax beginning in April 2021 with a significant increase of 24.7% of total sales tax, 33.9% for Food and Dining, 26.0% for Auto Dealers & Parts, and 17.6% for Total Use Tax.
- In May 2021, we continued to see increases with a **67.2% for Total Sales Tax, 46.4% for Food & Dining (Eat On Havana Street Month campaign with partners), 117% for Auto Dealers & Parts (Summer Auto Sales Campaigns), and a negative 32.7% in Total Use Tax** due to an increase in online shopping, curbside pick up options with online purchases.
- In June 2021, we continued to see sale tax revenues increase at an 18% comeback in Total Sales Tax, 47.2% for Food & Dining, 4.1% for Auto Dealers & Parts (begin to see the inventory shortage and access to inventory challenges), and negative 1.6% for Total Use Tax.

YEAR	AUTO DEALERS & PARTS	FOOD & DINING	TOTAL SALES TAX
2010	\$3,435,800	\$1,788,855	\$13,097,290
2011	\$3,769,713	\$2,019,244	\$13,680,196
2012	\$4,934,651	\$2,374,026	\$15,636,441
2013	\$5,295,256	\$2,424,008	\$16,339,128
2014	\$5,897,049	\$2,810,906	\$18,599,766
2015	\$6,546,804	\$3,081,998	\$20,193,012
2016	\$6,292,571	\$3,058,532	\$20,358,224
2017	\$6,628,639	\$3,072,734	\$21,049,286
2018	\$6,343,937	\$3,557,848	\$21,105,961
2019	\$5,923,499	\$3,760,494	\$21,150,961
As of 9.2020	\$3,830,556	\$2,398,277	\$15,528,761
2020	\$5,233,973	\$3,209,112	\$20,772,883
As of 9.2021	\$4,353,897	\$2,735,126	\$17,636,149

Overall, the District is doing better than most shopping districts and special districts, despite the pandemic. However, it is difficult to predict the sales tax for the end of 2021 and early into 2022 since we expect more business closures, empty leases, and many new leases in the next two to six months. However, the District is also trending to exceed pre-pandemic numbers/2019's Sales Tax revenue based on the most recent report from the City of Aurora.

Sales Tax Revenue Jan 2019 - Sept 2021													
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	2019 YTD
Total Sales Tax	\$1,997,748	\$1,497,839	\$1,437,195	\$1,804,685	\$1,639,002	\$1,771,070	\$1,852,229	\$1,776,653	1,994,192	1,863,367	1,739,147	1,777,833	\$15,770,614
Food and Dining	331,498	283,603	271,665	326,374	315,277	318,176	344,299	319,815	309,504	336,046	308,511	295,726	\$2,820,211
Auto Dealers & Parts	450,673	426,913	387,455	519,724	438,082	524,774	505,092	570,376	566,295	507,035	548,411	478,668	\$4,389,385
Total Use Tax	19,302	12,805	14,930	14,740	19,765	13,241	15,965	14,684	15,467	22,080	17,209	14,863	\$140,898
	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	2020 YTD
Total Sales Tax	\$2,088,683	\$1,610,006	\$1,504,420	\$1,570,339	\$1,175,608	\$1,694,205	\$1,897,702	\$1,790,064	\$1,997,408	\$1,908,460	\$1,840,570	\$1,695,359	\$15,328,434
Food and Dining	319,754	296,131	256,671	228,642	212,954	229,804	253,028	312,708	285,766	299,883	287,642	226,129	\$2,395,458
Auto Dealers & Parts	486,726	448,924	414,382	379,391	264,041	462,953	456,287	466,400	453,478	506,162	500,072	395,157	\$3,832,581
Total Use Tax	23,262	13,233	12,850	16,068	15,022	11,554	11,394	13,348	15,049	13,629	13,495	11,634	\$131,781
	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	2021 YTD
Total Sales Tax	\$2,079,908	\$1,568,429	\$1,542,118	\$1,957,658	\$1,963,330	\$2,000,006	\$2,208,418	\$2,026,468	\$2,289,813	\$0	\$0	\$0	\$17,636,149
Food and Dining	221,114	255,864	246,866	304,718	309,225	338,221	344,059	362,169	352,889	0	0	0	\$2,735,126
Auto Dealers & Parts	446,253	397,827	386,637	477,867	572,973	482,063	543,286	549,247	497,744	0	0	0	\$4,353,897
Total Use Tax	21,801	16,453	10,499	18,894	10,118	11,374	21,910	18,801	18,030	0	0	0	\$147,880

Reports provided by the City of Aurora's Finance Department's Revenue Analyst Bill Levine on October 8, 2020. * YTD through August since September revenues have not closed in early October 2021.

Percent Change from Prior Year by Month													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019
Total Sales Tax	-7.8%	-1.2%	-8.0%	-11.9%	31.0%	4.7%	3.8%	4.0%	4.9%	-8.6%	6.1%	-0.9%	-25.3%
Food and Dining	32.0%	27.1%	11.1%	6.5%	10.6%	0.0%	12.2%	-4.9%	3.3%	-11.2%	0.6%	-2.0%	-20.7%
Auto Dealers & Parts	-17.3%	-11.0%	-14.2%	-11.1%	-6.3%	-1.3%	-2.1%	2.4%	8.4%	-19.2%	3.0%	-9.3%	-30.8%
Total Use Tax	-27.7%	-11.6%	-3.2%	-5.5%	60.3%	-23.6%	-28.4%	-43.3%	3.2%	-29.5%	-57.7%	9.8%	-43.8%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020	2019-2020
Total Sales Tax	4.6%	7.5%	4.7%	-13.0%	-28.3%	-4.3%	2.5%	0.8%	0.2%	2.4%	5.8%	-4.6%	-1.8%
Food and Dining	-3.5%	4.4%	-5.5%	-29.9%	-32.5%	-27.8%	-26.5%	-2.2%	-7.7%	-10.8%	-6.8%	-23.5%	-14.7%
Auto Dealers & Parts	8.0%	5.2%	6.9%	-27.0%	-39.7%	-11.8%	-9.7%	-18.2%	-19.9%	-0.2%	-8.8%	-17.4%	-11.6%
Total Use Tax	20.5%	3.3%	-13.9%	9.0%	-24.0%	-12.7%	-28.6%	-9.1%	-2.7%	-38.3%	-21.6%	-21.7%	-12.6%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021	2020-2021
Total Sales Tax	-0.4%	-2.6%	2.5%	24.7%	67.0%	18.0%	16.4%	13.2%	14.6%				15.1%
Food and Dining	-30.8%	-13.6%	-3.8%	33.3%	45.2%	47.2%	36.0%	15.8%	23.5%				14.2%
Auto Dealers & Parts	-8.3%	-11.4%	-6.7%	26.0%	117.0%	4.1%	19.1%	17.8%	9.8%				13.6%
Total Use Tax	-6.3%	24.3%	-18.3%	17.6%	-32.6%	-1.6%	92.3%	40.9%	19.8%				12.2%

Data based on Area Report 18-25 Crystal report and GenTax generated data for Havana BID

Reports provided by the City of Aurora's Finance Department's Revenue Analyst Bill Levine on October 8, 2020. * YTD through August since September revenues have not closed in early October 2021. Review the 3rd Quarter Sales Tax Report from the City of Aurora [Here](#).

Similar to other shopping districts in the City of Aurora with sales tax collections, things are looking good in the District. Year-to-date sales tax collections from businesses in the corridor through the end of September were \$17.6M. This amount is \$2.3M (15.1%) more than was collected in 2020. Since 2020 was a strange and unique year, with the COVID-19 pandemic causing significant economic disruption, it is also useful to note that 2021 sales tax collections from businesses in the District generated \$1.9M (11.8%) more in YTD sales tax collections than in 2019. Based on this last comparison, it appears that business in the District is now exceeding pre-pandemic levels of sales.

Bill Levine with the City calculated sales tax from the District through August 2021 (about \$15.3 million) and divided those by all sales tax collections in the entire City of Aurora through August (about \$162.4 million) and calculated that the District is responsible for generating 9.5% of the City of Aurora's total sales tax collections so far in 2021.



8) Art 2C On Havana Exhibition: In [2020-2022 our public art program](#) included 13 sculptures in place along Havana Street in our public art-on-the-street exhibition. Art 2C On Havana is a public/private partnership between the Havana BID and Aurora's Art in Public Places (AAIPP). The Havana BID budgeted \$15,000 for 2021 towards this program to cover any costs associated with the program during the off year. This budget was allocated to build reserves for the program

for 2022 and to also cover any unexpected costs for 2021. We installed the 13 sculptures in the Fall of 2020 and will not deinstall the 2020-2022 sculptures and install the 2022-2024 sculptures in late September 2022. In 2022 we will budget for about \$40,000 to cover the program, artist stipends, artist 1st, 2nd & 3rd Place awards, supplies, art contractor, and the annual November/December 2021 Art 2C Gala. Due to Covid-19 and large gatherings restrictions we hosted a virtual awards ceremony with the commission in 2021 with the BID Board and artists. The Havana BID board supports public art as an economic development tool and a chance to further brand The District. The exhibition provides residents and visitors a unique way to experience the Business District. Public art boosts real estate values and creates opportunities for local businesses to thrive.

In 2021, the District had a few challenges with redevelopments, business closures and new ownership of properties. *The Art 2C On Havana originally had 13 sculptures and concrete art pads at 13 District stakeholder properties; however, in May 2021 the Autawash/AutaLube properties were sold to Cobblestone Auto Spa and are now under redevelopment. The 2020-2022 sculpture at Autawash was removed, placed in storage on 5.19.2021 and the concrete pad will be demolished in the redevelopment of the property. Autawash closed, sold to new car wash company, Cobblestone Auto Spa, took ownership on 6/2/2021 and they plan to demolition of building for redevelopment for a grand opening this winter season. The District and the City of Aurora's Art in Public Places attempted to relocate the 13th sculpture and install a new concrete art pad at another property. However due to COVID-19 challenges, concrete costs, wear and tear on the sculpture and not being able to contract a concrete contractor for a small concrete pad install, the District decided it was best to not re-install the 13th sculpture for the 2020-2022 Art 2C program. Due to these unforeseen circumstances and challenges in 2021, the District plans to continue the Art 2C program with the 12 existing locations and that the 13th location will be at Argenta when the housing development is complete.

In addition to the challenge at Autawash/Autalube, the ownership of Mark Vissering State Farm - 1852 S. Havana St. property sold to Mazal Motors. The Mazal Motors property owner shared that they would continue to be a location that participates in the program in 2022-2024. The art pad at Molcajete Mexican Restaurant - 1911 S. Havana St. changed ownership to Pirmides Mexican Restaurant (same owner as the former Las Hadas Mexican Restaurant on Hampden/Chambers) in September 2021 as well. The new owner loves the art pad with "YUCCA ORAXLIE" Artist: Bobby Zokaite, Tempe, AZ, Powder-coated steel—72" x 48" x 48", \$16,000 and plans to continue to participate in the program in 2022-2024. We also had a new property owner, Kum & Go, complete its redevelopment at Havana & Yale and they helped to add our largest new art pad (8x8) at the end of 2020. This 13th art sculpture was delayed for install due to the construction at Kum & Go, weather conditions and Covid-19 challenges.

In 2022, the District will host a call for 12 sculptures and continue the artists stipends at \$2,500 for the two-year program for 2022-2024. The stipends are based on the art commission's analysis of other Colorado public art stipends in 2020. The BID Board and AAIPP felt that \$2,500 would allow Art 2C to be more competitive with other local public art programs with the increased stipend amount and attract quality submissions. The exhibiting artists will be paid a \$2,500 stipend for the transportation, installation, and de-installation of their artwork. The District also budgeted funds for awards in the following amounts: 1st Place: \$1,250, 2nd Place: \$750 and 3rd Place: \$500 to be mailed to the awarded artists at the ART2C Award Ceremony in November 2022.

9) Havana North Urban Renewal Area & Argenta: The Havana North Urban Renewal area straddles the northern corridor of Havana Street from Sixth Avenue, south to Bayaud Street. The area generally includes commercial properties along both the east and west sides of the street. A key concept associated with Havana North Urban Renewal Plan implementation is targeted investment that will serve to catalyze development throughout the area and fund future public improvements.

The old 10.3-acre Fan Fare site, which is identified as one of three activity centers within the Havana District Design Concepts Plan, is considered the catalyst project within the area. This site of a former department store from a bygone era is now one of the largest development opportunities in the busy Havana Business Improvement District. Construction of Argenta is in progress on the site, and will feature 86 townhomes, 206 apartment homes, retail, commercial space, and a public park/plaza space.

This location along Havana Street features strong and vibrant retail and automotive co-tenancy, some of the state's best ethnic restaurants and a balanced mix of national and regional retail. The strong, growing

demographics in the area make it ideal for young professionals and families. Historic renovations and older property/building conversions make up much of the development potential nearby.

In August 2019, the City Council unanimously approved the sale of the Argenta property to Dillon Place. Dillon Place has also purchased the Mayan Bar, Woody's Wings and the gas station near the future Argenta property. Phase 1 of Argenta's 3.6 acres for 86 townhomes construction is in progress. The 1st phase will be infrastructure related: roads, utilities, water, and sewers. The Master Plan amendment and Site Plan gained unanimous approval from the Planning Commission on August 12, 2020. The Argenta development is moving forward and the City of Aurora staff will work with the developer on technical changes to the plan before recordation. In 2021, the construction and redevelopment continued, but has had a few delays. The District hopes to see infrastructure completed in late 2021 and physical structures in the spring/summer 2022.

10) Business Watch Issues: With the assistance of the Homeless Street Outreach Team, Aurora Police, City Planners, Aurora Water and Code Enforcement, and site plan amendments, the District is making progress with helping people experiencing homelessness, unhoused and exhibiting "visible poverty", urban camping, panhandling, shoplifting, and graffiti removal. Other crimes are still happening but at a lower level than the past three years. The major challenge of the corridor in 2021 has been auto thefts. **As of 8/2021 an APD analyst that presented to the District shared that there were 2,044 reported thefts in 2021 and 173 reported thefts in the district. There has been an average of 10 vehicles stolen per day in the District 1.** The District continues to work closely with the APD PAR officers and property owners and as shared other useful resources for the businesses regarding safety and crime prevention:

1. **Assisted Businesses with Signage on Properties for Auto Theft Prevention:** The [Park Smart Program for Businesses](#) allows businesses to [purchase these signs](#) and hang them in their parking lots or on their buildings to remind patrons to not leave anything of value in their vehicle to help prevent themselves from becoming victims. APD provided quotes for signs [here](#).
2. **Lighting Safety Drive:** When APD was out working an operation and during the downtime, "APD took a run up and down Havana St. to see what it looks like at night. They would do an audit and report on the businesses that need better lights or had no parking lot lights on in the evenings. After the audit of lighting safety [Chance reached out to the businesses and shared Partners in Energy resources with the BID](#) so that the businesses could have resources for purchasing better lighting improvements.
3. **Explored Other Crime Deterrents - LiveView Technologies:** APD investigated the surveillance in KingSoopers' parking lots that other BID members mentioned at previous BID meetings. The equipment belongs to a company out of Utah called, "LiveView Tech." The company leases their system and then sets up and monitors activity from the cloud. The system is portable, so you can easily move it from place to place. You can zoom, pan, and capture pictures or video. Some models have speakers where you can record messages or speak over it. APD shared to learn more visit their website www.liveviewtech.com.
4. **APD also provided crime reports and updates for the BID businesses periodically at the monthly board meetings.**

Due to Covid-19 the Executive Director did Business Watch Drives periodically and when needed after March 2021 through the summer months when the Covid-19 restrictions were slowly lifted. During the drives and visits the Executive Director made sure to share resources, thermometers, masks, and Covid-19 Safety posters with the stakeholders. She also collected testimonies to share with programs for future relief funding opportunities.

The BID worked with commercial property owners in the District and helped them with city compliances and the trespassing ordinances. The BID assisted properties and advised on having proper signage and letter of consent on file with Aurora Police to allow police to go onto the property if an incident ever occurred. Our outreach efforts included assisting people in need by sharing the Aurora's Homeless Resource Guide and providing a bus pass to those in need to get transportation to services at the Day Resource Center. We also assisted in connecting those in need to the Street Outreach Team to transport them to services. If people continue to panhandle and/or urban camp on private property and have refused all our offers to help them, the private commercial property owners had the right to trespass them off their private property. We continue to look for other solutions for this difficult and challenging issue.

11) Automotive Technician Tool Incentive Workforce Program: To help address the severe shortage of trained auto technicians, in 2021 we continued to partner with the repair shops and dealerships in the

Havana District and Pickens Tech's Mechanic Certification program. Our auto technician tool incentive program is a success. We increased the budget to \$19,000 to sponsor more student engagement in working on the Havana Motor Mile. The District also increased the budget due to the rising cost of tools and the tool chests. The increased budget also allowed the program to support up to 6 students in 2021.

2021 was the third year we were able to give the ownership keys of the tool cabinet to the students that completed the two-year commitment to the Havana Motor Mile. These students worked at a Havana Motor Mile business for two years and were awarded the official ownership of the tools and tool chest. The Executive Director and Rolf Werner from Pickens Technical delivered the ownership keys to each student on the Havana Motor Mile.

Automotive Technicians need to have their own tools to use on the job. These tools are expensive, especially for someone just starting out in the field. If the auto technician stays employed in the Havana Motor Mile shop for 2 years, the technician is awarded ownership of the tool chest and tools. If the technician leaves the job before the 2-year commitment, then the tools go back to the Pickens Technical Mechanic Certification program to be used by a future student working in a Havana Motor Mile Shop.

Due to Covid-19, Pickens Technical College students were not allowed to meet in-person and attended trainings virtually. Pickens did not host an in-person graduation ceremony and there was a delay in giving the top 5% of students their tools and tool chests. The BID and board were not allowed to connect with students awarded the tools, but Gary Sliger our BID board member and Rolf Werner, the liaison for the program shared that the tools and chests were distributed in July and the students were hired at Havana Motor Mile dealerships. Our 2020-2022 awardees included: Haven Del Valle at Schomp Subaru, Carlos Martinez at Schomp Subaru, Edgar Henriquez at Schomp Subaru, Fabian Leyva at Tynan's Nissan, Allan Banuelos at Shortline Buick, Dyan Clabaugh at Shortline Buick and Kade Gale at Schomp Mazda. Our 2021-2023 awardees include: Ismael De Haro, - Bozarth Chevy, Andres Ona - Schomp Hyundai, Isaac Cordova - Schomp Subaru, William Peh - Schomp Subaru, Austin Holmes - Tynan's Nissan, Javier Coca - Stevinson Toyota, Anthony Lara - Tynan's Nissan, Isaih Johnson - Bozarth Chevy.



In 2021 Rolf Werner also delivered the keys to the tool chest to the students that completed the 2019-2021 commitment to the Havana Motor Mile: William Peh - Schomp Subaru, Joel Borunda at Schomp Subaru, Javier Coca - Stevinson Toyota and Erik Amaya – Ed Bozarth Chevrolet. This workforce initiative growth will help to support our 20+ car dealerships and over 100 automotive service businesses in our corridor.

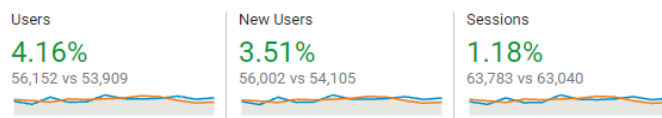
In 2022, the District budgeted to continue the program and allocated \$20,000 for 2022-2024 and increased the budget by \$1,000 to accommodate for the increase in tool and shipping costs of the program.

12) Daily BID Operations: Executive Director performed all day-to-day functions of a special district in Colorado, including ongoing updates to the Havana BID database to keep track of the number of real properties and businesses within the BID's boundaries.

2021 Stakeholders' Communication: In 2021, the BID worked diligently to keep its stakeholders and neighbors informed of events and plans On Havana Street. We also actively updated stakeholders on Covid-19 resources and updates.

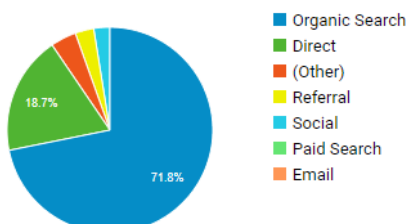
- **Monthly Meetings:** We held regularly monthly virtual BID board meetings, which are open to all stakeholders and the public. The agenda is publicly posted prior to the 3rd Thursday meeting to inform and welcome the public.
- **Annual Meeting:** We plan to host the Annual Stakeholders' meeting in-person at The Stampede on November 17, 2021, at 11-12:30pm and hope to have it recorded to share with stakeholders that cannot attend.
- **Stakeholders' Special Notification:** The Havana BID posted notices on the home page at www.OnHavanaStreet.com and sent out regular email updates as needed to keep the business owners informed. We have updated our email distribution lists to allow us to send out communication to specific groups of business owners and citizen supporters; for example, contacting just the restaurant owners, or car dealerships.
- **Consumer Marketing Newsletter:** We published a monthly consumer marketing "Life On Havana Street" E-Newsletter with 4,500+ newsletters being sent out monthly.
- **Regular In-Store visits & social media/website promotions:** Executive Director made regular in-store visits safely to the businesses in the District. We also actively engaged the businesses in attending virtual events, workshops, public meetings, outreach campaigns, and we promoted businesses on social media platforms/website. In addition to actively engaging the stakeholders in community and BID events, we listened to their comments and concerns and hosted multiple listening events with local, state, and federal leaders for assistance in the Covid-19 recovery.
- **Business Watch:** The District sent out regular e-mail Business Watch Alerts to stakeholders as needed. We followed crime stats on the Lexis Nexis Community Crime Map and notified businesses as needed about issues. The crime stats are also shared at every 3rd Thursday Board meeting. We worked with our Aurora Police PAR, Police Area Representatives, officers to distribute shoplifting and auto theft prevention flyers/posters to all our retail businesses. We worked with Aurora Police to develop a Trespassing Ordinance Packet which includes sample signage wording, sample letter of consent to have on file with police, and a sample parking tag for the commercial property owners.
- **Website & Social Media Marketing:** We regularly updated the On Havana Street website with stakeholder and District events, COVID-19 related updates and resources, blog posts, press coverage, photos, new business directory listings, and available properties. We actively engaged and posted daily on Instagram and Facebook. Plus, we created lives, highlights, and story highlights to feature the activities in the District. We updated our YouTube, Google, Instagram and Facebook profiles for marketing and events. We continued to utilize our "responsive" smart-phone friendly website and newsletter. We worked closely with Webolutions to continue the on-going maintenance, updates and effectiveness of our responsive website and newsletter. Both the website and newsletter have been well received. Due to Covid-19, we attended monthly strategy sessions with Webolutions via Zoom. Webolutions assisted in Covid-19 updates, content, and blogs. We created additional business resource drop down tabs on our website for easy accessibility, created a contact page regarding Covid-19 questions, designed pop-up banners to alert visitors about Covid-19 updates, Jobs On Havana Street and business promotions, hours and open for business marketing.

Website Report - Year Span: October 1, 2020 – September 30, 2021 - Site Visits: In 2020: Due to the COVID-19 updates, consistently posting blogs, Covid-19 updates and resources and updating and events pages weekly. We saw an increase in traffic to the website despite not being allowed to host any in-person events that year. In 2020: Site visits were up 20.89% over the previous year with 64,225 sessions in 2020 vs 56,630 sessions in 2019. 22% of the traffic were new users. **In 2021: Site visits were up 1.18% over previous year with 63,783 sessions. Overall users up 4.16% with an increase of 3.51% in new users.**



Top Channels

Oct 1, 2020 - Sep 30, 2021



Channel Contribution: Organic searches drove majority of site traffic at 71.8% of all traffic. While driving the majority of traffic, organic traffic was down 6.79% from previous year. Direct traffic drove 19.17% of site traffic and was up 8.60% over the previous year. Other traffic from 9News/KUSA was up 948% over the previous year and drove 2,444 sessions on the website. However, this was still less than 3% of total site traffic. Social media traffic (non-paid) was 2.47% of site traffic and up 6.63% over the previous year.

Behavior Observations: Most of the website traffic entered, like last year, entered the website via the Business Directory. This means that more users are directly going to the business directly listing to find information on a business – more than 20,000 sessions were started on business directly page versus 13,000 sessions that started on the Home Page. Most business direct traffic originating from Organic Search, which is understandable given the large percent of site traffic from Organic Search. Of the 24,000-starting session on Business Directly, 68.40% of those sessions came from Google Organic Search.

Top Pages included: The Homepage, Havana Motor Mile page, the Business Directory, D’Lux Nail Spa profile page, the Events Page, Red Carpet Car Wash profile page, the Aurora Restaurants directory page, 17 Things to Do in Aurora, About Us, and Covid-19 Resources Page. **Newsletter:** In the past year, list size has grown 3.84% to 4,574. **This Year in 2021:** The Open Rate was 20%, with a Click Rate of 32% (total clicks divided by total opens) and a Click-Through Rate: 6% (total clicks divided by total emails delivered). **In 2020: Previous Year Stats:** The Open Rate was 19%, with a Click Rate of 34% (total clicks divided by total opens), and the Click-Through Rate: 7% (total clicks divided by total emails delivered). The newsletter is still seeing lower than previous year click rates as there are fewer events to promote. Our highest performing eNews was July 2021 (20 open rate/9% click through rate), largely due to fact there were two giveaways being promoted and the promotion of the in-person concert at The Stampede. Open rates are still within normal industry ranges but click through rates are slightly lower. For example, the industry average is about 15 to 25% for Open Rates and an industry average of a 7% Click Through Rate.

Social Media visits were down 26.35%, which contributed 2.84% of traffic to the website. However, we mostly ran organic social media posts this past year, versus paid or boosted ads in previous years for the many community events. As a result, this provided us less reach due to social media algorithms. **Social Media - Instagram Page continues to engage the community and businesses:** In April 2018, we created an @OnHavanaStreet Instagram profile featuring pictures of events and happenings in the District to show stakeholders, residents and potential developers and businesses looking to relocate to the District. We have also created trending hashtags like #OnHavanaStreet, #OnHavanaStreet2go, #EatOnHavanaStreet, #HavanaMotorMile, #LiveOnHavanaStreet, #ShopOnHavanaStreet to create social media buzz and trending hashtags to increase followers and likes. **Partnerships with Food & Lifestyle Bloggers & Micro-Influencers:** We utilized partnerships and launched the #OnHavanaStreet2go campaign to showcase the restaurants Covid-19 options for takeout, delivery and pick up options.

We do our best to post daily and actively posted Instagram Stories, Reels, Highlights, and videos of events, promotions of businesses and featured businesses on our page. We actively share our businesses posts and bloggers that promote our District. In September 2018, we had 555 followers and 281 posts on our Instagram profile. As of October 2021, we have 2423 followers (2020:1654 followers), 2552 posts (1793) posts, 100+ stories on events, shopping, Havana Motor Mile, food, public art, Covid-19 updates, and resources on our Instagram profile. Through our Instagram page we have established relationships with over 300 auto, food and lifestyle bloggers that often share, promote, and highlight our businesses and have reached 72% more accounts this year.

- **Keeping up with the Issues:** The Executive Director attended city council study sessions, regular city council meetings, City of Aurora policy committee meetings like the Planning and Economic Development (PED) committee meetings, Housing, Neighborhood Services, & Redevelopment meetings, Housing Task Force meetings, Zoning, Coding, Budget meetings, Management & Finance committee meetings, planning commission hearings and Aurora Chamber of Commerce, Arapahoe County, Community Enterprise Development Services (CEDs), Webolutions Executive Business Roundtable, Women in Executive Leadership Roundtable, Aurora & South Metro Small Business Development Center events to stay on top of the issues that may affect/impact the BID’s businesses and small businesses in general in Aurora. The Executive Director attended other BID and urban renewal training sessions offered by Downtown Colorado, Inc. to strengthen our Districts relationships with other special districts.
- **Annual Audit:** We contracted to have a Government Audit completed in April. The audit is shared with the stakeholders and confirms that the District is a good steward of their tax dollars.
- **Code Complaint Resolution:** The Executive Director worked with code enforcement officers, city, state and CDOT representatives, the Aurora Police Department, property hired security officers, and business owners to address and resolve code complaints. The District worked with business owners to resolve code complaints, avoid code violations and expensive fines on the business owners and help to keep the corridor looking its best.
- **Homeless Outreach & Support:** See above to **Business Watch Issues**

- **Welcome Committee:** The District and board members contacted new business owners, welcomed them to the District, explained the BID's responsibilities and offerings, arranged grand opening celebrations, submitted information & marketing to local media/social media. We added the new business and stakeholder to the newsletter distributions, created a business directory profile, updated the BID's database of properties, and added their contact information to our communications. In addition, we added their business to our social media platforms and followed/liked their profile pages to be informed about future business activities and promotions. We also work to closely with the new businesses and share our resources regarding our business watch information and help to provide any other resources they may need in their new home On Havana Street.
- **Community Events:** The District hosted hybrid events and co-hosted or support existing stakeholder events in the corridor and community. Many of the events were scheduled and marketed to attract shoppers, visitors, business owners and neighbors together, like the Business Round Tables, Lunch Networking at On Havana Street businesses, Equity vaccine clinics, workforce/hiring events, Last Days of Summer Concert with Dotsero at The Stampede, Boba & Business, and the Trick or Treat Events in the District. Due to Covid-19 precautions the District did host many Covid-19 outreach virtual events, workshops, and public meetings. The District also hosted outreach calls with the businesses and leaders in the community. During the Covid-19 challenges, Governor Polis and former Governor Hickenlooper did host smaller in-person small business round tables in March and August, which allowed businesses to networking and collaborate with one another with recovery efforts.

2021 Other Economic Development Services:

- **Business Directory:** We updated our business directory photos, contacts, and details on our new responsive website. Webolutions, our marketing partner, continued to do key-word optimization on each of the business directory listings to increase the Google search engine rankings for each individual BID stakeholder business. This business directory gets the most traffic on our website, followed by the upcoming events page.
- **Available Properties Listing:** We continued to revise and update the list of available commercial properties for sale/lease in the Havana corridor on our website to attract and assist future business owners, investors, and developers. This has been a very popular service that generates new business leads and this link is the top 8 most viewed page on our website.
- **Vacancy Rate Survey:** We complete a survey of retail vacancy rates in the Havana corridor every October in preparation for the annual meeting in November. Our first 2008 vacancy rate was 8.6% and over the past decade has decreased. Retail vacancy rate in October 2012 was 6.7%, October 2013 was 2.8%, October 2014 was 2.3%, October 2015 was 4.2%, October 2016 was 4.7%, October 2017 was 2.5%, October 2018 was 2%, October 2019 was 3%, October 2020 was 6% and **October 2021 was 5%. In 2021, we celebrated the 95% occupancy On Havana Street with not many leases available at over 25 shopping centers.** Due to Covid-19 challenges, we expected to see an increase in vacancy rates due to the challenges and business closures expected in the 4th quarter of 2020. However, the District has seen business closures and new tenants move in a month to two weeks later. Despite the pandemic's hardships new businesses still desire to relocate and open in our corridor. In late 2021 and 2022, we expect more redevelopment of properties and vacant parcels.
- **View Available Properties Page:** We have updated our resource page "View Available Property List" <https://onhavanastreet.com/aurora-colorado-available-properties/>. Our Available Properties page on our website is one of the most visited pages and updated annually in October. The District works closely with the City of Aurora Retail Specialist, local Chambers and the Aurora Economic Development Council for referrals and establish interest in the BID corridor. Havana is a very desirable area and in the top 5 producing areas for City of Aurora sales tax generation and revenue. During Covid-19, the District received many inquiries from commercial brokers, interested prospective property owners and many businesses looking to relocate to our district. Businesses inquired looking for space for restaurants, event centers, international bakeries, Korean spas, and specifically looking for properties and leases that allowed for drive-thrus, walk-ups, patio, and outdoor seating options.
- **Kimco's Village on the Park** at the Parker & Havana intersection saw a huge transformation this year with facade renovations, new tenants, including Sharetea Aurora, Miyamoto Dental, and BB.Q Best of Best Quality - Korean Fried Chicken – Coming Soon. This \$14.5 million redevelopment project is completed and 87% leased with the new retail space. There are other prospective leases to be announced in 2022, but currently has 6 leases available out of the 35 leases ranging from 1130 SQ FT to 7250 SQ FT.
- **AmCap's Gardens On Havana** – Gardens is 93% leased with 5 leases available ranging from 1300 SF FT to 23,649 SF FT with two pads available for development. Half of the Toys 'R US vacancy from Spring 2018 is now a Ross Dress for Less with another prospective retailer occupying the other half of the vacancy. The AFC Urgent Care is in construction at one of the parcels near Key Bank.
- **Development and Business Assistance:** The District regularly worked with existing business owners and developers by connecting them to resources and contacts in the city about development plans, tenant finish, new

business plans, expansions, and code complaint issues. We hosted calls and driving tours of the corridor to share “What’s Happening or Coming Soon to On Havana Street.”

- **Business Attraction:** The District worked with prospective business owners interested in opening a business On Havana Street and offered any assistance from the BID that would help in that process. We are also in the process of updating our website attract various audiences to explore, experience, eat, visit, and live On Havana Street. Our goal is to showcase the life, culture, and lifestyle on the corridor to attract businesses, shoppers, and residents.
- **New Businesses:** We saw about 60+ new and remodeled businesses making major investments in 2021. With a very low retail vacancy rate we are running out of retail space. The Havana BID has been very busy working with business owners and prospective buyers to provide details about the Havana BID activities, Havana District statistics, and available property details, being the liaison between businesses and the city staff and development services.

Here are some of the new businesses that have opened in the last year, have completed major remodels, or are currently under construction along Havana:

1. [Kum & Go at Havana & Jewel](#) - Coming Soon (5620 SF FT Kum & Go Building, 6 pump gas station, 24 parking stalls and a marketplace) proposed for the 4 acres on the NW corner of East Jewell & South Havana, 1801 S Havana Street
2. Grand Opening – 10/23/2021 - [Mochinut](#) – Mochi Donut Shop Opening at the Havana Plaza next to Coffee Story
3. Coming Soon - [Tous Les Jours Bakery](#) & BBQ Chicken – Korean/French Bakery & Flagship location at the Havana Exchange Shopping Center (former [Uncle Joe's Hong Kong Style Bistro](#) space & former Carquest building)
4. Coming Soon - [Cobblestone Auto Spa](#) – Property Under Redevelopment (former Autawash/Autalube)
5. Coming Soon – [AFC Urgent Care](#) at The Gardens on Havana
6. Coming Soon – TBA Development at the empty parcel at Havana & Jewel – Property Sold
7. Coming Soon – TBA Development (former Village Inn near Mississippi/Havana)
8. Coming Soon – [The Better Mattress](#) (part of the Denver Lyft lease with Shortline Automotive)
9. Coming Soon – [Miyamoto Family Dental](#) at The Village on the Park
10. Coming Soon – [BB.Q Chicken](#) – [Best of the Best Quality](#) – Korean Fried Chicken – Village on the Park – South Korean Franchise near Sharetea, Five Below & Old Navy
11. Coming Soon – TBA Vietnamese Restaurant next to BB.Q at The Village on the Park
12. Coming Soon – TBA NEW Restaurant (former Hungry Wolf BBQ/Thai Basil building & property)
13. Coming Soon - [Shinee Blinds Showroom](#) – Havana Square
14. Coming Soon - [Stevinson Toyota](#) – Redevelopment & NEW Facility
15. Coming Soon - [High Tech Auto Sales](#) – NEW dealership for the Havana Motor Mile April 2021(former [Broadview Kennels](#) Closed – March 2020 – Purchased by auto dealership & redevelopment)
16. Coming Soon – Aurora Nails in the Havana Exchange Shopping Center near to TLJ Bakery & BBQ Chicken
17. [FSL Motors](#) (former Massa Auto Pawn)
18. [Rocket Fizz Candy & Soda Pop Store](#) at The Gardens on Havana – 12/2020
19. [Farmers Insurance – Nancy Earl Grubb](#) near Nana’s African Market
20. [Kum & Go](#) - STORE NO. 2312 at 2700 S Havana St – former Salvage Restaurant. The Soft Opening was on January 28th, 2021, and the GRAND OPENING was on February 1, 2021. This 5,600 SF convenience store has an 8-pump fueling station.
21. [Schomp Ford](#) – February 2021 (former Mike Naughton Ford), [Mid-2022 redevelopment & NEW Facility Coming Soon](#)
22. [Foggy Nutrition](#) – Grand Opening March 28, 2021 (former Iliff Lounge – Permanently Closed September 2020)
23. [Golden Luxe Salon](#) on April 6, 2021 (former [Juno Hair](#) Closed August 2020 – Relocation to another country & Family Responsibilities, not Covid-19 related)
24. [Old Town Hot Pot](#) – May 2021 (Mr. Super Panda Buffet – Closed & the same ownership remodeled and rebranded to an AYCE – HOT POT Restaurant)
25. [Coffee Story](#) – June 2021, Korean owned Coffee Shop with NEW Outdoor Patio addition (former Denver E-cig)
26. [Mazal Motors](#) – July 2021 – Property Sold in April 2021 (former Mark Vissering State Farm Insurance, relocated his business to Denver after over 30 years On Havana

- Street & Sold the Property to David and Daniel Shamaev)
27. [Schomp Mazda - 90 N Havana St.](#) [demolition](#) of two buildings and construction of a two-story, approximately 48,000 square foot facility and the addition of 8,000 square feet to an existing building. Schomp Mazda has relocated to across the street of Schomp Subaru on the Denver side of Havana Street at 505 S Havana St, Denver, CO 80247.
 28. The Used Tire Store - Property and Business Sold – August 2021, new ownership under Mile High Wheels
 29. [Chutney Restaurant](#) (India & Nepal Cuisines) – new management/ownership Summer of 2021
 30. [Piramides Mexican Restaurant](#) – opened in late September 2021 – Molcajete closed and the new ownership renovated the and updates the space
 31. [Haja African Hair Braiding](#) – October 2021 at the Market Square/King Soopers Shopping Center
 32. [Shinee Blinds Showroom](#) – Winter 2021 at the Market Square/King Soopers Shopping Center
 33. NEW SIGN - [LaMar's Donuts](#) at the [Iliff Pointe Shopping Center](#)
 34. NEW SIGN – [Sahara Hookah Lounge](#) at the Iliff Pointe Shopping Center
 35. NEW SIGN - [Hopeful Hound/](#) Colorado Puppy Rescue (former Exotic Bird Emporium)
 36. NEW Monument Sign – Iliff Pointe Shopping Center
 37. [Ross Dress for Less](#) – Gardens on Havana – July 2021(half of the former Toys R US)
 38. [Sharetea Aurora](#) – Village on the Park – July 2021
 39. New Property Owner - U-Haul Neighborhood Dealer – Agency Vacuum Repair - [Agency Vacuums & TV's](#)
 40. [Comfort Dental - South Havana](#)
 41. [Heirlooms Antique Mall](#) – temporarily closed due to a fire, reopened after remodel, 65 unique vendors
 42. [Kohl's + SEPHORA](#) – Gardens on Havana – August 2021 – rebranding and add on of Sephora to Kohl's
 43. [Whispers On Havana](#) – added a NEW Outdoor Patio
 44. [JP Hair Style](#) – Havana Plaza Shopping Center
 45. [Mile High Wheels](#) on South Havana next to Havana Plaza (former The Used Tire Store)
 - Property and Business Sold – August 2021, new ownership
 46. [NEW Monument Sign](#) – Havana Plaza Shopping Center
 47. [J Beauty Salon](#) – Birchtree Shopping Center
 48. [Colorado Korean Restaurant Association](#) – Birchtree Shopping Center
 49. [Snowl Cafe](#) made dining room improvements and added ordering kiosks during limited dine-in restrictions
 50. Ulta Beauty at Target – Gardens on Havana
 51. [Jordan Motors](#) – upgrades to landscaping
 52. [Safeway Gas Station](#) – remodel
 53. [Tynan's Nissan](#) - re-pavement improvements of parking lots
 54. [Tynan's Volkswagen](#) – re-pavement improvements of parking lots
 55. [Village on the Park](#) – repaved the parking lots, added new monument markers, benches & Curbside Designated Parking including On Havana Street district markers
 56. [Stinker Stores Bradley Gas Station](#) – Remodel Complete Early 2021
 57. Havana Tower – remodel, paint, and new carpets
 58. Havana Plaza Shopping Center Improvements and Remodel – new façade, storefront signage, and monument sign updates
 59. Havana Square Shopping Center Parking lot pavement improvements
 60. Havana Professional Center – landscaping and parking lot updates
 61. [Costco](#) – added new cashier stations, new walk-in cooler, and more safety improvements due to Covid-19
 62. [Dr. Kylie Castans Optometry LLC](#) (inside Costco) – NEW optometrists: Dr. Kylie Castans, Dr. Brett-Ashley Palmer, & Dr. Taylor Battaglia
 63. Small Cell Improvements for Street Lights on Havana Street – The City of Aurora received some applications for Small Cell facilities adjacent to the Gardens on Havana On Havana Street. The small cell pole will be within the City Right-of-Way (roughly 30-35' tall – typical streetlights along S. Havana St are 40' currently) and outside of any business properties.
 64. RTD and the City of Aurora replaced and repaired bus stop benches along the corridor
 65. Dillon Place's Argenta: Phase 1 - 3.6 acres for 86 townhomes construction is in progress. Argenta is a phased master plan for 10.55 acres new mixed-use

development consisting of 86 townhomes,
208 multi-family & 20,000 SF of small-scale

retail.

Business Closures

1. Mike Naughton Ford – Closed after 43 years on the Havana Motor Mile & Sold February 2021 to [Schomp Automotive, now Schomp Ford](#)
2. Broadview Kennels Closed - March 2021 - Purchased by auto dealership - [High Tech Auto Sales](#) - NEW dealership for the Havana Motor Mile April 2021
3. Mr. Panda Super Buffet - Closed & the same ownership remodeled and rebranded to an [Old Town Hot Pot](#) - May 2021 Grand Opening - AYCE - HOT POT Restaurant
4. Mark Vissering State Farm Insurance (relocated his business to Denver April 2021) – Closed & Sold the Property to [Mazal Motors](#) - redevelopment Coming Soon!
5. Autawash/Autalube closed May 26, 2021 - Purchased by [Cobblestone Auto Spa](#) - redevelopment Coming Soon!
6. American - Hungry Wolf BBQ - Oklahoma Style BBQ with Live Music - Opened August 2020, Temporarily Closed in June 2021, and officially closed in July 2021, and the property was purchased with a new owner. NEW Korean Restaurant Business Coming Soon!
7. Molcajete Mexican Restaurant – Sold & Closed in August 2021, now [Piramides](#) (same owner as Las Hadas Mexican Restaurant which closed during the pandemic)
8. Havana Pharmacy (HP Compounding Pharmacy and Medical Supply) - Closed late September 2021 due to Covid-19 challenges, lease is now available

Temporary Business Closures in 2021

1. [Bettola Bistro](#) – temporarily closed, patrons can order a limited menu of Bettola's entrees at Cody's Bar & Café or host private parties at Bettola Bistro by request only (same ownership as Cody's Café & Bar)
2. [Shin Myung Gwan Korean BBQ](#) – temporarily closed, then reopened in May 2021 due to COVID-19 challenges
3. [Chutney Restaurant](#) (India & Nepal Cuisines) – temporarily closed and reopened with new management/ownership in the Summer 2021.
4. [Heirlooms Antique Mall](#) – the two-story antique mall with over 65 vendors temporarily closed due to a fire in July 2021 and reopened in August 2021

MARKETING/MONTHLY EVENTS: In 2021, the Havana BID budgeted \$124,000 of its annual budget hosting and marketing monthly events to put feet on the street and attract shoppers and customers to our businesses, bringing thousands of people to the Havana District to shop, dine and have fun. However due to Covid-19 the District hosted many virtual and hybrid events. The District continued to pivot in 2021 and hosted virtual/hybrid small gathering events, supported other stakeholder events, actively advertised businesses on social media and through our print/digital ad contracts, and promoted giveaways online showcasing the stakeholders in the district.

Overview of 2021's activities and events:

- [Creating a Buzz with Business Ideas with DCI](#): January 19, 2021, at 4:30p-6:30pm
- Public Meeting: January 19, 2021 at 6:30pm-8:30pm, [Mountain View United Church's vision for its property at 10810 E. Evans Ave. in Aurora](#), Learn More about the 10 duplex cul-de-sac style development [here](#) (20 homes)
- [Rock It Sock It Socks & Hygiene Kit Drive](#): January 4, 2021 - February 27, 2021 – [over 10 drop off locations in corridor](#)
- ¡Quiero ser Emprendedor(a)! – “I want to be an Entrepreneur!” Workshop By ASM SBDC: 1/26 at 9-11am in Spanish
- [SBDC Lunch & Learn: Federal Economic Aid Act](#) Workshop by ASM SBDC: 1/26 at 12-1pm
- [SBDC Lunch & Learn: Federal Economic Aid Act](#) Workshop by ASM SBDC: 1/29 at 12-1pm
- [Arts + Business Connection](#) – Presenting about the ART2C program – February 2nd, 2021 at 8am
- [Coffee with the SBDC: Federal Economic Aid Act](#) Workshop by ASM SBDC: 2/3 at 8:30am-9:30am
- [Fired Up: I Want to Start a Business!](#) Workshop by ASM SBDC: 2/9 at 6pm-8pm
- [SBDC Lunch & Learn: Federal Economic Aid Act](#) Workshop by ASM SBDC: 2/10 at 12-1pm
- [Havana Street Multi Modal Study – Havana BID Stakeholder Meeting](#) – 2/11 at 2-3:30pm, Requesting Feedback on Improvements to the Corridor
- [Havana Street Multi Modal Study – Public Meeting – 2/17 at 6-8:30pm](#)
- [Does Your Marketing Need to Pivot?](#) Workshop by ASM SBDC: 2/24 at 6-8:30pm
- [Fired Up: I Want to Start a Business!](#) Workshop by ASM SBDC: 2/26 at 9-11am
- Lunar New Year - [Asian Avenue Lunar New Year Box](#) features our Seoul Korean BBQ & Hot Pot restaurant

- Feb. 2021 – \$500 GIVEAWAY – Win Date Nights On Havana Street – Details [here](#) – about 300 entries & the winner was Nicole B.
- 2/27 & 3/27 Covid-19 Vaccination Clinic at The Stampede – We worked with 20+ partners to organize a vaccination clinic On Havana Street at the Stampede for 400 patients with the BAB, City Council, & Colorado Alliance for Health Equity and Practice (CAHEP) + connecting other partners to host clinics at the Stampede throughout the spring and summer months. [Colorado Alliance for Health Equity and Practice](#) FMC-CAHEP is a community clinic that was founded in 2004. CAHEP's helps to reduce health disparities in the refugee, immigrant, under-insured and under-served population in Colorado.
- [Funding Options: If Lenders Say NO, What's Next?](#) Workshop by ASM SBDC: March 4 at 9-11:30am
- [Fired Up: I Want to Start a Business!](#) Workshop by ASM SBDC: 3/4 at 6pm-8pm
- March 31, 2021 – Asian Eats To-Go On Havana Street – More details [Here](#)
- [Fired Up: I Want to Start a Business!](#) Workshop by ASM SBDC: April 6th at 6-8pm
- BID continued to be engaged in the Partners in Energy programs and workshops with the City and Xcel Energy – Learn more here: https://www.xcelenergy.com/working_with_us/municipalities/partners_in_energy, Small Business Energy Solutions can help connect businesses to programs. If interested in being a part of the this initiative then please contact: Sarah Martin, Brendle Group, Partners in Energy Community Facilitator, 970-207-0058, Email: smartin@brendlegroup.com
- BID was on 9NEWS Business Brief, Monday on Mile High Mornings with [Ryan Frazier at 9NEWS](#), 3/17 at 9am for a live show and recorded show.
- March 2021 - Celebrate Small Business On Havana Street, BID hosting a \$500 GIVEAWAY, Winner was Ericka M.
- March 31, 2021 – Asian Eats To-Go On Havana Street – \$30 Lunch: Seoul KBBQ & Hot Pot, Yum Yum Cake and Pastries, & Trap Tea More details [Here](#), 62 catering orders and all 3 businesses expressed gratitude for the event and exposure.
- [April 3, 2021 – Equity Vaccine Clinic at The Stampede for 900 patients \(1st Dose Clinic\)](#)
- [April 3, 2021 3-5pm Virtual African Leadership Group Covid-19 Forum](#)
- Giveaway hosted from April 1 to May 1, 2021 to promote the May 5, 2021 to May 12, 2021 Eat On Havana Street Week Please SAVE THE DATES FOR [EAT ON HAVANA STREET & ENTER NOW FOR THE \\$500 Giveaway](#)
- [Fired Up: I Want to Start a Business!](#) Workshop by ASM SBDC: April 6th at 6-8pm
- April 9, 2021 at 9am-10:30am The Chamber's DNI with Diversity & Inclusion Presents: - SBA, Colorado SBDC Network and Aurora-South Metro SBDC Services/HBID
- Monday, April 12, 2021 6-8pm \$40, Cody's Café & Bar Wine Tasting & Education - [Hue's Your Daddy – Rosé All Day – 4/12](#)
- April 17, 2021 10-6pm, [African Leadership Group Covid-19 Vaccine Clinic](#) – Learn More at <https://usalg.org/covid-clinic/>
- April 20, 2021 at 10am - [EV Planning Workshop 4 - EV Charging Infrastructure](#)
- April 28, 2021 11:30-12:30pm Asian Eats To Go – Round 2 – Event Details in progress with Asian Avenue Magazine, \$30 lunch supports 4 OHS businesses
- April 29, 2021 11:30-12:30am MT, [Xcel Energy's Partners in Energy - Electric Vehicle Planning](#) Workshop
- May 1, 2021 – [Equity Vaccine Clinic at The Stampede for 900 patients \(2nd Dose Clinic\)](#)
- May 5, 2021 to May 12, 2021 - Eat On Havana Street Week – We featured our 100+ restaurants and hosting social media ads with the Visit Aurora Community Funds. We have a Cover Story with Living Well in Lowry, Ads in multiple print media, 3–5-page stories and business features in Asian Avenue Magazine and on-going giveaways and social media highlights. Giveaway winner was Kevin E.
- [Modern Eater with Asian & Aurora Chamber On Havana Street Featuring Seoul Korean BBQ & Hot Pot](#)
- 4/28/2021 - 11:30am-12:30pm, \$30 lunch, [Asian Eats To Go – April 28, 2021 – Successful Event with over 80 Lunch Orders](#)
- [5/1 Covid-19 Vaccination Clinic at The Stampede](#) – We worked with 20+ partners to organize a vaccination clinic On Havana Street at the Stampede for 900 patients with the BAB, City Council, & Colorado Alliance for Health Equity and Practice (CAHEP) + connecting other partners to host clinics at the Stampede throughout the spring and summer months. [Colorado Alliance for Health Equity and Practice](#) FMC-CAHEP is a community clinic that was founded in 2004. CAHEP's helps to reduce health disparities in the refugee, immigrant, under-insured and under-served population in Colorado.
- BID continued to be engaged in the Partners in Energy programs and workshops with the City and Xcel Energy – Learn more here: https://www.xcelenergy.com/working_with_us/municipalities/partners_in_energy, Small Business Energy Solutions can help connect businesses to programs. If interested in being a part of the this initiative then please contact: Sarah Martin, Brendle Group, Partners in Energy Community Facilitator, 970-207-0058, Email: smartin@brendlegroup.com
- 5/5, 5/7 & 5/12: The BID board and stakeholders hosted small group networking events at Sam's No 3, El TEQUILEÑO and Shin Myung Gwan Korean Restaurant. The BID hopes to host more.
- May 1, 2021 – [Equity Vaccine Clinic at The Stampede for 900 patients \(2nd Dose Clinic\)](#) – successful clinic and completed our largest equity clinic On Havana Street.
- 5/10/2021 – The BID coordinated and distributed pallets of AMAZON donated PPE at the Second Chance Center to over 20 organizations. Amazon generously delivered 120,000 masks, 48,000 gloves, and 540 sanitizer bottles.
- 5/14/2021: [Town Hall with SBA hosted by the African Chamber of Commerce](#)
- 5/17 Bird Scooter Public Meeting at 12pm and 5:30pm – Learn More [Here](#)
- 5/29, 11:30-1:30pm: AAPI Empowerment Workshop (18-30), AAPI MONTH, sponsored by Asian Avenue, Aurora Asian Pacific Community Partnership, The Colorado Health Foundation (providing \$500 gift cards to attendees from

On Havana Street restaurant.

- [Modern Eater with Asian & Aurora Chamber On Havana Street Featuring Seoul Korean BBQ & Hot Pot](#)
- 4/28/2021 - 11:30am-12:30pm, \$30 lunch, [Asian Eats To Go – April 28, 2021](#) – Successful Event with over 80 Lunch Orders
- [5/1 Covid-19 Vaccination Clinic at The Stampede](#) – We worked with 20+ partners to organize a vaccination clinic On Havana Street at the Stampede for 900 patients with the BAB, City Council, & Colorado Alliance for Health Equity and Practice (CAHEP) + connecting other partners to host clinics at the Stampede throughout the spring and summer months. [Colorado Alliance for Health Equity and Practice](#) FMC-CAHEP is a community clinic that was founded in 2004. CAHEP's helps to reduce health disparities in the refugee, immigrant, under-insured and under-served population in Colorado.
- May 5, 2021 to May 12, 2021, Eat On Havana Street Week, hosted BID Board lunches at El TEQUILEÑO & Sam's No 3, hosted Media and Micro-influencers giveaways and lunches and featured our 100+ restaurants and hosting social media ads with the Visit Aurora Community Funds.
- June 1, 2021 - July 31, 2021, \$500 Summer Giveaway Winner was Andrea L. (did not want photo shared)
- July 2021 - \$500 Frozen Treats Giveaway - [Last Day to Enter 7/15 – Congrats to Lawrence R.!](#)
- July 5th to 31st, 2021 - Larry H. Miller Dealerships Pack a Backpack – Learn More [Here](#)
- Monday, July 19th, 2021 - Friday, August 20th, 2021, 2021 School Supply Drive at Bella Vita Senior Living, Learn More [Here](#)
- Thursday, July 22, 2021, 8pm, \$25, [Live Music – DENVER BACHATA FESTIVAL](#)
- Saturday, July 24, 2021 11-9:30am, [Sharetea Grand Opening – BOGO Deal Available](#)
- Sunday, July 25, 2021 4-8pm, FREE, [CELEBRATING ALA MUJER 2021](#), 2021 Women's Appreciation Awards, at The Stampede, Event by [Viva Colorado](#) & [Latin Fashion Week Colorado](#)
- Friday, July 30, 2021 3pm MST, FREE, [Hispanic Roundtable Discussion & Meet and Greet with Senator Rick Scott \(FL\)](#)
- PPP Forgiveness Q&A with a CPA - On Demand on demand until 9/30, [Topic: Disaster Mitigation, Online Facilitated by Aurora-South Metro SBDC](#)
- Tuesday, August 3, 2021, 6-8pm, FREE, Aurora South Metro SBDC - [Fired Up: I Want to Start a Business!](#)
- Thursday, August 5, 2021, 6-7pm, FREE, [COVID-19 Vaccine Community Town Hall](#) with Children's Hospital of Colorado
- [Are You Confused About How to Use Social Media?](#) Thursday, August 5, 2021, 5:00 PM to 7:00 PM, 3 sessions ending Thu, Aug 19, Topic: Marketing and Sales
- Saturday, August 7, 2021, 8:30am, Back to School Bash at Buckley Space Force with GEICO Insurance Agency – John Sanchez
- [August 11, 2021, 6:30pm, Ward IV Meeting, Juan Marcano, Aurora City Council Ward IV - Five Star Residences of Dayton Place](#), Presentation from Aurora Water on the city's water supply, future projections based on growth, and sustainability efforts. Followed by an open Q/A.
- Thursday, August 12, 2021, 5:30-7:30pm, FREE, [APD PAR in the Park – Utah Park](#) – OHS PAR at Utah Park – Meet your local APD PAR and play fun games for all ages.
- Sunday, August 22, 2021, 11-9pm, The Stampede, FREE, [SarCO te invita al 6to Festival Salvadoreño/SarCO invites you to the 6th Salvadoran Festival](#)
- Thursday, August 26, 2021, 8am, Learn More at [www.ColoradoKRA.com](#), [1st Koreatown Aurora Golf Tournament Fundraiser](#)
- Friday, August 27, 2021, 10am, FREE, [Coffee & Donuts Networking at GEICO Insurance Agency](#) – John Sanchez
- Wednesday, September 8, 2021, 6:30pm-8pm, Aurora Central Library, FREE, [Ward III Town Hall – Candidate forum for Ward III and At-Large council seats](#), Learn More [Here](#)
- September 8, 2021, 6:00 PM to 8:00 PM, [Fired Up: I Want to Start a Business!](#), Online Facilitated by Aurora-South Metro SBDC, Topic: Start-up Assistance, Speaker(s): Neil Pollard, SBDC Certified Consultant
- Tuesday, September 28, 2021, 6:30 p.m. - 8:30 p.m., Doors Open at 6 p.m., FREE, [Last Days of Summer Concert – Dotsero at The Stampede](#)
- Wednesday, November 3, 2021, 9:00 AM to 11:00 AM, [Aurora Business Licensing & Sales Tax](#), [Topic: Tax Planning, Online Facilitated by Aurora-South Metro SBDC](#)
- Friday, October 1, 2021, 8 pm, FREE, [Live Music – INSPECTOR, ELEFANTE at The Stampede](#)
- October 1, 2021 - October 29, 2021, FREE, [Fall Giveaway – Enter To Win Today!](#)
- Wednesday, October 13, 2021, 12-2pm, FREE, [10/13 Adoption Days at Schomp Subaru – Visit Puppies on Wednesday's](#)
- Sunday, October 24, 2021, 12-4pm, FREE, [Schomp Subaru Bark A Boo](#)
- Saturday, October 30, 2021, 1-3pm, FREE, [2021 Halloween On Havana Street](#)
- October 2021 – Rocket Fizz Social Media Giveaway with Buckley Space Force
- Wednesday, November 3, 2021, 9 am - 11 am, FREE, [Aurora Business Licensing & Sales Tax](#)
- Wednesday, November 17, 2021, 11 am - 12:30 pm, FREE, [Havana BID – On Havana Street Annual Business Stakeholder Meeting](#) at The Stampede
- **Week of Thanks Giveaway/Breakfast with Santa with Buckley Space Force** - November 2021(Sponsoring the Holiday Giveaway for Thanksgiving and Gift Cards to Share at Breakfast with Santa)
- **12 Days of Reindeer Games On Havana Street with Buckley Space Force** – Featuring On Havana Street businesses and shopping on each day with daily gift card giveaways to promote shopping for the holidays in the District

2021 Establishing a District Identity & Image:

- See the District Identity major projects listed above under the Project Management Section including On Havana Street District Markers, Art 2C On Havana Public Art Exhibition and continue working with the property owners on landscape plans to get compliance with the Havana Street Overlay District.
- Conducted the maintenance and district marker replacements for 2021.
- Worked with new stakeholders to establish new district markers and monument sign improvements.
- Managed the 2020-2022 Art 2C On Havana Street and transitioned new property owners to the BID with existing art pads.
- We continued to work with Webolutions and Fox Media & Marketing to make sure we are staying true to our brand in all the marketing and promotions that we do.
- The BID will be working with the Havana Street Multi-Modal Study regarding future opportunities for improvements and assistance on district identity tools to further the improvement of the corridor
- Continued to actively add photos and marketing on Facebook, Facebook Stories, Instagram posts, Insta-stories and on our website to document the events and grand openings in The District.
- Worked with local newspapers, magazines, TV stations and Colorado bloggers, food bloggers and social media influencers to market the District in a positive light and promote our events.

III. HAVANA BID 2022 OPERATING PLAN

As determined by the board of directors, area property and business owners, the top priorities for improvements and activities continue to include the following programs:

- Program Management/Stakeholder Communication/Governance
- Economic Development & Marketing/Business Consulting & Advocacy
- District Identity & Image/Community Sense & Involvement

Economic development continues to be our primary focus, and the BID board further defined what should be included in each of the above programs (see below).

BID PROGRAMS: The following narrative provides recommendations for BID programs and a description of the BID's plans for 2022, both continuing programs and new programs. The board may amend program activities in subsequent years within the general categories authorized by state law and in the approved annual operating plan and budget. Final programs and budgets will be subject to the annual review and approval of the BID board of directors. **The narrative below lists what we plan to continue in 2022 and what is new for 2022. There is also a 2022 Budget Message that can be reviewed with more details.**

Economic Development:

In 2022, we plan to continue our ongoing efforts to enhance the overall image and marketability of the Havana corridor and to create a favorable business climate to recruit retain and grow businesses and new development. The BID board of directors sets annual priorities for economic development projects.

Project Management/Ratepayer Communication/Governance:

In 2022 the BID plans to continue to:

- Publish monthly consumer marketing newsletter, Life On Havana Street E-Newsletter and to continue to increase the use of social media like Instagram, Facebook, Linked In, Instagram, You Tube, and Twitter even more to market our events. We will improve the features of our website to elevate the business directory and add more features to assist businesses more during the Covid-19 recovery.
- Work with our International business owners and all our small business owners, facilitating getting them in touch with the business resources they need at the City, the office of International Initiatives, the ASBDC and SBA office, etc.
- Work on its ongoing relationships with the City of Aurora, Arapahoe County, CDOT, RTD, Xcel, Comcast and other entities that impact On Havana Street.

- Perform the daily duties required of a Special District in Colorado and continue to coordinate BID efforts and manage its programs.
- Hold monthly virtual BID board meetings and hold an annual stakeholders' meeting in November.
- The Executive Director will continue to make in-store visits to the businesses in the District to keep them informed and listen to their comments and concerns.
- Pursue issues and policies that will positively influence the Havana District, both in the short and long term; the Executive Director will continue to attend policy committee meetings, study sessions and city council meetings.

Project Management/Ratepayer Communication/Governance:

In 2022 the District plans to continue to:

- Gather the email addresses of more of our stakeholders to add to our distribution lists and business watch email list.
- Budget \$10,000 for an emergency snow removal fund.
- Work with the City on a snow ordinance education campaign to inform business owners and property managers about the 24-hour snow removal code. Snow removal is an annual "hot button" issue, especially with businesses who have bus stops/benches in front of their businesses and have changed management/employees since the last time it snowed, so no one in charge knows the details of the ordinance from one year to the next. The BID Executive Director drives Havana Street after a snowfall, looking to see who has not shoveled out by the bus stops that abut their properties, and then educates the manager/staff on the City's snow removal ordinance.
- Make copies of the Downtown Colorado, Inc. new board member training manual, "The Amazing Colorado BID Board Member Manual" for all new board members and host an orientation meeting with new board members.
- Continue to identify and develop new leadership and advocacy opportunities as they arise.

New for 2022— the District plans to:

- Work on a new 5-year strategic plan
- to create new or change existing programs as the need arises throughout the year, using the budgeted board reserves as the board sees fit.
- Work on board training, development, and engagement
- Focus on stakeholder relationship building and include board members in networking relationships/interactions with BID businesses.
- Focus on the Covid-19 recovery for the District businesses.
- Focus on workforce development and support for the District businesses.

Economic Development Services/Business Consulting & Advocacy:

In 2022 the District plans to continue to:

- Concentrate on promoting and marketing the district in a very positive light through various media including TV, radio, social media and print ads, conveying the message that the Havana District is the place to come for your everyday needs, as well as for unique experiences in shopping, dining, living, and more.
- Work with the city's retail specialist, AEDC and developers to work out the optimal retail mix, identify retailer needs and community needs to get new and unique retailers to locate in the Havana District as space becomes available.
- Share store openings and closings, retail sales tax reports, available property info, lease rates and vacancy rates through our newsletters and on our website.
- Continue to concentrate on the District's safety and business watch program—as noted above.
- To update the District's master database to keep an up-to-date listing of all commercial properties and businesses in the Havana corridor.
- Participate in the city's "All 4 Business" efforts, code updates, Aurora Places--new comprehensive plan, referring new and existing business owners to the City of Aurora Business Development Center.
- Engage with the partners for the Havana Multi Modal Study and participate in the discussions regarding the proposed improvement projects.
- Be the liaison between the businesses and the city and to facilitate connecting business owners and the appropriate city staff/services as necessary.
- Host monthly events to put feet on the street and customers in our businesses.
- Develop an annual "snapshot" of The District to present at the Annual Meeting.
- Update the on-line business directory and website to provide the community up-to-date information about the business district and keep the Available Properties list updated.

- Work with the retail marijuana industry in the District and help support the businesses for the overall safety and security of the corridor.
- Continue to work with the Homeless Street Outreach Team, code enforcement, community non-profits, APD and our businesses to attempt to connect persons experiencing homelessness in the District with appropriate services offered in the community. We will also continue to support and co-host the 12th Annual Grocery Cart Races at Safeway with Comitis Crisis Center virtually/in-person as permitted. This event provides the 65,000 meals per year to the homeless with the support of the community and BID businesses. Typically, we support the event by featuring our Safeway and the event on 9NEWS Colorado and Company, purchase the famous grocery cart trophies and host the after party. However, due to Covid-19 we will help promote the virtual event/fundraiser online, support marketing initiatives, and our corridor's businesses will host the donation boxes for food donations.
- Be on the lookout for other opportunities and partnerships that benefit both our businesses and the community.
- Continue the Automotive Technician Tool Incentive Workforce Program and connect the new dealerships to the program opportunity.

New for 2022—We plan to:

- Write and produce new Havana Motor Mile TV commercials promoting auto sales, auto service and auto parts sectors to include the new dealerships.
- Work with the Aurora Urban Renewal Authority, Development Services, the Office of Development Assistance, the development team, business owners and neighbors as we continue with the redevelopment process and site plan review for “Argenta” the former Fan Fare site on the north end of Havana.
- Work with Kimco on the Village on the Park redevelopment plans and assist in attracting new stakeholders to the remaining leases.
- Work with Western Centers on the new businesses coming to Havana Exchange Shopping Center
- Work with AMCAP at the Gardens on Havana on redevelopment plans and attract new businesses to the leases and empty pads for development
- Work with Visit Aurora to strengthen relationships with hotels and partners to encourage more On Havana Street visitors and brand as an entertainment and foodie destination for visitors and business travel.
- Strengthen partnerships, relationships and community networking with Buckley Air Force Base, Anschutz Community-Campus Partnership, The Chamber, local neighborhoods, retirement communities to attract more visitors and residents to explore, shop, eat, live, and experience On Havana Street.
- Think about what we can do to encourage formation of an area-wide transportation plan to connect the Havana District shopping venues with light rail stops, Lowry, Central Park, and the Anschutz Campus, Buckley Space Force, Lockheed Martin, Gaylord of the Rockies especially with the redevelopment of the Fan Fare site.

District Identity & Image/Community Sense & Involvement:

In 2022 the District plans to continue:

- To remain active on weekly and monthly Havana Street Corridor Multi-Modal Study meetings and inform the stakeholders on new developments, proposed improvements and updates regarding the study.
- To attend other special district outreach meetings and conferences to stay involved and informed in what other special districts are implementing to help with businesses and corridor through the Covid-19 recovery
- The “emergency snow removal fund” of \$10,000 to allow for hiring of a contractor to assist with snow removal from problem areas in the District in the event of a big snowstorm.
- To work with the City of Aurora on other emergency snow removal options for the business district in snow emergencies and continue to re-educate businesses about the snow removal ordinance.
- Assisting stakeholders with code enforcement, landscaping improvements and graffiti removal
- To repair district markers as required and add 3 new district markers as permitting allows.
- To engage the neighbors/residents through monthly virtual events/communications and by having the BID's executive director continue to attend town meetings, keeping the neighbors informed about what is happening On Havana Street.
- Re-design and create a more responsive website with Webolutions to support businesses through the Covid-19 recovery. We will add features and make the business directory more interactive. Example of features: Covid-19 Process & Procedures, Online Reservations links, Social Media links, Updated Hours/Seasonal Hours, Searchable options for Takeout, Delivery, Dine-In Services, Drive-Thru, Pet Friendly, Live Music, Patio/Outdoor Seating, and more.
- Establish more inclusive communications and marketing to the diverse businesses in the corridor.
- Explore translating features and applications for our website, blogs, webpages, and content shared with the community.
- Continue to host virtual events, Covid-19 resource webinars and workforce solution programming to engage the community and bring people into the District.

- To grow the Art2C program and add another site location and sculpture at Sam's No 3 or other interested stakeholders
- To reserve funds to host the biennial Art 2C on Havana Gala in 2024-2026 to celebrate the ongoing revitalization of the Havana District, acknowledging our use of public art as an economic development tool.
- To encourage our stakeholder businesses to notify the Executive Director when the business is having a special open house, event, sale, or customer appreciation event so we can list those in our newsletter and website.
- Regular Business Watch & "graffiti sweeps" of the District, looking for and reporting graffiti to get it removed a.s.a.p.
- The Executive Director will continue to grow the district image, community sense and BID engagement.

New in 2022 —we plan to:

- Focus majority of our efforts to Covid-19 recovery and advocacy. The BID will pivot from hosting community concerts and events to hosting programming and outreach resources for the stakeholders. The District hopes to host trainings, workforce initiative programming and support businesses through collaboration with local and national partners.
- Co-host workshops, programming, and trainings related to the Covid-19 Recovery Efforts Example: Business Liabilities, Lease Negotiations, Job Sharing Programs, Managing Payroll Through Covid-19, Outdoor Patio Expansions, Covid-19 Safety Resources and more.
- Continue to work with stakeholders interested in adding a new District logo panel marker on their business signage.
- Continue to work with Argenta – Dillon Place to get a new District logo panel marker on the signage of the new development and public art sculpture on the north end of the corridor.
- Continue to work on maintenance of existing district markers and replace the originals that are damaged and in need of repairs
- Continue to work on our district identity and explore canvas wrapping electrical boxes throughout the corridor
- Continue to work and collaborate on improvements regarding the Havana Street Corridor Multimodal Study
- Explore opportunities for public art murals, Windows of Inspirations, and other public art installations that enhance the area.
- Explore Covid-19 safety enhancements for the corridor. Example: Safe outdoor patio seating areas in shopping centers or Public Hand-Washing stations or street decals for social distancing at busy foot traffic areas in the corridor for festivals
- Explore other District Identity improvements to the corridor like proposed in the Havana Multi Modal Study.
- Explore posting diverse signage in the corridor or at various shopping centers with diverse tenants regarding Covid-19 updates and safety measures.
- Explore canvas wrapping the electrical boxes throughout the corridor.
- Work to build a sense of community by distributing information about of our new Street Outreach Program Team to business owners and neighbors so anyone can call the team when they see a homeless/unhoused person looking for assistance to get the person help and transport up to services (if they agree to being helped).

Maintenance Capital Improvements: With stakeholder approval via a formal vote, the BID can issue bonds to pay for capital improvements if the board chooses to do so. BID funds and reserves can be used to match and leverage funds and other resources. No bonding is planned at this time.

There are several ways in which the District and its operations and programs can be managed and staffed, including hiring staff, and/or contracting with a marketing and/or other professional(s) to carry out BID programs.

- **2022 plans are summarized above and in the Budget Message**
- The Executive Director takes on the responsibilities and can hire a consultant or event laborers for special projects, as needed and up to \$18,250.
- The BID board formed subcommittees to engage and support the ED with the events, marketing, and budgets.

V. BID BUDGET

*The District received the preliminary assessed valuation for the current year from the county assessor on August 25, 2021 but due to COVID-19 and related Executive Orders the final assessed valuation will not be received until after the City of Aurora's Management and Finance meeting on 9/28/2021 and the October/November 2021 Study Session and City Council Meetings .This is a preliminary plan and budget to present to the City of Aurora. The District will update this preliminary budget for 2022 after they receive the final assessed valuation. The District has requested an extension for submission, but while waiting for approval The District is preparing a Preliminary Operational Plan and Budget for 2022 with the preliminary assessed values from August 25, 2021. The final 2022's AV assessments will not be received until late November 2021 from Arapahoe County. Due to Covid-19 the State of Colorado allowed for an extension.

Our District attorney Tom George at Spencer Fane LLP advised the District that due to the delay in receiving the assessed valuation certifications from the Assessor, the District can use previous year's AV certifications and the preliminary assessed valuations presented on August 25, 2021, as a reasonable estimate for 2022's budget year.

*Approximately \$583,477 in 2022 is to be raised through a 4.5 mill levy based upon the assessed value of real commercial property which includes the “current year’s net total taxable assessed valuation” from page 2, line 4 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) AV’s (\$111,355,880 x .0045) = \$501,101, plus the preliminary 2022 URA property tax increment from page 2, line 3 of the [Certification of Valuation document from Arapahoe County dated August 25, 2021](#) (“total TIF area increment” - URA Property Tax Increment (\$18,305,712 x .0045) = \$82,376 as well as an estimated \$40,088 in specific ownership tax.

Please see the attached proposed 2022 budget on page 33. After this report was submitted to the City of Aurora for the Manage & Finance Committee, City Council Study Session and regular City Council Meeting the District will receive the Final AV’s for 2022 in late November 2021. *The final AV’s for 2022 will be received in late November 2021 and added to this document to submit to Arapahoe County and the State of Colorado by 12/15/2021.

Bonds: Any bonding would require a vote of electors. The BID shall be authorized to issue bonds in the future at the discretion of, and in such amounts as may be determined by, the BID board of directors. Approval of a majority of BID electors who vote at an election called for the purpose of authorizing such bonds would be required. **No bonding is planned at this time.**

Fees, Charges and Other Revenues: Although the current budget and operating plan do not contemplate imposing rates and charges for services furnished or performed, the BID shall be authorized to impose and collect reasonable fees and charges for specific services as determined by the BID Board of Directors. There are no plans to impose any additional fees and charges beyond the annual BID assessment at this time. The BID will be authorized to collect and spend other revenues as well, such as grants, gifts, receipts from contracts and enterprises, specific ownership taxes, and interest earnings.

Assessment Methodology: Under Colorado statutes, business improvement districts can generate revenues through several methods, including charges for services rendered by The District, fees, taxes, special assessments, or a combination of any of these. In order to allocate the costs of the services to be furnished by the BID in a way that most closely reflects the benefits conferred upon the businesses and commercial properties in the BID, the BID shall be authorized to determine, impose and collect a mil levy based upon the assessed value of commercial property located in The District.

The mil levy method of assessment is intended to equitably address the intended benefits to the Havana corridor by improving the overall value of commercial property in The District through enhanced identity and image, economic development initiatives and advocacy for positive change along the corridor.

VI. BID GOVERNANCE AND PROGRAM MANAGEMENT

The Havana BID will be managed by a Board of Directors consisting of a minimum of seven (7) electors, all of whom shall be voting members. At least two-thirds of the board seats shall consist of owners of real property or their representatives within The District.

At least one board member shall be an elector located in the following geographic segments of The District:

- North of Alameda Avenue
- South of Alameda Avenue and North of Mississippi Avenue
- South of Mississippi Avenue and North of Parker Road
- South of Parker Road

The board will also consist of both large and small property owners and will represent a diverse mix of property use types. The BID board will have the following responsibilities:

- Prepare and file the annual District budget in accordance with state legal requirements and ensure compliance with other state laws.
- Provide direction and coordination in carrying out BID funded improvements and services.

The Havana BID Board of Directors includes:

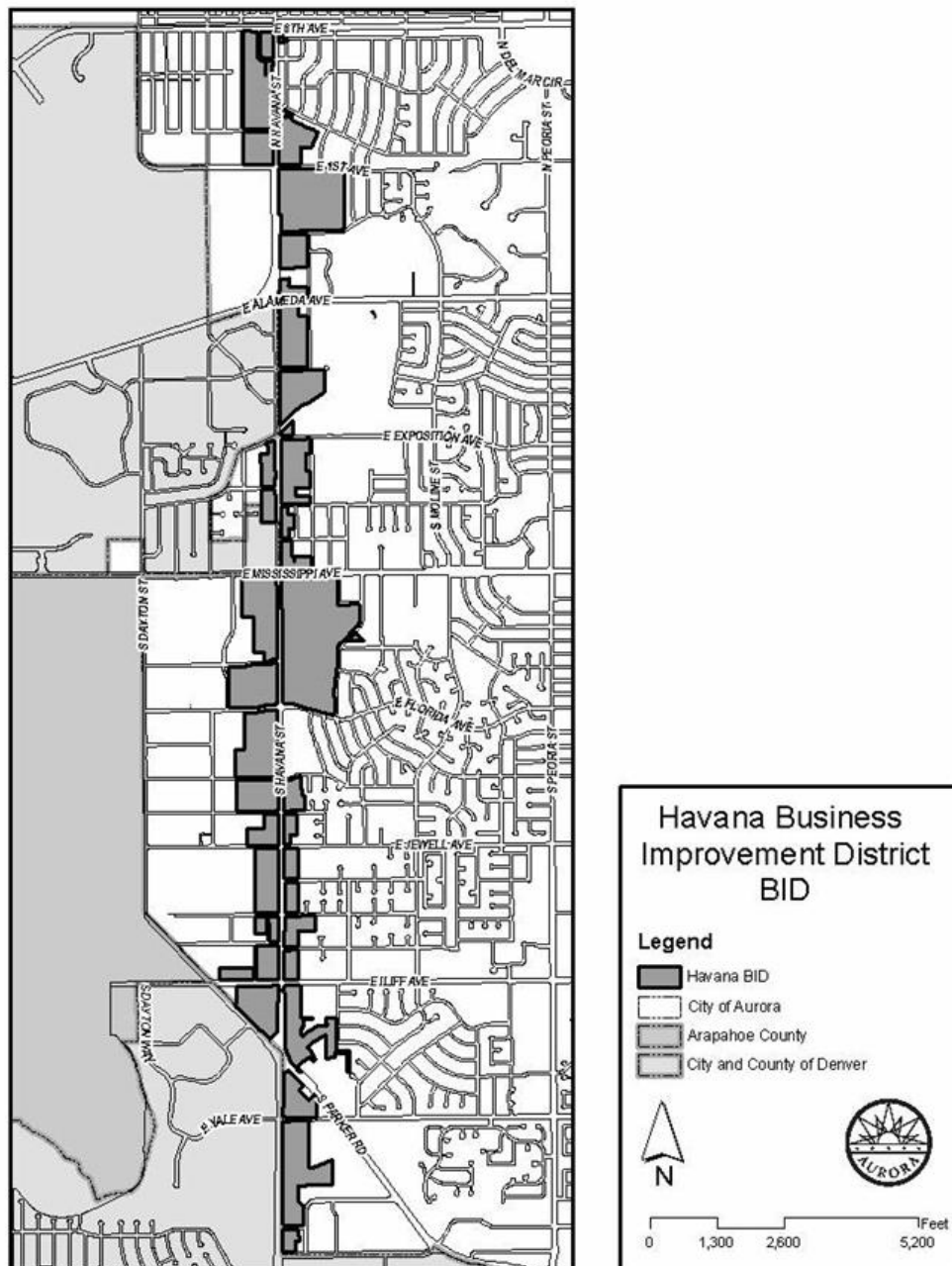
- Garrett Walls, BID President, Owner, Synergy Business Solutions, E-5 Equities/Havana Exchange Shopping Center, 1555 S Havana St, Aurora CO 80012
- Yulissa Williams, BID Vice President, US BANK, 941 S Havana St, Aurora, CO 80012
- Donovan Welsh, General Manager, Havana Auto Parts, 901 S Havana St., Aurora CO 80012
- Patrick Armatas, Owner, Sam’s No 3, 2580 S Havana St, Aurora, CO 80014
- John Sanchez, Owner, GEICO Insurance at The Gardens on Havana/AMCAP, 10550 E Garden Dr. #104, Aurora, CO 80012
- Matt Rauzi, Owner, Colorado’s Pro Gym, 1961 S Havana St, Aurora CO 80014
- Gary Sliger, Owner of Gary’s Full-Service Auto Repair, 30 S Havana St., 304-R, Aurora CO 80012
- Sean Choi, Senior Vice President, First Bank, 2300 S Havana St, Aurora CO 80014 (resigning in 12/2022)

- Open Board Position – Prospective Board Stakeholders include Alex Lee -TLJ/BB.Q/Colorado Korean Restaurant Association, Chris Swank – The Stampede, Hannah Cho – Shin Myung Gwan Korean BBQ Restaurant, Randy Davis – The Better Mattress

VII. CITY SERVICES: BID services will be in addition to any City services currently provided along Havana.

VIII. TERM

The Havana BID is recommended to be a perpetual BID with a mandatory review period every 5 years. The review will allow for appropriate adjustments to the BID boundary, assessment methodology and/or programming. The review will allow business and property owners to address and respond to changes as they occur along the corridor.



2022 PRELIMINARY GENERAL FUND OF THE HAVANA BUSINESS IMPROVEMENT DISTRICT												
2022 PRELIM. BUDGET	Original	Actual	Original	Estimated	Actual	Estimated W/2020 CERT AV AS OF 11.27.2019	*PRELIM 2021 CERT AV AS OF 10.8.2020	FINAL 2021 CERT AV AS OF 11.25.2020	12/2020 NOTES: BOTW: \$201,948 & 1st Bank: \$299,671 as of 12/2/2020 = TOTAL \$501,619	As of 8/2021 w/ 8.25.2021 Estimated Prelim. AV: \$129,661,592, Financials by Simmons & Wheeler	Estimated 2021	*PRELIM 2022 approved by BID BOD w/ 8.25.2021 Estimated Prelim. AV: \$129,661,592
REVENUES	2019 Budget	End of 2019	2020 Budget	End of 2020	End of 2020	EST. *PRELIM 2021 W/2020'S AV'S: \$113,901,131	*PRELIM 2021 CERT AV: \$115,423,393	FINAL 2021 CERT AV: \$114,648,028	AS OF 1/2021	AS OF 8/2021	Estimated 2021	*PRELIM 2022
Est. BEGINNING FUND BALANCE	232,778	214,360	347,159	266,979	266,979	453,426	453,426	453,427	453,427	441,364	441,364	586,260
Property Taxes (4.5 mills): PRELIM 2022 AV's: (\$111,355,880 x .0045) = \$501,101 2021 FINAL AV's (97,715,270 x .0045) = \$439,718.72, PRELIM 2021 AV's (\$98,476,867 x .0045) = \$443,146, 2020 AV's (\$97,663,367 x .0045) = \$439,485	402,201	395,908	439,485	433,161	433,161	439,485	443,146	439,719	439,719	438,099	439,719	501,101
URA Property Tax Increment: PRELIM 2022 AV's: (\$18,305,712 x .0045) = \$82,376 2021 FINAL AV's (\$16,932,758 x .0045) = \$76,197.41, PRELIM 2021 AV's \$16,946,526 x .0045) = \$76,269, 2020 AV's (\$16,237,764 x .0045) = \$73,069	69,258	82,757	73,069	84,877	84,877	73,069	76,259	76,197	76,197	89,706	89,706	82,376
Specific Ownership Taxes: Est. (Total Prop. Tax \$111,355,880 (4.5 mills) x 8%)	28,000	36,942	37,000	36,322	36,322	37,000	37,000	37,000	37,000	23,674	37,000	40,088
Interest	50	278	60	-	-	60	60	60	60	201	300	200
Sponsorships and other revenues	8,000	10,523	10,000	-	-	-	-	-	-	20,621	21,000	-
TOTAL REVENUES	507,509	526,408	559,614	554,360	554,360	549,614	556,465	552,976	552,976	572,301	587,725	623,765
TOTAL REVENUE AND FUND BALANCE	740,287	740,768	906,773	821,339	821,339	1,003,040	1,009,891	1,006,403	1,006,403	1,013,665	1,029,089	1,210,025
EXPENDITURES	Original 2019	End 2019	Original 2020	Est. End of 2020	End 2020	PRELIM 2021	*PRELIM 2021 CERT AV AS OF 10.8.2020 \$115,423,393	FINAL 2021 CERT AV AS OF 11.25.2020: \$114,648,028	AS OF 1/2021	AS OF 8/2021	Estimated 2021	PRELIM. 2022
Marketing (inc tool incentive workforce prog. \$20,000 + HMM \$137,000)	157,000	158,071	180,000	130,000	143,648	124,000	124,000	124,000	124,000	58,523	124,000	157,000
Special Events (inc media print ads, marketing w/Buckley, local print, hotel key card, VA, GDCC, AAM, Lowry, other for \$50,000 + \$75,000 event budget)	100,000	68,204	115,000	44,000	49,852	61,000	61,000	61,000	61,000	31,175	61,000	125,000
Program Management (inc \$10,000 snow)	20,000	37,514	15,000	6,000	41,123	15,000	15,000	15,000	15,000	4,088	15,000	16,500
District Identity - \$30K for district markers & \$40,000 Art2C program	66,000	24,112	70,000	44,000	6,636	70,000	70,000	70,000	70,000	37,610	70,000	70,000
Audit & Accounting	9,000	7,700	12,000	8,722	9,197	14,000	14,000	14,000	14,000	9,231	16,000	18,000
Website/Branding + Social Media	30,000	29,410	30,000	27,000	28,458	30,000	30,000	30,000	30,000	21,787	30,000	30,000
Special District Insurance	10,000	5,475	10,000	4,200	4,446	7,500	7,500	7,500	7,500	7,625	7,625	7,500
Legal	5,000	1,970	5,000	3,200	4,321	5,000	5,000	5,000	5,000	3,137	7,000	7,500
Payroll Taxes (Est. 7.5% of Payroll)	12,000	5,772	5,500	6,036	4,541	6,000	6,000	6,000	6,000	3,902	6,000	6,000
ED Salary	108,287	112,709	93,350	74,936	74,617	70,000	70,000	70,000	70,000	50,570	70,000	80,000
Labor/1099/Consultant						18,250	18,250	18,250	18,250	-	-	18,250
3% retirement savings match	1,950	1,796	2,201	2,200	2,282	2,200	2,200	2,200	2,200	1,638	2,100	2,400
Worker's Comp .003% of Employees Salary	400	338	280	450	224	450	450	450	450	152	210	240
ICHR/Employee medical insurance/Wage Works/Health Equity Admin Fees	8,000	4,142	-	-	-	5,000	5,000	5,000	5,000	-	5,500	7,000
ADP Payroll Fees	1,200	1,616	1,700	1,670	1,689	1,700	1,700	1,700	1,700	1,270	1,700	1,700
Stakeholder & Community Relations	1,000	-	1,000	500	-	1,000	1,000	1,000	1,000	502	1,000	5,000
Staff Prof Development/Training	500	-	1,500	100	-	1,500	1,500	1,500	1,500	109	1,000	1,500
Board Development/Strat Planning	3,000	1,599	3,000	650	45	3,000	3,000	3,000	3,000	481	3,000	10,000
Mileage	6,400	7,419	6,400	3,000	2,399	6,400	6,400	6,400	6,400	16	2,200	3,200
Other - Tax Revenue - Treasurer's Fee (1.5% ON \$583,477 \$ W/ PRELIM 2022 AV's)	7,072	5,942	7,688	6,592	6,497	7,688	7,791	7,739	7,739	6,574	6,596	7,517
Reserves (3% Tabor on total expenditures w/o the treasurer's fee w/ 2022 PRELIM AV's)	14,144	-	15,377	15,377	-	15,377	15,582	15,477	15,477	-	12,898	17,229
TOTAL EXPENDITURES:	560,953	473,789	574,996	378,633	379,975	465,065	465,373	465,216	465,216	238,390	442,829	591,536
BID Reserves - plan to set up sep. bank acct. for reserves for 2022)												416,541
BOARD RESERVES (Bank Balance of BOTW account	155,687	-	192,612	192,612	-	537,975	544,518	541,187	541,187	-		201,948
TOTAL EXPENDITURES w/ Board Reserves	716,640	473,789	767,608	571,245	379,975	1,003,040	1,009,891	1,006,403	1,006,403	238,390	442,829	1,210,025
ENDING FUND BALANCE	23,647	266,979	139,165	250,094	441,364	-	0	(0)	(0)	775,275	586,260	-
2022 BUDGET NOTES: This is a preliminary budget from the AV's presented on 8.25.2021												
2022 Prelim CERT OF AV INCREASED FROM \$114M to \$129M which is about \$15M IN ONE YEAR AFTER COVID-19, (\$129,661,592-\$114,648,028) = \$15,013,564												15,013,564



CITY OF AURORA

Late Submission Approval for Agenda Item

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the 2022 Operating Plan and Budget for the Havana Business Improvement District

Item Initiator: Chad Argentar, Sr. Development Project Manager – P&DS

Staff Source/Legal Source: Chad Argentar, Sr. Development Project Manager, Manager of Accounting – Finance/Hans Hernandez Perez, Assistant City Attorney

Outside Speaker:

Council Goal: 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

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: 10/18/2021

Regular Meeting: 11/22/2021

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 agenda item was approved to move forward to Study Session at the Management & Finance Policy Committee on September 28, 2021. Colorado Revised Statute 31-25-1211 requires the City to approve or disapprove the Business Improvement District's operating plan and budget not later than December 5th of the year in which such documents are filed. To meet the December 5th timeline, this agenda item will need to be presented at Study Session on October 18th followed by Regular Meeting on November 22nd.

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.

Chad Argentar

Agenda Item Initiator Name

10/5/2021

Agenda Item Initiator Signature

Date

Roberto Venegas

Late Submission Approver Name

10/5/21

Late Submission Approver Signature

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: 2022 Federal Lobbying Contract Renewal
Item Initiator: Luke Palmisano, Intergovernmental Relations Manager
Staff Source/Legal Source: Luke Palmisano Intergovernmental Relations Manager /Rachel Allen, Client Group Manager
Outside Speaker: N/A
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 10/4/2021

Regular Meeting: 10/11/2021

ITEM DETAILS:

- Agenda long title: 2022 Federal Lobbying Contract Renewal
- Staff Source/Legal Source: Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen
- Estimated Presentation/Discussion time: 5 minutes

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Federal, State & Intergovernmental Relations

Policy Committee Date: 8/25/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |

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 has historically issued request for proposals for federal lobbying services. An RFP for federal lobbying services was issued in the fall of 2018, with the city selecting Holland & Knight. The city first awarded the federal lobbying contract to Holland & Knight during a competitively bid RFP in the fall of 2014. The contract awarded contains a one-year option to extend in 2021 without going back out to bid. Staff is recommending the city exercise that option in the contract for next year at the same dollar amount as 2020 and same scope of work. Holland and Knight accepted a reduced amount in 2021 due to pandemic-related budget constraints.

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

The request is for the city to extend its contract with Holland & Knight (H&K) for 2021 in the amount of \$125,000. The terms of the agreement, including the dollar amount and scope of services (see attached), will remain the same as in 2019. Holland & Knight has met the responsibilities as set forth in their lobbying contract. Toward that end, they have completed the following:

- Provided regular federal updates to the FSIR committee, the Mayor, and City Council detailing the activities of Congress, federal agencies, and the progress of the city's specific federal priorities.
- Informed the city of grant opportunities through weekly emails
- Assisted the city in developing and submitting Community Project Funding Requests (House) and Congressionally Directed Spending Requests (Senate). The city was able to secure the inclusion of three earmark requests in the House and one in the Senate through respective drafts of Federal Appropriations and Surface Transportation bills. This includes the Safe Outdoor Spaces request (Sens Hickenlooper and Bennet, and Cong. Crow) and an update to the Bicycle and Pedestrian Master Plan and Gun Club Road Expansion (Cong. Crow).
- Worked with staff and FSIR to advocate for the city's federal priorities in the American Rescue Plan, The Infrastructure Investment and Jobs Act, The INVEST Act, The Surface Transportation Reauthorization bill, annual Appropriations bills, and the Build Back Better reconciliation bill.

QUESTIONS FOR COUNCIL

Does Council wish to approve the one year extension of the federal lobbying contract to Holland and Knight?

LEGAL COMMENTS

Previously competitively bid purchase orders or contracts in any amount may be extended under the same conditions of the original contract and at the same or lower price when so doing is in the best interests of the City.(City Code Section 2-674(2)) (Best)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

PROFESSIONAL SERVICES AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

CITY OF AURORA
AURORA, COLORADO

TITLE: City of Aurora Federal Lobbying Services

FILE NO.: RFP #R-1932

P.O. NO.: 19 P0042

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Attachments

Attachment 1:	Scope of Work/ Milestones
Attachment 2:	Certificates of Insurance

AGREEMENT

This Agreement is made as of the 27th day of November, 2018, by and between the City of Aurora, Colorado ("City"), and Holland & Knight LLP ("Consultant"), a Limited Liability Corporation with a principal place of business at 800 17th Street NW, Suite 1100, Washington D.C. 20006.

WHEREAS, the City intends that Consultant shall perform professional services for the City; and

WHEREAS, Consultant represents that it has the present capacity, is experienced and qualified to perform professional services for the City as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

Section 1 – Scope of Work

A. Consultant agrees to provide professional services as stated in the scope of work ("Work") specified in **Attachment 1**, attached hereto and incorporated into this Agreement.

B. The City shall have the right to disapprove any portion of Consultant's Work on the Project which does not comply with the requirements of this Agreement. If any portion of the Work is not approved by the City, Consultant shall proceed when requested by the City with revisions to the Work to attempt to satisfy the City's objections. If said revised Work is acceptable, the City will provide prompt written approval. Correction or completion of Work which does not comply with the requirements of this Agreement shall be made without adjustments to the compensation for Consultant's services provided for hereunder unless the revisions are made to Work previously approved for previous tasks, in which case, Consultant's compensation shall be adjusted. It is the intent of the parties that Consultant shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, services or other work, without additional cost to the City. The acceptance of Consultant's services by the City shall not relieve Consultant from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness resulting from Consultant's negligent acts, errors or omissions.

C. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any tasks beyond those which have been specifically authorized in writing by the City.

D. The City may, from time to time and in conjunction with Consultant, request changes in the scope of the services of the Consultant to be performed herein. Changes may include, but not be limited to, the type and scope of services provided by Consultant and the quantity or quality of Consultant's staffing for required services. Such changes, including any increase in the amount of the Consultant's compensation, which are mutually agreed upon between the City

and Consultant, shall be incorporated in written change orders, amendments or extensions to this Agreement.

Section 2 - Authority

A. **Roberto Venegas** ("Project Manager") is the City's Project Manager and the City's authorized representative. The Project Manager is responsible for authorizing and approving all Work performed under this Agreement. All Work to be performed by Consultant shall be authorized in writing by the Project Manager as provided by this Agreement. All communications related to the Project shall be with the Project Manager and, in his absence, a person to be designated by him. The Project Manager is authorized to make decisions on behalf of the City related to the Work. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of Work performed by Consultant, except for approvals which are specifically identified in this Agreement as requiring the approval of City of Aurora's City Council.

B. **Rich Gold** ("Consultant's Representative") is Consultant's representative for the Work. Consultant's Representative shall have sufficient authority to represent and bind Consultant in those instances when such authority is necessary to carry out Consultant's responsibilities and obligations under the terms of this Agreement.

Section 3 - Schedule

A. In performing professional services pursuant to this Agreement, Consultant acknowledges that timely completion of the Work is critical and time is of the essence. Accordingly, all services to be performed under this Agreement shall be commenced immediately upon execution of this Agreement by the parties hereto, approval by the City as required by applicable law, issuance of a Purchase Order from the City, and in accordance with the milestone schedule set forth in **Attachment 2**, attached hereto and incorporated into this Agreement.

B. The initial term of this Agreement shall run from the date of approval by the Aurora City Council and issuance of a notice to proceed until **December 31**, 2019. Subject to the availability of appropriated funds, as provided elsewhere in this Agreement, and agreement between the City and Consultant concerning additional and/or continuing Work, as reflected in additional or revised scope(s) of work, this Agreement may be extended on an annual basis by the City by a written notice to Consultant after approval by the City Council.

Section 4 - Compensation

A. The compensation to be paid Consultant under this Agreement, as provided hereinafter, is intended to cover the entire cost of the professional services under this Agreement. The initial compensation of this Agreement shall not exceed **One Hundred Twenty Five Thousand and 00/100 dollars (\$125,000.00)**, including all travel expenses. Consultant agrees to cooperate fully with the City to keep the total compensation within this limit.

B. This Agreement is subject to annual appropriation by the Aurora City Council and, in the absence of appropriated funds, the City may terminate this Agreement. The City has appropriated money for the 2019 fiscal year at least equal to the foregoing annual compensation for this work. The City may, from time to time and in its sole discretion, appropriate additional amounts to reflect extensions of this Agreement beyond the close of the 2019 fiscal year and additional and/or continuing scope(s) of work. Notwithstanding any other language in this Agreement, City shall issue no Change Order or other form of order or directive requiring additional compensable work that will cause the foregoing annual compensation to exceed the amount appropriated unless City gives Consultant written assurance that City has made lawful appropriations to cover the costs of the additional work.

C. Nothing in this Agreement is a pledge of the City's credit, or a payment guarantee by the City to Consultant. The obligation of the City to make payments hereunder shall constitute a currently budgeted expense of the City, and nothing contained herein shall constitute a mandatory liability, charge, or requirement of or against the City in any ensuing fiscal year beyond the then current fiscal year. This Agreement shall never constitute a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City. In the event of a default by the City of any of its obligations under this Agreement, the Contractor shall have no recourse against any revenues of the City. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien against any revenues of the City.

D. The City shall pay Consultant in accordance with the terms of this Agreement a fixed monthly fee of \$10,000.00. Reasonable travel related costs will be reimbursable only with advance written approval of the City.

E. Consultant shall submit monthly invoices to be approved by the City's Project Manager. Consultant shall submit its monthly invoices no later than close of business on the fourteenth (14th) calendar day of the month after which the work was performed; provided, however, that if that day falls on a weekend or holiday, then monthly invoices shall be submitted no later than close of business on the next regular business day of the month. Upon submission of an approved Consultant invoice, in the proper form, to the City, payment shall be issued. It is to be understood and agreed that the City may require up to thirty (30) days to process payment after date of receipt of invoicing.

Section 5 - Staffing

A. The Consultant personnel listed below are essential to the proper performance of the services under this Agreement:

<u>Name</u>	<u>Title</u>
Rich Gold	Principal
Lauri Hettinger	Senior Policy Advisor
Seth Belzley	Partner (Local – Denver)

The above-identified individuals are key persons and will be available to perform the Work. Consultant agrees to make key personnel available as required to perform the Work as long as such persons are employed by Consultant. Consultant shall obtain the prior written approval of the City before appointing other Consultant personnel as a substitute(s) for the above-named key personnel. The City reserves the right to reject proposed replacement personnel, or require the replacement of any Consultant personnel; however such City action shall not subject the City to any liability to Consultant nor be used by Consultant as an excuse for failure to meet the requirements of this Agreement.

B. Consultant shall insure the quality, timeliness, and continuity of services are maintained through the duration of the project. Consultant shall avoid changes to the key personnel to the extent possible.

C. Consultant shall inform the City in writing of any non-employee persons or firms it intends to hire to perform any Work required by this Agreement and shall keep the City informed of any changes or additions to this information. The City shall approve in writing any additional firms prior to commencement of Work. Consultant shall be responsible for any Work performed under this Agreement, including that portion of the Work performed by other individuals or firms. Nothing contained herein shall create any contractual relationship between any additional persons and/or firm(s) and the City.

Section 6 - Insurance

A. Consultant shall provide the appropriate certificates of insurance and Worker Compensation documents, at no cost to the City, as described in **Attachment 2**. The Consultant further agrees and understands that they are to maintain and keep in force the appropriate insurance policies throughout the term of this Agreement.

B. Consultant shall be responsible for any injury to persons or damage to property to the extent arising from negligent or otherwise wrongful acts, errors and omissions of Consultant, its agents and employees. If Consultant knows of the damage Consultant shall immediately notify the City. If the City discovers the damage, City will notify Consultant immediately. Repair shall be accomplished under City direction and to City specifications so property is in as good or better condition than before damage. Consultant shall provide the City with a certificate of liability coverage in accordance per the attached form 410-33, **Attachment 2**.

C. The Consultant's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City; except that Consultant's Workers' Compensation and Employer's Liability Insurance is primary, but does not contain a noncontributory provision.

D. Nothing herein is intended to be construed or shall be construed to be a waiver of the City's governmental immunity under Section 24-10-101 et. seq., C.R.S. as amended.

Section 7 - The City's Responsibilities

A. The City shall:

1. Provide necessary information to Consultant to facilitate Consultant in performing the Work;
2. Give prompt notice to Consultant whenever the City observes or otherwise becomes aware of any deficiencies or discrepancies in the services provided;
3. Furnish, or direct Consultant to provide, at the City's expense, any necessary additional services;
4. Examine all documents submitted by Consultant, and, if requested by Consultant, provide comments and decisions in a timely manner in order to allow the Consultant's work to proceed.

B. Consultant shall not be liable for delays in performing the Work when such delays are caused by the City, the City's other Consultants, or by events which are outside of the control of the Parties and which events could not be avoided by the exercise of due care.

Section 8 - Mutual Obligations

A. This Agreement does not guarantee to Consultant any additional or future work except as expressly authorized herein.

B. This Agreement does not create or imply an exclusive agreement between Consultant and the City.

C. The services and any and all interests contemplated under this Agreement shall not be assigned or otherwise transferred except with the written consent of the City.

D. All documents of any nature prepared by Consultant in connection with the services provided by Consultant under the terms of this Agreement shall become the property of the City.

E. Consultant shall not utilize work product, data, information, results, and materials produced as part of its efforts under this Agreement for any promotional or public relations purposes whatsoever without the express, prior, written consent of the City.

Section 9 - Termination

A. Termination for Cause - In the event a material breach of this Agreement remains uncured following written notice of said breach by City, the City may immediately terminate this Agreement upon written notice specifying the effective date thereof; provided however, the City may, in its discretion and for good cause, allow Consultant to cure any breach or submit an acceptable plan to cure such breach within ten (10) days of such written notice.

B. Termination for Convenience

1. **Change in City Policy.** The City may terminate this Agreement at any time upon thirty (30) days notice specifying the date thereof, provided Consultant shall be compensated in accordance with this Agreement for all work performed up to the effective date of termination.

2. The City's total liability under this Agreement, inclusive of termination costs, shall not exceed the lesser of total amount of this Agreement or the total amount of funds which have been appropriated specifically for this Agreement.

3. Consultant shall be entitled to reasonable incurred costs for terminating its activities under this Agreement, including those of its sub-consultants, if this Agreement is terminated for the City's convenience; provided however, in no event shall the City's total liability to Consultant exceed the total amount of funds which have been appropriated specifically for this agreement.

C. Effect of Termination

1. **Termination Costs.** After receipt of written notification that this Agreement has been terminated under this section, Consultant shall incur no further costs other than reasonable termination costs associated with current activities.

2. **Ownership of Work Product.** In the event of termination, all finished and unfinished Project deliverables prepared by Consultant pursuant to this Agreement shall become the sole property of the City, provided Consultant is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. Consultant shall not be liable with respect to the City's subsequent use of any incomplete work product, provided Consultant has notified the City in writing of the incomplete status of such work product.

3. **City's Right to Set-Off and other Remedies.** Termination shall not relieve Consultant from liability to the City for damages sustained as the result of Consultant's breach of this Agreement; and the City may withhold funds otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.

4. If this Agreement terminated for cause as provided in this section and it is subsequently determined that the City's termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this section related to a termination for convenience shall apply.

Section 10 - Miscellaneous Provisions

A. Consultant, at all times, agrees to observe all applicable Federal and State of Colorado laws, Ordinances and Charter Provisions of the City of Aurora, and all rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement.

B. Consultant shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. Consultant:

1. Shall adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship;

2. Shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause. All solicitations and advertisements for employees placed by or on behalf of the Consultant, shall state that Consultant is an equal opportunity employer;

3. Shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by Consultant, so that such provisions are binding upon each sub-consultant;

4. Shall keep such records and submit such reports concerning the racial and ethnic origin of employees as the United States, the State of Colorado, the City of Aurora, or their respective agencies may require; and,

5. Shall comply with such rules, regulations and guidelines as the United States, the State of Colorado, the City of Aurora, or their respective agencies may issue to implement these requirements.

C. By executing this agreement, Consultant acknowledges an understanding of and expressly agrees that all work performed under this Agreement is that of an independent contractor. An independent contractor is not a City of Aurora employee and as such is not entitled to Workers' Compensation benefits. Consultant is obligated to pay Federal and state income tax on any monies earned pursuant to the contractual relationship. It is expressly understood between the City of Aurora and Consultant that Consultant, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Consultant or some entity other than the City of Aurora, Colorado.

D. All notices, demands, or other documents or instruments required or permitted to be served upon either Party hereto shall be in writing and shall be deemed duly served when delivered in person to an officer or partner of the Party being served, by facsimile transmission or when mailed certified or registered mail, return receipt requested, postage prepaid addressed to parties at the addresses stated below:

City: Office of the City Attorney
15151 East Alameda Parkway
5th Floor
Aurora, Colorado 80012

Consultant Representative: Rich Gold
Holland & Knight LLP
800 17th St., Suite 1100
Washington, D.C. 20006

Section 11 - Examination of Records (This section applies if this Agreement exceeds \$10,000.00.)

- A. The Internal Auditor of the City of Aurora, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under this Agreement, have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.
- B. Consultant agrees to include in first-tier sub-consultants under this Agreement a clause to the effect that the City's Internal Auditor, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under the subcontract have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders from public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.
- C. The periods of access and examination as noted above for records relating to (1) litigation or settlement of claims arising from the performance of this Agreement, or (2) costs and expenses of this Agreement to which the City, acting through its duly authorized designee, has taken exception, shall continue until such appeals, litigation, claims, or exceptions are finally resolved.

Section 12 - Illegal Alien

- A. **UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS:** Consultant shall not knowingly employ or contract with illegal aliens to perform work under this Contract. Consultant shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with illegal aliens to perform work under this Contract and (b) fails to certify to the Consultant that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract.
- B. **VERIFICATION REGARDING ILLEGAL ALIENS:** By executing this contract, Consultant confirms the employment eligibility of all employees who are newly hired for employment to perform work for this project through the I-9 process of the Department of Homeland Security (U.S. Citizenship and Immigration Services Division).
- C. **LIMITATIONS:** Consultant 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 CONSULTANT:** If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall be required to:

1. Notify the subcontractor and the City within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant 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 an illegal alien.

E. **DUTY TO COMPLY WITH STATE INVESTIGATION:** Consultant 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 contract, if the Consultant violates any of the above provisions regarding illegal aliens the City may terminate this contract for cause and the Consultant may be liable for consequential damages.

Section 13 - Indemnification

A. The Consultant shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of Consultant's services for the City and caused by negligent acts, errors, and omissions of the Consultant or any person employed by it or anyone for whose act the Consultant is legally liable.

B. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of Consultant hereunder. Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.

C. **Patents Infringement:** The Consultant shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the services under this Agreement. The Consultant's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the Consultant pursuant to this Agreement. Consultant shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or caused to be made by the City subsequent to delivery by the Consultant. Consultant also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.

D. Consultant agrees that it will contractually obligate its sub-consultants to indemnify and hold harmless the indemnitees identified in this Section to the same extent that Consultant is required to indemnify and hold harmless said indemnitees.

In WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AURORA, COLORADO

By: Bryn Fillinger

Name: Bryn Fillinger

Title: Manager, Purchasing Svcs.

Date: December 27, 2018

ATTEST:

Jaime Napier
City Clerk

RISK MANAGEMENT: John K. Mosley
Risk Manager

APPROVED AS TO FORM: T. J. [Signature]
Assistant City Attorney

CONSULTANT

By: Rich Gold
(Signature)

Name: Richard M. Gold
(Type or Print)

Title: Partner

Date: November 26, 2018, 2018

Attachment 2

INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS

During the term of this Agreement and until final acceptance by the City of all work covered by the Purchase Order or contract, the Consultant 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 Consultant, 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.

Commercial General Liability Insurance. The Consultant shall maintain commercial general liability insurance covering all operations by or on behalf of the Consultant on a per occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Coverage will include, if appropriate for the scope of services: Products and Completed Operations, Contractual Liability 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

Commercial Automobile Liability Insurance. The Consultant shall maintain business automobile liability 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, naming the City as an Additional Insured.

Workers' Compensation and Employers Liability Insurance. The Consultant shall maintain Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Consultant 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.

Umbrella/Excess Liability Insurance. The Consultant shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in this agreement which is as least as broad as the underlying policies. Policy limits with minimum limits of not less than Two Million Dollars (\$2,000,000) per occurrence. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Subcontractor's Insurance It shall be the responsibility of the vendor/contractor to ensure that subcontractors maintain:

- A. Commercial General Liability insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 general aggregate and shall name the City of Aurora as an additional insured; and
- B. Worker's Compensation Insurance with limits in accordance with the provisions of the Workers'

Compensation Act, as amended, by the State of Colorado and 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.

The Consultant 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 provide insurance coverage as 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 or automobile 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 and Waiver of Subrogation. The Consultant 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 and Excess Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements.

Certificates of Insurance. Upon the execution of this Agreement, the Consultant shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. Consultant agrees that the required non-professional liability coverages will not be canceled without Thirty (30) days prior written notice to the City, except that only ten (10) days notice will be provided for cancellation due to non-payment. All certificates of insurance must be kept in force throughout the duration of the services. If any of Vendor's or Contractor's or its subcontractor's coverage is renewed at any time prior to completion of the services, the Consultant shall be responsible for obtaining updated insurance certificates for itself and such subcontractors from the respective insurance carriers and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate.

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 Consultant 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 giving rise to the contract, provided, however, if the City of Aurora changes the insurance requirements and Consultant does not comply with the modified requirements, the City of Aurora's sole remedy shall be termination of the contract and Consultant shall not be liable for any damages arising from such termination. **The Consultant's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City, provided, however, Consultant's Workers' Compensation and Employer's Liability insurance is primary, but does not contain a non-contributory provision.**

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the contract shall also be protected by a Professional Liability Insurance policy as set forth below:

Professional Liability Insurance. The Consultant shall maintain professional liability insurance with minimum limits of Two Million Dollars (\$2,000,000), covering those claims which arise out of the negligent acts or omissions of the Consultant, its Subcontractor and any other parties for whom it may be liable which Professional Liability Insurance shall 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 the completion of any and all of Consultant's Services hereunder. Any retroactive date or prior acts exclusion to which such coverage is subject shall pre-date both the date upon which any services hereunder are commenced and 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) shall be delivered within five (5) days after renewal.

Form No. 410-33 (Version 6/24/2015)

ATTACHMENT I
SCOPE OF SERVICES

FEDERAL LOBBYING SERVICES FOR THE CITY OF AURORA

The consultant shall perform lobbying services for the City of Aurora as follows:

1. Establish communications mechanism to use with City staff, City Council, and City Council Federal, State & Intergovernmental Relations Committee.
2. Work with the City to let Aurora's Congressional delegation know that the consultant will represent Aurora on federal issues.
3. Monitor federal legislation and agency regulatory action; alert City staff and Council to potential opportunities and concerns.
4. Keep City staff and Council apprised of major federal funding opportunities (appropriations requests, grants, etc.) available to the City, including information related to the application process, deadlines and requirements as appropriate.
5. Maintain regular contact with Aurora's Congressional delegation, and identify opportunities for City Council and staff to work collaboratively with members of Congress and their staff.
6. Represent the City of Aurora's position with the federal executive branch when working collaboratively on or resolving issues as they may arise.
7. Federal lobbying contract includes issues involving the water and/or utilities department.
8. The consultant must have a local (Aurora/Denver) presence.

Full Service, Measurable Results

Holland & Knight would work with Aurora to develop a comprehensive, strategic federal advocacy plan that will be the blueprint for pursuing each of your priorities. This plan will be a dynamic, "living" document. It will be revisited regularly as policy and political developments warrant. It will have clear assignments of strategy options, tasks/subtasks, timelines, and deliverables.

This plan, together with performance criteria, will hold Holland & Knight accountable for achieving each project or issue objective. As part of its ongoing strategy for the City of Aurora, Holland & Knight will:

1. Establish communications mechanism to use with City staff, City Council, and City Council Public & Intergovernmental Relations Committee.

Holland & Knight's philosophy is to function as an extension of the City of Aurora. We have weekly scheduled calls with the City staff and the Public & Intergovernmental Relations Committee chair to provide updates on the City's federal priorities. Team leader Lauri Hettinger also provides a federal update to the Public & Intergovernmental Relations Committee each month. Our frequent consistent communication allows us to understand the City's evolving needs and priorities, making us more effective in representing you.

Holland & Knight also will continue to provide activity reports and additional communications, which will include:

- » A monthly report for the City staff and City Council with the status of legislative, regulatory, and public affairs initiatives we are addressing for the City.
- » Weekly Grant Notifications: Each week, we will provide the City with information regarding recently announced federal grant opportunities. We comb through the *Federal Register*, Grants.gov, and other resources to identify specific funding that may be of interest.
- » Strategic Grant Analysis: When the City decides to pursue a particular grant opportunity, we are available to assist in mapping a strategic plan to pursue the grant, address selection criteria, and emphasize certain project aspects that the agency may be more focused on in a particular round of funding.
- » Weekly "Eyes on Washington" updates, which offer the City the latest information on key developments in Congress and the executive branch.

Finally, Holland & Knight's team members are available to you 24 hours a day, seven days a week. We will do whatever it takes to get the job done. Our goal is to become a core part of your team so that we can provide the City with the strongest voice possible in Washington, D.C., with Congress, the executive branch, and key agencies.

2. Work with the City to let Aurora's Congressional delegation know that the consultant will represent Aurora on federal issues.

The City's advocacy team would continue to use our close relationships with the Colorado congressional delegation to increase the profile of and generate robust support for the City's innovative initiatives and federal priorities.

Holland & Knight has organized a strong bipartisan team for you with deep ties among federal decision-makers in Congress to help you advocate for the City's federal priorities. Our team has longstanding, close relationships with the City's House and Senate delegation, key House and Senate committee chairs and ranking members, and House and Senate leadership. These relationships are critical for securing champions for the City to advance its federal priorities, to help showcase the City's work at the national level, and secure opportunities for the mayor, City Council, and City officials to testify before Congress.

We are well-positioned to serve the City regardless of who controls the House or Senate after the November elections. For example, when Democrats took control of the House and Senate in 2006, after 12 years of a Republican majority, Holland & Knight's clients continued to benefit because our bipartisan relationships with lawmakers. Similarly, when Republicans regained control of the House in 2010, service to our clients did not skip a beat.

3. Monitor federal legislation and agency regulatory action; alert City staff and Council to potential opportunities and concerns.

Holland & Knight monitors all legislative and regulatory activity that affects our clients -- and acts accordingly if there is an opportunity or threat from it. We are involved every step of the way through the federal budget process from when the President releases his annual budget request, to congressional hearings and mark-ups of the budget until final passage.

For example, before President Trump introduced his infrastructure proposal, Holland & Knight arranged a meeting for Aurora Water with White House Council on Environmental Quality (CEQ)'s Associate Director for Infrastructure Alex Herrgott to discuss the City's recommendations on project streamlining. Mr. Herrgott praised the City's priorities and included some of them in the infrastructure proposal.

4. Keep City staff and Council apprised of major federal funding opportunities (appropriations requests, grants, etc.) available to the City, including information related to the application process, deadlines and requirements as appropriate.

One of the more significant evolutions in state/local funding from the federal government has been the transition from earmarks to grant solicitations.

However, Holland & Knight has been on the forefront of these changes. From 2010 to the present, Holland & Knight has secured hundreds of millions in grants and programmatic funding for our clients covering the spectrum of local government issues.

If selected, Holland & Knight will continue to work closely with Aurora to gauge how its priorities may benefit from the annual appropriations process. We will then use our extensive relationships with the Senate and House Appropriations Committee members to achieve the City's funding priorities. While Congress has ended appropriations earmarks, there are "softer" strategies that can be used in the annual appropriations bills to stress certain types of initiatives, including report language.

When Aurora decides to pursue a particular grant opportunity, Holland & Knight will continue to assist in mapping a strategic plan to pursue the grant. We will address selection criteria, and stress certain project aspects that the agency may be more focused on during a particular round of funding. Because of our close agency relationships with both the career and political staff at the agencies, we can often gain key intelligence and insight into key criteria and priorities for the grant program that an agency may be considering which can change from year to year, thus enabling the City to have a better chance at success.

For example, during the recent U.S. Transportation Department BUILD (formerly known as TIGER) grant round, Holland & Knight learned DOT's timeline for announcing the grant prior to the public announcement and was able to alert the City so the staff could start preparing its grant application. Additionally, before the grant release, we arranged a phone call for the City with DOT to discuss its project. During the call, DOT agency staff were able to identify aspects of the project that the City should highlight for the upcoming grant that match the Administration's priorities.

Holland & Knight will continue to set up meetings with federal agencies to discuss the City's proposed initiatives; work with the congressional delegation to solicit support for grants through letters and direct contact with the agency leadership; and will use our close relationships with the Trump Administration to lobby on your behalf.

5. Maintain regular contact with Aurora's Congressional delegation, and identify opportunities for City Council and staff to work collaboratively with members of Congress and their staff.

Holland & Knight proposed advocacy team has personal and close working relationships with Aurora's Congressional delegation. In the Senate, proposed team member Rich Gold has a longstanding relationship with Sen. Michael Bennet and his chief of staff. And, proposed team leader Lauri Hettinger has a good working relationship with Sen. Cory Gardner and his senior staff.

The team members also have close relationships with Reps. Mike Coffman, Ed Perlmutter, Diana DeGette, Jared Polis, and Doug Lamborn. Because of these and other ties, Holland & Knight can easily team up with members of the Colorado delegation to help the City with its funding and policy needs.

Each year, during the City's annual trip to Washington, D.C., Holland & Knight has scheduled meetings for the Mayor and City Council members directly with the members to discuss the City's federal priorities. In addition, Holland & Knight prepared the members' schedulers and staff prior to the City's visit so the members are adequately prepared to discuss the City's projects and funding priorities. Holland & Knight also schedules visits for the City's staff with the delegation when they are visiting Washington, D.C., for conferences.

6. Represent the City of Aurora's position with the federal executive branch when working collaboratively on or resolving issues as they may arise.

While representing the City, Holland & Knight has organized meetings for the mayor, City Council members, and the City's senior department staff with secretaries, deputy and undersecretaries, chief of staffs, and Administrators as well as senior program officials at the Departments of Transportation, Interior, Veterans Affairs, Housing and Urban Development (HUD), and the Air Force.

For example, we have assisted with HUD Secretary Ben Carson's two visits to the City to see firsthand how the City has leveraged federal funding to support critical housing initiatives. Additionally, after Holland & Knight arranged meetings for the City with the White House Intergovernmental Affairs (IGA) office, the White House invited Mayor Steve Hogan to two White House transportation infrastructure summits, including one with President Trump. We have positioned the City as a solution-driven innovator and increased its profile nationally.

Because of our close connections and local government expertise, Holland & Knight is viewed by these agencies as a "go to" resource on local government issues. We are regularly asked for feedback on potential new administration initiatives.

Holland & Knight is also frequently called upon to convene stakeholders to help administration officials solicit feedback on their policy proposals. This would give the City an excellent opportunity to make your "voice" heard at the administrative level. And when that opportunity comes, Holland & Knight will ensure that Aurora's elected officials and/or staff will be prepared.

Regarding the specific agencies, Holland & Knight's ties to them are noted below:

Housing and Urban Development: As detailed previously, Holland & Knight has a close relationship with Secretary Ben Carson and Deputy Assistant Secretary of the Office of Intergovernmental Relations Stephanie Fila.

Environmental Protection Agency (EPA): Holland & Knight has close working ties with Acting Administrator Andrew Wheeler and his chief of staff, Ryan Jackson.

Department of Transportation: Holland & Knight has worked extensively with Secretary Elaine Chao and her senior staff including: DOT Deputy Secretary Jeff Rosen, Deputy Assistant Secretary for Intergovernmental Affairs Anthony Bedell, Special Advisor to the Secretary for Infrastructure James Ray, Chief of Staff Geoff Burr, and Deputy Assistant Secretary of Transportation Policy Thomas "Finch" Fulton. We also have excellent working relationships with the career staff in the newly created Build America Bureau, which administers the BUILD, INFRA (formerly known as FASTLANE), and TIFIA programs.

Department of Interior: Holland & Knight knows Secretary Ryan Zinke, Bureau of Reclamation Commissioner Brenda Burman, and Director of the Office of Intergovernmental and External Affairs Todd Wynn.

7. Federal lobbying contract includes issues involving the water and/or utilities department.

Holland & Knight works extensively with a variety of units of local government – including water and/or utilities departments.

Much of this work is aimed at developing constructive collaborations with federal agencies on projects and initiatives, and cultivating congressional delegation support for these efforts. We understand the myriad concepts and new developments surrounding the Clean Water Act, including wastewater treatment, flood control, legislation and rulemaking, permitting, water re-use, stormwater management, and compliance and enforcement. On behalf of our municipal clients, Holland & Knight has helped draft and shape water and environmental legislation and bring an impressive track record in securing funding for water treatment, wastewater, water supply, reclaimed water projects, and environmental research projects.

For Aurora Water, Holland & Knight has broadened its relationships beyond the congressional delegation to senior congressional committee water staff to discuss the City's federal water priorities, and was able to secure committee staff's participation in the Aurora Water tours for the past few years. Committee staffers are now assisting the City to advance its wilderness adjustment and land exchange projects.

Holland & Knight has also organized several meetings for Aurora Water and the City's elected leadership with U.S. Forest Services (USFS) headquarters to discuss the Holy Cross wilderness adjustment request. Previously the USFS had indicated that the project was in the queue but will take several years. After meetings with headquarters, USFS has provided additional resources to get the project moving.

8. The consultant must have a local presence.

Founded in 2015, Holland & Knight's Denver office is located at 1801 California Street. Partner Seth Belzley is your local contact.

The 12 attorneys in our Denver office focus on litigation, arbitration and transactional matters throughout the state of Colorado and beyond. Moreover, our attorneys represent public and private companies in a range of industries. These include energy, mining and natural resources, healthcare, financial services, banking, telecommunications, hospitality, entertainment, education, transportation, and food.

Our services in Denver include experience and demonstrated knowledge in matters dealing with public/private partnerships and government representation, complex commercial litigation, environment, intellectual property, labor and employment, business disputes, corporate services, corporate governance, compliance, mergers and acquisitions, strategic joint ventures, securities, financing, and public and private equity.



CERTIFICATE OF LIABILITY INSURANCE

HOLLA-4

OP ID: MB

DATE (MM/DD/YYYY)

07/30/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Brown & Brown of Florida, Inc.
P. O. Box 173086
Tampa, FL 33672
Tony Leavine

CONTACT NAME: Mia Bush
PHONE (A/C, No. Ext): 813-226-1337 FAX (A/C, No): 813-226-1313
E-MAIL: mbush@bbtampa.com
ADDRESS:

INSURED
Holland & Knight LLP
Holland & Knight Charitable
Foundation, Inc.
524 Grand Regency Blvd
Brandon, FL 33510

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	SENTRY INSURANCE	24988
INSURER B:	Great Northern Insurance	20303
INSURER C:	Federal Insurance Company	20281
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Insured Contract GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER			35798711	08/01/2018	08/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Each occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included GA
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> No Owned <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS			74986035	08/01/2018	08/01/2019	COMBINED SINGLE LIMIT (Each accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE			79818355	08/01/2018	08/01/2019	EACH OCCURRENCE \$ 50,000,000 AGGREGATE \$ 50,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	901492301	08/01/2018	08/01/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Personal Property			35798711	08/01/2018	08/01/2019	Spec Form 144,513,605
B	Data Process Equip			35798711	08/01/2018	08/01/2019	Spec Form 21,366,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See "Certificate Attachment - Holland & Knight, LLP" attached

*Full name of certificate holder & cancellation - see NotePad attached

CERTIFICATE HOLDER

CITY OF A

City of Aurora **
Purchasing Services
15151 E Alameda Parkway
Ste 3500
Aurora, CO 80012

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

NOTEPADINSURED'S NAME **Holland & Knight LLP****HOLLAND
OP ID: MB**PAGE 2
Date **07/30/2018****CERTIFICATE ATTACHMENT - HOLLAND & KNIGHT, LLP****Additional Insured**

Certificate Holder is a General Liability Additional Insured and Auto Liability (CA2048) Designated Insured, when required by written contract.

Primary / Non-Contributory Additional Insured

Primary and non-contributory General Liability, Auto Liability and Excess Liability Additional Insured provisions apply, when required by written contract.

Per Location and Per Project General Aggregate

General Liability Per Location and Per Project General Aggregate Limit applies

Contractual Liability

General Liability and Auto Liability Insured Contract contractual liability provisions apply.

Separation of Insureds

General Liability and Auto Liability Separation of Insureds provisions apply.

Waiver of Subrogation

Waiver of Transfer Of Rights Of Recovery Against Others To Us provision as respects General Liability, Auto Liability, Excess Liability and Workers Compensation applies in favor of Certificate Holder, when required by written contract.

Excess Liability Underlying Insurance

Excess Liability schedule of underlying insurance includes General Liability, Auto Liability, and Workers Compensation Employers Liability.

8-1-18

NOTEPAD:

HOLDER CODE CITYOFA
INSURED'S NAME Holland & Knight LLP

HOLDER-4
OP ID: MB

PAGE 3

Date 07/30/2018

**Full name of certificate holder reads: City of Aurora, its elected and appointed officials, employees, agents and representatives

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail 30* days written notice to the certificate holder named to the left. *except 10 days for non payment of premium

AMENDMENT to the
Holland & Knight LLP Professional Services Agreement
for City of Aurora Federal Lobbying Services

THIS Amendment (“Amendment”) effective as of the date of the last signature below applies to the Professional Services Agreement for City of Aurora Federal Lobbying Services dated November 27, 2018 (“Agreement”) between the City of Aurora, a Colorado municipal corporation of the Counties of Adams, Arapahoe and Douglas, organized as a home rule city (“City”), whose address is 15151 East Alameda Parkway, Aurora, Colorado 80012 and Holland & Knight, LLP (“Consultant”) (collectively the “Parties”).

RECITALS:

WHEREAS, Colorado law requires that public contracts for services replace the term “illegal alien” with the term “worker without authorization”; and

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 12, “Illegal Alien” is hereby replaced in its entirety with the following:

“Section 12 – Worker Without Authorization

A. UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS: Consultant shall not knowingly employ or contract with a worker without authorization to perform work under this Contract. Consultant shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with workers without authorization to perform work under this Contract and (b) fails to certify to the Consultant that the subcontractor will not knowingly employ or contract with a worker without authorization to perform work under this Contract.

B. VERIFICATION REGARDING a worker without authorization to: By executing this contract, Consultant confirms the employment eligibility of all employees who are newly hired for employment to perform work for this project through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

C. LIMITATIONS: Consultant 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 CONSULTANT: If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with a worker without authorization to, the Consultant shall be required to:

1. Notify the subcontractor and the City within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with a worker without authorization to; and

2. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the a worker without authorization to; except that the Consultant 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 a worker without authorization to.

E. DUTY TO COMPLY WITH STATE INVESTIGATION: Consultant 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 contract, if the Consultant violates any of the above provisions regarding a worker without authorization the City may terminate this contract for cause and the Consultant may be liable for consequential damages.”

2. Nothing herein shall amend any other terms or conditions of the Agreement entered into by the Parties.

3. All other terms and conditions in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have set their hand and affix their seals of the day first above written.

[Intentionally left blank. Signature page follows.]

CITY OF AURORA, COLORADO

By: Luke Palmisano

Name: Luke Palmisano

Title: Intergovernmental Relations Manager

Date: September 15, 2021

CONSULTANT

By: Lauri Hettinger
(Signature)

Name: Lauri Hettinger
(Type or Print)

Title: Senior Policy Advisor

Date: September 15, 2021

**Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting
August 25, 2021**

Members Present: Council Member Angela Lawson, Chair;
Council Member Curtis Gardner, Vice Chair

Others Present: Luke Palmisano, Peggi O'Keefe, Lauri Hettinger, Natasha Campbell, Roberto Venegas, Rachel Allen, Cammie Grant, Kathy Kitzmann, ,

1. APPROVAL OF MINUTES: July 23, 2021 minutes were approved as written.

2. CONSENT ITEMS: None.

3. WELCOME AND INTRODUCTIONS:

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. Federal Legislative Update

Summary of Issue and Discussion: Lauri Hettinger, federal lobbyist, gave an update on current federal legislation. The Senate voted 69-30 on August 10, 2021, to pass the Infrastructure Investment and Jobs Act (H.R. 3684), bipartisan legislation to invest in the nation's infrastructure, including funding for roads and bridges, rail, transit, ports, airports, electric grid, water systems and broadband, among other priorities. The legislation provides \$944 billion in total spending over five years, totaling \$550 billion in new spending. It represents a significant infusion of federal funding for U.S. public works across various industries. Senate passage of the bipartisan infrastructure package follows months of negotiations between the White House and a bipartisan cohort of senators on the infrastructure component of President Joe Biden's original American Jobs Plan. The legislation includes several authorizing bills, including the Surface Transportation Reauthorization Act of 2021 (S. 1931), Surface Transportation Investment Act (S. 2016), Drinking Water and Wastewater Infrastructure Act (S. 914) and the Energy Infrastructure Act (S. 2377), among others. In addition, the bill provides supplemental appropriations for many of these authorized programs, both existing and new. The bill now moves for consideration in the U.S. House of Representatives. The House is in session this week to consider the Senate-passed budget resolution (S. Con. Res. 14), the bipartisan infrastructure package (Senate amendment to H.R. 3684) and the John R. Lewis Voting Rights Advancement Act (H.R. 4).

The bipartisan Infrastructure Bill also includes money for broadband, the Department of Energy, electric vehicles, Army Corp. of Engineers, Bureau of Reclamation and Department of Interior. There are several programs that the city will be able to take advantage of. There are a number of new climate resiliency grant programs that are competitive that the city could apply for to reduce

carbon emissions and some grant programs that deal with pedestrian safety. The city right now is working on updating the bicycle master plan to make the streets safer for cyclists and pedestrians. The city would be able to compete for these types of grants. There is also a grant program for highway/railway grade crossings. Aurora has 3 or 4 of these crossings and each of these projects would cost \$100 millions of dollars. There is money for transit-oriented development and increased money for light rail. In the area of water there is increased money for overall water structure, including a program to address PFAS. Aurora Water already has a program addressing PFAS and this program could be useful to those efforts. L. Hettinger and L. Palmisano have been meeting with the various city departments to make sure they are ready when the grant notice of funding come out.

House Democrats passed the John R. Lewis Voting Rights Advancement Act (H.R. 4). The effort still faces Republican opposition and the prospects of a filibuster in the Senate. The bill comes after a series of House committee hearings over the past several months to establish a legislative record for modern efforts to suppress minority groups' voting power.

When Congress returns in September, they will take on the Reconciliation Bill as well as the federal funding appropriations which includes many of the city's earmarks.

CM Lawson asked if the committee could get a list of the bills, grants and programs that be beneficial to the city. L. Hettinger said that she has sent out a summary of the infrastructure bill and there is a version that has all the programs that would benefit Aurora highlighted. L. Palmisano will send that out to the Committee.

Outcome: Information only.

Follow-up Action: Information only.

5. **STATE LEGISLATIVE UPDATE**

Summary of Issue and Discussion: Peggi O'Keefe said the legislature has not appointed all the committees that will be reviewing the federal funds. The committees should be appointed by the end of the week and will consist of individuals from around the state representing various interests such as economic development, out of state interests as well as some members of the legislature and possibly a representative from the Joint Budget Committee. That interim committee will then make recommendations on how those funds will be spent. They will provide those recommendations to the legislature and the governor's office. The Joint Budget Committee will also take those recommendations as well as what leadership wants and begin to craft the state budget for the next fiscal year.

Several of the interim committees have been meeting and gathering information from variety of resources. They will then make recommendations for interim committee bills that will be introduced next session. These bills will be shared with the committee once they have been made available. CM Lawson asked when we could expect to hear from the interim committees what on legislation that is going to be pushed in the 2022 session. P. O'Keefe said they are in the

conceptual phase now and will be drafting bills in the next month or so and will likely vote in October whether the committee will bring those bills forward. So, we should know what the bills will move forward before the holidays.

CM Gardner asked if the federal relief money is going into the General Fund to backfill revenue or are there any indications on how they are going to spend that money. P. O’Keefe said at the end of the last session they talked about some concepts and how they were going to spend the money. Some of the money was allocated in June. As for the rest, there are rumors floating around about how it will be allocated. Ultimately it is up to the task forces to make recommendations and leadership to decide how to spend it. Potential allocation of the funding could go towards economic development incentives, small business and affordable housing. The money will go to a variety of pots but at this point everything is still on the table and we will not know more until the interim committees and task forces meet. CM Gardner said that Aurora is looking to work with other cities and counties to create synergy and hopefully the state look at thinks like that as well, in order to maximize the resources so it can benefit more people. L. Palmisano said that Representative Jackson spoke to that specifically regarding housing and homelessness. Where there is a need to partner with nonprofits, private and government to pool ideas and resources. CM Lawson agreed that the only way we are really going to get things done through collaboration instead of operating in silos.

Outcome: Information only.

Follow-up Action: Information only.

6. WATER

Summary of Issue and Discussion: Kathy Kitzmann said they are writing up some topics for the Mayor’s meeting with Representative Crow. These are the three points:

1. Per- and polyfluoroalkyl substances (PFAS)- Congress introduced legislation requiring the EPA to list PFAS as a hazardous substance under CERCLA (Comprehensive Environmental Response, Compensation and liability Act). Aurora Water opposes that part of the legislation unless there is an exemption for water treatment residuals. If PFAS is in our source waters, it can be retained in the treatment residuals. If it is listed as a hazardous substance, then there is an increased liability and increased cost for that handling and disposal of those chemicals.
2. Healthy Forest Issue. There has been a lot of funding allocated for watershed work which is good. But some of the recent legislation prohibits the use watershed funds in Colorado’s roadless and wilderness areas. Even though some of the treatments are allowable by law, the legislation will now allow funding going to those areas. A lot of Aurora’s watersheds are within those roadless and wilderness areas and we would like to be able to use those funds.
3. Water conservation rebate tax exemption. Aurora Water incentivizes conservation through different programs, and we are required to obtain 1099 forms. It would make it much easier and we would get more interest in our water conservation programs if they were tax

exempt. Aurora Water requests support for H.R. 4647 Water Conservation Rebate Tax Parity Act that would amend the tax code to expand exclusion for water conservation, similar to treatment of energy rebates.

CM Lawson asked if the meeting with Representative Crow had been rescheduled. L. Palmisano said they are working on that and have asked J. Prosser, Director of Housing and Community Services, and C. Colip, Public Works Director to join that meeting. They will be able to address the housing, homelessness and the general infrastructure priorities with Rep. Crow.

Outcome: N/A

Follow-up Action: N/A

7. LOBBYING CONTRACT EXTENSIONS

Summary of Issue and Discussion: L. Palmisano brought forth the lobbying contract extensions. Each of these contracts are going into the third and final year of the three year contract. Last year due to the pandemic we asked both lobbying teams to take a small pay cut, and they graciously complied. With the change in our budget this year we are restoring the contracts to their original rate. Staff is recommending the State Lobbying contract go to Capitol Capital in the amount of \$65,000 and the Federal Lobbying contract go to Holland & Knight in the amount of \$125,000. The state lobbying contract has an added addendum that defines certain expectations and measurements of success. Staff is asking for the committee to support the renewals and forward the item on to Study Session in October. CM Lawson asked if the phrase “illegal alien” is going to be changed in the city’s contracts since there was legislation passed saying we are to use unauthorized worker instead and this committee supported that legislation. L. Palmisano said the attached contracts are the existing contract drawn up 2 years ago and will be updated going forward. R. Allen said that all the other city contracts have been update so they follow the new state statute. CM Gardner said it makes sense to renew the contracts for the final year and then reassess next year depending on what the makeup of the legislature is and what the changes are. Both CM Lawson and CM Gardner voted to move the contracts forward to Study Session for a full Council vote.

Outcome: CM Gardner and CM Lawson voted to yes move to the State Lobbying Contract for Capitol Capital in the amount of \$65,000 forward to Study Session. CM Gardner and CM Lawson voted to yes move to the Federal Lobbying Contract for Holland & Knight in the amount of \$125,000 forward to Study Session.

Follow-up Action: Staff will add the State and Federal Lobbying contract renewals to the October 18, 2021 Study Session agenda.

8. MISCELLANEOUS MATTERS FOR CONSIDERATION

CONFIRM NEXT MEETING

The next meeting is scheduled for September 17, 2021, 1:00 PM WebEx video conference meeting.

Approved:

Angela Lawson
Committee Chair

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: 2022 State Lobbying Contract Renewal
Item Initiator: Luke Palmisano
Staff Source/Legal Source: Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager
Outside Speaker: N/A
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 10/4/2021

Regular Meeting: 10/11/2021

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

- | | |
|--|---|
| <input type="checkbox"/> Approve Item as proposed at Study Session | <input type="checkbox"/> Information Only |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration | |
- Why is a waiver needed?

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Federal, State & Intergovernmental Relations

Policy Committee Date: 8/25/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 has historically issued request for proposals for state lobbying services. An RFP for state lobbying services was issued in the fall of 2018, with the city selecting Capitol Capital. The city first awarded the state lobbying contract to Capitol Capital during a competitively bid RFP in the fall of 2014. The contract awarded contains a one-year option to extend in 2021 without going back out to bid. Staff is recommending the city exercise that option in the contract for next year at the same dollar amount as 2020 and same scope of work. Capitol Capital accepted a reduced amount in 2021 due to pandemic-related budget constraints.

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

The request is for the city to extend its contract with Capitol Capital for 2021 in the amount of \$65,000. The terms of the agreement, including the dollar amount and scope of services (see attached), will remain the same as in 2019. This is the second of two option years. Capitol Capital has met the responsibilities as set forth in their lobbying contract. Toward that end, they have completed the following:

- Provided regular state updates to the FSIR committee, the Mayor, and City Council detailing the activities of the General Assembly, state agencies, and the progress of the city's specific state priorities.
- Assisted the city in organizing a housing and homelessness tour with members of the state delegation to display efforts the city has made in those areas
- Assisted the city in organizing one-on-one meetings between individual members of the FSIR committee and individual members of the state delegation to discuss bills of interest during the session
- Assisted the city in organizing one-on-one meetings between staff and individual members of the state delegation to discuss the city's priorities, delegate's priorities, and to build relationships

QUESTIONS FOR COUNCIL

Does council wish to approve the one year extension of the state lobbying contract to Capitol Capital?

LEGAL COMMENTS

Previously competitively bid purchase orders or contracts in any amount may be extended under the same conditions of the original contract and at the same or lower price when so doing is in the best interests of the City.(City Code Section 2-674(2)) (Best)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

PROFESSIONAL SERVICES AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

CITY OF AURORA
AURORA, COLORADO

TITLE: State Lobbying Services

FILE NO.: RFP #R-2000

P.O. NO.: _____

(Version PSA 05 2019)

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Attachments

Attachment 1:	Scope of Services
Attachment 2:	Certificates of Insurance

AGREEMENT

This Agreement is made as of the 7th day of January, 2020, by and between the City of Aurora, Colorado ("City"), and Capitol Capital Partners ("Consultant"), a Colorado Limited Liability Company with a principal place of business at 1640 Logan Street, Suite 200, Denver, CO 80203.

WHEREAS, the City intends that Consultant shall perform professional services for the City; and

WHEREAS, Consultant represents that it has the present capacity, is experienced and qualified to perform professional services for the City as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

Section 1 – Scope of Work

A. Consultant agrees to provide professional services as stated in the scope of services ("Work") specified in **Attachment 1**, attached hereto and incorporated into this Agreement.

B. The City shall have the right to disapprove any portion of Consultant's Work on the Project which does not comply with the requirements of this Agreement. If any portion of the Work is not approved by the City, Consultant shall proceed when requested by the City with revisions to the Work to attempt to satisfy the City's objections. If said revised Work is acceptable, the City will provide prompt written approval. Correction or completion of Work which does not comply with the requirements of this Agreement shall be made without adjustments to the compensation for Consultant's services provided for hereunder unless the revisions are made to Work previously approved for previous tasks, in which case, Consultant's compensation shall be adjusted. It is the intent of the parties that Consultant shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, services or other work, without additional cost to the City. The acceptance of Consultant's services by the City shall not relieve Consultant from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness resulting from Consultant's negligent acts, errors or omissions.

C. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any tasks beyond those which have been specifically authorized in writing by the City.

D. The City may, from time to time and in conjunction with Consultant, request changes in the scope of the services of the Consultant to be performed herein. Changes may include, but not be limited to, the type and scope of services provided by Consultant and the quantity or quality of Consultant's staffing for required services. Such changes, including any increase in the amount of the Consultant's compensation, which are mutually agreed upon between the City and Consultant, shall be incorporated in written change orders, amendments or extensions to this Agreement.

Section 2 - Authority

- A. Roberto Venegas ("Project Manager") is the City's Project Manager and the City's authorized representative. The Project Manager is responsible for authorizing and approving all Work performed under this Agreement. All Work to be performed by Consultant shall be authorized in writing by the Project Manager as provided by this Agreement. All communications related to the Project shall be with the Project Manager and, in his absence, a person to be designated by him. The Project Manager is authorized to make decisions on behalf of the City related to the Work. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of Work performed by Consultant, except for approvals which are specifically identified in this Agreement as requiring the approval of City of Aurora's City Council.
- B. Peggi O'Keefe ("Consultant's Representative") is Consultant's representative for the Work. Consultant's Representative shall have sufficient authority to represent and bind Consultant in those instances when such authority is necessary to carry out Consultant's responsibilities and obligations under the terms of this Agreement.

Section 3 - Schedule

- A. In performing professional services pursuant to this Agreement, Consultant acknowledges that timely completion of the Work is critical and time is of the essence. Accordingly, all services to be performed under this Agreement shall be commenced immediately upon execution of this Agreement by the parties hereto, approval by the City as required by applicable law, issuance of a Purchase Order from the City, and in accordance with the schedule set forth in **Attachment 1**, attached hereto and incorporated into this Agreement.
- B. The initial term of this Agreement shall run from the date of approval by the Aurora City Council and issuance of a notice to proceed until December 31, 2020. Subject to the availability of appropriated funds, as provided elsewhere in this Agreement, and agreement between the City and Consultant concerning additional and/or continuing Work, as reflected in additional or revised scope(s) of work, this Agreement may be extended on an annual basis by the City by a written notice to Consultant after approval by the City Council.

Section 4 - Compensation

- A. The compensation to be paid Consultant under this Agreement, as provided hereinafter, covers the entire cost of the professional services under this Agreement. The initial annual compensation of this Agreement shall not exceed Sixty-Five Thousand and 00/100 dollars (\$ 65,000.00), paid in monthly installments of \$5,416.66. Consultant agrees to cooperate fully with the City to keep the total compensation within this limit.
- B. This Agreement is subject to annual appropriation by the Aurora City Council and, in the absence of appropriated funds, the City may terminate this Agreement. The City has appropriated money for the 2020 fiscal year at least equal to the foregoing annual compensation for this work. The City may, from time to time and in its sole discretion, appropriate additional amounts to reflect extensions of this Agreement beyond the close of the 2020 fiscal year and additional and/or continuing scope(s) of work. Notwithstanding any other language in this Agreement, City shall issue no Change Order or other form of order or directive requiring additional compensable work

that will cause the foregoing annual compensation to exceed the amount appropriated unless City gives Consultant written assurance that City has made lawful appropriations to cover the costs of the additional work.

C. Nothing in this Agreement is a pledge of the City's credit, or a payment guarantee by the City to Consultant. The obligation of the City to make payments hereunder shall constitute a currently budgeted expense of the City, and nothing contained herein shall constitute a mandatory liability, charge, or requirement of or against the City in any ensuing fiscal year beyond the then current fiscal year. This Agreement shall never constitute a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City. In the event of a default by the City of any of its obligations under this Agreement, the Contractor shall have no recourse against any revenues of the City. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien against any revenues of the City.

D. Consultant shall submit monthly invoices to be approved by the City's Project Manager. Consultant shall submit its monthly invoices no later than close of business on the fourteenth (14th) calendar day of the month after which the work was performed; provided, however, that if that day falls on a weekend or holiday, then monthly invoices shall be submitted no later than close of business on the next regular business day of the month. Upon submission of an approved Consultant invoice, in the proper form, to the City, payment shall be issued. It is to be understood and agreed that the City may require up to thirty (30) days to process payment after date of receipt of invoicing.

Section 5 - Staffing

A. The Consultant personnel listed below are essential to the proper performance of the services under this Agreement:

<u>Name</u>	<u>Title</u>
Peggi O'Keefe	Project Manager

The above-identified individuals are key persons and will be available to perform the Work. Consultant agrees to make key personnel available as required to perform the Work as long as such persons are employed by Consultant. Consultant shall obtain the prior written approval of the City before appointing other Consultant personnel as a substitute(s) for the above-named key personnel. The City reserves the right to reject proposed replacement personnel, or require the replacement of any Consultant personnel; however such City action shall not subject the City to any liability to Consultant nor be used by Consultant as an excuse for failure to meet the requirements of this Agreement.

B. Consultant shall insure the quality, timeliness, and continuity of services are maintained through the duration of the project. Consultant shall avoid changes to the key personnel to the extent possible.

C. Consultant shall inform the City in writing of any non-employee persons or firms it intends to hire to perform any Work required by this Agreement and shall keep the City informed of any changes or additions to this information. The City shall approve in writing any additional

firms prior to commencement of Work. Consultant shall be responsible for any Work performed under this Agreement, including that portion of the Work performed by other individuals or firms. Nothing contained herein shall create any contractual relationship between any additional persons and/or firm(s) and the City.

Section 6 - Insurance

A. Consultant shall provide the appropriate certificates of insurance and Worker Compensation documents, at no cost to the City, as described in **Attachment 2**. The Consultant further agrees and understands that they are to maintain and keep in force the appropriate insurance policies throughout the term of this Agreement.

B. Consultant shall be responsible for any injury to persons or damage to property to the extent arising from negligent or otherwise wrongful acts, errors and omissions of Consultant, its agents and employees. If Consultant knows of the damage Consultant shall immediately notify the City. If the City discovers the damage, City will notify Consultant immediately. Repair shall be accomplished under City direction and to City specifications so property is in as good or better condition than before damage. Consultant shall provide the City with a certificate of liability coverage in accordance per the attached form 410-33, **Attachment 2**.

C. The Consultant's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.

D. Nothing herein is intended to be construed or shall be construed to be a waiver of the City's governmental immunity under Section 24-10-101 et. seq., C.R.S. as amended.

Section 7 - The City's Responsibilities

A. The City shall:

1. Provide necessary information to Consultant to facilitate Consultant in performing the Work;

2. Give prompt notice to Consultant whenever the City observes or otherwise becomes aware of any deficiencies or discrepancies in the services provided;

3. Furnish, or direct Consultant to provide, at the City's expense, any necessary additional services;

4. Examine all documents submitted by Consultant, and, if requested by Consultant, provide comments and decisions in a timely manner in order to allow the Consultant's work to proceed.

B. Consultant shall not be liable for delays in performing the Work when such delays are caused by the City, the City's other Consultants, or by events which are outside of the control of the Parties and which events could not be avoided by the exercise of due care.

Section 8 - Mutual Obligations

- A. This Agreement does not guarantee to Consultant any additional or future work except as expressly authorized herein.
- B. This Agreement does not create or imply an exclusive agreement between Consultant and the City.
- C. The services and any and all interests contemplated under this Agreement shall not be assigned or otherwise transferred except with the written consent of the City.
- D. All documents of any nature prepared by Consultant in connection with the services provided by Consultant under the terms of this Agreement shall become the property of the City.
- E. Consultant shall not utilize work product, data, information, results, and materials produced as part of its efforts under this Agreement for any promotional or public relations purposes whatsoever without the express, prior, written consent of the City.

Section 9 - Termination

- A. Termination for Cause - In the event a material breach of this Agreement remains uncured following written notice of said breach by City, the City may immediately terminate this Agreement upon written notice specifying the effective date thereof; provided however, the City may, in its discretion and for good cause, allow Consultant to cure any breach or submit an acceptable plan to cure such breach within ten (10) days of such written notice.
- B. Termination for Convenience
 - 1. Change in City Policy. The City may terminate this Agreement at any time upon thirty (30) days notice specifying the date thereof, provided Consultant shall be compensated in accordance with this Agreement for all work performed up to the effective date of termination.
 - 2. The City's total liability under this Agreement, inclusive of termination costs, shall not exceed the lesser of total amount of this Agreement or the total amount of funds which have been appropriated specifically for this Agreement.
 - 3. Consultant shall be entitled to reasonable incurred costs for terminating its activities under this Agreement, including those of its sub-consultants, if this Agreement is terminated for the City's convenience; provided however, in no event shall the City's total liability to Consultant exceed the total amount of funds which have been appropriated specifically for this agreement.
- C. Effect of Termination
 - 1. Termination Costs. After receipt of written notification that this Agreement has been terminated under this section, Consultant shall incur no further costs other than reasonable termination costs associated with current activities.

2. Ownership of Work Product. In the event of termination, all finished and unfinished Project deliverables prepared by Consultant pursuant to this Agreement shall become the sole property of the City, provided Consultant is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. Consultant shall not be liable with respect to the City's subsequent use of any incomplete work product, provided Consultant has notified the City in writing of the incomplete status of such work product.

3. City's Right to Set-Off and other Remedies. Termination shall not relieve Consultant from liability to the City for damages sustained as the result of Consultant's breach of this Agreement; and the City may withhold funds otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.

4. If this Agreement terminated for cause as provided in this section and it is subsequently determined that the City's termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this section related to a termination for convenience shall apply.

Section 10 - Miscellaneous Provisions

A. Consultant, at all times, agrees to observe all applicable Federal and State of Colorado laws, Ordinances and Charter Provisions of the City of Aurora, and all rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement.

B. Consultant shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. Consultant:

1. Shall adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship;

2. Shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause. All solicitations and advertisements for employees placed by or on behalf of the Consultant, shall state that Consultant is an equal opportunity employer;

3. Shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by Consultant, so that such provisions are binding upon each sub-consultant;

4. Shall keep such records and submit such reports concerning the racial and ethnic origin of employees and of applicants for employment as the United States, the State of Colorado, the City of Aurora, or their respective agencies may require; and,

5. Shall comply with such rules, regulations and guidelines as the United States, the State of Colorado, the City of Aurora, or their respective agencies may issue to implement these requirements.

C. By executing this agreement, Consultant acknowledges an understanding of and expressly agrees that all work performed under this Agreement is that of an independent contractor. An independent contractor is not a City of Aurora employee and as such is not entitled to Workers' Compensation benefits. Consultant is obligated to pay Federal and state income tax on any monies earned pursuant to the contractual relationship. It is expressly understood between the City of Aurora and Consultant that Consultant, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Consultant or some entity other than the City of Aurora, Colorado.

D. All notices, demands, or other documents or instruments required or permitted to be served upon either Party hereto shall be in writing and shall be deemed duly served when delivered in person to an officer or partner of the Party being served, by facsimile transmission or when mailed certified or registered mail, return receipt requested, postage prepaid addressed to parties at the addresses stated below:

City: Office of the City Attorney
15151 East Alameda Parkway
5th Floor
Aurora, Colorado 80012

Consultant Representative: Peggi O'Keefe
Capitol Capital Partners
1640 Logan St., Ste. 200
Denver, CO 80203

Section 11 - Examination of Records (This section applies if this Agreement exceeds \$10,000.00.)

A. The Internal Auditor of the City of Aurora, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under this Agreement, have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.

B. Consultant agrees to include in first-tier sub-consultants under this Agreement a clause to the effect that the City's Internal Auditor, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under the subcontract have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders from public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

C. The periods of access and examination as noted above for records relating to (1) litigation or settlement of claims arising from the performance of this Agreement, or (2) costs and expenses of this Agreement to which the City, acting through its duly authorized designee, has taken exception, shall continue until such appeals, litigation, claims, or exceptions are finally resolved.

Section 12 - Illegal Alien

A. **UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS:** Consultant shall not knowingly employ or contract with illegal aliens to perform work under this Contract. Consultant shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with illegal aliens to perform work under this Contract and (b) fails to certify to the Consultant that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract.

B. **VERIFICATION REGARDING ILLEGAL ALIENS:** By executing this contract, Consultant confirms the employment eligibility of all employees who are newly hired for employment to perform work for this project through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

C. **LIMITATIONS:** Consultant 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 CONSULTANT:** If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall be required to:

1. Notify the subcontractor and the City within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant 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 an illegal alien.

E. **DUTY TO COMPLY WITH STATE INVESTIGATION:** Consultant 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 contract, if the Consultant violates any of the above provisions regarding illegal aliens the City may terminate this contract for cause and the Consultant may be liable for consequential damages.

Section 13 - Indemnification

A. The Consultant shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of Consultant's services for the City and caused by negligent acts, errors, and omissions of the Consultant or any person employed by it or anyone for whose act the Consultant is legally liable.

B. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of Consultant hereunder. Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.

C. Patents Infringement: The Consultant shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the services under this Agreement. The Consultant's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the Consultant pursuant to this Agreement. Consultant shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or caused to be made by the City subsequent to delivery by the Consultant. Consultant also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.

D. Consultant agrees that it will contractually obligate its sub-consultants to indemnify and hold harmless the indemnitees identified in this Section to the same extent that Consultant is required to indemnify and hold harmless said indemnitees.

In WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AURORA, COLORADO


By: 

Name: Bryn Fillinger

Title: Manager, Purchasing Svcs.

Date: February 13, 2020

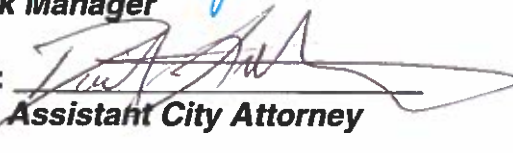
ATTEST:


City Clerk

RISK MANAGEMENT:


Risk Manager

APPROVED AS TO FORM:


Assistant City Attorney

CONSULTANT

By: 
(Signature) ✓

Name: Peggi O'Keefe
(Type or Print)

Title: Principal

Date: 12/26, 2019

Attachment 1

SCOPE OF SERVICES

2020 STATE LOBBYIN SERVICES FOR THE CITY OF AURORA

The consultant shall perform lobbying services for the City of Aurora as follows:

- Establish communications structure with city staff, City Council and City Council Federal, State & Intergovernmental Relations Committee (FSIR Committee).
- Communicate with legislators representing Aurora to let them know that the consultant will represent the city at the Colorado General Assembly.
- Prepare to pursue city legislative agendas including securing sponsorship for bills, coordinating the drafting of bills and soliciting support, as needed.
- Review all bills in a timely manner as they are introduced, and forward those of interest to the city of Aurora pursuant to the plan that is developed with city staff prior to the session. Bills of interest will be analyzed internally by city staff to help inform the FSIR committee and consultant. In addition, the consultant will follow the progress of bills of importance to the city, review amendments, and provide analysis and strategic advice related to these bills.
- Regularly attend meeting of the City Council Federal, State & Intergovernmental Relations committee- generally twice per month during the legislative session, and once per month during the interim.
- Provide strategic advice to the FSIR committee and offer suggestions for proactive leadership on state legislative issues.
- Advocate the city's position to members of the General Assembly, the Executive Branch and other interested parties. Identify opportunities for the mayor, council members and other city officials to participate in the process and make recommendations. Those opportunities include, but are not limited to, communication to legislators, providing testimony at legislative hearings, and communications to the governor and governor's staff. Assist in the preparation of Council members or other Aurora city officials planning to testify before legislative committees.
- Work with groups that share or dispute city positions. Work to understand the position of others to either leverage support or mitigate opposition by those parties on issues of importance to the city.
- Conduct ongoing communication with the city via phone conversations, e-mail, written and oral reports and formal briefings to the full City Council, as appropriate.
- Provide report on most recent legislative session no later than May 31st of each contract year.
- Monitor the interim activities of the General Assembly and participate as necessary and appropriate.
- Work to identify priorities and emerging issues for the upcoming legislative session.
- Assist city staff in coordinating legislative receptions as directed by the FSIR committee.
- Issues involving water and/or the Utilities Department are excluded from this contract.

Attachment 2

INSURANCE REQUIREMENTS

During the term of this Agreement and until final acceptance by the City of all work covered by the Purchase Order or contract, the Consultant 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 Consultant, 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.

Commercial General Liability Insurance. The Consultant shall maintain commercial general liability insurance covering all operations by or on behalf of the Consultant on a per occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Coverage will include, if appropriate for the scope of services: Products and Completed Operations, Contractual Liability 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:

\$1,000,000 each occurrence

\$2,000,000 general aggregate

\$2,000,000 products and completed operations

Commercial Automobile Liability Insurance. The Consultant shall maintain business automobile liability 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, naming the City as an Additional Insured.

Workers' Compensation and Employers Liability Insurance. The Consultant shall maintain Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Consultant 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.

Subcontractor's Insurance It shall be the responsibility of the vendor/contractor to ensure that subcontractors maintain:

A. Commercial General Liability insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 general aggregate and shall name the City of Aurora as an additional insured; and

B. Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado and 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.

The Consultant 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 provide insurance coverage as 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 or automobile 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 and Waiver of Subrogation. The Consultant 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 and Excess Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements.

Certificates of Insurance. Upon the execution of this Agreement, the Consultant shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. Consultant 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 Vendor's or Contractor's or its subcontractor's coverage is renewed at any time prior to completion of the services, the Consultant shall be responsible for obtaining updated insurance certificates for itself and such subcontractors from the respective insurance carriers and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate.

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 Consultant 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 giving rise to the contract. **The Consultant's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.**

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the contract shall also be protected by a Professional Liability Insurance policy as set forth below:

Professional Liability Insurance. The Consultant shall maintain professional liability insurance with minimum limits of Two Million Dollars (\$2,000,000), covering those claims which arise out of the negligent acts or omissions of the Consultant, its Subcontractor and any other parties for whom it may be liable including without limitation, bodily injury, personal injury, property damage and including a contractual liability endorsement specifically applicable to the insurable indemnity obligations set forth herein which Professional Liability Insurance shall 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 the completion of any and all of Consultant's Services hereunder. Any retroactive date or prior acts exclusion to which such coverage is subject shall pre-date both the date upon which any services hereunder are commenced and 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) shall be delivered within five (5) days after renewal.

Form No. 410-33 (Version 6/24/2015)

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 01/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
 David M Carter
 19201 E MAINSTREET STE 202
 PARKER, CO 80134
 (303) 217-9369 (030/301)

CONTACT NAME: David M Carter III
PHONE A/C No. Ext.: (303) 217-9369 **FAX A/C No.:** (844) 769-2854
E-MAIL ADDRESS: DCARTE2@amfam.com

INSURED
 Capitol Capital, LLC
 1640 N Logan St
 Denver, CO 80203

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	American Family Mutual Insurance Company, S.I.	19275
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES
CERTIFICATE NUMBER:
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADOL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ BODILY INJURY \$ \$
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y	Y	05-XT5467-01	08/10/2019	08/10/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Consultant 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 and Excess Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements.

CERTIFICATE HOLDER

City of Aurora
 15151 E Alameda Pkwy
 Aurora, CO 80012

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jessica Maldonado

CERTIFICATE OF LIABILITY INSURANCE

American Family Insurance Company ☐
 American Family Mutual Insurance Company, S.I. if selection box is not checked.
 6000 American Pky Madison, Wisconsin 53783-0001

Insured's Name and Address
 Capitol Capital, LLC
 1640 N Logan St
 Denver, CO 80203

Agent's Name, Address and Phone Number (Agt./Dist.)
 David M Carter III
 19201 E MAINSTREET STE 202
 PARKER, CO 80134
 (303) 217-9369 (030/301)

This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder.
 This certificate does not amend, extend or alter the coverage afforded by the policies listed below.

COVERAGES

This is to certify that policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies.

TYPE OF INSURANCE	POLICY NUMBER	POLICY DATE		LIMITS OF LIABILITY
		EFFECTIVE (Mo. Day, Yr)	EXPIRATION (Mo. Day, Yr)	
Homeowners/ Mobilehomeowners Liability				Bodily Injury and Property Damage Each Occurrence \$,000
Boatowners Liability				Bodily Injury and Property Damage Each Occurrence \$,000
Personal Umbrella Liability				Bodily Injury and Property Damage Each Occurrence \$,000
Farm/Ranch Liability				Farm Liability & Personal Liability Each Occurrence \$,000 Farm Employer's Liability Each Occurrence \$,000
Workers Compensation and Employers Liability †				Statutory ***** Each Accident \$,000 Disease - Each Employee \$,000 Disease - Policy Limit \$,000
General Liability <input checked="" type="checkbox"/> Commercial General Liability (occurrence) <input type="checkbox"/> <input type="checkbox"/>	05-XT5467-01	08/10/2019	08/10/2020	General Aggregate \$ 2,000,000,000 Products - Completed Operations Aggregate \$ 2,000,000,000 Personal and Advertising Injury \$,000 Each Occurrence \$ 1,000,000,000 Damage to Premises Rented to You \$ 100,000 Medical Expense (Any One Person) \$ 5,000
Businessowners Liability				Each Occurrence†† \$,000 Aggregate†† \$,000
Liquor Liability				Common Cause Limit \$,000 Aggregate Limit \$,000
Automobile Liability <input type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Auto <input type="checkbox"/> Nonowned Autos <input type="checkbox"/>				Bodily Injury - Each Person \$,000 Bodily Injury - Each Accident \$,000 Property Damage \$,000 Bodily Injury and Property Damage Combined \$,000
Excess Liability <input type="checkbox"/> Commercial Blanket Excess <input type="checkbox"/>				Each Occurrence/Aggregate \$,000

Other (Miscellaneous Coverages)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / RESTRICTIONS / SPECIAL ITEMS

† The individual or partners ☐ Have shown as insured elected to be covered under this policy ☐ Have not
 †† Products-Completed Operations aggregate is equal to each occurrence limit and is included in policy aggregate.

CERTIFICATE HOLDER'S NAME AND ADDRESS

CANCELLATION

☐ Should any of the above described policies be cancelled before the expiration date thereof, the company will endeavor to mail () days written notice to the Certificate Holder named, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives. *10 days unless different number of days shown.

☒ This certifies coverage on the date of issue only. The above described policies are subject to cancellation in conformity with their terms and by the laws of the state of issue.

DATE ISSUED
 01/13/2020

AUTHORIZED REPRESENTATIVE
 Jessica Maldonado

State Lobbyist Expectations

MEMORANDUM

TO: FEDERAL, STATE, AND INTERGOVERNMENTAL RELATIONS COMMITTEE

FROM: LUKE PALMISANO, INTERGOVERNMENTAL RELATIONS MANAGER

SUBJECT: EXPECTATIONS FOR CONTRACT STATE LOBBYISTS FOR 2022 SESSION

DATE: AUGUST 12, 2021

Background: This document shall include expectations for the contract state lobbyists for the 2022 state legislative regular and 2021 interim session. This document shall serve as an addendum to the existing contract and shall be attached to the contract as the third-year option is renewed.

Expectation: The Intergovernmental Relations Manager (IRM) shall share the bi-weekly State Legislative Update memo with the contract state lobbyists. The contract state lobbyists shall be prepared to give updates and answer questions related to each bill contained in the memo.

- **Measurement of Success:** The contract state lobbyists shall be prepared to provide a legislative update on bills staff brings forward for an active position included in the State Legislative memo.

Expectation: The IRM and state lobbyists shall have a recurring weekly phone call during the session. During the call the IRM and state lobbyists shall identify upcoming hearings for priority bills. At least one contract lobbyists shall attend the hearings and provide notes from the hearing.

- **Measurement of Success:** The notes shall be provided to the IRM no later than 72 hours after the hearing and no later than 24 hours during the last 14 days of the session.

Expectation: The existing contract specifies that the contract state lobbyists shall provide an annual state legislative session report no later May 31.

- **Measurement of Success:** The contract state lobbyists shall provide the final report in an easy to navigate *Word* document format, with a link to the tracking report, and by listing priority bills first, followed by listing bills the FSIR committee monitored second.

Expectation: The existing contract specifies that the contract state lobbyists shall assist the Intergovernmental Relations Manager in fostering and building relationships and to serve as a conduit for the city on state intergovernmental affairs. The contract state lobbyists shall assist in scheduling one-on-one meetings with the state delegation and the IRM during the 2021 interim.

State Lobbyist Expectations

- **Measurement of Success:** Success on this item shall be measured by successfully scheduling at least one meeting during the interim with each member of the core state delegation (defined as having a majority of their district falling within the city's borders) or with recorded attempts to schedule.

Expectation: The contract state lobbyists shall also increase outreach to the state delegation and advocacy organizations during the state legislative session.

- **Measurement of Success:** The contract state lobbyists shall schedule a meeting with lobbyists from the Colorado Municipal League to discuss the upcoming session prior to the start of session.
- **Measurement of Success:** The contract state lobbyists shall personally distribute the GA Position Memo created by the IRM.
- **Measurement of Success:** The contract state lobbyists shall attempt to schedule a coffee or other brief meeting with at least one member of the delegation and the IRM weekly.

Expectation: The existing contract also states the contract state lobbyists shall work to build coalitions and seek consensus to advance the city's state priorities and to educate and advocate for city interests. City staff shall be responsible for clearly identifying concerns and suggested amendments for bills where FSIR takes an oppose or amend position.

- **Measurement of Success:** The contract state lobbyists shall provide in writing the outline of a strategic lobbying plan to build coalitions and seek consensus on priority bills. Priority bills shall be defined as those requested by the IRM and on where the FSIR takes an amend or oppose position or on bills proposed by the city. The strategic outline shall be expected only after FSIR has taken an active position. The strategic outline shall be expected within a week of an active FSIR position.
- **Measurement of Success:** The strategic lobbying outline can include organization or attendance of stakeholder meetings, coordination with CML and other partners, development of testimony, and/or identifying opportunities for staff or elected officials to participate in the legislative process.

State Lobbyist Expectations

Peggi O'Keefe

Luke Palmisano



Luke Palmisano

8/18/21

AMENDMENT to the
Capitol Capital Partners Professional Services Agreement
for State Lobbying Services

THIS Amendment (“Amendment”) effective as of the date of the last signature below applies to the Professional Services Agreement for State Lobbying Services dated January 7, 2020 (“Agreement”) between the City of Aurora, a Colorado municipal corporation of the Counties of Adams, Arapahoe and Douglas, organized as a home rule city (“City”), whose address is 15151 East Alameda Parkway, Aurora, Colorado 80012 and Capitol Capital Partners (“Consultant”) (collectively the “Parties”).

RECITALS:

WHEREAS, Colorado law requires that public contracts for services replace the term “illegal alien” with the term “worker without authorization”; and

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 12, “Illegal Alien” is hereby replaced in its entirety with the following:

“Section 12 – Worker Without Authorization

A. UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS:

Consultant shall not knowingly employ or contract with a worker without authorization to perform work under this Contract. Consultant shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with workers without authorization to perform work under this Contract and (b) fails to certify to the Consultant that the subcontractor will not knowingly employ or contract with a worker without authorization to perform work under this Contract.

B. VERIFICATION REGARDING a worker without authorization to: By executing this contract, Consultant confirms the employment eligibility of all employees who are newly hired for employment to perform work for this project through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

C. LIMITATIONS: Consultant 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 CONSULTANT: If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with a worker without authorization to, the Consultant shall be required to:

1. Notify the subcontractor and the City within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with a worker without authorization to; and

2. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the a worker without authorization to; except that the Consultant 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 a worker without authorization to.

E. DUTY TO COMPLY WITH STATE INVESTIGATION: Consultant 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 contract, if the Consultant violates any of the above provisions regarding a worker without authorization the City may terminate this contract for cause and the Consultant may be liable for consequential damages.”

2. Nothing herein shall amend any other terms or conditions of the Agreement entered into by the Parties.

3. All other terms and conditions in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have set their hand and affix their seals of the day first above written.

[Intentionally left blank. Signature page follows.]

CITY OF AURORA, COLORADO

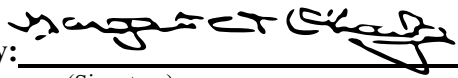
By: Luke Palmisano

Name: Luke Palmisano

Title: Intergovernmental Relations Manager

Date: September 15, 2021

CONSULTANT

By: 
(Signature)

Name: Margaret O'Keefe
(Type or Print)

Title: principal

Date: 9.15, 2021

Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting
August 25, 2021

Members Present: Council Member Angela Lawson, Chair;
Council Member Curtis Gardner, Vice Chair

Others Present: Luke Palmisano, Peggi O'Keefe, Lauri Hettinger, Natasha Campbell, Roberto Venegas, Rachel Allen, Cammie Grant, Kathy Kitzmann, ,

1. APPROVAL OF MINUTES: July 23, 2021 minutes were approved as written.

2. CONSENT ITEMS: None.

3. WELCOME AND INTRODUCTIONS:

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. Federal Legislative Update

Summary of Issue and Discussion: Lauri Hettinger, federal lobbyist, gave an update on current federal legislation. The Senate voted 69-30 on August 10, 2021, to pass the Infrastructure Investment and Jobs Act (H.R. 3684), bipartisan legislation to invest in the nation's infrastructure, including funding for roads and bridges, rail, transit, ports, airports, electric grid, water systems and broadband, among other priorities. The legislation provides \$944 billion in total spending over five years, totaling \$550 billion in new spending. It represents a significant infusion of federal funding for U.S. public works across various industries. Senate passage of the bipartisan infrastructure package follows months of negotiations between the White House and a bipartisan cohort of senators on the infrastructure component of President Joe Biden's original American Jobs Plan. The legislation includes several authorizing bills, including the Surface Transportation Reauthorization Act of 2021 (S. 1931), Surface Transportation Investment Act (S. 2016), Drinking Water and Wastewater Infrastructure Act (S. 914) and the Energy Infrastructure Act (S. 2377), among others. In addition, the bill provides supplemental appropriations for many of these authorized programs, both existing and new. The bill now moves for consideration in the U.S. House of Representatives. The House is in session this week to consider the Senate-passed budget resolution (S. Con. Res. 14), the bipartisan infrastructure package (Senate amendment to H.R. 3684) and the John R. Lewis Voting Rights Advancement Act (H.R. 4).

The bipartisan Infrastructure Bill also includes money for broadband, the Department of Energy, electric vehicles, Army Corp. of Engineers, Bureau of Reclamation and Department of Interior. There are several programs that the city will be able to take advantage of. There are a number of new climate resiliency grant programs that are competitive that the city could apply for to reduce

carbon emissions and some grant programs that deal with pedestrian safety. The city right now is working on updating the bicycle master plan to make the streets safer for cyclists and pedestrians. The city would be able to compete for these types of grants. There is also a grant program for highway/railway grade crossings. Aurora has 3 or 4 of these crossings and each of these projects would cost \$100 millions of dollars. There is money for transit-oriented development and increased money for light rail. In the area of water there is increased money for overall water structure, including a program to address PFAS. Aurora Water already has a program addressing PFAS and this program could be useful to those efforts. L. Hettinger and L. Palmisano have been meeting with the various city departments to make sure they are ready when the grant notice of funding come out.

House Democrats passed the John R. Lewis Voting Rights Advancement Act (H.R. 4). The effort still faces Republican opposition and the prospects of a filibuster in the Senate. The bill comes after a series of House committee hearings over the past several months to establish a legislative record for modern efforts to suppress minority groups' voting power.

When Congress returns in September, they will take on the Reconciliation Bill as well as the federal funding appropriations which includes many of the city's earmarks.

CM Lawson asked if the committee could get a list of the bills, grants and programs that be beneficial to the city. L. Hettinger said that she has sent out a summary of the infrastructure bill and there is a version that has all the programs that would benefit Aurora highlighted. L. Palmisano will send that out to the Committee.

Outcome: Information only.

Follow-up Action: Information only.

5. **STATE LEGISLATIVE UPDATE**

Summary of Issue and Discussion: Peggi O'Keefe said the legislature has not appointed all the committees that will be reviewing the federal funds. The committees should be appointed by the end of the week and will consist of individuals from around the state representing various interests such as economic development, out of state interests as well as some members of the legislature and possibly a representative from the Joint Budget Committee. That interim committee will then make recommendations on how those funds will be spent. They will provide those recommendations to the legislature and the governor's office. The Joint Budget Committee will also take those recommendations as well as what leadership wants and begin to craft the state budget for the next fiscal year.

Several of the interim committees have been meeting and gathering information from variety of resources. They will then make recommendations for interim committee bills that will be introduced next session. These bills will be shared with the committee once they have been made available. CM Lawson asked when we could expect to hear from the interim committees what on legislation that is going to be pushed in the 2022 session. P. O'Keefe said they are in the

conceptual phase now and will be drafting bills in the next month or so and will likely vote in October whether the committee will bring those bills forward. So, we should know what the bills will move forward before the holidays.

CM Gardner asked if the federal relief money is going into the General Fund to backfill revenue or are there any indications on how they are going to spend that money. P. O’Keefe said at the end of the last session they talked about some concepts and how they were going to spend the money. Some of the money was allocated in June. As for the rest, there are rumors floating around about how it will be allocated. Ultimately it is up to the task forces to make recommendations and leadership to decide how to spend it. Potential allocation of the funding could go towards economic development incentives, small business and affordable housing. The money will go to a variety of pots but at this point everything is still on the table and we will not know more until the interim committees and task forces meet. CM Gardner said that Aurora is looking to work with other cities and counties to create synergy and hopefully the state look at thinks like that as well, in order to maximize the resources so it can benefit more people. L. Palmisano said that Representative Jackson spoke to that specifically regarding housing and homelessness. Where there is a need to partner with nonprofits, private and government to pool ideas and resources. CM Lawson agreed that the only way we are really going to get things done through collaboration instead of operating in silos.

Outcome: Information only.

Follow-up Action: Information only.

6. WATER

Summary of Issue and Discussion: Kathy Kitzmann said they are writing up some topics for the Mayor’s meeting with Representative Crow. These are the three points:

1. Per- and polyfluoroalkyl substances (PFAS)- Congress introduced legislation requiring the EPA to list PFAS as a hazardous substance under CERCLA (Comprehensive Environmental Response, Compensation and liability Act). Aurora Water opposes that part of the legislation unless there is an exemption for water treatment residuals. If PFAS is in our source waters, it can be retained in the treatment residuals. If it is listed as a hazardous substance, then there is an increased liability and increased cost for that handling and disposal of those chemicals.
2. Healthy Forest Issue. There has been a lot of funding allocated for watershed work which is good. But some of the recent legislation prohibits the use watershed funds in Colorado’s roadless and wilderness areas. Even though some of the treatments are allowable by law, the legislation will now allow funding going to those areas. A lot of Aurora’s watersheds are within those roadless and wilderness areas and we would like to be able to use those funds.
3. Water conservation rebate tax exemption. Aurora Water incentivizes conservation through different programs, and we are required to obtain 1099 forms. It would make it much easier and we would get more interest in our water conservation programs if they were tax

exempt. Aurora Water requests support for H.R. 4647 Water Conservation Rebate Tax Parity Act that would amend the tax code to expand exclusion for water conservation, similar to treatment of energy rebates.

CM Lawson asked if the meeting with Representative Crow had been rescheduled. L. Palmisano said they are working on that and have asked J. Prosser, Director of Housing and Community Services, and C. Colip, Public Works Director to join that meeting. They will be able to address the housing, homelessness and the general infrastructure priorities with Rep. Crow.

Outcome: N/A

Follow-up Action: N/A

7. LOBBYING CONTRACT EXTENSIONS

Summary of Issue and Discussion: L. Palmisano brought forth the lobbying contract extensions. Each of these contracts are going into the third and final year of the three year contract. Last year due to the pandemic we asked both lobbying teams to take a small pay cut, and they graciously complied. With the change in our budget this year we are restoring the contracts to their original rate. Staff is recommending the State Lobbying contract go to Capitol Capital in the amount of \$65,000 and the Federal Lobbying contract go to Holland & Knight in the amount of \$125,000. The state lobbying contract has an added addendum that defines certain expectations and measurements of success. Staff is asking for the committee to support the renewals and forward the item on to Study Session in October. CM Lawson asked if the phrase “illegal alien” is going to be changed in the city’s contracts since there was legislation passed saying we are to use unauthorized worker instead and this committee supported that legislation. L. Palmisano said the attached contracts are the existing contract drawn up 2 years ago and will be updated going forward. R. Allen said that all the other city contracts have been update so they follow the new state statute. CM Gardner said it makes sense to renew the contracts for the final year and then reassess next year depending on what the makeup of the legislature is and what the changes are. Both CM Lawson and CM Gardner voted to move the contracts forward to Study Session for a full Council vote.

Outcome: CM Gardner and CM Lawson voted to yes move to the State Lobbying Contract for Capitol Capital in the amount of \$65,000 forward to Study Session. CM Gardner and CM Lawson voted to yes move to the Federal Lobbying Contract for Holland & Knight in the amount of \$125,000 forward to Study Session.

Follow-up Action: Staff will add the State and Federal Lobbying contract renewals to the October 18, 2021 Study Session agenda.

8. MISCELLANEOUS MATTERS FOR CONSIDERATION

CONFIRM NEXT MEETING

The next meeting is scheduled for September 17, 2021, 1:00 PM WebEx video conference meeting.

Approved:

Angela Lawson
Committee Chair

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: Aurora Water State Lobbying Services Contract Renewal
Item Initiator: Kathy Kitzmann, Water Resources Principal
Staff Source/Legal Source: Kathy Kitzmann, Water Resources Principal/ Ian Best, Assistant City Attorney
Outside Speaker:
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 10/4/2021

Regular Meeting: 10/11/2021

ITEM DETAILS:

Consideration to AWARD A COMPETITIVELY BID CONTRACT renewal to Colorado Advocates LLC, Denver, Colorado in the amount of \$48,000 for State Lobbying Services for the City of Aurora's Water Department.

Waiver of Reconsideration: N/A

Sponsor: N/A

Staff Source: Kathy Kitzmann, Water Resources Principal

Outside Speaker: N/A

Estimated Presentation/Discussion time: 5/5 minutes

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Federal, State & Intergovernmental Relations

Policy Committee Date: 9/17/2021

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input checked="" type="checkbox"/> 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.)

State Lobbying Services for the City of Aurora's Water Department (R-2059) was competitively bid and awarded to Colorado Advocates LLC. The term of the initial contract was from November 1, 2020 through October 31, 2021 (20P1079) and may be extended two additional years.

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

State Lobbying Services for the City of Aurora's Water Department (R-2059) was competitively bid and awarded to Colorado Advocates LLC. The term of the initial contract was from November 1, 2020 through October 31, 2021 (20P1079) and may be extended two additional years.

Colorado Advocates proposed contract renewal will be for the time period of November 1, 2021 through October 31, 2022 and will maintain the initial term price of \$48,000 for this second year of state lobbying services for the Water Department.

QUESTIONS FOR COUNCIL

Does Council wish to approve item and move forward to Regular Meeting?

LEGAL COMMENTS

Previously competitively bid purchase orders or contracts in any amount may be extended under the same conditions of the original contract and at the same or lower price when so doing is in the best interests of the City.(City Code Section 2-674(2)) (Best)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

ATTACHMENT 1

SCOPE OF SERVICES

STATE LOBBYING SERVICES FOR THE CITY OF AURORA, WATER DEPARTMENT

The consultant shall perform state lobbying services for the City of Aurora, Water Department (Aurora Water) as follows:

1. Lobbying services prior to the State of Colorado General Assembly legislative session.
 - A. Establish communications mechanism to use with city staff, City Council, and City Council Federal, State & Intergovernmental Relations (FSIR) Committee.
 - B. Work with city staff to let legislators representing Aurora and legislative leaders know that the consultant will represent Aurora Water at the Colorado General Assembly.
 - C. Prepare to pursue Aurora Water's legislative agenda including securing sponsorship for bills, coordinating drafting of bills and soliciting support.
 - D. Attend Aurora Water meetings and City Council FSIR committee meetings as directed by staff.
2. Lobbying services during the State of Colorado General Assembly legislative session.
 - A. Review all bills as they are introduced and forward those of interest to the Aurora Water pursuant to the plan that is developed prior to the session. Follow the progress of bills of importance to the Aurora Water and provide similar analysis and review of amendments to the bills. Discuss with City staff or provide one-page synopsis and analysis of proposed legislation of interest no later than 3 business days following introduction of the proposed bill to legislative committees.
 - B. Work with city staff to analyze the potential impact of proposed water-related legislation and report that information to appropriate Aurora Water and City Council committees.
 - C. Advocate Aurora Water's position to members of the General Assembly, the Executive Branch, and other interested parties as directed by staff. Identify opportunities for Aurora Water staff, City Council, and officials to participate in the process and make recommendations. Those opportunities include, but are not limited to, communication to legislators, providing testimony at legislative hearings, and communication to the Governor and the Governor's staff.
 - D. Work with other groups that either share or dispute Aurora Water's positions. Work to understand the position of others and either utilize support or mitigate opposition by those parties on issues of importance to Aurora Water.
 - E. Conduct on-going communication with appropriate city staff via phone conversations, e-mail, text messaging, written and oral reports, and formal briefings. Must participate weekly legislative update meetings with Aurora water staff and management, either in person or via phone or internet networking platforms (Cisco Webex, Microsoft Teams).

3. Lobbying services after the State of Colorado General Assembly legislative session.
 - A. Monitor and report on interim activities of the General Assembly and participate as directed by staff. Interim activities addressing water issues may include Interim Water Resources Review Committee, Wildfire Matters Review Committee (watershed protection), Joint Budget Committee, networking and advocacy events.
 - B. Work to identify priorities for next legislative session.
4. Lobbying services throughout the year
 - A. Attend Colorado Water Congress State Affairs Committee meetings, and assist staff in summarizing and developing appropriate positions on legislation under consideration.
 - B. Attend Colorado Water Congress summer and winter conferences. Expenses should be embedded into the final quote.
5. Exclusions to these services are as follows:

Issues not involving water, wastewater, storm water and/or Aurora Water's mission.

**Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting
September 17, 2021**

Members Present: Council Member Angela Lawson, Chair;
Council Member Curtis Gardner, Vice Chair

Others Present: Luke Palmisano, Peggi O’Keefe, Lauri Hettinger, Natasha Campbell, Roberto Venegas, Kim Skaggs, Cammie Grant, Kathy Kitzmann, Jessica Prosser, Mac Callison, Mindy Parnes, Scott Newman

1. APPROVAL OF MINUTES: August 25, 2021 minutes were approved as written.

2. CONSENT ITEMS: None.

3. WELCOME AND INTRODUCTIONS:

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. Federal Legislative Update

Summary of Issue and Discussion: Lauri Hettinger, federal lobbyist, gave an update on current federal legislation.

Outcome: Information only.

Follow-up Action: Information only.

5. STATE LEGISLATIVE UPDATE

Summary of Issue and Discussion: Peggi O’Keefe said

Outcome: Information only.

Follow-up Action: Information only.

6. AURORA WATER STATE LOBBYING CONTRACT RENEWAL

Summary of Issue and Discussion: Kathy Kitzmann, Water Resources Principal, said the Water Resources' Rocky Ford Office may host an educational tour for interested regional legislators on our revegetation and continued farming programs. We will share the date and details with FSIR once that tour has been scheduled.

K. Kitzmann said there was a competitive bid process and request for proposals for Aurora Water State Lobbying Services with a three-year cycle. Colorado Advocates will be completing year one of those services and the contract may be renewed another two years. The coming year will be the second year.

Question: Does FSIR approve of Colorado Advocates' Aurora Water State Lobbying Services contract renewal to be brought to City Council for approval?

CM Lawson and CM Gardner both approved of the contract renewal being brought to City Council for approval.

Outcome: CM Lawson and CM Gardner both approved of the contract renewal being brought to City Council for approval.

Follow-up Action: Staff will add the contract renewal item to the agenda for the Study Session on October 4, 2021.

7. PROPOSED RULEMAKING FOR RULES GOVERNING STATEWIDE TRANSPORTATION PLANNING PROCESS & TRANSPORTATION PLANNING REGIONS

Summary of Issue and Discussion:

Outcome: Information only.

Follow-up Action: Information only.

8. MISCELLANEOUS MATTERS FOR CONSIDERATION**CONFIRM NEXT MEETING**

The next meeting is scheduled for October 15, 2021, 1:00 PM WebEx video conference meeting.

Approved:

Angela Lawson
Committee Chair

Date



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, renaming the Aurora Water Building at the Southeast Area Maintenance Facility the Daniel P. Mikesell Water Operations Facility.

Item Initiator: Casey Rossman, Management Assistant, Aurora Water

Staff Source/Legal Source: Marshall Brown, General Manager, Aurora Water / Christine McKenney, 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: 10/4/2021

Regular Meeting: N/A

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

- ☒ Approve Item Move Forward to Study Session ☐ Information Only
- ☐ Approve Item and Move Forward to Regular Meeting

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Water Policy

Policy Committee Date: 8/13/2021

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 August 13, 2021, the Water Policy Committee supported moving the naming of the Southeast Area Maintenance Facility to the Daniel P. Mikesell Water Operations Facility forward to the Historical Preservation Commission for approval.

On September 14, 2021, the Historical Preservation Commission supported the naming of the Southeast Area Maintenance Facility to the Daniel P. Mikesell Water Operations Facility.

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

A request was made by Marshall P. Brown, General Manager of Aurora Water and Interim Deputy City Manager to name the Southeast Area Maintenance Facility after for Aurora Water Director of Operations, Daniel P. Mikesell. In accordance with Council resolution R93-37, the name request and history service was submitted to the Historical Preservation Commission and supported at the September 14, 2021 board meeting. History of Daniel P. Mikesells 40-year history with Aurora Water can be reviewed in attached documentation along with several letters of support.

QUESTIONS FOR COMMITTEE

Does the Historical Preservation Commission support moving this item forward to Study Session?

LEGAL COMMENTS

City Council has established by resolution (93-37) a policy for naming City facilities after a person, which requires review and recommendation by the Aurora Historical Preservation Commission (Commission). The Commission has recommended naming the water purification facility after Peter D. Binney for his outstanding contributions to the community as the Director of Operations for Aurora Water. Mr Mikesell has authorized the use of his name for this purpose. All recommendations of the Commission must be submitted to City Council for their approval by resolution.

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 RENAMING THE AURORA WATER BUILDING AT THE
SOUTHEAST AREA MAINTENANCE FACILITY THE DANIEL P.
MIKESELL WATER OPERATIONS FACILITY

WHEREAS, Resolution R93-37 provides that a public facility may be named for important persons in the City's recent history by resolution of the City Council; and

WHEREAS, Aurora Water has a history of naming significant facilities in recognition of retired Directors who have contributed significantly to the facility and have left behind a long-lasting positive impact on the Utility's ability to provide safe and reliable water services to our customers; and

WHEREAS, for over 40 years, Daniel P. Mikesell ("Dan") has contributed to many efforts and provided key leadership to the Utility, beginning as what was called a "water cop" in 1981 and advancing through his career to Director of Operations and Environmental Programs; and

WHEREAS, Dan led the first Aurora Water Safety Committee in the 1980's which resulted in early confined space programs, accident review, and recognition for employee safety, leading to the establishment a safety program for the Utility with a fulltime employee to enable the ability to meet OSHA guidelines; and

WHEREAS, Dan's commitment to and expertise in safety culminated with his leadership on the Citywide Safety Steering Committee (as Chairman) for the last two years.; and

WHEREAS, in 1995 Dan led the effort to implement the conversion from conventional walk by meter reading to a new product called Automated Meter Reading (AMR), at the time the largest AMR installation in the Western United States; and

WHEREAS, almost 25 after leading the AMR effort Dan provided leadership on Aurora Water's implementation of the latest generation of automated meter technology – Automated Meter Infrastructure (AMI) which provides real-time data collection capabilities using a cellular network instead of singular data points collected monthly, and

WHEREAS, Dan served as member of the Metro Board of Directors for thirteen years, including Chairman of the Board from 2019-2020, where he was heavily involved in the design and construction of the new Northern Treatment Plant and served as chairman for the Strategic Plan Committee; and

WHEREAS, Dan played a large role in planning, implementing and operating the Prairie Waters' system as a necessity of a large drought in the early 2000's, making Aurora one of the first communities in the nation with the ability to recapture and re-use essentially all of the "wastewater" from sewer collection system; and

WHEREAS, during Dan's tenure as Interim Director of Aurora Water he was a key member of the team that conceptualized, negotiated and drafted the agreements for the Water Infrastructure & Supply Efficiency program, the first of its kind in the nation shifting more holistically to renewable surface water supplies in the metropolitan area; and

WHEREAS, Dan has led many space efficiency efforts within Aurora Water maximizing existing facilities and optimizing City shared operational facilities including the 1999 Citywide Facilities Master Plan, the 2001 Aurora Service Center Master Plan and the 2005 Citywide Facilities Master Plan update; and

WHEREAS, Dan was integral in developing the master plan for the Southeast Area Maintenance Facility (SEAM), the Central Facilities Master Plan, and provided leadership during the design of the new Water SEAM facilities; and

WHEREAS, without Dan's persistence, leadership and patience the SEAM project would likely not have happened.

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

Section 1. The Aurora Water Building at the Southeast Area Maintenance Facility is hereby renamed as the Daniel P. Mikesell Water Operations Facility.

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



BRIAN J. RULLA, Asst. City Attorney



To: Jim Twombly, City Manager

Through: Nancy Freed, Deputy City Manager

From: Marshall Brown, General Manager, Aurora Water

Date: June 8th, 2021

Subject: Proposed Naming of Aurora Water SEAM Facility

Aurora Water has a history of naming significant facilities in recognition of (departed/retired) Directors who have contributed significantly to the corresponding facility and have left behind a long-lasting positive impact on the Utility's ability to provide safe and reliable water services to our customers. Most recently, The Binney Water Purification Facility was named in recognition of Aurora Water Director Peter Binney's (Director 2002-2008) leadership in creating the Prairie Waters System. Prior to that, the Wemlinger Water Purification Facility was named after Utilities Director Charles Wemlinger (Director 1963-1986) and the Griswold Water Purification Facility was named after Utilities Director Thomas Griswold (Director 1986-2001). Consistent with this tradition, I am requesting support to name the Aurora Water Building at the Southeast Area Maintenance facility in recognition of Dan Mikesell.

Dan was originally hired into Aurora Water in March of 1981 as what was called at the time a "water cop". Dan continued to work in Customer Service, being selected for multiple promotions up through Customer Service Superintendent in 2004. Shortly thereafter he was promoted through multiple management positions: Manager of Support Services in 2004, Manager of Operations, Deputy Director of Operations & Engineering in 2011 and finally culminating in serving as the Interim Director of Aurora Water from 2011-2012. When a permanent Director was hired in 2012 Dan continued to serve as Deputy Director of Operations until in 2019 his position was reclassified to Aurora Water Director of Operations & Environmental Programs.

During Dan's 40-year career in Aurora Water there have been many major efforts to improve the Utility for which he provided key leadership. Below are a few highlights:

- **Safety** – Dan lead the first Aurora Water Safety Committee in the 1980's which resulted in early confined space programs, accident review, and recognition for employee safety - led to the establishment a safety program for the Utility with a fulltime employee to enable the ability to meet OSHA guidelines. Dan's commitment to, and expertise in, safety culminated with his leadership on the Citywide Safety Steering Committee (as Chairman) for the last two years.
- **Automated Metering** – In 1995, Dan lead the effort to implement the conversion from conventional walk by meter reading, to a new product called Automated Meter Reading (AMR). Aurora Water was able to reduce 18 fulltime meter reading positions to three – the other 15 were absorbed into other utility positions of need over the five-year conversion period. At the time it was the largest AMR installation in the Western United States and Aurora was a leader in this new technology. Almost 25 years later, Dan provided leadership on Aurora Water's implementation of the latest generation of automated meter technology – Automated Meter Infrastructure (AMI). The latest AMI technology provides real-time data collection capabilities using a cellular network instead of singular data points collected monthly. AMI is just completing year one of a five-year roll-out.

- ***Metropolitan Wastewater Reclamation District (Metro)*** - Dan served as member of the Metro Board of Directors for thirteen years including Chairman of the Board for two years (2019-2020). While on the Board, Dan provided heavily involved in the design and construction of the new Northern Treatment Plant built to increase treatment capacity including Aurora's needs as well as serving as chairman for the Strategic Plan Committee which developed and implemented Metro's current strategic plan.
- ***Prairie Waters' System*** – Prairie Waters' is an innovative, and industry leading, potable reuse system that uses a sustainable water source by recapturing previously used river water as a cornerstone of a water supply plan that will help meet much of Aurora's needs for decades. Prairie Waters uses both natural cleansing processes and state-of-the-art purification technology to deliver up to 10 million gallons of water per day. Dan played a large role in planning, implementing and operating the Prairie Waters' system as a necessity of a large drought in the early 2000's. This system made Aurora one of the first communities in the Country with the ability to recapture and re-use essentially all of the "wastewater" from our sewer collection system.
- ***Water Infrastructure & Supply Efficiency (WISE) Project*** – The WISE project allows Aurora and Denver to "sell" excess water to smaller water providers in the south metropolitan area in order to assist the region in shifting more holistically to renewable surface water supplies while affording Aurora and Denver the opportunity to maximize returns on their investment in such. The project relies on Prairie Waters' infrastructure, providing Aurora the opportunity to generate revenue from infrastructure that would otherwise not be fully utilized. The WISE project is one of the first of its kind in the nation and many other regions have looked to Aurora and Denver for help in creating similar solutions. Dan was a key member of the Aurora team that conceptualized, negotiated and drafted the WISE agreements (the main agreement was finalized in 2012 during Dan's tenure as Interim Director).
- ***Space Planning & Development*** – Dan has led many space efficiency efforts within Aurora Water over the last few decades – these efforts resulted in the maximization of existing facilities. Additionally, Dan has represented Water in larger space studies/optimizations at City shared operational facilities – these efforts included: the 1999 Citywide Facilities Master Plan, the 2001 Aurora Service Center Master Plan and the 2005 Citywide Facilities Master Plan update. The citywide efforts identified the need for a Southeast Area Maintenance (SEAM) facility and in 2009 Dan was part of a process that acquired the "Murphy Parcel" for future SEAM facilities. Shortly after the Murphy parcel was acquired, Dan helped create a 2012 SEAM Master Plan which was followed up with a 2017 Central Facilities Master Plan which identified specific space efficiency opportunities and timing recommendations for new Water operations at SEAM and ongoing needs at Central. Finally, starting in 2018, Dan has provided critical leadership during the design of new Water SEAM facilities (design was completed in early 2021 and site construction was started on June 7, 2021). SEAM would likely not have happened without Dan's persistence, leadership and patience.

Not only has Dan contributed significant leadership to the overall success of the Utility over the last 40 years, he has been the primary leader on a few projects (as outlined above) that have helped define Aurora Water as the industry leader it has become. Finally, Dan's specific leadership in space planning/operational efficiencies has been what led us to the SEAM solution – it seems appropriate to recognize Dan's contributions (overall and specifically towards SEAM) by naming the Aurora Water Building at the Southeast Area Maintenance facility in his recognition consistent with the history of other significant water facilities.

Southeast Area Maintenance Facility Naming

October 4, 2021 City Council Study Session

Marshall Brown
General Manager, Aurora Water



#1 in Customer Satisfaction with Midsize Water Utilities in the West
For J.D. Power 2021 award information, visit jdpower.com/awards



Southeast Area Maintenance Facility

- Need identified in master plans in 1999, 2001 and 2005
- Additional operational space needed to serve growth areas
- City-wide facility
- Aurora Water will be first occupant



Southeast Area Maintenance Facility SEAM



#1 in Customer Satisfaction with Midsize Water Utilities in the West
For J.D. Power 2021 award information, visit jdpower.com/awards



Aurora Water facility naming conventions

- Griswold Water Purification Facility - Utilities Director Thomas Griswold (*Director 1986-2001*)
- Wemlinger Water Purification Facility - Utilities Director Charles Wemlinger (*Director 1963-1986*)
- Binney Water Purification Facility - Aurora Water Director Peter Binney (*Director 2002-2008*)



#1 in Customer Satisfaction with Midsize Water Utilities in the West
For J.D. Power 2021 award information, visit jdpower.com/awards



Dan Mikesell

- 1981 – Water Monitor (“*water cop*”)
- Lead first Aurora Water Safety Committee in 1980s
- Lead automated metering program in 1990s – largest installation in western U.S.
- Actively involved in planning, construction and operation of Prairie Waters system
- 13 years Metropolitan Wastewater Reclamation District Board; two years as chair
- Active in city’s space planning, identifying location, land for city campus in SE Aurora. Lead both SEAM and Central Facilities Master Plan studies.
- Key member of Aurora Water team for WISE Partnership, regional water supply effort with Denver Water and South Metro Water Supply Authority
- Served as Interim Director for Aurora Water 2011-2012
- Deputy Director for Aurora Water Operations 2011, 2012-2019
- Director for Aurora Water Operations 2019-2021
- Retired 2021 - 40 years of service



#1 in Customer Satisfaction with Midsize Water Utilities in the West
For J.D. Power 2021 award information, visit [jdpower.com/awards](https://www.jdpower.com/awards)





August 18, 2021

To Whom It May Concern:

It is with great pleasure that I write this letter in support of renaming the Southeast Aurora Maintenance Facility after long time Aurora employee, Mr. Daniel P. Mikesell.

I was honored to work with Dan in many capacities for over a dozen years. As a member of the Citizen's Water Advisory Board, I always found Dan to be a wealth of information to help me be a better board member and he was happy to take the time to share it. Later, as an elected official for the city, and the chair of the Council Water Policy Committee, we spent plenty of time in meetings together. His attitude, kindness and patience were always impressive. He taught a layman a lot about water while never talking down. Dan also was a stellar representative for the City of Aurora on many outside boards and commissions.

I can think of no better way to honor Dan Mikesell for his dedication of over 40 years with the city than to rename this facility as a lasting landmark to him.

Sincerely,

Bob Roth
Former Aurora City Councilman
President
Roth Collaborative Resources, Inc.
(720) 202-2695
broth@rcrinc.org
www.rcrinc.org

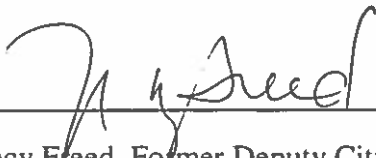
August 19, 2021

The Historic Preservation Commission, City of Aurora,

It is my honor to write a letter of recommendation to name the Southeast Area Maintenance (SEAM) Facility on Quincy Road and Gun Club Road for Daniel P. Mikesell.

Dan has made an incredible impact in the City of Aurora's Water Department in his 40 year employment with the City. Not only has Dan contributed significant leadership to the overall success of the Utility over the last 40 years, he has been the primary leader on a several projects such as the Prairie Waters' System project, the Water Infrastructure & Supply Efficiency Project and updating the traditional manual walk up meters to the Automated Meter infrastructure. These projects (as outlined above) have helped define Aurora Water as the industry leader it has become. Dan also spearheaded the first Aurora Water Safety Committee, was the inaugural Chair of the City of Aurora's Safety Steering Committee and served on the Metropolitan Wastewater Reclamation District (Metro) board for 13 years including a tenure as Chair. Finally, Dan's specific leadership in space planning/operational efficiencies has been what led us to the SEAM solution – it seems appropriate to recognize Dan's contributions (overall and specifically towards SEAM) by naming the Aurora Water Building at the Southeast Area Maintenance facility in his recognition.

Dan will be forever remembered with the City of Aurora Water's Department and throughout the City as a leader with integrity, honesty and a strong will to serve the citizens of Aurora. Naming the Southeast Area Maintenance facility after Dan would be a great way to recognize his contributions to the City of Aurora, Aurora Water, and the citizens of the City.



Nancy Freed, Former Deputy City Manager

Bob LeGare

PO Box 441410, Aurora, Colorado 80044-1410 • Cell 303-819-8617 • Legareb1@comcast.net

September 1, 2021

Aurora Historic Preservation Commission
15151 E. Alameda Parkway
Aurora CO 80012

Dear Aurora Historic Preservation Commission Members:

I heartily support the proposal to name the new Southeast Area Maintenance Facility (SEAM) in honor of Dan Mikesell and his 40 years of dedicated service to Aurora Water. I had the opportunity to observe Dan's leadership in Aurora Utilities during my 17 years on the Aurora City Council in the 1990's and in more recent years. Dan has been a thoughtful and conscientious manager, an industry leader, and a mentor to fellow employees and industry colleagues over many years of service to the City of Aurora. Additionally, Dan's recent retirement from 13 years of service on the Metro Wastewater Reclamation District Board drew praise from numerous fellow board members from throughout the Front Range. Their praise of Dan's leadership and dedication to service further demonstrates his far reaching impact in the metro water provider community.

I heartily encourage your support of naming the SEAM facility after Dan Mikesell to recognize his contributions to Aurora Water, the City of Aurora, and to the Denver region's metro water providers.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Bob LeGare', with a stylized flourish at the end.

Bob LeGare
Aurora Mayor, Retired

August 26, 2021

The Historic Preservation Commission
City of Aurora, Colorado

It is my great honor to write a letter of recommendation to name the Southeast Area Maintenance (SEAM) Facility on Quincy Road and Gun Club Road for Daniel P. Mikesell.

I have known Dan for 13 years, as he and I served on the Metropolitan Wastewater Reclamation District board during that same time frame and I am still continuing to serve on that board. When Dan retired from the board on July 20, 2021, there were many wonderful comments made about him and how he would be missed. Some of those comments were: "The board had benefitted from his wisdom and experience, he was eloquent in his speech, had a calming effect when serving as chairman for 3 years, he listened to everyone, he was a terrific public servant and staff enjoyed working with him". These are only a few of the comments made that day but it shows an example of how people thought about him.

I know Dan worked for the City of Aurora for 40 years and contributed significant leadership to the success of the Utility by being the primary leader on several big projects like the Prairie Waters' System project and the Water Infrastructure & Supply Efficiency Project. I am truly amazed when I hear how he worked his way up through the organization from being a "water cop" to becoming Director of Operations and Environmental Programs, with many steps in between. I was always intrigued by the Automated Meter Reading product, which Dan helped implement, as it did away with someone having to come to your house every month and check your water use. A great saving on gas and people's time.

As a previous Aurora City Council Member, I fully appreciate the integrity, honesty and hard work that Dan has put into his career in our city to make it a better place, water-wise, for all of us. Water is a precious commodity and through Dan's efforts we have learned to use it more wisely.

Thank you for your consideration of this honor.

Sincerely,

Nadine Caldwell
2065 Florence Street
Aurora, Colorado 80010
303-364-2859

Water Policy Committee (WPC) Meeting
August 13, 2021

Members Present: Council Member Crystal Murillo Chair, Council Member Allison Hiltz Vice Chair; Council Member Alison Coombs

Others Present: Casey Rossman, Leiana Baker, Sam Miller, Jo Ann Giddings, Steve Sciba, Steve Fiori, John Murphy, Rich Vidmar, Sean Lieske, Sonya Gonzalez, Stephanie Neitzel, Ian Best, Greg Baker, Greg Hansen, Christine McKenney, Chad DiFalco, Alex Davis, Jack Bajorek, Angie Binder

7. Southeast Area Maintenance (SEAM) Facility Naming

Summary of Issue and Discussion: G. Baker (presented for M. Brown) requests to name the SEAM Facility after Daniel P. Mikesell. In accordance with Council Resolution R93-37, the name request and history service was submitted to the Historical Preservation Commission and will be presented at the September 14, 2021, Board Meeting.

Outcome: The Committee supports the SEAM Facility Naming and forwarded to Study Session for consideration.

Follow-Up Action: The Committee supports the SEAM Facility Naming and will forward to Study Session for consideration.

AURORA HISTORIC PRESERVATION COMMISSION MINUTES
Tuesday, September 14, 2021
6:00 p.m.



Community Gallery
Aurora History Museum
15051 E. Alameda Parkway
Aurora, CO

Present: Chair Elizabeth Hamilton, Secretary Lynne Evans, Courtney Morehouse, Gordon Tucker, Mike Ackman, Barbara Henk, and Todd McMahon

Excused: Charlie Peters, Mike Lockwood

Staff: Drake Brownfield

Guests: Greg Baker & Marshall Brown (Aurora Water | SEAM Facility)

I. Call to Order

A quorum being present, Chair Elizabeth Hamilton called the Historic Preservation Commission (HPC or Commission) meeting to order at 6:00 p.m.

The minutes from the HPC regular meeting on August 10, 2021, were approved as amended.

Commissioner Tucker moved to suspend the regular HPC meeting for the public hearing. The motion was seconded by Commissioner Morehouse. The motion passed by voice vote.

The regular HPC meeting was suspended at 6:02 p.m.

II. Public Hearing on two items.

1. Aurora Water SEAM Facility Naming Request

The public hearing on the approval of the Aurora Water Southeast Area Maintenance (SEAM) Facility naming request was called to order at 6:03 p.m. Marshall Brown and Greg Baker presented the rationale for the naming request for the new Aurora Water SEAM Facility. The facility will be built on the north side of Quincy close to the City of Aurora Public Safety Training Center (CAPSTC). The request is to name the facility the Daniel P. Mikesell Water Facility after Dan Mikesell who has been a long-time director.

Commissioner Ackman moved that the HPC approve the naming request. Commissioner Morehouse seconded the motion. The motion passed by voice vote.

2. Aurora Fire Station No. 5 Landmark Nomination

Moving the Landmark Nomination for Aurora Fire Station No. 5 forward to City Council was discussed.

A motion to move the Landmark Nomination forward to City Council was made by Commissioner Tucker and seconded by Commissioner Henk. The motion passed by voice vote.

A motion to adjourn the Public Hearing and resume the Regular September 14, 2021, HPC meeting was made by Commissioner McMahon. The motion was seconded by Commissioner Ackman. The motion passed by voice vote

The Public Hearing was adjourned at 6:48 p.m.

The Regular August 10, 2021, HPC meeting resumed at 6:48 p.m.

III. Staff Report

Historic Preservation Specialist (HPS) Drake Brownfield gave his report.

Section 106 reviews: No historic properties affected.

Museum Programs: The HPC was given an overview of the current programs offered by the Aurora History Museum.

New Gallery: The hands on room has been painted and will now serve as a gallery.

DeLaney Farm: The Education Barn and Round Barn have both been painted. Some maintenance work is needed for the door of the Round Barn. Some repair on interior windows is needed at Gully House.

Centennial House: Window shade replacements are being ordered. Front porch repairs and stair installation are needed.

Cultural Affairs Commission: Drake gave a presentation about HPC at the Cultural Affairs Commission meeting on September 8, 2021. The Aurora Historical Society and the Aurora Museum Foundation were also represented.

HPC Meeting Location: A change of location for the HPC meeting was discussed. Visiting historic sites for our meetings was also discussed.

Workshop at DeLaney: Colorado Preservation, Inc. is presenting a workshop on October 14th Basic Preservation for the Non-Engineer at DeLaney Farm from 1-5 p.m.

Archaeology Workshop: Commissioner McMahon informed the HPC that History Colorado is presenting the 2021 International Archaeology Day Workshop on October 16th at Roxborough Intermediate School from 9-3.

Budget: The current budget is \$6,405.05. \$195.95 has been spent to date.

III. Old Business

Red Cross Project: Construction has started. Signage will be included. There will be a ribbon cutting ceremony upon completion of the project.

Lowry 880: Commissioner Ackman and Rick Crandall will discuss the project over lunch.

Coal Creek: A Certificate of Occupancy has been awarded for Coal Creek School. Fall and holiday education programs are being planned.

Oral History: No update

KOA Building: No update. Highline Canal signage is being discussed.

Fox Signage: A project manager should be assigned before our October HPC meeting.

Buckley Tour: 4 commissioners attended the Buckley Tour.

Windler Homestead: No update

Subcommittee: The commission will discuss the subcommittees and determine whether we need to add or change current subcommittees at the October HPC meeting. Subcommittee discussion will also talk about positive ways to encourage homeowners of historic sites to maintain their properties and ways the HPC can help.

Ward Meetings: No update.

Alternative Meeting Location: Drake will put a list together of possible meeting locations to discuss at the October HPC meeting.

Resignation: Commissioner Lockwood is moving to Woodland Park and will be resigning from the HPC.

Site Plan Report: Historic Preservation Drake Brownfield reported on Original Aurora Group #4 William Smith House and School. Both are in excellent condition.

Items for the October 12, 2021, meeting will include:

- Update on Red Cross Project
- Update on Lowry Building 880 Interpretive Signage
- Update on Oral History Project
- Update KOA Building Signage Opportunity
- Update on Fire Station #5 Landmarking Nomination
- Update on the Fox Signage SHF Grant
- Update on the Windler Homestead
- City Wide Bank building update
- Subcommittee discussion
- Report on ward Wards Meetings
- Site Plan Report: Commissioner McMahon Original Aurora (Group 5)

V. Adjournment:

The Commission adjourned its meeting 7:53 p.m.

Submitted by: Lynne Evans

Date: September 20, 2021

Approved by: _____

Date: _____



CITY OF AURORA

Council Agenda Commentary

Item Title: Acknowledgement of the Supporters of the Aurora Armed Forces Treatment Court Resolution
Item Initiator: Jason Batchelor, Deputy City Manager
Staff Source/Legal Source: Jason Batchelor, Deputy City Manager/ 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: 10/4/2021

Regular Meeting: 10/11/2021

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?

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Public Safety, Courts & Civil Service

Policy Committee Date: 9/16/2021

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 09/16/2021 Council Member Gruber presented the Resolution to the PSCCS Policy Committee. The committee did not have any questions and unanimously approved moving the item forward to Study Session.

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

The Aurora Armed Forces Treatment Court (AAFTC) is a specialty court serving as an alternative treatment and sentencing option for veterans struggling with mental health and/or co-occurring substance abuse issues. This Resolution acknowledges the supporters of the AAFTC.

QUESTIONS FOR COUNCIL

Does City Council approve moving the Resolution forward to a regular City Council meeting?

LEGAL COMMENTS

City Council has the authority to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of the city and its inhabitants. (City Code sec. 2-32). Council shall act only by ordinance, resolution or motion. (City Code Art. 5-1). (Garcia)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain:

RESOLUTION NO. R2021- ____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,
ACKNOWLEDGING THE DEDICATION, COLLOBORATION, AND SUPPORT OF THE
AURORA ARMED FORCES TREATMENT COURT COMMUNITY PARTNERS

WHEREAS, the Aurora Armed Forces Treatment Court (AAFTC) was established in the Aurora Municipal Court in January 2021; and

WHEREAS, the AAFTC is a specialty court serving as an alternative treatment and sentencing option for veterans struggling with mental health and/or co-occurring substance abuse issues; and

WHEREAS, the AAFTC's mission is to reduce recidivism of individuals who served or are serving in the armed forces and have an active case or cases in the Aurora Municipal Court; and

WHEREAS, the AAFTC promotes public safety and improves the quality of life for veterans and their families with an integrated continuum of trauma-informed care through community resources and community partners; and

WHEREAS, City Council would like to acknowledge the following community partners for their dedication, collaboration, and support of the AAFTC:

- Adams County – Veteran Services
- Arapahoe County – Veteran Services
- Aurora Chamber of Commerce – Defense Council (Supporting the people and missions of the U.S. military)
- Aurora Mental Health Center
- Colorado Elks Association – Veterans Service
- Eighteenth Judicial District – Veterans Treatment Court
- Homes for All Veterans – Colorado
- Justice For Vets (Transforming the way the justice system identifies, assesses and treats veterans)
- Lakewood Municipal Court – Veterans Process
- Medical Center of Aurora
- Mile High Behavioral Healthcare
- Rocky Mountain Human Services
- Rocky Mountain Offender Management Systems
- Seventeenth Judicial District – Veterans Treatment Court
- STRIDE (assiSTed eaRly mobiLity for hospitalizeD older vEterans)
- The Sturm Center of the University of Denver (Behavioral Health Center serving veterans)
- United States Department of Veterans Affairs
- Valor Point VA Domiciliary
- WarriorNOW (Connecting veterans with resources, services and mentorship)

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

Section 1. The City Council hereby acknowledges the dedication, collaboration, and support of the Aurora Armed Forces Treatment Court community partners.

Section 2. The City Council expresses its thanks to all the community partners for their commitment and cooperation in making the Aurora Armed Forces Treatment Court a success in promoting public safety, reducing recidivism, improving the lives of veterans, their families, and the community through treatment and support.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

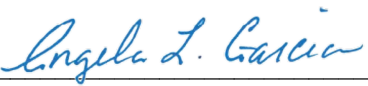
RESOLVED AND PASSED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 RLA

ANGELA L. GARCIA, Senior Assistant City Attorney



CITY OF AURORA

Council Agenda Commentary

Item Title: FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING SECTIONS 22-642, 66-37, AND 146-4.7.9.U, TO THE CITY CODE, AND AMENDING TABLE 3.2-1, SECTIONS 146-4.7.9.E.1, 146-4.7.9.M, AND 146-6.2 OF THE CITY CODE PERTAINING TO BATTERY- OPE

Item Initiator: Jason Batchelor/Council Member Gardner

Staff Source/Legal Source: Jason Batchelor, Tim Joyce

Outside Speaker:

Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 11/22/2021

ITEM DETAILS:

An ordinance to authorize battery-alarmed electric fences in the City.

Sponser: Council Member Gardner

Staff Source: Jason Batchelor, Deputy City Manager / Tim Joyce, Assistant City Attorney

Presentation time: 20 minutes.

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Planning & Economic Development

Policy Committee Date: 8/12/2020

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input checked="" type="checkbox"/> 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.)

Council Member Gardner asked the City Attorney's office to draft an ordinance to permit battery-operated alarmed electric fences in the City. Council Member Garder provided the City Attorney's office with the initial wording for the proposed ordinance. The draft ordinance when to the Planning and Economic Development Policy Committee on August 12, 2020. City staff opposed the ordinance and explained their opposition to the Committee. The Committee approved moving an ordinance forward and wanted City staff to work with the vendor, Amarok, to draft a compromise ordinance. Attached is the compromise draft ordinance proposed by City staff.

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

Currently, City Code prohibits electric fences and battery-operated electric fences in the City. Council Member Gardner asked the City Attorney's office to draft an amendment to the City Code to permit battery-operated alarmed electric fences in response to two battery-operated alarmed electric fences being installed in the City. Council Member Garder provided the wording for the initial proposed ordinance. The initial proposed ordinance went to the PED committee on August 12, 2020. City staffed expressed their concerns about having this type of fence in the City at the Committee meeting. Council Members present for the PED Committee favored permitting battery-operated alarmed electric fences in the City and asked staff to work with the vendor to draft a compromise ordinance. Since the PED Committee meeting City staff from Planning, Fire/Rescue, Code Enforcement, Police, and Building have exchanged multiple drafts of a battery-operated alarmed electric fence ordinance. Compromises to the requirement for the ordinance have been made by City staff and the vendor. Attached is the proposed ordinance.

QUESTIONS FOR COUNCIL

Does City Council approve moving this draft ordinance forward to the Planning and Zoning Commission for a public hearing and then to a Council meeting?

LEGAL COMMENTS

Any rule or regulation placing any burden upon or limiting the use of private property must be done by ordinance. (City Charter Art. 5-3). Council has the power to make and publish from time to time ordinances consistent 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 its inhabitants. (City Code § 2-32) (TJoyce)

PUBLIC FINANCIAL IMPACT

- ☐ YES ☒ NO

If yes, explain:

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, ADDING SECTIONS 22-642, 66-37, AND 146-4.7.9.U, TO THE CITY CODE,
AND AMENDING TABLE 3.2-1, SECTIONS 146-4.7.9.E.1, 146-4.7.9.M,
AND 146-6.2 OF THE CITY CODE PERTAINING TO
BATTERY- OPERATED ALARMED ELECTRIC FENCES

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 to enact a
new section, to be numbered 22-642, which section shall read as follows:

Sec. 22-642. – Standard for battery-operated alarmed electric fences.

- (1) A battery-operated alarmed electric fence is a perimeter fence designed to carry non-lethal pulses of direct current to deter potential intruders that interface with an alarm system, together with the ancillary components or equipment attached to such a system.
- (2) It is unlawful to install, maintain, or operate a battery-operated alarmed electric fence in the City in violation of this section.
- (3) Installation requirements. The following is required prior to the installation of a battery-operated alarmed electric fence:
 - a. Obtain approval of the proposed battery-operated alarmed electric fence system site plan by Planning & Development Services.
 - b. Electric, Structural and Life Safety Fence Installation Permit. The installation of a battery-operated alarmed electric fence requires an approved installation permit by the Aurora Building Division. Installation permit applications shall be filed with the Aurora Building Division. Installation permit applications must include the following:
 - I. An approved site plan indicating the location of the battery-operated alarmed electric fence, ancillary components or equipment, and the non-electrical perimeter fence.
 - II. Location of the power source and regulating/monitoring equipment.
 - III. Materials used and height of the battery-operated alarmed electric fence.
 - IV. Materials used and height of the non-electric perimeter fence.

- V. The battery-operated alarmed electric fence shall be installed according to ANSI/CPLSO 60335-2-76, the listing and manufacturer's installation instructions, and this section.
- VI. A notarized statement by the applicant stating that the electric fence is in compliance with the requirements of this Section. Structural and Life Safety permits and inspections shall be required for the installation. Work must be performed by a licensed contractor with the Aurora Building Division.
- VII. Location of emergency access point(s), for existing or proposed Gating Systems, Pedestrian Access Gates, Knox Keypad, Knox Key Box/Switch, Siren Operated Systems (SOS), and Emergency Battery Power Cut-off Switch.
- VIII. Modifications to previously approved gating system will require a valid building permit to ensure alterations do not affect existing structural integrity of the existing gate(s) electrical interference with Knox Key Switch and/or motorized gating system and/or visual indicator light that may hinder a timely emergency response.
- IX. Provisions must be made by the installer for deenergizing and maintaining the access gate open with visual signage for emergency access and one or more of the following methods to deenergize the fence:
 - 1. Knox keypad.
 - 2. Knox Key Box/Switch.
 - 3. Key fob or similar device.
- IX. The system shall have an approved visual signal indicator next to the Knox Key Switch for emergency responders that indicates if the battery-operated alarmed electric fence is energized or deenergized. The indicator color is not designated. The signal indicator shall be lit when the fence is charged and not lit when not charged.

(4) Electrification.

- a. AC current shall not be used to energize any battery-operated alarmed electric fence.
- b. No battery-operated alarmed electric fence shall be installed or operated with a power source other than a commercial storage battery not exceeding twelve (12) volts direct current, charged primarily with a solar panel; provided, however, in case of inclement weather or other conditions that inhibit the ability of the solar panel to fully recharge the battery, a charging device may be utilized for such purpose, if connected in a manner that ensures that the charging device cannot provide a source of power directly to the fence. In no case shall a battery-operated alarmed electric fence be connected to any other electric power source than the battery charged energizer.

- c. The installation and operation of a battery-operated alarmed electric fence does not adversely affect or interfere with interconnected automatic gate opening systems, Siren Operated System, Knox Keypad, Knox Key Box/Switch, or a remote gate opening device.
- d. The fence controller ground wire shall not touch any buildings on site.
- e. A cut-off switch shall be installed capable of disconnecting the fence from the controller in case of emergencies, electrical storms, etc. A Knox Key Box/Switch and Knox Keypad shall be installed to provide secure access to the cut-off switch. The Knox Key Box/Switch and Knox Keypad shall be provided with a reflective marker displayed in an approved location.
- f. Each energizer shall be connected to its own ground system and must not be connected to any other ground system(s).
- g. Two (2) or more energizers shall not be connected to the same fence unless the use of multiple energizers does not increase the overall charge transmitted on the fence and adequate access is provided to the cut-off switch for each energizer from inside the perimeter.
- h. If the electric fence is deenergized the owner may reenergize the electric fence after making certain no First Responders or City personnel are inside the electric fence perimeter. The system will be tested as needed and at a minimum during the annual inspection conducted by Aurora Fire Rescue personnel. If the system is tested and not operational, the fire code official will issue a "stop use order" and the electric fence will not be allowed to be utilized until access provisions are corrected.
- i. The portion or section of the battery-operated alarmed electric fence containing the vehicle access gate shall not be energized when the vehicle access gate is opening or in the open position.

(5) Perimeter fence.

No battery-operated alarmed electric fence shall be installed or operated unless it is completely surrounded by a non-electric perimeter fence that will comply with City Code and the Unified Development Ordinance (UDO). The non-electric perimeter fence shall be separated from the battery-operated alarmed electric fence between four (4) to eight (8) inches inside the non-electric perimeter barrier, except for gate openings. The area between the non-electric perimeter fence and the battery-operated alarmed electric fence shall be kept clear of landscaping, shrubbery, other fences, or material of any kind. The lowest part of the perimeter fence or wall shall be constructed to follow the natural terrain to prevent penetration of the perimeter fence at ground level. No part of a non-electric perimeter fence shall be allowed to be in contact with the battery-operated alarmed electric fence, except on gates which will have insulated contacts.

(6) Location of battery-operated alarmed electric fences.

- a. Battery-operated alarmed electric fences shall comply with the requirements of the Unified Development Ordinance (UDO).

- b. **Battery-operated alarmed electric fences are prohibited within twenty-five (25) feet of any outdoor area utilized for the storage, use, or handling of Hazardous Materials as defined in the adopted Fire Code.**
- (7) Signage.**

Battery-operated alarmed electric fences shall be clearly identified by warning signs. The warning signs shall conform to the following requirements:

 - a. **Warning signs shall be located on the battery-operated fence at not more than 30-foot intervals and shall read:**

“WARNING – ELECTRIC SECURITY FENCE”.
 - b. **The text shall be printed in English and Spanish. All lettering shall be a minimum of one (1) inch high.**
 - c. **The size of the warning signs shall be a minimum of four (4) inches by eight (8) inches.**
 - d. **The warning signs shall consist of a yellow background with black inscriptions and must be kept in good condition to ensure visibility.**
- (8) Interface with an alarm system.**

All battery-operated fences shall interface with an alarm system monitored 24 hours a day, seven days a week. The alarm system shall comply with the requirements of Article II of Chapter 58 of the City Code, which alarm system is designed or used for the detection of unauthorized entry into an enclosed area and alerts the business and law enforcement to respond to an intrusion or burglary.
- (9) The property owner that has or intends to install a battery-operated alarmed electric fence, the battery-operated alarmed electric fence manufacturer, and the alarm monitoring entity shall provide and maintain current 24-hour contact information with the Public Safety Communication Department of the City to facilitate emergency access by public safety personnel.**

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended to enact a new section, to be numbered 66-37, which section shall read as follows:

Sec. 66-37. – Electric Security Fence.

The International Fire Code, section 503 is hereby amended by adding section 503.7 to read as follows:

503.7 Battery-Operated Electric Security Fence.

503.7.1 A battery-operated alarmed electric fence is a perimeter fence designed to carry non-lethal pulses of direct current to deter potential intruders that interface with an alarm system, together with the ancillary components or equipment attached to such a system.

503.7.2 A copy of the approved installation permit issued by the Aurora Building Department will be maintained with the Public Safety Communications Department showing the location of emergency access point(s), Gating Systems, Pedestrian Access Gates, Knox Keypad, Knox Key Switch, Siren Operated System (SOS), OPTICOM, and Emergency Battery Power Cut-off Switch.

503.7.3 Gating Systems.

In addition to the Aurora Fire Rescue Department access requirements in the International Fire Code, the following additional standards are required for properties protected by a battery-operated alarmed electric fence:

- a. Power to the battery-operated alarmed electric fence gate zone, excluding gate opening controls, shall be deactivated upon activation of automatic or manual access for ingress or egress through the gate.
- b. The vehicle gate shall provide a means for response by public safety personnel to ingress or egress from the site.
- c. If a pedestrian type of gate access is present the pedestrian type of gate shall be installed immediately adjacent to all vehicle access gates and shall be deenergized when contact is broken, and the gate is open.

503.7.4 Electrification.

- a. No battery-operated alarmed electric fence shall be installed or operated with a power source other than a commercial storage battery not exceeding twelve (12) volts direct current, charged primarily with a solar panel; provided, however, in case of inclement weather or other conditions that inhibit the ability of the solar panel to fully recharge the battery, a charging device may be utilized for such purpose, if connected in a manner that ensures that the charging device cannot provide a source of power directly to the fence. In no case shall a battery-operated alarmed electric fence be connected to any other electric power source than the battery charged energizer.
- b. The installation and operation of a battery-operated alarmed electric fence does not adversely affect or interfere with interconnected automatic gate opening systems, Knox Keypad, Knox Key Box/Key Switch, key fob, a remote gate opening device, or a radio frequency disarming system such as a Siren Operated System.
- c. A cut-off switch shall be installed capable of disconnecting the fence from the controller in case of emergencies. A Knox Key Box/Switch and Knox Keypad shall be installed to provide secure access to the cut-off switch.
- d. If the electric fence is deenergized the owner may reenergize the electric fence after making certain no First Responders or City

personnel are inside the electric fence perimeter. The system will be tested as needed and at a minimum during the annual inspection conducted by Aurora Fire Rescue personnel. If the system is tested and not operational, the fire code official will issue a “stop use order” and the electric fence will not be allowed to be utilized until access provisions are corrected.

503.7.5 Location of battery-operated alarmed electric fences.

Battery-operated alarmed electric fences are prohibited within twenty-five (25) feet of any outdoor area utilized for the storage, use, or handling of Hazardous Materials as defined in the adopted Fire Code.

503.7.6 Signage.

Battery-operated alarmed electric fences shall be clearly identified by warning signs. The warning signs shall conform to the following requirements:

- a. Warning signs shall be located on the battery-operated fence at not more than 30-foot intervals and shall read:
“WARNING – ELECTRIC SECURITY FENCE”.
- b. The text shall be printed in English and Spanish. All lettering shall be a minimum of one (1) inch high.
- c. The size of the warning signs shall be a minimum of four (4) inches by eight (8) inches.
- d. The warning signs shall consist of a yellow background with black inscriptions and must be kept in good condition to ensure visibility.

503.7.7 License Agreement Requirements.

- a. A license agreement approved by the City Engineer will be required where the fence is within a dedicated easement, street, or city-owned property.
- b. Upon determination the battery-operated alarmed electric fence is not in compliance with the City Code the electrical power source for the fence shall be disconnected and the license agreement revoked. All electrical components supporting the interconnected automatic gate opening system, Siren Operated System, Knox Keypad, Knox Key Box/Switch, and remote gate opening device shall remain active. The licensee shall receive a statement from the Fire Department, Code Enforcement, or Building Division describing the reason for noncompliance.

503.7.8 Permit Revocation.

- a. If a battery-operated electric security fence is not in compliance with the requirements of the City Code the Fire Department, Code Enforcement or Building Division may revoke the installation permit.

- b. Upon permit revocation, the electric fence applicant shall receive a statement from the Fire Department, Code Enforcement or Building Division describing the reason for the revocation.
- c. Unless otherwise provided by this Section, after revocation of a permit an applicant may apply for a new battery-operated electric security fence permit after complying with the requirements of the City Code.
- d. A battery-operated alarmed electric fence that has its permit revoked shall not be energized until the fence complies with the requirements of the City Code and a new installation permit is issued.
- e. A battery-operated alarmed electric fence not in compliance with the City Code shall not be reenergized until the fence is brought into compliance with the City Code, a new building permit is issued, inspected, and approved.

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended by adding a new permitted use to Table 3.2-1, which use shall read as follows:

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															
		RESIDENTIAL							MIXED-USE												SPECIAL PURPOSE								
ZONE DISTRICT And Subarea or Subdistrict		R-1			R-2				MU-N		MU-0A					MU-TOD				SPECIAL PURPOSE									
Land Use	R-R	A & B	C	A & B	C	R-3	R-4	R-MH	A & B	C	MU-01	MU-C	O-A-R1	O-A-R2	O-A-RMU	O-A-MS	O-A-G	MU-FB	Core	Edge	MU-R	MU-A	AD	APZ	I-1	I-2	POS	USE SPECIFIC STANDARD	
ACCESSORY AND TEMPORARY USES	3.3.6.A																												
Battery-operated alarmed electric fences												CA	CA				CA						CA	CA	CA	A	A		

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended by adding a new provision to section 146-4.7.9.E.1, which subsection shall read as follows:

Sec. 146-4.7.9. Fence and Wall Regulations

E. Prohibited Fences, Walls, and Materials

The following types of fences, hedges, and materials are prohibited and cannot be erected:

1. Electrically charged fences, **except for battery-operated alarmed electric fences as allowed in this section.**

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended by adding a new provision to subsection 146-4.7.9.M, which subsection shall read as follows:

Sec. 146-4.7.9. Fence and Wall Regulations

M. Fences and Walls for Other Development. The standards in this Section 146-4.7.9.M apply to all mixed-use and non-residential development for which this UDO does not provide a different standard for fence and wall height and location.

Table 4.7-5

Fence Location, Type and Height: All Other Uses [1]

Standard	Requirements	
	Other Uses	Industrial
Front Yards		
Height	Max. 48 in.	Max. 9 ft.
Setback	Fence: 4 ft. min. from back of sidewalk, unless a larger setback required by another provision of this UDO	
Side Yards		
Height	Max. 6 ft.	Max. 9 ft.
Setback	Fence: 4 ft. min. from back of sidewalk	
	Where existing developments that share an internal fence, the fence can be on the lot line	
Rear Yards		
Height	Max. 6 ft.	Max. 9 ft.
Setback	Fence: 4 ft. min. from back of sidewalk;	
	If replacing an existing fence, the fence may be on the lot line.	

[1] Multi-family perimeter fencing shall not be located closer to a street or property line than the required buffer depth for setbacks.

1. **Battery-operated alarmed electric fences may be added to permitted fences in accordance with the Permitted Use Table 3.2-1. In addition, battery-operated**

alarmed electric fences require a conditional use approval if located within 300 feet of residentially zoned parcels or any parcel containing a residential use, dedicated park, open space, or trail.

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended to add a new section, to be numbered 146-4.7.9.U, which section reads as follows:

U. *Battery-operated electric alarmed fencing.*

1. GENERAL REQUIREMENTS: Battery-operated electric alarmed fencing shall comply with the following requirements:

a. Has an energizer powered by no more than a twelve (12) volt direct current commercial storage battery.

b. Is surrounded by a non-electrical perimeter fence or wall not less than five (5)

c. The electric fence may be two (2) feet higher than the height of the non-electric perimeter fence but shall not exceed ten (10) feet in height.

d. Warning signage shall be posted in accordance with manufacture's recommendations with not more than thirty (30) feet between signs, which signs shall read:



“WARNING – ELECTRIC SECURITY FENCE”.

Section 7. The City Code of the City of Aurora, Colorado, is hereby amended to add the following a definition to section 146-6.2, which definition shall read as follows:

Sec. 146-6.2. Definitions and Terms of Measurement

***Battery-operated alarmed electric fence* means a new or existing electric fence and alarm system and ancillary components, or equipment attached to such a system, including but not limited to, a fence, a battery-operated energizer which is intended to periodically deliver voltage impulses to the fence connected to it; and a battery charging device used exclusively to charge the battery.**

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. 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 10. 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:

 RLA

TIM JOYCE, Assistant City Attorney

Safety of a High-Efficiency Electrical Fence Energizer

Mark W. Kroll, PhD, *FIEEE*; Peter E. Perkins, MSEE, *LFIEEE*; Hugh Pratt, PhD; Edward Stuart, *Member IEEE*; J. Bury, *Member IEEE*; Dorin Panescu, PhD, *FIEEE*

Introduction: Our primary goal was to evaluate the performance of a new high-efficiency electric fence energizer unit using resistive load changes. Our secondary goal was to test for compliance with the classical energy limits and the newer charge-based limits for output.

Methods: We tested 4 units each of the Nemtek Druid energizer with 2 channels each. We used a wide load-resistance range to cover the worst-case scenario of a barefoot child making a chest contact (400 Ω) up to an adult merely touching the fence (2 k Ω). **Results:** The energy output was quite consistent between the 8 sources. Even at the lowest resistance, 400 Ω , the outputs were well below the IEC 60335-2-76 limit of 5 J/pulse. The charge delivered was also quite consistent. Even at the lowest resistance, 400 Ω , the outputs (679 \pm 23 μ C) were well below the proposed limits of 4 mC for short pulses.

Conclusions: The high-efficiency electric fence energizers satisfied all relevant safety limits. Charge, energy, voltage, and current outputs are consistent between channels and distinct units.

INTRODUCTION

Electric fence technology allows for economical and safe control of animals and humans as opposed to barbed or concertina wire which can cause injury. They use a painful brief shock intended to be well below the threshold for VF (ventricular fibrillation) and thus unable to electrocute a human being.[1] The traditional EFE (electric fence energizer) charged a capacitor and then dumped the capacitor energy into the primary of a transformer.[2] The secondary of the transformer then delivered its output to the electric fence wires. Such open-loop systems are affected by arcing (to vegetation or between wires) which can significantly reduce the charge delivered to the fence. Simply increasing the output is unacceptable due to safety concerns and there have been pediatric fatalities due to noncompliant fences.[3, 4] There are US and international safety standards governing EFEs.[5-7]

The traditional EFE output stages are not optimally efficient — in terms of energy and materials — due to the energy-material tradeoffs in the large capacitor and transformer output stage. The tested design (shown in Figure 1) uses diode current-steering to significantly reduce the size of the capacitor and transformer. The 30 μ F energy-storage capacitor and the 16 μ H series inductor give a resonant frequency of \sim 7 kHz or a period of \sim 60 μ s. This is significantly underdamped as there is minimal resistance in the circuit (300 m Ω from PC board tracings). A 2nd higher-frequency resonant circuit is formed by the inductor and the 12 μ F capacitor; this causes the 2nd peak superimposed onto the main discharge curve. The

diode across the transformer primary eliminates the longer low-amplitude reverse flow of current through the transformer and so keeps the output pulse shorter in duration as well as eliminating useless energy delivery cancelling charge from the main discharge pulse. See Figure 2. Since many present EFE standards still include the 5 J/pulse energy limit, reducing the delivered energy is important for regulatory reasons. This design is able to use smaller and lighter inductors and capacitors without having the charge cancellation that would be otherwise seen. Due to the classical misunderstanding that energy causes sensation, this monopolarity feature was often not appreciated in the past.[8, 9] While charge stimulates, energy is what makes burns, and thus a higher energy is useful for ablating vegetation shorts on an electric fence.

The design objective is to deliver \geq 0.2 mC of charge as that is known to be disagreeable to adult humans.[8, 10-13] Another key objective is to keep the output energy < 2.5 J so that a 2-channel unit would still satisfy the 5 J total output allowed by international safety standards.[6]

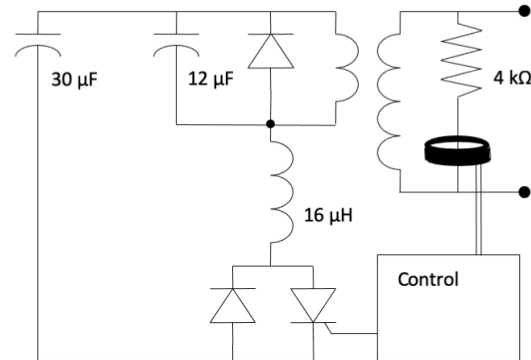


Figure 1. Output stage of tested energizer.

Feedback control also allows for significant energy efficiency gains. The design of a closed-loop EFE is non-trivial due to the load nonlinearities, transformer saturation, and the isolation of the high-voltages. The output load has capacitance, inductance, and transmission-line characteristics making modeling somewhat complex.[14, 15] With line distances > 1 km the input impedance of a linear electric fence approaches that of free space (377 Ω) with a reflected impedance near 0 Ω . In addition, arcing to vegetation introduces nonlinearities while

¹ M. W. Kroll is an Adjunct Professor of Biomedical Engineering at the University of Minnesota, Minneapolis, MN (e-mail: mark@kroll.name). Dr. Kroll is a consultant to Amarok. P. Perkins is an independent consultant. peperkinspe@cs.com Hugh Pratt, PhD, is Secretary of CPLSO

Edward Stuart (estuart@amarok.com) and J Bury (jbury@amarok.com) are employees of Amarok. D. Panescu is Chief Technical Officer, Vice President R&D, HeartBeam, Inc. (e-mail: panescu_d@yahoo.com).

arcing to ground (or to a return wire) can introduce negative dynamic resistance which makes traditional feedback control impossible.

We evaluated the performance of the Nemtek Druid™ units with APT (Adaptive Power Technology) whose loaded waveforms are given in Figure 2. Upon initialization, it charges the output capacitors to a level that are expected to approximately generate a 4 kV pulse after passing thru a pulse transformer. The actual voltage output is then measured, and this is used to calibrate the system and then the following pulses are delivered with peak voltages of 8.5-9.5 kV for a largely open circuit. In case of arcing, the voltage waveform is distorted from that seen in Figure 2 and the system recognizes this and reduces the peak voltage until the arcing ceases. This feature was not tested in our study.

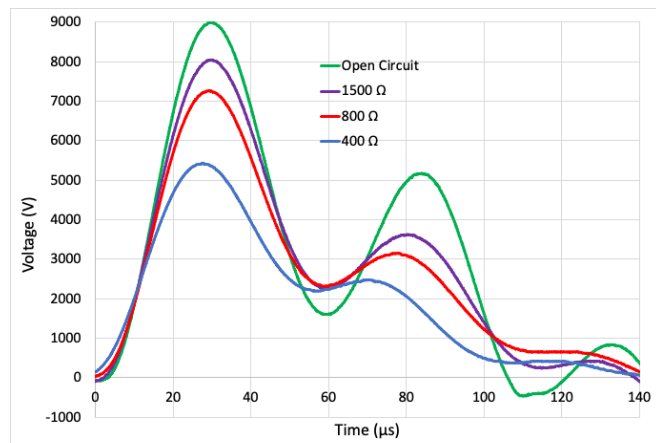


Figure 2. Typical output voltage waveforms for various loads.

For a closed-loop design a feedback signal from the energizer's output terminals is required. Although a simple resistor voltage-divider network can provide an accurate feedback signal, this is not practical due to isolation specifications which are required by the electric fence safety standards. The units tested sampled the output voltage by running it thru a high-voltage non-inductive 4 kΩ resistor. The current thru the resistor was, in turn, sampled by a current transformer (black ring in Figure 1) to provide isolated feedback to the control circuitry.

Present EFE safety standards are based on a 5-joule energy limit per pulse. However, since energy heats while charge stimulates, newer safety standards, for general applications, are now being based on the delivered charge.[16] For example, the proposed level for "low risk of fibrillation" is 4 mC. The charge is more dependent on the load resistance and thus we sought to evaluate this technology vs. the newer charge limits. We used a wide load-resistance range to cover the worst-case scenario of a barefoot child making a chest contact (400 Ω) up to an adult merely touching the fence (2 kΩ).[17]

Our primary goal was to evaluate the performance of the new high-efficiency feedback-controlled EFE units with load changes. Our secondary goal was to test for compliance with the classical energy limits and the newer charge-based limits for output.

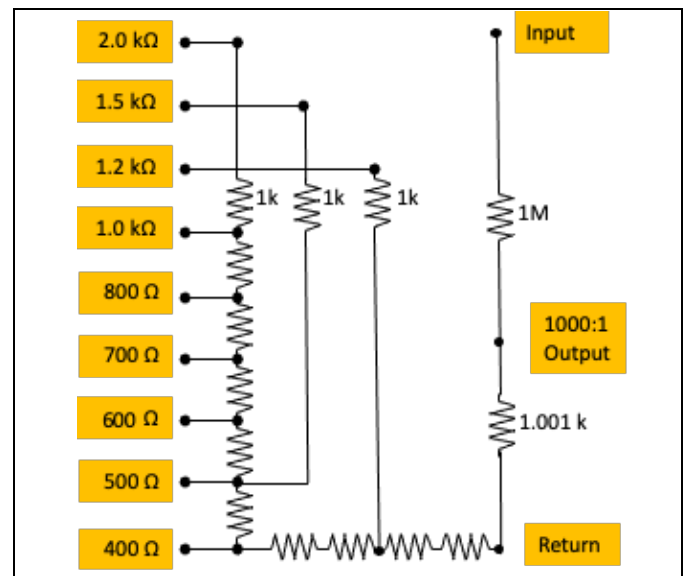


Figure 3. Voltage divider and load resistors. Unlabeled resistors are 100 Ω.

METHODS

We constructed a 1000:1 voltage divider using a 1 MΩ high-voltage low inductance Ohmite (Warrenville, Ohio, USA) MOX-3N resistor with a 30 kV pulse rating in series with 1001 Ω. The load resistance was selectable over 400, 500, 600, 700, 800, 1k, 1.2k, 1.5k, and 2 kΩ by use of the schematic shown in Figure 3. The load resistances were made up from Ohmite model OY series 100 Ω and 1 kΩ noninductive ceramic resistors rated for 20 kV and 70 J of capacitive discharge. Series trimming was done with smaller-value carbon resistors. The open circuit voltage was measured by removing the jumper going to a load resistor. Since the tested EFEs all had a 4 kΩ output resistor, the output-stage transformer was never truly operating into an open-circuit load.

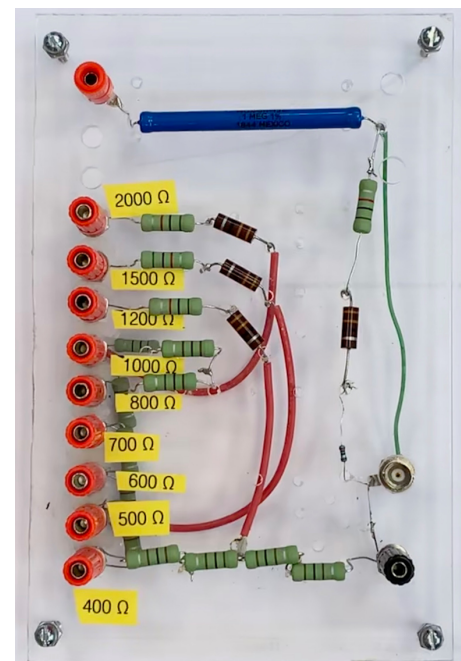


Figure 4. Voltage divider and load resistors.

All resistance values were verified to be within 1% with a Flexzion VC8145 5-digit meter which was in turn calibrated to a Vishay (0.1% 500 Ω precision resistor.) Voltage values were recorded by a calibrated Siglent SDS1202X digital storage oscilloscope sampling at 1 ns intervals.

A total of 4 Nemtek Druid™ EFE units were tested. Since each unit has 2 individual outputs, there were 8 sources tested in total. E.g. 1030/1. For determination of the peak voltage and current, the instantaneous voltages were boxcar averaged over 200 samples (200 ns duration) to reduce noise artifact.

RESULTS

The energy per pulse output was quite consistent between the 8 sources as shown in Figure 5. Even at the lowest resistance, 400 Ω , the outputs were well below the IEC 60335-2-76-limit of 5 J/pulse. At the standard test load of 500 Ω , the output was 2.23 ± 0.05 J and thus far from the 2.5 J limit ($p < 0.001$).

There is a consistent transition seen between 1 k Ω and 1.2 k Ω as the system shifts from open loop to feedback control. For loads ≤ 1.1 k Ω , the output voltage is limited passively by the maximum energy in the main storage capacitor.

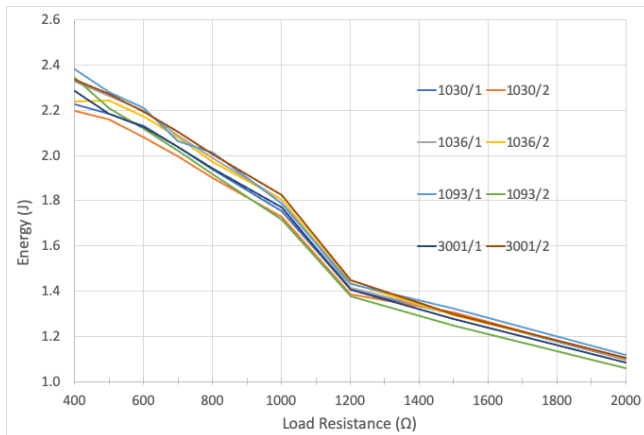


Figure 5 Energy per pulse as function of load resistance.

The charge delivered was quite consistent between the 8 sources as shown in Figure 6. Even at the lowest resistance, 400 Ω , the outputs were well below the proposed new limits of 4 mC/pulse.[16] At the standard test load of 500 Ω , the output was 0.60 ± 0.03 mC.

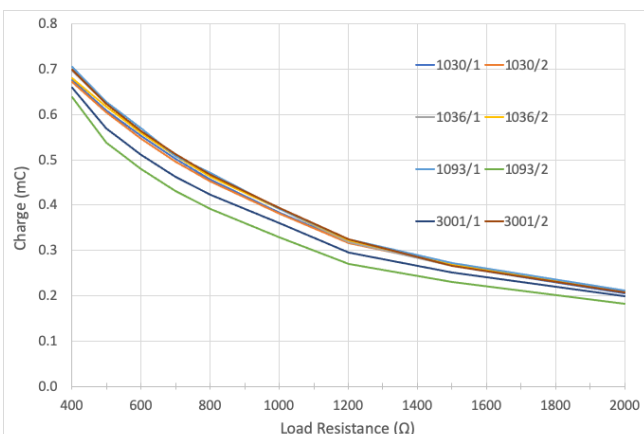


Figure 6 Charge per pulse as function of load resistance.

The peak voltage delivered was also quite consistent between the 8 sources as shown in Figure 7. None exceeded the specified 9.7 kV maximum even with an open circuit. Again, there is a consistent control transition seen between 1 k Ω and 1.2 k Ω as control shifts from passive to active feedback. The feedback adjustment converged very rapidly and appeared to settle typically within a single 2nd pulse after a load change.

Linear regression modeling found that the peak voltage was roughly modeled as an internal 9154 ± 58 V source in series with a 224 ± 54 Ω equivalent series resistance. At the standard test load of 500 Ω , the output was 5999 ± 79 V.

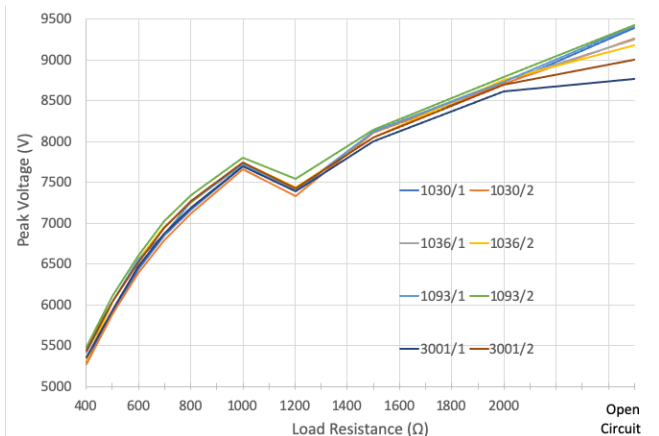


Figure 7. Peak voltage as function of load resistance.

The peak current delivered was impressively consistent between the 8 sources as shown in Figure 8. At the standard test load of 500 Ω , the output was 12.00 ± 0.16 A.

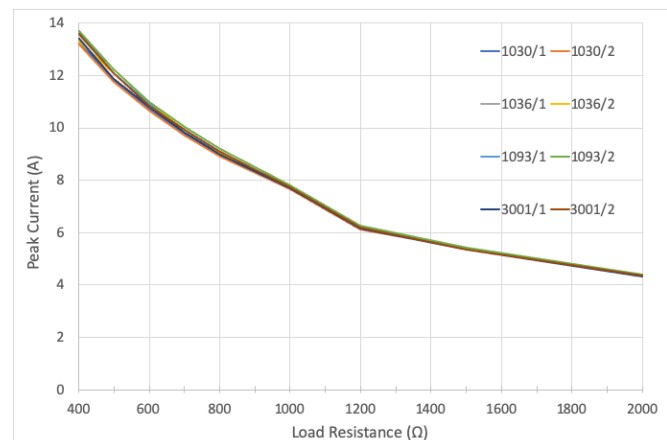


Figure 8. Peak current as function of load resistance.

DISCUSSION

We believe that this is the first paper to examine the performance and safety of advanced high-efficiency digital feedback-controlled electric fence energizers. All units tested satisfied all relevant safety limits. Charge, energy, voltage, and current outputs were consistent between both channels and distinct units.

The ubiquitous electric fence is essential to modern agriculture and has saved a great many lives by reducing the number of livestock automobile collisions.[18-22] They also provide safe protection against criminal activity. Modern safety

standards such as IEC 60335-2-76 and UL 69 have certainly played a role in this positive result.[5, 23] However, the safety standards are essentially based on energy and power (RMS current) considerations, which have limited direct relationship to cardiac effects.

Upcoming safety standards, for short pulses, will be based on the more scientific charge.[16] With great prescience, UL researcher Whittaker proposed a charge-based limit, of 4 mC, back in 1939.[24] Because of electrocutions from AC electric fences, impulse-generating electric fence energizers became very popular in the 1930. Many government agencies and standards organizations then adopted charge limits to levels deemed safe.[1] The Underwriter's Laboratories (USA) proposed 4 mC as a safe impulse.[24] The Industrial Commission of Wisconsin (a USA state important for dairy production) and the U.S. National Bureau of Standards adopted 3 mC as the safe level. Most countries adopted 3 mC as the safe level including Finland, Denmark, Great Britain, and France.[1] Sweden used a 2.5 mC level and the C.E.E (IEC predecessor) also proposed 2.5 mC.[1] The IEC 60335 standard replaced the various country standards and eventually dropped the charge-based limit in 1989 in favor of a pure-energy limit.

Thus, the international standards community once had scientifically-sound *charge-based* limits for electrical impulses. Unfortunately, this understanding was somehow lost and the impulse limits became associated with the less-relevant energy and power.[16]

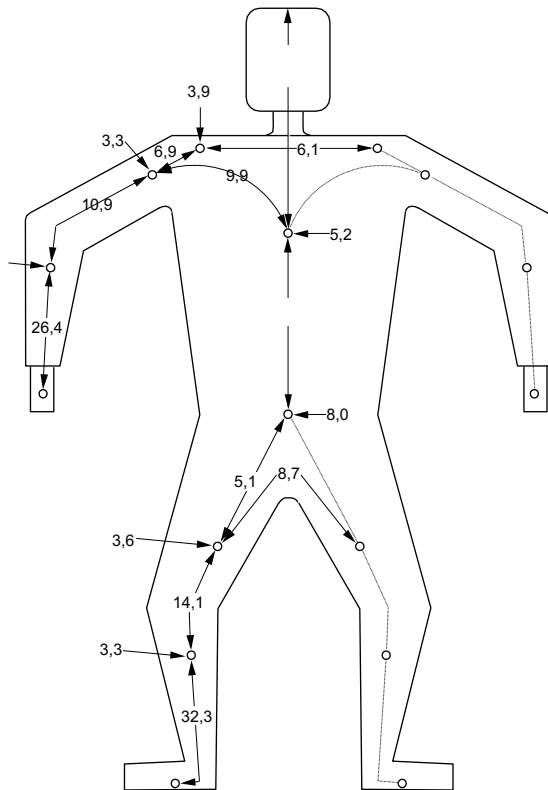


Figure 9. Body part contributions to resistance.

Based on the 37% contribution of the arm to the typical body resistance, we discounted the median 775 Ω high-voltage impedance to 488 Ω as given by our Figure 9 taken from IEC 60479-1.[6] To include the worst-case scenario of a barefoot child contacting a fence at chest height, we further deducted the 9.9% (for shoulder to center-trunk) so the resistance would be 409 Ω and thus we elected to test down to a 400 Ω load.

LIMITATIONS

We did not evaluate the performance of these units with capacitive or inductive loads. We did not evaluate the performance with long lines.

CONCLUSIONS

The digitally controlled feedback electric fence energizer tested satisfied all relevant safety limits. Charge, energy, voltage, and current outputs are consistent between channels and distinct units.

REFERENCES

- [1] C. F. Dalziel, "Electric fences-their hazards, types, regulations, and safe application," *Transactions of the American Institute of Electrical Engineers*, vol. 69, no. 1, pp. 8-15, 1950.
- [2] M. G. B. De Martino, F. S. Dos Reis, and G. A. Dias, "An electric fence energizer design method," in *2006 IEEE International Symposium on Industrial Electronics*, 2006, vol. 2, pp. 727-732: IEEE.
- [3] M. Burke, M. Odell, H. Bouwer, and A. Murdoch, "Electric fences and accidental death," *Forensic Sci Med Pathol*, vol. 13, no. 2, pp. 196-208, Jun 2017.
- [4] L. Stallones, "Fatal unintentional injuries among Kentucky farm children: 1979 to 1985," *The Journal of Rural Health*, vol. 5, no. 3, pp. 246-256, 1989.
- [5] Underwriters Laboratories, "UL 69: Electric fence controllers," June 2003.
- [6] IEC, "Household and similar electrical appliances – Safety – IEC 60335-2-76: Particular requirements for electric fence energizers," *International Electrotechnical Commission*, 2006.
- [7] M. W. Kroll, P. E. Perkins, and D. Panescu, "Electric fence standards comport with human data and AC limits," *Conf Proc IEEE Eng Med Biol Soc*, vol. 2015, pp. 1343-8, Aug 2015.
- [8] F. Gracanic and A. Trnkoczy, "Optimal stimulus parameters for minimum pain in the chronic stimulation of innervated muscle," *Arch Phys Med Rehabil*, vol. 56, no. 6, pp. 243-9, Jun 1975.
- [9] W. Irnich, "Georges Weiss' fundamental law of electrostimulation is 100 years old," *Pacing Clin Electrophysiol*, vol. 25, no. 2, pp. 245-8, Feb 2002.
- [10] W. D. Larkin and J. P. Reilly, "Strength/duration relationships for electrocutaneous sensitivity: stimulation by capacitive discharges," (in eng), *Percept Psychophys*, vol. 36, no. 1, pp. 68-78, Jul 1984.
- [11] W. D. Larkin, J. P. Reilly, and L. B. Kittler, "Individual differences in sensitivity to transient electrocutaneous stimulation," (in eng), *IEEE Trans Biomed Eng*, vol. 33, no. 5, pp. 495-504, May 1986.
- [12] J. P. Reilly, "Scales of reaction to electric shock. Thresholds and biophysical mechanisms," (in eng), *Ann N Y Acad Sci*, vol. 720, pp. 21-37, May 31 1994.
- [13] J. P. Reilly and W. D. Larkin, "Electrocutaneous stimulation with high voltage capacitive discharges," *IEEE Trans Biomed Eng*, vol. 30, no. 10, pp. 631-41, Oct 1983.
- [14] D. Thrimawithana and U. Madawala, "Modeling pulse reflections due to multiple discontinuities on electric fence structures," in *2008 IEEE International Conference on Industrial Technology*, 2008, pp. 1-6: IEEE.
- [15] D. J. Thrimawithana and U. K. Madawala, "Generalised mathematical model for high-voltage pulse propagation along electric fence structures," *IET Science, Measurement & Technology*, vol. 5, no. 3, pp. 109-116, 2011.

- [16]M. W. Kroll, D. Panescu, R. Hirtler, M. Koch, and C. J. Andrews, "Dosimetry for Ventricular Fibrillation Risk with Short Electrical Pulses: History and Future.," *Conf Proc IEEE Eng Med Biol Soc*, vol. 41, pp. 1788-1794, Jul 2019.
- [17]*Effects of Current on Human Beings and Livestock, CEI/IEC 60479-1: General Aspects, 5th Edition.*, IEC, 2016.
- [18]K. C. VerCauteren, M. J. Lavelle, and S. Hygnstrom, "Fences and deer-damage management: a review of designs and efficacy," *Wildlife Society Bulletin*, vol. 34, no. 1, pp. 191-200, 2006.
- [19]G. Bruinderink and E. Hazebroek, "Ungulate traffic collisions in Europe," *Conservation Biology*, vol. 10, no. 4, pp. 1059-1067, 1996.
- [20]S. L. Webb, K. L. Gee, S. Demarais, B. K. Strickland, and R. W. DeYoung, "Efficacy of a 15-strand high-tensile electric fence to control white-tailed deer movements," *Wildlife Biology in Practice*, vol. 5, no. 1, pp. 45-57, 2009.
- [21]M. Leblond, C. Dussault, J. Oellet, M. Poulin, R. Courtois, and J. Fortin, "Electric Fencing as a Measure to Reduce Moose-Vehicle Collisions," *The Journal of wildlife management*, vol. 71, no. 5, pp. 1695-1703, 2007.
- [22]L. L. Mastro, M. R. Conover, and S. N. Frey, "Deer-vehicle collision prevention techniques," *Human-Wildlife Interactions*, vol. 75, 2008.
- [23]*Household and similar electrical appliances – Safety – IEC 60335-2-76: Particular requirements for electric fence energizers*, 2006.
- [24]Whittaker, "Electric shock as it pertains to the electric fence," *Underwriter's Laboratories Bulletin of Research*, vol. 14, pp. 1-56, 1939.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Approve a Resolution of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement by and between E-470 Public Highway Authority and City of Aurora regarding design of the Gartrell Road Interchange Expansion Imp

Item Initiator: Bret Banwart, Transportation Project Delivery Engineering Supervisor

Staff Source/Legal Source: Bret Banwart, TPD Engineering Supervisor / Michelle Gardner – Sr. Assistant City Attorney

Outside Speaker: NA

Council Goal: 2012: 3.2--Reduce travel time and reduce congestion and provide expanded multi-modal mobility choices

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement by and between E-470 Public Highway Authority and City of Aurora regarding design of the Gartrell Road Interchange Expansion Improvements and funding therefor.

Staff Source: Bret Banwart, Transportation Project Delivery Engineering Supervisor

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Transportation, Airports & Public Works

Policy Committee Date: 9/29/2021

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 April 17, 2017, City Council approved the South Aurora Regional Improvement Authority Establishing Agreement between the City and the Metro Districts.

On June 15, 2018, the South Aurora Regional Improvement Authority (SARIA) adopted the South Aurora Regional Improvement Authority Master Plan which authorized SARIA to contribute funding to support various regional improvements within the City of Aurora. The Gartrell Road Improvements over E470 is included as a top priority project for SARIA.

On September 17, 2018, City Council approved the First Amendment to the South Aurora Regional Improvement Authority Establishment Agreement. This agreement enabled SARIA to proceed with the bond issuance to fund the initial capital improvement projects of SARIA's Master Plan, including the authority's preliminary contribution to the Gartrell Road project. The attached Master Plan 2 map illustrates the proposed projects.

On August 5, 2019, City Council approved the Resolution of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement between the City of Aurora and the South Aurora Regional Improvement Authority (SARIA) Regarding Gartrell Road Improvements.

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

The proposed IGA for the Gartrell Road Interchange Expansion Improvements is a new IGA between the City of Aurora and the E-470 Public Highway Authority to define project development responsibilities and allow for City staff to oversee the planning and design for the future construction of the bridge widening and ramp intersection improvements with the E-470 Authority as a stakeholder and reviewer of the project.

The South Aurora Regional Improvement Authority (SARIA) has identified the construction of these bridge facility improvements in its Master Plan and included funds to advance the design of the facility improvements in its first bonding package. The project will include planning and design of a bridge to support a full 5-lane roadway section and ramp intersection improvements. The IGA for this project between the City and SARIA has been executed. This proposed IGA with E-470 allows for the City to manage the design of this project and establishes review and communication protocols with E-470.

QUESTIONS FOR COUNCIL

Does Council support moving the Resolution for the Intergovernmental Agreement between the City of Aurora and E-470 Public Highway Authority regarding the design and funding of the Gartrell Road Interchange Expansion Improvements Project forward to the next available Regular Meeting of City Council for consideration of approval?

LEGAL COMMENTS

Pursuant to Colorado Revised Statute §29-1-203(1), 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. Pursuant to City Charter §10-12, 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. (M. Gardner)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: No financial impact as SARIA funds are already approved for design of this Interchange expansion.

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, APPROVING THE INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN E-470 PUBLIC HIGHWAY AUTHORITY AND CITY
OF AURORA REGARDING DESIGN OF THE GARTRELL ROAD
INTERCHANGE EXPANSION IMPROVEMENTS
AND FUNDING THEREFOR

WHEREAS, pursuant to Article XIV, Section 18(2) of the Constitution of the State of Colorado, C.R.S., and Section 29-1-203, C.R.S., the E-470 Public Highway Authority (“E-470 Authority”) and City of Aurora (“City”), collectively referred to as “Parties”, are encouraged and authorized to cooperate and contract with one another to provide any function or service lawfully authorized to each, including the sharing of costs; and

WHEREAS, the Parties entered into an Intergovernmental Agreement for Maintenance and Operations of Certain Interchanges and Grade Separations that Cross the E-470 Highway, dated August 27, 1998, that identifies Gartrell Road as an anticipated interchange; and

WHEREAS, on April 17, 2017, City Council approved the South Aurora Regional Improvement Authority Establishing Agreement between the City and several metro districts; and

WHEREAS, on June 15, 2018, the South Aurora Regional Improvement Authority (“SARIA”) adopted the South Aurora Regional Improvement Authority Master Plan which authorized SARIA to contribute funding to support various regional improvements within the City of Aurora with Gartrell Road improvements over E-470 included as a top priority project for SARIA; and

WHEREAS, on September 17, 2018, City Council approved the First Amendment to the South Aurora Regional Improvement Authority Establishment Agreement, enabling SARIA to proceed with the bond issuance to fund the initial capital improvement projects of the Master Plan, including the preliminary contribution to the Gartrell Road Project; and

WHEREAS, on August 5, 2019, City Council approved the Intergovernmental Agreement between the City and SARIA Regarding Gartrell Road Improvements; and

WHEREAS, the new IGA between the City and the E-470 Authority is to define project development responsibilities and allow for City staff to oversee the planning and design for the future construction of the bridge widening and ramp intersection improvements with the E-470 Authority as a stakeholder and reviewer of the project; and

WHEREAS, Section 10-12 of the City Charter authorizes City Council, by resolution, to enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment, or facilities, and for the furnishing or receiving of services.

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

Section 1. The Intergovernmental Agreement by and between E-470 Public Highway Authority and City of Aurora regarding design of the Gartrell Road Interchange Expansion Improvements and funding therefor is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver this 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 prior Resolutions or any parts that are inconsistent herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

C McK

Michelle Gardner
MICHELLE GARDNER, Sr. Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
E-470 PUBLIC HIGHWAY AUTHORITY AND CITY OF AURORA
REGARDING DESIGN OF THE
GARTRELL ROAD INTERCHANGE EXPANSION IMPROVEMENTS AND FUNDING
THEREFOR**

This Intergovernmental Agreement (the “Agreement”) is made and entered into this _____ day of _____ 20__, by and between the **E-470 PUBLIC HIGHWAY AUTHORITY**, a political subdivision of the State of Colorado (the “Authority”), and the **CITY OF AURORA, COLORADO**, a home rule municipal corporation of the counties of Adams, Arapahoe and Douglas, State of Colorado (“Aurora”), each referred to individually herein as a “Party,” and collectively as the “Parties.”

RECITALS

WHEREAS, pursuant to Article XIV, Section 18(2) of the Constitution of the State of Colorado, C.R.S., and Section 29-1-203, C.R.S., the Parties are encouraged and authorized to cooperate and contract with one another to provide any function or service lawfully authorized to each, including the sharing of costs; and

WHEREAS, the Authority and Aurora entered into an Intergovernmental Agreement for Maintenance and Operations of Certain Interchanges and Grade Separations that Cross the E-470 Highway, dated August 27, 1998 (the “1998 O&M Agreement”), that identifies Gartrell Road as an anticipated interchange; and

WHEREAS, the Authority and Aurora now desire to enter into an agreement to recognize the responsibilities and costs concerning the design of an expansion of the existing interchange located at Gartrell Road and E-470 Public Highway, including, but not limited to, bridge widening, ramp widening, and traffic signalization (the “Interchange Expansion”); and

WHEREAS, the Parties desire to (1) have Aurora undertake the design responsibilities for the Interchange Expansion (the “Design Phase”); (2) allow the Parties to contract separately, once funding mechanisms are known, to outline their responsibilities regarding construction of the Interchange Expansion (the “Construction Phase”), and (3) allow the Parties to contract separately to outline their ownership, operation, and maintenance responsibilities for the Interchange Expansion thereafter (the “Maintenance Phase”).

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Authority and Aurora hereby agree as follows.

TERMS AND CONDITIONS

I. Interchange Expansion Design Phase.

A. Aurora Design Contracts.

1. Aurora shall procure and administer, at its sole cost and expense, design consultant contracts acceptable to the Authority and Aurora for the design of the Interchange Expansion (the “Interchange Expansion Design”). The Authority may participate in any public solicitation for design professionals conducted by Aurora, including reviewing and providing comments on proposals and attending proposer interviews, but shall not be responsible for costs and expenses or the selection of a consultant related to the same. Aurora shall require its Interchange Expansion design consultant(s) to be responsible for all quality management, quality control, and quality assurance in connection with the design for the Interchange Expansion Design.

B. Design Plan Review Process.

1. The Interchange Expansion Design shall comply with federal, state, and local law, including the Colorado Department of Transportation Bridge Design Manual. The design will generally match the appearance of other Authority bridges and should create minimal impact on the E-470 Public Highway (“E-470”), the Authority, and its customers and minimal disruption to the operation of E-470.

2. Aurora will provide the Authority with a design submittal schedule to assist with Authority plan review, which schedule shall be subject to the reasonable approval of the Authority (the “Design Schedule”).

3. Aurora shall submit plans to the Authority according to the Design Schedule, including separate reviews for 30%, 60%, 90%, and final plans and specifications. The Authority shall have twenty-one (21) calendar days to review, comment on, accept, or reject each such submittal of plans and specifications (a “Submittal”). No response by the Authority to Aurora within twenty-one (21) calendar days of receipt of a Submittal shall be deemed by Aurora to be an acceptance of the Submittal by the Authority.

4. To the extent Aurora does not satisfy the Authority regarding the Authority’s comments and objections relating to a Submittal, the Parties shall timely hold a design review meeting to seek resolution on the Authority’s comments and objections.

5. Only when a final Submittal is satisfactory to the Authority shall Submittal plans and specifications be considered accepted by the Authority; however, such acceptance shall not be unreasonably withheld, conditioned, or delayed.

6. Any changes to final Submittals shall be subject to review and acceptance by the Authority.

C. Relocation of Utilities.

1. To the extent the Authority may need to relocate its backbone fiber optic line to accommodate the Interchange Expansion, this determination will be made during final design for the Interchange Expansion. If the backbone fiber optic line must be relocated, the Authority's IT contractor will perform the relocation work prior to the Construction Phase, and Aurora shall reimburse the Authority for the costs thereof.

2. The parties' obligations with respect to other utility relocations will be set forth in the Construction Phase IGA (defined below) as necessary; however, the parties agree to use reasonable efforts to avoid major utility relocations in connection with the Interchange Expansion Design to the extent feasible.

D. Costs.

1. The Authority shall have no responsibility or liability for costs of the Interchange Expansion Design in accordance with this Agreement.

II. Aurora's Obligations.

A. Payment of Authority Costs.

1. Aurora agrees to reimburse the Authority for all reasonable costs the Authority incurs for the payment of third-party consultants related to the Design Phase, including, but not limited to design review, engineering, quality control, and geotechnical work (the "Authority Costs"). The Authority will provide Aurora with monthly invoices detailing the Authority Costs the Authority incurred in the prior month. Aurora shall reimburse the Authority for those Authority Costs within thirty (30) days of the receipt of the invoice.

B. Other Obligations.

1. Aurora will obtain, at its sole cost and expense, all permits, approvals, and sign-offs from all entities, public and private, necessary to complete the final Interchange Expansion Design.

2. Aurora will respond in a reasonable time to the Authority's requests for documents and records related to the Interchange Expansion project to allow the Authority to exercise its rights under this Agreement.

3. Aurora and all of its contractors and consultants shall pay E-470 tolls.

4. As part of a separate agreement between the Authority and Aurora, Aurora will be installing temporary traffic signals at the north and southbound Gartrell Road and E-470 interchange locations. The parties' obligations regarding removal of those temporary signals will be included as part of the Construction Phase IGA when the final permanent signals are installed as part of the Interchange Exchange project.

III. Construction, Ownership, Operations, and Maintenance.

A. Construction. Upon the completion and approval by the Authority and Aurora of the final Interchange Expansion Design, the Parties' contemplate that Aurora and the South Aurora Regional Improvement Authority will be responsible for collaboratively undertaking all work in the Construction Phase, including the funding and administration thereof. The Parties agree to either enter into an intergovernmental agreement to address the Parties' respective obligations in the Construction Phase, including ownership of the improvements (the "Construction Phase IGA") prior to either Party undertaking any activities related thereto; provided, however, that the Authority will not issue a permit for the construction of the Interchange Expansion or execute the Construction Phase IGA without a Maintenance IGA (as defined in Section III.B below). The Parties acknowledge and agree that notwithstanding the preparation of the final Interchange Expansion Design by Aurora, there is no guarantee the Interchange Expansion will be constructed.

B. Operations and Maintenance. In the event the Interchange Expansion is constructed, the Parties anticipate that (1) Aurora will dedicate the bridge structure (excluding the approximately 2" thick pavement surface), bridge rail and steel pipe bridge railing attached to the bridge rail structure, lighting attached to the bridge structure, and the ramps to the Authority upon completion and final acceptance thereof, after which time the Authority will operate and maintain the same; and (2) Aurora will own, operate, and maintain the traffic signals and Gartrell Road appurtenances (i.e., pavement, w-beam roadway approach guardrails, signage, striping, and roadway approach lights,. The Parties agree that concurrently with or as part of the Construction Phase IGA an intergovernmental agreement shall be in place between the Parties outlining the terms of the Parties' respective Interchange Expansion operations and maintenance obligations (the "Maintenance IGA"), which Maintenance IGA may be in the form of the 1998 O&M Agreement, as applicable. The Parties agree that the Maintenance IGA shall be a condition precedent to the Authority's execution of any Construction Phase IGA.

IV. Reimbursement. The Authority shall have no obligation, pursuant to this Agreement or otherwise, to reimburse Aurora or any other person or entity for funds contributed to the Interchange Expansion and expended in accordance with this Agreement. Aurora acknowledges that it has no right to reimbursement from the Authority for funds contributed and expended in accordance with this Agreement.

V. Dispute Resolution. Non-binding resolution of disputes or disagreements on any matter relating to this Agreement shall be subject to the following process:

A. Upon written notification of either Party to the other that a dispute exists, the matter shall be submitted jointly to the Authority's Director of Engineering and Roadway Maintenance and the Aurora Director of Public Works. Both Parties shall collaborate to resolve the issue.

B. If a resolution cannot be achieved within a reasonable time, the matter shall be submitted jointly to the Authority's Executive Director and Aurora's City Manager. Both Parties shall collaborate to resolve the issue.

C. The Parties agree that participation in each of these administrative procedures shall be a condition precedent to the institution of litigation.

VI. Miscellaneous.

A. Headings. The headings in this Agreement are for convenience only and do not alter or change the meaning of the text.

B. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the Authority and Aurora and their successors, assigns, and legal representatives.

C. Assignment. None of the Parties hereto may assign this Agreement or parts hereof or its rights hereunder without the express written consent of the other Party. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.

D. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, the Parties shall not be deemed or constitute partners, joint venture participants, or agents of the other. Any actions taken by the Parties pursuant to this Agreement shall be deemed actions as an independent contractor of the others.

E. 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 the Parties. It is the express intention of the Parties that any person or entity other than the Parties shall be deemed to be only an incidental beneficiary under this Agreement.

F. Governmental Immunity. Nothing in this Agreement or in any actions taken by the Parties or their respective elected officials, directors, officers, agents, and employees pursuant to this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S.

G. Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to any Party hereto by another Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed or, in lieu of such personal service, when received in the United States mail, first-class postage prepaid addressed to:

If to Aurora:

City of Aurora

Attention: Public Works Director

15151 E. Alameda Parkway, Ste. 3200

Aurora, CO 80012

With a copy to:

Aurora City Attorney

15151 E. Alameda Parkway, Ste. 5300
Aurora, CO 80012

If to the Authority:

E-470 Public Highway Authority
Attention: Executive Director
Administrative Headquarters Facility
22470 E. Stephen D. Hogan Parkway, Suite 100
Aurora, CO 80018

With a copy to:

E-470 Public Highway Authority
c/o Icenogle Seaver Pogue, P.C.
Attn: Tamara K. Seaver
4725 South Monaco Street, Suite 360
Denver, CO 80237

A Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

H. Controlling Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute between the Parties, the exclusive venue for dispute resolution shall be the District Court for and in Arapahoe County, Colorado.

I. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

J. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

K. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the Interchange Expansion project and sets forth the rights, duties, and obligations of each Party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

L. Severability. The invalidity or unenforceability of any portion or previous version of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and, in such event, the Parties shall negotiate in good faith to replace such invalidated provision in order to carry out the intent of the Parties in entering into this Agreement.

M. Contract Modification. This Agreement may not be modified except by a writing executed by the Parties with the same formality as the original.

N. Annual Appropriation. The Parties agree that this Agreement does not create any multi-fiscal year obligations. The Parties agree that their performance of payments required hereunder is subject to annual appropriation.

O. Time is of the Essence. The Parties agree that time is of the essence and shall proceed with due diligence in their respective obligations.

E-470 PUBLIC HIGHWAY AUTHORITY

409

CITY OF AURORA, COLORADO

By: Mike Coffman
Its: Mayor

ATTEST:

APPROVED AS TO FORM:

Kadee Rodriguez, City Clerk

Michelle Gardner, Sr. Assistant City Attorney

STATE OF _____)
)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ and _____, as _____ and _____ of _____.

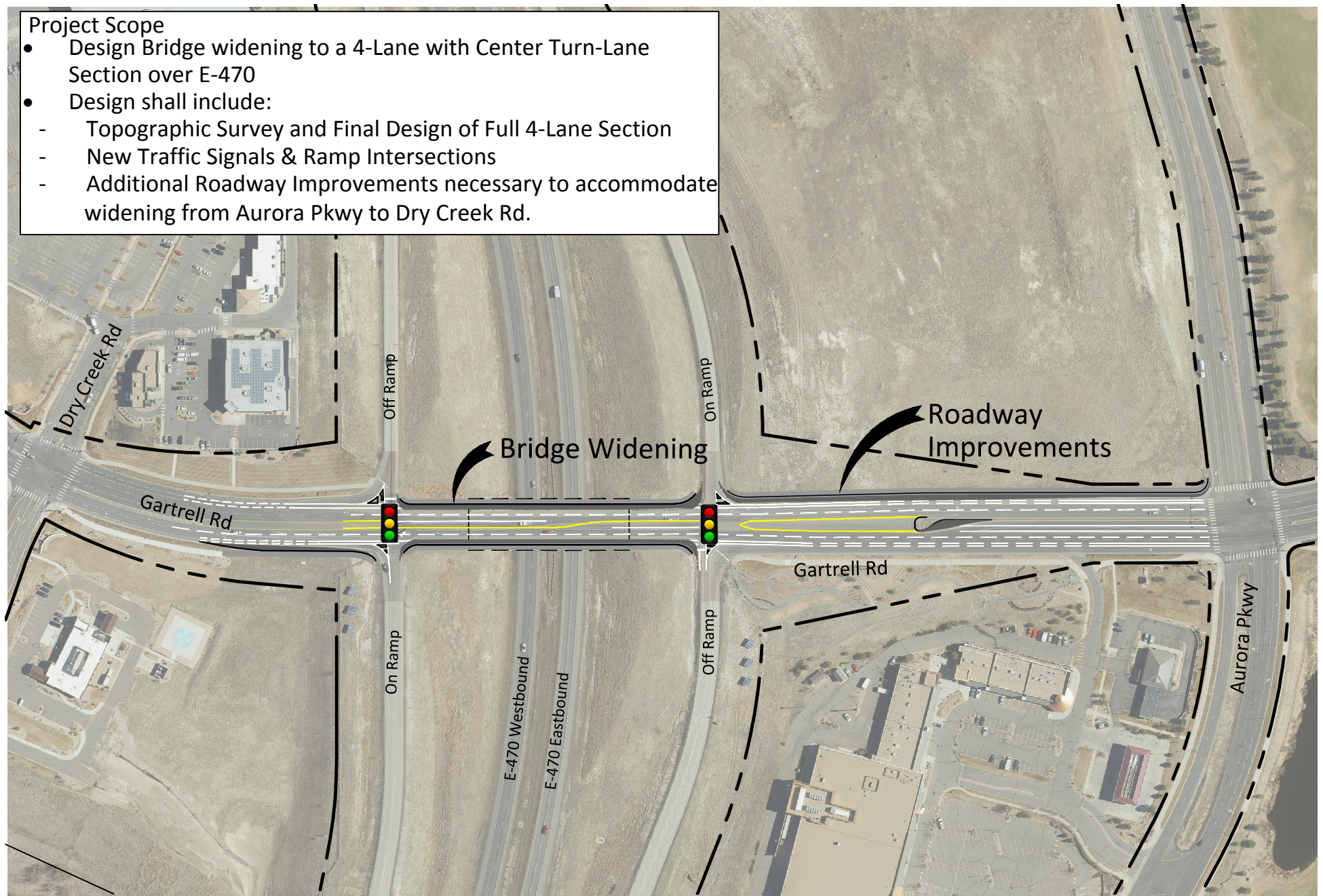
WITNESS my hand and official seal.

My commission expires:

Notary Public

Project Scope

- Design Bridge widening to a 4-Lane with Center Turn-Lane Section over E-470
- Design shall include:
 - Topographic Survey and Final Design of Full 4-Lane Section
 - New Traffic Signals & Ramp Intersections
 - Additional Roadway Improvements necessary to accommodate widening from Aurora Pkwy to Dry Creek Rd.

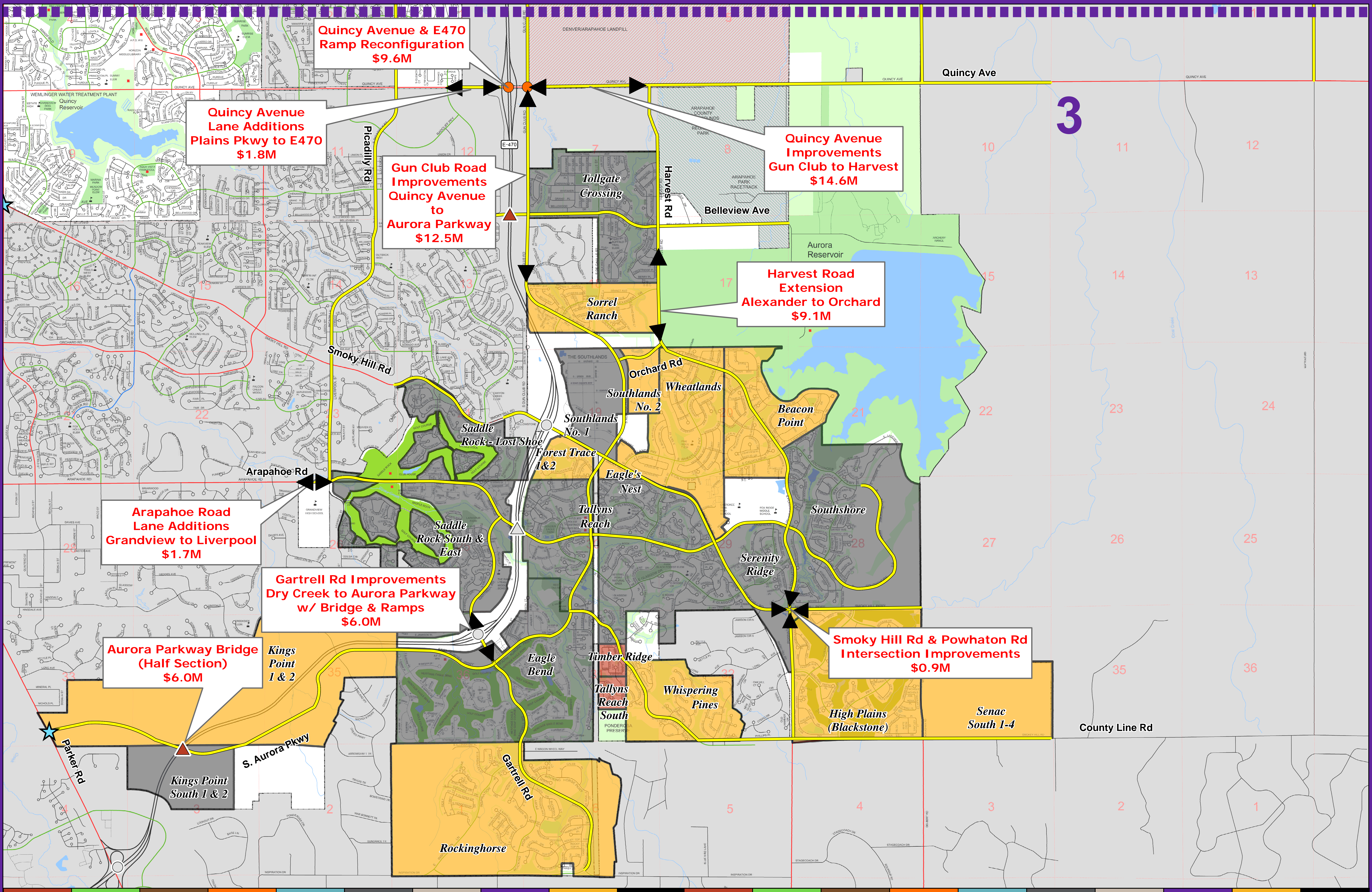


City of Aurora, Colorado
Public Works Department
15151 E. Alameda Pkwy, Aurora, CO 80012

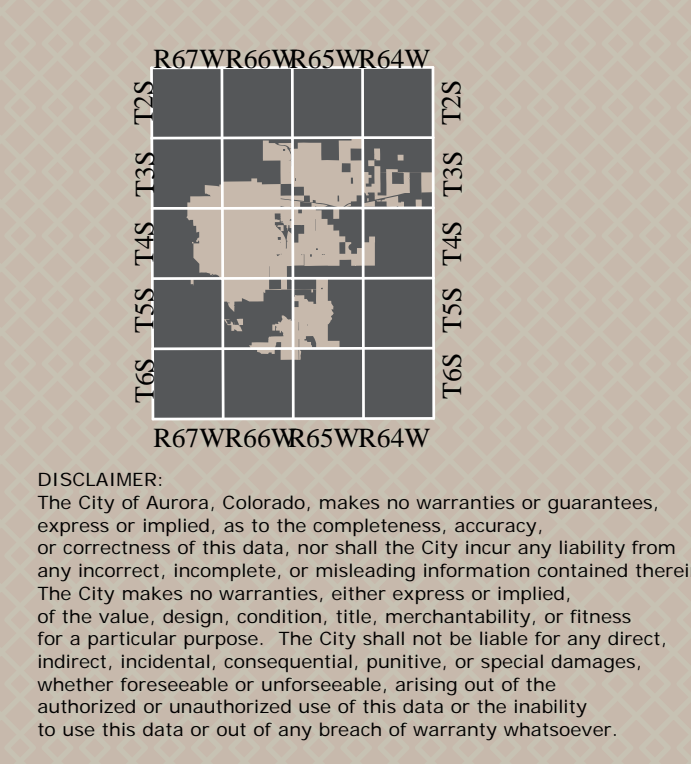


GARTRELL RD IMPROVEMENTS - DRY CREEK RD. TO AURORA PKWY.

July 23, 2021



Public Works Department
15151 E. Alameda Pkwy
Aurora CO 80012 USA
www.auroragov.org
303-739-7000
GIS@auroragov.org



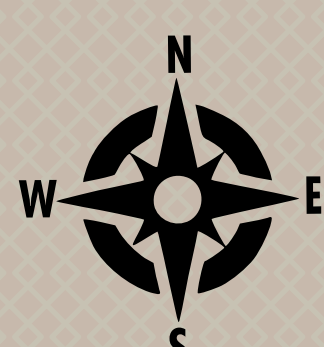
City of Aurora, Colorado

Priority Infrastructure Upgrade Projects - Region 3

May 17, 2018



Aurora is
Worth Discovering!



- | EXISTING INFRASTRUCTURE | PLANNED INFRASTRUCTURE | Major Arterials |
|-------------------------------|-------------------------------|-----------------|
| Grade-Separated Crossing | Grade-Separated Crossing | Major Arterials |
| Intersection Treatments (TBD) | Intersection Treatments (TBD) | |
| Roadway Interchange | Roadway Interchange | |



Transportation, Airports, and Public Works Committee

September 29, 2021

Two IGAs with E-470

*E-470 & Gartrell Rd Interchange Expansion Improvements
E-470 & Gartrell Rd Temporary Traffic Signals*

*Bret Banwart, Engineering Supervisor, Public Works Engineering
Carlie Campuzano, Traffic Manager, Public Works Engineering*

Expansion IGA Background

- April 17, 2017
 - City Council approved the South Aurora Regional Improvement Authority (SARIA) Establishing Agreement between the City and the Metro Districts.
- June 15, 2018
 - SARIA adopted a Master Plan which authorized them to contribute funding to support regional improvement projects.
 - Gartrell Improvements included as top priority.
- September 17, 2018
 - SARIA adopted SARIA Master Plan authorizing them to fund projects in the City
- August 5, 2019
 - City Council approved an IGA between the City of Aurora and SARIA for the Gartrell Rd Improvements
 - Included initial scoping and preliminary design

Expansion IGA Purpose

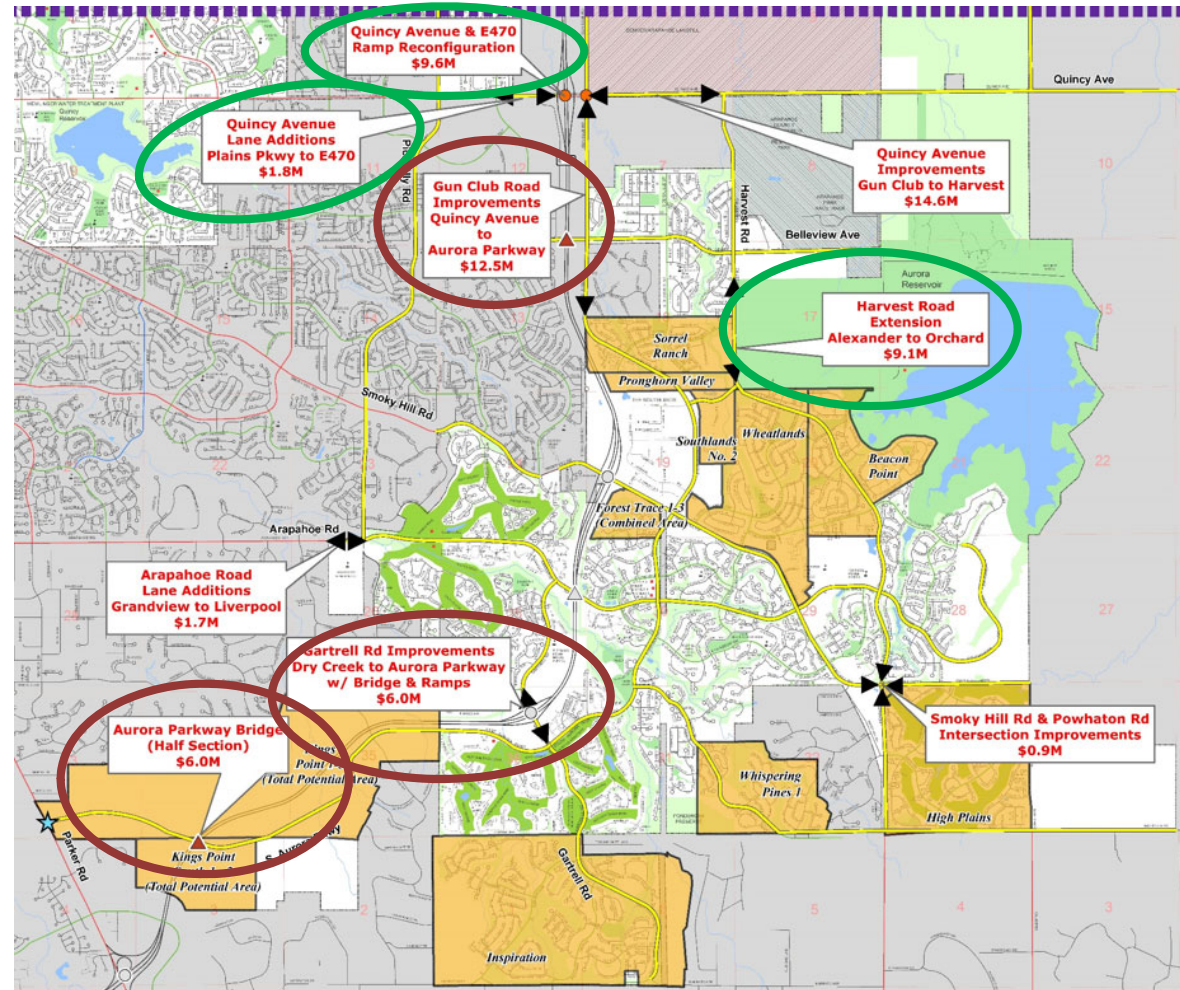
- The proposed new expansion IGA with E-470 allows for the City to manage the design of this project and establishes review and communication protocols with E-470.



SARIA MASTER PLAN 2

Initial Bonding

- Full Funding
- Design Funding



GARTRELL BRIDGE WIDENING

Project to design 5-lane
roadway section over E470

**Project only funded for
design**

Construction TBD

Project Scope

- Design Bridge widening to a 4-Lane with Center Turn-Lane Section over E-470
- Design shall include:
 - Topographic Survey and Final Design of Full 4-Lane Section
 - New Traffic Signals & Ramp Intersections
 - Additional Roadway Improvements necessary to accommodate widening from Aurora Pkwy to Dry Creek Rd.



City of Aurora, Colorado
Public Works Department
15151 E. Alameda Pkwy, Aurora, CO 80012



GARTRELL RD IMPROVEMENTS - DRY CREEK RD. TO AURORA PKWY.

July 23, 2021

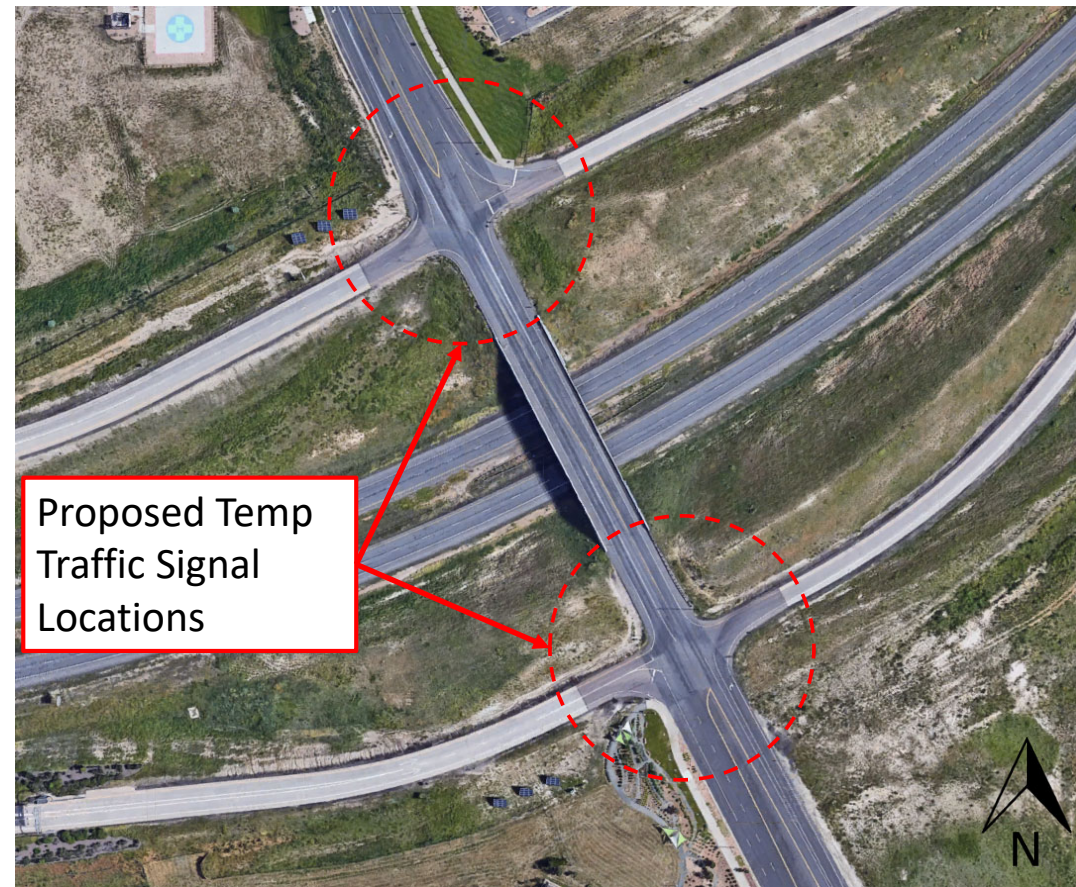
Bridge Widening Schedule and Costs

- Design 2021-2022
 - Construction duration 1 year
- Project Funds
 - \$500,000 Design (Current SARIA funds)
 - \$6,000,000 Construction (future phase, 2017 estimate)



Temporary Signals

- Signals at E-470 & Ramp intersections currently meet warrants for signalization
 - Temporary span wire signals will be installed now and will be replaced when expansion project constructs permanent improvements
- Funding has been allocated by E-470 to install temporary signals ASAP before the expansion project is built
- **Design done by City**
- **Construction (\$1,200,000) funded by E-470**



Temporary Signal Schedule

- Design 2021
- Bid Spring 2022
- **Construction complete Spring 2023**



Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

September 29, 2021

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member Angela Lawson, Vice Chair, Council Member Allison Hiltz

Others Present: Scott Bauman, Dan Brotzman, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Karen Hancock, Haley Johansen, Matt Kozakowski, Huiliang Liu, Tom McMinimee, Julie Patterson, Lainy Palmer, Mindy Parnes, Victor Rachael, Hector Reynoso, Mark Smith, Elly Watson, Tom Worker-Braddock

Guest:

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the August 24, 2021 TAPS meeting were approved as written

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.d. Consideration to Approve a Resolution for the IGA with E-470 for the Temporary Traffic Signals at Gartrell Road and E-470

4.e. Consideration to Approve a Resolution of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement between the City of Aurora and the E-470 Public Highway Authority regarding the E-470 & Gartrell Road. Interchange Expansion Improvement

Summary of Issue and Discussion:

Carlie Campuzano, Traffic Manager, and Bret Banwart, Engineering Supervisor, presented items 4d and 4e together since they are separate but related projects. Mr. Banwart first presented the Intergovernmental Agreement (IGA) for the E-470 and Gartrell Road Interchange Expansion Improvements. This IGA with the E-470 Authority will allow the City to manage the design of the South Aurora Regional Improvement Authority (SARIA) funded project.

Mr. Banwart began by presenting the project's history with City Council's approval of SARIA's Establishing Agreement between the City and the associated Metropolitan Districts in April 2017. In June 2018 SARIA's Master Plan was adopted authorizing contribution of funding to support regional improvement projects. From the beginning, the Gartrell Road over E-470 improvements was one of the top priorities. In September 2018 SARIA further adopted their master plan through authorizing the use of their first bond to fund initial projects in the City. This design project was again one of the top priorities in the initial implementation of their master plan. In August 2019 City Council approved an IGA between the City and SARIA for the City to receive funding and begin design for the Gartrell Road and E-470 interchange improvements. This was only for design and a construction IGA will be developed later if the SARIA board determines it is a priority. The purpose of the IGA for consideration today is to allow the City to administer and manage the design for the improvements of

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

the E-470 Authority owned Gartrell Road bridge over E-470 interchange in coordination with the E-470 Authority. This is also only for design, and construction IGA with the E-470 Authority will also be developed later.

Mr. Banwart displayed a slide of a project map with various colored circles around the projects indicating initial SARIA bond fund use for either design only (red circles), fully funded (green circles), or no circle around the project which indicated no current funding.. The Gartrell Road over E-470 improvements project (circled in red so currently funded only for design) was originally estimated in 2018 at \$6,000,000 (\$500,000 for design and \$5,500,000 for construction). Mr. Banwart further explained the Gartrell bridge widening and interchange improvements project scope is to add two through lanes to the bridge, one in each direction to create a total 5 lane bridge (4 through lanes and 1 turn lane). This will involve widening the bridge on each side. The design will also look at roadway approach improvements to the bridge including ramp geometric improvements, installation of permanent traffic signals to replace the temporary traffic signals discussed later in this presentation, and additional signing and striping. This is where the temporary signals IGA with E-470 Authority (subject 4.d.) overlaps with this IGA. Although construction funding is not currently identified, it is anticipated to be about one year in duration depending on timing of the bid with construction seasons. At this time the City is currently soliciting design consultants for the project.

Ms. Campuzano said that there is a separate IGA with E-470 regarding the temporary signals at both of the ramp locations. There was a previous signal warrant study done in 2017 and the City determined that signals at these locations currently meet criteria for traffic signal warrants. Since the expansion project will probably be a few years out from construction, staff has been working with E-470 as well as Mayor Pro Tempore Bergan to prioritize getting these locations signalized. This project will use span wire poles to minimize costs and to install the signals faster. These improvements will help serve the traffic volumes that have increased in this location and should improve safety. This IGA states that the City will be doing the design and E-470 will fund the construction. The construction cost is estimated at \$1,200,000.

Staff will be working on design starting this year using internal staff. In the spring, the City plans to bid out this project with a couple of other construction contracts for signals. The turn on time for the signals will depend on material lead times and contractor availability. It is anticipated that the signals will be turned on in early 2023.

Council Member (CM) Marciano asked if the City had considered or discussed using a tear-drop roundabout for this interchange. CM Marciano said that the city of Carmel has moved away from doing traditional highway interchanges. He stated that the traffic volume in Carmel is somewhere between the volume of E-470 and I-225 and that Carmel has moved away from using traffic lights at these interchanges. He thinks that given the existing traffic volumes and population out around E-470 in Ward 6 and the southern part of Ward 2, this might be a good opportunity to change the design paradigm. Ms. Campuzano said that a study was done for different types of interchanges all along E-470. Cindy Colip, Director of Public Works, said that E-470 has been there for twenty years. Ms. Colip said that if this idea was in the original design it would have been great however trying to redesign this now with the current abutments and the existing bridge's location relative to the interchange ramps might be problematic. Retrofitting onto a bridge structure can make improvements more complicated. She also said that this is an E-470 interchange so doing this would have to modify their master plan. She said that staff does not disagree at all with CM Marciano about the benefits of roundabouts. Matt Kozakowski, Manager of Project Delivery Services, said that Gartrell Road is planned to be an arterial and the footprint would be rather large. To build a roundabout to accommodate that size of roadway would likely interfere with the existing structure. CM Marciano said that he understands, and that he thinks the teardrop roundabout might be much less of a footprint⁴²²

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

than what staff may have in mind. He wanted to be sure that it was considered, and he understands that this is an E-470 project.

Ms. Campuzano said that they are also sometimes referred to as dog bones. She said that they look like roundabouts, but they do not have the full circular movement. Ms. Campuzano explained that the dog bone/teardrop is an interchange design that has increased in popularity but there are large footprints because interchanges need to accommodate big truck movements. The compact roundabouts that Ms. Campuzano presented on during the August meeting are for smaller roadways.

Outcome: The committee approved moving this topic to Study Session

Follow-up Action: This item will move to Study Session

DRAFT



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Approve a Resolution for the IGA with E-470 for the Temporary Traffic Signals at Gartrell Road and E-470

Item Initiator: Carlie Campuzano, Traffic Manager

Staff Source/Legal Source: Carlie Campuzano – Traffic Manager / Michelle Gardner – Sr. Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 3.2--Reduce travel time and reduce congestion and provide expanded multi-modal mobility choices

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement between the City of Aurora and the E-470 Public Highway Authority regarding temporary traffic signals at Gartrell Road and E-470

Staff Source: Carlie Campuzano, Traffic Manager

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

- | | |
|--|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration | |
- Reason for waiver is described in the Item Details field.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Transportation, Airports & Public Works

Policy Committee Date: 9/29/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

The proposed IGA for the Gartrell Road and E-470 temporary signals establishes funding for the design and construction of temporary traffic signals at the Gartrell Road and E-470 ramp terminal intersections.

These intersections are currently stop controlled exiting E-470 onto Gartrell Road. The City previously conducted a traffic study which showed that warrants are currently met for signalization at these locations. The bridge will ultimately be widened as part of a separate Gartrell Rd expansion project. Since the ultimate expansion project is multiple years away from being constructed, the City and E-470 have decided to move forward with this separate project to install temporary span wire traffic signals at these locations for the interim condition. When the Gartrell Road expansion project widens the bridge, the temporary traffic signals will be removed and replaced with permanent signals.

The City will complete the design for the temporary traffic signals and E-470 will fund construction. The project is anticipated to start design in 2021 and will be solicited for construction bids in 2022. Construction is expected to begin in summer 2022 and finish in 2023. The project will be managed by City staff with coordination from E-470.

Design is anticipated to be completed by the City using internal staff resources. Construction will be funded entirely by E-470 and is anticipated to cost \$1,200,000. In the event of a cost under-run, the agreement provides for the savings to be returned to E-470.

QUESTIONS FOR COUNCIL

Does Council support moving this item forward to the next available Regular Meeting of City Council for consideration of approval?

LEGAL COMMENTS

Pursuant to Colorado Revised Statute §29-1-203(1), 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. Pursuant to City Charter §10-12, 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. (M. Gardner)

PUBLIC FINANCIAL IMPACT

- ☒ YES ☐ NO

If yes, explain: The City will provide, at its cost and expense, preliminary and final design services for these traffic signals. It is anticipated that the design will be done using internal staff resources. Construction of these signals will be funded by E-470.

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, APPROVING THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF AURORA AND THE E-470 PUBLIC HIGHWAY
AUTHORITY REGARDING TEMPORARY TRAFFIC SIGNALS AT
GARTRELL ROAD AND E-470

WHEREAS, pursuant to Article XIV, Section 18(2) of the Constitution of the State of Colorado, C.R.S., and Section 29-1-203, C.R.S., the E-470 Public Highway Authority (“E-470 Authority”) and City of Aurora (“City”), collectively referred to as “Parties”, are encouraged and authorized to cooperate and contract with one another to provide any function or service lawfully authorized to each, including the sharing of costs; and

WHEREAS, the Parties and their residents, taxpayers, and customers will jointly benefit from the design, construction, maintenance, and operation of temporary traffic signals and related equipment and appurtenances necessary thereto to be located at the intersection of E-470 and Gartrell Road (the “Gartrell Intersection”) at the on/off ramps located on the southbound and northbound E-470 ramps (the “Project”); and

WHEREAS, the Parties have determined to jointly participate in the design, construction, maintenance, and operation of the Project due to the shared benefit the Project will provide to the Parties; and

WHEREAS, the City is willing to undertake the design, construction, and maintenance of the temporary traffic signals, and the E-470 Authority is willing to contribute toward the cost of construction of the Project and the City may include it in the City’s larger project work to achieve economies of scale and other efficiencies and cost savings for the Parties; and

WHEREAS, the Parties further desire to memorialize their understanding regarding the sharing of costs and the Parties’ funding, design, construction, operation and maintenance obligations for the Project through the execution of an intergovernmental agreement; and

WHEREAS, Section 10-12 of the City Charter authorizes City Council, by resolution, to enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment, or facilities, and for the furnishing or receiving of services.

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 and the E-470 Public Highway Authority regarding temporary traffic signals at Gartrell Road and E-470 is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver this 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 prior Resolutions or any parts that are inconsistent herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Michelle Gardner
MICHELLE GARDNER, Sr. Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF AURORA AND
THE E-470 PUBLIC HIGHWAY AUTHORITY
REGARDING TEMPORARY TRAFFIC SIGNALS AT GARTRELL ROAD AND E-470

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into _____, 2021 (the “Effective Date”), by and between the City of Aurora, a Colorado home rule municipal corporation (the “City”), and the E-470 Public Highway Authority (the “Authority”), hereinafter individually referred to as a “Party” and collectively referred to as the “Parties.”

RECITALS

WHEREAS, the City is a municipal corporation organized and existing as a home rule city under Article XX of the Colorado Constitution and the Home Rule Charter of the City; and

WHEREAS, the Authority was created and organized pursuant to Sections 43-4-501 *et seq.*, C.R.S. (the “Act”) for the purpose of financing, constructing, operating, and/or maintaining the E-470 Public Highway (“E-470”), and in this regard to carry out all or any part of those functions or activities permitted by the Act and the Authority’s establishing contract; and

WHEREAS, the Parties, as Colorado governments, are constitutionally and statutorily empowered pursuant to Colo. Const., Article XIV, §18 and Sections 29-1-201, *et seq.*, C.R.S. to cooperate or contract via intergovernmental agreement with one another to provide functions, services, or facilities authorized to each cooperating government; and

WHEREAS, the Parties and their residents, taxpayers, and customers will jointly benefit from the design, construction, maintenance, and operation of temporary traffic signals and related equipment and appurtenances necessary thereto to be located at the intersection of E-470 and Gartrell Road (the “Gartrell Intersection”) at the on/off ramps located on the southbound and northbound E-470 ramps as generally depicted in Exhibit A attached hereto and incorporated herein by this reference (the “Project”); and

WHEREAS, the Parties have determined to jointly participate in the design, construction, maintenance, and operation of the Project due to the shared benefit the Project will provide to the Parties; and

WHEREAS, the City is willing to undertake the design, construction, and maintenance of the temporary traffic signals, and the Authority is willing to contribute toward the cost of construction of the Project and the City may include it in the City’s larger project work to achieve economies of scale and other efficiencies and cost savings for the Parties; and

WHEREAS, provided these shared interests, the Parties further desire to memorialize their understanding regarding the sharing of costs and the Parties’ funding, design, construction, operation and maintenance obligations for the Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

AGREEMENT

1. CITY RESPONSIBILITY FOR PROJECT DESIGN AND CONSTRUCTION.

A. Design. Subject to the receipt of acceptable proposals, the availability of funds, and the terms and conditions of this Agreement, the City will provide, at its cost and expense, preliminary and final design services for the development of the Project (“Final Design”). The Authority shall be afforded the opportunity to review and comment on the design during development of the Final Design at the sixty percent (60%) and ninety percent (90%) stages of completion, as well upon full completion of the Final Design. The Authority shall have fifteen (15) days from the date the review is provided to it to review the Final Design at each such stage and to and offer comments. If redesign and re-engineering specifications become necessary after construction of the Project has begun, the City shall provide the Authority with said specifications for review and acceptance as provided above. The City will consider all comments and will cooperate to cure any such objections but will retain final approval authority regarding the Final Design and any changes. The Parties hereby acknowledge and agree that the Authority’s review, acceptance, and/or request for revisions to the Final Design shall not create any liability for the Authority.

B. Construction. Subject to the receipt of acceptable bids, the availability of funds, and the terms and conditions of this Agreement, the City will perform or cause to be performed all work effort required to construct the Project in accordance with the Final Design, including, but not limited to, obtaining all necessary permits, consents, and approvals in accordance with applicable federal, state, and local statutes, ordinances, codes, rules and regulations (the “Construction Work”) and will contract with one or more qualified and experienced contractors to perform the Construction Work (the “Signal Construction Contract”).

C. Procurement & Contract Standards. The City will procure the contracts for the design, construction, and, if necessary, construction management for the Project in accordance with the City’s laws and policies regarding soliciting, selecting, contracting, and administering contracts with any consultant or contractor. The construction of the Project will be completed in accordance with all applicable laws, ordinances, codes, rules and regulations, and design standards, and the City shall ensure that the design and construction of the Project are performed in a workmanlike manner. Acknowledging that the City may design and construct the Project as a part of a larger project and that the City shall have the obligation to own and operate the Project once constructed, the City shall have full control over all aspects of the management, advertisement, contracting, and construction of the Project except as otherwise provided in this Agreement. In addition to any E-470 Permit requirements, the City shall ensure that the Authority is named as an additional insured under all contracts related to the Project and that the contractors maintain insurance pursuant to the City’s standard insurance requirements. The City agrees the

Authority has the right to request and receive a certified copy of any such insurance policy and any endorsement thereto.

D. Project Administration; Modifications. The City will perform or cause to be performed all Project administration and management functions required for the Project, including awarding, letting and administration of all Project contracts. The City will apprise the Authority of the status of the Project throughout the work. The Authority will not direct the City's contractor or the work in any manner; provided, however, the Authority may comment on the Final Design pursuant to Section 1.A above and coordinate with the City regarding the timing of the signals pursuant to Section 4 below.

2. AUTHORITY CONTRIBUTIONS.

A. Funding.

1. *Construction Contract Bid.* Upon completion of the Final Design and solicitation of a contractor(s) for the Signal Construction Contract in accordance with Section 1(C) of this Agreement, the City shall notify the Authority in writing of its recommendation for award of the Signal Construction Contract and the total bid figure for the Construction Work submitted therewith (the "Construction Contract Bid").

2. *Authority Funds.* If the Authority, within three (3) weeks of receipt of notification of the Construction Contract Bid, provides written notification to the City that the Authority, in its discretion, concurs with the award of the Signal Construction Contract to the contractor in the amount of the Construction Contract Bid as recommended by the City, the City may accept the Construction Contract Bid, and the City may thereafter enter into the Signal Construction Contract with its selected construction contractor on such terms and conditions as the City deems appropriate. Within thirty (30) days of the Authority's written acceptance of the Construction Contract Bid in accordance with this Section, and subject to the City's execution of the Signal Construction Contract, the Authority shall deposit an amount equal to the Construction Contract Bid (the "Authority Funds") into a designated and segregated Authority account used solely for the purpose of this Agreement. If the Authority, within three (3) weeks of notification of the Construction Contract Bid does not notify the City it accepts the Construction Contract Bid, either Party may terminate this Agreement by notice to the other Party and have no further obligations hereunder; provided, however, in no event shall this Agreement terminate pursuant to this Section prior to a thirty-day (30) day period of negotiations by the Parties. Except to the extent authorized in accordance with duly executed Contract Price Authorizations issued pursuant to Section 2(B) of this Agreement, the amount of the Authority Funds the Authority may commit to pay under this Agreement shall not exceed **\$1,200,000.00**. Any interest that may accrue on the Authority Funds shall be the property of the Authority and shall not increase the Authority Funds available under this Agreement.

i. *Invoices.* The City will submit invoices to the Authority's Finance Department for progress payments for portions of the completed

Signal Construction Contract. The Authority's and City's mutual approval of invoices shall be a condition of payment. The Authority shall release funds to the City within thirty (30) days of receipt of approved invoices, or parts thereof. All invoices shall be addressed to the Authority as follows: "E-470 Public Highway Authority, 22470 E. Stephen D. Hogan Parkway, Suite 100, Aurora, Colorado 80018 ATTN: FINANCE DEPARTMENT" or sent via electronic mail to accountspayable@e-470.com with the name of this Agreement in the subject line. Invoices shall be supported by cost information in such detail as may be required by the Authority and shall be sufficient to substantiate all items for a proper audit and post audit thereof.

3. *Construction Funds Only.* No Authority Funds shall be used for, or allocated toward, expenses associated with generating the Final Design or any modifications thereto, and no other Authority funds will be provided therefor; provided, however, the City shall not be required to incorporate any design elements into the Final Design or any changes to the Final Design required by the Authority unless the Authority agrees to fully pay for such elements or changes.

B. Modification of the Signal Construction Contract. The Parties agree that amendments, change orders, or any other forms of order or directive increasing the Signal Construction Contract price above the amount of the Authority Funds shall be subject to the prior written approval of the Authority, which approval may be granted or withheld in the Authority's discretion ("Contract Price Authorizations"). If a prior Contract Price Authorization is not obtained, the Authority shall not be responsible to pay for or share in any such costs, and the City shall be solely responsible to pay for all such costs.

C. Property Access; Permitting. The City or its contractor shall obtain the necessary E-470 Permit from the Authority for the installation, operation, maintenance, and removal of the Project. The Authority will grant an E-470 Permit to the City for access, construction, operation, and maintenance of the Project and shall include provisions authorizing the City to access the Project area immediately in the event emergency maintenance or operations are necessary. The E-470 Permit will allow the City to provide the Authority with notification of such access and/or emergency maintenance as soon as possible after the emergency has been initially addressed (rather than prior thereto). The Parties will waive any permitting and review fees applicable to the Project and any maintenance work.

D. Construction Deadline and Release of Funds. If construction of the Project is not initially accepted by the City before December 31, 2023 (the "Funding Completion Date"), all Authority Funds remaining in the Authority Account shall be retained by the Authority. After such date, the Authority shall have no remaining obligation under this Agreement. If at the City's initial acceptance of the Project construction the actual costs of the Project construction are less than the Authority Funds, the remaining Authority Funds in the Authority Account shall be retained by the Authority. Upon mutual written agreement of the Parties, the Funding Completion Date may be extended one (1) year, to December 31, 2024.

3. **FINAL ACCEPTANCE.** Upon substantial completion of construction of the Project, the City shall provide notice of the same to the Authority, and the Authority shall have the right to inspect the Project for consistency with the Final Design plans. Nothing herein shall be construed as granting to the City or any other party any rights, property or otherwise, in or to the Authority's right-of-way or multi-use easement except as otherwise granted herein.

4. **CITY PROJECT OPERATION AND MAINTENANCE OBLIGATIONS.** The City shall be the owner of the traffic signals and related equipment and appurtenances constructed during the Project and shall be responsible for its operation and maintenance until such time as the Project is removed and permanent traffic signals are installed in their place as part of the Gartrell Road interchange expansion. The City will coordinate the timing of the signals with the Authority to ensure toll-road appropriate traffic flow on the northbound and southbound Gartrell Road ramps and on E-470 itself.

5. **ANTICIPATED COMPLETION OF THE PROJECT.** The City will use reasonable efforts to complete the Project by December 31, 2023, but no failure by the City to complete the Project by December 31, 2023 shall constitute a breach of this Agreement.

6. **REMOVAL OF TEMPORARY SIGNALS.** Costs and responsibilities associated with the removal of the Project will be addressed in a separate agreement between the Parties regarding the construction of the Gartrell Road interchange expansion.

7. **BREACH AND ENFORCEMENT.** The failure of any Party to fulfill any obligation set forth herein shall constitute a breach of this Agreement. The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, as may be available according to the laws and statutes of the State of Colorado.

8. **INDEMNIFICATION.** The City shall cause its contractors and subcontractors performing work for the Project and upon accessing E-470's property to defend, indemnify, and hold the Authority harmless from any and all liability, loss, cost, damage, claim or expense which the Authority may sustain to the extent they arise from or may be alleged to arise from the intentional or negligent acts or omissions of the Contractor or any of its subcontractors, material suppliers, or employees in connection with the contract and/or the contractor's work.

9. **MISCELLANEOUS.**

A. **Assignment.** Neither of the Parties hereto may assign this Agreement or parts hereof or its rights hereunder without the express written consent of the other Party.

B. **Appropriation.** Notwithstanding any other term or condition of this Agreement, all obligations of either Party under this Agreement, including all or any part of any payment or reimbursement obligations, whether direct or contingent, shall only extend to payment of monies duly and lawfully appropriated and encumbered for the purpose of this Agreement through each party's legally required budgeting, authorization, and appropriation process. Further, neither Party, by this Agreement, creates a multiple fiscal year obligation or debt either within or without this Agreement. It is anticipated that appropriations for the purpose of this Agreement, if made at all, will be made on an annual

basis. Neither Party, however, by this Agreement binds future governing bodies to make such appropriations.

C. Time is of the Essence. The Parties acknowledge that time is of the essence in the performance of this Agreement.

D. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, the Parties shall not be deemed or constitute partners, joint venture participants, or agents of the other. Any actions taken by the Parties pursuant to this Agreement shall be deemed actions as an independent contractor of the others.

E. 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 the Parties. It is the express intention of the Parties that any person other than the City and the Authority shall be deemed to be only an incidental beneficiary under this Agreement.

F. Governmental Immunity. Nothing in this Agreement or in any actions taken by the Parties pursuant to this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S.

G. No Personal Liability. No elected official, director, officer, agent or employee of the Authority or the City shall be charged personally or held contractually liable by or to another Party under any term or provision of this Agreement or because of any breach thereof, or for their errors or omissions in the performance thereof, or because of its or their execution, approval or attempted execution of this Agreement.

H. Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either Party hereto by the other Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed or, in lieu of such personal services, when received in the United States mail, first-class postage prepaid addressed to:

If to the City:

City of Aurora
Attn: Director of Public Works
15151 E. Alameda Parkway
Aurora, Colorado 80012

If to the Authority:

E-470 Public Highway Authority
Attention: Executive Director
Administrative Headquarters Facility

22470 E. Stephen D. Hogan Parkway
Aurora, CO 80018

Either Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

I. Headings. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

J. Controlling Law and Venue. The Parties hereto agree that exclusive jurisdiction and venue for the resolution of any dispute relating to this Agreement to be provided hereunder shall lie in the state courts of the State of Colorado and that Colorado law shall govern.

K. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

L. Binding Contract. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties.

M. Entire Contract. This Agreement constitutes the entire agreement between the Parties with regard to the Project and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement with regard to the Project are of no force and effect.

N. Contract Modification. This Agreement may not be amended, altered, or otherwise changed except by a written agreement between the Parties.

O. Severability. The invalidity or unenforceability of any portion or previous version of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and, in such event, the Parties shall negotiate in good faith to replace such invalidated provision in order to carry out the intent of the Parties in entering into this Agreement.

P. Payment of Tolls. The City understands and agrees that the City, its subcontractors, vendors, and employees shall pay be responsible for all tolls incurred by them during the term of this Agreement. A lump sum compensation amount for reimbursement of tolls may be included within the Construction Contract Bid and invoiced to the Authority in accordance with Section 2.A.2.i hereof as part of the Signal Construction Contract. If so included in the Signal Construction Contract, the Authority will make toll reimbursement installment payments to the City on a pro-rata basis.

Q. Counterpart Execution; Electronic Records. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

E-470 PUBLIC HIGHWAY AUTHORITY

By: Tim Stewart
Its: Executive Director

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Tim Stewart as Executive Director of the E-470 Public Highway Authority.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

DEPARTMENT APPROVAL:

Director of Engineering and Roadway Maintenance

FINANCE APPROVAL:

Director of Finance

APPROVED AS TO FORM:
ICENOGLE SEAVER POGUE
A Professional Corporation

General Counsel

DATE APPROVED BY THE BOARD OF DIRECTORS: _____

DATE APPROVED BY THE BOARD OF DIRECTORS: _____

By: Mike Coffman
Its: Mayor

By: Kadee Rodriguez
Its: City Clerk

By: Michelle Gardner
Its: Sr. Assistant City Attorney

STATE OF _____)
)
COUNTY OF _____) SS.

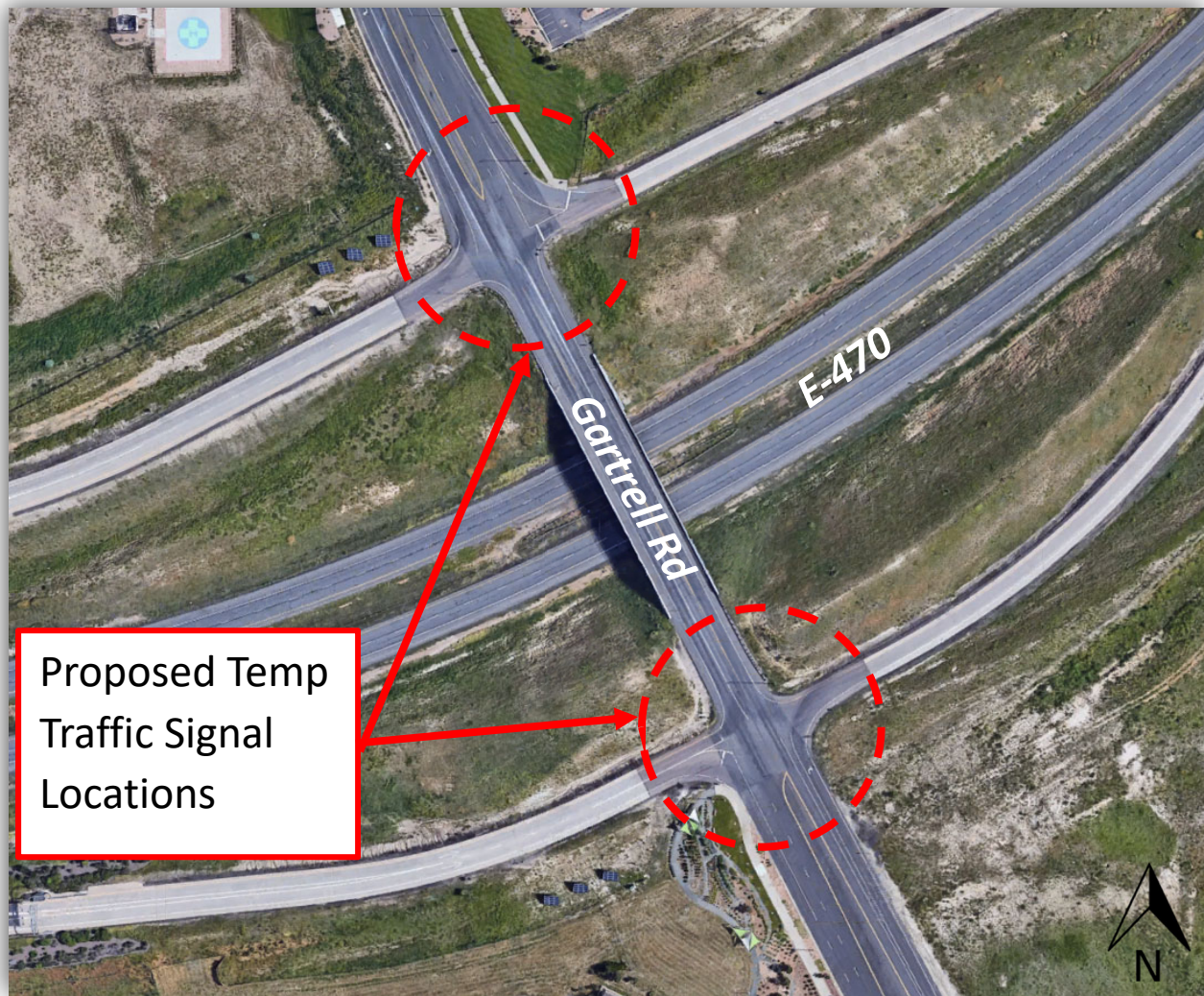
The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ as _____ of _____.

My commission expires: _____

Notary Public

E-470 & Gartrell Rd

Exhibit A - Temporary Signal Location





September 29, 2021

Two IGAs with E-470

*E-470 & Gartrell Rd Interchange Expansion Improvements
E-470 & Gartrell Rd Temporary Traffic Signals*

*Bret Banwart, Engineering Supervisor, Public Works Engineering
Carlie Campuzano, Traffic Manager, Public Works Engineering*

Expansion IGA Background

- April 17, 2017
 - City Council approved the South Aurora Regional Improvement Authority (SARIA) Establishing Agreement between the City and the Metro Districts.
- June 15, 2018
 - SARIA adopted a Master Plan which authorized them to contribute funding to support regional improvement projects.
 - Gartrell Improvements included as top priority.
- September 17, 2018
 - SARIA adopted SARIA Master Plan authorizing them to fund projects in the City
- August 5, 2019
 - City Council approved an IGA between the City of Aurora and SARIA for the Gartrell Rd Improvements
 - Included initial scoping and preliminary design

Expansion IGA Purpose

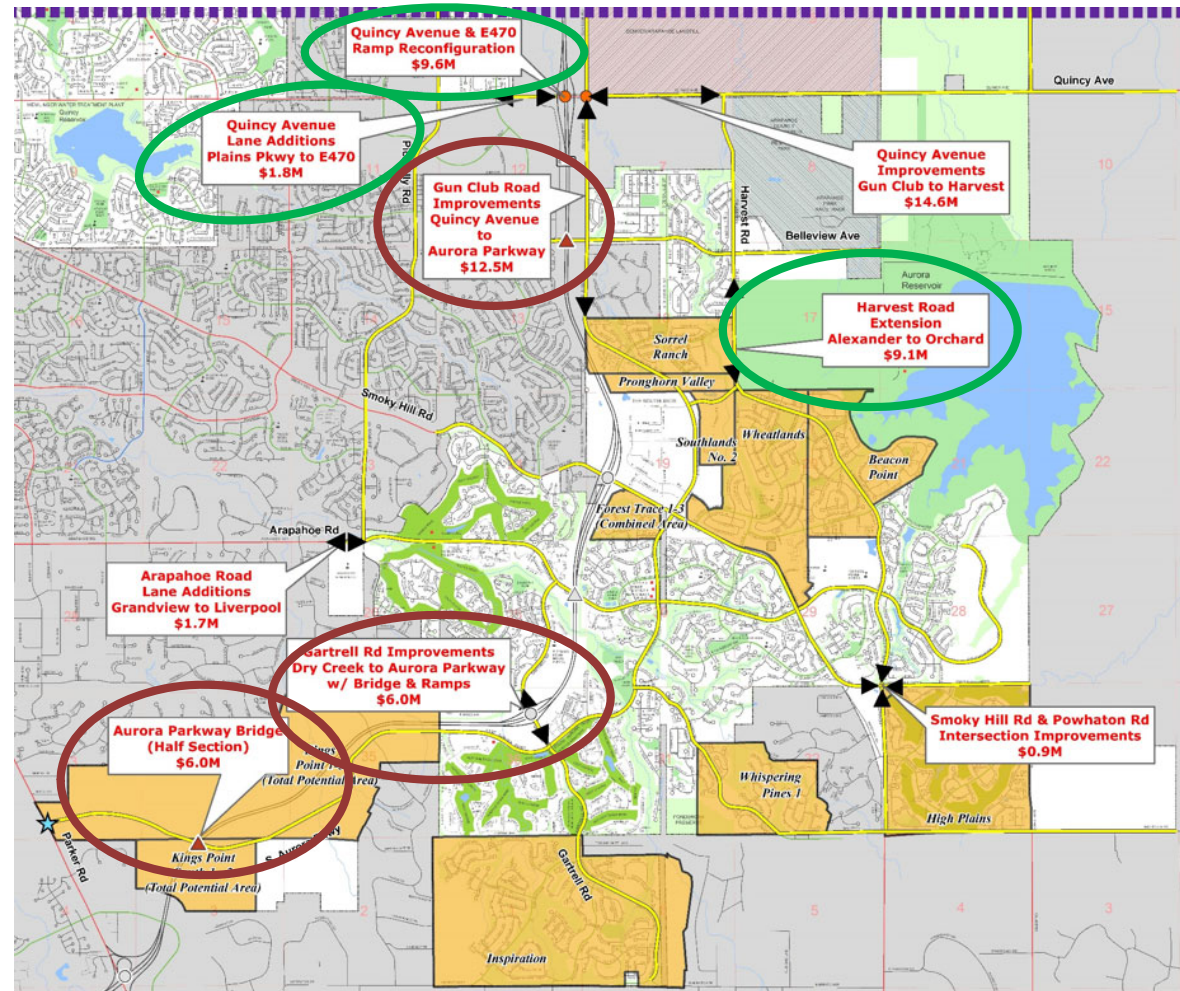
- The proposed new expansion IGA with E-470 allows for the City to manage the design of this project and establishes review and communication protocols with E-470.



SARIA MASTER PLAN 2

Initial Bonding

- Full Funding
- Design Funding



GARTRELL BRIDGE WIDENING

Project to design 5-lane
roadway section over E470

**Project only funded for
design**

Construction TBD

Project Scope

- Design Bridge widening to a 4-Lane with Center Turn-Lane Section over E-470
- Design shall include:
 - Topographic Survey and Final Design of Full 4-Lane Section
 - New Traffic Signals & Ramp Intersections
 - Additional Roadway Improvements necessary to accommodate widening from Aurora Pkwy to Dry Creek Rd.



City of Aurora, Colorado
Public Works Department
15151 E. Alameda Pkwy, Aurora, CO 80012



GARTRELL RD IMPROVEMENTS - DRY CREEK RD. TO AURORA PKWY.

July 23, 2021

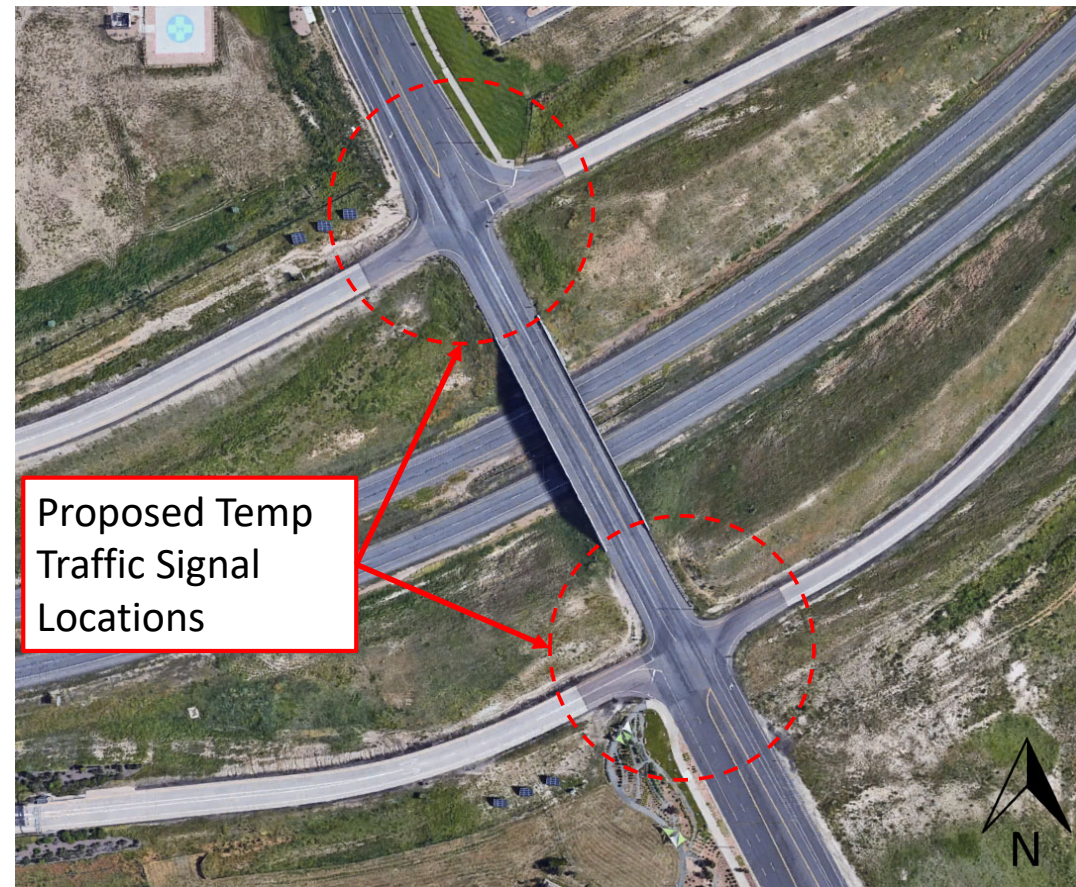
Bridge Widening Schedule and Costs

- Design 2021-2022
 - Construction duration 1 year
- Project Funds
 - \$500,000 Design (Current SARIA funds)
 - \$6,000,000 Construction (future phase, 2017 estimate)



Temporary Signals

- Signals at E-470 & Ramp intersections currently meet warrants for signalization
 - Temporary span wire signals will be installed now and will be replaced when expansion project constructs permanent improvements
- Funding has been allocated by E-470 to install temporary signals ASAP before the expansion project is built
- **Design done by City**
- **Construction (\$1,200,000) funded by E-470**



Temporary Signal Schedule

- Design 2021
- Bid Spring 2022
- **Construction complete Spring 2023**



Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

September 29, 2021

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member Angela Lawson, Vice Chair, Council Member Allison Hiltz

Others Present: Scott Bauman, Dan Brotzman, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Karen Hancock, Haley Johansen, Matt Kozakowski, Huiliang Liu, Tom McMinimee, Julie Patterson, Lainy Palmer, Mindy Parnes, Victor Rachael, Hector Reynoso, Mark Smith, Elly Watson, Tom Worker-Braddock

Guest:

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the August 24, 2021 TAPS meeting were approved as written

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.d. Consideration to Approve a Resolution for the IGA with E-470 for the Temporary Traffic Signals at Gartrell Road and E-470

4.e. Consideration to Approve a Resolution of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement between the City of Aurora and the E-470 Public Highway Authority regarding the E-470 & Gartrell Road. Interchange Expansion Improvement

Summary of Issue and Discussion:

Carlie Campuzano, Traffic Manager, and Bret Banwart, Engineering Supervisor, presented items 4d and 4e together since they are separate but related projects. Mr. Banwart first presented the Intergovernmental Agreement (IGA) for the E-470 and Gartrell Road Interchange Expansion Improvements. This IGA with the E-470 Authority will allow the City to manage the design of the South Aurora Regional Improvement Authority (SARIA) funded project.

Mr. Banwart began by presenting the project's history with City Council's approval of SARIA's Establishing Agreement between the City and the associated Metropolitan Districts in April 2017. In June 2018 SARIA's Master Plan was adopted authorizing contribution of funding to support regional improvement projects. From the beginning, the Gartrell Road over E-470 improvements was one of the top priorities. In September 2018 SARIA further adopted their master plan through authorizing the use of their first bond to fund initial projects in the City. This design project was again one of the top priorities in the initial implementation of their master plan. In August 2019 City Council approved an IGA between the City and SARIA for the City to receive funding and begin design for the Gartrell Road and E-470 interchange improvements. This was only for design and a construction IGA will be developed later if the SARIA board determines it is a priority. The purpose of the IGA for consideration today is to allow the City to administer and manage the design for the improvements of

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

the E-470 Authority owned Gartrell Road bridge over E-470 interchange in coordination with the E-470 Authority. This is also only for design, and construction IGA with the E-470 Authority will also be developed later.

Mr. Banwart displayed a slide of a project map with various colored circles around the projects indicating initial SARIA bond fund use for either design only (red circles), fully funded (green circles), or no circle around the project which indicated no current funding.. The Gartrell Road over E-470 improvements project (circled in red so currently funded only for design) was originally estimated in 2018 at \$6,000,000 (\$500,000 for design and \$5,500,000 for construction). Mr. Banwart further explained the Gartrell bridge widening and interchange improvements project scope is to add two through lanes to the bridge, one in each direction to create a total 5 lane bridge (4 through lanes and 1 turn lane). This will involve widening the bridge on each side. The design will also look at roadway approach improvements to the bridge including ramp geometric improvements, installation of permanent traffic signals to replace the temporary traffic signals discussed later in this presentation, and additional signing and striping. This is where the temporary signals IGA with E-470 Authority (subject 4.d.) overlaps with this IGA. Although construction funding is not currently identified, it is anticipated to be about one year in duration depending on timing of the bid with construction seasons. At this time the City is currently soliciting design consultants for the project.

Ms. Campuzano said that there is a separate IGA with E-470 regarding the temporary signals at both of the ramp locations. There was a previous signal warrant study done in 2017 and the City determined that signals at these locations currently meet criteria for traffic signal warrants. Since the expansion project will probably be a few years out from construction, staff has been working with E-470 as well as Mayor Pro Tempore Bergan to prioritize getting these locations signalized. This project will use span wire poles to minimize costs and to install the signals faster. These improvements will help serve the traffic volumes that have increased in this location and should improve safety. This IGA states that the City will be doing the design and E-470 will fund the construction. The construction cost is estimated at \$1,200,000.

Staff will be working on design starting this year using internal staff. In the spring, the City plans to bid out this project with a couple of other construction contracts for signals. The turn on time for the signals will depend on material lead times and contractor availability. It is anticipated that the signals will be turned on in early 2023.

Council Member (CM) Marciano asked if the City had considered or discussed using a tear-drop roundabout for this interchange. CM Marciano said that the city of Carmel has moved away from doing traditional highway interchanges. He stated that the traffic volume in Carmel is somewhere between the volume of E-470 and I-225 and that Carmel has moved away from using traffic lights at these interchanges. He thinks that given the existing traffic volumes and population out around E-470 in Ward 6 and the southern part of Ward 2, this might be a good opportunity to change the design paradigm. Ms. Campuzano said that a study was done for different types of interchanges all along E-470. Cindy Colip, Director of Public Works, said that E-470 has been there for twenty years. Ms. Colip said that if this idea was in the original design it would have been great however trying to redesign this now with the current abutments and the existing bridge's location relative to the interchange ramps might be problematic. Retrofitting onto a bridge structure can make improvements more complicated. She also said that this is an E-470 interchange so doing this would have to modify their master plan. She said that staff does not disagree at all with CM Marciano about the benefits of roundabouts. Matt Kozakowski, Manager of Project Delivery Services, said that Gartrell Road is planned to be an arterial and the footprint would be rather large. To build a roundabout to accommodate that size of roadway would likely interfere with the existing structure. CM Marciano said that he understands, and that he thinks the teardrop roundabout might be much less of a footprint⁴⁴⁹

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

than what staff may have in mind. He wanted to be sure that it was considered, and he understands that this is an E-470 project.

Ms. Campuzano said that they are also sometimes referred to as dog bones. She said that they look like roundabouts, but they do not have the full circular movement. Ms. Campuzano explained that the dog bone/teardrop is an interchange design that has increased in popularity but there are large footprints because interchanges need to accommodate big truck movements. The compact roundabouts that Ms. Campuzano presented on during the August meeting are for smaller roadways.

Outcome: The committee approved moving this topic to Study Session

Follow-up Action: This item will move to Study Session

DRAFT



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Approve a Resolution for the Intergovernmental Agreement between the City of Aurora and the Colorado Department of Transportation regarding the passthrough funding from the USDOT Build Grant for the I70 & Picadilly Project

Item Initiator: Brad Richardson- Senior Engineer, Public Works Department

Staff Source/Legal Source: Matt Kozakowski- Transportation Project Delivery Manager/ Michelle Gardner -Senior Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 3.2--Reduce travel time and reduce congestion and provide expanded multi-modal mobility choices

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

Consideration to APPROVE A RESOLUTION for the Intergovernmental Agreement between the City of Aurora and the Colorado Department of Transportation regarding the passthrough funding from the USDOT Build Grant for the I70 & Picadilly Project

Staff Source: Matt Kozakowski – Transportation Project Delivery Manager

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: Transportation, Airports & Public Works

Policy Committee Date: 9/29/2021

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 April 23, 2018 Regular Meeting, Council approved the award of an openly solicited contract for the I-70/Picadilly NEPA Re-Evaluation and Preliminary Design Services to HDR, Inc in the amount of \$1,172,010.70.

On May 7, 2018 Weekly Report of Purchasing Actions, Amendment No. 1 of the HDR contract was reported to Council in the amount of \$49,000.00 for services involving pursuit of the federal TIGER program grant.

On June 24, 2019 Regular Meeting, Council approved signing the Resolution agreeing to an Intergovernmental Agreement (IGA) between the City of Aurora and Colorado Department of Transportation (CDOT) to establish a payment method for review fees associated with the 1601 project approval process.

On August 12, 2019 Weekly Report of Purchasing Actions, Amendment No. 2 of the HDR contract was reported to Council in the amount of \$21,974.00 for services involving pursuit of the federal BUILD program grant.

On February 10, 2020 Weekly Report of Purchasing Actions, Amendment No. 3 of the HDR contract was reported to Council in the amount of \$29,000.00 for immediate execution of preliminary design services resultant from the BUILD Grant award.

On February 24, 2020 Regular Meeting, Council approved Amendment No. 4 of the HDR contract in the amount of \$913,467.00 for addition of 30% Design including Geotechnical Investigation, Structural Selection and ROW Plan Preparation resultant from the Build Grant award.

On July 23, 2020 Meeting of the Transportation, Airports and Public Works Policy Committee staff provided an informational update on the status of the I-70 / Picadilly Interchange Project.

On August 3, 2020 Regular Meeting, Council approved the award of a single source contract to HDR in the amount of \$1,489,043.75 for Design-Build Procurement and Program Management Consulting Services for the I-70 / Picadilly Interchange Project.

On January 25, 2021 Regular Meeting, Council approved Ordinance Number 2021-06 authorizing the use of eminent domain for acquisition of land interests necessary for construction of the I-70/Picadilly Interchange Project.

On September 13, 2021 Regular Meeting, Council approved the acquisition of real property interests for an amount not to exceed \$2,801,418 plus incidental expenses and closing costs.

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

The I-70/Picadilly Interchange Project ("Project"), depicted on the attached Exhibit A, is key infrastructure needed for this rapidly developing region of the City of Aurora ("City"), Arapahoe and Adams Counties. The Project will facilitate much-needed north-south connectivity on Picadilly Road and provide critical local access to I-70. The Transportation Commission of Colorado approved the Project through their interchange approval process at their regular meeting on July 16, 2020.

In late 2019, the City was awarded a USDOT BUILD (Better Utilizing Investments to Leverage Development) Grant program for \$25,000,000 for construction funding. To meet the requirements of the BUILD grant, the project must keep a tight schedule for a funding obligation in June of 2022. The Project team is expeditiously running concurrent processes including completing Preliminary Design Plans, Design-Build contract documents, ROW Acquisition Plans and ROW Acquisitions.

The Funding IGA with the Colorado Department of Transportation being presented for consideration establishes the terms for reimbursement of eligible funds that are being administered on Aurora's behalf by the Colorado Department of Transportation (CDOT) as a Pass-Through. There is a separate Grant Agreement between the City of Aurora and USDOT that is moving concurrently through Council Approval process establishes the scope of the project, allows the City of Aurora to administer the project and establishes the terms of the BUILD Grant (Better Utilizing Investments to Leverage Development) Program.

The total project budget is \$71,110,379 (\$25,000,000 Federal Grant (35%), \$5,000,000 CDOT (7%), and \$31,600,000 COA/ARTA (44%)) as shown in the table below. This is considered an "overmatch" type of commitment; however the Colorado Department of Transportation is only required to track the pass through contribution, and their financial system tracks it at the 80% Federal and 20% Local Match ratio. Therefore, the Funding Provisions Exhibit C within the IGA shows the Federal match amount of \$25,000,000, State funds of \$5,000,000 and Local Agency Matching Funds of \$6,250,000.

Entity	As In Agreement	As Estimated/Budgeted
USDOT (BUILD Grant)	\$ 25,000,000	\$ 25,000,000
CDOT (Safety Funding)	\$ 5,000,000	\$ 5,000,000
Local (City of Aurora)	\$ 6,250,000	\$ 21,138,379
Local (Developer - ARTA)		\$ 19,972,000
TOTAL	\$ 36,250,000	\$ 71,110,379

The Project is progressing with a Design/Build delivery model to meet the Obligation Deadline of June 2022. The City has completed a qualification based short-listing process for design/construction teams and selected 3 teams to bid on the project. A Draft of the Request for Proposals (RFP) is currently scheduled to be issued to the short-list October 2021 for industry review/comment. The Final RFP is scheduled to be issued in March 2022 with Final Guaranteed Maximum Price Proposals due in May 2022. Following the evaluation and contracting process, Notice to Proceed to the successful bidder is scheduled for October 2022.

QUESTIONS FOR COUNCIL

Does Council support moving the Resolution for the Intergovernmental Agreement between the City of Aurora and the Colorado Department of Transportation regarding the passthrough funding from the USDOT Build Grant for the I70 & Picadilly Project forward to the next available Regular Meeting?

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). (M. Gardner)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: The City's match contribution to the project will be funded from Org 49678, Picadilly / I-70 Design.

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,
APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF
AURORA AND THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)
REGARDING THE PASSTHROUGH FUNDING FROM THE UNITED STATES
DEPARTMENT OF TRANSPORTATION (USDOT) BETTER UTILIZING
INFRASTRUCTURE TO LEVERAGE DEVELOPMENT (BUILD) GRANT FOR THE I-70
AND PICADILLY PROJECT

WHEREAS, the City of Aurora, Colorado (the “City”), and the State of Colorado Department of Transportation (“CDOT”), collectively “the Parties”, as government agencies, are authorized by the provisions of Colo. Const., art. XIV, § 18(2)(a) and C.R.S. §§ 29-1-201, et seq., to contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the City’s Public Works Department is working on the I-70 and Picadilly Interchange Project (“Project”) which is a key infrastructure need for the rapidly developing region of the City with a total Project budget of \$71,110,379; and

WHEREAS, in late 2019 the City was awarded a \$25,000,000 United States Department of Transportation (“USDOT”) BUILD Grant for Project construction funding to be administered as a passthrough on behalf of the City by CDOT; and

WHEREAS, the Transportation Commission of Colorado approved the Project through its interchange approval process at their regular meeting on July 16, 2020; and

WHEREAS, the BUILD Grant is considered an “overmatch” type of commitment so that this Intergovernmental Agreement shows the City’s local match contribution of \$6,250,000 and a total budgeted City cost of \$21,138,379; and

WHEREAS, Section 10-12 of the City Charter authorizes City Council to approve, by resolution, the execution of contracts, and amendments thereto, with other governmental units for furnishing or receiving commodities or services; and

WHEREAS, the City Council of the City of Aurora finds and determines that it is in the best interests of the City and its citizens to authorize the execution of this Agreement.

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

Section 1. The Intergovernmental Agreement between the City and CDOT regarding funding for the I-70 and Picadilly Interchange Project is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver the Intergovernmental Agreement on behalf of the City 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 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:

C McK
Ian J Best

IAN BEST, Assistant City Attorney

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 21-HA1-XC-00015
Local Agency CITY OF AURORA			Agreement Effective Date The later of the effective date or January 27, 2021
Agreement Description I-70 & Picadilly Interchange			Agreement Expiration Date January 26, 2031
Project # NHPP 0704-251 (24203)	Region # 1	Contract Writer DZ	Agreement Maximum Amount \$36,250,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY CITY OF AURORA _____ Signature _____ By: (Mike Coffman, Mayor) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Stephen Harelson, P.E., Chief Engineer Date: _____
Additional Local Agency Signatures Attest: _____ Kadee Rodriguez, City Clerk Date: _____ Approved as to Form: _____ Michelle Gardner, Sr. Assistant City Attorney Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General _____ By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

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EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; 2) before the encumbering document for the respective phase *and* the official

Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, the expiration of Multimodal Transportation Options Funding (“MMOF”) if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of MMOF will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on January 26, 2031 as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i.**

i. Method and Content

The State shall notify Local Agency of such termination in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-

101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT's Stewardship Agreement with the FHWA.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Agreement Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- D. **"Budget"** means the budget for the Work described in **Exhibit C**.
- E. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- F. **"Consultant"** means a professional engineer or designer hired by Local Agency to design the Work Product.
- G. **"Contractor"** means the general construction contractor hired by Local Agency to construct the Work.
- H. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- I. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- J. **"Evaluation"** means the process of examining Local Agency's Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- K. **"Exhibits"** means the following exhibits attached to this Agreement:
 - i. **Exhibit A**, Statement of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance")
- L. **"Federal Award"** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- M. **"Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient.

- N. **"FHWA"** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation's highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- O. **"Goods"** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.
- P. **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- Q. **"Initial Term"** means the time period defined in **§2.B**
- R. **"Multimodal Transportation Options Funding"** or **"MMOF"** means money transferred from the general fund to the fund pursuant to C.R.S. §§24-75-219 (5)(a)(III) and (5)(b)(III) and any other money that the general assembly may appropriate or transfer to the fund.
- S. **"Notice to Proceed"** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- T. **"OMB"** means the Executive Office of the President, Office of Management and Budget.
- U. **"Oversight"** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- V. **"Party"** means the State or Local Agency, and **"Parties"** means both the State and Local Agency.
- W. **"PII"** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S.
- X. **"Recipient"** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- Y. **"Services"** means the services to be performed by Local Agency as set forth in this Agreement, and shall include any services to be rendered by Local Agency in connection with the Goods.
- Z. **"State Confidential Information"** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- AA. **"State Fiscal Rules"** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- BB. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- CC. **"State Purchasing Director"** means the position described in the Colorado Procurement Code and its implementing regulations.
- DD. **"State Records"** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- EE. **"Subcontractor"** means third-parties, if any, engaged by Local Agency to aid in performance of the Work.
- FF. **"Subrecipient"** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- GG. **"Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB

Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.

HH. **“Work”** means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.

II. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. STATEMENT OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement.

Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the period of performance for a phase of Work authorized under this Agreement. To exercise this phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
- b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
- c. Prepare provisions and estimates in accordance with the most current version of the State’s Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
- d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
- e. Stamp the Plans as produced by a Colorado registered professional engineer.
- f. Provide final assembly of Plans and all other necessary documents.
- g. Ensure the Plans are accurate and complete.
- h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.

ii. Local Agency Work

- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects”.
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State’s approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State’s standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency’s attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.
 - (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
 - (c) The consultant shall review the construction Contractor’s shop drawings for conformance with the contract documents and compliance with the provisions of the State’s publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
 - (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.
- iii. Construction
- If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for

contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within 3 working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of §6.A.iii.b.2 also apply to any advertising and bid awards made by the State.
 - (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.
- iv. Right of Way (ROW) and Acquisition/Relocation
 - a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
 - b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
 - c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
 - d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant to the following categories:

- 1) Right of way acquisition (3111) for federal participation and non-participation;
- 2) Relocation activities, if applicable (3109);
- 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in **§7.F.vi**.

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C**. The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C**.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part by the State with MMOF there is an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. In order to receive payment from the State or credit for the match, Work must be completed prior to the expiration date of funding and invoiced in compliance with C.R.S. §§24-75-102(a) and 24-30-202(11). Billing for this work must be submitted 30 days prior to the end of the State Fiscal Year which is June 30th.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and

this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.

- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

C. Matching Funds

Local Agency shall provide matching funds as provided in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of matching funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Matching Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D**. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and **§7**. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement.

i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement, and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also issue a unilateral Option Letter to simultaneously increase and decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. The State may update any information contained in **Exhibit C**, Sections 2 and 4 of the Table, and sub-sections B and C of the **Exhibit C**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as

provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA has not closed this Federal Award within 1 year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five (5) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Local Agency shall permit the State to audit, inspect, examine, excerpt, copy, and transcribe Local Agency Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon

times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Local Agency or a third party.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;

- c. \$1,000,000 products and completed operations aggregate; and
 - d. \$50,000 any 1 fire.
- iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.
- iv. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

 - a. \$1,000,000 each occurrence; and
 - b. \$2,000,000 general aggregate.
- v. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate.
- vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with **§16** within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective

Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §13.B, shall have all of the remedies listed in this §14.A, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.C.

- c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.
 - ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

 - a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.
 - b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.
 - c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.
 - d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.
 - e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.
- B. Local Agency's Remedies
- If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.
- 15. DISPUTE RESOLUTION**
- A. Initial Resolution
- Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.
- B. Resolution of Controversies
- If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as

described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Katie Dawson, PE I
CDOT - Region 1 North Program
4670 Holly Street
Denver, CO 80216
303-398-6766
katie.dawson@state.co.us

For the Local Agency

CITY OF AURORA
Brad Richardson, Engineering Supervisor, Public Works Department
15151 E. Alameda Parkway
Aurora, CO 80012
303-739-7316
brichard@auroragov.org

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights

or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in §20.A, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions in the main body of this Agreement.
- ii. The provisions of the other sections of the main body of this Agreement.
- iii. **Exhibit A**, Statement of Work.
- iv. **Exhibit D**, Local Agency Resolution.
- v. **Exhibit C**, Funding Provisions.
- vi. **Exhibit B**, Sample Option Letter.
- vii. **Exhibit E**, Local Agency Contract Administration Checklist.
- viii. Other exhibits in descending order of their attachment.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

N. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

O. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

P. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-103.5-101 C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

R. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State.

Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[*Not applicable to intergovernmental agreements*] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due

under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq., C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, et seq., C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

Revised 11-1-18

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as Exhibit F, Exhibit I, Exhibit J, Exhibit K and Exhibit M are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of Exhibit G and Local Agency Contract Administration Checklist regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program’s requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency’s DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

24. DISPUTES

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

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EXHIBIT A

SCOPE OF WORK

Project number: C 0704-251
Subaccount number: 24203
Project location: I70/Picadilly, Aurora, CO

SECTION A

IGA Scope of Work for Participating Portion of the BUILD Grant (80/20 Federal – Local Split) \$25M/\$6.25M:

The Project will construct a new diverging diamond interchange on I-70 at Picadilly Road in Aurora, Colorado. The Project will facilitate much-needed north-south connectivity on Picadilly Road and provide critical local access to I-70 for the growing development in the Colorado Aerotropolis area. The interchange will improve access for freight commerce, ease congestion, improve safety, and drive job creation, while supporting the Colorado Aerotropolis as a rapidly expanding economic hub.

With a combination of BUILD grant funds, City funds, and private developer funds, the City of Aurora will construct a new I-70/Picadilly interchange with these components:

- Relocate Picadilly Road west of its current alignment and over I-70 on a new bridge.
- Construct a diverging diamond interchange (DDI) at Picadilly Road along I-70 with signalized intersections at the ramp terminals.
- Remove the substandard ramps to and from Colfax Avenue on I-70.
- Signalize the Picadilly Road intersections at Colfax Avenue, Smith Road, and 19th Avenue.
- Construct I-70 mainline auxiliary lanes between Picadilly Road and Tower Road, and between Picadilly Road and E-470.

SECTION B

IGA Scope of Work for Non-Participating State Contributed FASTER Funds – Up to \$5M

The Colorado Department of Transportation (CDOT) has agreed to use available safety money, up to \$5M, to fund the additional project costs associated with the reconstruction of the eastbound I-70 lanes within the project limits correcting substandard geometry identified during the development of the RFP. The original SOW for EB I70 included matching the existing alignment horizontally and vertically while removing the I70 over Colfax bridge and filling the area with embankment material and matching the existing pavement section. The City of Aurora also planned a continuous auxiliary lane from Picadilly to the E470 Interchange.

CDOT agrees to pay for the additional costs for the following components to reconstruct I70 to meet a 75 mph design speed:

- Demolition of existing I70 (Excluding the Colfax bridge)
- Earthwork for the realignment of I70 (Excluding the removal of the Colfax bridge)
- Full depth concrete pavement section (Excluding the proposed auxiliary lane and equivalent pavement area required to be reconstructed with the removal of the Colfax bridge).
- Striping
- Required safety appurtenances.
- Guardrail in the median from the current concrete barrier end to the east of E-470 to a point approximately 1500' west to close the gap of unprotected median.

The City of Aurora will include in their RFP provisions for the Design-Build Team to track all scope elements of the State Contributed FASTER Funds, within the Design-Builders cost loaded schedule. These elements will be distinct and must facilitate the tracking of schedule, scope and budget associated with the State Contributed FASTER Funds.

EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name: _____

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the performance of this Agreement and/or update a Work Phase Performance Period.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency), the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the performance of this Agreement and/or update a Work Phase Performance Period.

The total encumbrance as a result of this option and all previous options and/or amendments is now \$0.00, as referenced in **Exhibit C-1**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: as referenced in **Exhibit C-1**.

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C

FUNDING PROVISIONS

EXHIBIT C – FUNDING PROVISIONS

NHPP 0704-251 (24203)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$36,250,000.00, which is to be funded as follows:

1. BUDGETED FUNDS				
SECTION A				\$25,000,000.00
a.	Federal Funds – BUILD GRANT (80.00% of Participating Costs)			
b.	Local Agency Matching Funds (20.00% of Participating Costs)			\$6,250,000.00
SECTION B				
c.	State Funds - FASTER SFTY (100% of Participating Costs)			\$5,000,000.00
d.	Local Agency Matching Funds (0.00% of Participating Costs)			\$0.00
TOTAL BUDGETED FUNDS				\$36,250,000.00
2. OMB UNIFORM GUIDANCE				
a.	Federal Award Identification Number (FAIN):			TBD
b.	Federal Award Date (also Phase Performance Start Date):			See Below
c.	Amount of Federal Funds Obligated:			\$0.00
d.	Total Amount of Federal Award:			\$25,000,000.00
e.	Name of Federal Awarding Agency:			FHWA
f.	CFDA # Highway Planning and Construction			CFDA 20.205
g.	Is the Award for R&D?			No
h.	Indirect Cost Rate (if applicable)			N/A
3. ESTIMATED PAYMENT TO LOCAL AGENCY				
a.	Federal Funds Budgeted			\$25,000,000.00
b.	State Funds Budgeted			\$5,000,000.00
c.	Less Estimated Federal Share of CDOT-Incurred Cost			\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY				\$30,000,000.00
4. FOR CDOT ENCUMBRANCE PURPOSES				
a.	Total Encumbrance Amount			\$36,250,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109			\$0.00
Net to be encumbered as follows:				\$36,250,000.00
<i>Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.</i>				
WBS Element 24203.10.30	Performance Period Start*/End Date TBD / TBD	Design	3020	\$0.00
WBS Element 24203.20.10	Performance Period Start*/End Date TBD / TBD	Const.	3301	\$0.00

***The Local Agency should not begin work until all three of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.**

B. Matching Funds

The matching ratio for the federal participating funds for this Work is 80.00% federal-aid funds to 20.00% Local Agency funds. The matching ratio for the State participating funds for this Work is 100.00% State funds and 0.00% Local Agency funds. This applies only to the \$30,000,000.00 that is eligible for federal and State participation. All non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$36,250,000.00, and additional federal and State funds are made available for the Work, the Local Agency shall pay 80.00% of all such costs eligible for federal participation and 0.00% of all such costs eligible for State participation. The Local Agency shall pay 100% of all non-participating costs. If additional federal and State funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than \$0.00, then the amounts of Local Agency, federal-aid funds and State funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State.

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$30,000,000.00 (for CDOT accounting purposes, the federal funds of \$25,000,000.00, the Local Agency matching funds of \$6,250,000.00 and State funds of \$5,000,000.00 will be encumbered, but the Local Agency matching funds of \$0.00 will NOT be encumbered), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. The total budget of this project is \$36,250,000.00. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.

The maximum amount payable shall be reduced without amendment when the actual amount of the Local Agency's awarded contract is less than the budgeted total of the federal participating funds and the Local Agency matching funds. The maximum amount payable shall be reduced through the execution of an Option Letter as described in Section 7. E. of this contract.

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 C.F.R. 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

- i. Expenditure less than \$750,000**
If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.
- ii. Expenditure of \$750,000 or more-Highway Funds Only**
If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.
- iii. Expenditure of \$750,000 or more-Multiple Funding Sources**
If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.
- iv. Independent CPA**
Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT E LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. NHPP 0704-251	STIP No. SR16718	Project Code 24203	Region 1
Project Location I70 and Picadilly			Date 12/10/20
Project Description I70 and Picadilly Interchange			
Local Agency City of Aurora	Local Agency Project Manager Brad Richardson		
CDOT Resident Engineer Kurt Kionka	CDOT Project Manager Katie Dawson		
INSTRUCTIONS: <p>This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>.</p> <p>The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve.</p> <p>Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.</p> <p>The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.</p> <p>Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.</p>			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA CDOT	
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consistent with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement		
	• Project Development	X	#
	• Construction Contract Administration (including Fabrication Inspection Services)	X	#
5.4	Conduct Design Scoping Review Meeting	X	X
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	X
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	X

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.11	Justify Force Account Work by the Local Agency	X	#
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
5.13	Document Design Exceptions - CDOT Form 464	X	#
5.14	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project <input type="checkbox"/> is <input checked="" type="checkbox"/> is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Kurt Kionka _____ 12/10/2020 _____ CDOT Resident Engineer (Signature on File) Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	#
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)	X	#
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	#
7.2	Advertise for Bids	X	#
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	#
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	#
8.2	Project Safety	X	#
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B) • Fabrication Inspection Notifications	X	
	Pre-survey • Construction staking • Monumentation	X X	
	Partnering (Optional)	N/A	N/A
	Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	X	
	Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
	HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." <u>Matthew Kozakowski</u> <u>303-739-7337</u> Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
	Fabrication Inspection and documentation	X	
8.6	Approve Shop Drawings	X	#
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	#
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. <u>Brad Richardson</u> <u>303-793-7316</u> Local Agency Representative Phone number	X	#
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	#
8.12	Prepare and Authorize Change Orders	X	#
8.13	Submit Change Order Package to CDOT	X	#
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	#
8.16	Prepare and Submit Monthly Progress Reports	X	#
8.17	Resolve Contractor Claims and Disputes	X	#
8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. <u>Kurt Kionka</u> <u>303-398-6738</u> CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X X	# #
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	 X X X	 X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	 X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), CDOT Procedures <input checked="" type="checkbox"/> • Generate IAT schedule • Schedule and provide notification • Conduct IAT	 X X	 X
9.8	Approve mix designs • Concrete	X	#

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	• Hot mix asphalt	X	#
9.9	Check Final Materials Documentation	X	#
9.10	Complete and Distribute Final Materials Documentation	X	
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	X
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	X
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)	X	X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	X
11.8	Obtain CDOT Form 1419 from the Contractor and Submit to the Resident Engineer	X	
11.9	(FHWA Form 47 discontinued)	N/A	N/A
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure	X	
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	X

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, 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 any Federal 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 loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, 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 of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or its the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency upon request: Business Programs Office

Colorado Department of Transportation 2829 West Howard Place

Denver, Colorado 80204

Phone: (303) 757-9007

REVISED 1/22/98

REQUIRED BY 49 CFR PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
- b. Past performance,
- c. Willingness to meet the time and budget requirement,
- d. Location,
- e. Current and projected work load,
- f. Volume of previously awarded contracts, and
- g. Involvement of minority consultants.

8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.

9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higherpaying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt.

Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)
- (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (iii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iv) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, 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 undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal 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.

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 officer or employee of any Federal 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. 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 31 U.S.C. 1352. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clear Air Act

Standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts in excess of \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non- discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K
FFATA SUPPLEMENTAL FEDERAL PROVISIONS

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in SAM.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.


8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.


Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

	CDOT SUBRECIPIENT RISK ASSESSMENT	Date:		
Name of Entity (Subrecipient):				
Name of Project / Program:				
Estimated Award Period:				
Entity Executive Director or VP:				
Entity Chief Financial Officer:				
Entity Representative for this Self Assessment:				
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.				
		Yes	No	N/A
EXPERIENCE ASSESSMENT				
		Yes	No	N/A
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	<input type="checkbox"/>	<input type="checkbox"/>	
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>	
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	<input type="checkbox"/>	<input type="checkbox"/>	
MONITORING/AUDIT ASSESSMENT				
		Yes	No	N/A
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	a) Were there non-compliance issues in this prior review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) What were the number and extent of issues in prior review?	<input type="checkbox"/> <small>1 to 2</small>	<input type="checkbox"/> <small>>3</small>	<input type="checkbox"/>
OPERATION ASSESSMENT				
		Yes	No	N/A
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	
FINANCIAL ASSESSMENT				
		Yes	No	N/A
7	a) Does your entity have an indirect cost rate that is approved and current?	<input type="checkbox"/>	<input type="checkbox"/>	
	b) If Yes, who approved the rate, and what date was it approved?			
8	Is this grant/award 10% or more of your entity's overall funding?	<input type="checkbox"/> <small>>10%</small>	<input type="checkbox"/> <small><10%</small>	
9	Has your entity returned lapsed* funds? <i>*Funds "lapse" when they are no longer available for obligation.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Has your entity had difficulty meeting local match requirements in the last three years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?			

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	<input type="checkbox"/>	<input type="checkbox"/>	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	<input type="checkbox"/>	<input type="checkbox"/>	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	<input type="checkbox"/>	<input type="checkbox"/>	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	How many total FTE perform accounting functions within your organization?	<input type="checkbox"/> ≥ 6	<input type="checkbox"/> 2 to 5	<input type="checkbox"/> < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	<input type="checkbox"/>	<input type="checkbox"/>	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.</p> <div style="background-color: #fff9c4; height: 200px; border: 1px solid black;"></div>			
<div style="display: flex; justify-content: space-between; align-items: center;"> <div> <input type="checkbox"/> By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct. </div> <div style="text-align: center;">  </div> <div> Tool Version: v2.0 (081816) </div> </div>			

**EXHIBIT M - OMB Uniform Guidance for Federal
Awards Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit
Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

- 9. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
- 9.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
 - 9.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
 - 9.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2CFR §200.37
 - 9.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
 - 9.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
 - 9.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
 - 9.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
 - 9.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
 - 9.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
 - 9.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A- 133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
 - 9.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 10. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

11. Procurement Standards.

- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only 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, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient's fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
 - 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
 - 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
 - 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.
- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor 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, or national origin.

(3) The contractor 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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor 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.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such 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 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.

(7) The contractor will include the provisions of paragraphs (1) through (7) 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

- 4.2 Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-

3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 4.3 Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
 - 4.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
 - 4.5 Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), 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.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 - 4.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for 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. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 7. Certifications.** Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.
- 1.8.Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

9. **Effective Date.** The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

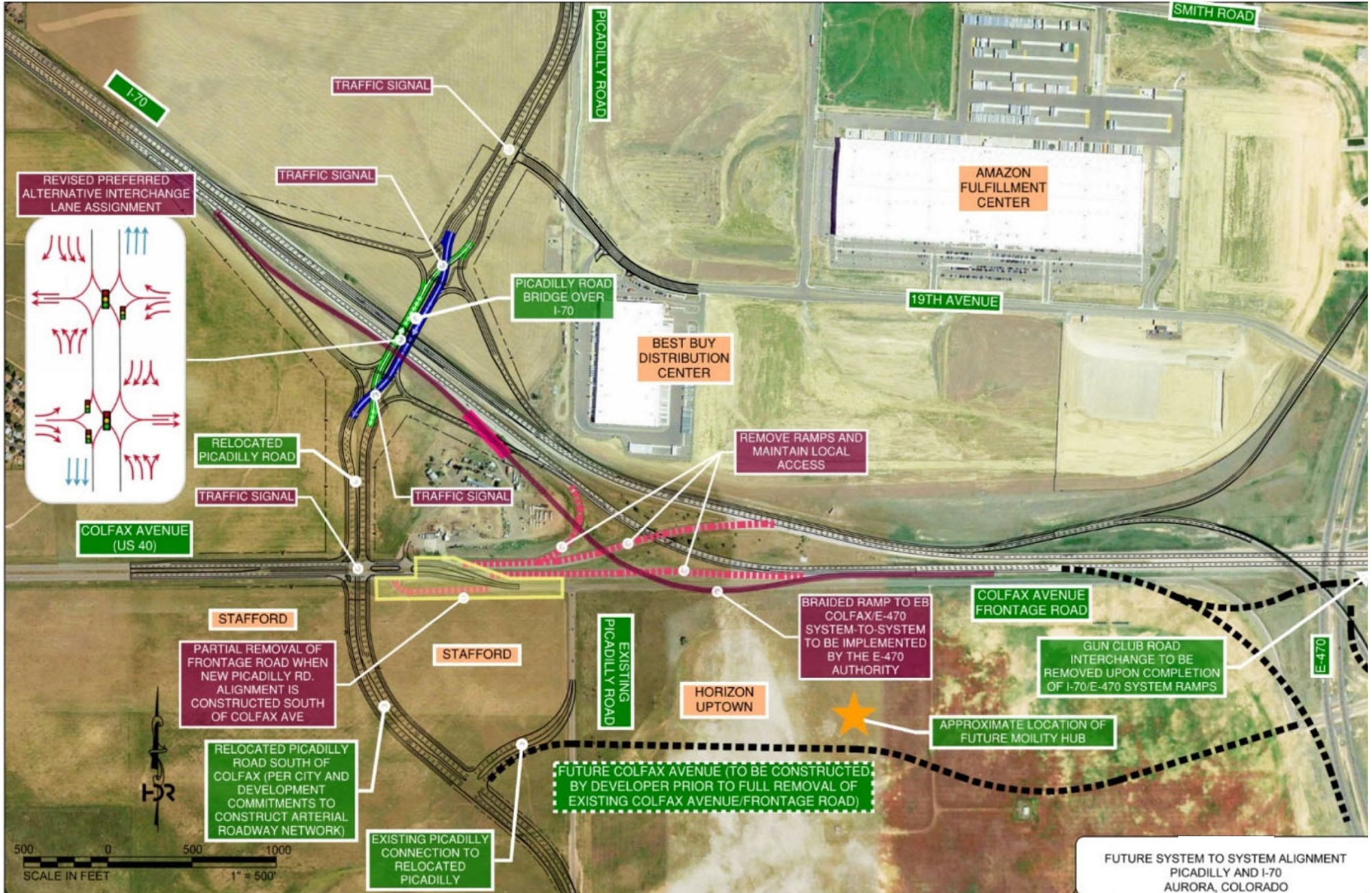
10. **Performance Measurement**

The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit A





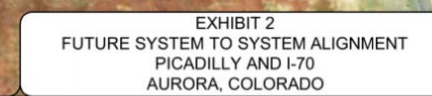
September 29, 2021

**I-70/Picadilly
INTERCHANGE**



EXECUTIVE PROJECT UPDATE

I-70 / Picadilly Interchange



PROJECT FUNDING



I-70/Picadilly INTERCHANGE

SOURCES

Description	Amount
City of Aurora Contribution	\$ 21,138,379
ARTA Contribution	\$ 19,972,000
Federal (BUILD) Grant	\$ 25,000,000
CDOT Safety Funds	\$ 5,000,000
TOTALS	\$ 71,110,379

USES

Project Phase	TOTAL COST
Construction - TOTAL	\$ 45,069,515
Construction - Grant	\$ 25,000,000
Construction - CDOT	\$ 5,000,000
Construction - Local	\$ 15,069,515
Design, Owner Admin, & Incidentals (Local)	\$ 10,540,864
ROW Acquisition (Local)	\$ 15,000,000
TOTALS	\$ 70,610,379

* Local = COA & ARTA

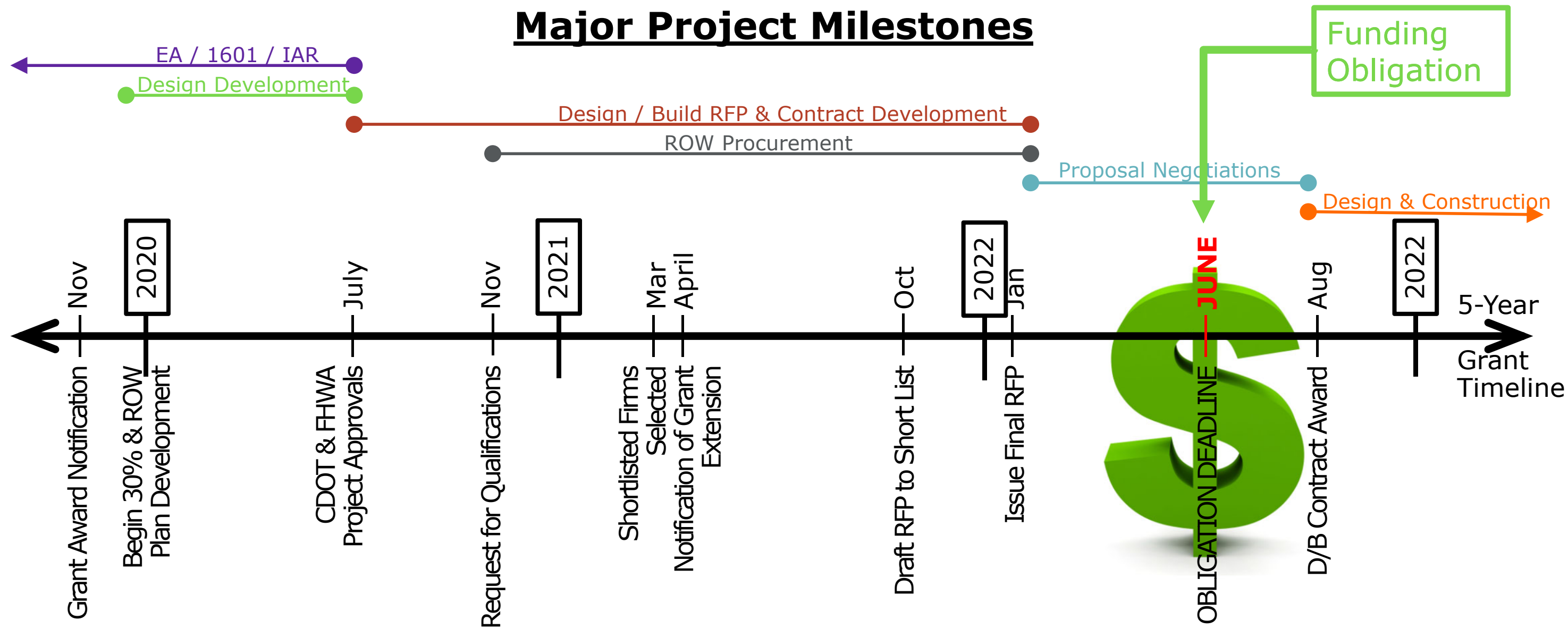
** ROW is projecting to have savings (in upcoming slide)

PROJECT TIMELINE



I-70/Picadilly
INTERCHANGE

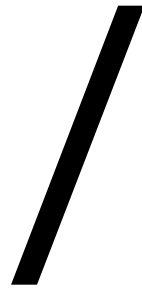
Major Project Milestones



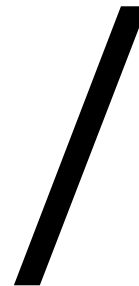
SHORTLISTED TEAMS



**I-70/Picadilly
INTERCHANGE**



RS&H



HORROCKS
ENGINEERS

CURRENT PUSH



I-70/Picadilly
INTERCHANGE

1. Development of RFP & Contract Documents
 - i. Draft in Review Now
 2. Incorporate I-70 Curve Correction
 3. ROW Acquisition
 - i. Offers Out to 5/5 Owners
 4. Approval of Grant Agreement & IGAs
 - i. Project Funding IGA w/ CDOT
 - ii. Grant Agreement w/ USDOT
 - iii. Project Maintenance IGA w/ CDOT
 - iv. Amendment to existing CDOT reimbursement IGA
 - v. E470 IGA
- Project Task
 - Executive Action

Grant Agreement



I-70/Picadilly
INTERCHANGE

1. BUILD Grant agreement between the City of Aurora and USDOT.
2. Establishes the scope of the project
3. Allows the City of Aurora to administer the project
4. Establishes the terms of the BUILD Grant
5. Cost in agreement are represented as proposed in original application

Funding IGA with CDOT



I-70/Picadilly
INTERCHANGE

1. IGA between CDOT and the City of Aurora
2. Passthrough for Federal Funding (BUILD Grant) through CDOT.
3. Includes additional 5 million from CDOT to reconstruct part of I70 adjacent to project to meet current design standards
4. Cost in IGA represent 80/20 minimum grant match

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

September 29, 2021

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member Angela Lawson, Vice Chair, Council Member Allison Hiltz

Others Present: Scott Bauman, Dan Brotzman, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Karen Hancock, Haley Johansen, Matt Kozakowski, Huiliang Liu, Tom McMinimee, Julie Patterson, Lainy Palmer, Mindy Parnes, Victor Rachael, Hector Reynoso, Mark Smith, Elly Watson, Tom Worker-Braddock

Guest: Chris Quinn, Regional Transportation District

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the August 24, 2021 TAPS meeting were approved as written

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.b. Consideration to Approve a Resolution for the Agreement Between the City of Aurora and the United States Department of Transportation (USDOT) Regarding the Better Utilizing Infrastructure to Leverage Development (BUILD) Grant for the I-70 & Picadilly Interchange

4.c. Consideration to Approve a Resolution for the Intergovernmental Agreement between the City of Aurora and the Colorado Department of Transportation regarding the passthrough funding from the USDOT Build Grant for the I70 & Picadilly Project

Summary of Issue and Discussion:

Matt Kozakowski, Transportation Project Delivery Manager, did a presentation covering two agenda items, 4.b. and 4.c. because the items are so intertwined it made sense to keep it as one presentation. Mr. Kozakowski said this is a project that the city staff has been working on for some time. The project really picked up in 2018 when the city started progressing the Environmental Assessment, which is the preliminary phase of a large project such as this. The city also aggressively began pursuing federal grants to fund the project around that time.

Mr. Kozakowski began with a quick refresher of the project and an overview as far as what has been done up to this point. This project will realign Picadilly, which currently travels north-south down the section line and realigns Picadilly to the west of its current location. The re-alignment will create a new interchange with I-70. In addition to that, the project will remove the existing Colfax interchange, which is not a full movement interchange. It is only a three-quarter movement. This will provide a fully functioning interchange, to benefit the developing region. The project will also create a new connection into 19th Avenue on the north side of the project, as well as update the intersection at Colfax. The project will also re-terminate Colfax east of intersection onto the frontage road where we are removing the Colfax Interchange. The design for the new interchange 540

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

is a diverging diamond. It is a relatively new concept, but it is quickly being adopted all around the country. Mr. Kozakowski mentioned in his presentation graphic that the crossing over I-70 has blue and the green highlights to show how the traffic crosses over the opposite side of the road over the bridge. What that does is reduces conflict points. It also improves safety as well as traffic efficiency by the reduction of those conflict points. A similar interchange is on US 36 separate McCaslin Boulevard. One other note is this project terminates on its southern boundary at Colfax, but the graphics depict additional work south of Colfax in the exhibits. Improvements south of Colfax will be completed by the Stafford development. The Stafford construction plans are approved and moving forward for the realignment of Picadilly south of the project. Even though the project is not performing the realignment, it should be in place right around the same time (if not before) the project comes online. One final project scope item, which came up late in the project development, is that the Colorado Department of Transportation (CDOT) requested the project correct some non-standard geometry on a curve of the eastbound lanes immediately east of the project. It is a major safety concern as there have been some bad accidents there. CDOT have contributed funds to the project for this scope.

Mr. Kozakowski presented the project funding overview. The funding was presented in two tables, Sources and Uses. The Sources table showed where the funds are currently allocated for this project and the entities contributing them. The breakdown is approximately \$21 million from the City of Aurora, \$20 million from Aerotropolis Regional Transportation Authority (ARTA), \$25 million for the Better Utilizing Investments to Leverage Development (BUILD) Federal Grant, \$5 million and CDOT safety funds. The Uses table demonstrated that the state and federal contributions are both being utilized during construction. One other note in the Uses table is the City of Aurora and the ARTA funds are designated as Local and are co-mingled as part of the grant application. Mr. Kozakowski said he tried to use the same terminology that is in the grant agreement. The agreement refers to those funds as Local.

Mr. Kozakowski then presented the project timeline in his presentation. The timeline started in November 2019, when the grant was awarded. Beginning prior to that award was the Environmental Assessment, as well as the 1601 approval by CDOT and the Federal Highways Association Interstate Access Request process. In November 2019 the project began to speed up with the commencement of design development and the right of way procurement as well as finalizing the solicitation documents for the design build project delivery. Three highly qualified firms have been shortlisted to participate in the bid process. A Draft Request for Proposal (RFP) will be issued for the industry review next month. The Final RFP to the shortlisted contractors is scheduled for release in January 2022, with the projected fully executed award to the selected contractor in August 2022. One important thing to note in the timeline on the presentation is the big green dollar sign in June of 2022. It represents the obligation deadline for the federal grant funds. It also starts the five-year project timeline of the grant. Substantial completion of the project is estimated in a three-year timeframe, and the City will use the whole five-year timeline as an ability to defer some landscape maintenance, and landscape establishment to make sure we utilize the timeline and grant funds as much as possible.

Mr. Kozakowski said that there are three design build teams shortlisted. Because this is a design build contract, the selected team will be performing the design to the performance specs that are now being prepared as part of the RFP, as well as constructing it. Each team has a contractor and a civil design firm. There were six proposals and three excellent proposals were selected. These firms represented both local and national talent.

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

The next slide in the presentation outlined the current push to develop the contract documents, integrating the CDOT scope that was requested, and the acquisition of property interests. Offers proposed to five of five property owners. There are five Intergovernmental Agreements (IGA) required to execute the project, and two of those are for discussion at this meeting.

Mr. Kozakowski went over the Project Funding IGA with CDOT and Grant Agreement with United States Department of Transportation (USDOT). The BUILD grant agreement between the City of Aurora and USDOT establishes the scope of the project, allows the City of Aurora to administer the project, and establishes the terms of the BUILD grant as far as the timeline and milestone requirements. One thing brought to attention is that the cost in the grant agreement is reflective as it was proposed in the original application, which was submitted two years ago. There have been some substantial cost escalations for the Right-of-Way and construction, as well as engineering. As far as the USDOT is concerned, this project is already at the maximum grant award available, therefore any project overage is the responsibility of the local entity, which is the City of Aurora and ARTA. The USDOT preferred that we keep the grant agreement simple and write the agreement only obligating the city for the funds that were committed to in the application. In the commentary packet for this meeting there is a simple table that compared side by side numbers as are in the application, versus the numbers as they are currently budgeted by the four entities that are providing funding sources for this project (on page 36 of the PDF).

Mr. Kozakowski then went over the second agreement for consideration, the funding IGA with CDOT. This agreement is a bit more boilerplate, and it looks familiar because it has been seen in the past in conjunction with Denver Regional Council of Governments (DRCOG) grants. Standard practice is for CDOT to administer federal funds on behalf of a local entity. This is referred to as pass-through funding and is like what is done on the DRCOG grants. Because the city is not setup to do business directly with USDOT, we are processing a similar pass-through funding IGA for this project. This particular agreement is a little different as it also includes the additional 5 million dollars of funding from CDOT and defines exactly what the 5 million is going to be used for in the project. Also, like the DRCOG grants and the IGA that was previously talked about, the funding outlined in the agreement does not exactly match the total funding for the project. That is because CDOT is only required to track an 80/20 match ratio. The numbers identified in the IGA represent the 25 million federal funding, 20% match from the local entity and 5 million dollars from CDOT with no match requirement. A table that shows the side by side breakout is in the commentary packet (page 69 of the PDF).

Outcome: The committee approved moving this topic to Study Session

Follow-up Action: This item will move to Study Session



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Approve a Resolution for the Agreement Between the City of Aurora and the United States Department of Transportation (USDOT) Regarding the Better Utilizing Infrastructure to Leverage Development (BUILD) Grant for the I-70 & Picadilly Inte

Item Initiator: Brad Richardson – Senior Engineer, Public Works Department

Staff Source/Legal Source: Matt Kozakowski - Transportation Project Delivery Manager / Michelle Gardner – Senior Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 3.2--Reduce travel time and reduce congestion and provide expanded multi-modal mobility choices

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

ITEM DETAILS:

Consideration to APPROVE A RESOLUTION for the Agreement Between the City of Aurora and the United States Department of Transportation (USDOT) Regarding the Better Utilizing Infrastructure to Leverage Development (BUILD) Grant for the I-70 & Picadilly Interchange Project

Staff Source: Matt Kozakowski – Transportation Project Delivery Manager

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 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: Transportation, Airports & Public Works

Policy Committee Date: 9/29/2021

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 April 23, 2018 Regular Meeting, Council approved the award of an openly solicited contract for the I-70/Picadilly NEPA Re-Evaluation and Preliminary Design Services to HDR, Inc in the amount of \$1,172,010.70.

On May 7, 2018 Weekly Report of Purchasing Actions, Amendment No. 1 of the HDR contract was reported to Council in the amount of \$49,000.00 for services involving pursuit of the federal TIGER program grant.

On June 24, 2019 Regular Meeting, Council approved signing the Resolution agreeing to an Intergovernmental Agreement (IGA) between the City of Aurora and Colorado Department of Transportation (CDOT) to establish a payment method for review fees associated with the 1601 project approval process.

On August 12, 2019 Weekly Report of Purchasing Actions, Amendment No. 2 of the HDR contract was reported to Council in the amount of \$21,974.00 for services involving pursuit of the federal BUILD program grant.

On February 10, 2020 Weekly Report of Purchasing Actions, Amendment No. 3 of the HDR contract was reported to Council in the amount of \$29,000.00 for immediate execution of preliminary design services resultant from the BUILD Grant award.

On February 24, 2020 Regular Meeting, Council approved Amendment No. 4 of the HDR contract in the amount of \$913,467.00 for addition of 30% Design including Geotechnical Investigation, Structural Selection and ROW Plan Preparation resultant from the Build Grant award.

On July 23, 2020 Meeting of the Transportation, Airports and Public Works Policy Committee staff provided an informational update on the status of the I-70 / Picadilly Interchange Project.

On August 3, 2020 Regular Meeting, Council approved the award of a single source contract to HDR in the amount of \$1,489,043.75 for Design-Build Procurement and Program Management Consulting Services for the I-70 / Picadilly Interchange Project.

On January 25, 2021 Regular Meeting, Council approved Ordinance Number 2021-06 authorizing the use of eminent domain for acquisition of land interests necessary for construction of the I-70/Picadilly Interchange Project.

On September 13, 2021 Regular Meeting, Council approved the acquisition of real property interests for an amount not to exceed \$2,801,418 plus incidental expenses and closing costs.

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

The I-70/Picadilly Interchange Project ("Project"), depicted on the attached Exhibit A, is key infrastructure needed for this rapidly developing region of the City of Aurora ("City"), Arapahoe and Adams Counties. The Project will facilitate much-needed north-south connectivity on Picadilly Road and provide critical local access to I-70. The Transportation Commission of Colorado approved the Project through their interchange approval process at their regular meeting on July 16, 2020.

In late 2019, the City was awarded a USDOT BUILD (Better Utilizing Investments to Leverage Development) Grant program for \$25,000,000 for construction funding. To meet the requirements of the BUILD grant, the project must keep a tight schedule for a funding obligation in June of 2022. The Project team is expeditiously running concurrent processes including completing Preliminary Design Plans, Design-Build contract documents, ROW Acquisition Plans and ROW Acquisitions.

The Grant Agreement with the United States Department of Transportation being presented for consideration establishes the scope of the project, allows the City of Aurora to administer the project and establishes the terms of the BUILD Grant (Better Utilizing Investments to Leverage Development) Program. The terms for reimbursement of eligible funds are not included in this Agreement because the Grant is being administered on Aurora's behalf by the Colorado Department of Transportation (CDOT) as a Pass-Through. Therefore, a separate funding IGA between the City of Aurora and CDOT is moving through Council Approval process concurrent with this Agreement.

The Project Costs estimated in the Grant Agreement are reflective of that what was presented in the Grant application totaling \$61,600,000. This cost breakdown was prepared in 2019 and significant cost escalations have been noted in both construction and the cost of Right-of-Way. The project team is currently estimating the total cost of the project at \$71,110,379. However, the Federal funding in the Grant is not affected by project cost escalation. Additional cost necessary to deliver the project are the responsibility of the local project sponsors, identified as City and Developer. Therefore, the USDOT has processed the Grant Agreement representing the costs as they were awarded from the application (as presented in Section 3.3 of the Agreement). The table below represent the cost breakdown presented in the Grant Application as well as that which is currently budgeted to cover the projected escalations.

Entity	As In Agreement	As Estimated/Budgeted
USDOT (BUILD Grant)	\$ 25,000,000	\$ 25,000,000
CDOT (Safety Funding)	\$ 5,000,000	\$ 5,000,000
Local (City of Aurora)	\$ 14,600,000	\$ 21,138,379
Local (Developer - ARTA)	\$ 17,000,000	\$ 19,972,000
TOTAL	\$ 61,600,000	\$ 71,110,379

The Project is progressing with a Design/Build delivery model to meet the Obligation Deadline of June 2022. The City has completed a qualification based short-listing process for design/construction teams and selected 3 teams to bid on the project. A Draft of the Request for Proposals (RFP) is currently scheduled to be issued to the short-list October 2021 for industry review/comment. The Final RFP is scheduled to be issued in March 2022 with Final Guaranteed Maximum Price Proposals due in May 2022. Following the evaluation and contracting process, Notice to Proceed to the successful bidder is scheduled for October 2022.

QUESTIONS FOR COUNCIL

Does Council support moving the resolution for the Agreement Between the City of Aurora and the United States Department of Transportation Regarding the Better Utilizing Infrastructure to Leverage Development (BUILD) Grant for the I-70 / Picadilly Interchange Project forward to the next available Regular Meeting?

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). (M. Gardner)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: The City's match contribution to the project will be funded from Org 49678, Picadilly / I-70 Design.

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,
APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF AURORA AND THE
UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) REGARDING THE
BUILD (BETTER UTILIZING INFRASTRUCTURE TO LEVERAGE DEVELOPMENT)
GRANT PROGRAM FOR THE I-70 AND PICADILLY INTERCHANGE PROJECT

WHEREAS, the City of Aurora, Colorado (the “City”), and the United States Department of Transportation (“USDOT”), collectively “the Parties”, as government agencies, are authorized by the provisions of Colo. Const., art. XIV, § 18(2)(a) and C.R.S. §§ 29-1-201, et seq., to contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the City’s Public Works Department is working on the I-70 and Picadilly Interchange Project (“Project”) which is a key infrastructure need for the rapidly developing region of the City with a total Project budget of \$71,110,379; and

WHEREAS, in late 2019 the City was awarded a \$25,000,000 United States Department of Transportation (“USDOT”) Better Utilizing Infrastructure to Leverage Development (“BUILD”) Grant for Project construction funding; and

WHEREAS, the BUILD Grant Agreement (“Grant Agreement”) allows the City to administer the Project and together with a Colorado Department of Transportation Intergovernmental Agreement provides for the terms of reimbursement of the passthrough BUILD grant; and

WHEREAS, the Project costs estimated in the Grant Agreement are reflective of the estimated Project costs in the 2019 grant application before significant cost escalations occurred for both construction and right-of-way acquisition; and

WHEREAS, the USDOT funding obligation shall remain \$25,000,000 regardless of cost escalations with a local match by the City of up to \$14,600,000 as set forth in the Grant Agreement; and

WHEREAS, due to Project cost escalation the City has budgeted \$21,138,379 to complete the Project; and

WHEREAS, Section 10-12 of the City Charter authorizes City Council to approve, by resolution, the execution of contracts, and amendments thereto, with other governmental units for furnishing or receiving commodities or services; and

WHEREAS, the City Council of the City of Aurora finds and determines that it is in the best interests of the City and its citizens to authorize the execution of this Agreement.

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

Section 1. The Grant Agreement between the City and USDOT regarding the funding for the BUILD Grant for the I-70 and Picadilly Interchange Project is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver the Grant Agreement on behalf of the City 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 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:

Ian J Best *C McK*

IAN BEST, Assistant City Attorney

U.S. DEPARTMENT OF TRANSPORTATION

GRANT AGREEMENT UNDER THE FISCAL YEAR 2019 BUILD TRANSPORTATION GRANTS PROGRAM

This agreement is between the United States Department of Transportation (the “**USDOT**”), Colorado Department of Transportation (the “**Recipient**”), and the City of Aurora (the “**First-Tier Subrecipient**”).

This agreement reflects the selection of the First-Tier Subrecipient to receive a BUILD Grant for the I-70/Picadilly Interchange Project.

The parties want the First-Tier Subrecipient to carry out the project with the Recipient’s assistance and oversight.

The parties therefore agree to the following:

Article 1 GENERAL TERMS AND CONDITIONS

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under The Fiscal Year 2019 BUILD Transportation Grants Program: FHWA Projects,” dated December 17, 2019, which is available at <http://go.usa.gov/xpuYy>. Articles 8 – 24 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the BUILD Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the BUILD Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

Article 2

APPLICATION, PROJECT, AND AWARD

- 2.1 Application.** The application for funding was dated 07/15/2019, and titled “I-70/Picadilly Interchange.” It contained Standard Form 424 and all information and attachments submitted with that form through Grants.gov.
- 2.2 Project.** In this agreement, the “**Project**” means the project proposed in the application identified in section 2.1 as modified by the negotiated provisions of this agreement, including article 3 and attachments A-E.

2.3 Federal Award and Federal Obligation.

The USDOT hereby awards a BUILD Grant to the Recipient in the amount of \$25,000,000 and obligates that amount for the budget period.

2.4 Award Dates.

Budget Period End Date:	June 15, 2027
Period of Performance End Date:	June 15, 2027
Estimated Closeout Date:	June 15, 2028

- 2.5 Urban or Rural Designation.** The USDOT hereby designates this to be an award to a project in an urban area.
- 2.6 Federal Award Identification Number.** The Federal Award Identification Number will be generated when the FHWA Division authorizes the project in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the FAIN from FMIS.

Article 3

SUMMARY PROJECT INFORMATION

3.1 Summary of Project’s Statement of Work. (See Attachment A for additional details).

The project will realign Picadilly Road and construct a new bridge over I-70 as well as a diverging-diamond interchange. The project also removes an existing partial interchange at Colfax Avenue, and adds signalized intersections and auxiliary lanes within the project area.

3.2 Project's Estimated Schedule.

Milestone	Schedule Date
Actual NEPA Completion Date	May 22, 2020
Planned RFP Approval Date:	January 17, 2022
Planned Start of Design/Build Project Date:	August 15, 2022
Planned Construction Substantial Completion and Open to Traffic Date:	June 15, 2025

3.3 Project's Estimated Budget. (See Attachment B for additional details).

Eligible Project Costs	
BUILD Grant Amount:	\$25,000,000
Other Federal Funds:	\$0
State Funds:	\$5,000,000
Local Funds:	\$14,600,000
Other Funds:	\$17,000,000
Total Eligible Project Cost:	\$61,600,000
Funding sources:	
<ul style="list-style-type: none">• State Funds: Colorado Department of Transportation• Local Funds: City of Aurora• Other Funds: ARTA (Aerotropolis Regional Transportation Authority) and Developer	

Article 4 CRITICAL MILESTONE DEADLINES

4.1 Critical Milestone Deadlines.

Milestone	Deadline Date
Begin Design Build	October 15, 2022
USDOT receives first reimbursement request	December 1, 2022
Construction substantially completed and project opens to traffic	June 15, 2025

Article 5 PARTY INFORMATION

5.1 Recipient's Unique Entity Identifier.

Recipient's Unique Entity Identifier: 960738771

5.2 Recipient Contact(s).

Kurt Kionka, PE
Region 1 North Program Resident Engineer
Colorado Department of Transportation
4670 Holly Street,
Denver, CO 80216
303-398-6738
kurt.kionka@state.co.us

Cindy Colip, PE
Director of Public Works
15151 E. Alameda Pkwy
Aurora, CO 80012
303-739-7300
ccolip@auroragov.org

5.3 Recipient Key Personnel.

None. The parties have not identified any individuals as key personnel for this award and don't foresee that key personnel will be identified for this award.

5.4 USDOT Project Contact(s).

Chris Horn, PE
Senior Area Engineer
Federal Highway Administration, Colorado Division
12300 W. Dakota Avenue Suite 180, Lakewood Co 80228
720-963-2017
Chris.Horn@dot.gov

Article 6 USDOT ADMINISTRATIVE INFORMATION

6.1 Payment System.

USDOT Payment System: FMIS

6.2 Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Colorado Division

Article 7 SPECIAL GRANT TERMS

7.1 Subaward to First-Tier Subrecipient.

- (a) The Recipient hereby awards a subaward to the First-Tier Subrecipient for the purpose described in section 8.1.
- (b) The Recipient and the First-Tier Subrecipient may enter into a separate agreement, to which the USDOT is not a party, assigning responsibilities, including administrative and oversight responsibilities, among the Recipient and the First-Tier Subrecipient.
- (c) For the purpose of 2 C.F.R. parts 200 and 1201, the Recipient is a pass-through entity.

7.2 First-Tier Subrecipient Statements and Responsibilities.

- (a) The First-Tier Subrecipient affirms all statements and acknowledgments that are attributed to the Recipient under sections 10.1 and 10.2.
- (b) The First-Tier Subrecipient assumes the Recipient's reporting obligations under articles 14 and 15.

7.3 State Oversight Responsibilities. For the purpose of 23 U.S.C. 106(g), the Recipient shall act as if funds under this award are Federal funds under title 23, United States Code.

7.4 Advance Construction and Tapered Match

- a) On November 30, 2020, the FHWA State Division office authorized construction of the I-70/Picadilly Interchange Project to proceed under the Advance Construction provisions of 23 U.S.C. § 115. The State Division office authorized also the use of tapered match under the FHWA's tapered match procedures in the *Federal-aid Guidance Non-Federal Matching Requirements* dated May 15, 2019 and consistent with 2 CFR 200.300(b) to allow the \$12,150,000 of non-Federal funds for I-70/Picadilly Interchange Preliminary

Engineering and Right of Way acquisition to be used as a match to the FY 2019 BUILD funds provided under this agreement for construction of the project.

- b) Concurrently with the authorization of the Project to proceed for construction, obligation of the FY 2019 BUILD funds by the Division's execution of the BUILD grant agreement, and recordation of the BUILD funds in the FMIS, the Division shall modify the FMIS project agreement to recognize the advance construction authorized incurred tapered match costs as the non-Federal match for the project consistent with 23 U.S.C. 115, 23 CFR 630.106 (c), 630. 108(c)(2) and 2 CFR 200.306(b).

7.5 Railroad Agreement. As a condition of this project, the Recipient will have a written standard railroad coordination agreement with the Union Pacific Railroad (UPRR) for work and operation within the Railroad right-of-way no later than December 1, 2022.

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ATTACHMENT A STATEMENT OF WORK

The project will realign Picadilly Road and construct a new bridge over I-70 as well as a diverging-diamond interchange. The project also removes an existing partial interchange at Colfax Avenue, and adds signalized intersections and auxiliary lanes within the project area.

Preliminary Engineering

- Program Management and Administration Consultant services in support for Design/Build procurement process

Right of Way Acquisition

- Procurement of ROW and all necessary easements associated with the project.

Construction

The following components will be included in the Design-Build contract.

1. Roadways:

- a. Construct a median barrier with lane widening to the inside of I-70, between I-70 eastbound and I-70 westbound between Tower Road and the proposed Picadilly Interchange.
- b. Construct auxiliary lanes for I-70 between Tower Road and Picadilly Interchange.
- c. Construct auxiliary lanes for I-70 between Picadilly Interchange and E-470.
- d. Construct grade separated Diverging Diamond Interchange (Picadilly Road) over I-70.
- e. Partially reconstruct the E-470 connector ramp for E-470 Northbound to I-70 Westbound.
- f. Construct Picadilly Road as a new divided 6-lane principal arterial.
- g. Reconstruct Colfax Ave (US-40) west of Picadilly Road.
- h. Construct Colfax Ave between Picadilly Road to I-70 Frontage Road.
- i. Construct 19th Ave between Picadilly Road to existing 19th Ave.
- j. Construct I-70 Eastbound roadway and embankment with removal of I-70 eastbound bridge over I-70 Westbound to Colfax Ave Westbound Ramp.
- k. Construct Roadway appurtenances.
- l. Remove existing I-70 eastbound bridge over I-70 Westbound to Colfax Ave Westbound Ramp. Add top soil and revegetate the existing alignment and associated areas.
- m. Remove existing I-70 Eastbound to Colfax Ave Westbound Ramp concrete, base and roadway appurtenances. Add top soil and revegetate the existing alignment and associated areas.
- n. Remove existing I-70 Westbound to Colfax Ave Westbound Ramp concrete, base and roadway appurtenances. Add top soil and revegetate the existing alignment and associated areas.

- o. Remove existing Colfax Ave Eastbound to I-70 Eastbound Ramp concrete, base and roadway appurtenances. Add top soil and revegetate the existing alignment and associated areas.
 - p. Remove existing Picadilly Road. Add top soil and revegetate the existing alignment and associated areas.
 - q. Reconstruction and realignment of eastbound I-70 lanes within project limits to correct existing substandard geometry.
2. Traffic:
- a. Construct new signalized intersection(s) at Picadilly Road & I-70 Ramp Terminal(s).
 - b. Construct new signalized intersection at Picadilly Road and Colfax Ave (US-40).
 - c. Construct new signalized intersection at Picadilly Road and 19th Ave.
 - d. Reconstruct intersection at Picadilly Road and Smith Road.
 - e. Construct all signs, striping, and lighting and appurtenances.
 - f. Install fiber optic conduit, cable, pull boxes and appurtenances along Picadilly Road.
3. Structures:
- a. Construct one bridge (Picadilly Road over I-70) with retaining walls.
 - b. Construct retaining walls and barriers to vertically separate the inside lane widening between I-70 eastbound and I-70 westbound.
 - c. Construct all sign structures.
4. Drainage:
- a. Construct all drainage, storm water protection improvements, Extended Detention Basins and appurtenances.
 - b. Clean any existing drainage structures and pipes that need to be maintained.
5. Utilities:
- a. Construct casing pipe around the existing Colorado Interstate Gas Company high-pressure gas line that is under the Picadilly Interchange.

Construction Engineering

- Construction Management, Inspection, Material Testing (Quality Assurance) and Consulting Services (Owner Representation)

**ATTACHMENT B
ESTIMATED PROJECT BUDGET**

1. Supplementary Fund Source Table(s)

Preliminary Engineering Eligible Costs	
BUILD Funds:	\$0
Other Federal Funds:	\$0
State Funds:	\$0
Local Funds:	\$1,500,000
Other Funds:	\$0
Total:	\$1,500,000
Local Funds: City of Aurora	

Right of Way Eligible Costs	
BUILD Funds:	\$0
Other Federal Funds:	\$0
State Funds:	\$0
Local Funds:	\$10,650,000
Other Funds:	0
Total:	\$10,650,000
Local funds: City of Aurora	

Construction Eligible Costs	
BUILD Funds:	\$25,000,000
Other Federal Funds:	\$0
State Funds:	\$5,000,000
Local Funds:	\$0
Other Funds:	\$13,900,000
Total:	\$43,900,000
State Funds: Colorado Department of Transportation	
Other Funds: ARTA & Developer Contribution	

Construction Engineering Eligible Costs	
BUILD Funds:	\$0
Other Federal Funds:	\$0

State Funds:	\$0
Local Funds:	\$1,850,000
Other Funds:	\$3,450,000
Total:	\$5,300,000
Local funds: City of Aurora	
Other Funds: ARTA & Developer Contribution	

2. Cost Classification Table

Cost Classification	Total Costs	Non-BUILD Previously Incurred Costs	Eligible Costs
Land, structures, rights-of-way, appraisals, etc.	\$10,650,000	\$0	\$10,650,000
Architectural and engineering fees (Design Build Program management)	\$1,500,000	\$0	\$1,500,000
Project Inspection Fees (Project inspection, Construction Engineering)	\$5,300,000	\$0	\$5,300,000
Construction (Design Build Contract, Construction, Design)	\$43,900,000	\$0	\$43,900,000
Miscellaneous	\$250,000	\$0	\$250,000
Project Total	\$61,600,000	\$0	\$61,600,000

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ATTACHMENT C PERFORMANCE MEASUREMENT TABLE

Study Area: Picadilly I-70 Interchange: Colfax to Smith Rd and Tower Rd to E-470. See Table 1 for data collection locations for each measure.

Pre-project Measurement Date: July 15, 2022

Pre-project Report Date: October 15, 2022

Project Outcomes Report Date: June 15, 2029

Table 1: Performance Measurement Table

Measure	Description and Category of Measure	Measurement Period	Reporting Period
Auto Crash Rates by Type/Severity	<p style="text-align: center;">Safety</p> <p>Crash rates will be measured and reported as crashes per 100 million VMT and identified by the following severity categories: fatal, injury, and property-damage-only (PDO) crashes.</p> <p>The following roadways and intersections will be measured:</p> <ul style="list-style-type: none"> I-70 Mainline from west of Tower Road to East of Gun Club Road I-70 ramp merge and diverge areas at Tower Road, Picadilly Road, Colfax Avenue, and E-470, and Gun Club Road I-70 interchange ramp terminals at Tower Road, Picadilly Road, Colfax Avenue, and Gun Club Road 	<p>Baseline Measurement:</p> <p>Annual average, accurate as of the Pre-project Measurement Date</p> <p>Post-construction Performance Measures:</p> <p>Accurate as of</p> <p>June 15, 2026</p> <p>June 15, 2027</p> <p>June 15, 2028</p>	<p>Baseline Measurement:</p> <p>Pre-project Report Date</p> <p>Post-construction Performance Measures:</p> <p>For a period of 3 years, beginning</p> <p>August 15, 2026</p> <p>August 15, 2027</p> <p>August 15, 2028</p>

Measure	Description and Category of Measure	Measurement Period	Reporting Period
Average Daily Traffic (ADT)	<p>Economic Competitiveness</p> <p>The total volume of vehicle traffic on a highway or road segment per day as defined by the project study area.</p> <p>The following roadway segments will be measured:</p> <ul style="list-style-type: none"> • I-70 west of Tower Road • I-70 west of Picadilly Road/Colfax Avenue • Tower Road north of I-70 • Colfax Avenue west of Picadilly Road • Picadilly Road south of Colfax Avenue • Picadilly Road north of Smith Road • Gun Club Road south of I-70 • Gun Club Road north of I-70 	<p>Baseline Measurement:</p> <p>Annual average, accurate as of the Pre-project Measurement Date</p> <p>Post-construction Performance Measures:</p> <p>Accurate as of</p> <p>June 15, 2026</p> <p>June 15, 2027</p> <p>June 15, 2028</p>	<p>Baseline Measurement:</p> <p>Pre-project Report Date</p> <p>Post-construction Performance Measures:</p> <p>For a period of 3 years, beginning</p> <p>August 15, 2026</p> <p>August 15, 2027</p> <p>August 15, 2028</p>
Average Daily Truck Traffic (ADTT)	<p>Economic Competitiveness</p> <p>ADTT measures the total volume of truck traffic per day as defined by the project study area.</p> <p>The following roadway segments will be measured:</p> <ul style="list-style-type: none"> • I-70 west of Tower Road • I-70 west of Picadilly Road/Colfax Avenue • Tower Road north of I-70 	<p>Baseline Measurement:</p> <p>Annual average, accurate as of the Pre-project Measurement Date</p> <p>Post-construction Performance Measures:</p> <p>Accurate as of</p> <p>June 15, 2026</p>	<p>Baseline Measurement:</p> <p>Pre-project Report Date</p> <p>Post-construction Performance Measures:</p> <p>For a period of 3 years, beginning</p> <p>August 15, 2026</p> <p>August 15, 2027</p> <p>August 15, 2028</p>

Measure	Description and Category of Measure	Measurement Period	Reporting Period
	<ul style="list-style-type: none"> • Colfax Avenue west of Picadilly Road • Picadilly Road south of Colfax Avenue • Picadilly Road north of Smith Road • Gun Club Road south of I-70 • Gun Club Road north of I-70 	June 15, 2027 June 15, 2028	

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ATTACHMENT D
MATERIAL CHANGES FROM APPLICATION

Scope:

- **Removal of Signal Construction at Smith Rd and Picadilly.** Signal installation has been coordinated with adjacent development to the North. The adjacent development will be proceeding with construction in coordination with the City and has been removed from the BUILD grant project to better align with the schedule to complete the adjacent development.
- **Addition of scope to reconstruct the eastbound I-70 lanes within the project limits correcting substandard geometry.** This corrects an existing issue with the main-line geometry and provides a significant benefit to the safety of the traveling public. The existing vertical and horizontal curve geometry on eastbound I-70 at the existing E Colfax interchange does not meet design standards for the posted speed limit. This curve is adjacent to long tangent sections and potentially counters driver expectations in the otherwise flat, semi-rural environment. This additional scope was approved by OST by white paper on April 21, 2021.

Schedule:

- **NEPA Clearance date:** The application had the NEPA clearance being completed in January 2020 – actual completion occurred May 22, 2020. The delay is a result of the time it took to obtain collaboration among all agencies on what the most efficient and best alternative for the interchange.
- **Construction substantially completed and project opens to traffic:** The application originally indicated June 2023. This has been revised to be June 15, 2025, approximately three years after the Notice to Proceed (NTP) for construction. The delay in project completion has been brought on by the COVID 19 pandemic which has resulted in increased timelines in multiple aspects of the project implementation, including executing funding agreements with local partners, agency review of documents, ROW procurement, and appropriate approvals. The new projected completion date allows for the necessary flexibility as the project progresses.

Budget:

- Additional \$5,000,000 of State Funds has been added to the Design/Build Contract cost as outlined in Attachment B to fund the reconstruction of the eastbound I-70 lanes added to the scope of the BUILD grant project.

The table below provides a summary comparison of the project budget.

Fund Source	Application		Section 3.3 and Attachment B	
	\$	%	\$	%
Total Project Cost	\$56,600,000	100%	61,600,000	100%

Fund Source	Application		Section 3.3 and Attachment B	
	\$	%	\$	%
Non-BUILD Previously Incurred Cost	0	0	0	0
Federal Funds	0	0	0	0
Non-Federal Funds	\$12,150,000	21%	\$12,150,000	20%
Total Eligible Project Cost	\$44,450,000	79%	\$49,450,000	80%
BUILD Funds	\$25,000,000	45%	\$25,000,000	40%
Other Federal Funds	0	0	0	0
Non-Federal Funds	\$19,450,000	34%	\$24,450,000	40%

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ATTACHMENT E
APPROVED PRE-AWARD COSTS

On September 25, 2020, Colorado Department of Transportation and City of Aurora sent a written request to the FHWA Colorado Division for advance construction (23 U.S.C. 115) and tapered match authorization to incur costs for Right of Way Acquisition and for Preliminary Engineering (in the form of program management and administrative consultant services in support for Design/Build procurement process). The City of Aurora requested to use the non-Federal funds shown in the application for these activities to Right of Way procurement and for Preliminary Engineering. Based on the current project cost estimate, the current amount of non-Federal funds that would be used for costs incurred to complete the Right of Way Acquisition and for Preliminary Engineering insert activity is \$12,150,000.

OST approved Colorado Department of Transportation and City of Aurora's request to allow pre-award costs and tapered match on October 5, 2020. The Division authorized advance construction and tapered match on November 30, 2020.

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RECIPIENT SIGNATURE PAGE

The Recipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

COLORADO DEPARTMENT OF TRANSPORTATION

Date

By: _____
Signature

Steve Harelson, Chief Engineer

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

EXECUTION BY COLORADO OFFICE OF THE STATE CONTROLLER

By signature below, the Recipient acknowledges that it accepts and agrees to be bound by this agreement.

Executed this day ____ of _____, 2021.

Ron Fiet, Esq.
State Purchasing and Contracts Office
Office of State Controller

FIRST-TIER SUBRECIPIENT SIGNATURE PAGE

The First-Tier Subrecipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

THE CITY OF AURORA, COLORADO

Date

By: _____
Signature

Mike Coffman, Mayor

ATTEST:

Date

By: _____
Signature

Kadee Rodriguez, City Clerk

APPROVED AS TO FORM

Date

By: _____
Signature

Michelle Gardner, Assistant City Attorney

USDOT SIGNATURE PAGE

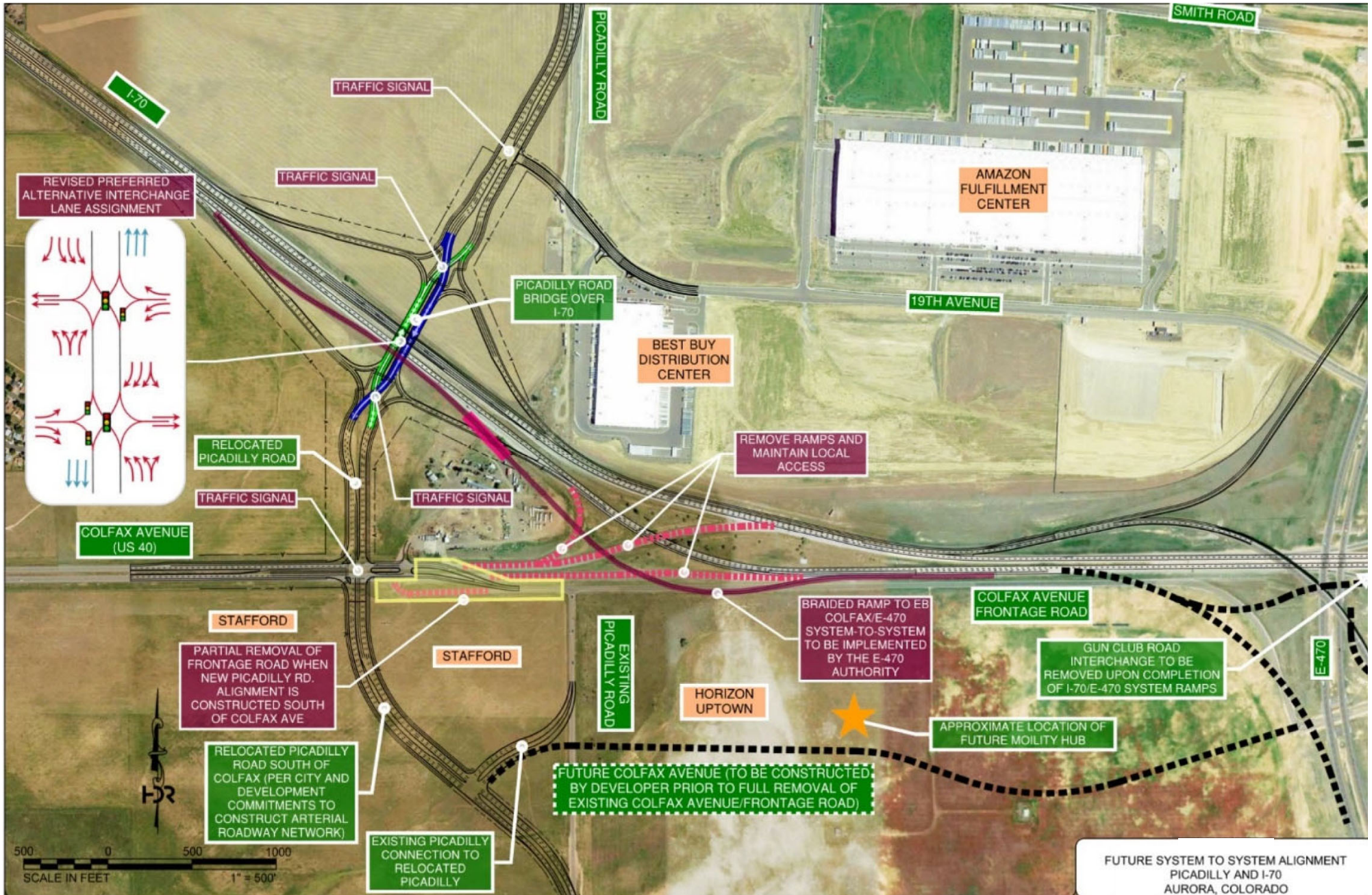
The USDOT, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**

_____ By: _____
Date Signature

John M Cater, PE Colorado Division Administrator

Exhibit A





THE CORE
Integrity
Customer Service
Respect
Professionalism

September 29, 2021

I-70/Picadilly
INTERCHANGE



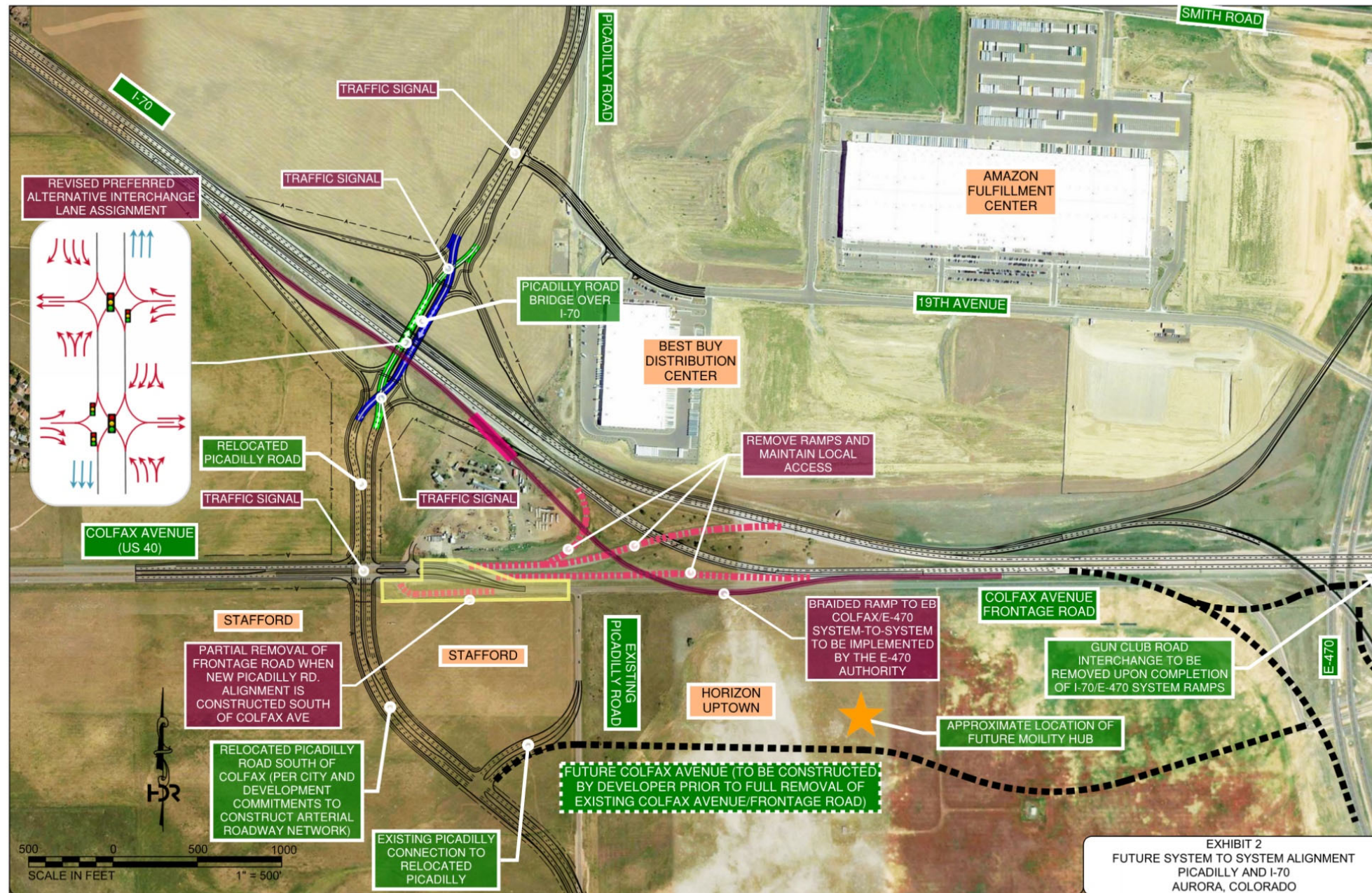
EXECUTIVE PROJECT UPDATE

I-70 / Picadilly Interchange

Project Overview



I-70/Picadilly INTERCHANGE



PROJECT FUNDING



I-70/Picadilly INTERCHANGE

SOURCES

Description	Amount
City of Aurora Contribution	\$ 21,138,379
ARTA Contribution	\$ 19,972,000
Federal (BUILD) Grant	\$ 25,000,000
CDOT Safety Funds	\$ 5,000,000
TOTALS	\$ 71,110,379

USES

Project Phase	TOTAL COST
Construction - TOTAL	\$ 45,069,515
Construction - Grant	\$ 25,000,000
Construction - CDOT	\$ 5,000,000
Construction - Local	\$ 15,069,515
Design, Owner Admin, & Incidentals (Local)	\$ 10,540,864
ROW Acquisition (Local)	\$ 15,000,000
TOTALS	\$ 70,610,379

* Local = COA & ARTA

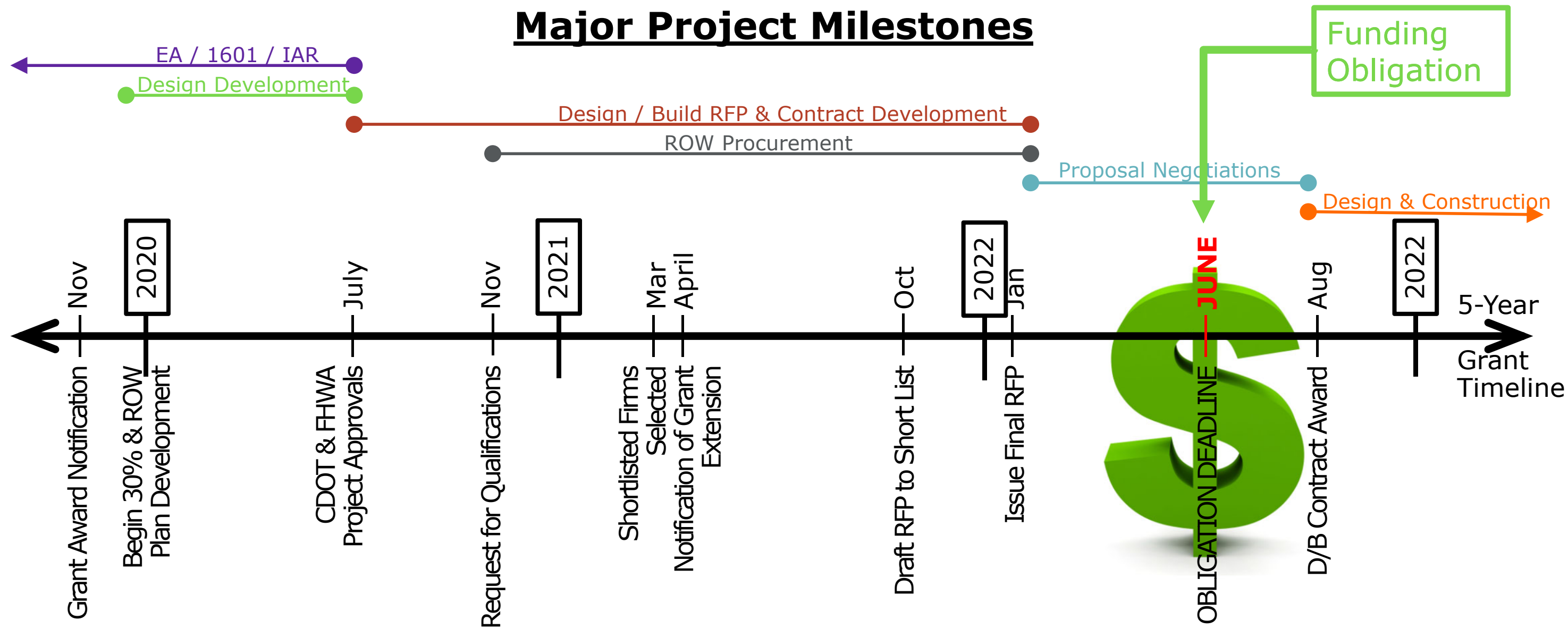
** ROW is projecting to have savings (in upcoming slide)

PROJECT TIMELINE



I-70/Picadilly
INTERCHANGE

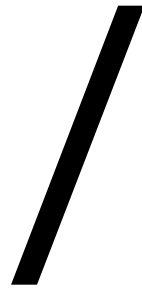
Major Project Milestones



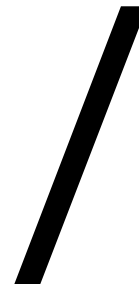
SHORTLISTED TEAMS



**I-70/Picadilly
INTERCHANGE**



RS&H



HORROCKS
ENGINEERS

CURRENT PUSH



I-70/Picadilly
INTERCHANGE

1. Development of RFP & Contract Documents
 - i. Draft in Review Now
 2. Incorporate I-70 Curve Correction
 3. ROW Acquisition
 - i. Offers Out to 5/5 Owners
 4. Approval of Grant Agreement & IGAs
 - i. Project Funding IGA w/ CDOT
 - ii. Grant Agreement w/ USDOT
 - iii. Project Maintenance IGA w/ CDOT
 - iv. Amendment to existing CDOT reimbursement IGA
 - v. E470 IGA
- Project Task
 - Executive Action

Grant Agreement



I-70/Picadilly
INTERCHANGE

1. BUILD Grant agreement between the City of Aurora and USDOT.
2. Establishes the scope of the project
3. Allows the City of Aurora to administer the project
4. Establishes the terms of the BUILD Grant
5. Cost in agreement are represented as proposed in original application

Funding IGA with CDOT



I-70/Picadilly
INTERCHANGE

1. IGA between CDOT and the City of Aurora
2. Passthrough for Federal Funding (BUILD Grant) through CDOT.
3. Includes additional 5 million from CDOT to reconstruct part of I70 adjacent to project to meet current design standards
4. Cost in IGA represent 80/20 minimum grant match

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

September 29, 2021

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member Angela Lawson, Vice Chair, Council Member Allison Hiltz

Others Present: Scott Bauman, Dan Brotzman, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Karen Hancock, Haley Johansen, Matt Kozakowski, Huiliang Liu, Tom McMinimee, Julie Patterson, Lainy Palmer, Mindy Parnes, Victor Rachael, Hector Reynoso, Mark Smith, Elly Watson, Tom Worker-Braddock

Guest: Chris Quinn, Regional Transportation District

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the August 24, 2021 TAPS meeting were approved as written

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.b. Consideration to Approve a Resolution for the Agreement Between the City of Aurora and the United States Department of Transportation (USDOT) Regarding the Better Utilizing Infrastructure to Leverage Development (BUILD) Grant for the I-70 & Picadilly Interchange

4.c. Consideration to Approve a Resolution for the Intergovernmental Agreement between the City of Aurora and the Colorado Department of Transportation regarding the passthrough funding from the USDOT Build Grant for the I70 & Picadilly Project

Summary of Issue and Discussion:

Matt Kozakowski, Transportation Project Delivery Manager, did a presentation covering two agenda items, 4.b. and 4.c. because the items are so intertwined it made sense to keep it as one presentation. Mr. Kozakowski said this is a project that the city staff has been working on for some time. The project really picked up in 2018 when the city started progressing the Environmental Assessment, which is the preliminary phase of a large project such as this. The city also aggressively began pursuing federal grants to fund the project around that time.

Mr. Kozakowski began with a quick refresher of the project and an overview as far as what has been done up to this point. This project will realign Picadilly, which currently travels north-south down the section line and realigns Picadilly to the west of its current location. The re-alignment will create a new interchange with I-70. In addition to that, the project will remove the existing Colfax interchange, which is not a full movement interchange. It is only a three-quarter movement. This will provide a fully functioning interchange, to benefit the developing region. The project will also create a new connection into 19th Avenue on the north side of the project, as well as update the intersection at Colfax. The project will also re-terminate Colfax east of intersection onto the frontage road where we are removing the Colfax Interchange. The design for the new interchange 577

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

is a diverging diamond. It is a relatively new concept, but it is quickly being adopted all around the country. Mr. Kozakowski mentioned in his presentation graphic that the crossing over I-70 has blue and the green highlights to show how the traffic crosses over the opposite side of the road over the bridge. What that does is reduces conflict points. It also improves safety as well as traffic efficiency by the reduction of those conflict points. A similar interchange is on US 36 separate McCaslin Boulevard. One other note is this project terminates on its southern boundary at Colfax, but the graphics depict additional work south of Colfax in the exhibits. Improvements south of Colfax will be completed by the Stafford development. The Stafford construction plans are approved and moving forward for the realignment of Picadilly south of the project. Even though the project is not performing the realignment, it should be in place right around the same time (if not before) the project comes online. One final project scope item, which came up late in the project development, is that the Colorado Department of Transportation (CDOT) requested the project correct some non-standard geometry on a curve of the eastbound lanes immediately east of the project. It is a major safety concern as there have been some bad accidents there. CDOT have contributed funds to the project for this scope.

Mr. Kozakowski presented the project funding overview. The funding was presented in two tables, Sources and Uses. The Sources table showed where the funds are currently allocated for this project and the entities contributing them. The breakdown is approximately \$21 million from the City of Aurora, \$20 million from Aerotropolis Regional Transportation Authority (ARTA), \$25 million for the Better Utilizing Investments to Leverage Development (BUILD) Federal Grant, \$5 million and CDOT safety funds. The Uses table demonstrated that the state and federal contributions are both being utilized during construction. One other note in the Uses table is the City of Aurora and the ARTA funds are designated as Local and are co-mingled as part of the grant application. Mr. Kozakowski said he tried to use the same terminology that is in the grant agreement. The agreement refers to those funds as Local.

Mr. Kozakowski then presented the project timeline in his presentation. The timeline started in November 2019, when the grant was awarded. Beginning prior to that award was the Environmental Assessment, as well as the 1601 approval by CDOT and the Federal Highways Association Interstate Access Request process. In November 2019 the project began to speed up with the commencement of design development and the right of way procurement as well as finalizing the solicitation documents for the design build project delivery. Three highly qualified firms have been shortlisted to participate in the bid process. A Draft Request for Proposal (RFP) will be issued for the industry review next month. The Final RFP to the shortlisted contractors is scheduled for release in January 2022, with the projected fully executed award to the selected contractor in August 2022. One important thing to note in the timeline on the presentation is the big green dollar sign in June of 2022. It represents the obligation deadline for the federal grant funds. It also starts the five-year project timeline of the grant. Substantial completion of the project is estimated in a three-year timeframe, and the City will use the whole five-year timeline as an ability to defer some landscape maintenance, and landscape establishment to make sure we utilize the timeline and grant funds as much as possible.

Mr. Kozakowski said that there are three design build teams shortlisted. Because this is a design build contract, the selected team will be performing the design to the performance specs that are now being prepared as part of the RFP, as well as constructing it. Each team has a contractor and a civil design firm. There were six proposals and three excellent proposals were selected. These firms represented both local and national talent.

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

The next slide in the presentation outlined the current push to develop the contract documents, integrating the CDOT scope that was requested, and the acquisition of property interests. Offers proposed to five of five property owners. There are five Intergovernmental Agreements (IGA) required to execute the project, and two of those are for discussion at this meeting.

Mr. Kozakowski went over the Project Funding IGA with CDOT and Grant Agreement with United States Department of Transportation (USDOT). The BUILD grant agreement between the City of Aurora and USDOT establishes the scope of the project, allows the City of Aurora to administer the project, and establishes the terms of the BUILD grant as far as the timeline and milestone requirements. One thing brought to attention is that the cost in the grant agreement is reflective as it was proposed in the original application, which was submitted two years ago. There have been some substantial cost escalations for the Right-of-Way and construction, as well as engineering. As far as the USDOT is concerned, this project is already at the maximum grant award available, therefore any project overage is the responsibility of the local entity, which is the City of Aurora and ARTA. The USDOT preferred that we keep the grant agreement simple and write the agreement only obligating the city for the funds that were committed to in the application. In the commentary packet for this meeting there is a simple table that compared side by side numbers as are in the application, versus the numbers as they are currently budgeted by the four entities that are providing funding sources for this project (on page 36 of the PDF).

Mr. Kozakowski then went over the second agreement for consideration, the funding IGA with CDOT. This agreement is a bit more boilerplate, and it looks familiar because it has been seen in the past in conjunction with Denver Regional Council of Governments (DRCOG) grants. Standard practice is for CDOT to administer federal funds on behalf of a local entity. This is referred to as pass-through funding and is like what is done on the DRCOG grants. Because the city is not setup to do business directly with USDOT, we are processing a similar pass-through funding IGA for this project. This particular agreement is a little different as it also includes the additional 5 million dollars of funding from CDOT and defines exactly what the 5 million is going to be used for in the project. Also, like the DRCOG grants and the IGA that was previously talked about, the funding outlined in the agreement does not exactly match the total funding for the project. That is because CDOT is only required to track an 80/20 match ratio. The numbers identified in the IGA represent the 25 million federal funding, 20% match from the local entity and 5 million dollars from CDOT with no match requirement. A table that shows the side by side breakout is in the commentary packet (page 69 of the PDF).

Outcome: The committee approved moving this topic to Study Session

Follow-up Action: This item will move to Study Session



CITY OF AURORA

Council Agenda Commentary

Item Title: Colorado Opioids Settlement Memorandum Of Understanding
Item Initiator: Kerstin Claspell, Lead Financial Analyst
Staff Source/Legal Source: Kerstin Claspell, Lead Financial Analyst; Kendall Koca, Manager of Special Projects/Isabelle Evans, Litigation Manager
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: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

A RESOLUTION BY THE CITY COUNCIL OF AURORA, COLORADO, TO APPROVE THE COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING.

Staff source: Kerstin Claspell, Lead Financial Analyst; Kendall Koca, Manager of Special Projects

Legal source: Isabelle Evans, Litigation Manager

Estimated presentation/discussion time: 10/10

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)

Council has been updated on the progress of the ongoing opioid litigation in executive sessions and through memorandums.

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

The City of Aurora has participated in active litigation in cooperation with multiple other local government entities, collectively known as the Colorado Coalition, to address the ongoing opioid epidemic. The Colorado Coalition has engaged in negotiations with the Colorado Attorney General to reach an agreement for how any settlement funds would be distributed in the State of Colorado. Per the Colorado Opioids Memorandum of Understanding, opioid funds will be distributed as follows:

- 10% directly to the state
- 20% directly to participating local governments
- 60% directly to regions
- 10% to specific abatement infrastructure projects

The attached resolution will approve the Colorado Opioids Memorandum of Understanding and authorize the execution of this agreement.

QUESTIONS FOR COUNCIL

Does Council wish to send this resolution forward for formal approval?

LEGAL COMMENTS

The state and its political subdivisions may contract with one another to provide any function, service, or facility lawfully authorized to each of the contracting units. (Colo. Const. Art. XIV, Section 18 and C.R.S. Sec. 29-1-203 and City Charter Sec. 10-12) (Evans)

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: This resolution will allow the City of Aurora to receive funding from opioid settlements.

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

**COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING
("MOU")**

Thursday, August 26, 2021

August 25, 2021 Attorney General version

A. Definitions

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming, and services to abate the opioid epidemic as identified by the terms of any Settlement. If a Settlement is silent on Approved Purpose(s), then Approved Purpose(s) shall mean those forward-looking strategies to abate the opioid epidemic identified in **Exhibit A** or any supplemental forward-looking abatement strategies added to **Exhibit A** by the Abatement Council. Consistent with the terms of any Settlement, "Approved Purposes" shall also include the reasonable administrative costs associated with overseeing and administering Opioid Funds from each of the four (4) Shares described in Section (B)(2). Reimbursement by the State or Local Governments for past expenses are not Approved Purpose(s). "Approved Purposes" shall include attorneys' fees and expenses incurred in the course of the opioid litigation that are paid through the process discussed below.
2. "County Area" shall mean a county in the State of Colorado plus the Local Governments, or portion of any Local Government, within that county.
3. "Effective Date" shall mean the date on which a court of competent jurisdiction, including any bankruptcy court, enters the first Settlement by order or consent decree. The Parties anticipate that more than one Settlement will be administered according to the terms of this MOU, but that the first entered Settlement will trigger the formation of the Abatement Council in Section (C) and the Regional Councils in Section (F)(5).¹
4. "General Abatement Fund Council," or "Abatement Council," shall have the meaning described in Section (C), below.

¹ For the avoidance of doubt, the McKinsey Settlement and any other Settlement that precedes the finalization of drafting this MOU are not considered a trigger for purposes of the calculation of "Effective Date."

5. “Local Government(s)” shall mean all counties in the State of Colorado and the municipalities, towns, and county and city municipal corporations that are listed in **Exhibit B**.
6. “National Opioid Settlement Administrative Fund” shall mean any fund identified by a Settlement for the national distribution of Opioid Funds.
7. “Opioid Funds” shall mean damage awards obtained through a Settlement.
8. “Opioid Settling Defendant” shall mean any person or entity, or its affiliates, that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of licit opioids.
9. “Participating Local Government(s)” shall mean all Local Governments that sign this MOU, and if required under terms of a particular Settlement, who have executed a release of claims with the Opioid Settlement Defendant(s). For the avoidance of doubt, a Local Government must sign this MOU to become a “Participating Local Government.” Local Governments may designate the appropriate individual from their entity to sign the MOU.
10. “Party” or “Parties” shall mean the State and/or Participating Local Government(s).
11. “Qualified Settlement Fund Account,” or “QSF Account,” shall mean an account set up as a qualified settlement fund, 468b fund, as authorized by Treasury Regulations 1.468B-1(c) (26 CFR §1.468B-1).
12. “Regional Council” shall have the meaning described in Section (F)(5), below.
13. “Settlement” shall mean the negotiated resolution of legal or equitable claims against an Opioid Settling Defendant when that resolution has been jointly entered into by the State and the Participating Local Governments, or by any individual Party or collection of Parties that opt to subject their Settlement to this MOU. Unless otherwise directed by an order from a United States Bankruptcy Court, “Settlement” shall also include distributions from any liquidation under Chapter 7 of the United States Bankruptcy Code or confirmed plan under Chapter 11 of the United States Bankruptcy Code that treats the claims of the State and Local Governments against an Opioid Settling Defendant.
14. “The State” shall mean the State of Colorado acting through its Attorney General and the Colorado Department of Law.

B. Allocation of Settlement Proceeds

1. All Opioid Funds shall be held in accordance with the terms of any Settlement. If a Settlement allows Opioid Funds to be held in a National Opioid Settlement Administrative Fund, then Opioid Funds shall be held in such National Opioid Settlement Administrative Fund. If a Settlement does not allow for Opioid Funds

to be held in a National Opioid Settlement Administrative Fund, Opioid Funds shall be held in a Colorado-specific QSF Account or, under the following limited circumstances, in the State's Custodial Account: 1) if at the time of a Settlement, a Colorado-specific QSF Account is not yet established, although in such case, the Opioid Funds shall be transferred to the Colorado-specific QSF Account once it is established or 2) where the Abatement Fund Council determines Opioids Funds cannot be legally held in a Colorado-specific QSF Account. Regardless of whether Opioid Funds are held in a National Administrative Fund, a Colorado-specific QSF Account, or in the State's Custodial Account, the Abatement Council shall appoint one of its members to serve as the point of contact in accordance Section (C)(4)(b)(i), below.

2. All Opioid Funds, at the time of a Settlement or at the time designated in the Settlement documents, shall be divided and distributed as follows:²
 - a. **10%** directly to the State ("State Share") for Approved Purposes in accordance with Section (D), below;
 - b. **20%** directly to Participating Local Governments ("LG Share") for Approved Purposes in accordance with Section (E), below;
 - c. **60%** directly to Regions ("Regional Share") for Approved Purposes in accordance with Section (F), below; and
 - d. **10%** to specific abatement infrastructure projects ("Statewide Infrastructure Share") for Approved Purposes in accordance with Section (G), below.
3. Distribution of the Shares in Section B(2)(a) – (d) shall be direct, meaning that funds held in accordance with Section B(1) shall be disbursed directly to the State, Participating Local Governments, Regions, and the Statewide Infrastructure Share according to the terms of this MOU.
4. All Opioid Funds, regardless of allocation, shall be used for Approved Purposes.
5. Participating Local Governments may elect to share, pool, or collaborate with their respective allocation of the LG or Regional Shares in any manner they choose, so long as such sharing, pooling, or collaboration is used for Approved Purposes and complies with the terms of this MOU and any Settlement.

C. General Abatement Fund Council

1. A General Abatement Fund Council (the "Abatement Council"), consisting of representatives appointed by the State and Participating Local Governments, shall

² This MOU treats multi-county health departments as county health departments for purposes of allocation and distribution of abatement proceeds and therefore multi-county health departments shall not receive any Opioid Funds directly. Third-Party Payors ("TPPs") are not Parties to this MOU.

be created to ensure the distribution of Opioid Funds complies with the terms of any Settlement and to provide oversight of the Opioid Funds in accordance with the terms of this MOU.

2. **Membership:** The Abatement Council shall consist of the following thirteen (13) members, who shall serve in their official capacity only.

a. **State Members:** Seven (7) members shall be appointed by the State, as authorized volunteers of the State, as follows:

- (i) A Chair to serve as a non-voting member, except in the event of a tie;
- (ii) Two (2) members who are licensed professionals with significant experience in substance use disorders;
- (iii) Three (3) members who are professionals with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or government administration related to substance use disorders; and
- (iv) One (1) member or family member affected directly by the opioid crisis.

b. **Local Government Members:** Six (6) members shall be appointed by the Participating Local Governments. Local Government Members shall be a County Commissioner, Mayor, City or Town Council Member, or a professional with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or governmental administration related to substance use disorders. A Participating Local Government may determine which Local Government Members are eligible (or ineligible) to serve on the General Abatement Fund Council. County Commissioners, City or Town Council Members, and/or Mayors from the Regions identified in **Exhibit C** shall collaborate to appoint Local Government Members as follows:

- (i) Two (2) Members from Regions 1, 5, 13, 14, 15, 17, 18;
- (ii) Two (2) Members from Regions 2, 6, 7, 8, 9, 10, 11, 12, 16; and
- (iii) Two (2) Members from Regions 3, 4, 19.

c. **Terms:** The Abatement Council shall be established within ninety (90) days of the Effective Date. In order to do so, within sixty (60) days of the Effective Date, the State shall appoint the State Members in accordance with Section (C)(2)(a), and after conferral with the Local Governments, CCI and CML shall jointly appoint six (6) Local Government Members for an initial term not to exceed one year. Thereafter, Members shall be

appointed in accordance with this Section and Sections (C)(2)(a) and (b) and may serve no more than two (2) consecutive two-year terms, for a total of four (4) consecutive years. Except that, beginning in the second year only, two (2) State Members and two (2) Local Government members shall be appointed for a three-year term and may serve one consecutive two-year term thereafter. The Chair shall have no term but may be replaced at the State's discretion.

- (i) If a State or Local Government Member resigns or is otherwise removed from the Abatement Council prior to the expiration of their term, a replacement Member shall be appointed within sixty (60) days in accordance with Sections (C)(2)(a) and (b).
- (ii) If a Local Government Member vacancy exists for more than sixty (60) days, the State shall appoint a replacement Local Government Member to serve until the vacancy is filled in accordance with Section (C)(2)(b).

3. **Duties:** The Abatement Council is primarily responsible for ensuring that the distribution of Opioid Funds complies with the terms of this MOU. The Abatement Council is also responsible for oversight of Opioid Funds from the Regional Share in accordance with Section (F), below, and for developing processes and procedures for the distribution and oversight of Opioid Funds from the Statewide Infrastructure Share in accordance with Section (G) below.

4. **Governance:** The Abatement Council shall draft its own bylaws or other governing documents, which must include appropriate conflict of interest and dispute resolution provisions, in accordance with the terms of this MOU and the following principles:

- a. **Authority:** The Abatement Council does not have rulemaking authority. The terms of this MOU and any Settlement, as entered by any court of competent jurisdiction, including any bankruptcy court, control the authority of the Abatement Council and the Abatement Council shall not stray outside the bounds of the authority and power vested by this MOU and any Settlement.
- b. **Administration:** The Abatement Council shall be responsible for an accounting of all Opioid Funds. The Abatement Council shall be responsible for releasing Opioid Funds in accordance with Section (B)(1) for the Regional and Statewide Infrastructure Shares in Sections (B)(2)(c) and (d) and shall develop policies and procedures for the release and oversight of such funds in accordance with Sections (F) and (G). Should the Abatement Council require assistance with providing an accounting of Opioid Funds, it may seek assistance from the State.

- (i) The Abatement Council shall appoint one of its members to serve as a point of contact for the purpose of communicating with the entity holding Opioid Funds in accordance with Section (B)(1) and in that role shall only act as directed by the Abatement Council.
- c. **Transparency:** The Abatement Council shall operate with all reasonable transparency and operate in a manner consistent with all Colorado laws relating to open records and meetings regardless of whether the Abatement Council is otherwise obligated to comply with them.
 - (i) The Abatement Council shall develop a centralized public dashboard or other repository for the publication of expenditure data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G).
 - (ii) The Abatement Council may also require outcome related data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G) and may publish such outcome related data in the centralized public dashboard or other repository described above. In determining which outcome related data may be required, the Abatement Council shall work with all Parties and Regional Councils to identify appropriate data sets and develop reasonable procedures for collecting such data sets so that the administrative burden does not outweigh the benefit of producing such outcome related data.
 - (iii) For purposes of funding the centralized public dashboard or other repository described above, the Abatement Council shall make good faith efforts to seek funding from outside sources first, otherwise the State shall provide such funding.
- d. **Collaboration:** The Abatement Council shall facilitate collaboration between the State, Participating Local Governments, Regional Councils, and other stakeholders for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.
- e. **Decision Making:** The Abatement Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, unless otherwise required in this MOU, the Abatement Council shall make decisions by a majority vote of its Members. The Chair shall only vote in the event of a tie.
- f. **Due Process:** The Abatement Council shall develop the due process procedures required by Section (G)(3)(d) for Parties to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council

shall also abide by the due process principles required by Section (F)(12)-(13) for Regions to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Regional Share.

- g. **Legal Status:** The Abatement Council shall not constitute a separate legal entity.
- h. **Legal Representation:** To the extent permitted by law, the State shall provide legal counsel to State Members for all legal issues arising from those State Members' work on the Abatement Council. At all times, Local Government Members of the Abatement Council are entitled to receive legal representation from their respective governmental entities. In the event of a conflict, the Abatement Council and its members may retain the services of other legal counsel.
- i. **Compensation:** No member of the Abatement Council shall be compensated for their work related to the Abatement Council.

D. State Share

- 1. In accordance with Sections (B)(1) and (B)(2)(a), and the terms of any Settlement, the State Share shall be paid directly to the State in accordance with the terms of this Section (D).
- 2. The State maintains full discretion over distribution of the State Share anywhere within the State of Colorado, however, the State Share shall be used for Approved Purposes only. The State will work to reduce administrative costs as much as practicable.
- 3. On an annual basis, as determined by the Abatement Council, the State shall provide all expenditure data, including administrative costs, from the State Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require the State to provide additional outcome-related data in accordance with Section (C)(4)(c)(ii) and the State shall comply with such requirements.
- 4. If the State disputes the amount of Opioid Funds it receives from the State Share, the State shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the State's right to seek recoupment of any deficiency in its State Share.

E. LG Share

- 1. In accordance with Sections (B)(1) and (B)(2)(b), and the terms of any Settlement, the LG Share shall be paid directly to Participating Local Governments in accordance with the terms of this Section (E).

2. Allocations to Participating Local Governments from the LG Share shall first be determined using the percentages shown in **Exhibit D**.
3. The LG Share for each County Area shall then be allocated among the county and the other Participating Local Governments within it. **Exhibit E** reflects the default allocation that will apply unless the Participating Local Governments within a County Area enter into a written agreement providing for a different allocation. The Participating Local Governments may elect to modify the allocation for a County Area in **Exhibit E**, but such modification to the allocation in **Exhibit E** shall not change a County Area's total allocation under Section (E)(2).
4. A Local Government that chooses not to become a Participating Local Government will not receive a direct allocation from the LG Share. The portion of the LG Share that would have been allocated to a Local Government that is not a Participating Local Government will instead be re-allocated to the Regional Share for the Region where the Local Government is located, in accordance with Section (F), below.
5. In the event a Participating Local Government dissolves or ceases to exist during the term of any Settlement, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Regional Share for the Region in which the Participating Local Government was located, in accordance with Section (F). If a Participating Local Government merges with another Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the successor Participating Local Government's allocation of the LG Share. If a Participating Local Government merges with a Local Government that is not a Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Region in which the merging Participating Local Government was located, in accordance with Section (F), below.
6. A Participating Local Government may forego its allocation of the LG Share and direct its allocation to the Regional Share for the Region where the Participating Local Government is located, in accordance with Section (F) below, by affirmatively notifying the Abatement Council on an annual basis of its decision to forego its allocation of the LG Share. A Participating Local Government's election to forego its allocation of the LG Share shall carry over to the following year unless the Participating Local Government notifies the Abatement Council otherwise. If a Participating Local Government elects to forego its allocation of the LG Share, the Participating Local Government shall be excused from the reporting requirements required by Section (E)(8).
7. Participating Local Governments maintain full discretion over the distribution of their allocation of the LG Share anywhere within the State of Colorado, however,

all Participating Local Governments shall use their allocation from the LG Share for Approved Purposes only. Reasonable administrative costs for a Participating Local Government to administer its allocation of the LG Share shall not exceed actual costs or 10% of the Participating Local Government's allocation of the LG Share, whichever is less.

8. On an annual basis, as determined by the Abatement Council, all Participating Local Governments shall provide all expenditure data, including administrative costs, from their allocation of the LG Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require Participating Local Governments to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and all Participating Local Governments shall comply with such requirements.
9. If any Participating Local Government disputes the amount of Opioid Funds it receives from its allocation of the LG Share, the Participating Local Government shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Participating Local Government's right to seek recoupment of any deficiency in its LG Share.

F. Regional Share

1. In accordance with Sections (B)(1) and (B)(2)(c), and the terms of any Settlement, the Regional Share shall be paid to the Regions in accordance with the terms of this Section (F).
2. Participating Local Governments shall organize themselves into the Regions depicted in **Exhibit C**. Municipalities located in multiple Regions may join all or some of the Regions in which they are located according to **Exhibit C**.
3. Allocations to Regions will be distributed according to **Exhibit F**. For multi-county Regions, each Region's share listed in **Exhibit F** is calculated by summing the individual percentage shares listed in **Exhibit D** for the counties within that Region. The percentages in **Exhibit F** are based on the assumption that every Local Government in each Region becomes a Participating Local Government.
4. In the event a city, town, or other municipality that is a Participating Local Government merges, dissolves, or ceases to exist during the term of any Settlement, the allocation of the Regional Share owed to the Region in which that Participating Local Government existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with another county within its Region, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with a county in a different Region during the term of

any Settlement, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the Region in which that Participating Local Government merged in accordance with **Exhibit F**.

5. Each Region must create its own Regional Council while giving consideration to the regional governance models illustrated in **Exhibit G**. The Regional Council must be formed by the Participating Local Governments within the Region and each Regional Council shall designate a fiscal agent for the Region. Regional fiscal agents shall be county or municipal governments only. All funds from the Regional Share shall be distributed to the Regional Council's identified fiscal agent for the benefit of the entire Region.
 - a. Subject to this Section F(5), each Region may draft its own intra-regional agreements, bylaws, or other governing documents to determine how the Regional Council will operate. However, each voting member of a Regional Council shall be an employee or elected official of a Participating Local Government within the applicable Region. In the case of Denver, the voting members of its Regional Council shall be appointed by the Mayor. In the case of Broomfield, the voting members of its Regional Council shall be appointed by the Broomfield City and County Manager.
 - b. The Region shall not receive any Opioid Funds from the Regional Share until the Region certifies to the Abatement Council that its Regional Council has been formed and a fiscal agent has been designated. Such certification shall be in a simple form adopted by the Region and may be made via email, so long as it includes the names and affiliations of the Regional Council's members and the designated fiscal agent.
 - c. If a Region does not form and certify its Regional Council and designate its fiscal agent within one-hundred and eighty (180) days of the Effective Date, the Abatement Council shall appoint members to the Region's Regional Council. Regional Council members appointed by the Abatement Council shall serve until the Region certifies the formation of its Regional Council to the Abatement Council.
 - d. A Region shall submit a renewed certification required by Section (F)(5)(b), above, when its membership changes.
 - e. If a membership vacancy exists on a Regional Council for more than ninety (90) days and the Regional Council is unable to fill the vacancy by its regular procedures during that time, the Abatement Council shall appoint a replacement member to serve until the Region fills the vacancy.

6. A Local Government that chooses not to become a Participating Local Government shall not receive any Opioid Funds from the Regional Share or participate in the Regional Councils described in Section (F)(5) above.
7. Each Regional Council shall make requests to the Abatement Council for Opioid Funds from their allocation of the Regional Share. Each Regional Council's request for Opioid Funds from the Regional Share shall be accompanied by a 2-year plan identifying the Approved Purposes for which the requested funds will be used by the Region anywhere within the State of Colorado. A Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of this MOU and any Settlement. Any Regional Council may seek assistance from the Abatement Council for purposes of developing its 2-year plan.
8. Reasonable administrative costs for a Regional Council to administer its Region's allocation of the Regional Share shall not exceed actual costs or 10% of the Region's allocation of the Regional Share, whichever is less.
9. The Abatement Council shall release funds requested by a Regional Council in accordance with Section (B)(1) if the Regional Council's 2-year plan complies with the Approved Purposes, the terms of this MOU, and the terms of any Settlement. The Abatement Council shall not deny any funding request from a Regional Council on the basis that the Abatement Council does not approve or agree with the Approved Purposes for which a Regional Council requests Opioid Funds from the Regional Share. Nor may the Abatement Council hold up, delay, or make unreasonable requests for additional or supporting information of the Regional Council prior to releasing the requested Opioid Funds. The purpose of this MOU is to facilitate Opioid Funds to their intended recipients quickly and efficiently with minimal administrative procedure.
10. On an annual basis, as determined by the Abatement Council, each Regional Council's fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data, including administrative costs, from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan. The Regional Council shall subject itself to an accounting at the Abatement Council's discretion.
 - a. The Abatement Council shall review a Regional Council's expenditure data and certification to ensure compliance with the Regional Council's 2-year plan, the Approved Purposes, and the terms of this MOU and any Settlement.
 - b. The Abatement Council shall publish the Regional Council's expenditure data, including administrative costs, from the Regional Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require Regional Councils to provide additional outcome related data in

accordance with Section (C)(4)(c)(ii) and all Regional Councils shall comply with such requirements.

11. If any Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
12. If the Abatement Council has reason to believe a Region's expenditure of its allocation of the Regional Share did not comply with the Region's 2-year Plan, the Approved Purposes, the terms of this MOU or any Settlement, as described in this Section (F), or that the Region otherwise misused its allocation of the Regional Share, the Abatement Council may take remedial action against the alleged offending Region. Such remedial action is left to the discretion of the Abatement Council and may include but not be limited to, withholding future Opioids Funds owed to the offending Region or requiring the offending Region to reimburse improperly expended Opioid Funds to the Regional Share.
13. Within one hundred and twenty (120) days of the Abatement Council being formed, in accordance with Section (C)(2)(c) above, the Abatement Council shall develop and publish due process procedures for allowing a Region to challenge or dispute any remedial action taken by the Abatement Council, including timelines during which the Region may engage in such a challenge or dispute. Such due process procedures shall reflect, at a minimum, the following principles:
 - a. Upon learning of any conduct that may warrant remedial action against a Region, the Abatement Council shall first provide notice to the Region of the conduct at issue, provide the Region an opportunity to respond, and, if appropriate, cure the alleged offending conduct. If after providing the Region such notice and opportunities to respond and cure, the Abatement Council continues to believe remedial action is warranted, the Abatement Council may take such remedial action.
 - b. If the Abatement Council decides to take remedial action against an alleged offending Region, such action may only occur by a two-thirds supermajority vote of the Abatement Council. Thus, an Abatement Council made up of twelve (12) voting members requires a vote of eight (8) Members prior to taking remedial action against an alleged offending Region.
 - c. Prior to taking any remedial action against an alleged offending Region, the Abatement Council shall first provide notice to the alleged offending Region of the remedial action to be taken and the facts underlying such remedial action. The Abatement Council shall then provide the alleged

offending Region an opportunity to challenge or dispute the remedial action in accordance with, at a minimum, the principles below:

- i. The alleged offending Region may request revisions or modifications to the proposed remedial action;
 - ii. The alleged offending Region may submit a written response to and/or request a hearing before the Abatement Council, or a third-party hearing officer,³ regarding the alleged offending conduct and proposed remedial action; and
 - iii. After such written responses are submitted and reviewed and/or a hearing is conducted, the alleged offending Region may submit an appeal to the Abatement Council of the decision to take remedial action.
- d. Remedial actions taken by the Abatement Council, in accordance with the due process principles detailed above, shall be considered final non-appealable orders and offending Regions may not seek judicial relief from remedial action taken by the Abatement Council, except as provided in Section (H), below.
- e. Subject to Section (H)(2), below, if any Party(ies) believes the Abatement Council violated the terms of this MOU, such Party(ies) may seek to enforce the terms of this MOU.

14. If the Abatement Council has reason to believe a Region's conduct, or the conduct of any Participating Local Government or individual in that Region, amounts to a violation of any criminal law, the Abatement Council shall refer such matters to the appropriate authorities and may consider such conduct in its determination of any remedial action to be taken.

15. If the Abatement Council has reason to believe that an individual involved in the receipt or administration of Opioid Funds from the Regional Share has violated any applicable ethics rules or codes, the Abatement Council shall not attempt to adjudicate such a violation. In such instances, the Abatement Council shall lodge a complaint with the appropriate forum for handling such ethical matters, such as a local home rule municipality's ethics board.

16. Costs associated with the Abatement Council's distribution and oversight of the Regional Share, as described above in this Section (F), including costs associated with any remedial action by the Abatement Council, shall be paid from the Statewide

³ Only an alleged offending Region may request the appointment of a third-party hearing officer to review any written responses and conduct any requested hearings. If an alleged offending Region makes such a request, the Abatement Council has sole discretion to appoint the third-party hearing officer and the alleged offending Region shall bear the cost of such review and/or hearing by the third-party hearing officer.

Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

G. Statewide Infrastructure Share

1. In accordance with Sections B(1) and (B)(2)(d), and the terms of any Settlement, the Statewide Infrastructure Share shall be paid to any Party or Regional Council in accordance with this Section (G).
2. The purpose of the Statewide Infrastructure Share is to promote capital improvements and provide operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis anywhere within the State of Colorado. The Statewide Infrastructure Share is intended to supplement Opioid Funds received by any Party or Region.
3. Prior to distributing any Opioid Funds from the Statewide Infrastructure Share, the Abatement Council shall establish and publish policies and procedures for the distribution and oversight of the Statewide Infrastructure Share, including processes for Parties or Regions to apply for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council's policies and procedures shall, at a minimum, reflect the following principles:
 - a. Opioid Funds from the Statewide Infrastructure Share shall be used for Approved Purposes only;
 - b. Opioid Funds from the Statewide Infrastructure Share shall be paid directly to the appropriate state agencies (including but not limited to the Colorado Department of Law), Regional fiscal agents, or Participating Local Governments only;
 - c. Distribution and oversight of the Statewide Infrastructure Share shall comply with the terms of this MOU and any Settlement;
 - d. Appropriate processes for remedial action will be taken against Parties or Regions that misuse Opioid Funds from the Statewide Infrastructure Share. Such processes shall include procedures for alleged offending Parties or Regions to challenge or dispute such remedial action; and
 - e. Limitations on administrative costs to be expended by recipients for administering Opioid Funds received from the Statewide Infrastructure Fund, not to exceed actual costs expended by the recipient or 10% of the amount received, whichever is less.
4. The distribution and oversight policies and procedures developed by the Abatement Council, in accordance with Section (G)(3), shall be non-appealable orders and no Party or Region may seek judicial relief related to the distribution and oversight of the Statewide Infrastructure Share.

5. On an annual basis, as determined by the Abatement Council, any Party or Regional Council that receives funds from the Statewide Infrastructure Share shall provide all expenditure data, including administrative costs, related to any Opioid Funds it received from the Statewide Infrastructure Share and subject itself to an accounting as required by the Abatement Council. The Abatement Council shall publish all expenditure data from the Statewide Infrastructure Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require the Parties or Regional Councils that receive funds from the Statewide Infrastructure Share to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and the Parties or Regional Councils shall comply with such requirements.
6. Costs associated with the Abatement Council's distribution and oversight of the Statewide Infrastructure Share, as described in this Section (G), shall be paid for from the Statewide Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

H. General Terms

1. All Parties and Regional Councils shall maintain all records related to the receipt and expenditure of Opioid Funds for no less than five (5) years and shall make such records available for review by the Abatement Council, any other Party or Regional Council, or the public. Records requested by the public shall be produced in accordance with Colorado's open records laws. Records requested by the Abatement Council or another Party or a Regional Council shall be produced within twenty-one (21) days of the date the record request was received. This requirement does not supplant any Party or Regional Council's obligations under Colorado's open records laws.
2. If any Party(ies) believes the Abatement Council has violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU, provided the alleging Party(ies) first provides notice to the Abatement Council of the alleged violation and a reasonable opportunity to cure the alleged violation. In such an enforcement action, the alleging Party(ies) may only seek to enforce the terms of the MOU against the State and the Participating Local Governments from which the Local Government Members of the Abatement Council were appointed and may only seek declaratory and/or injunctive relief. In defense of such an enforcement action, the State's Members of the Abatement Council shall be represented by the State and the Local Government Members shall be represented by the Participating Local Governments from which the Local Government Members were appointed. In the event of a conflict, the Abatement Council and its Members may seek outside representation to defend itself against such an enforcement action.
3. If any Party(ies) believes another Party(ies), not including the Abatement Council, violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU in the court in which any applicable Settlement(s) was entered, provided the alleging Party(ies) first provide the alleged offending Party(ies)

notice of the alleged violation(s) and a reasonable opportunity to cure the alleged violation(s). In such an enforcement action, any alleging Party or alleged offending Party(ies) may be represented by their respective public entity in accordance with Colorado law.

4. Nothing in this MOU shall be interpreted to waive the right of any Party to seek judicial relief for conduct occurring outside the scope of this MOU that violates any Colorado law. In such an action, the alleged offending Party(ies), including the Abatement Council, may be represented by their respective public entities in accordance with Colorado law. In the event of a conflict, any Party, including the Abatement Council and its Members, may seek outside representation to defend itself against such an action.
5. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioids Funds has violated any applicable ethics codes or rules, a complaint shall be lodged with the appropriate forum for handling such matters, such as a local home rule municipality's ethics board.
6. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioid Funds violated any Colorado criminal law, such conduct shall be reported to the appropriate criminal authorities.
7. Venue for any legal action related to this MOU shall be in a court of competent jurisdiction where any applicable Settlement(s) is entered.
8. Because recovery under the terms of different Settlement(s) may vary depending on the number of Parties required to effectuate a Settlement, the Parties may conditionally agree to sign on to the MOU through a letter of intent, resolution or similar written statement, declaration or pronouncement declaring their intent to sign on to the MOU if the threshold for Party participation in a specific Settlement is achieved.⁴
9. This MOU 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. The Parties approve the use of electronic signatures for execution of this MOU. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Parties agree not to deny the legal effect or enforceability of the MOU solely because it is in electronic form or

⁴ For instance, the July 21, 2021 "Distributor Settlement Agreement" includes a "Subdivision Settlement Agreement Form" that, once filled out and executed, is meant to indicate that Local Government's (or Subdivision's) election to participate in that Distributor Settlement and also, to require that Local Government to take steps to formally release any claim it may have against the Settling Distributors. With regard to the Distributor Settlement Agreement or any other Settlements that include a form similar to the Subdivision Settlement Agreement Form, the Parties may still conditionally agree to sign on to the MOU if, for instance, the threshold for Party participation in a specific Settlement is achieved.

because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the MOU in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

10. Each party represents that all procedures necessary to authorize such Party's execution of this MOU have been performed and that the person signing for such Party has been authorized to execute the MOU.

I. Payment of Counsel and Litigation Expenses Through a Back-Stop Fund

1. Some Settlements, including the McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation ("Distributor") and Johnson & Johnson/Janssen ("J&J") settlements, may provide for the payment of all or a portion of the fees and litigation expenses owed by Participating Local Governments to counsel specifically retained to file suit in the opioid litigation. If any Settlement is insufficient to cover the fee obligations of the Participating Local Governments (as discussed and modified by Judge Polster's Order of August 6 regarding fees for the Distributor and J&J settlements), the deficiencies will be covered as set forth in further detail below.
2. The Parties also recognize that, as in the Distributor and J&J settlements, certain Opioid Settling Defendants may offer premiums benefiting the entire state of Colorado when Participating Local Governments agree to the Settlement(s), thereby settling their claims in their on-going lawsuits. For example, below is the chart illustrating how Incentive Payment B (a 25% premium to the entire state) works in the Distributor Settlement at Section IV.F.2.b (p. 20):

Percentage of Litigating Subdivision Population that is Incentive B Eligible Subdivision Population⁵	Incentive Payment B Eligibility Percentage
Up to 85%	0%
85%+	30%
86+	40%
91+	50%
95+	60%
99%+	95%
100%	100%

3. If the court in *In Re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio), or if a Settlement establishes a common benefit fund or similar device to compensate attorneys for services rendered and expenses incurred that have benefited plaintiffs generally in the litigation (the "Common Benefit Fund"),

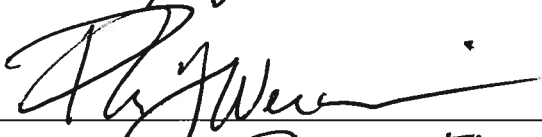
and/or requires certain governmental plaintiffs to pay a share of their recoveries from defendants into the Common Benefit Fund (“Court-Ordered Common Benefit Fund Assessment”), then the Participating Local Governments shall be required to first seek to have their attorneys’ fees and expenses paid through the Common Benefit Fund.

4. For the Distributor and J&J settlements only, counsel for Participating Local Governments shall have their expenses otherwise recoverable from Colorado Participating Local Governments compensated only through the Common Benefit Fund(s) established in those settlement(s). For the avoidance of doubt, counsel for Participating Local Governments may recover their attorneys’ fees through the Distributor and J&J settlements and through the other applicable provisions of this Section (I).
5. In addition, as a means of covering any deficiencies in paying counsel for Participating Local Governments, a supplemental Colorado Attorney Fee Back-Stop Fund shall be established. The Colorado Attorney Fee Back-Stop Fund is to be used to compensate counsel for Participating Local Governments that filed an initial complaint in the opioid litigation by September 1, 2020 (“Litigating Participating Local Governments”).
6. Payments out of the Colorado Attorney Fee Back-Stop Fund shall be determined by a committee (the “Opioid Fee and Expense Committee”). The Opioid Fee and Expense Committee shall consist of the following five (5) members:
 - a. One (1) member appointed by CCI from a litigating county or from a litigating county and city municipal corporation;
 - b. One (1) member appointed by CML from a litigating city;
 - c. One (1) member appointed jointly by CCI and CML from a non-litigating county or city;
 - d. One (1) member appointed by the Attorney General’s Office; and
 - e. One (1) neutral member jointly appointed by all of the other members listed above.
7. The Colorado Attorney Fee Back-Stop Fund shall be funded as follows from any Settlement, excluding settlements involving McKinsey and payments resulting from the Purdue or Mallinckrodt bankruptcy. For purposes only of calculating the funding of the Colorado Attorney Fee Back-Stop Fund, the Parties deem 58% of the total LG Share and Regional Share to be attributable to the Litigating Local Governments. The Colorado Attorney Fee Back-Stop Fund shall be funded by 8.7% of the total LG Share and 4.35% of the total Regional Share at the time such funds are actually received. No funds deposited into the Colorado Attorney Fee Back-Stop Fund will be taken from the Statewide Infrastructure Share or State Share.

8. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund only after applying to the Common Benefit Fund.
9. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund for only a shortfall – that is, the difference between what their fee agreements would entitle them to (as limited by this Section (I)) minus what they have already collected from the Common Benefit Fund (including both the “common benefit” and “contingency fee” calculations, if any). If they receive fees/costs for common benefit work in the national fee fund, these fees/costs will be allocated proportionately across all their local government opioid clients based on the allocation model used in the Negotiation Class website to allocate the appropriate portion to Colorado clients.
10. Counsel for Litigating Participating Local Governments are limited to being paid, at most, and assuming adequate funds are available in any Common Benefit Fund and Colorado Attorney Fee Back-Stop Fund, fees in an amount equal to 15% of the LG Share and 7.5% of the Regional Share attributable to their Colorado clients.
11. Any funds remaining in the Colorado Attorney Fee Back-Stop Fund in excess of the amounts needed to cover the fees and litigation expenses owed by Litigating Participating Local Governments to their respective counsel shall revert to the Participating Local Governments according to the allocations described in Sections (E) and (F). Every two years, the Opioid Fee and Expense Committee shall assess the amount remaining in the Colorado Attorney Fee Back-Stop Fund to determine if it is overfunded.
12. Despite the fact that a litigating entity bonus benefits the entire state, no portion of the State Share shall be used to fund the Colorado Attorney Fee Back-Stop Fund or in any other way to fund any Participating Local Government’s attorneys’ fees and expenses. Because the state did not hire outside counsel, any funds for attorneys fees that the state receives from the J&J and Distributor settlement will be deposited into the State Share.
13. To participate in the Colorado Attorney Fee Back-Stop Fund, counsel must follow the requirements of C.R.S. § 13-17-304.

This **Colorado Opioids Settlement Memorandum of Understanding** is signed

this 26 day of August, 2021 by:

A handwritten signature in black ink, appearing to read "Philip J. Weiser", written over a horizontal line.

Name & Title

Philip J. Weiser, Attorney General

On behalf of

State of Colorado

This **Colorado Opioids Settlement Memorandum of Understanding** is signed

this ____ day of _____, ____ by:

Colorado Attorney General Philip J. Weiser

POTENTIAL OPIOID ABATEMENT APPROVED PURPOSES

I. TREATMENT

A. TREATMENT OF OPIOID USE DISORDER AND ITS EFFECTS

1. Expand availability of treatment, including Medication-Assisted Treatment (MAT), for Opioid Use Disorder (OUD) and any co-occurring substance use or mental health issues.
2. Supportive housing, all forms of FDA-approved MAT, counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it.
3. Treatment of mental health trauma issues that resulted from the traumatic experiences of the opioid user (e.g., violence, sexual assault, human trafficking) and for family members (e.g., surviving family members after an overdose or overdose fatality).
4. Expand telehealth to increase access to OUD treatment, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
5. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
6. Scholarships for certified addiction counselors.
7. Clinicians to obtain training and a waiver under the federal Drug Addiction Treatment Act to prescribe MAT for OUD.
8. Training for health care providers, students, and other supporting professionals, such as peer recovery coaches/recovery outreach specialists, including but not limited to training relating to MAT and harm reduction.
9. Dissemination of accredited web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
10. Development and dissemination of new accredited curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service Medication-Assisted Treatment.
11. Development of a multistate/nationally accessible database whereby health care providers can list currently available in-patient and out-patient OUD treatment services that are accessible on a real-time basis.

12. Support and reimburse services that include the full American Society of Addiction Medicine (ASAM) continuum of care for OUD.
13. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-informed practices such as adequate methadone dosing.

B. INTERVENTION

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer, if necessary) a patient for OUD treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorder.
3. Training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on the late adolescence and young adulthood when transition from misuse to opioid disorder is most common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management and/or support services.
6. Support work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
7. Create school-based contacts whom parents can engage to seek immediate treatment services for their child.
8. Develop best practices on addressing OUD in the workplace.
9. Support assistance programs for health care providers with OUD.
10. Engage non-profits and faith community as a system to support outreach for treatment.

C. CRIMINAL-JUSTICE-INVOLVED PERSONS

1. Address the needs of persons involved in the criminal justice system who have OUD and any co-occurring substance use disorders or mental health (SUD/MH) issues.

2. Support pre-arrest diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH issues, including established strategies such as:
 - a. Self-referral strategies such as Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
 - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
 - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received Naloxone to reverse the effects of an overdose are then linked to treatment programs;
 - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model; or
 - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network.
3. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH issues to evidence-informed treatment, including MAT, and related services.
4. Support treatment and recovery courts for persons with OUD and any co-occurring SUD/MH issues, but only if they provide referrals to evidence-informed treatment, including MAT.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH issues who are incarcerated, on probation, or on parole.
6. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate re-entry services to individuals with OUD and any co-occurring SUD/MH issues who are leaving jail or prison or who have recently left jail or prison.
7. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

D. WOMEN WHO ARE OR MAY BECOME PREGNANT

1. Evidence-informed treatment, including MAT, recovery, and prevention services for pregnant women or women who could become pregnant and have OUD.
2. Training for obstetricians and other healthcare personnel that work with pregnant women and their families regarding OUD treatment.

3. Other measures to address Neonatal Abstinence Syndrome, including prevention, care for addiction and education programs.
4. Child and family supports for parenting women with OUD.
5. Enhanced family supports and child care services for parents receiving treatment for OUD.

E. PEOPLE IN TREATMENT AND RECOVERY

1. The full continuum of care of recovery services for OUD and any co-occurring substance use or mental health issues, including supportive housing, residential treatment, medical detox services, peer support services and counseling, community navigators, case management, and connections to community-based services.
2. Identifying successful recovery programs such as physician, pilot, and college recovery programs, and providing support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
3. Training and development of procedures for government staff to appropriately interact and provide social and other services to current and recovering opioid users, including reducing stigma.
4. Community-wide stigma reduction regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
5. Engaging non-profits and faith community as a system to support family members in their efforts to help the opioid user in the family.

II. PREVENTION

F. PRESCRIBING PRACTICES

1. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
2. Academic counter-detailing.
3. Continuing Medical Education (CME) on prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Fund development of a multistate/national prescription drug monitoring program (PDMP) that permits information sharing while providing appropriate safeguards on sharing of private information, including but not limited to:

- a. Integration of PDMP data with electronic health records, overdose episodes, and decision support tools for health care providers relating to OUD.
 - b. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database.
- 6. Educating dispensers on appropriate opioid dispensing.

G. MISUSE OF OPIOIDS

- 1. Corrective advertising/affirmative public education campaigns.
- 2. Public education relating to drug disposal.
- 3. Drug take-back disposal or destruction programs.
- 4. Fund community anti-drug coalitions that engage in drug-abuse prevention efforts.
- 5. School-based programs that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
- 6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, or training of coalitions in evidence-informed implementation.
- 7. School and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
- 8. Engaging non-profits and faith community as a system to support prevention.

H. OVERDOSE DEATHS AND OTHER HARMS

- 1. Increasing availability and distribution of naloxone and other drugs that treat overdoses to first responders, overdose patients, opioid users, families and friends of opioid users, schools, community navigators and outreach workers, drug offenders upon release from jail/prison, and other members of the general public.
- 2. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, and other members of the general public.

3. Developing data tracking software and applications for overdoses/naloxone revivals.
4. Public education relating to emergency responses to overdoses.
5. Free naloxone for anyone in the community.
6. Public education relating to immunity and Good Samaritan laws.
7. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
8. Syringe service programs, including supplies, staffing, space, peer support services, and the full range of harm reduction and treatment services provided by these programs.
9. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

III. ADDITIONAL AREAS

I. SERVICES FOR CHILDREN

1. Support for children's services: Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

J. FIRST RESPONDERS

1. Law enforcement expenditures relating to the opioid epidemic.
2. Educating first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
3. Increase electronic prescribing to prevent diversion and forgery.

K. COMMUNITY LEADERSHIP

1. Regional planning to identify goals for opioid reduction and support efforts or to identify areas and populations with the greatest needs for treatment intervention services.
2. Government dashboard to track key opioid-related indicators and supports as identified through collaborative community processes.

L. STAFFING AND TRAINING

1. Funding for programs and services regarding staff training and networking to improve staff capability to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-systems coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD (e.g., health care, primary care, pharmacies, PDMPs, etc.).

M. RESEARCH

1. Funding opioid abatement research.
2. Research improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to OUD.
3. Support research for novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
4. Support for innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
5. Expanded research for swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
6. Research expanded modalities such as prescription methadone that can expand access to MAT.

N. OTHER

1. Administrative costs for any of the approved purposes on this list.

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Adams County	Adams	County	
Arvada	Adams	City	2 counties
Aurora	Adams	City	3 counties
Bennett	Adams	City	2 counties
Brighton	Adams	City	2 counties
Commerce City	Adams	City	
Federal Heights	Adams	City	
Lochbuie	Adams	City	2 counties
Northglenn	Adams	City	2 counties
Thornton	Adams	City	2 counties
Westminster	Adams	City	2 counties
Alamosa County	Alamosa	County	
Alamosa	Alamosa	City	
Hooper	Alamosa	City	
Arapahoe County	Arapahoe	County	
Aurora	Arapahoe	City	3 counties
Bennett	Arapahoe	City	2 counties
Bow Mar	Arapahoe	City	2 counties
Centennial	Arapahoe	City	
Cherry Hills Village	Arapahoe	City	
Columbine Valley	Arapahoe	City	
Deer Trail	Arapahoe	City	
Englewood	Arapahoe	City	
Foxfield	Arapahoe	City	
Glendale	Arapahoe	City	
Greenwood Village	Arapahoe	City	
Littleton	Arapahoe	City	3 counties
Sheridan	Arapahoe	City	
Archuleta County	Archuleta	County	
Pagosa Springs	Archuleta	City	
Baca County	Baca	County	
Campo	Baca	City	
Pritchett	Baca	City	
Springfield	Baca	City	
Two Buttes	Baca	City	
Vilas	Baca	City	
Walsh	Baca	City	
Bent County	Bent	County	
Las Animas	Bent	City	
Boulder County	Boulder	County	
Boulder	Boulder	City	
Erie	Boulder	City	2 counties
Jamestown	Boulder	City	
Lafayette	Boulder	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Longmont	Boulder	City	2 counties
Louisville	Boulder	City	
Lyons	Boulder	City	
Nederland	Boulder	City	
Superior	Boulder	City	2 counties
Ward	Boulder	City	
Broomfield	Broomfield	City/County	
Chaffee County	Chaffee	County	
Buena Vista	Chaffee	City	
Poncha Springs	Chaffee	City	
Salida	Chaffee	City	
Cheyenne County	Cheyenne	County	
Cheyenne Wells	Cheyenne	City	
Kit Carson	Cheyenne	City	
Clear Creek County	Clear Creek	County	
Central City	Clear Creek	City	2 counties
Empire	Clear Creek	City	
Georgetown	Clear Creek	City	
Idaho Springs	Clear Creek	City	
Silver Plume	Clear Creek	City	
Conejos County	Conejos	County	
Antonito	Conejos	City	
La Jara	Conejos	City	
Manassa	Conejos	City	
Romeo	Conejos	City	
Sanford	Conejos	City	
Costilla County	Costilla	County	
Blanca	Costilla	City	
San Luis	Costilla	City	
Crowley County	Crowley	County	
Crowley	Crowley	City	
Olney Springs	Crowley	City	
Ordway	Crowley	City	
Sugar City	Crowley	City	
Custer County	Custer	County	
Silver Cliff	Custer	City	
Westcliffe	Custer	City	
Delta County	Delta	County	
Cedaredge	Delta	City	
Crawford	Delta	City	
Delta	Delta	City	
Hotchkiss	Delta	City	
Orchard City	Delta	City	
Paonia	Delta	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Denver	Denver	City/County	
Dolores County	Dolores	County	
Dove Creek	Dolores	City	
Rico	Dolores	City	
Douglas County	Douglas	County	
Aurora	Douglas	City	3 counties
Castle Pines	Douglas	City	
Castle Rock	Douglas	City	
Larkspur	Douglas	City	
Littleton	Douglas	City	3 counties
Lone Tree	Douglas	City	
Parker	Douglas	City	
Eagle County	Eagle	County	
Avon	Eagle	City	
Basalt	Eagle	City	2 counties
Eagle	Eagle	City	
Gypsum	Eagle	City	
Minturn	Eagle	City	
Red Cliff	Eagle	City	
Vail	Eagle	City	
El Paso County	El Paso	County	
Calhan	El Paso	City	
Colorado Springs	El Paso	City	
Fountain	El Paso	City	
Green Mountain Falls	El Paso	City	2 counties
Manitou Springs	El Paso	City	
Monument	El Paso	City	
Palmer Lake	El Paso	City	
Ramah	El Paso	City	
Elbert County	Elbert	County	
Elizabeth	Elbert	City	
Kiowa	Elbert	City	
Simla	Elbert	City	
Fremont County	Fremont	County	
Brookside	Fremont	City	
Cañon City	Fremont	City	
Coal Creek	Fremont	City	
Florence	Fremont	City	
Rockvale	Fremont	City	
Williamsburg	Fremont	City	
Garfield County	Garfield	County	
Carbondale	Garfield	City	
Glenwood Springs	Garfield	City	
New Castle	Garfield	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Parachute	Garfield	City	
Rifle	Garfield	City	
Silt	Garfield	City	
Gilpin County	Gilpin	County	
Black Hawk	Gilpin	City	
Central City	Gilpin	City	2 counties
Grand County	Grand	County	
Fraser	Grand	City	
Granby	Grand	City	
Grand Lake	Grand	City	
Hot Sulphur Springs	Grand	City	
Kremmling	Grand	City	
Winter Park	Grand	City	
Gunnison County	Gunnison	County	
Crested Butte	Gunnison	City	
Gunnison	Gunnison	City	
Marble	Gunnison	City	
Mount Crested Butte	Gunnison	City	
Pitkin	Gunnison	City	
Hinsdale County	Hinsdale	County	
Lake City	Hinsdale	City	
Huerfano County	Huerfano	County	
La Veta	Huerfano	City	
Walsenburg	Huerfano	City	
Jackson County	Jackson	County	
Walden	Jackson	City	
Jefferson County	Jefferson	County	
Arvada	Jefferson	City	2 counties
Bow Mar	Jefferson	City	2 counties
Edgewater	Jefferson	City	
Golden	Jefferson	City	
Lakeside	Jefferson	City	
Lakewood	Jefferson	City	
Littleton	Jefferson	City	3 counties
Morrison	Jefferson	City	
Mountain View	Jefferson	City	
Superior	Jefferson	City	2 counties
Westminster	Jefferson	City	2 counties
Wheat Ridge	Jefferson	City	
Kiowa County	Kiowa	County	
Eads	Kiowa	City	
Haswell	Kiowa	City	
Sheridan Lake	Kiowa	City	
Kit Carson County	Kit Carson	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Bethune	Kit Carson	City	
Burlington	Kit Carson	City	
Flagler	Kit Carson	City	
Seibert	Kit Carson	City	
Stratton	Kit Carson	City	
Vona	Kit Carson	City	
La Plata County	La Plata	County	
Bayfield	La Plata	City	
Durango	La Plata	City	
Ignacio	La Plata	City	
Lake County	Lake	County	
Leadville	Lake	City	
Larimer County	Larimer	County	
Berthoud	Larimer	City	2 counties
Estes Park	Larimer	City	
Fort Collins	Larimer	City	
Johnstown	Larimer	City	2 counties
Loveland	Larimer	City	
Timnath	Larimer	City	2 counties
Wellington	Larimer	City	
Windsor	Larimer	City	2 counties
Las Animas County	Las Animas	County	
Aguilar	Las Animas	City	
Branson	Las Animas	City	
Cokedale	Las Animas	City	
Kim	Las Animas	City	
Starkville	Las Animas	City	
Trinidad	Las Animas	City	
Lincoln County	Lincoln	County	
Arriba	Lincoln	City	
Genoa	Lincoln	City	
Hugo	Lincoln	City	
Limon	Lincoln	City	
Logan County	Logan	County	
Crook	Logan	City	
Fleming	Logan	City	
Iliff	Logan	City	
Merino	Logan	City	
Peetz	Logan	City	
Sterling	Logan	City	
Mesa County	Mesa	County	
Collbran	Mesa	City	
De Beque	Mesa	City	
Fruita	Mesa	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Grand Junction	Mesa	City	
Palisade	Mesa	City	
Mineral County	Mineral	County	
City of Creede	Mineral	City	
Moffat County	Moffat	County	
Craig	Moffat	City	
Dinosaur	Moffat	City	
Montezuma County	Montezuma	County	
Cortez	Montezuma	City	
Dolores	Montezuma	City	
Mancos	Montezuma	City	
Montrose County	Montrose	County	
Montrose	Montrose	City	
Naturita	Montrose	City	
Nucla	Montrose	City	
Olathe	Montrose	City	
Morgan County	Morgan	County	
Brush	Morgan	City	
Fort Morgan	Morgan	City	
Hillrose	Morgan	City	
Log Lane Village	Morgan	City	
Wiggins	Morgan	City	
Otero County	Otero	County	
Cheraw	Otero	City	
Fowler	Otero	City	
La Junta	Otero	City	
Manzanola	Otero	City	
Rocky Ford	Otero	City	
Swink	Otero	City	
Ouray County	Ouray	County	
Ouray	Ouray	City	
Ridgway	Ouray	City	
Park County	Park	County	
Alma	Park	City	
Fairplay	Park	City	
Phillips County	Phillips	County	
Haxtun	Phillips	City	
Holyoke	Phillips	City	
Paoli	Phillips	City	
Pitkin County	Pitkin	County	
Aspen	Pitkin	City	
Basalt	Pitkin	City	2 counties
Snowmass Village	Pitkin	City	
Prowers County	Prowers	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Granada	Prowers	City	
Hartman	Prowers	City	
Holly	Prowers	City	
Lamar	Prowers	City	
Wiley	Prowers	City	
Pueblo County	Pueblo	County	
Boone	Pueblo	City	
Pueblo	Pueblo	City	
Rye	Pueblo	City	
Rio Blanco County	Rio Blanco	County	
Meeker	Rio Blanco	City	
Rangely	Rio Blanco	City	
Rio Grande County	Rio Grande	County	
Center	Rio Grande	City	2 counties
Del Norte	Rio Grande	City	
Monte Vista	Rio Grande	City	
South Fork	Rio Grande	City	
Routt County	Routt	County	
Hayden	Routt	City	
Oak Creek	Routt	City	
Steamboat Springs	Routt	City	
Yampa	Routt	City	
Saguache County	Saguache	County	
Bonanza	Saguache	City	
Center	Saguache	City	2 counties
Crestone	Saguache	City	
Moffat	Saguache	City	
Saguache	Saguache	City	
San Juan County	San Juan	County	
Silverton	San Juan	City	
San Miguel County	San Miguel	County	
Mountain Village	San Miguel	City	
Norwood	San Miguel	City	
Ophir	San Miguel	City	
Sawpit	San Miguel	City	
Telluride	San Miguel	City	
Sedgwick County	Sedgwick	County	
Julesburg	Sedgwick	City	
Ovid	Sedgwick	City	
Sedgwick	Sedgwick	City	
Summit County	Summit	County	
Blue River	Summit	City	
Breckenridge	Summit	City	
Dillon	Summit	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Frisco	Summit	City	
Montezuma	Summit	City	
Silverthorne	Summit	City	
Teller County	Teller	County	
Cripple Creek	Teller	City	
Green Mountain Falls	Teller	City	2 counties
Victor	Teller	City	
Woodland Park	Teller	City	
Washington County	Washington	County	
Akron	Washington	City	
Otis	Washington	City	
Weld County	Weld	County	
Ault	Weld	City	
Berthoud	Weld	City	2 counties
Brighton	Weld	City	2 counties
Dacono	Weld	City	
Eaton	Weld	City	
Erie	Weld	City	2 counties
Evans	Weld	City	
Firestone	Weld	City	
Fort Lupton	Weld	City	
Frederick	Weld	City	
Garden City	Weld	City	
Gilcrest	Weld	City	
Greeley	Weld	City	
Grover	Weld	City	
Hudson	Weld	City	
Johnstown	Weld	City	2 counties
Keenesburg	Weld	City	
Kersey	Weld	City	
La Salle	Weld	City	
Lochbuie	Weld	City	2 counties
Longmont	Weld	City	2 counties
Mead	Weld	City	
Milliken	Weld	City	
Northglenn	Weld	City	2 counties
Nunn	Weld	City	
Pierce	Weld	City	
Platteville	Weld	City	
Raymer (New Raymer)	Weld	City	
Severance	Weld	City	
Thornton	Weld	City	2 counties
Timnath	Weld	City	2 counties
Windsor	Weld	City	2 counties

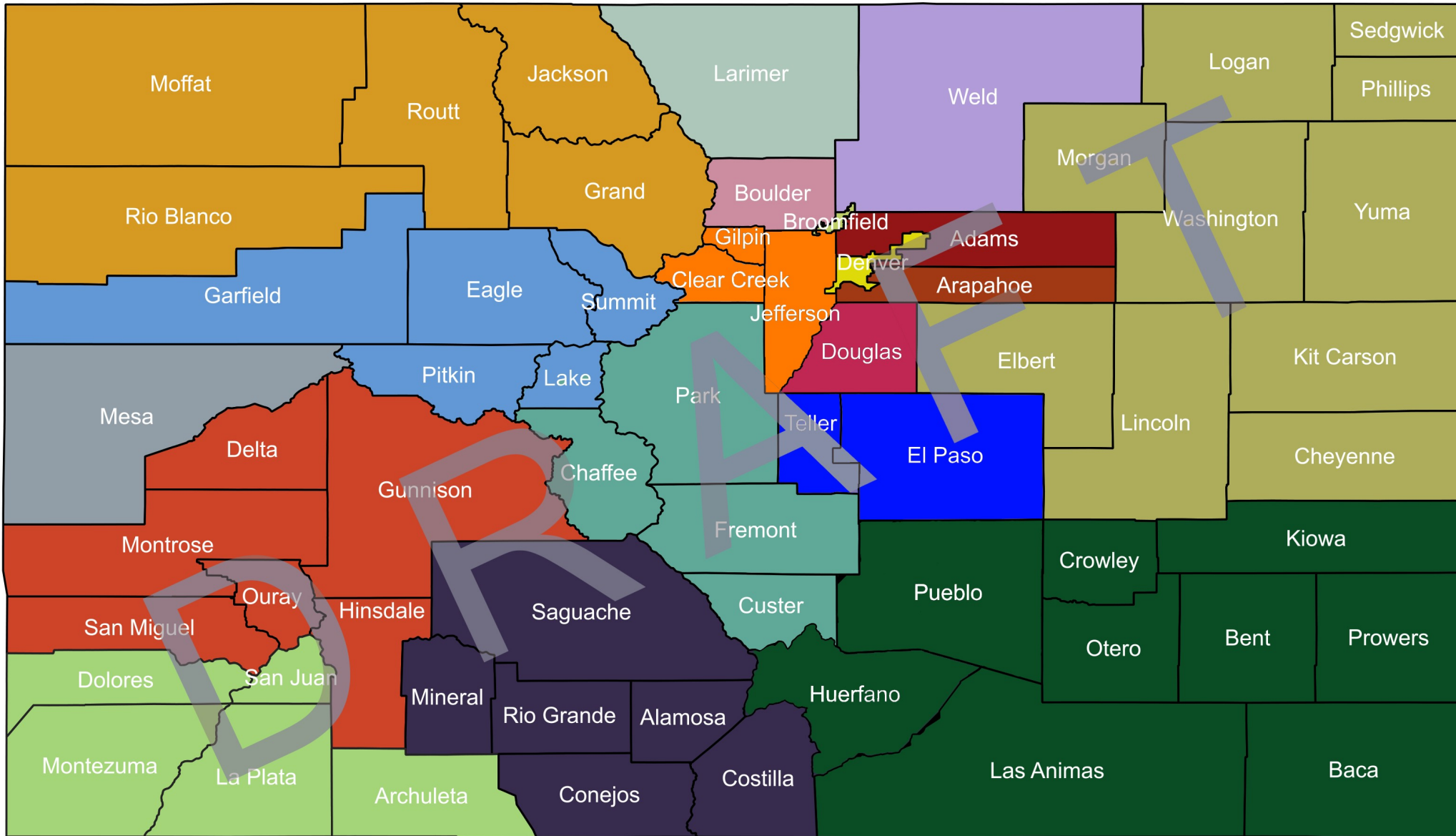
Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Yuma County	Yuma	County	
Eckley	Yuma	City	
Wray	Yuma	City	
Yuma	Yuma	City	

*This list includes all 64 Colorado counties and all 271 municipalities listed in the 2019 Census. Cities located in multiple counties are listed under each corresponding county subheading. City and County of Denver and City and County of Broomfield are counted in both the city and county totals. The City of Carbonate is not included in this list, as there was no population in the 2019 Census data.

This list will be reconciled as necessary to be consistent with the terms of Settlement(s) with Opioid Settling Defendant(s)

Proposed Regions for the Regional Distribution of Opioid Settlement Funds



UPDATED 7/8/2021

Region 1	Region 5	Region 9	Region 13	Region 17
Region 2	Region 6	Region 10	Region 14	Region 18
Region 3	Region 7 (Broomfield)	Region 11 (Denver)	Region 15	Region 19
Region 4	Region 8	Region 12	Region 16	

DRAFT Proposed Allocation to Colorado County Areas

County	Percentage of LG Share
Adams	9.4247%
Alamosa	0.5081%
Arapahoe	10.8071%
Archuleta	0.1370%
Baca	0.0592%
Bent	0.1133%
Boulder	5.7936%
Broomfield	1.0014%
Chaffee	0.3604%
Cheyenne	0.0159%
Clear Creek	0.1380%
Conejos	0.2108%
Costilla	0.0552%
Crowley	0.0934%
Custer	0.0412%
Delta	0.5440%
Denver	15.0042%
Dolores	0.0352%
Douglas	3.6696%
Eagle	0.6187%
El Paso	11.9897%
Elbert	0.2804%
Fremont	0.9937%
Garfield	0.8376%
Gilpin	0.0561%
Grand	0.2037%
Gunnison	0.1913%
Hinsdale	0.0112%
Huerfano	0.2505%
Jackson	0.0310%
Jefferson	10.5173%
Kiowa	0.0142%
Kit Carson	0.0940%
La Plata	0.8127%
Lake	0.0990%
Larimer	6.5211%
Las Animas	0.6304%
Lincoln	0.0819%
Logan	0.3815%
Mesa	2.8911%
Mineral	0.0039%
Moffat	0.2326%
Montezuma	0.4429%

Montrose	0.5695%
Morgan	0.4677%
Otero	0.4486%
Ouray	0.0535%
Park	0.1674%
Phillips	0.0714%
Pitkin	0.1747%
Prowers	0.1727%
Pueblo	5.6757%
Rio Blanco	0.1013%
Rio Grande	0.2526%
Routt	0.3837%
Saguache	0.0666%
San Juan	0.0097%
San Miguel	0.1005%
Sedgwick	0.0618%
Summit	0.3761%
Teller	0.6219%
Washington	0.0357%
Weld	3.8908%
Yuma	0.0992%
TOTAL	100.0000%

DRAFT Proposed Intracounty Allocations^{1,2}

The below chart depicts the default percentage that each Local Government would receive from the LG Share amount attributed to its County Area, as described in Section (E)(3) of the MOU. The chart assumes full participation by all Local Governments

Government Name	Intracounty Share
Adams County	68.3372%
Arvada (2 Counties)	0.2632%
Aurora (3 Counties)	4.6336%
Bennett (2 Counties)	0.1670%
Brighton (2 Counties)	1.4527%
Commerce City	4.7314%
Federal Heights	1.1457%
Lochbuie (2 Counties)	0.0001%
Northglenn (2 Counties)	2.0913%
Thornton (2 Counties)	10.6435%
Westminster (2 Counties)	6.5342%

Alamosa County	85.3075%
Alamosa	14.6818%
Hooper	0.0108%

Arapahoe County	42.7003%
Aurora (3 Counties)	35.5997%
Bennett (2 Counties)	0.0324%
Bow Mar (2 Counties)	0.0159%
Centennial	0.4411%
Cherry Hills Village	0.6685%
Columbine Valley	0.1601%
Deer Trail	0.0003%
Englewood	5.5850%
Foxfield	0.0372%
Glendale	1.2289%
Greenwood Village	2.8305%
Littleton (3 Counties)	8.5654%
Sheridan	2.1347%

Archuleta County	90.0864%
Pagosa Springs	9.9136%

Baca County	85.9800%
Campo	2.4443%
Pritchett	1.5680%
Springfield	7.0100%

Government Name	Intracounty Share
Two Buttes	0.4766%
Vilas	0.9070%
Walsh	1.6141%

Bent County	80.9608%
Las Animas	19.0392%

Boulder County	47.6311%
Boulder	31.7629%
Erie (2 Counties)	0.3634%
Jamestown	0.0086%
Lafayette	3.3203%
Longmont (2 Counties)	14.6833%
Louisville	1.4455%
Lyons	0.5916%
Nederland	0.1646%
Superior (2 Counties)	0.0258%
Ward	0.0030%

Broomfield County/City	100.0000%
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Chaffee County	74.8440%
Buena Vista	5.8841%
Poncha Springs	4.2369%
Salida	15.0350%

Cheyenne County	66.8002%
Cheyenne Wells	0.8586%
Kit Carson	32.3412%

Clear Creek County	92.2164%
Central City (2 Counties)	0.0000%
Empire	0.3364%
Georgetown	1.9063%
Idaho Springs	4.7625%
Silver Plume	0.7784%

Conejos County	77.1204%
Antonito	4.6338%
La Jara	2.4313%
Manassa	1.0062%
Romeo	2.4270%
Sanford	12.3812%

Government Name	Intracounty Share
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Costilla County	97.3454%
Blanca	1.2036%
San Luis	1.4509%

Crowley County	80.7081%
Crowley	4.3597%
Olney Springs	8.3683%
Ordway	0.1853%
Sugar City	6.3786%

Custer County	96.6858%
Silver Cliff	0.7954%
Westcliffe	2.5188%

Delta County	76.3512%
Cedaredge	3.6221%
Crawford	0.4938%
Delta	16.2658%
Hotchkiss	1.0963%
Orchard City	0.1473%
Paonia	2.0236%

Denver County/City	100.0000%
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Dolores County	76.3307%
Dove Creek	17.3127%
Rico	6.3566%

Douglas County	71.8404%
Aurora (3 Counties)	0.2099%
Castle Pines	0.2007%
Castle Rock	13.5204%
Larkspur	0.0856%
Littleton (3 Counties)	0.0156%
Lone Tree	5.2786%
Parker	8.8487%

Eagle County	60.8236%
Avon	7.6631%
Basalt (2 Counties)	2.2311%
Eagle	3.1376%
Gypsum	1.7469%
Minturn	0.7771%

Government Name	Intracounty Share
Red Cliff	0.0957%
Vail	23.5250%

El Paso County	18.4181%
Calhan	0.0228%
Colorado Springs	80.1161%
Fountain	0.9892%
Green Mountain Falls (2 Counties)	0.0149%
Manitou Springs	0.2411%
Monument	0.1492%
Palmer Lake	0.0455%
Ramah	0.0033%

Elbert County	86.5840%
Elizabeth	10.2633%
Kiowa	1.5455%
Simla	1.6072%

Fremont County	60.7882%
Brookside	0.0348%
Cañon City	30.9017%
Coal Creek	0.0476%
Florence	8.0681%
Rockvale	0.0687%
Williamsburg	0.0907%

Garfield County	76.3371%
Carbondale	2.4698%
Glenwood Springs	11.8141%
New Castle	1.4295%
Parachute	1.0653%
Rifle	5.2733%
Silt	1.6110%

Gilpin County	46.8613%
Black Hawk	46.3909%
Central City (2 Counties)	6.7478%

Grand County	80.1046%
Fraser	2.4903%
Granby	5.4008%
Grand Lake	0.3174%
Hot Sulphur Springs	0.1431%
Kremmling	2.9284%

Government Name	Intracounty Share
Winter Park	8.6154%

Gunnison County	88.9185%
Crested Butte	2.3562%
Gunnison	5.9501%
Marble	0.1714%
Mount Crested Butte	2.5657%
Pitkin	0.0381%

Hinsdale County	76.0940%
Lake City	23.9060%

Huerfano County	68.2709%
La Veta	11.0719%
Walsenburg	20.6572%

Jackson County	61.5339%
Walden	38.4661%

Jefferson County	58.2140%
Arvada (2 Counties)	11.9733%
Bow Mar (2 Counties)	0.0087%
Edgewater	0.6604%
Golden	3.4815%
Lakeside	0.0030%
Lakewood	15.9399%
Littleton (3 Counties)	0.6176%
Morrison	0.2205%
Mountain View	0.1344%
Superior (2 Counties)	0.0000%
Westminster (2 Counties)	5.4779%
Wheat Ridge	3.2689%

Kiowa County	93.2138%
Eads	5.3777%
Haswell	0.6402%
Sheridan Lake	0.7682%

Kit Carson County	86.3178%
Bethune	0.1841%
Burlington	12.0640%
Flagler	0.4264%
Seibert	0.0291%
Stratton	0.9012%

Government Name	Intracounty Share
Vona	0.0775%

La Plata County	66.8874%
Bayfield	1.6292%
Durango	29.2985%
Ignacio	2.1849%

Lake County	73.4523%
Leadville	26.5477%

Larimer County	56.0589%
Berthoud (2 Counties)	0.4139%
Estes Park	0.3502%
Fort Collins	18.5702%
Johnstown (2 Counties)	0.0711%
Loveland	23.4493%
Timnath (2 Counties)	0.2964%
Wellington	0.3653%
Windsor (2 Counties)	0.4248%

Las Animas County	77.8076%
Aguilar	0.0751%
Branson	0.0101%
Cokedale	0.0188%
Kim	0.0101%
Starkville	0.0087%
Trinidad	22.0696%

Lincoln County	91.3222%
Arriba	0.3444%
Genoa	0.2222%
Hugo	1.4778%
Limon	6.6333%

Logan County	72.7982%
Crook	0.0931%
Fleming	0.3413%
Iliff	0.0095%
Merino	0.4702%
Peetz	0.2029%
Sterling	26.0848%

Mesa County	60.8549%
Collbran	0.0920%

Government Name	Intracounty Share
De Beque	0.0123%
Fruita	1.6696%
Grand Junction	37.1505%
Palisade	0.2208%

Mineral County	87.6744%
City of Creede	12.3256%

Moffat County	91.7981%
Craig	8.1862%
Dinosaur	0.0157%

Montezuma County	79.6682%
Cortez	18.6459%
Dolores	0.6106%
Mancos	1.0753%

Montrose County	92.8648%
Montrose	6.5980%
Naturita	0.1551%
Nucla	0.0703%
Olathe	0.3118%

Morgan County	61.6991%
Brush	8.5522%
Fort Morgan	27.8214%
Hillrose	0.1986%
Log Lane Village	0.6424%
Wiggins	1.0863%

Otero County	60.8168%
Cheraw	0.1888%
Fowler	1.0413%
La Junta	25.9225%
Manzanola	0.6983%
Rocky Ford	8.8215%
Swink	2.5109%

Ouray County	76.0810%
Ouray	17.6541%
Ridgway	6.2649%

Park County	96.3983%
Alma	0.7780%

Government Name	Intracounty Share
Fairplay	2.8237%

Phillips County	52.3463%
Haxtun	13.9505%
Holyoke	33.1803%
Paoli	0.5228%

Pitkin County	47.1379%
Aspen	42.0707%
Basalt (2 Counties)	1.1156%
Snowmass Village	9.6757%

Prowers County	70.4524%
Granada	0.9965%
Hartman	0.3164%
Holly	4.9826%
Lamar	21.5860%
Wiley	1.6661%

Pueblo County	54.6622%
Boone	0.0019%
Pueblo	45.3350%
Rye	0.0008%

Rio Blanco County	78.2831%
Meeker	9.1326%
Rangely	12.5843%

Rio Grande County	68.0724%
Center (2 Counties)	0.7713%
Del Norte	6.7762%
Monte Vista	20.4513%
South Fork	3.9288%

Routt County	58.5353%
Hayden	1.0679%
Oak Creek	0.6360%
Steamboat Springs	39.4499%
Yampa	0.3109%

Saguache County	92.8796%
Bonanza	0.1367%
Center (2 Counties)	6.3687%
Crestone	0.0137%

Government Name	Intracounty Share
Moffat	0.3553%
Saguache	0.2460%

San Juan County	87.0423%
Silverton	12.9577%

San Miguel County	48.7493%
Mountain Village	25.7930%
Norwood	0.4078%
Ophir	0.0816%
Sawpit	0.0272%
Telluride	24.9411%

Sedgwick County	98.7331%
Julesburg	0.3830%
Ovid	0.0295%
Sedgwick	0.8544%

Summit County	57.0567%
Blue River	0.5011%
Breckenridge	26.1112%
Dillon	4.1421%
Frisco	6.5096%
Montezuma	0.0169%
Silverthorne	5.6623%

Teller County	66.1557%
Cripple Creek	17.2992%
Green Mountain Falls (2 Counties)	0.0322%
Victor	3.1685%
Woodland Park	13.3445%

Washington County	99.1320%
Akron	0.7659%
Otis	0.1021%

Weld County	51.9387%
Ault	0.3202%
Berthoud (2 Counties)	0.0061%
Brighton (2 Counties)	0.0927%
Dacono	0.6104%
Eaton	0.4573%
Erie (2 Counties)	0.8591%
Evans	4.5121%

Government Name	Intracounty Share
Firestone	1.4648%
Fort Lupton	0.8502%
Frederick	1.2228%
Garden City	0.1514%
Gilcrest	0.1580%
Greeley	30.6922%
Grover	0.0852%
Hudson	0.0066%
Johnstown (2 Counties)	1.5416%
Keenesburg	0.0215%
Kersey	0.1378%
La Salle	0.4128%
Lochbuie (2 Counties)	0.4004%
Longmont (2 Counties)	0.0154%
Mead	0.0941%
Milliken	1.5373%
Northglenn (2 Counties)	0.0030%
Nunn	0.2558%
Pierce	0.0948%
Platteville	0.3712%
Raymer (New Raymer)	0.0597%
Severance	0.0403%
Thornton (2 Counties)	0.0000%
Timnath (2 Counties)	0.0000%
Windsor (2 Counties)	1.5865%

Yuma County	75.5598%
Eckley	2.5422%
Wray	10.2148%
Yuma	11.6832%

¹ The estimated proposed allocations are based on the allocation model used in the Negotiation Class website. The allocation model is the product of prolonged and intensive research, analysis, and discussion by and among members of the court-appointed Plaintiffs' Executive Committee and Settlement Committee and their retained public health and health economics experts, as well as a series of meetings with scores of cities, counties and subdivisions. Additional information about the allocation model is available on the Negotiation Class website: <https://www.opioidsnegotiationclass.info/Home/FAQ>.

The allocations in the Negotiation Class website use two different methodologies:

County-Level Allocation

The allocation model uses three factors, based on reliable, detailed, and objective data collected and reported by the federal government, to determine the share of a settlement fund that each county will receive. The three factors are: (1) the amount of opioids shipped to the county, (2) the number of opioid deaths in that county, and (3) the number of people who suffer opioid use disorder in that county.

County/Municipal-Level Allocation

The county/municipal-level allocation is a default allocation to be used if another agreement is not reached between the county and its constituent cities. The formula uses U.S. Census Bureau data on local government spending. This data covers cities and counties for 98% of the U.S. population. If a jurisdiction lacked this data, it was extrapolated based on available data.

² The municipalities of Bow Mar, Johnstown, and Timnath were not reflected as being in multiple counties in the Negotiation Class website. The estimated allocations to those cities are based on the same methodology used in the website, in consultation with the expert. For cities in multiple counties, please see each county in which that city lies.

DRAFT Proposed Regional Allocations

Region	Total State Share
Northwest	0.9522%
Larimer	6.5211%
Weld	3.8908%
Northeast	1.5896%
North Central	2.1061%
Boulder	5.7936%
Broomfield	1.0014%
Adams	9.4247%
Arapahoe	10.8071%
Jefferson	10.7114%
Denver	15.0042%
Douglas	3.6696%
Mesa	2.8911%
Southwest	1.4700%
Central	1.5627%
El Paso	12.6116%
Southwest Corner	1.4375%
South Central	1.0973%
Southeast	7.4580%
Total	100.0000%

Regional Governance Models

A. Membership Structure

Single-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 or 2 representatives appointed by the county (can be commissioners)
 - 1 representative appointed from the public health department
 - 1 representative from the county human services department
 - 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative appointed from a municipal or county court system within region
 - 1-3 representatives (total) appointed by rotating cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors).
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional but strongly encouraged)
 - Representatives from behavioral health providers
 - Representatives from health care providers
 - Recovery/treatment experts
 - Other county or city representatives
 - A representative from the Attorney General's Office
 - Community representative(s), preferably those with lived experience with the opioid crisis.
 - Harm reduction experts.

Multi-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 representative appointed by each county (can be commissioners)
 - 1 representative appointed by a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors)
 - 1 representative from each public health department within the region
 - 1 representative from a county human services department
 - At least 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative from a municipal or county court system within region
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional but strongly encouraged)
 - Representatives from behavioral health providers

- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts.

Single-County Single-City Regions (Denver & Broomfield)

1. Voting Members (Recommended List: Participating Local Government to Decide)¹

- 1 representative appointed by the city and county
- 1 representative appointed from the public health department
- 1 representative from the county human services department
- 1 representative appointed from law enforcement within region (sheriff, police, district attorney, etc.)
- 1 representative appointed from a municipal or county court system within region
- Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)

2. Non-Voting Members (Optional but strongly encouraged)

- Representatives from behavioral health providers
- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts.

B. Member Terms

- Regions may establish terms of appointment for members. Appointment terms may be staggered.

C. Procedures

- Regions will be governed by an intergovernmental agreement (“IGA”) or memorandum of understanding (“MOU”).
- Regions may adopt the Model Colorado Regional Opioid Intergovernmental Agreement, attached here as Exhibit G-1, in its entirety or alter or amend it as they deem appropriate

¹ In Denver, the Mayor shall make voting member appointments to the Regional Council. In Broomfield, the City and County Manager shall make voting member appointments to the Regional Council.

- Regions may establish their own procedures through adoption of bylaws (model bylaws to be made available).
- Meetings of regional board/committee shall be open to the public and comply with the Colorado Open Meetings Law (including requirement to keep minutes).

D. Financial Responsibility/Controls

- The Regional Council shall nominate and designate a fiscal agent for the Region
- A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado. However, the Regional fiscal agent also can change over time.
- Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.
- Yearly reporting by fiscal agent (using standard form) to the Abatement Council.
- All documents subject to CORA.

E. Conflicts of Interest

- Voting members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

F. Ethics Laws

- Voting members shall abide by applicable state or local ethics laws, as appropriate.

G. Authority

- The Regional Council for each region shall have authority to decide how funds allocated to the region shall be distributed in accordance with the Colorado MOU and shall direct the fiscal agent accordingly.
- Any necessary contracts will be entered into by the fiscal agent, subject to approval by the region board/committee.

H. Legal Status

- The region shall not be considered a separate legal entity, unless the Participating Local Governments decide, through an IGA, to create a separate governmental entity.

Exhibit G-1

**MODEL COLORADO REGIONAL OPIOID
INTERGOVERNMENTAL AGREEMENT¹**

THIS MODEL COLORADO REGIONAL OPIOID INTERGOVERNMENTAL AGREEMENT (the “Regional Agreement”) is made between _____, a Participating Local Government, as defined in the Colorado MOU, in the _____ Region (“_____”) and _____, a Participating Local Government in the _____ Region, (“_____”), individually herein a “Regional PLG” and collectively the “Regional PLGs.””

RECITALS

WHEREAS, the State of Colorado and Participating Local Governments executed the Colorado Opioids Summary Memorandum of Understanding on _____ 2021 (the “Colorado MOU”), establishing the manner in which Opioid Funds shall be divided and distributed within the State of Colorado;

WHEREAS, the Regional Agreement assumes and incorporates the definitions and provisions contained in the Colorado MOU, and the Regional Agreement shall be construed in conformity with the Colorado MOU²;

WHEREAS, all Opioid Funds, regardless of allocation, shall be used for Approved Purposes;

WHEREAS, Participating Local Governments shall organize themselves into Regions, as further depicted in **Exhibit C** to the Colorado MOU;

¹ This Model Regional Agreement is meant to serve as an example for the various Regions and to facilitate the flow of Opioid Funds to their intended purposes. Regions are free to adopt this Regional Agreement in its entirety or alter or amend it as they deem appropriate.

² When drafting agreements like this Regional Agreement, Regional PLGs should be conscious of the definitions used therein so as not to confuse such definitions with those used in the Colorado MOU. The Definitions in the Colorado MOU shall supersede any definitions used by Regional PLGs in a Regional Agreement.

WHEREAS, Regions may consist of Single-County Regions, Multi-County Regions, or Single County-Single City Regions (Denver and Broomfield).

WHEREAS, there shall be a 60% direct allocation of Opioid Funds to Regions through a Regional Share;

WHEREAS, each Region shall be eligible to receive a Regional Share according to **Exhibit F** to the Colorado MOU;

WHEREAS, the Colorado MOU establishes the procedures by which each Region shall be entitled to Opioid Funds from the Abatement Council and administer its Regional Share allocation;

WHEREAS, the procedures established by the Colorado MOU include a requirement that each Region shall create its own Regional Council;

WHEREAS, all aspects of the creation, administration, and operation of the Regional Council shall proceed in accordance with the provisions of the Colorado MOU;

WHEREAS, each such Regional Council shall designate a fiscal agent from a county or municipal government within that Region;

WHEREAS, each such Regional Council shall submit a two-year plan to the Abatement Council that identifies the Approved Purposes for which the requested funds will be used, and the Regional Council's fiscal agent shall provide data and a certification to the Abatement Council regarding compliance with its two-year plan on an annual basis;

WHEREAS, the Regional Agreement pertains to the procedures for the Regional PLGs to establish a Regional Council, designate a fiscal agent, and request and administer Opioid Funds in a manner consistent with the Colorado MOU;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Regional PLGs incorporate the recitals set forth above and agree as follows:

1. **DEFINITIONS.** The defined terms used in this Regional Agreement shall have the same meanings as in the Colorado MOU³. Capitalized terms used herein and not otherwise defined within the Regional Agreement or in the Colorado MOU shall have the meanings ascribed to them in the body of the Regional Agreement.
2. **OBLIGATIONS OF THE REGIONAL PLGS.** The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.
3. **REGIONAL COUNCIL.**

3.1. Purpose: In accordance with the Colorado MOU, a Regional Council, consisting of representatives appointed by the Regional PLGs, shall be created to oversee the procedures by which a Region may request Opioid Funds from the Abatement Council and the procedures by which the allocation of its Region's Share of Opioid Funds are administered.

3.2. Membership: The Regional Council of a Multi-County or Single County Region shall consist of the following:

a. **Multi-County Region:**

- (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different counties and cities. No single county or city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 representative appointed by each county (can be commissioners).
 - (2) 1 representative appointed from a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors). A rotating city member shall be selected by majority vote of the cities within each county who do not have a Voting Member currently sitting on the Regional

³ See FN 2, *supra*.

Council.

- (3) 1 representative from each public health department within the region.
- (4) 1 representative from a county human services department.
- (5) At least 1 representative appointed from law enforcement within the region (sheriff, police, local city or town district attorney, etc.).
- (6) 1 representative from a municipal or county court system within the region.

b. Single-County Region:

- (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different cities within the region. No single city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 or 2 representatives appointed by the county (can be commissioners)
 - (2) 1 representative appointed from the public health department
 - (3) 1 representative from the county human services department
 - (4) 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - (5) 1 representative appointed from a municipal or county court system within region
 - (6) 1-3 representatives (total) appointed by rotating cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors). Rotating city members shall be selected by majority vote of the cities who do not have a Voting Member currently sitting on the Regional Council.
 - (7) Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of

funds)

- c. **Non-Voting Members.** For both Multi-County and Single County Regions, Non-Voting Members are optional but are strongly encouraged. Non-voting members shall serve in an advisory capacity. Any Non-Voting Members shall be appointed by the Regional PLGs and may be comprised of all or some of the following, not to include potential recipients of funds:
 - (i) Representatives from behavioral health providers.
 - (ii) Representatives from health care providers.
 - (iii) Recovery/treatment experts.
 - (iv) Other county or city representatives.
 - (v) A representative from the Attorney General's Office.
 - (vi) Community representative(s), preferably those with lived experience with the opioid crisis.
 - (vii) Harm reduction experts.
- d. **Acting Chair:** The Voting Members for both Multi-County and Single-County Regions shall appoint one member to serve as Acting Chair of the Regional Council. The Acting Chair's primary responsibilities shall be to schedule periodic meetings and votes of the Regional Council as needed and to serve as the point of contact for disputes within the Region. The Acting Chair must be either a Member from a county within a Region, such as a county commissioner or their designee, or a Member from a city or town within a Region, such as a mayor or city or town council member or their designee.
- e. **Non-Participation:** A Local Government that chooses not to become a Participating Local Government in the Colorado MOU shall not receive any Opioid Funds from the Regional Share or participate in the Regional Council.
- f. **Terms:** The Regional Council shall be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court. In order to do so, within sixty (60) days of the first Settlement being entered, CCI and CML shall jointly recommend six (6) Voting Members, and so long as such recommendations comply with the terms of Section 3.2 (a) or (b), the Regional Council shall consist of CCI/CML's recommended Members for

an initial term not to exceed one year.⁴ Thereafter, Voting Members shall be appointed in accordance with Section 3.2 (a) or (b) and shall serve two-year terms. Following the expiration of that two-year term, the Regional PLGs, working in concert, shall reappoint that Voting Member, or appoint a new Voting Member according to Section 3.2 (a) or (b).

- (i) If a Voting Member resigns or is otherwise removed from the Regional Council prior to the expiration of their term, a replacement Voting Member shall be appointed within sixty (60) days in accordance with Section 3.2 (a) or (b) to serve the remainder of the term. If the Regional PLGs are unable to fill a Voting Member vacancy within sixty (60) days, the existing Voting Members of the Regional Council at the time of the vacancy shall work collectively to appoint a replacement Voting Member in accordance with Section 3.2 (a) or (b). At the end of his or her term, the individual serving as that replacement Voting Member may be reappointed by the Regional PLGs to serve a full term consistent with this Section.
- (ii) The purpose of the two-year term is to allow Regional PLGs an increased opportunity to serve on the Regional Council. However, Regional Council members who have already served on the Regional Council may be appointed more than once and may serve consecutive terms if appointed to do so by the Regional Council.

3.3. Duties: The Regional Council is primarily responsible for engaging with the Abatement Council on behalf of its Region and following the procedures outlined in the Colorado MOU for requesting Opioid Funds from the Regional Share, which shall include developing 2-year plans, amending those plans as appropriate, and providing the Abatement Council with data through its fiscal agent regarding Opioid Fund expenditures. Upon request from the Abatement Council, the Regional Council may also be subject to an accounting from the Abatement Council.

3.4. Governance: A Regional Council may establish its own procedures through adoption of bylaws if needed. Any governing documents must be consistent with the other provisions in this section and the Colorado MOU.

3.5. Authority: The terms of the Colorado MOU control the authority of a Regional Council and a Regional Council shall not stray outside the bounds of the authority and

⁴ Local Governments within Multi-County or Single County Regions may decide to select initial Voting Members of the Regional Council between themselves and without CCI and CML involvement. However, the Regional Council must be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court.

power vested by the Colorado MOU. Should a Regional Council require legal assistance in determining its authority, it may seek guidance from the legal counsel of the county or municipal government of the Regional Council's fiscal agent at the time the issue arises.

3.6. Collaboration: The Regional Council shall facilitate collaboration between the State, Participating Local Governments within its Region, the Abatement Council, and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.

3.7. Transparency: The Regional Council shall operate with all reasonable transparency and abide by all Colorado laws relating to open records and meetings. To the extent the Abatement Council requests outcome-related data from the Regional Council, the Regional Council shall provide such data in an effort to determine best methods for abating the opioid crisis in Colorado.

3.8. Conflicts of Interest: Voting Members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

3.9. Ethics Laws: Voting Members shall abide by their local ethics laws or, if no such ethics laws exist, by applicable state ethics laws.

3.10. Decision Making: The Regional Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, the Regional Council shall make decisions by a majority vote of its Members.

4. REGIONAL FISCAL AGENT

4.1. Purpose: According to the Colorado MOU, the Regional Council must designate a fiscal agent for the Region prior to the Region receiving any Opioid funds from the Regional Share. All funds from the Regional Share shall be distributed to the Regional Council's fiscal agent for the benefit of the entire Region.

4.2. Designation: The Regional Council shall nominate and designate a fiscal agent for the Region by majority vote. Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.

4.3. Term: A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council

determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado.

4.4. Duties: The Regional fiscal agent shall receive, deposit, and make available Opioid Funds distributed from the Abatement Council and provide expenditure reporting data to the Abatement Council on an annual basis. In addition, the Regional fiscal agent shall perform certain recordkeeping duties outlined below.

- a. **Opioid Funds:** The Regional fiscal agent shall receive all Opioid Funds as distributed by the Abatement Council. Upon direction by the Regional Council, the Regional fiscal agent shall make any such Opioid Funds available to the Regional Council.
- b. **Reporting:** On an annual basis, as determined by the Abatement Council, the Regional fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan.
- c. **Recordkeeping:** The Regional fiscal agent shall maintain necessary records with regard the Regional Council's meetings, decisions, plans, and expenditure data.

4.5. Authority: The fiscal agent serves at the direction of the Regional Council and in service to the entire Region. The terms of the Colorado MOU control the authority of a Regional Council, and by extension, the Regional fiscal agent. A Regional fiscal agent shall not stray outside the bounds of the authority and power vested by the Colorado MOU.

5. REGIONAL TWO-YEAR PLAN

5.1. Purpose: According to the Colorado MOU, as part of a Regional Council's request to the Abatement Council for Opioid Funds from its Regional Share, the Regional Council must submit a 2-year plan identifying the Approved Purposes for which the requested funds will be used.

5.2 Development of 2-Year Plan: In developing a 2-year plan, the Regional Council shall solicit recommendations and information from all Regional PLGs and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado. At its discretion, a Regional Council may seek assistance from the Abatement Council for purposes of developing a 2-year plan.

5.3 Amendment: At any point, a Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of the Colorado MOU and any Settlement.

- 6. DISPUTES WITHIN REGION.** In the event that any Regional PLG disagrees with a decision of the Regional Council, or there is a dispute regarding the appointment of Voting or Non-Voting Members to the Regional Council, that Regional PLG shall inform the Acting Chair of its dispute at the earliest possible opportunity. In Response, the Regional Council shall gather any information necessary to resolve the dispute. Within fourteen (14) days of the Regional PLG informing the Acting Chair of its dispute, the Regional Council shall issue a decision with respect to the dispute. In reaching its decision, the Regional Council may hold a vote of Voting Members, with the Acting Chair serving as the tie-breaker, or the Regional Council may devise its own dispute resolution process. However, in any disputes regarding the appointment of a Voting Member, that Voting Member will be recused from voting on the dispute. The decision of the Regional Council is a final decision.
- 7. DISPUTES WITH ABATEMENT COUNCIL.** If the Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. However, the failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
- 8. RECORDKEEPING.** The acting Regional fiscal agent shall be responsible for maintaining records consistent with the Regional Agreement.
- 9. AUTHORIZED REPRESENTATIVES.** Each Regional PLGs' representative designated below shall be the point of contact to coordinate the obligations as provided herein. The Regional PLGs designate their authorized representatives under this Regional Agreement as follows:

 - 9.1.** _____ designates the _____ of the _____ or their designee(s).
 - 9.2.** _____ designates the _____ of the _____ or their designee(s).
- 10. OBLIGATIONS OF THE REGIONAL PLGS.** The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.

- 11. TERM.** The Regional Agreement will commence on _____ and shall expire on the date the last action is taken by the Region, consistent with the terms of the Colorado MOU and any Settlement. (the “Term”).
- 12. INFORMATIONAL OBLIGATIONS.** Each Regional PLG hereto will meet its obligations as set forth in § 29-1-205, C.R.S., as amended, to include information about this Regional Agreement in a filing with the Colorado Division of Local Government; however, failure to do so shall in no way affect the validity of this Regional Agreement or any remedies available to the Regional PLGs hereunder.
- 13. CONFIDENTIALITY.** The Regional PLGs, for themselves, their agents, employees and representatives, agree that they will not divulge any confidential or proprietary information they receive from another Regional PLG or otherwise have access to, except as may be required by law. Nothing in this Regional Agreement shall in any way limit the ability of the Regional PLGs to comply with any laws or legal process concerning disclosures by public entities. The Regional PLGs understand that all materials exchanged under this Regional Agreement, including confidential information or proprietary information, may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S., (the “Act”). In the event of a request to a Regional PLG for disclosure of confidential materials, the Regional PLG shall advise the Regional PLGs of such request in order to give the Regional PLGs the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or confidential. If a Regional PLG objects to disclosure of any of its material, the Regional PLG shall identify the legal basis under the Act for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Regional PLG agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the Regional PLGs may tender all material to the court for judicial determination of the issue of disclosure.
- 14. GOVERNING LAW; VENUE.** This Regional Agreement shall be governed by the laws of the State of Colorado. Venue for any legal action relating solely to this Regional Agreement will be in the applicable District Court of the State of Colorado for the county of the Region’s fiscal agent. Venue for any legal action relating to the Colorado MOU shall be in a court of competent jurisdiction where a Settlement or consent decree was entered, as those terms are described or defined in the Colorado MOU. If a legal action relates to both a Regional

Agreement and the Colorado MOU, venue shall also be in a court of competent jurisdiction where a Settlement or consent decree was entered.

15. TERMINATION. The Regional PLGs enter into this Regional Agreement to serve the public interest. If this Regional Agreement ceases to further the public interest, a Regional PLG, in its discretion, may terminate their participation in the Regional Agreement, in whole or in part, upon written notice to the other Regional PLGs. Each Regional PLG also has the right to terminate the Regional Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the other Regional PLGs. A Regional PLG's decision to terminate this Regional Agreement, with or without cause, shall have no impact on the other Regional PLGs present or future administration of its Opioid Funds and the other procedures outlined in this Regional Agreement. Rather, a Regional PLG's decision to terminate this Regional Agreement shall have the same effect as non-participation, as outlined in Section 3.2 (e).

16. NOTICES. "Key Notices" under this Regional Agreement are notices regarding default, disputes, or termination of the Regional Agreement. Key Notices shall be given in writing and shall be deemed received if given by confirmed electronic transmission that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; certified mail, return receipt requested, postage prepaid, three business days after being deposited in the United States mail; or overnight carrier service or personal delivery, when received. For Key Notices, the Regional PLGs will follow up any electronic transmission with a hard copy of the communication by the means described above. All other communications or notices between the Regional PLGs that are not Key Notices may be done via electronic transmission. The Regional PLGs agree that any notice or communication transmitted by electronic transmission shall be treated in all manner and respects as an original written document; any such notice or communication shall be considered to have the same binding and legal effect as an original document. All Key Notices shall include a reference to the Regional Agreement, and Key Notices shall be given to the Regional PLGs at the following addresses:

17. GENERAL TERMS AND CONDITIONS

- 17.1. Independent Entities.** The Regional PLGs enter into this Regional Agreement as separate, independent governmental entities and shall maintain such status throughout.
- 17.2. Assignment.** This Regional Agreement shall not be assigned by any Regional PLG without the prior written consent of all Regional PLGs. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Regional Agreement.
- 17.3. Integration and Amendment.** This Regional Agreement represents the entire agreement between the Regional PLGs and terminates any oral or collateral agreement or understandings. This Regional Agreement may be amended only by a writing signed by the Regional PLGs. If any provision of this Regional Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and the remaining provision of this Regional Agreement shall continue in full force and effect.
- 17.4. No Construction Against Drafting Party.** The Regional PLGs and their respective counsel have had the opportunity to review the Regional Agreement, and the Regional Agreement will not be construed against any Regional PLG merely because any provisions of the Regional Agreement were prepared by a particular Regional PLG.
- 17.5. Captions and References.** The captions and headings in this Regional Agreement are for convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Regional Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.
- 17.6. Statutes, Regulations, and Other Authority.** Any reference in this Regional Agreement to a statute, regulation, policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the execution of this Regional Agreement.

- 17.7. Conflict of Interest.** No Regional PLG shall knowingly perform any act that would conflict in any manner with said Regional PLG's obligations hereunder. Each Regional PLG certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has it any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of its obligations hereunder. No elected or employed member of any Regional PLG shall be paid or receive, directly or indirectly, any share or part of this Regional Agreement or any benefit that may arise therefrom.
- 17.8. Inurement.** The rights and obligations of the Regional PLGs to the Regional Agreement inure to the benefit of and shall be binding upon the Regional PLGs and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Regional Agreement.
- 17.9. Survival.** Notwithstanding anything to the contrary, the Regional PLGs understand and agree that all terms and conditions of this Regional Agreement and any exhibits that require continued performance or compliance beyond the termination or expiration of this Regional Agreement shall survive such termination or expiration and shall be enforceable against a Regional PLG if such Regional PLG fails to perform or comply with such term or condition.
- 17.10. Waiver of Rights and Remedies.** This Regional Agreement or any of its provisions may not be waived except in writing by a Regional PLG's authorized representative. The failure of a Regional PLG to enforce any right arising under this Regional Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.
- 17.11. No Third-Party Beneficiaries.** Enforcement of the terms of the Regional Agreement and all rights of action relating to enforcement are strictly reserved to the Regional PLGs. Nothing contained in the Regional Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the Regional PLGs receiving services or benefits pursuant to the Regional Agreement is an incidental beneficiary only.
- 17.12. Records Retention.** The Regional PLGs shall maintain all records, including working papers, notes, and financial records in accordance with their applicable record

retention schedules and policies. Copies of such records shall be furnished to the Parties request.

17.13. Execution by Counterparts; Electronic Signatures and Records. This Regional 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. The Regional PLGs approve the use of electronic signatures for execution of this Regional Agreement. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Regional PLGs agree not to deny the legal effect or enforceability of the Regional Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Regional PLGs agree not to object to the admissibility of the Regional Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

17.14. Authority to Execute. Each Regional PLG represents that all procedures necessary to authorize such Regional PLG's execution of this Regional Agreement have been performed and that the person signing for such Regional PLG has been authorized to execute the Regional Agreement.

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Colorado Opioids Settlement Memorandum of Understanding



Study Session
October 18, 2021

Abatement Council

- The first entered settlement will trigger the formation of the Abatement Council (established within 90 days)
- Abatement Council is primarily responsible for
 - ensuring that the distribution of opioid funds complies with the terms of the MOU
 - oversight of opioid funds from the regional share
- Abatement Council shall consist of 13 members
 - 7 members appointed by the state
 - 6 members appointed by CCI and CML after conferral with the local governments

Allocation of Settlement Proceeds

All opioid funds at the time of a settlement or at the time designated in the settlement documents, shall be divided and distributed as follows:

- 10% directly to the state
- 20% directly to participating local governments
- 60% directly to regions
- 10% to specific abatement infrastructure projects

Local Government Share (20%)

Local Government (LG) Share 20%					
Counties	County Area Allocation	Intracounty Allocation			COA % LG Share
		County	COA	Other	
Arapahoe	10.8%	42.7%	35.6%	21.7%	3.8%
Adams	9.4%	68.3%	4.6%	27.0%	0.4%
Douglas	3.7%	71.8%	0.2%	27.9%	< 0.1%
Other	76.1%				


- Of the 20% LG Share...
 - 23.9% will be distributed to Arapahoe, Adams, and Douglas County areas
 - 4.3% will be distributed directly to the City of Aurora
- First payment not expected until 2022

Regional Share (60%)



- The City of Aurora will be a member of three separate regions (Arapahoe, Adams, Douglas)
 - The city can elect to join all, some or none of these regions
- Regional Council will develop a 2-year plan identifying the use of funds by the region and make requests to the Abatement Council for opioid funds
 - Each voting member shall be an employee or elected official of a participating local government within the applicable region

Statewide Infrastructure Share (10%)



- Promote capital improvements and provide operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis anywhere within the State of Colorado
- Abatement Council will establish policies and procedures for the distribution and oversight of the statewide infrastructure share, including processes to apply for funds
- Paid directly to any party or regional council

Approved Purposes (Exhibit A)

Reasonable
administrative
costs

Treatment

Prevention

Additional Areas
(first responders,
research, etc.)

Next Steps

Does Council wish to send this resolution
forward for formal approval?

RESOLUTION NO. R 2021-_____

**A RESOLUTION BY THE CITY COUNCIL OF AURORA, COLORADO,
TO APPROVE THE COLORADO OPIOIDS SETTLEMENT
MEMORANDUM OF UNDERSTANDING**

WHEREAS, the City is authorized, pursuant to Article XIV of the Colorado Constitution and Section 29-1-201, *et seq.*, 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, the City of Aurora has participated in active litigation in cooperation with multiple other local government entities, collectively known as the Colorado Coalition, to address the ongoing opioid epidemic; and

WHEREAS, the Colorado Coalition has joined in a national multi-district litigation proceeding and has filed a lawsuit against more than 20 entities including claims for public nuisance, violations of the Colorado Consumer Protection Act, gross negligence, and fraud; and

WHEREAS, many of the named defendants in the litigation are working to negotiate settlements with local governments, including the Colorado Coalition; and

WHEREAS, any resulting settlement funds would be used for the mitigation of the opioid epidemic; and

WHEREAS, the Colorado Coalition has engaged in negotiations with the Colorado Attorney General to reach an agreement for how any settlement funds would be distributed in the State of Colorado; and

WHEREAS, the Colorado Opioids Settlement Memorandum of Understanding memorializes the agreement between the City of Aurora, the Colorado Coalition and the Colorado Attorney General for the distribution of settlement funds within Colorado.

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

Section 1. The Colorado Opioids Settlement Memorandum of Understanding is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver such Agreement on behalf of the City 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 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: _____


Isabelle Evans, Litigation Manager



CITY OF AURORA

Council Agenda Commentary

Item Title: Update on the evaluation and assessment of Transportation (Road) Impact Fees on development in the city
Item Initiator: Cindy Colip, Director of Public Works
Staff Source/Legal Source: Victor Rachael, Deputy Director PW Engineering/Michelle Gardner, Sr Assistant City Attorney
Outside Speaker: Brian Duffany, Economic & Planning Systems (EPS) & Elliot Sulsky, Felsburg, Holt & Ullevig
Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

ITEM DETAILS:

Update on the evaluation and assessment of Transportation (Road) Impact Fees on development in the city

Staff Sponsor: Cindy Colip, Director of Public Works

Staff Source: Cindy Colip, Director of Public Works/Michelle Gardner, Sr Assistant City Attorney

Outside Speakers: Brian Duffany, Economic & Planning Systems (EPS) & Elliot Sulsky, Felsburg, Holt & Ullevig

Estimated Presentation/Discussion Time: 25/20

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input checked="" type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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 2018, Council directed staff to evaluate updating the Capital Impact Fees, with exception of the Transportation (Road) Impact Fees. Economic & Planning Systems (EPS) was contracted and completed that work in 2019. The 2018 Capital Impact Fee Study did not update the Transportation Impact Fees as the city was wrapping up the Northeast Aurora Transportation Study (NEATS) and was about to begin a 5-year capital planning cycle to identify transportation priorities to potentially be funded with Transportation Impact Fees.

In 2021, Council requested that staff evaluate the Transportation (Road) Impact Fees. Because of EPS's successful completion of the 2018 Capital Impact Fee Study, knowledge of Aurora financial systems as well as their analysis of the department's operating and capital data done for the East Annexation Study, they were awarded a single source contract documented on the March 29, 2021 weekly report which is attached. EPS teamed with Felsburg Holt & Ullevig (FHU) for technical support on transportation analysis.

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

In 2008 as part of the overall Capital Impact Fee study, City Council approved Aurora's Transportation Impact Fees, of \$667 per single family residential unit, meant to partially defray costs of transportation needs on new development. These fees are for improvements needed to serve growth and to maintain levels of service as the community grows. The 2008 study used the "Incremental Expansion" method. A directive of the initial study was that these costs were to be updated from time to time to make sure the impact fees were still correct.

EPS has met with key staff from the Finance, Public Works and Planning departments and prepared proposed, draft Transportation Impact Fees for consideration. This updated study also uses the "Incremental Expansion" method. This technique estimates the costs needed to be recouped by each new unit of development in order for the City to maintain its current level of service.

Following are the proposed residential fees per unit based on the Nexus Study:

Single Family Residential: \$5,787.66
Multi-Family Residential: \$4,486.36

Currently the City does not charge Transportation Impact Fees on non-residential development. Based on the significant non-residential development occurring, the study recommends implementing a transportation impact fee on these developments at the following levels (per 1000 sf):

Retail/Shopping Center: \$12,551.30
Office: \$7,283.11
Industrial: \$3,709.77
Warehouse: \$1,175.37

Mini-warehouse: \$787.08
Hotel (per Room): \$4,334.68

Two options are proposed for consideration of implementation:

Option 1

- Adopt Citywide transportation fee at level with ARI credit adjustment
- Flexibility for future ARIs
- Consistent fee citywide: fees will be the same in all areas (i.e. inside I-225 vs. east of E-470)
- Phase in over 3 years

Option 2

- Offer developers options
- Charge/join ARI and pay discounted fee
- Pay full impact fee and do not join ARI
- Phase in over 3 years

Previously approved indexing will still occur annually in addition to the phasing.

QUESTIONS FOR COUNCIL

Should staff proceed with an ordinance for new residential transportation impact fees?

Would Council like to consider additional information on non-residential/commercial impact fees at a later date?

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 make written or verbal reports to the Council concerning the affairs of the City under his supervision. City Charter §7-4(e). Additionally, the City Manager shall keep the Council advised of the future needs of the City and make such recommendations to the Council for adoption as he may deem necessary or expedient. (City Charter §7-4(f). (M. Gardner)

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain:

PRIVATE FISCAL IMPACT

☐ Not Applicable ☒ Significant ☐ Nominal

If Significant or Nominal, explain: The fees will produce funds that will be spent on growth related needs

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID NUMBER
CASTLE ROCK MICROWAVE CASTLE ROCK, CO Dept: Water	<p>Award a single source contract for annual support and maintenance of Water's SCADA WAN Microwave Network through March 15, 2022. The vendor will provide services in the following key areas: 8 x 5 remote emergency support; preventative maintenance; interference support and frequency reviews.</p> <p>Castle Rock Microwave was selected as the result of an open solicitation process that was completed in 2019 to replace the City's network with a system having up to 1Gbps capacity. As a result, they are the most qualified vendor to efficiently maintain the SCADA network.</p> <p>Castle Rock Microwave has proposed the same maintenance pricing as charged in 2019. Therefore, staff considers the pricing to be fair and reasonable.</p> <p><i>Purchases where it is in the City's interest to obtain more advantageous time allowances or similar variable factors, which can reduce the total cost of the product or services are authorized to be awarded through non-competitive negotiations. 2-674-6</i></p>	\$41,600.00	N/A
ECONOMIC & PLANNING SYSTEMS (EPS) DENVER, CO Dept: Finance	<p>Award a single source contract to Economic & Planning Systems (EPS) for the Road Capital Impact Fee Study. EPS' work on the 2018 Capital Impact Fee Study and prior work on the East Aurora Annexation Study touched on much of the same city and department data that the Road Capital Impact Fee study will need. The 2018 Capital Impact Fee Study did not update the road impact fee as the City was about to begin a 5-year capital planning cycle to identify transportation priorities to be funded with impact fees and would potentially provide more up-to-date costs and data on transportation and the current level or service provided.</p> <p>The company's knowledge of Aurora's financial systems, the 2018 Capital Impact Fee Study, as well as its analysis of the department's operating and capital data done for the East Aurora Annexation Study will allow EPS to hit the ground running, resulting in a quicker turnaround and more defensible results. The rates proposed by EPS are comparable to other consultants that are providing financial consulting services for the City. Therefore, the price is considered to be fair and reasonable.</p> <p><i>Purchases where it is in the City's interest to obtain more advantageous time allowances or similar variable factors, which can reduce the total cost of the product or services are authorized to be awarded through noncompetitive negotiations. 2-674-6</i></p>	\$46,360.00	N/A

Study Session, October 18, 2021

Proposed Updates to Transportation Impact Fees

Presented by

Victor Rachael, Deputy Director, Public Works – Engineering Services

Brian Duffany, Economic & Planning Systems (EPS)

Elliot Sulsky, PE, Felsburg Holt & Ullevig



Transportation (Roads) Impact Fee Agenda

- Background
 - Definitions
 - City growth and fee revenues
- Transportation costs
 - Typical projects
 - Cost recovery comparison against current fees
- Proposed Fees (Nexus Study results)
 - Eligible Projects
 - Maximum fee justified by study
 - Surrounding community fee comparisons
- Fee credits
 - SARIA and ARTA
- Recommended fees and phase-in options
- Discussion
- Request for Council Direction



Background

- In 2018 Council directed staff to evaluate updating the Capital Impact Fees, with exception of the Transportation (Road) Impact Fees (\$667/home).
- Economic & Planning Systems (EPS) was contracted and completed that work in 2019.
- The 2018 Capital Impact Fee Study did not update the Transportation Impact Fees.
 - City was working on Northeast Aurora Transportation Study (NEATS) Refresh and 5-year capital planning cycle.
- This Nexus Study provides a new transportation impact fee calculation based on newer best practice methods and more up-to-date costs.
- Nexus Study calculates the maximum justifiable fee. Council has discretion to adopt a lower amount and/or phase in increases.



Impact Fee Definitions

- Charges on new development to defray capital costs directly related to new development
- Spend on:
 - Improvements needed to serve growth
 - Spend within a “reasonable time period”
 - Community-wide benefit
- Cannot be spent on:
 - Maintenance, operations, existing deficiencies
- Process for credits for developer/fee payer-funded improvements
- Affordable housing can be exempted from impact fees



Types of Eligible Projects

- Arterial road capacity projects: adding lanes
- New roads: connections, extensions
- Major intersection improvements
- New multimodal projects (new multiuse paths, new sidewalks)
- Not eligible:
 - Local and collector roads (neighborhood streets)
 - Developer responsibility



2008-2020 Growth

- City Growth

• 2008 Population: 309,416	Housing Units: 126,797
• 2020 Population: <u>386,502</u>	Housing Units: <u>147,745</u>
• Added: 77,086	20,948

- Transportation Fees Collected: \$8.7 million

- Not including interest, other small amounts
- 2009-2012: \$3.1 million
- 2013: \$1.8 million
- 2014: \$1.0 million
- 2015: \$1.2 million
- 2016: \$2.9 million
- 2017: \$2.4 million
- 2018: \$2.9 million (most annually)



2008-2020 Fee Collections

- 2008-2020: \$8.7 million in transportation impact fees
 - Core: \$2.3 million (average \$193,900 per year)
 - Northeast: \$2.1 million (average \$171,700 per year)
 - Southeast: \$4.3 million (average 356,600 per year)



Use of Fee Revenue 2015-2019

- \$175K Heather Gardens Entrance (2015)
- \$50K Havana Idaho Turn Signal (2015)
- \$360K Sand Creek Light Rail (2015)
- \$400K Traffic Signal Yale/Marina (2016)
- \$125K N Aurora Traffic study (2017)
- \$200K Montview/Fits Parkway (2017)
- \$1.1M Signals (2018 Supplemental)
- \$1.6M Signals (2019 Supplemental)



Transportation Costs

- One lane of arterial road costs \$3.0 million per mile
- At current impact fee of \$667: 4,500 single family homes are needed to recover the cost



Major Planned Transportation Projects

Table 1: Recommended Cost/VMC Calculation Based on CIMP Projects

PROJECT TYPE	PROJECT NAME	PROJECT BENEFITS - Better or Increased:		Project Length (Miles)	New VPD Capacity	Notes on Assumptions	Vehicle Miles of Capacity (VMC) Added	CAPITAL COST	Estimated Cost/VMC	PROJECT DESCRIPTION
Bridge	Gartrell Bridge Widening	• Capacity • Multi-Modal	• Travel Reliability • Mobility	0.42	20,000	Aurora Pkwy to Dry Creek Rd, Widen from 2 to 4 lanes, major arterial	8,400	\$6,000,000	\$714	Partnership with SARIA and potentially E470 to widen Gartrell Drive to four through lanes plus turn lanes which requires Gartrell Dr bridge widening
	Jewell Ave widening over E470	• Capacity • Multi-Modal	• Travel Reliability • Mobility	0.34	20,000	Within E-470 Multi-Use Easement, Widen 2 to 4 lanes, major arterial	6,800	\$7,000,000	\$1,029	Widening of existing grade separation of Jewell Ave over E470 including signal and ramp improvements.
	Peoria St Bridge Over Sand Creek	• Structural Safety • Multi-Modal	• Travel Reliability • Mobility	0.3	20,000	Fitzsimons Pkwy to 30th Ave, Widen from 4 to 6 lanes, major arterial	6,000	\$6,333,333	\$1,056	Reconstruction of bridge over Sand Creek with full 6-lane bridge to complete the roadway section throughout the corridor. Used 1/3 of total project cost as capacity expansion cost component
	Aurora Pkwy Bridge at E-470	• Capacity • Multi-Modal	• Access • Mobility	0.25	20,000	Bridge and immediate influence area, New 2 Lane	5,000	\$6,000,000	\$1,200	Construction of grade separation of future Aurora Pkwy over E470. Project would construct half section of future 4-lane arterial section.
Bridge Project Totals and Average							26,200	\$ 25,333,333	\$967	
INTERSECTION / ROADWAY	Powhatan Rd - Smoky Hill to County Line	• Capacity • Multi-Modal	• Travel Reliability • Mobility	1.0	20,000	Widen 2 to 4 lanes, major arterial	20,000	\$10,000,000	\$500	Completion of southbound lanes and roadway frontage improvements for Powhatan Rd south of Smoky Hill Rd.
	Gun Club Rd - South of Quincy	• Capacity • Multi-Modal	• Travel Reliability • Mobility	1.3	20,000	Widen 2 to 4 lanes Quincy to beginning of Aurora Pkwy, Major Arterial	26,000	\$12,500,000	\$481	Construction to widen Gun Club Rd to 4 of the full 6-lane arterial section. Project to include significant utility relocation and property acquisition.
	Picadilly Rd - Hogan to 11th	• Capacity • Multi-Modal	• Travel Reliability • Mobility	0.57	20,000	Widen from 2 lane to half of 6 lane, Major Arterial	11,400	\$3,500,000	\$307	1/2 Mile of Roadway Widening to construct west half of full 6 lane section (other 3 lanes by developers)
	Quincy Ave - Gun Club to Powhatan	• Capacity • Multi-Modal	• Travel Reliability • Mobility	2.0	10,000	Aurora share (1/2) of widening from 2 to 4 lanes	20,000	\$15,000,000	\$750	Widen Quincy Ave from Gun Club Rd to Powhatan Rd. Potential cost share w/ Arapahoe County as well as interim section. Cost represented is City share.
	Hogan Pkwy - Full Section	• Capacity • Multi-Modal	• Travel Reliability • Mobility	1.97	20,000	Widen 2 to 4 lanes, Major Arterial, SH 30 to E-470 west ramps	39,400	\$24,100,000	\$612	Expansion of Stephen D. Hogan Pkwy to the 4 of the full 6-lane arterial section including expansion of the bridge over Sand Creek.
	Roadway Widening: Jewell Ave - Genoa to E470	• Capacity • Multi-Modal	• Travel Reliability • Mobility	1.65	40,000	Widen from 2 lane to 6 lane Major Arterial	66,000	\$22,100,000	\$335	Widening of Jewell Ave from Genoa St to its intersection with E470 to a full 6-lane arterial section.
	1st Ave & Havana St Improvements	• Traffic Safety • Capacity	• Travel Reliability • Mobility	0.5	10,000		5,000	\$1,455,000	\$291	Intersection improvements to add turn lanes and reconstruct traffic signal.
Roadway / Intersection Project Totals and Average							187,800	\$ 88,655,000	\$472	
Bridge & Roadway / Intersection Project Totals and Average							214,000	\$ 113,988,333	\$533	

Transportation Costs

- To fund everything on this list (\$114 million):
 - 157 years at current impact fee of \$667
 - Would have to combine all fees from each zone
- The smallest project (1st & Havana) will take nearly 8 years in the Core area
- 28 years to fund the 1-mile Powhaton Rd project in the SE
- 130 years to fund the 1.65 mile widening of Jewell / Genoa to E-470



Fee Study

ROAD IMPACT FEE NEXUS STUDY

- Fee is cost to provide a vehicle mile of capacity (VMC)
 - **Fee payer pays only for the capacity they use**
 - “Consumption-based” method
 - “Market basket” of typical transportation capacity projects
 - Fee is based on trip generation rates and average trip length
 - Level of service D
- “Major Roadway System”: City arterial roads
- Costs include full multimodal cross section
- Spend on capacity projects: roads, connections, new multimodal connections
- Cost per VMC
 - Base: \$533.00
 - After Debt Credit for Hogan Parkway: \$524.72



Who Charges Impact Fees?

Jurisdiction	Public Safety (Fire and/or Police)	Parks, Trails, Recreation	Library	Municipal Facilities/Gen Gov.	Transportation
Aurora	✓	✓	✓	✓	✓
Adams County					✓
Arapahoe County					✓
Castle Rock	✓	✓		✓	✓
Commerce City					✓
El Paso County					✓
Fort Collins	✓	✓			✓
Greeley	✓	✓			✓
Littleton	✓	✓		✓	✓
Loveland	✓				
Windsor					✓

Source: Economic & Planning Systems



Impact Fee Calculation

- Current transportation fees:
 - Single family: \$667.00
 - Nonresidential: \$ 0.00
- Maximum justifiable fee:

Land Use Type	Unit	New Trips	Trip Length (Miles)	Service Units (VMT)	Adjusted Cost Per VMT	Maximum Fee
Single Family Residential	DU	5.57	1.98	11.03	\$524.72	\$5,787.66
Multi-Family Residential	DU	4.32	1.98	8.55	\$524.72	\$4,486.36

Source: Felsburg, Holt & Ulevig; Economic & Planning Systems



Residential Fee Comparison

Community	Fire	Police	Parks & Rec	Library	Municipal/ General Government	Transportation/ Roads	Impact Fees
Aurora Current	\$968	\$1,029	\$1,744	\$190	\$877	\$667	\$5,474
Aurora Proposed Max.						\$5,788	\$10,595
Adams County [1]	N/A	N/A	N/A	N/A	N/A	\$5,690	\$5,690
Arapahoe County	N/A	N/A	N/A	N/A	N/A	\$2,857	\$2,857
Castle Rock	\$1,097	\$542	\$6,726	N/A	\$354	\$8,236	\$16,955
Commerce City [2]	N/A	N/A	N/A	N/A	N/A	\$1,181	\$1,181
El Paso County	N/A	N/A	N/A	N/A	N/A	\$3,830	\$3,830
Fort Collins [3]	\$776	\$434	\$7,565	N/A	N/A	\$7,099	\$15,874
Greeley [4]	\$686	\$153	\$4,057	N/A	N/A	\$4,773	\$9,669
Littleton	N/A	\$371	N/A	\$686	\$1,925	\$2,241	\$5,224
Loveland	\$1,000	N/A	N/A	N/A	N/A	N/A	\$1,000
Windsor	N/A	N/A	N/A	N/A	N/A	\$4,361	\$4,361
Average	\$890	\$375	\$6,116	\$686	\$1,140	\$4,474	\$6,664

[1] Average of East and West Service Areas (Phase 3/1/2022-)

[2] Likely to be updated/increased in 2022-2023

[3] Park impact fee includes Community and Neighborhood Park Fees

[4] Park impact fee includes Trail Development Fee

Source: Economic & Planning Systems



Credits and Fee Recommendations

Fee Credits

- Credit for improvements built
 - When fee payer builds or funds elements of the “major roadway system” (arterials)
 - Receive credit for value of improvements
 - Credit would not exceed amount of fees due
- Double charging
 - Fee payers should not pay for the same improvements twice
- Account for debt and other funding sources if appropriate
 - Hogan Parkway debt is adjusted for
 - SARIA and ARTA are special circumstances



SARIA

- South Aurora Regional Improvement Authority
- Formed in 2017
- Voluntary financing agreement
- IGA between the City and eight Title 32 metropolitan districts
- Additional mill levy dedicated to regional transportation projects
- Years 1-20: 1.000 mills
- Years 21-40: 5.000
- \$89.3M in projects
- About \$12.0 million in debt outstanding (bonds)



Quincy Avenue & E470
Ramp Reconfiguration
CONSTRUCTION 2019/2020

Quincy Avenue
Lane Additions
Plains Pkwy to E470
CONSTRUCTION 2020

Gun Club Road
Improvements
Quincy Avenue
to
Aurora Parkway
DESIGN / UTILITY
RELOCATION 2019/2020

Harvest Road
Extension
Alexander to Orchard
UNDER CONSTRUCTION

Smoky Hill & Wheatlands

Gartrell & Easter

Gartrell Rd Improvements
Dry Creek to Aurora Parkway
w/ Bridge & Ramps
DESIGN 2019/2020

Aurora Parkway Bridge
(Half Section)
DESIGN 2019/2020

Aurora & Irish

Smoky Hill & Powhatan

Kings Point
South 1 - 2
(Flood Potential Area)

Gartrell & Inspiration

3

Fee Credit Analysis: SARIA and ARI

- SARIA area developing ahead of City funded transportation projects
- Mill levy and bonds are funding the types of projects the City would participate in with impact fees
- Credit is recommended and appropriate
- Credit for value of mill levy contribution over 40 years: \$1,500 approximately



Adjusted Fees with ARI Credit

Land Use Type	Unit	Maximum Fee	Debt Credit	Adjusted Fee
Single Family Residential	per dwelling unit	\$5,787.66	\$1,567.79	\$4,219.87
Multi-Family Residential	per dwelling unit	\$4,486.36	\$605.34	\$3,881.02

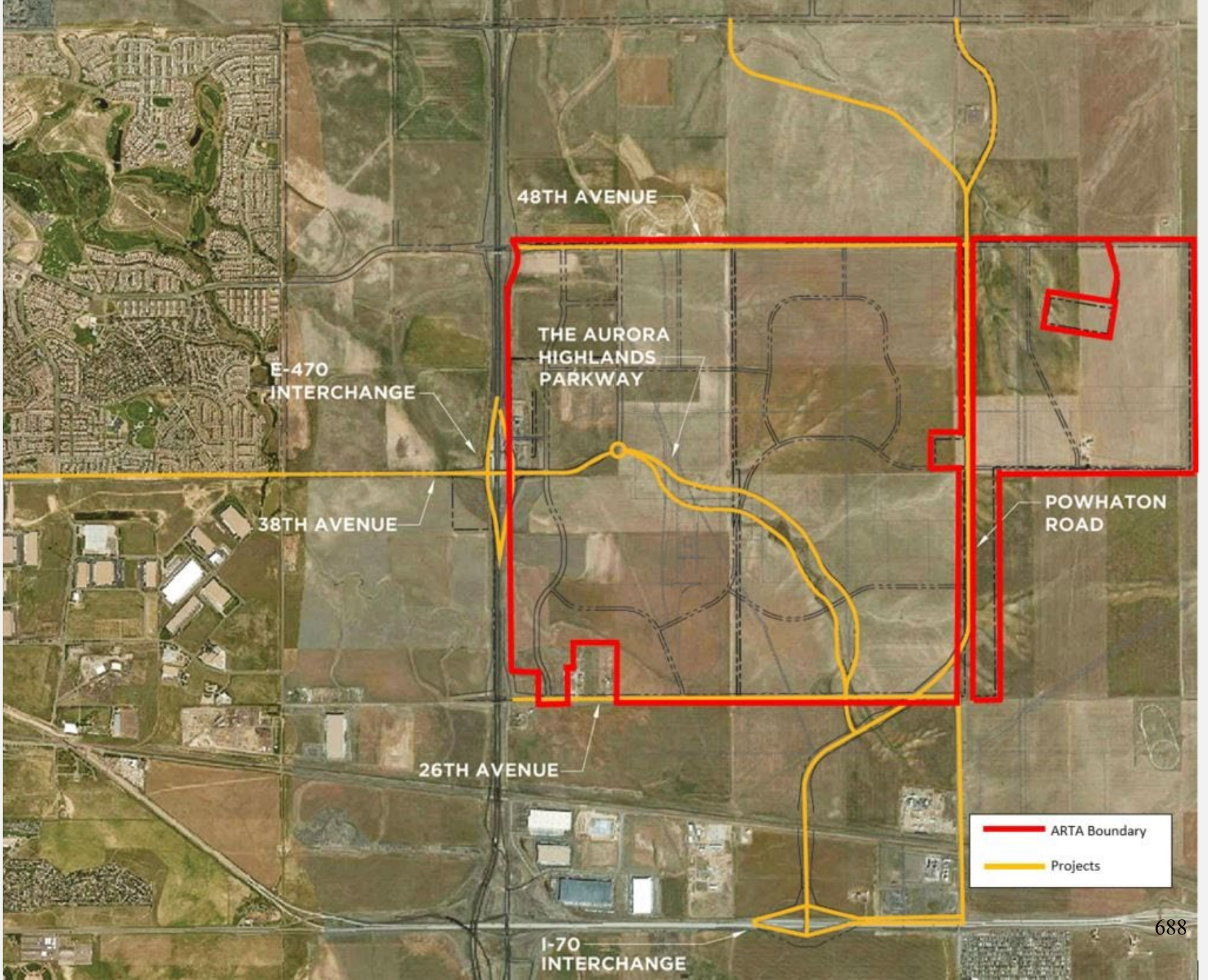
Source: Felsburg, Holt & Ulevig; Economic & Planning Systems



Aerotropolis Regional Transportation Authority

- Voluntary financing agreement between City, Adams County, and Aurora Highlands developer
- Pledged revenues
 - **100% of City use tax (excluding 0.25% public safety)**
 - **100% of City impact fees**
 - County revenues
 - 50% of general fund property tax
 - 100% of road and bridge property tax
 - 5.00 mill property tax
- Several arterial roads
- I-70/Harvest & I-70/Picadilly Interchanges, E-470/38th Ave Interchange, E-470 crossings
- ~\$300 million in projects





Fee Credit Analysis: ARTA

- Project is receiving significant public investment from City of Aurora and Adams County
- City use tax contribution ranges from \$4,000 to \$6,000 or more per home
 - City will have to backfill use tax contributions to capital fund with other General Fund revenue
 - Use tax investment is greater than RTA's 5.000 mills over 30 years (\$3,000 on \$550,000 home)
- Impact fees are captured 100% within RTA boundary
 - No funding available for City to pay for other Citywide transportation projects
- Higher impact fees generate more revenue to the RTA and could shorten debt financing time
- **Credit not warranted**



Options for Council Consideration

Options for Council Consideration

- Option 1

- Adopt Citywide transportation fee at level with ARI credit adjustment
- Flexibility for future ARIs
- Consistent fee citywide: fees will be the same in all areas (i.e. inside I-225 vs. east of E-470)
- Phase in over 3 years

- Option 2

- Offer developers options
- Charge/join ARI and pay discounted fee
- Pay full impact fee and do not join ARI
- Phase in over 3 years



Option 1: One Citywide Fee

Land Use Type	Unit	Maximum Fee	ARI Mill Levy Credit	Adjusted Fee Citywide
Single Family Residential	per dwelling unit	\$5,787.66	\$1,567.79	\$4,219.87
Multi-Family Residential	per dwelling unit	\$4,486.36	\$605.34	\$3,881.02

Source: Felsburg, Holt & Ulevig; Economic & Planning Systems

Z:\Shared\Projects\DEN\213044-Aurora Road Impact Fee\Models\[213044 Fee Credit Adjustment.xlsx]Citywide Fee with ARI



Option 2: Fee With and Without ARI Participation

**Project without an
ARI pays this**

**Project with an ARI
pays this**

Land Use Type	Unit	Maximum Citywide Fee	ARI Mill Levy Credit	Adjusted Fee with ARI Participation
Single Family Residential	per dwelling unit	\$5,787.66	\$1,567.79	\$4,219.87
Multi-Family Residential	per dwelling unit	\$4,486.36	\$605.34	\$3,881.02

Source: Felsburg, Holt & Ulevig; Economic & Planning Systems



Maximum Fee or No ARI Phase-In

- 2019 fee ordinance:
 - Police and fire went into effect upon adoption
 - Other fees were phased in over three years (parks, facilities, recreation, libraries)
 - Automatic inflation indexing should be included in ordinance consistent with 2019

Year		Single Family	Annual Increase	Multifamily	Annual Increase
2021	Current Fee	\$666.75		\$469.35	
2022	Year 1	\$2,373.72	\$1,706.97	\$1,808.35	\$1,339.00
2023	Year 2	\$4,080.69	\$1,706.97	\$3,147.36	\$1,339.00
2024	Full Amt.	\$5,787.66	\$1,706.97	\$4,486.36	\$1,339.00
Total Increase			\$5,120.91		\$4,017.01

Source: Felsburg, Holt & Ulevig; Economic & Planning Systems

(does not include inflation adjustments)



Fee with ARI Discount Phase-In

Year		Single Family	Annual Increase	Multifamily	Annual Increase
2021	Current Fee	\$666.75		\$469.35	
2022	Year 1	\$1,851.12	\$1,184.37	\$1,606.57	\$1,137.22
2023	Year 2	\$3,035.50	\$1,184.37	\$2,743.80	\$1,137.22
2024	Full Amt.	\$4,219.87	\$1,184.37	\$3,881.02	\$1,137.22
Total Increase			\$3,553.12		\$3,411.67

Source: Felsburg, Holt & Ulevig; Economic & Planning Systems

(does not include inflation adjustment)



Council Direction

- Should staff proceed with an ordinance for new residential transportation impact fees?



Council Direction

- Would Council like to consider additional information on non-residential/commercial impact fees at a later date?





TO: Mayor and Council Members
FROM: Kadee Rodriguez, City Clerk
DATE: October 14, 2021
RE: Civil Service Commission – Member Vacancy

This memo is to provide information regarding the recent vacancy on the Civil Service Commission. It outlines the proposed steps and processes for appointment and includes sections of the City Code and Council Rules for reference.

Commissioner Vacating Office: AJ McDonald, Vice Chair

Effective Date: September 8, 2021

Commission Member Roster

Name	Term Ending
Jim Weeks, Chair	February 2022
Vacant (AJ McDonald), Vice Chair	February 2023
Barbara Shannon-Banister	February 2023
Harold Johnson	February 2024
Brooke Gabraelli	February 2024

Commission Composition

- Composed of not less than three (3) members and not more than five (5) members
- Commissioners are appointed by a majority vote of Council
- Commissioners serve three (3) year overlapping terms
- All members serve at the pleasure of Council and may be removed at any time, with or without cause, upon an affirmative vote of eight (8) members of City Council

[Article III Chapter 102 of the City Code](#)

[Commission Bylaws](#)



Proposed Steps

1. Application Process

1. Communications will advertise for the open position
2. The City Clerk's Office receives the applications and determines if they meet the minimum qualifications.
 - a. Aurora resident
 - b. Registered Voter prior to appointment
 - c. Members cannot hold any other position in the City for which he/she received per diem or salary, or be an appointed member of any other City Board or Commission

During the June 21, 2021 Study Session, Council approved the following changes for the Civil Service Commission Application:

- **Background check (same as for City employees)**
- **List 3 previous employers, duration of employment and reason for leaving**
- **Include a question about conflicts of interest**

2. Ranking Process

The applications will be reviewed and ranked by each Council Member. The applicants will be listed in preferred order using the Application Ranking Sheet; a number 1 ranking gets more weight than a number ranking. The number of applicants that will be interviewed will be determined during a Study Session after each Council Member has submitted their rankings.

[Ranking Sheet](#)

3. Background Checks

Vendor: Global Screening Solutions (GSS)

Background investigator: Ron Hess

Turnaround time for background: 48 hours

- GSS will conduct criminal background checks on each applicant that will be interviewed (i.e. finalists).
- GSS will provide the criminal background checks to Ron Hess.
- The City Clerk will notify Council if there is anything on the background check.

What type of documentation will be provided to Council?

- **A copy of each criminal background report**
- **Information on convictions and/or arrests (more information about the incident leading to the arrest will be required if there was no conviction)**



4. Interview Process

The interviews will be done during a Study Session. There will be approximately [] minutes allotted for each interview and the interview process will last approximately [] hours.

1. Applicant Introduction – The candidate will have [] **minutes to introduce themselves** and explain why they are interested in serving on the Commission.
2. Interview Questions – There will be [] questions asked to each candidate and Council Members will rotate asking questions in alphabetical order. **There will be [] minutes allotted** for each question.
 - The same questions are asked of each candidate. There will be a spreadsheet that outlines the schedule/rotation for questions.
 - A list of proposed questions from previous interviews will be provided but Council is more than welcome to ask any question.
3. Final Comments – The candidate will be given [] **minute(s) to provide any final comments** they would like to make. They can also provide clarification or an explanation of anything that came up on their background report.

5. Appointment Process

The process below allows for all applicants to be voted on instead of just the applicants nominated by Council. This process is a recommendation for how Council should nominate the individuals they would like to vote for. Council is more than welcome to only nominate certain applicants to vote on or make a motion to appoint rather than to nominate.

- The City Clerk will ask the Mayor and each Council Member (in alphabetical order) to provide their top candidate. Please be prepared to provide the name of your top candidate from the list of applicants interviewed.
- The Clerk will tally the total votes received for each candidate and announce them. If there is a candidate that receives six or more votes, the Mayor will ask for a motion and second to appoint that candidate to the Civil Service Commission.
- If there is not a candidate who received six or more votes, the candidate with the fewest votes will be removed and the three remaining candidates will be voted on again (Council will again be asked for their top candidate from the three remaining). This process will continue until there is one candidate with six or more votes.
- Per Section 5-2 of the Charter, we ask that Councilmembers refrain from abstaining on any vote.



Proposed Schedule

Options for filling this vacancy:

- A. Before the November 2nd Election
- B. After the November 2nd Election
- C. In February 2022 when the next vacancy occurs

2021 Council Meeting Schedule:

October 4	Study Session
October 11	Council Meeting
October 18	Study Session
October 25	Council Meeting
November 1	Study Session
November 8	Council Meeting
November 15	Study Session
November 22	Council Meeting CM Orientation (tentative)
November 29	CM Orientation (tentative)
December 6	Council Meeting Swearing-in Ceremony
December 13	Study Session
December 20	Council Meeting
December 27	Study Session

November 2 – Election Day

November 11 – Veteran’s Day (offices closed)

November 25 and 26 – Thanksgiving (offices closed)

November 17 thru 20 – NLC City Summit

December 24 – Christmas Eve (offices closed)

December 31 – New Year’s Eve (offices closed)



CIVIL SERVICE COMMISSION APPLICATION DRAFT VERSION

Name: _____

Home Address: _____ Zip Code: _____

Email Address: _____

Day Phone: _____ Evening Phone: _____

Are you registered to vote in Aurora? ____ Yes ____ No

Are you presently serving as a Council Appointee on any City of Aurora Board or Commission? ____ Yes ____ No

If yes, what Board Commission or Committee:

Why do you desire appointment to the Civil Service Commission?

Do you have any conflicts of interest that should be disclosed? ____ Yes ____ No

If yes, please explain:

Do you have any special work experience, qualifications, or training that is related to your service on this board or that you would like to share with us?

Interests/Activities: _____

Licenses/Training/Certificates: _____

EMPLOYMENT

Part 1: Provide your current employment information

Employer Name: _____

Position: _____ Dates: _____

Address: _____

Part 2: List your previous employment and reason for leaving

1. Employer Name: _____

Position: _____ Dates: _____

Reason for Leaving: _____

2. Employer Name: _____

Position: _____ Dates: _____

Reason for Leaving: _____

3. Employer Name: _____

Position: _____ Dates: _____

Reason for Leaving: _____

EDUCATION

Degree: _____ Dates: _____

REFERENCES

Name: _____ Phone: _____

Name: _____ Phone: _____

Name: _____ Phone: _____

Criminal Background Notification

As a part of the appointment process, all finalists selected to be interviewed for the Civil Service Commission must undergo a thorough criminal background check.

If you wish to not undergo the criminal background check, your application will need to be withdrawn before the interviews are scheduled. Contact the City Clerk's Office to request to withdraw your application.

I hereby acknowledge that:

- 1. Any law enforcement agency, administrator, state, municipal or federal agency, motor vehicle agency, institution, school or university (public or private), information service bureau, employer, or insurance company may furnish any and all background information requested by Global Solution Services.
- 2. If I continue through this process, the report on my criminal background check may become public record subject to release under Colorado's Open Records Act. Additionally, my criminal history may be discussed in public meetings.

I declare that to be a Commissioner for the Civil Service Commission I must:

- Be a "Registered Elector" as defined in Aurora City Code Section 54-2
- Reside within the municipal boundaries of the City of Aurora, Colorado
- Not hold any other position in the City of Aurora for which I receive either a per diem or salary compensation
- Not hold an appointive position as a member of any other board or Commission serving the City of Aurora

Signature _____ Date _____

.....

Send completed application packet to:

Email: CityClerk@auroragov.org and kvrodrig@auroragov.org
Mail: City Clerk's Office, 15151 E. Alameda Pky., Ste. 1400, Aurora, CO 80012



Disclosure Regarding Employment Background Report

The City of Aurora may obtain from Global Screening Solutions, Inc. ("GSS") 4833 Front St. B448, Castle Rock, CO 80104, (866) 454-2325, www.global-screeningsolutions.com, a consumer report and/or an investigative consumer report ("REPORT") that contains background information about you in connection with your application. If you are appointed, to the extent permitted by law, City of Aurora may obtain from Global Screening Solutions further reports throughout your tenure for an employment purpose without providing further disclosure or obtaining additional consent.

The REPORT may contain information about your character, general reputation, personal characteristics and mode of living. The REPORT may include, but is not limited to, credit reports and credit history information; criminal and other public records and history; public court records (e.g., bankruptcies, tax liens and judgments); motor vehicle and driving records; educational and employment history, including professional disciplinary actions; drug/alcohol test results; and Social Security verification and address history, subject to any limitations imposed by applicable federal and state law. This information may be obtained from public record and private sources, including credit bureaus, government agencies and judicial records, former employers and educational institutions, and other sources.

If an investigative consumer REPORT is obtained, in addition to the description above, the nature and scope of any such REPORT will be employment verifications and references, or personal references.

Signature

Date

Authorization to Obtain Employment Background Report

I have read the Disclosure Regarding Employment Background Report provided by the City of Aurora and this Authorization to Obtain Employment Background Report. By my signature below, I hereby consent to the preparation by Global Screening Solutions, Inc. ("GSS"), a consumer reporting agency located at 4833 Front St. B448, Castle Rock, CO 80104, (866) 454-2325, www.global-screeningsolution.com, of background reports regarding me and the release of such reports to the City of Aurora and its designated representatives, to assist the COMPANY in making an employment decision involving me at any time after receipt of this authorization and throughout my employment, to the extent permitted by law. To this end, I hereby authorize, without reservation, any state or federal law enforcement agency or court, educational institution, motor vehicle record agency, credit bureau or other information service bureau or data repository, or employer to furnish any and all information regarding me to Global Screening Solutions and/or the City of Aurora itself, and authorize Global Screening Solutions to provide such information to the City of Aurora agree that a facsimile ("fax"), electronic or photographic copy of this Authorization shall be as valid as the original.

I acknowledge receipt of a copy of the Consumer Financial Protection Bureau's "A SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT."

State Law Notices Relating to Your Background Report

Washington State Applicants only: You also have the right to request from the consumer reporting agency a written summary of your rights and remedies under the Washington Fair Credit Reporting Act.

- ☐ **California, Massachusetts, Minnesota, New Jersey and Oklahoma Applicants Only:** Please check the box to the left if you would like a free copy of any REPORT obtained by COMPANY from Global Screening Solutions.

New York Applicants Only: By signing the authorization, you acknowledge that you have received a copy of New York Correction Law Article 23-A. You have the right, upon written request, to be informed whether an investigative consumer REPORT was requested. If such a REPORT was requested, you will be provided with the name and address of the consumer reporting agency that prepared the REPORT and you can contact that agency to inspect or receive a copy of the REPORT.

Signature

Date

Consumer Information Data Collection Form

First Name

Middle Name or Initial

Last Name

Date of Birth (MMDDYYYY)

Other Names Known By

☐
Male

☐
Female

Social Security Number

Primary Telephone Number (no dashes)

Current Address

Apt #

#yrs at this address

City

State

Zip Code

Previous Address

Apt #

#yrs at this address

City

State

Zip Code

Driver's License Number (no dashes)

License State

Email Address

Signature

Today's Date (MMDDYYYY)



CITY OF AURORA

Council Agenda Commentary

Item Title: ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING CHAPTER 7 TO THE AURORA CITY CODE TITLED “AURORA’S EMERGENCY ACTION MENTAL HEALTH FUND” AND CREATING THE AURORA’S EMERGENCY ACTION MENTAL HEALTH BOARD

Item Initiator: Roberto Venegas, Deputy City Manager

Staff Source/Legal Source: Terri Velasquez, Director of Finance / Hans Hernandez, Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING CHAPTER 7 TO THE AURORA CITY CODE TITLED “AURORA’S EMERGENCY ACTION MENTAL HEALTH FUND” AND CREATING THE AURORA’S EMERGENCY ACTION MENTAL HEALTH BOARD

Sponsored by Council Member Gardner
Terri Velasquez, Director Of Finance/ Hans Hernandez, Assistant City Attorney

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

- | | |
|--|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |

- ☐ Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)*

This ordinance is proposed by Councilmember Gadrner to help address the shortage in funding for mental health related illness in Aurora. Over the course of the current Covid-19 pandemic the level of service needs for mental health related treatment has increased exponentially as well as suicides. This ordinance intends to help with these costs and provide an opportunity to begin to address this issue and help residents that need mental health services.

QUESTIONS FOR COUNCIL

Does council wish to approve this ordinance and provide funding for mental health needs in the city?

LEGAL COMMENTS

The City of Aurora is a home rule municipality, organized and existing under and Article XX, Section 6 of the Colorado Constitution. The Constitution grants the city and its citizens the right to self-government in matters of local affairs not preempted by the State legislature. The City Council shall have and shall exercise the powers, privileges and duties granted and conferred by the state constitution, statute or city Charter. (Colorado Constitution Article XX Section 6). The City Council has the power to make and publish from time to time 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. (City Code Section 2-32). The City Council has found and determined that creating a commission and allocating funds to address mental health needs in the city fulfills this purpose. City Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of an ordinance; all actions, except as herein provided, may be in the form of Resolutions or motions. This is a legislative action creating a commission and appropriating funds, and therefore must be taken in the form of an ordinance. (City Charter Article 5-1). (Hernandez).

PUBLIC FINANCIAL IMPACT

☒ YES ☐ NO

If yes, explain: This ordinance requires an initial funding commitment of ten million dollars (\$10,000,000.00) from the American Rescue Plan Act ("ARPA") and thereafter may require additional funding from other sources to be determined.

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, ADDING CHAPTER 7 TO THE AURORA CITY CODE TITLED “AURORA’S EMERGENCY ACTION MENTAL HEALTH FUND” AND CREATING THE AURORA’S EMERGENCY ACTION MENTAL HEALTH BOARD

WHEREAS, the City of Aurora, Colorado, (the “City”), is a home rule municipality, organized and existing under and by virtue of Article XX, Section 6 of the Colorado Constitution, and as such the City has the authority to regulate matters of local concern including taxation for local municipal purposes; and

WHEREAS, it is a fundamental purpose of municipal governments to provide for the health, safety, and welfare of the general public; and

WHEREAS, suicide is the leading cause of death for Colorado children over age 10 and the number of suicides has increased over the past decade; and

WHEREAS, over the course of the Covid-19 pandemic, children’s hospital Colorado on the Anschutz medical campus in Aurora has seen a 90% increase in demand for mental health treatment in the past two years, a 13% increase in the number of kids who visit its emergency departments due to thoughts or attempts of suicide, and an increase in the severity of suicide attempts; and

WHEREAS, each suicide death in Colorado costs \$4,059 on average in direct costs and \$1,486,729 in indirect costs, and substance use deaths spiked during the Covid-19 pandemic with more Coloradans dying from drug overdoses in 2020 than any previous year recorded; and

WHEREAS, 48% of Aurora seniors believe that mental health service availability is either fair or poor, according to the Denver Regional Council of Governments Area Agency on Aging; and

WHEREAS, the City received an allocation of money under the The American Rescue Plan Act of 2021, also called the Covid-19 Stimulus Package (American Rescue Plan, Pub L. No. 117-2, March 11, 2021) (“ARPA”) signed by the President of the United States, and the City wishes to utilize some of the monies allocated under ARPA to fund the mental health needs of Aurora citizens; and

WHEREAS, the City believes that it is necessary and proper for the health and welfare of Aurora’s citizens to create the Aurora’s Emergency Action Mental Health Fund and to create a board to manage the funds appropriate by the Aurora City Council to operate the program.

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

Section 1. Chapter 7 Article I of the City Code of the City of Aurora, Colorado, is hereby enacted and shall read as follows:

ARTICLE I. AURORA’S EMERGENCY ACTION MENTAL HEALTH FUND

Sec. 7-1. Legislative Intent.

The purpose of this Article I is to provide for the governance and administration of monies that have been appropriated for Aurora’s Emergency Action Mental Health Fund. The City Council declares that it is in the best interests of the people of Aurora to increase mental health services, suicide prevention programs, substance abuse disorder treatment and prevention services, and restorative justice programs available in Aurora. The Aurora’s Emergency Action Mental Health Fund serves an important public and municipal purpose. Aurora’s Emergency Action Mental Health Fund shall supplement, rather than supplant the total of City, County, State and Federal annual funding for mental health, suicide prevention, and substance use disorder services collected and administered by the City of Aurora as of June 30, 2021.

Sec. 7-2. Creation of Fund and Dedicated Revenues.

There is hereby created and established a separate Aurora’s Emergency Action Mental Health Fund (the “Fund”) into which shall be deposited an initial amount of ten million dollars, (\$10,000,000.00) from the monies allocated to the City under “The American Recovery Act.” The initial appropriation shall be spent no later than 2024 to comply with ARPA’s requirements. Subsequent funding and appropriations shall occur under the regular appropriation process of the City for the annual budget presented by the City Manager.

Sec. 7-3. Allocation of Revenues from the Fund.

- (a) Spending from the Fund may only be for grants for the following programs and services in the City of Aurora:**
 - (1) Mental health prevention services and treatment for children, youth, adults, seniors, homeless individuals, and veterans;**
 - (2) Suicide prevention programs;**
 - (3) A non-policing model of mental healthcare response;**
 - (4) Opioid and substance abuse prevention, treatment and recovery programs; and**
 - (5) Restorative justice programs.**

- (b) *Cap on Administration Costs.* Monies in the Fund may be spent to pay the costs incurred by the City associated directly with the administration of the Fund, including salaries and office expenses related to any employees working on the programs described in this chapter 7; any expenses reimbursed to members of the Board; expenses related to conducting mental health and substance abuse disorder needs assessments for people in the City of Aurora; expenses related to program evaluation, development and updating of the strategic plan, and annual report; routine business expenses such as accounting, audit, and legal expenses; and any similar overhead expenses incurred by the programs; except that, in no event the amount spent from the Fund for administrative expenses in any year shall exceed nine percent (9%) of the amount of revenue received in the Fund in that year. The Board may seek additional funding streams, such as gifts, grants, or donations, to pay for additional administrative expenses or programs.
- (c) *Maintenance of Effort.* The Fund shall supplement rather than replace or supplant current annual funding for mental health services, suicide prevention programs, substance abuse disorder services, and restorative justice programs.
- (d) *Fund Earnings.* Any interest earned on the balance of the Fund accrues to the Fund.
- (e) *Permanency.* Except as required under Sec 7-2 for the ARPA initial funding, appropriations made and deposited in the Fund described in this chapter shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided that any appropriation shall be deemed to have been abandoned if three fiscal years elapse without any expenditure form, or encumbrance of the monies appropriated.

Sec. 7-4. Aurora's Emergency Action Mental Health Board, Composition, Term, Governance.

- (a) There is created and established the Aurora's Emergency Action Mental Health Board ("Board"), consisting of 9 voting members who shall be appointed pursuant to Charter Article 9-1, who shall be registered electors, holding no paid, elected, or appointed position with the City. In addition, two members of the Aurora City Council shall be nonvoting members of the Board. The Board members shall reflect the racial, ethnic, geographic, and socioeconomic-demographics of the community to the extent practicable, and shall be appointed based upon their expertise or experience in mental health services, suicide prevention, substance use disorder programs, and restorative justice initiatives, including experience as service providers, veterans, educators, and parents.

(b) The City Manager shall appoint four voting members to the Board, and the City Council shall appoint five voting members in addition to the two nonvoting members of the City Council to the Board. The City Manager and City Council shall collaborate to the extent possible in making appointments, and shall strive to appoint individuals who have one or more of the following qualifications:

(1) Persons with professional experience as a first responder with expertise and/or experience in mental health services.

(2) Mental health or substance use treatment providers.

(3) Persons with expertise and/or experience in the mental health needs or substance use disorders needs of veterans.

(4) Persons who have experienced, or are in recovery from, a mental health or substance use disorder.

(5) Persons with expertise and/or experience in child and youth mental health services offered by a local school district.

(6) Persons with expertise and/or experience in the mental health needs or substance use disorder needs of underserved populations, including immigrant populations.

(7) Persons with expertise and/or experience in the mental health needs or substance use disorder needs of homeless individuals.

(8) Persons with expertise and/or experience in the mental health needs or substance use disorder needs of individuals with intellectual disabilities.

(9) Persons with expertise and/or experience in restorative justice programs.

(c) *Terms.* The initial appointments made by the City Manager shall have a first term of two years, the appointments of the City Council shall have a first term of three years. All subsequent appointments shall be for terms of three years. Initial appointments shall be made by March 31, 2022. Members of the Board may serve no more than three full terms in total. If an appointment remains vacant for more than sixty days, the remainder of the Board, by a majority vote, shall fill the vacancy with a person that met the qualifications described in this section of the vacant member's seat.

(d) *Chair and Vice-Chair.* The Emergency Action Mental Health Board shall select from the voting members of the Board a chair who shall preside over meetings and a vice chair to preside when the chair is not present. The chair

and vice chair will serve for one-year terms that may be renewed.

- (e) *Open Meetings and By-laws.* The Board's meetings shall be noticed in advance and open to the public as required under state law and city ordinances. The Board may adopt By-laws to regulate its business.

Sec. 7-5. Powers and duties.

Board members shall use their technical, professional, and personal experience to make recommendations to the Aurora City Council for the allocation of the Fund. The Board will proceed on a timeline that will allow the first grants to be made from the Fund by December 31, 2022. The Board members shall have the following powers and duties:

- (a) *Grants.* The Board shall recommend that the Aurora City Council allocate grants from the Fund to qualified recipients performing the programs and services set forth in section 7-3, taking into consideration the following:
 - (1) The community need for the program or service,
 - (2) The range of services to be provided,
 - (3) The integration of the grantee's program or service with, and the participation of, other public and nongovernmental agencies, organizations, institutions, local school districts, and individuals, and their services and facilities, if any, that are available to assist the grantee's program or service; and
 - (4) Any additional information the Board deems necessary.
- (b) *Applications.* The Board shall establish policies and procedures for evaluating and prioritizing applications for funding, and shall accept and review funding applications from proposed and existing city and community entities seeking funding.
- (c) *Recording.* To ensure that the Fund is allocated as directed, the Board shall accurately track and record all administrative costs associated with administering the Fund.
- (d) *Reporting.* The Board shall create and the Aurora City Council shall annually publish a public report on the city's website detailing the amount of monies appropriated by the City Council and the type and amount of expenditures made by the Fund, a strategic plan progress evaluation, the grants made in each of the funding areas identified, the names of the grantees, the dollar amounts granted to each grantee, the boards of directors and officers of each grantee, and the purposes and proposed impacts of those grants.
- (e) *Oversight and Audit of Grantees.* The Board shall develop oversight and audit procedures to evaluate grantees, and measure grantees' effectiveness and achievements.

- (f) ***Strategic Plan.*** The Board shall develop a strategic plan to determine funding priorities. The strategic plan shall be updated no less than every three years and shall include public input into the use of the Fund.
- (g) ***Recommendations.*** The Board shall make recommendations to the Aurora City Council about existing city and community programs that could be expanded with additional funding, and new city and community programs that could be funded in future years consistent with the purpose of the use of the Fund.
- (h) ***Community Engagement.*** The Board shall develop effective strategies and programs to engage residents most affected by mental health and substance abuse disorders.
- (i) ***Measuring Success.*** The Board shall help define desired outcomes and key indicators that should be tracked to measure success.

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. Penalty. City employees violating the terms, directives, or mandates of this Code are not subject to the general penalty provisions contained in Section 1-13 of this City Code.

Section 4. 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.

Section 5. 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 this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ,
City Clerk

APPROVED AS TO FORM:

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney



CITY OF AURORA

Council Agenda Commentary

Item Title: Proposed Amendments to Article 3-5(A) of the City Charter Pertaining to Partisanship of Elections

Item Initiator: Kadee Rodriguez, City Clerk/ CM Juan Marcano;

Staff Source/Legal Source: Kadee Rodriguez, City Clerk/ Dave Lathers, Senior Asst. City Attorney/ Counil Member Marcano/

Outside Speaker: None

Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 10/18/2021

Regular Meeting: 10/25/2021

ITEM DETAILS:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO SUBMITTING TO A VOTE OF THE REGISTERED ELECTORATE PROPOSED AMENDMENTS TO ARTICLES 3-5 & 3-7 OF THE AURORA CITY CHARTER SUCH THAT MUNICIPAL ELECTIONS SHALL BE PARTISAN ELECTIONS AND SO THAT VACANCIES IN ELECTIVE OFFICE WHICH HAD BEEN AWARDED IN A PARTISAN ELECTION SHALL BE FILLED BY AN APPOINTEE FROM THE SAME POLITICAL PARTY AS THE ELECTED OFFICIAL VACATING THE OFFICE

Sponsor: Council Member Juan Marcano

Staff Source: Council Member Juan Marcano/Dave Lathers, Senior Assistant City Attorney

Estimated Presentation time/Discussion time: 20 minutes/20 minutes

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

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> 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.)*

Council Member Nicole Johnston voluntarily relinquished her Ward II seat in June of 2021. Efforts to fill that vacancy pursuant to provisions of the City Charter and City Code proved unsuccessful over the course of several meetings and numerous votes with the City Council irretrievably deadlocked. The Ward II Council seat remains vacant at this time; more than 90 days having passed since the vacancy occurred.

Historically the City of Aurora's Charter has not allowed for a partisan process in filling vacancies on City Council nor in allowing acknowledgement of partisanship as a designation on ballots for elective office.

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

This ordinance, if approved, would place on the November 2022 ballot the question of whether the Aurora City Charter Articles 3-5 & 3-7 should be amended such that elections in the City of Aurora would be partisan contests and vacancies in elected office would be filled by appointees from the same political party as the elected officials vacating an office, or, in the event that the vacated office had been filled by an unaffiliated candidate, by a vote of those persons, still registered electors in the City of Aurora, who had signed the nominating petition for the candidate who has then vacated the Office.

QUESTIONS FOR COUNCIL

Does Council wish to submit these Charter amendments to the voters on November 2022?

LEGAL COMMENTS

The City Council shall have the power to submit any number of Charter amendments to a vote of the registered electors without receipt of a petition. Charter amendments shall be submitted to the registered electors by ordinance. (Sec. 54-149 of the City Code)(Lathers)

The sponsoring Council Member has elected, pursuant to Rule B(2) of the Council Rules of Procedure, to bring this matter directly to Study Session rather than bringing the matter to the Election Commission or to a Council Committee.

PUBLIC FINANCIAL IMPACT

☐ YES ☒ NO

If yes, explain: N/A

PRIVATE FISCAL IMPACT

☒ Not Applicable ☐ Significant ☐ Nominal

If Significant or Nominal, explain: N/A

Nonpartisan vs. Partisan Elections

North Carolina law permits cities, towns, and villages to use either partisan elections or any one of three versions of nonpartisan elections. In *partisan* elections, candidates run as nominees of specific political parties or as independents. Each political party selects its nominees in primary elections restricted to voters registered as affiliated with that political party. In *nonpartisan* elections, the candidates' party affiliation is not listed on the ballot and the political parties generally don't provide support for the candidates. This form of election emerged during the Progressive Era as a way to remove politics from city administration (Davidson and Fraga, 1988).

Possible effects of choosing either partisan or nonpartisan elections

Election issues

Party labels can be a quick way for voters to identify candidates who share their policy preferences. For example, Schaffner, Streb, and Wright (2001) suggest that voters may not always be highly involved and informed and may therefore use party labels as an indicator of a candidate's policy preferences. They write that "Party labels, in this perspective, provide important cognitive information. They convey generally accurate policy information about candidates and their low cost and accessibility help voters to reach reasonable decisions (Aldrich 1995). It follows, then, that taking party labels away in nonpartisan elections and thereby raising the costs of information about candidates for voters, nonpartisan elections would make voting more difficult and thereby undermine the potential for popular control."

Some suggest, though, that the issues that divide political parties are irrelevant to municipal elections. This notion is suggested by the old saying that "There's not a Republican or Democratic way to fill a pot-hole."

As a related point, partisan elections sometimes inject national political issues into local races. Some suggest that nonpartisan elections are important to avoid having these national political issues play a role in local government elections. The main political parties, these people suggest, are primarily identified with these national issues.

Election fundraising

With partisan elections the parties may be involved in fundraising, which might ease the burden on individual candidates to solicit campaign contributions.

Voter turnout

Attachment to a political party may motivate people to vote. Schaffner, Streb, and Wright (2001) cite research that "...party identification is a, or even the central component of voter decision making. As an effective attachment, it motivates individuals to participate as a display of party support." Thus, nonpartisan elections may have lower turnout than partisan elections.

Election outcomes

Nonpartisan elections may give an edge to incumbent candidates. Schaffner, Streb and Wright (2001) explain: “Indeed, incumbency is the obvious and, in many cases, the only low cost cue available to voters in nonpartisan elections.”

Nonpartisan elections may help candidates who are members of whichever political party is the minority party because it reduces the stigma of belonging to or voting for the minority party (Welch and Bledsoe, 1986).

Research suggests that nonpartisan elections may favor Republicans. There are several reasons for this outcome:

1. Welch and Bledsoe (1986) cite research suggesting that while political parties do not support candidates during nonpartisan elections, other groups which generally favor Republicans (i.e. a Chamber of Commerce) may support candidates. Lascher (1991), however, cites a Democratic candidate who received support from an environmental group and Welch and Bledsoe (1986) suggest that community groups that tend to support Democratic candidates have also emerged.
2. Without party support, candidates may need to spend their own resources to create name recognition, and because Republican candidates tend to be wealthier, they may therefore benefit from nonpartisan elections. In addition, Welch and Bledsoe (1986) found that nonpartisan, at-large elections favor Republicans. This advantage is likely related to the increased cost of raising name awareness in an at-large election as compared to a district election.
3. If in fact nonpartisan elections have lower turnout, wealthier voters, who tend to vote Republican, are more likely to vote (Welch and Bledsoe, 1986). Lascher (1991), however, examined county supervisor elections in California and found that there was better turnout for supervisor elections than for the U.S. presidential elections in 1980 and 1984. It should be noted, though, that county supervisor elections in California are held at the same time as state and federal elections

Parties in nonpartisan elections

Welch and Bledsoe (1986) suggest that some cities that are legally nonpartisan are in reality very partisan, with political parties actively involved in campaigns. In addition, Davidson and Fraga (1988) highlight slating groups in four Texas cities and argue that these groups essentially function as de-facto political parties in nonpartisan elections.

Bibliography

Davidson, Chandler; and Fraga, Luis Ricardo. (1998). “Slating Groups as Parties in a Nonpartisan Setting” *The Western Political Quarterly*. 41(2):373-390.

Lascher, Edward L. Jr. (1991). “The Case of the Missing Democrats: Reexamining the ‘Republican Advantage’ in Nonpartisan Elections.” *The Western Political Quarterly*. 44 (3): 656-675.

Schaffner, Brian F.; Streb, Matthew; and Wright, Gerald. (2001). "Teams without Uniforms: The Nonpartisan Ballot in State and Local Elections." *Political Research Quarterly*. 54 (1): 7-30.

Welch, Susan; and Bledsoe, Timothy. (1986). "The Partisan Consequences of Nonpartisan Elections and the Changing Nature of Urban Politics" *American Journal of Political Science*. 30 (1): 128-139.

https://www.brennancenter.org/sites/default/files/legacy/d/Statement_NYC_Nonpartisan_Elections_072403.pdf

<https://www.nlc.org/partisan-vs-nonpartisan-elections/>

<https://www.sog.unc.edu/courses/course-materials/nonpartisan-vs-partisan-elections>

<https://gis.arapahoegov.com/ENR/#>

2020 General Election – November 3rd

Douglas County		Arapahoe County		Adams County	
Total Ballots Cast	234,272	Total Ballots Cast	354,247	Total Ballots Cast	239,425
Registered Voters	257,580	Registered Voters	418,684	Registered Voters	280,065
Overall Turnout	90.95%	Overall Turnout	84.61%	Overall Turnout	85.49%

2019 Coordinated Election – November 5th

Douglas County		Arapahoe County		Adams County	
Total Ballots Cast	108,557	Total Ballots Cast	163,594	Total Ballots Cast	100,157
Registered Voters	253,461	Registered Voters	424,299	Registered Voters	283,872
Overall Turnout	42.83%	Overall Turnout	38.56%	Overall Turnout	35.28%

2019 Coordinated Election - City of Aurora Total Counts

Arapahoe	70,414
Adams	5,354
Douglas	901
TOTAL	<u>76,669</u>

ORDINANCE NO. 2021- _____

A BILL

FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF AURORA, COLORADO, AT THE REGULAR MUNICIPAL ELECTION OF NOVEMBER 1, 2022, PROPOSED AMENDMENTS TO ARTICLE 3-5(A) OF THE CITY CHARTER PERTAINING TO PARTISANSHIP OF ELECTIONS TO SPECIFICALLY ALLOW PARTISAN ELECTIONS, AND TO ARTICLE 3-7 OF THE CITY CHARTER PERTAINING TO FILLING VACANCIES ON COUNCIL TO MANDATE A PARTISAN PROCESS IN THOSE INSTANCES WHERE THE VACANCY TO BE FILLED OCCURS IN AN ELECTIVE OFFICE THAT HAS BEEN VACATED BY AN ELECTED OFFICIAL ELECTED TO OFFICE ON A BALLOT WHERE THE VACATING OFFICIAL'S PARTISANSHIP HAD BEEN DECLARED

WHEREAS, Article 3-5(a) of the City Charter mandates that elections be nonpartisan, a term undefined in the City of Aurora Charter or City Code; and

WHEREAS, Article 3-7 of the City Charter mandates an appointment process for filling vacant City Council seats which appointment process does not consider the political party affiliation of the Council Member whose vacated seat is being filled; and

WHEREAS, When the electorate has expressed a political party affiliation preference for their representation by having elected a partisan candidate to a vacated office to be filled, that preference should be honored in filling vacancies by filling the vacancy with a replacement appointee of the same political party or affiliation; and

WHEREAS, "Partisan election" is understood, under § 1-1-104(23.6), C.R.S. to mean listing or displaying a candidate's political party or organization affiliation after their name on a ballot for elective office; and

WHEREAS, Article XX, Section (6)(d) of the Colorado Constitution empowers home rule municipalities to control and legislate upon all matters pertaining to municipal elections; and

WHEREAS, Filling of vacancies in elected offices by appointees from the same political party or of the same political affiliation as the elected official vacating the Office is consistent with the process for filling vacancies in elected Office at the state-wide level as set forth in Article V, § 2 of the Colorado Constitution; and

WHEREAS, Voters have a right and a desire to be provided information about a candidate, including party or organization affiliation if the candidate desires to share that information; and

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

Section 1. Pursuant to § 54-149 of the City Code of the City of Aurora, Colorado, City Council submits to a vote of the registered electors a proposed amendment to Article 3-5(a) of the City Charter of the City of Aurora, Colorado, to read as follows:

3-5. Terms.

- (a) Terms of the mayor and each councilmember shall begin at the commencement of the first regular council meeting in December after election in the year elected. Before entering upon the duties of office, the mayor and each councilmember shall take an oath or affirmation supporting the Constitution of the United States of America, the Constitution of the State of Colorado, the Charter and ordinances of the City of Aurora, and **will** faithfully perform the duties of office. ~~Elections shall be nonpartisan.~~ **Candidates shall, but only within the authorization of Section 1-3-108, C.R.S., as amended, declare their political party affiliation which shall be listed on the official ballot after their name. Acceptable political party affiliations are those officially recognized by the Colorado Secretary of State. Unaffiliated candidates shall have “Unaffiliated” listed on the ballot following their name.** Two (2) councilmembers at large, the mayor, and Ward IV, V, and VI councilmembers shall be elected at one election. Councilmembers from Ward I, Ward II, and Ward III and two (2) councilmembers at large shall be elected at the next election. The term of Office of all elected councilmembers and the mayor shall be for four (4) years.

Section 2. Pursuant to § 54-149 of the City Code of the City of Aurora, Colorado, City Council submits to a vote of the registered electors a proposed amendment to Article 3-7 of the City Charter of the City of Aurora, Colorado, to take effect only in the event that the electorate approves an amendment to Article 3-5(a) of the City Charter for the City of Aurora Colorado, to read as follows:

3-7. Vacancies

A council seat shall become vacant whenever any councilmember is recalled, dies, becomes incapacitated, resigns, attains another elective office, is involuntarily removed from office, or becomes a nonresident of the city or ward from which elected. In case of a vacancy ~~the remaining councilmembers shall appoint by majority vote, and~~ no later than forty-five (45) days after such vacancy occurs, a duly qualified person to fill such vacancy **shall be appointed by the Vacancy Committee for the political party with which the vacating elected official had declared when they stood for election, or in the event that the vacancy is from an elected official who had not declared a political party affiliation from a majority vote of those persons who had signed the nominating petition of the elected official vacating the office such election to be a mail ballot election conducted within 21 days of the vacancy occurring with ties**

broken by fair random process designated and adopted by the City Clerk. An appointment which occurs ninety (90) days or more before a regular election shall be in effect only until the date of the upcoming regular election. An appointment which occurs less than ninety (90) days before the upcoming regular election shall be in effect until the subsequent regular election unless the term expires at the upcoming election. If there are no candidates on the ballot to fill a vacancy, city council may appoint a duly qualified person for two (2) years. If more than five (5) vacancies occur simultaneously, the remaining councilmembers shall call for a special election to fill such vacancies provided there will not be a regular municipal election within ninety (90) days

Section 3. The following question shall be submitted to a vote of the registered electors of the City of Aurora at the regular municipal election on November 1, 2022:

“Authorization of Partisan Elections for Councilmembers in the City of Aurora and for filling vacancies of Office of councilmembers who were voted into Office on a ballot wherein their political Party affiliation had been declared.”

Shall Article 3-5(a) of the City Charter of the City of Aurora, Colorado, be amended to require candidates for elected office in the City of Aurora to either declare a political party affiliation from among those political parties recognized by the Colorado Secretary of State or to declare themselves an unaffiliated candidate which designation shall be listed on the official ballot for office?

YES _____ NO _____

Section 4. The following question shall be submitted to a vote of the registered electors of the City of Aurora at the municipal election on November 1, 2022:

“Council vacancies shall be appointed by a Vacancy Committee consisting of elected officials from the same affiliation of the elected official who is resigning or, if no political affiliation was declared, the Vacancy Committee shall consist of a vote of the registered electors who signed the nominating petition”

In the event that Article 3-5(a) of the City Charter of the City of Aurora is amended by a vote of the electorate to allow partisan elections shall Article 3-7 of the City Charter of the City of Aurora Colorado, be amended to mandate vacancies in elected offices be filled by a person chosen by the Vacancy Committee of the same political party affiliation as the councilmember who has vacated the seat when that councilmember was elected in a partisan election where their party affiliation had

been declared on the ballot from which they were elected, or in the event the vacating elected official ran as an unaffiliated candidate from a vote of the signatories to the nominating petition which placed them on the ballot from which they were elected?

YES _____ NO _____

Section 5. Pursuant to Section 31-2-210(3.5), C.R.S., the City Clerk is hereby directed to certify the proposed ballot questions to the Clerk and Recorder of each county in which the City is located for submission at the general municipal election to be conducted at the same time as the statewide election on November 1, 2022.

Section 6. Pursuant to Section 31-2-210(4), C.R.S., the City Clerk is hereby directed to publish, within thirty (30) days of the adoption of this ordinance, notice of the date and time of the election upon which the proposed Charter amendment will be considered said publication to appear in a newspaper of general circulation in the City which notice shall contain the full text of the proposed Charter amendment.

Section 7. The City Clerk shall secure from each county the votes in favor of and opposed to the proposed Charter amendment and shall report the same to City Council following the election within such time as is provided for by state law. If the majority of the registered electors voting thereon have voted in favor of the proposed amendment, such amendment shall be deemed approved.

Section 8. In the event the proposed Charter amendments are approved by a majority of the registered electors voting thereon, the City Clerk shall publish once, in the same newspaper which published the notice of the charter amendment being on the ballot the full text of the Charter amendment following the election within such time as is provided by state law. At such time, the City Clerk shall also file with the Secretary of State two (2) copies of said amendment, along with the official tally of the vote for and against, as certified by the City Clerk.

Section 9. The provisions of this ordinance, the Charter amendment, and the question authorized hereby are severable. If any portion of this ordinance, the Charter amendment, or the question are judicially determined to be invalid or unenforceable, such determination shall not affect the remaining provision of such ordinance, Charter amendment, or question.

Section 10. All ordinances or parts of ordinances, of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 11. Pursuant to Article 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:

David Lathers ^{RLA}

DAVE LATHERS, Sr. Assistant City Attorney