



# NOTICE OF COUNCIL MEETING

MONDAY, August 28, 2023

Members of the public and media are invited to attend in person or remotely through the options listed below. Public comment is welcome for items appearing on the agenda or on any matter of city concern. One hour is dedicated to public comment on non-agenda items at the beginning of every council meeting (Public Invited to be Heard). Each speaker is allotted a maximum of three minutes to speak.

Individuals wishing to comment during 'Public Invited to be Heard' or on an agenda item may register in advance. Online registration begins at 8 a.m. on the Friday before the meeting date, and ends at noon on Monday, the day of the meeting. To register in advance, visit the city's website at [www.auroragov.org/PublicComment](http://www.auroragov.org/PublicComment).

## View or Listen Live

Live streamed at [www.auroraTV.org](http://www.auroraTV.org)

Cable Channels 8 and 880 in Aurora

Call: 885-695-3475

## In-person Participation

Members of the public may participate in-person at the Aurora Municipal Center, Council Chamber, 15151 E. Alameda Pkwy. The building will open at 6:00 p.m. on the day of the council meeting.

- Individuals wishing to comment during 'Public Invited to Be Heard' must submit a speaker slip by 6:30 p.m.
- Individuals wishing to comment on an agenda item must submit a speaker slip before the city clerk reads the title of the item.

## Call-in Participation

Call the live public comment line at 855-695-3475 and press \*3 to reach the operator. The public call-in line opens at 6 p.m. on the day of the Council Meeting.

- Individuals calling in to comment during 'Public Invited to Be Heard' must call in and be in the queue by 6:30 p.m.
- Individuals calling to comment on agenda items must call in and be in the queue before the City Clerk reads the title of the item. Once the Clerk reads the title, no additional calls for that item will be accepted.

## **Translation/Accessibility**

The city provides closed captioning services on Cable Channels 8 and 880. The Aurora Municipal Center is wheelchair accessible with entry ramps and accessible parking located on the west and east side of the building. Please make your request for accommodations or assistance by noon on the Friday preceding the Monday meeting by contacting the City Clerk's Office 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 Sunday, August 27 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el domingo anterior a la reunión del lunes.)



## City of Aurora, Colorado

MONDAY, August 28, 2023

---

### **EXECUTIVE SESSION OF THE AURORA CITY COUNCIL**

(Closed to the Public)

AURORA ROOM

5:55 p.m.

### **REGULAR MEETING OF THE AURORA CITY COUNCIL**

(Open to the Public)

CITY COUNCIL CHAMBER

6:30 p.m.



## AGENDA

### Regular Meeting of the Aurora City Council

Monday, August 28, 2023

6:30 p.m.

City Council Chamber  
15151 E. Alameda Parkway  
Aurora, CO 80012

---

#### Pages

1. CALL TO ORDER
2. ROLL CALL
3. INVOCATION/MOMENT OF SILENCE
4. PLEDGE OF ALLEGIANCE
5. EXECUTIVE SESSION UPDATE
6. APPROVAL OF MINUTES
  - 6.a July 31, 2023 Meeting Minutes 11
  - 6.b August 14, 2023 Meeting Minutes 39
7. PROCLAMATIONS OR CEREMONIES
  - 7.a National Suicide Awareness and Prevention Month 61
  - 7.b National Hispanic Heritage Month 62
8. PUBLIC INVITED TO BE HEARD  
(non-agenda related issues only)
  - 8.a Public Invited to be Heard on the 2024 Budget 63  
Greg Hays, Budget Officer, Finance

9. **ADOPTION OF THE AGENDA**

10. **CONSENT CALENDAR - MOTIONS**

*Any member of Council may request an item be removed from Consent Calendar and considered separately. Removed items are considered immediately following the adoption of the Consent Calendar.*

**10.a Motions**

**10.a.1 Financial and Rate Consulting Services 65**

Consideration to AWARD A CHANGE ORDER TO AN OPENLY SOLICITED CONTRACT for Financial and Rate Consulting Services to FCS Group, Redmond, WA for the Review of Aurora Water’s In-House Rates and Outside Rate for Wise in the Amount of \$100,000.00, RFP-2075

Catherine Olukotun, Deputy Director of Business Services, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

**10.a.2 Evoqua Water Technologies for Akta Klor 25 Water Treatment Chemical 2023 70**

Consideration to AWARD A SINGLE SOURCE CONTRACT to Evoqua Water Technologies, Sarasota, Florida in the Not-to-Exceed Amount of \$437,250.00 for the Purchase of Akta Klor 25 Water Treatment Chemical (Sodium Chlorite) as Required by Aurora Water through August 31, 2024

Bobby Oligo, Manager of Water Treatment, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

**10.a.3 Southeast Area Maintenance Facility (SEAM) Service and Maintenance 78**

Consideration to APPROVE A SINGLE SOURCE CONTRACT in the Amount of \$186,951.00 with MTech Mechanical, Westminster, CO, for Maintenance and Service for Mechanical, Plumbing, and Building Automation Systems for the Southeast Area Maintenance Facility

Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney



10.a.4	<b>Custodial Services for the Southeast Area Maintenance Facility (SEAM)</b>	132
	<p>Consideration to AWARD A CHANGE ORDER in the Not-to-Exceed Amount of \$112,998.00 to Add the Southeast Area Maintenance Facility (SEAM) to the Contract with Velociti Services dba ISS Facility Services, Inc. for Custodial Cleaning Services for the Southern Half of the City through February 28, 2024</p> <p>A waiver of reconsideration is requested for several key reasons listed in the commentary.</p> <p>Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney</p>	
10.a.5	<b>Consideration to AMEND AN OPENLY SOLICITED CONTRACT in the Amount of \$260,592.00 with HDR Engineering, Inc., Denver, Colorado for the Structures Demolition Program Project, Project No. R-2282</b>	167
	<p>Andrea Long, Principal Engineer, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney</p>	
10.a.6	<b>Consideration to AWARD A COMPETITIVELY BID CONTRACT to Lighthouse Transportation Group, LLC, Westminster, CO in the Amount of \$257,045.00 for the 2023 Traffic Calming Device Installation Services; Project 5947A</b>	179
	<p>A waiver of reconsideration is requested due to industry wide materials shortages and long lead times experienced for equipment included as part of this contract.</p> <p>Carl Harline, Engineering Supervisor, Public Works / Hanosky Hernandez, Senior Assistant City Attorney</p>	
10.a.7	<b>Restaurant Program Subrecipient Agreement Approval with JWS Second Property, LLC for Izakaya Japanese Restaurant (Ward 4)</b>	183
	<p>Sponsor: Juan Marcano, Council Member</p> <p>Robert Oliva, Senior Project Manager, Planning and Development Services / Rachel Allen, Group Client Manager, City Attorney</p>	
10.b	<b>Planning Matters</b>	
10.c	<b>Appointments to Boards and Commissions</b>	

10.c.1	<b>Consideration to Appoint Two (2) Members to the Arts in Public Places Commission</b>	204
--------	---	-----

Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney

10.c.2	<b>Consideration to Reappoint Two (2) Members to the Historic Preservation Commission</b>	220
--------	---	-----

Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney

## 11. **CONSENT CALENDAR - RESOLUTIONS AND ORDINANCES**

*Any member of Council may request an item be removed from Consent Calendar and considered separately. Removed items are considered immediately following the adoption of the Consent Calendar.*

### 11.a **Resolutions**

11.a.1	<b>Intergovernmental Agreement with Arapahoe County for the 2023 Coordinated Election</b>	231
--------	---	-----

**R2023-87** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager

11.a.2	<b>Intergovernmental Agreement with Adams County for the 2023 Coordinated Election</b>	252
--------	--	-----

**R2023-88** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager

11.a.3	<b>Intergovernmental Agreement with Douglas County for the 2023 Coordinated Election</b>	269
	<b>R2023-89</b> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN DOUGLAS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023	
	Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager	
11.a.4	<b>Second Amendment to Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road</b>	297
	<b>R2023-97</b> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL’S SUPPORT OF THE SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, d/b/a MILE HIGH FLOOD DISTRICT, SOUTHEAST METRO STORMWATER AUTHORITY, THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY, AND ARAPAHOE COUNTY REGARDING FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK RESTORATION AT ARAPAHOE ROAD	
	James DeHerrera, Planning Services Manager, Aurora Water / Ian Best, Assistant City Attorney	
11.a.5	<b>Senac Site Historic Landmark Nomination</b>	388
	<b>R2023-98</b> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE DESIGNATING THE SENAC SITE LOCATED AT 5800 SOUTH POWHATAN ROAD, AURORA RESERVOIR VICINITY, AURORA, COLORADO, AS A LOCAL HISTORIC LANDMARK	
	T. Scott Williams, Museum Supervisor, Library and Cultural Services / Tim Joyce, Assistant City Attorney	
	Outside Speakers: Dr. Gordon Tucker Jr. and Todd McMahon, Historic Preservation Commission Members	

**11.a.6 Property Acquisition for the Parker Quincy Smoky Hill Improvements Project**

419

**R2023-99** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR THE PARKER QUINCY SMOKY HILL IMPROVEMENTS PROJECT IN THE AMOUNT NOT TO EXCEED \$766,000 PLUS INCIDENTAL EXPENSES AND CLOSING COSTS

Hector Reynoso, Real Property Services Manager / Michelle Gardner,  
Senior Assistant City Attorney

**11.b Finalizing of Ordinances**

*Ordinances approved unanimously at first reading*

**11.b.1 Tower Crossings South Zoning Map Amendment**

513

**2023-36** CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 22.4 ACRES MORE OR LESS AT THE SOUTHEAST CORNER OF TOWER RD AND E 32ND PKWY FROM BUSINESS/TECH DISTRICT (I-1) TO MIXED-USE CORRIDOOR (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (TOWER CROSSINGS SOUTH ZONING MAP AMENDMENT)

Erik Gates, Planner, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney

**11.b.2 2023 IT Lease Purchase Authority**

530

**2023-37** FOR AN ORDINANCE AUTHORIZING THE CHIEF INFORMATION TECHNOLOGY OFFICER TO ACQUIRE CERTAIN TANGIBLE AND INTANGIBLE INFORMATION TECHNOLOGY PROPERTY DURING THE 2023 FISCAL YEAR, EITHER BY PURCHASE OR PURSUANT TO THE TERMS OF LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BETWEEN THE CITY, AS LESSEE, AND LEASE INVESTORS, VENDORS OR THE AURORA CAPITAL LEASING CORPORATION, EACH AS LESSOR, AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY

Scott Newman, Chief Information Officer / Hanosky Hernandez,  
Senior Assistant City Attorney

**11.b.3 Single Subject Ballot Initiatives**

538

**2023-38** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-121 AND 54-131 OF THE CITY CODE PERTAINING TO BALLOT INITIATIVES

Sponsor: Curtis Gardner, Mayor Pro Tem

Dan Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney

**12. PUBLIC HEARINGS**

*Public hearings with or without related ordinances*

**12.a Unified Development Ordinance (UDO) Amendments to Clarify Parks and Open Space Provisions**

545

**2023-40** A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 146 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO PROVIDE CORRECTIONS, CLARIFICATIONS AND UPDATES TO THE LAND USE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Nicole Ankeney, Planning, Design and Construction Manager of Parks,  
Recreation and Open Space / Michelle Gardner, Senior Assistant City Attorney

12.b	<b>Unified Development Ordinance (UDO) Amendments to Update Various Sections in the Landscape, Dimensional, and Parking Standards</b>	560
	<p><b>2023-41</b> A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 146 OF THE CITY CODE, TO ADDRESS LANDSCAPE, DIMENSIONAL AND PARKING STANDARDS WITHIN THE CITY</p> <p>Brandon Cammarata, Planning Manager, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney</p>	
13.	<b>INTRODUCTION OF ORDINANCES</b>	
13.a	<b>Amending Chapter 70-20 of the City Code Regarding Designation of Floodplain Administrator</b>	580
	<p><b>2023-42</b> FOR AN ORDINANCE AMENDING SECTION 70-20 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, REGARDING DESIGNATION OF FLOODPLAIN ADMINISTRATOR</p> <p>Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney</p>	
13.b	<b>Amending Chapter 138 of the City Code Pertaining to Certain Stormwater Drainage and Floodplain Administrator Delegations of Authority</b>	599
	<p><b>2023-43</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE PERTAINING TO CERTAIN STORMWATER DRAINAGE AND FLOODPLAIN ADMINISTRATOR DELEGATIONS OF AUTHORITY</p> <p>Sarah Young, Assistant General Manager or Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney</p>	
13.c	<b>Amending Chapter 138 of City Code to Reflect Changes Made to Aurora Water's Organizational Structure</b>	628
	<p><b>2023-44</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE</p> <p>Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney</p>	

**13.d     Amendment to Chapter 98 of City Code Regarding Authority of the Parks  
Recreation and Open Space (PROS) Director**

728

**2023-45** FOR AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 98 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO ADD NEW SECTIONS TO BE NUMBERED 98-1 AND 98-2 AUTHORIZING THE DIRECTOR OF PARKS, RECREATION AND OPEN SPACE TO ESTABLISH DEDICATION AND DEVELOPMENT CRITERIA THROUGH ADOPTED RULES AND REGULATIONS

Nicole Ankeney, Planning, Design and Construction Manager of Parks,  
Recreation and Open Space / Michelle Gardner, Senior Assistant City Attorney

**14.     FINALIZING OF ORDINANCES**

*Ordinances not approved unanimously at first reading*

**14.a     Police Reserve Force**

744

**2023-35** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE

Sponsor: Danielle Jurinsky, Council Member

Art Acevedo, Police Chief / Pete Schulte, City Attorney

**14.b     Prohibiting the Sale of Cats and Dogs in Pet Shops**

756

**2023-39** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, PROHIBITING THE SELLING OR DISPOSING OF DOGS OR CATS OTHER THAN THOSE OBTAINED FROM AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY, OR NONPROFIT ANIMAL RESCUE ORGANIZATION

Sponsors: Danielle Jurinsky, Council Member / Juan Marcano, Council Member

Trevor Vaughn, Manager of Licensing, Finance / Angela Garcia, Senior Assistant City Attorney

**15.     ANNEXATIONS**

**16.     RECONSIDERATIONS AND CALL UPS**

**16.a Resolution for Economic Development Plan 2023**

776

**R2023-84** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, SUPPORTING THE APPROPRIATION OF GENERAL FUND REVENUES TO DEVELOP AN ECONOMIC DEVELOPMENT PLAN

Sponsor: Mike Coffman, Mayor

Sponsor to Remove from Table: Danielle Jurinsky, Council Member / Juan Marcano, Council Member

Rachel Allen, Client Group Manager, City Attorney

**17. GENERAL BUSINESS**

**18. REPORTS**

**18.a Mayor**

**18.b Council**

**19. ADJOURNMENT**



## MINUTES

### Regular Meeting of the Aurora City Council

Monday, July 31, 2023

1. **RECONVENE REGULAR MEETING OF JULY 31, 2023, AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of the City Council for July 31, 2023, at 6:30 p.m.

2. **ROLL CALL**– Kadee Rodriguez, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

*Public call-in instructions were provided in both English and Spanish.*

3. **INVOCATION/MOMENT OF SILENCE**– Mike Coffman, Mayor

Mayor Coffman led the prayer for the July 31<sup>st</sup>, Council Meeting.

4. **PLEDGE OF ALLEGIANCE** (all standing)

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman provided an update on the Executive Session, where they discussed a potential contract with a non-profit organization.

6. **APPROVAL OF MINUTES**

6.a. **July 17, 2023, Meeting Minutes**

Motion by Sundberg, second by Zvonek, to approve the minutes of the July 17, 2023 as presented.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

7. **PROCLAMATIONS OR CEREMONIES**

7.a. **Amazing Auroran Award**

CM Jurinsky recognized Anis Elgomati, a 16-year-old student, for his multitude of accomplishments and leadership roles in the community and academe.

7.b. **Firefighter Cancer Awareness and Prevention Month**

Mayor Coffman proclaimed June 2023 as Firefighter Cancer Awareness and Prevention Month in the City of Aurora, Colorado.

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda-related issues only)

Council heard public in-person and call-in testimony on non-agenda-related items.

Mayor Coffman and CM Coombs requested contact information of Timothy Rohac who expressed his concerns about the state of law enforcement and public safety in Aurora. He mentioned that Aurora faces significant challenges such as lawlessness, drug abuse, and crime.

Mayor Coffman read a land acknowledgment.

9. **ADOPTION OF THE AGENDA**

Motion by Gardner, second by Sundberg to adopt the agenda as presented.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

10. **CONSENT CALENDAR - MOTIONS**

*Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

10.a **Motions**

- 10.a.1 **Consideration to AWARD A COMPETITIVE BID CONTRACT to American West Construction LLC., Denver, Colorado in the Amount of \$2,674,660.00 for the Zone 5 to Zone 4 Pressure Reducing Valve Vault Project, Project No, 5942A**

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Dean Bedford, Principal Engineer, Aurora Water / Hanosky Hernandez,  
Senior Assistant City Attorney

- 10.a.2 **Consideration to AWARD A CHANGE ORDER in the Amount of \$514,519.08 to Buehler Companies, Aurora, Colorado, for the Southeast Area Maintenance Facility (SEAM) Move, Phase 2 Project, Project No. R-2329**

Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.3 **Consideration to EXTEND A COMPETITIVELY BID CONTRACT TO EJ USA, Inc., Denver, CO in the Not-to-Exceed Amount of \$70,000.00 for Manhole Products as Required by Aurora Water through July 31, 2024 (B-4611)**

Brian Carfield, Manager of Water Service, Aurora Water / Hanosky Hernandez,  
Senior Assistant City Attorney

- 10.a.4 **Consideration to AWARD A COMPETITIVELY BID CONTRACT to Steve's Septic Services, Aurora, Colorado in the Amount of \$51,100.00 to Provide Vault Restroom Pumping Services, Bid No. B-4693**

John Wesolowski, Manager of Parks, Recreation and Open Spaces / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.5 **Consideration to AWARD A CHANGE ORDER NO. 8 to a Guaranteed Maximum Price Contract to Saunders Construction, Inc., Centennial, Colorado in the Amount of \$151,307.29 for the Southeast Recreation Center (SERC) Project, Project No. 5727A**

Kelli Arnold, Project Manager Supervisor, Public Works / Hanosky Hernandez,  
Senior Assistant City Attorney

- 10.a.6 **Consideration to EXTEND A COMPETITIVELY BID CONTRACT to EAP Glass, Littleton, Colorado in the Not-to-Exceed Amount of \$60,000.00 for Glass Replacement and Repair Service for Windows Throughout the City. B-4617**

Lynne Center, Deputy Director of Operations, Public Works / Hanosky Hernandez, Senior Assistant City Attorney

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

- 10.a.7 **Consideration to AWARD A SINGLE SOURCE CONTRACT to Galls Inc., Denver, Colorado in the Amount of \$700,000.00 for Police Uniforms and Tailoring Services as Required through July 31, 2024**

Brian Kelly, Police Lieutenant / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.8 **Consideration to AWARD A SOLE SOURCE CONTRACT to CentralSquare Technologies, dba Superion, LLC Lake Mary FL in the Amount of \$82,515.98 for Annual Software Support to City's One Solution System through June 30, 2024**

Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.9 **Consideration to AWARD A SINGLE SOURCE CONTRACT to SPIDR Tech, Mesa, AZ in the Amount of \$179,141.50 for a Customer Service Management System for the Aurora Police Department**

Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.10 **Consideration to AWARD A SOLE SOURCE CONTRACT to Fusus, Inc., Peachtree Corners, GA in the Amount of \$125,000.00 for RTC3 Software for the Aurora Police Department**

Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney

10.b **Planning Matters**

10.c **Appointments to Boards and Commissions**

Motion by Gardner, second by Bergan to approve the Consent Calendar - Motions.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

11. **CONSENT CALENDAR – RESOLUTIONS AND ORDINANCES**

*Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

## **11.a. Resolutions**

### **11.a.1 Reimbursement Agreement for Majestic Commercenter**

**R2023-72** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF THE FIRST CREEK IMPROVEMENTS AND REGIONAL DETENTION POND REGIONAL UTILITY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF AURORA ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND MAJESTIC COMMERCENTER, II, LLC

Sarah Young, Deputy Director of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

### **11.a.2 Rocky Mountain Land Library Lease Extension for Buffalo Peaks Bunch**

**R2023-79** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE EXTENSION OF A LEASE AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE CITY AND ROCKY MOUNTAIN LAND LIBRARY FOR EDUCATIONAL USE

Alexandra Davis, Assistant General Manager of Water Supply and Demand, Aurora Water / Ian Best, Senior Assistant City Attorney

### **11.a.3 North Campus Well Field Expansion Project – Ken Ogilvie Living Trust Easement Acquisition**

**R2023-80** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR THE PURCHASE FROM KEN OGILVIE LIVING TRUST FOR A WELL FIELD AND PIPELINE EASEMENT NECESSARY FOR THE NORTH CAMPUS WELL FIELD EXTENSION PROJECT IN THE AMOUNT NOT TO EXCEED \$1,560,000

Hector Reynoso, Manager of Real Property Services / Michelle Gardner, Senior Assistant City Attorney

### **11.a.4 Easement Conveyance to Black Hills Energy**

**R2023-81** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE CONVEYANCE OF EASEMENT AREA OWNED BY THE CITY IN ROCKY FORD LOCATED IN CROWLEY COUNTY TO BLACK HILLS ENERGY (BHE)

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Hector Reynoso, Manager of Real Property Services / Michelle Gardner, Senior Assistant City Attorney

11.a.5 **Rules of Order and Procedure: Amend Section F, Appendix B**

**R2023-82** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO AMEND THE RULES OF ORDER AND PROCEDURE FOR THE AURORA, COLORADO, CITY COUNCIL REGARDING THE DEFINITION OF SUPPORT OF COUNCIL ON BALLOT ISSUE RESOLUTIONS

Sponsor: Dustin Zvonek, Council Member

George Koumantakis, Manager of Client Services, City Attorney

11.a.6 **City Watering Schedule**

**R2023-83** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE CITY TO FOLLOW THE TURF LAWN IRRIGATION RESTRICTIONS THAT LARGE IRRIGATION CUSTOMERS MUST FOLLOW

Sponsor: Danielle Jurinsky, Council Member

Tim Joyce, Assistant City Attorney

Council heard public testimony on the agenda item.

Marshall Brown provided a summary of the item.

CM Marcano referred to an earlier comment from a participant mentioning the observation of city property sprinklers operating before noon. CM Marcano asked whether there were still properties lacking smart irrigation systems and in what areas it was occurring.

M. Brown responded to CM Marcano's inquiry.

CM Marcano expressed appreciation and raised a concern about the sprinkler activity at the nearby Arapahoe County building. CM Marcano personally witnessed the sprinklers operating during rainstorms and mentioned that he previously brought this matter to their attention. He asked if any action had been taken to address the situation.

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

M. Brown acknowledged Marcano's concern and stated that outreach efforts were undertaken.

CM Bergan asked about the outreach process to users who were required to follow the variance program. She referenced M. Brown's earlier comment regarding outreach to metro districts, aimed at ensuring their understanding of conservation needs.

M. Brown affirmed that such outreach had taken place and provided further details about their communication efforts.

CM Jurinsky pointed out an inconsistency on the agenda regarding lawn irrigation restrictions. There seemed to be confusion about which version was accurate and should be followed. The backup materials presented two versions: one referencing residential rules and the other related to the great lawn. She asked for clarification on whether they were meant to adhere to residential restrictions or the large irrigation customers' regulations as stated on the agenda.

M. Brown provided a response.

CM Medina asked if schools are included in the variance program.

M. Brown provided clarification.

CM Medina acknowledged this and shared an observation of water being used on a hot day around noon at the Anschutz campus on the Parkway.

Motion by Jurinsky, second by Coombs to approve item 11.a.6.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.a.7      **Resolution for Economic Development Plan 2023**

**R2023-84** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, SUPPORTING THE APPROPRIATION OF GENERAL FUND REVENUES TO DEVELOP AN ECONOMIC DEVELOPMENT PLAN

Sponsor: Mike Coffman, Mayor

Rachel Allen, Client Group Manager, City Attorney

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Mayor Coffman explained the reason for presenting the matter, emphasizing the significance of the City Council having a clear economic vision for the City's future.

CM Bergan expressed concern about the absence of a fiscal note in the backup materials. Notably, despite the resolution's proposal to allocate funds, there was a lack of information about the potential revenue impact.

In response, Mayor Coffman deferred to the Interim City Manager, Jason Batchelor, for clarification.

J. Batchelor addressed the issue, explaining that to arrive at an accurate cost, they needed to initiate a Request for Proposal (RFP) process. Based on a preliminary assessment, it was estimated that the envisioned scope would require approximately \$150,000. J. Batchelor also recommended sourcing this funding from the balance in the General Fund.

CM Bergan asked if they were voting for the potential pursuit of an RFP.

J. Batchelor confirmed CM Bergan's question. He clarified that the resolution aimed to express support for moving forward to the next step in the process, as outlined in the **mayor's** draft.

CM Marcano expressed confusion about the topic resurfacing on the agenda. He referred to a previous workshop where a general strategy and approach had seemingly gained agreement. However, due to insufficient votes during that meeting, the issue was seemingly dropped without any subsequent follow-up. He questioned whether any discussions or progress occurred since then, and he encouraged colleagues to share their insights if there had been any. He critiqued the resolution currently under consideration, describing it as lacking substance. He pointed out its lack of a fiscal note and argued that it seemed devoid of meaningful strategy, intent, or significance.

Mayor Coffman highlighted the importance of recording the vote on the issue and acknowledged external pressures influencing the Council's decisions.

CM Coombs reiterated **CM Marcano's question**. She emphasized that the insufficient votes were a consequence of the absence of effort to engage with fellow Council members and secure their backing. Despite a previous consensus during a workshop that an economic development strategy was desired,

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



subsequent actions did not align with that intent. She highlighted that the original plan was for the matter to return to the Council for discussions, feedback, and information gathering, with the goal of crafting a proposal that could garner at least six votes. However, this preparatory work didn't occur as expected, leading to the ongoing lack of sufficient support for the initiative.

Mayor Pro Tem Gardner addressed a few points during the discussion. He mentioned that an economic development strategy was already outlined in a certain document, acknowledging the potential dissatisfaction of Mayor Coffman with its content and suggesting that it could be further developed. He referred to a previous workshop where a discussion had taken place, leading to a consensus that most of the Council agreed with, however, Mayor Coffman disagreed. He expressed confusion about the current proposal, which lacked specific details and a fiscal note. He noted that the mayor had previously advocated for including a fiscal note when bringing forth items and expressed uncertainty about how a vote could proceed without clear cost information.

Mayor Coffman addressed the situation and expressed his disappointment with the staff's failure to provide a specific cost estimate. He took responsibility for the oversight and announced his decision to withdraw the proposal and delay it for two weeks. He expressed willingness to engage in discussions and consider amendments during this period. He anticipated that the proposal's outcome might not change due to external pressures on the City Council. He emphasized that the proposal would be returned in two weeks for a vote, allowing Council members to offer input and potential amendments. Despite the expected outcome, he stressed the importance of accountability throughout the process.

CM Bergan inquired whether, when the proposal returned in two weeks, there would be both a fiscal note and a detailed description included.

Mayor Coffman expressed willingness to engage in discussions with any Council member who had recommendations aimed at improving the proposal, rather than simply seeking to reject it. He acknowledged the anticipated fate of the proposal, suggesting that it might not receive sufficient support. He emphasized the Council's responsibility to establish an economic vision for the City rather than outsourcing this task to external parties. He announced that the proposal would be scheduled for discussion on the agenda two weeks from that point.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Kadee Rodriguez requested clarification regarding the timing, asking if the proposal would be placed at the next Council meeting or a Study Session in two weeks.

Mayor Coffman confirmed that it would be on the agenda for the next Council meeting, specifically on August 14<sup>th</sup>.

K. Rodriguez asked the City Attorney's Office for clarification on the process, wondering if a second was needed for Mayor Coffman's motion to continue the item.

Daniel Brotzman from the City Attorney's Office confirmed that a second was needed for the motion to continue the item to a specific date.

Mayor Coffman then announced that the proposal was officially delayed until August 14<sup>th</sup>.

CM Lawson raised concerns about the resolution, particularly in paragraph seven. She highlighted the statement asserting that various organizations should work together in one direction to attract businesses. While she understood the overarching idea, she noted that each organization had a unique perspective and approach to economic development. She expressed skepticism about the feasibility of aligning these diverse entities under a single direction.

Mayor Coffman responded, referring to this concept as a "vision," and expressing his belief in its possibility.

CM Lawson disagreed with this perspective, asserting that she didn't find it feasible.

CM Jurinsky expressed her perspective on the matter, emphasizing that the mayor, being in charge of the city, likely had a vision for its development. She suggested that instead of investing in a study, the mayor could convene a meeting with key players in Aurora's Economic Development, including two members present at the meeting. This approach, in her opinion, would allow for the exchange of ideas and collaboration among these stakeholders, leading to the creation of a master plan and vision without the need for a study.

Mayor Coffman responded, acknowledging CM Jurinsky's earlier stance during the Study Session. He emphasized the importance of having an objective

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

analysis to assess the city's capabilities. He posed the question of whether the city's destiny was solely to serve as a hub for warehouses and low-wage jobs. He cited a specific issue related to the increasing number of semis and truck traffic in the city, underscoring the need for proactive planning. He pointed out the lack of adequate facilities for overnight truck parking and how this exemplified poor planning. He conveyed his willingness to engage in conversations and highlighted his awareness of the expected outcome of the proposal's fate.

CM Sundberg asked about the expected duration of such a study.

J. Batchelor responded that when this matter was examined before the winter workshop, the estimate was approximately nine months. He explained that this time frame would involve engaging with the relevant parties, conducting comprehensive discussions as desired by the Council, and holding a few check-in points. He confirmed that the study's realistic duration was indeed less than a year, specifically around nine months.

CM Sundberg shared his perspective. He agreed with the **mayor's** viewpoint that having a clear direction, strategy, and map for the city's development was crucial. He acknowledged that circumstances evolved since the study was conducted and expressed trust in the reputable organizations that played a pivotal role in driving industry, commerce, and visitors to Aurora. CM Sundberg emphasized the importance of a well-defined plan, given the reliance on these organizations. He suggested that it might be beneficial for these organizations to step forward and share their vision for the city's future. He envisioned them presenting a comprehensive perspective, even providing visual aids like pie charts to depict their goals, such as the desired ratio of entertainment. He mentioned the city's current lack of a walkable downtown neighborhood and its disjointed geographic layout. He highlighted the potential for strategic growth and the opportunity to enhance the city's development in a coherent manner. He concluded by noting that it wasn't fair to dismiss the mayor's proposal outright. He encouraged the various organizations to collaborate, sharing their collective aspirations and contributing to the city's growth in meaningful ways.

Mayor Coffman emphasized the process and his perspective. He began by noting that a vote was imminent. He explained that an objective third-party economic analysis would be conducted, followed by the City Council's review and input from economic partners. He cited Colorado Springs as an example where a similar approach led to great success, with all partners aligning around an

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

economic development plan. He extended an invitation for anyone interested to meet and discuss the matter with him in two weeks. He reiterated that regardless of the outcome of the vote, the responsibility to establish a vision for the city rested with the City Council. He emphasized that the city lacked such a vision, especially an economic one, and argued that this deficiency was evident in the city's state. He mentioned a recent incident involving a hotel owner and trucks parked in front of the hotel, highlighting the difficulties arising from inadequate planning.

CM Bergan chimed in, recalling a conversation with the mayor several months ago. During that conversation, they discussed the possibility of organizing a forum where different partners, along with the Council, could come together to discuss a potential unifying vision. CM Bergan proposed this approach as a way to collaboratively explore the vision before proceeding with a study. She asked the mayor if he would consider this alternative route rather than bringing the matter back to a Study Session without such collaborative discussion.

Mayor Coffman emphasized the need for a preliminary study to determine the city's economic potential. He stressed the importance of an unbiased and objective analysis, free from undue influence. He expressed his confusion regarding the delay in the process and questioned the necessity of the ongoing discussion, given that the proposal was already scheduled for a discussion two weeks later. He reiterated his willingness to engage in discussions with any council member interested in exploring the matter further.

CM Marcano shared his viewpoint during the discussion. He highlighted that the ongoing conversation was a result of the mayor's prior commitment to revisit the topic. He criticized the current proposal for lacking substantial details and suggested that the entire council should engage in the conversation. He proposed the idea of hiring Urban3, a firm capable of evaluating the city's potential, both untapped and underutilized. CM Marcano believed involving current economic partners would be beneficial. He expressed his understanding that the mayor's intention seemed to be bringing back the same proposal without substantive changes. He conveyed that the current proposal lacked meaningful content for discussion.

Mayor Coffman interjected, denying the claim Marcano made. Marcano insisted that the mayor had indeed made that assertion. Mayor Coffman clarified that he intended to individually converse with council members before bringing the matter forward in two weeks.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Murillo raised a point of order, seeking to address a procedural matter wherein she requested that colleagues should not be interrupted. Mayor Coffman apologized and CM Marcano continued to convey his opinion.

CM Marcano highlighted the **mayor's** earlier statement to bring the matter back in two weeks. He suggested that instead of simply revisiting the existing proposal, there should be an effort to develop a more comprehensive plan. He proposed involving experts for analysis, engaging existing partners, and fostering a broader conversation. CM Marcano believed that this approach could gain more traction compared to bringing back the current proposal, which she deemed unlikely to progress.

CM Coombs addressed the mayor, expressing the need to give CM Murillo an opportunity to speak. CM Coombs requested clarification on the mayor's statement that he was willing to sit down with anyone. He asked whether the mayor would be willing to dedicate substantial time, even beyond 30 minutes, to discuss and develop a comprehensive plan.

Mayor Coffman responded that he believed he could manage time more effectively, possibly with 30-minute discussions. However, he affirmed that he was willing to allocate more time if necessary due to his busy schedule. He emphasized his readiness to consider amendments while upholding the Council's responsibility to establish a vision for the city without outsourcing it. He assured the Council that he wouldn't compromise the vision's integrity but was open to constructive suggestions. He further stated that if the proposal was voted down, he would not compromise its content, but he was open to discussions. He invited additional questions or comments as they approached the upcoming vote in two weeks and reiterated his willingness to converse with any council member before the vote.

CM Murillo requested clarification on the timeline of the initial discussion regarding the study.

Mayor Coffman responded that there had been multiple discussions on the subject, including a Study Session. However, he didn't have the exact date at that moment. He mentioned a Saturday workshop as a possibility but wasn't certain.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Murillo pressed for more specific information, asking if the discussion had taken place a couple of months ago, possibly in October.

Mayor Coffman agreed, stating that he believed it had been a few months since the initial discussion, but noted that the topic had been brought up even earlier.

CM Murillo expressed skepticism about the feasibility of having substantial discussions, amendments, and meetings within the two-week timeframe, given the apparent lack of progress since October. She noted that the time required to place matters on the agenda also needed to be considered. CM Murillo found it hard to believe that the discussions and collaborations the mayor proposed for the next two weeks had not taken place over the past several months. She conveyed her frustration with the situation, highlighting there were no real discussions that occurred with community partners or colleagues concerning an economic development strategy.

CM Bergan expressed gratitude for the mayor's willingness to meet and discuss the matter. However, she shared the sentiment of CM Murillo, believing that the two-week timeframe might not provide sufficient time for productive discussions.

Mayor Coffman acknowledged their concerns and indicated that he would evaluate the progress made during these discussions. He emphasized the importance of determining if the conversations were genuinely productive or if they were simply excuses due to external pressures against voting for a city vision. He mentioned the possibility of extending the timeline if the discussions were indeed productive.

CM Murillo asked for clarification regarding the external pressures against having an economic development strategy.

Mayor Coffman explained that some commercial developers might have opposed the idea due to their focus on short-term profits rather than long-term planning. He acknowledged his respect for their work but noted that their interests could conflict with a long-term vision for the city.

CM Murillo inquired about naming specific developers, but Mayor Coffman declined, stating that he was referring to commercial developers in general and reiterated the importance of working with them rather than for them.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Lawson challenged the perception that the city's economic development is solely centered around manufacturing. She mentioned the presence of diverse businesses like data centers, aerospace, and other industries that had been brought in by economic development efforts.

Mayor Coffman acknowledged the diversity of businesses and clarified that distribution, while not manufacturing, appeared to be a primary focus. He expressed his determination to push for the economic development strategy, even though he recognized potential opposition. He emphasized his willingness to collaborate with all Council members and invited anyone interested to meet with him.

Motion by Coffman, second by Zvonek to table item 11.a.7.

Voting Aye: Coffman, Bergan, Coombs, Lawson, Marcano, Murillo, Sundberg, Zvonek

Voting Nay: Gardner, Jurinsky, Medina

## 11.b Finalizing of Ordinances

### 11.b.1 **Unified Development Ordinance (UDO) Amendment – Relating to Turf Usage**

**2023-29** CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 146 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, AS IT RELATES TO THE USE OF TURF AND ORNAMENTAL WATER FEATURES

Sponsor: Françoise Bergan, Council Member

Kelly Bish, Senior Planner, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney

### 11.b.2 **Amending Sections 138-61, 138-63, 138-66, and 138-67 of the City Code Pertaining to the Citizens Water Advisory Committee and Renaming it the Citizens Water Advisory Commission**

**2023-30** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 138-61, 138-62, 138-63, 138-66 AND 138-67 OF THE CITY CODE PERTAINING TO THE CITIZENS WATER ADVISORY COMMITTEE AND RENAMING IT THE CITIZENS WATER ADVISORY COMMISSION

♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Greg Baker, Manager of Water Public Relations, Aurora Water / Ian Best,  
Assistant City Attorney

Motion by Gardner, second by Bergan to approve the Consent Calendar – Resolutions  
and Ordinances with items 11.a.6 and 11.a.7 removed.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo,  
Sundberg, Zvonek

## 12. **PUBLIC HEARINGS**

### 12.a **Eagle Ridge Zoning Map Amendment**

**2023-34** A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 31.28 ACRES, MORE OR LESS, LOCATED WITHIN SUBAREA C, ALONG STEPHEN D HOGAN PARKWAY AND WEST OF PICADILLY ROAD, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO FROM MIXED-USE REGIONAL DISTRICT (MU-R) TO MIXED-USE CORRIDOR DISTRICT (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (EAGLE RIDGE ZONING MAP AMENDMENT)

Ariana Muca, Planner, Planning and Development Services / Rachel Allen, Senior  
Assistant City Attorney

Outside Speaker: Julie Gamec and Alicia Khine, THK Associates

Mayor Coffman opened the public hearing.

Ariana Muca, staff, Alicia Khine, JV developer, and Ryan Zent of Overland Property  
Group, provided a summary of the item.

Mayor Coffman closed the public hearing.

Motion by Gardner, second by Sundberg to approve 12.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo,  
Sundberg, Zvonek

### 12.b **Revision to Exhibits A and D of the Operator Agreement with Axis Exploration LLC**

**2023-85** A PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



**COUNCIL’S SUPPORT OF REVISIONS TO EXHIBITS A AND D OF THE AXIS  
EXPLORATION, LLC OPERATOR AGREEMENT**

Jeffrey Moore, Manager, Energy and Environment Division / Dave Scott, Assistant City Attorney

Outside Speaker: Dan Harrington, Asset Development Lead, Civitas Resources

Mayor Coffman opened the public hearing.

Jeffrey Moore, Manager of the Energy and Environment Division, and Dan Harrington, Asset Development Lead of Civitas Resources provided a summary of the item.

Mayor Coffman closed the public hearing.

CM Coombs expressed a desire to avoid drilling any wells and requested clarification on the possibility of achieving this outcome by not making the proposed change.

J. Moore explained that the existing Operator Agreement allowed for four well sites with 80 wells, and these sites were vested to the operator, enabling them to drill wells as desired.

CM Coombs inquired about the cost implications of not approving the proposal and the responsibility for plugging the wells if Civitas does not do so.

J. Moore explained that the legacy wells, while already plugged, might need re-plugging due to changing state regulations.

Motion by Bergan, second by Sundberg to approve item 12.b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

13. **INTRODUCTION OF ORDINANCES**

13.a. **Update Charter Language to be Gender Neutral – Ordinance for 2023 Ballot**

**2023-31** FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF AURORA, COLORADO, AT THE REGULAR MUNICIPAL ELECTION OF NOVEMBER 7, 2023, PROPOSED AMENDMENTS TO ARTICLES 2-2, 3-10, 3-14(4), 3-14(5), 3-14(7), 3-15(1), 3-15(3), 3-15(4), 3-16(6), 3-

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

16(8)(a), 3-16(8)(j), 3-16(8)(j)(a), 3-17(2), 3-17(3), 5-2, 5-9, 6-5, 7-4(e), 7-4(f), 8-2, 10-1,

10-5, 10-8, 11-2, 11-3, 12-7, 14-9(6) & 15-9(6) OF THE CITY CHARTER CONCERNING NON-SUBSTANTIVE UPDATES TO THE CITY CHARTER TO CREATE GENDER NEUTRALITY BY REPLACING ALL GENDER-SPECIFIC NOUNS AND ALL PERSONAL PRONOUNS WITH NON-GENDER SPECIFIC NOUNS, AND AMENDING ARTICLE 5-9 TO INCORPORATE DIRECTION THAT UNIFORM CODES ADOPTED BY THE CITY FOR INCLUSION IN THE CITY CODE SHALL FIRST BE AMENDED TO USE GENDER-NEUTRAL REFERENCES TO PERSONS

Sponsor: Alison Coombs, Council Member

Jack Bajorek, Deputy City Attorney

CM Coombs, Andrea Wood, Assistant City Attorney, and George Koumantakis of the **City Attorney's Office** provided a summary of the item.

Motion by Coombs, second by Marcano to approve item 13.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**13.b. Amending Sections 54-133 and 54-151 of the City Code Pertaining to Unlawful Acts**

**2023-32** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-133 AND 54-151 OF THE CITY CODE PERTAINING TO UNLAWFUL ACTS

Sponsor: Curtis Gardner, Mayor Pro Tem

Dan Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney

Mayor Pro Tem Gardner outlined that the item does two things. The first section bans the use of deceptive practices when obtaining signatures. He clarifies that the second section would bring the opportunity for folks who have signed a petition to remove their name, noting that there was not previously a formal process to do so.

Mayor Coffman asked the Clerk, Kadee Rodriguez, about the required language on the front of a petition to which she provided an explanation.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Coombs thanked Mayor Pro Tem Gardner for entertaining the amendments and working with the staff. She expressed support to the ordinance.

Motion by Gardner, second by Marcano to approve item 13.b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

13.c. **Police Reserve Force**

**2023-35** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE

Sponsor: Danielle Jurinsky, Council Member

Art Acevedo, Police Chief / Pete Schulte, City Attorney

Council heard public testimony on the agenda item.

Pete Schulte, Public Safety Client Manager for the **City Attorney's Office, and Art Acevado**, Chief Police in Aurora, presented a summary of the item.

CM Bergan expressed gratitude and inquired about the process of checking prior disciplinary history as mentioned in the provided information.

P. Schulte responded.

CM Bergan asked about the cadet program, highlighting that individuals with less than five years in the program could be involved.

P. Schulte clarified that the cadet program was a separate consideration.

CM Bergan asked to confirm if this aspect was not going to be implemented from the start and P. Schulte affirmed in response.

CM Bergan asked about the functioning of a reserve officer paired with another officer, focusing on decision-making and command structure.

P. Schulte provided his personal experience as a reserve officer, but noted that his previous experience would vary in the current scenario due to the presence of reserve

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

certification without full training. Nevertheless, the possibility existed that reserve officers holding full basic certification might apply and engage in similar collaborative work if they opted to do so.

A. Acevedo anticipated that some retirees might develop a strong desire to serve the city again after retirement, considering the city had been the foundation of their successful careers. Mayor Coffman expressed approval of this concept. A. Acevedo indicated that the capacity was constrained to about 35 individuals at that time.

CM Lawson asked about the necessary experience level for the experienced officer paired with a reserved person, expressing concerns about newly graduated cadets being in that role.

A. Acevedo addressed the query by explaining that they considered Field Training Officers (FTOs) or senior officers whom the department had confidence in and pointed out that the purpose assigned to the reserves, like facilitating community events, played a role in the decision. For patrol duties, reserve officers would be partnered with senior officers and FTOs.

CM Coombs raised concerns about ensuring accountability and trustworthiness in the reserve officer program. She inquired about background checks for candidates without prior civil service backgrounds and the measures in place for accountability.

P. Schulte responded by explaining that the hiring process for the reserve program mirrored that of lateral police officers and civilians. He noted that eligibility for applicants without prior experience might have been limited, except for retirees or fully certified officers seeking continued employment.

A. Acevedo emphasized the idea that past performance is a strong indicator of future behavior and stressed the department's limited tolerance for anyone attempting to undermine the program's integrity.

CM Coombs asked about the implications of not having civil service status on both the City's and individuals' liabilities while serving in the reserve officer role.

P. Schulte responded that there was not a significant impact on liability since reserve officers held a volunteer position without contractual obligations.

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Coombs requested clarification regarding retired officers with basic Peace Officer certification, who were not required to be under the supervision of another officer. She questioned the extent of their responsibilities and the mechanisms in place to prevent them from exceeding their designated scope.

P. Schulte responded that the boundaries of their roles were determined by established policies and procedures, which these retired officers were familiar with from their careers with the police department. He noted that Chief Acevedo would have the final say on permitting such assignments.

A. Acevedo mentioned that in his duration as Chief, reserve officers would not work alone. P. Schulte agreed. He also committed to involving the Chairs of Public Safety in the process of drafting policies in the weeks to come.

CM Coombs questioned how to prevent individuals from acting as officers when not directed by the police department, particularly those with full basic Peace Officer certification in the program.

P. Schulte explained that legally, reserve officers were only allowed to act within the scope of policy-approved positions.

CM Coombs requested clarification on a scenario in which someone in the program might act as a police officer even when not officially on duty under the Chief's or other leadership's direction.

A. Acevedo explained that such a situation would likely result in a "one and done" instance where the individual would not continue to be part of their program because their policy was very clear on this matter.

CM Bergan asked whether the training offered through the POST certification program encompassed all the training that regular officers received, including use of force training.

P. Schulte confirmed that following the acquisition of their reserve certification, the department would provide supplementary training beyond the POST certification.

CM Marcano asked about the reasons for discontinuing the reserve program in the past, indicating that it wasn't as straightforward as a mere code cleanup, as the code went unused.

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

P. Schulte explained that after the events of September 11, 2001, there was a significant influx of individuals wanting to join the police force, firefighting, and paramedic roles. However, this interest gradually diminished over time.

CM Marcano asked about the party responsible for liability if a volunteer incurred an injury.

P. Schulte responded that according to state law, volunteers were covered by workers' compensation if their actions fell within the scope of their policy and employment terms. In case of injury, workers' compensation would be applicable. Similar to regular officers, evaluations would be conducted for situations involving matters like use of force and potential lawsuits. He stated that in most cases, the department would cover the costs, unless it was determined that the volunteer had not acted in good faith.

CM Marcano asked a follow-up about the mechanism of worker's compensation for a volunteer.

P. Schulte outlined the compensation and coverage that would be provided for volunteers.

CM Marcano expressed concerns about the prohibition outlined in the state statute, preventing compensation for volunteer officers. He said that the discussion pertained to individuals who would essentially serve as part-time officers while managing other commitments. He asked for clarification to understand the historical context and reasons behind introducing this restriction in the state statute.

P. Schulte explained that the prohibition was implemented due to a historical issue that was not unique to Colorado.

Motion by Jurinsky, second by Sundberg to approve item 13.c.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Sundberg, Zvonek

Voting Nay: Murillo

#### 14. **FINALIZING OF ORDINANCES**

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

*Ordinances not approved unanimously at first reading.*

15. **ANNEXATIONS**

15.a. **Overlook at King's Point South Annexation**

**R2023-33** CONSIDERATION OF AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO (Overlook at Kings Point South) 19.937 ACRES

Jacob Cox, Manager of Development Assistance / Brian Rulla, Assistant City Attorney

Jacob Cox, Manager of Development Assistance, provided a summary of the item.

Motion by Coombs, second by Bergan to approve item 15.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

15.b. **The Overlook at King's Point South – Zoning Map Amendment**

**2023-27** CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING A PARCEL OF LAND MEASURING 20 ACRES MORE OR LESS NEAR THE NORTHEAST CORNER OF EAST SPUR LANE AND PINE DRIVE TO LOW-DENSITY SINGLE-FAMILY RESIDENTIAL ZONE DISTRICT AND AMENDING THE ZONING MAP ACCORDINGLY (THE OVERLOOK AT KINGS POINT SOUTH ZONING MAP AMENDMENT)

Erik Gates, Planner, Planning and Development Services / Rachel Allen, Manager of Client Services, City Attorney

Jacob Cox, Manager of Development Assistance, provided a summary of the item.

Motion by Bergan, second by Sundberg to approve item 15.b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

15.c. **Overlook at Kings Point South Annexation Agreement**

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CONSIDERATION OF AN ANNEXATION AGREEMENT BETWEEN THE CITY OF AURORA,  
COLORADO, AND PRUSSE LAND COMPANY (OVERLOOK AT KINGS POINT SOUTH)  
19.937 ACRES

Jacob Cox, Manager of Development Assistance / Brian Rulla, Assistant City Attorney

Jacob Cox, Manager of Development Assistance, provided a summary of the item.

CM Member Bergan asked whether the annexation agreement being presented was the one that had been used for several years.

J. Cox confirmed that it was indeed the same agreement and mentioned that they made updates to it whenever discrepancies were found to align with the latest codes.

CM Bergan asked about the criteria for land dedication for different purposes, citing a past experience involving a school district. She mentioned that the land was initially dedicated based on an agreement, but later the district decided the land was not necessary for a school and proceeded to sell it. She asked whether there were any changes to the criteria for dedicating land for schools, parks, and similar uses.

J. Cox explained that the current scenario did not pose a problem because the ongoing master plan did not include a school site for dedication. He clarified that this matter was not tackled at that point, but there were proactive intentions to address it in the upcoming year, potentially involving discussions with the city to enhance safeguards.

CM Bergan asked whether adjustments to the cash-in-lieu option were possible for certain scenarios.

J. Cox explained that there were discussions about a policy change to prevent such situations in the future, aiming for collaboration with the City regarding dedication piece within the master plan process. However, no definitive decisions were reached at that time.

CM Bergan clarified that the parcel in question was indeed part of the larger Kings Point South master plan. Within the context of this master plan, certain amenities like parks were required. They discussed the possibility that due to its inclusion in the larger plan, the small parcel might not need its own separate park.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



J. Cox confirmed this assessment and determined that there was not a designated school site within its scope.

Motion by Bergan, second by Lawson to approve item 15.c.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

16. **RECONSIDERATIONS AND CALL UPS**

17. **GENERAL BUSINESS**

17.a. **Consideration to Appoint One (1) Member to the Civil Service Commission**

Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney

CM Coombs proposed a substitute motion to designate Paul Poole for the position on the Civil Service Commission.

CM Marciano mentioned that Candidate Poole had shown greater strengths compared to the previous candidate. He highlighted that both Sergeant Poole and Don Lewis demonstrated a better understanding of the consent decree and the role of the Civil Service Commission compared to the other applicant. He encouraged colleagues to support Sergeant Poole's candidacy.

Motion by Sundberg, second by Zvonek, to appoint Patricia Stephens to the Civil Service Commission.

Voting Aye: Mayor Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Marciano, Medina, Murillo

***SUBSTITUTE MOTION***

Motion by Coombs, second by Marciano, to appoint Paul Poole to the Civil Service Commission.

Voting Aye: Coombs, Marciano, Medina, Murillo

Voting Nay: Mayor Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

18. **REPORTS**

18.a. **Report by the Mayor**

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Mayor Coffman mentioned that he participated in a ride-along with officers Samson Vitara and Gavin Roberts in Districts 1 and 2 respectively. He also attended a promotion ceremony for Aurora Fire Rescue officers, acknowledging promotions to various ranks. He highlighted his involvement in Camp Spark, a program by Aurora Fire Rescue aimed at fostering young women's interest in the fire service. He expressed gratitude for the efforts of the firefighters involved. He joined patrol officer Gavin Roberts in District 2 and detailed his efforts to collaborate with judges in establishing a specialized court to address minor offenses related to homelessness. He observed proceedings in courts in Boulder and Denver and planned to visit Lakewood's courts as well, all of which had similar specialized courts.

#### 18.b. **Reports by the Council**

CM Lawson gave updates on the Federal, State, and Intergovernmental Relations Committee. She mentioned the progress made in the federal appropriations process for congressionally directed spending projects. All four city projects, including the Nine-Mile Pedestrian Bridge, Central Library Remodel, Water Line Replacement, and Pressure Regulating Valve Improvement projects, passed the Appropriations Subcommittee for funding. However, final approval for funding was still pending. In Colorado, new laws came into effect on August 7th, requiring drivers to move over or slow down for stationary public utility vehicles with hazard lights on. The City Intergovernmental Relations website underwent phase one of revamping, and everyone was encouraged to check out the changes. CM Lawson thanked Liz for her work on the website and welcomed suggestions from the Council. Additionally, she mentioned participating in two proclamation readings for the 84th Association of Business and Professional Women's Club at the Hyatt, which had been a positive experience.

CM Sundberg mentioned that the Benson Hotel at the Fitzsimons Innovation Campus was an impressive establishment, highlighting its use of high-quality materials, woodworking, stonework, and art. He encouraged others to visit the hotel's bars. The Acting City Manager and CM Sundberg journeyed to Bennett, a town with a population of 3,500, to attend a State of the Town address. He noted the town's innovative water initiatives. He volunteered at the 7/20 Memorial event wherein he served breakfast to the 5K Run and participated in the Chalk and Beer Festival, both of which were positive experiences. He and the mayor also attended the graduation of a woman from the Aurora Armed Forces Treatment Court, sharing her inspiring transformation from homelessness to sobriety and employment. He also mentioned that he, CM Jurinsky, and candidate John O. Scott visited the Shamrock Distribution Center, an extensive automated facility. He expressed gratitude to CM Jurinsky for stepping in at his Town Hall due to a wedding commitment and recommended her as a substitute for other board members. He reminded everyone about National Night Out and the upcoming "Shop with a Cop" event, expressing hope for positive media coverage.

CM Medina announced his upcoming Town Hall on August 2nd, focusing on traffic calming and neighborhood resources. He attended the Spark Ceremony and training,

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

alongside CM Coombs, emphasizing the importance of training young women for firefighting roles and building self-esteem and teamwork skills. He also mentioned his participation in the National Night Out event at Fletcher Plaza and encouraged attendance.

CM Marcano informed that the Ward IV Town Hall scheduled for August 10th was canceled due to the Governor's listening session taking place in Aurora on the same night. The public was invited to attend the Governor's session from 5:45 to 7:30. He mentioned his plan to share the sign-up link once it became available. He also discussed the September meeting's focus on Vision Zero and improving arterial road safety. He noted the news coverage highlighting a record number of fatalities on Aurora's streets, an issue seen nationwide. The aim of the September meeting was to explore solutions for creating safer streets for all. He expressed his hope to see everyone at the meeting.

CM Coombs mentioned that her August Town Hall, originally scheduled for the 15th, was rescheduled to the 22nd to avoid a conflict with the Aurora Water Tour. The new Town Hall took place on August 22nd at 6:00 p.m. at Heather Gardens, focusing on Public Safety. Chief Oughton and either Chief Acevedo or another APD leader were present. The August 19th Saturday meeting was rescheduled to September 16th to avoid a conflict with Global Fest. The rescheduled meeting would discuss safe streets, including arterials, traffic calming, and multimodal transportation. The September 12th meeting was planned as a candidate forum for Mayor, At Large, and Ward V candidates. She attended various events, including the County Fair and the ADCOG dinner in Bennett with CM Marcano. She also participated in the SEIU Kaiser Informational Picket to support healthcare employees' negotiations. She highlighted Aurora Pride happening on August 5th, with the main event from noon to 7:00 p.m. and early access options available. She provided information on tickets and amenities at [AuroraPride.com](http://AuroraPride.com).

CM Bergan mentioned attending the enjoyable County Fair Boots Not Suits event. She highlighted the impressive grand opening of the Benson Hotel and recommended a visit, especially the nice bar. She hosted her Town Hall and expressed gratitude to the presenters, including Omar Montgomery, Bob Oliva from retail in the city, and a presentation from DOLA on the Ridgeview Project. She discussed various recent meetings including EADC Executive Board, ARDA, an opioid meeting, and a meeting with the Salvation Army to learn more about their work and vision.

## 19. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of the City Council.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

DRAFT

---

MIKE COFFMAN, MAYOR

ATTEST:

---

KADEE RODRIGUEZ, CITY CLERK

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

## MINUTES

### Regular Meeting of the **Aurora City Council**

Monday, August 14, 2023

1. **RECONVENE REGULAR MEETING OF AUGUST 14, 2023, AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of the City Council for August 14, 2023, at 6:30 p.m.

2. **ROLL CALL**– Kadee Rodriguez, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

*Public call-in instructions were provided in both English and Spanish.*

3. **INVOCATION/MOMENT OF SILENCE**– Mike Coffman, Mayor

Mayor Coffman led the prayer for the August 14<sup>th</sup>, Council Meeting.

4. **PLEDGE OF ALLEGIANCE** (all standing)

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman provided an update on the Executive Session where they discussed a settlement offer.

6. **APPROVAL OF MINUTES**

7. **PROCLAMATIONS OR CEREMONIES**

7.a. **Aurora International Month**

Mayor Coffman proclaimed August 2023 as Aurora International Month in the City of Aurora, Colorado.

Mayor Coffman read a land acknowledgment.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda-related issues only)

Council heard public testimony on non-agenda-related items.

Mayor Coffman asked for the contact information of Tim Rohac, who expressed concerns about the prevalent lawlessness, homeless encampments, and abandoned vehicles in Aurora.

9. **ADOPTION OF THE AGENDA**

Motion by Gardner, second by Coombs to adopt the agenda with items 11.a.2, 11.a.3, and 11.a.4 delayed until the next Council Meeting.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

10. **CONSENT CALENDAR - MOTIONS**

*Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

10.a **Motions**

10.a.1 **Consideration to AWARD A COMPETITIVE BID CONTRACT to JHL Constructors Inc., Englewood, Colorado in the Amount of \$6,818,788.00 for the Binney Water Purification Facility Flocculation Sedimentation Building Project, Project No. 5922A**

Swirvine Nyirenda, Manager of Project Delivery Services, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

10.a.2 **Binney Water Purification Facility Flocculation Sedimentation Basin Building Design Contract Amendment**

Consideration to AWARD AN AMENDMENT TO A COMPETITIVELY SOLICITED CONTRACT to Hazen & Sawyer, Greenwood Village, Colorado in the Amount of \$538,410.00 to Provide Construction Phase Services for the Binney Water Purification Facility Flocculation Sedimentation Basin Structure Design Project

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Swirvine Nyirenda, Manager of Project Delivery Services, Aurora Water /  
Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.3 **Consideration to AMEND AN OPENLY SOLICITED CONTRACT with ERO Resources Corporation, Denver, Colorado in the Amount of \$150,000.00 for Providing Pre-NEPA and Geotechnical Support Services for the Wild Horse Reservoir Project**

Richard Vidmar, Water Resources Manager, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.4 **Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Colorado Barricade Company, Denver, Colorado in the Not-to-Exceed Amount of \$101,00.00 for Rental of Barricade Equipment As Required through July 31, 2024, B-4605**

Mike Mills, Manager of Water Operations and Maintenance, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.5 **Consideration to AWARD A SINGLE SOURCE CONTRACT to Waste Management Corporate Services, Incorporated, Pasadena, California in the Amount Not-to-Exceed \$475,000.00 for Landfill Services at the Denver Arapahoe Disposal Site (DADS) through August 31, 2024**

Mike Mills, Manager of Water Maintenance and Operations, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.6 **Consideration to AWARD A SINGLE SOURCE CONTRACT to Caropractor Inc., Aurora, CO in the Amount of \$200,000.00 to Cover the Cost of Body and Frame Repairs to Emergency Response Vehicles and Other City Vehicles as Required through August 2024**

Ron Forrest, Fleet Manager, Public Works / Hanosky Hernandez, Senior Assistant City Attorney

- 10.a.7 **Consideration to AWARD AN OPENLY SOLICITED CONTRACT to HDR Engineering, Inc, Denver, Colorado, in the Amount of \$3,224,977.88 for Conducting a Multimodal Transportation Master Plan for the City of Aurora; R- 2316**

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Huiliang Liu, Principal Transportation Planner, Planning and Development Services/ Hanosky Hernandez, Senior Assistant City Attorney

**10.a.8 Contractor for Youth Violence Prevention Program Evaluation Services**

Consideration to AWARD AN OPENLY SOLICITED CONTRACT to University of Colorado Boulder, CO in the Amount of \$199,995.00 for an Educational Researcher Who Will be Assigned to the Youth Violence Prevention Program and Supervised by the Manager of the Youth Violence Prevention Program. R-2346

Joseph DeHerrera, Youth Violence Prevention Program Manager, Housing and Community Services / Hanosky Hernandez, Senior Assistant City Attorney

**10.b Planning Matters**

**10.c Appointments to Boards and Commissions**

**10.c.1 Consideration to Appoint One (1) Member to the Human Relations Commission**

Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney

Motion by Coombs, second by Gardner to approve the Consent Calendar – Motions.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

**11. CONSENT CALENDAR – RESOLUTIONS AND ORDINANCES**

*Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

**11.a Resolutions**

**11.a.1 Purchase and Sale Agreement for Three (3) Shares of Stock in the Platte Valley Irrigation Company**

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*



**R2023-86** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE PURCHASE OF STOCK IN THE PLATTE VALLEY IRRIGATION COMPANY BETWEEN THE CITY OF AURORA AND KORWELL LAND HOLDINGS, LLC

Alexandra Davis, Assistant General Manager of Water Supply and Demand,  
Aurora Water / Stephen Cann, Senior Assistant City Attorney

11.a.2     **Intergovernmental Agreement with Arapahoe County for the 2023 Coordinated Election**

**R2023-87** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager

11.a.3     **Intergovernmental Agreement with Adams County for the 2023 Coordinated Election**

**R2023-88** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager

11.a.4     **Intergovernmental Agreement with Douglas County for the 2023 Coordinated Election**

**R2023-89** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN DOUGLAS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager

11.a.5     **Douglas County Department of Human Services – Aurora Police Department Memorandum of Understanding (MOU)**

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

**R2023-90** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE AURORA POLICE DEPARTMENT AND DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES CHILD WELFARE

Art Acevedo, Chief of Police / Megan Platt, Assistant City Attorney

11.a.6 **Authorizing the City's Private Activity Bond Allocation for 2023 to the Aurora Housing Authority**

**R2023-91** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING THE ASSIGNMENT OF THE CITY'S 2023 PRIVATE ACTIVITY BOND ALLOCATION TO THE HOUSING AUTHORITY OF THE CITY OF AURORA, DBA AURORA HOUSING AUTHORITY

Alicia Montoya, Housing and Community Development Manager, Housing and Community Services / Tim Joyce, Assistant City Attorney

11.a.7 **Neighborhood Park Name for Green Valley Ranch East PA-13**

**R2023-92** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF NAMING A NEIGHBORHOOD PARK IN GREEN VALLEY RANCH EAST "WANDER PARK"

Curt Bish, Planning Supervisor, Parks, Recreation and Open Space / Tim Joyce, Assistant City Attorney

11.a.8 **Opposing Strong Mayor Form of Government**

**R2023-93** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S DESIRE TO OPPOSE A MAYOR/COUNCIL FORM OF CITY GOVERNMENT

Sponsor Name: Juan Marcano, Council Member

George Koumantakis, Client Services Manager, City Attorney

Council heard public testimony on the agenda item.

11.b **Finalizing of Ordinances**

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

11.b.1 **Update Charter Language to be Gender Neutral – Ordinance for 2023 Ballot**

**2023-31** FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF AURORA, COLORADO, AT THE REGULAR MUNICIPAL ELECTION OF NOVEMBER 7, 2023, PROPOSED AMENDMENTS TO ARTICLES 2-2, 3-10, 3-14(4), 3-14(5), 3-14(7), 3-15(1), 3-15(3), 3-15(4), 3-16(6), 3-16(8)(a), 3-16(8)(j), 3-16(8)(j)(a), 3-17(2), 3-17(3), 5-2, 5-9, 6-5, 7-4(e), 7-4(f), 8-2, 10-1, 10-5, 10-8, 11-2, 11-3, 12-7, 14-9(6) & 15-9(6) OF THE CITY CHARTER CONCERNING NON-SUBSTANTIVE UPDATES TO THE CITY CHARTER TO CREATE GENDER NEUTRALITY BY REPLACING ALL GENDER SPECIFIC NOUNS AND ALL PERSONAL PRONOUNS WITH NON-GENDER SPECIFIC NOUNS, AND AMENDING ARTICLE 5-9 TO INCORPORATE DIRECTION THAT UNIFORM CODES ADOPTED BY THE CITY FOR INCLUSION IN THE CITY CODE SHALL FIRST BE AMENDED TO USE GENDER NEUTRAL REFERENCES TO PERSONS

Sponsor: Alison Coombs, Council Member

Jack Bajorek, Deputy City Attorney

11.b.2 **Amending Sections 54-133 and 54-151 of the City Code Pertaining to Unlawful Acts**

**2023-32** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-133 AND 54-151 OF THE CITY CODE PERTAINING TO UNLAWFUL ACTS

Sponsor: Curtis Gardner, Mayor Pro Tem

Dan Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney

11.b.3 **Eagle Ridge Zoning Map Amendment**

**2023-34** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 31.28 ACRES, MORE OR LESS, LOCATED WITHIN SUBAREA C, ALONG STEPHEN D HOGAN PARKWAY AND WEST OF PICADILLY ROAD, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO FROM MIXED-USE REGIONAL DISTRICT (MU-R) TO MIXED-USE CORRIDOR DISTRICT (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (EAGLE RIDGE ZONING MAP AMENDMENT)

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Ariana Muca, Planner, Planning and Development Services / Rachel Allen,  
Senior Assistant City Attorney

Outside Speakers: Julie Gamec and Alicia Khine, THK Associates

Motion by Gardner, second by Marciano to approve the Consent Calendar – Resolution and Ordinances with items 11.a.2, 11.a.3, and 11.a.4 removed.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo,  
Zvonek

12. **PUBLIC HEARINGS**

*Public hearings with or without related ordinances*

12.a **Murphy Creek Industrial Metropolitan District**

**R2023-94** A PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE SERVICE PLAN FOR MURPHY CREEK INDUSTRIAL METROPOLITAN DISTRICT AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO AND THE DISTRICT

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney

Mayor Coffman opened the public hearing.

Cesarina Dancy, Senior Project Manager of the Office of Development Assistance, and applicant, Megan Kranichfeld, provided a summary of the item.

Mayor Coffman closed the public hearing.

CM Coombs expressed concern about the lack of specific information in the service plan regarding a \$24 million Debt Service Authority request. She asked about the infrastructure that would be developed with this funding.

C. Dancy deferred the question to the applicant. M. Kranichfeld provided a response.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Coombs asked if the \$24 million was determined based on specific anticipated needs or if it was a general request for the maximum amount, with details to be decided later.

M. Kranichfeld confirmed that the amount was indeed based on general budget estimates for those specific needs at the current project stage.

Motion by Coombs, second by Medina to approve 12.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Zvonek

**12.b First Creek Powhaton Metropolitan Districts Nos. 1-12**

**R2023-95** A PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE SERVICE PLAN FOR FIRST CREEK POWHATON METROPOLITAN DISTRICT NOS. 1-12 AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE DISTRICTS

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney

Mayor Coffman opened the public hearing.

Cesarina Dancy, Senior Project Manager from the Officer of Development Assistance, and applicant, George Rowley, provided a summary of the item.

Mayor Coffman asked the applicant about the meaning of "50 mills" and "per and as adjusted."

G. Rowley provided clarification.

CM Coombs expressed gratitude for the applicant's clarification regarding the total amount of \$900 million spread across the 12 districts, which had been a point of misunderstanding in the previous meeting. She also asked about the initial district boundaries, noting that only three acres out of 981 acres were included initially. While

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

recognizing the necessity for flexibility due to phasing, she questioned the extent of this flexibility and asked the applicant to explain the included small area.

G. Rowley provided an explanation.

CM Coombs requested clarification on the process of including and excluding areas within the districts, aiming to provide information to the public.

G. Rowley responded.

Mayor Coffman closed the public hearing.

Motion by Medina, second by Jurinsky to approve item 12.b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

12.c **Tower Crossings South Zoning Map Amendment**

**2023-36** A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 22.4 ACRES MORE OR LESS AT THE SOUTHEAST CORNER OF TOWER RD AND E 32ND PKWY FROM BUSINESS/TECH DISTRICT (I- 1) TO MIXED-USE CORRIDOR (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (TOWER CROSSINGS SOUTH ZONING MAP AMENDMENT)

Erik Gates, Planner, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney

Mayor Coffman opened the public hearing.

Erik Gates, Planner from the Planning and Development Services, provided a summary of the item.

CM Marcano expressed gratitude for the presentation and asked for further information about Exhibit D, specifically the labeled "Recreation Center." He wanted to understand this aspect in more detail.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

E. Gates provided clarification.

CM Marcano then asked whether this referred to a private facility, to which E. Gates confirmed affirmatively.

Mayor Coffman closed the public hearing.

Motion by Bergan, second by Lawson to approve item 12.c.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

13. **INTRODUCTION OF ORDINANCES**

13.a. **2023 IT Lease Purchase Authority**

**2023-37** FOR AN ORDINANCE AUTHORIZING THE CHIEF INFORMATION TECHNOLOGY OFFICER TO ACQUIRE CERTAIN TANGIBLE AND INTANGIBLE INFORMATION TECHNOLOGY PROPERTY DURING THE 2023 FISCAL YEAR, EITHER BY PURCHASE OR PURSUANT TO THE TERMS OF LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BETWEEN THE CITY, AS LESSEE, AND LEASE INVESTORS, VENDORS OR THE AURORA CAPITAL LEASING CORPORATION, EACH AS LESSOR, AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY

Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney

Scott Newman, Chief Information Officer, provided a summary of the item.

Motion by Jurinsky, second by Coombs to approve item 13.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

13.b. **Single Subject Ballot Initiatives**

**2023-38** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-121 AND 54-131 OF THE CITY CODE PERTAINING TO BALLOT INITIATIVES

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Sponsor: Curtis Gardner, Mayor Pro Tem

Dan Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney

Mayor Pro Tem Gardner provided a summary of the item.

Motion by Gardner, second by Marciano to approve item 13.b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Zvonek

**13.c. Prohibiting the Sale of Cats and Dogs in Pet Shops**

**2023-39** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, PROHIBITING THE SELLING OR DISPOSING OF DOGS OR CATS OTHER THAN THOSE OBTAINED FROM AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY, OR NONPROFIT ANIMAL RESCUE ORGANIZATION

Sponsors: Danielle Jurinsky, Council Member / Juan Marciano, Council Member

Trevor Vaughn, Manager of Licensing, Finance / Angela Garcia, Senior Assistant City Attorney

Council heard public testimony on the agenda item.

CM Bergan acknowledged the concerns surrounding pet stores, encompassing the origins of pets and the conditions they faced in stores. She had also shown understanding about the worries linked to puppy mills providing pets to Colorado. She asked for clarification on how rescues were monitored in the past and how their adherence to appropriate standards was ensured.

Anthony Youngblood, Division Manager of Animal Services, responded.

CM Bergan asked if PACFA was the organization that was unable to regulate pet stores.

A. Youngblood clarified that it was USDA and that PACFA operated specifically within the state of Colorado.

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



CM Bergan asked if PACFA is responsible for regulating rescues and A. Youngblood confirmed.

CM Bergan asked whether PACFA was capable of conducting thorough and timely inspections of rescues. She mentioned searching for her rescue on the website but had not found any information about its regulation.

A. Youngblood responded.

CM Bergan voiced her concern for the health of all pets, underscoring the necessity of regulating and inspecting all sources from which pets are acquired.

CM Zvonek followed up with a question regarding regulations. He asked if, similar to the USDA's nationwide regulation of sales, pet stores in Colorado were required to obtain approval for what shelters received from PACFA.

A. Youngblood clarified that while it wasn't an identical process, pet stores were indeed required to adhere to specific standards outlined in PACFA regulations.

CM Zvonek asked for clarification on pet store regulations. He asked whether pet stores were obligated to only acquire animals from USDA-regulated sources and those compliant with Colorado's PACFA regulations.

Trevor Vaughn, Manager of Licensing, responded that he was unsure about certain regulations and emphasized that he wasn't responsible for overseeing PACFA's inspections.

CM Zvonek asked about whether pet store operators in Colorado were obligated to buy animals only from sources regulated by PACFA. He also asked whether the proposed ordinance would prohibit all pet stores, regardless of their compliance with existing regulations, from purchasing puppies from licensed breeders.

T. Vaughn responded and provided clarification.

CM Coombs requested clarification on whether pet stores were restricted from buying pets from breeders, while individuals could still purchase pets directly from breeders within the City of Aurora.

T. Vaughn confirmed this understanding.

CM Bergan asked if rescues in Colorado that brought animals from out of state were subject to the same regulations by USDA.

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

A. Youngblood confirmed that yes, they were regulated in the same way, but not by the USDA but rather, by PACFA.

CM Bergan asked for further clarification, particularly whether this regulation applied even when the rescues brought animals across state lines.

A. Youngblood affirmed this, explaining that as soon as the animals crossed state lines and the rescue was licensed by PACFA, the regulation by PACFA would come into effect.

Mayor Pro Tem Gardner expressed his stance on the issue. He acknowledged the issues related to private pet stores but did not believe that was a sufficient reason to completely shut down such businesses. He cited a parallel by mentioning the potential scenario of Tesla building a car dealership in Aurora despite concerns about their supply chain involving child labor in Africa. He voiced his confusion about the idea of rejecting an entire business type based solely on negative aspects. He advocated for the establishment of appropriate regulations for commercial pet stores, similar to those governing private breeders and shelters. He expressed concern about the trend of eliminating industries whenever there were aspects disliked about them. He emphasized his reluctance to follow a path that involved banning industries due to specific concerns, viewing it as a slippery slope.

CM Jurinsky joined the discussion, noting that the proposal was not a rejection of private pet businesses in Aurora, given that there were currently none operating in the city. She pointed out the existence of a successful private pet store named Pet Palace in Aurora. After speaking with them, the store clarified why they had ceased selling dogs and cats, opting to focus on other aspects of their business. She highlighted that the ordinance aimed to prohibit the sale of puppies and kittens, not to eliminate private pet businesses. She recounted past instances of poor treatment of animals in the city, such as overcrowded cages in a mall store. She firmly opposed puppy mills, expressing support for the proposed ordinance and suggesting the need for improved regulations for shelters.

Mayor Pro Tem Gardner acknowledged the potential impact on businesses due to the proposed ordinance. He referred to a business owner from Centennial who had spoken during the meeting, and he also noted that several public commenters expressed a desire for Aurora's actions to inspire other municipalities to adopt similar measures. He expressed concerns about the possible repercussions for businesses in those other municipalities if they were to follow Aurora's lead. He stated his reluctance to move forward in that direction.

CM Zvonek agreed with the ordinance's intention to prevent pet stores from buying from puppy mills. However, he disagreed that the ordinance would

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

effectively achieve this goal. He echoed the concerns raised by Mayor Pro Tem Gardner regarding the potential impact on businesses beyond Aurora's jurisdiction. He shared the belief that despite the admirable intention, he did not view this ordinance as the solution to address the existing lack of enforcement of regulations. He concluded by stating his intention to vote against the ordinance.

CM Jurinsky acknowledged the presence of a business owner from Centennial but stressed that every council member had been elected to serve the people of Aurora. She reminded everyone of their responsibility to their constituents. CM Jurinsky expressed her belief that the proposed ordinance wouldn't have any impact on the store owner's business in Centennial.

CM Bergan indicated her support for the ordinance while also emphasizing the need for more comprehensive regulations. She noted a potential loophole in the regulation of rescues, expressing concern that not all rescues might have been adequately regulated. She stressed the significance of regulating not only pet stores but also other aspects, ensuring that pets coming from out of state were appropriately regulated.

Motion by Jurinsky, second by Marciano to approve item 13.c.

Voting Aye: Bergan, Coombs, Jurinsky, Lawson, Marciano, Medina, Murillo

Voting Nay: Gardner, Zvonek

14. **FINALIZING OF ORDINANCES**

*Ordinances not approved unanimously at first reading.*

14.a. **Police Reserve Force**

**2023-35** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE

Sponsor: Danielle Jurinsky, Council Member

Art Acevedo, Police Chief / Pete Schulte, City Attorney

Council heard public testimony on the agenda item.

Pete Schulte, Public Safety Client Manager for the City Attorney's Office, provided a summary of the item.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Mayor Pro Tem Gardner asked why the fire department was not present to speak on the item that had an impact on them and asked for clarification if the police would speak for them.

P. Schulte provided clarification.

Mayor Pro Tem Gardner voiced his agreement with Chief Oughton's opposition to the proposal. He disagreed with the notion of arming firefighters, as their role involves medical service rather than carrying firearms. He emphasized the distinct skills and personality traits required for each role. He welcomed the upcoming policy alteration that would prevent firefighters from participating in the program. He brought attention to a recurring issue where the fire department was not consulted on matters that impacted them. He cited past instances involving the police department, such as changes to the Civil Service Commission and the charter, where the fire department's perspective was overlooked. He stressed the need to regard the fire department as an equal pillar of public safety and urged for their inclusion in relevant discussions in the future.

CM Bergan echoed Mayor Pro Tem Gardner's sentiment, expressing satisfaction with Aurora Fire Rescue's policy adjustment. She also expressed the desire for the fire department's input in future matters.

A. Acevedo responded, acknowledging **the council members'** point and clarifying that discussions with the fire department had indeed taken place.

CM Zvonek asked about the program's nature, specifically inquiring if it was voluntary.

P. Schulte confirmed that the program was indeed voluntary, highlighting that the ordinance did not contain any provisions for compulsory participation.

CM Zvonek asked for further assurance that no one would be obligated to take part, and P. Schulte affirmed this.

CM Coombs acknowledged the potential positive impact of the proposed program on community-police relations. She expressed gratitude to CM Jurinsky for accepting ordinance amendments and acknowledged Chief Acevedo and P. Schulte for their pre-discussion efforts. She raised concerns about the absence of engagement with another crucial stakeholder group—the community members affected by issues covered in the consent decree. She stressed the importance of addressing problems like racially biased policing and excessive use of force and noted that community voices had not been adequately heard beyond occasional comments. While she supported the concept, she was worried about deferring conversations with the community until the rulemaking stage, given historical mistrust. She highlighted challenges in trusting effective vetting

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

and training due to past problems. She anticipated the initiative's likely passage despite her vote and announced her intention to hold Town Halls to gather community input. Recognizing the probable outcome, she stated his inability to support the initiative during the second reading due to concerns about community trust.

Mayor Coffman raised a concern regarding the assumption that training wouldn't apply to reserve officers. He asked Chief Acevedo for his input and clarification.

A. Acevedo responded.

P. Schulte stressed the commitment to transparency throughout the process, focusing on addressing conditions and concerns to ensure the initiative's success.

A. Acevedo provided additional information and clarification.

CM Lawson directed her concerns to Chief Acevedo, expressing apprehension about the possibility of external volunteers, potentially from other agencies, and the adequacy of their vetting. She noted that the vetting process had posed challenges in Aurora previously. She indicated that community members shared similar worries with her. She highlighted the community's unease about the identity and potential actions of these volunteers during critical situations, even when accompanied by trained officers. She emphasized that, based on the feedback she had received, the vetting of these volunteers was a substantial concern.

A. Acevedo addressed concerns regarding a vetting process for a reserve program within a police department.

In addition, P. Schulte explained a background check process related to law enforcement hiring.

A. Acevedo expressed hope for the potential advantages of the reserve program for recruitment purposes.

CM Jurinsky suggested tabling the item for a span of two weeks due to the prevailing atmosphere and cues from the room and the absence of CM Sundberg.

Mayor Coffman asked for clarification, asking if CM Jurinsky meant a motion to continue, to which CM Jurinsky confirmed.

CM Jurinsky indicated that the delay was necessary, taking into account their colleague's comments. Mayor Coffman duly acknowledged the request for a two-week postponement.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Marcano requested clarification from Chief Acevedo regarding a prior statement about the commencement of the program. According to the statement, the program's launch would commence after the Council approves the policy, a process that would actively involve community input and feedback.

A. Acevedo provided clarification.

P. Schulte added that this policy development process would take several months, potentially up to a year, before the program could become operational, even if it had received approval on that day.

Motion by Jurinsky, second by Gardner to continue item 14.a in the next regular Council Meeting.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Zvonek

15. **ANNEXATIONS**

15.a. **Front Range Airpark Annexation – Substantial Compliance**

**R2023-96** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FINDING A PETITION FOR ANNEXATION OF A CERTAIN PARCEL OF LAND LOCATED IN SECTION 7, TOWNSHIP 3 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 31-12-107(1), C.R.S., AND GIVING NOTICE OF A PUBLIC HEARING ON THE PROPOSED ANNEXATION (Front Range Airpark) 653.11 ACRES

Jacob Cox, Manager of Development Assistance / Brian Rulla, Assistant City

Jacob Cox, Manager of Development Assistance, provided a summary of the item.

Council heard public testimony on the agenda item.

CM Bergan noted that, as explained by staff member Brian, the current meeting marked the first in a series of three. She clarified that this meeting centered around a petition for annexation. She pointed out that if the petition met the necessary criteria, approval was legally required.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

J. Cox provided additional information.

Motion by Gardner, second by Zvonek to approve item 15.a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Zvonek

16. **RECONSIDERATIONS AND CALL UPS**

16.a. **Resolution for Economic Development Plan 2023**

**R2023-84** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, SUPPORTING THE APPROPRIATION OF GENERAL FUND REVENUES TO DEVELOP AN ECONOMIC DEVELOPMENT PLAN

Sponsor: Mike Coffman, Mayor

Rachel Allen, Client Group Manager, City Attorney

Mayor Coffman expressed gratitude to the council members for reaching out to him and for engaging in fruitful discussions about economic development in the city. While valuing the input of business leaders, he emphasized that crafting an economic plan and vision for the city was not something that could be solely outsourced to them. He stressed the importance of a plan that would benefit all city residents, not just the business sector. He planned to continue these discussions and intended to withdraw the initial proposal, intending to reintroduce it in two weeks.

Kadee Rodriguez, City Clerk, asked if the Mayor and City Attorney's Office needed to vote on the item.

D. Brotzman provided an explanation.

Mayor Pro Tem Gardner asked the City Attorney, questioning the purpose of adhering to the old Garfield Jones Rules if any member could add agenda items based on their prerogative. He suggested that this practice rendered the rules irrelevant and suggested discarding them.

D. Brotzman provided clarification.

CM Jurinsky asked if the issue was meant to be revisited concerning section 14.a. Mayor Coffman confirmed this.

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

CM Jurinsky noted the absence of CM Sundberg's name on the list and suggested waiting for two weeks. She mentioned CM Sundberg's desire to participate in the vote and his feeling of regret for missing the previous vote. Therefore, it was agreed to postpone the matter for the specified period.

17. **GENERAL BUSINESS**

18. **REPORTS**

18.a. **Report by the Mayor**

None.

18.b. **Reports by the Council**

CM Jurinsky conveyed her disappointment at the actions taken, particularly noting the timing of pulling the resolution for Economic Development Plan 2023 before the present audience. She stressed the readiness of both sides to engage in the conversation, which had been proposed on several occasions. CM Jurinsky pointed out the growing number of participants who were eager for this discussion, with their numbers increasing each week. She criticized the choice to revisit the matter in two weeks, considering it a time-wasting decision for all involved, and shared her feelings of sadness about the situation.

CM Murillo announced that her Town Hall will be on August 24th. After a break of a couple of months, the Town Hall featured presentations from the Highline Canal Conservancy and Xcel Energy, focusing on Northwest Aurora Alley Lighting. She extended an invitation for people to attend the event held at the MLK Library.

CM Marcano mentioned that the August Ward IV meeting had been replaced by a listening session attended by hundreds of Aurorans at the Aurora Public Schools Administration building, with Governor Polis visiting the town. Common themes discussed during this session included housing affordability, higher wages, improved and more frequent public transportation, and more efficient responses to public safety issues. He expressed gratitude to those who had participated in this event. He then announced that the subsequent Ward IV meeting was scheduled for Thursday, September 14th at Colorado Early Colleges at 6:30 p.m. The meeting's focus would be on Vision Zero and creating safer streets in Aurora. This topic held particular importance given the high number of traffic fatalities and accidents that occurred within the year. He expressed hope for good attendance at the upcoming meeting.

CM Coombs announced that City Council Members, staff, and local officials would be going on a Water Tour to learn about the water system on Wednesday. She mentioned

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



that in addition to Global Fest, there was also the Meadowood Festival, an annual event taking place across from Meadowood Park on Saturday. She also announced their Town Hall for the month, which would take place on August 22nd at 6:00 p.m. at Heather Gardens clubhouse. The police and fire leadership would also be present during the meeting. She expressed the intention to coordinate with the community for a discussion on the police reserve force, potentially incorporating community feedback. She also mentioned planning an additional Town Hall listening session for the same topic before the meeting on the 28th.

CM Lawson provided updates about the Federal, State, and Intergovernmental Relations Report. Congress was in recess until September, but attention was being given to the unfolding budget process, with the federal fiscal year concluding on September 30th. Additionally, Colorado's state legislature commenced its interim committee meetings to discuss potential legislation for 2024, with progress being monitored across various committees. She made a reminder about the meeting of the Federal, State, and Intergovernmental Relations Committee that would take place on Friday, August 18th at 11:00 a.m. She mentioned that the committee would hear from CDHS on juvenile bed space. Lastly, she reiterated the previously discussed event, Global Fest, which would take place on Saturday from 11:00 a.m. to 6:00 p.m. at the Aurora Municipal Center.

CM Bergan thanked the nonpartisan volunteers who had diligently assisted in collecting her petitions. She shared that the petitions were acquired on Wednesday and submitted the following Thursday, extending her appreciation to all volunteers involved. She announced the grand opening of Nordstrom Rack, which would take place on Thursday at 8:00 in the morning. The event promised giveaways and a drawing for a \$1,000 gift card. She also mentioned that she had scheduled a community meeting for the Tollgate Crossing Community in response to recent concerns about public safety. The meeting would take place on August 23rd at the Southeast Recreation Center from 7:00 p.m. to 8:30 p.m., and she mentioned that more information would be available on social media.

## 19. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of the City Council.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

DRAFT

---

MIKE COFFMAN, MAYOR

ATTEST:

---

KADEE RODRIGUEZ, CITY CLERK

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

# Aurora, Colorado



## Proclamation

**WHEREAS**, September is recognized as "Suicide Awareness and Prevention Month" to start and continue discussions about suicide, destigmatize it, and help connect people with the appropriate support services; and,

**WHEREAS**, according to the American Foundation for Suicide Prevention, suicide is the second leading cause of death among individuals between the ages 10 and 34 with more than 48,000 people dying by suicide annually in the United States; and,

**WHEREAS**, per Hope for the Day, the average 132 daily suicides each directly impacts 100 additional people: family, friends, service/team members, social media connections, and neighbors; thus, it can be safely assumed that most persons have been impacted in some way by suicide; and,

**WHEREAS**, 988 Lifeline, formerly the National Suicide & Crisis Lifeline, is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress via phone or text 24 hours a day, 7 days a week in the United States; and,

**WHEREAS**, being considerate and mindful, and understanding the realities surrounding despair and suicide are important for every person so we can recognize warning signs that loved ones may be exhibiting, opportunities to help and support people in crisis, and to have the hard conversations and keep them open, as every life is worth saving.

**NOW, THEREFORE**, I, Mike Coffman, Mayor of the City of Aurora, Colorado do hereby proclaim September 2023 as:

### ***National Suicide Awareness and Prevention Month***

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Aurora, Colorado to be affixed this 1<sup>st</sup> day of September 2023.



Mike Coffman, Mayor  
Aurora, Colorado

# Aurora, Colorado



## Proclamation

**WHEREAS**, September 15 to October 15 was designated as National Hispanic Heritage Month in 1988 to celebrate the histories, cultures, and contributions of American residents whose ancestors came from Spain, Mexico, the Caribbean and Central and South America; and,

**WHEREAS**, Aurorans who identify themselves as Hispanic, Latino, Latinx, Chicano, or Indigenous have contributed greatly to our city's history and successes, and while Aurora appreciates the cultural heritage and historical legacies all of our people bring to our city, we honor especially our Hispanic population during this month; and,

**WHEREAS**, Aurora's Hispanic community now constitutes more than 28 percent of the city's population and the Hispanic community continues to expand opportunities for a successful future, providing leadership as policymakers, educators, and students, as members of the judiciary, military, and public safety services, and as professionals in the trades and business who are actively involved in their communities and in mentoring the next generation; and,

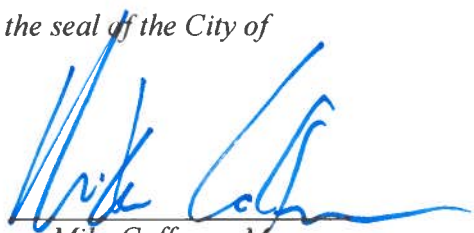
**WHEREAS**, this month we proudly join the nation in celebrating the rich culture and history of Hispanic heritage in Aurora, as we dedicate ourselves to working together to continue to address challenges still facing Hispanic Aurorans in equity and access to the prosperity of Aurora.

**NOW, THEREFORE**, I, Mike Coffman, Mayor of the city of Aurora, Colorado do hereby proclaim September 15 to October 15, 2023 as:

### ***National Hispanic Heritage Month***

in Aurora and encourage all members of the community to applaud Hispanic Americans for their contributions to Aurora, Colorado, and to the United States of America.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Aurora, Colorado to be affixed this 11<sup>th</sup> day of September 2023.



Mike Coffman, Mayor  
Aurora, Colorado



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Public Invited to be Heard on the 2024 Budget
<b>Item Initiator:</b> Greg Hays, Budget Officer
<b>Staff Source/Legal Source:</b> Greg Hays, Budget Officer
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** N/A

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS

Public Invited to Be Heard on the 2024 Budget

Staff source, Greg Hays

### 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<br>Reason for waiver is described in the Item Details field above. |  |

### 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.)*

Twice a year, the City Council holds a hearing so that the public may speak to Council concerning the upcoming budget. The two dates are March 27, 2023 and August 28, 2023.

---

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

This is a public hearing to provide the public one of two formal opportunities to speak directly to the City Council on matters concerning the 2024 budget.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Information Only

---

**LEGAL COMMENTS**

A public hearing on the proposed budget shall be held by the council on a date prior to October 15th. City Charter Article 11-4. Notice of the time and place of such hearing shall be published one time at least five days prior to the hearing, and copies of the proposed budget shall be made available for use of the public. Id. (Hernandez)



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Financial and Rate Consulting Services
<b>Item Initiator:</b> Heidi Ellis, Procurement Agent, Finance
<b>Staff Source/Legal Source:</b> Catherine Olukotun, Deputy Director of Business Services, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

Consideration to AWARD A CHANGE ORDER TO AN OPENLY SOLICITED CONTRACT for Financial and Rate Consulting Services to FCS Group, Redmond, WA for the Review of **Aurora Water's** In-House Rates and Outside Rate for Wise in the Amount of \$100,000.00, RFP-2075

Catherine Olukotun, Deputy Director of Business Services, Aurora Water / Hanosky Hernandez, 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 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<br><i>Reason for waiver is described in the Item Details field above.</i> |   |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

**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 award of an OPENLY SOLICITED contract in the amount of \$35,620.00 to FCS Group, Redmond, WA, for Financial and Rate Consulting Services for review of **Aurora Water's** in-house rates and outside rate for Wise RFP-2075, was reported on the Weekly Report To Council, dated April 5, 2021.

The extension of an OPENLY SOLICITED contract for **consulting services to review Aurora Water's** in-house rates and outside rate for Wise, was reported on the Weekly Report To Council, dated May 8, 2023.

---

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

The Aurora Water Department provides water, sanitary sewer, and stormwater services to approximately 89,000 customers. Each service is a separate self-sustaining enterprise fund. **City's** staff develops annual financial plans and rate studies for each utility.

The Aurora Water Department issued a solicitation under Request for Proposals (RFP) R-2075 for a Consultant to assist the City in stakeholder outreach regarding rates and financial subjects and to attend various on-site meetings with staff and policy/committee meetings.

On May 8, 2023, City Council approved the contract extension for consulting services to review **Aurora Water's** in-house rates and outside rate for Wise. Aurora Water now seeks to increase the contract amount by \$100,000.00 to cover the need for FCS Group's **services** to take on a much larger scope of work due to a staffing shortage within Water Finance associated with the Financial and Rate Consulting services until new staff is hired.

A fee proposal was prepared by FCS Group for all costs associated with the increased scope of work. The hourly rates proposed by FCS Group are the same as the original agreement; therefore, the final negotiated hourly rates are considered to be fair and reasonable.

The change order amount of \$100,000.00 plus the original award amount of \$35,250.00 will bring the total contract not-to-exceed amount to \$135,250.00.

## Recommendation

Based on the above, staff recommends the award of a change order to an OPENLY SOLICITED CONTRACT for Financial and Rate Consulting Services to FCS Group, Redmond, WA for review **Aurora Water's** in-house rates and outside rate for Wise in the Amount of \$100,000.00, RFP-2075.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this change order will come from the Water and Wastewater Fund operating budgets in the amount of \$100,000.00

Funding will be charged to the following **orgs**: 52052 Financial Operations – Water;  
52053 Financial Operations – Sewer;  
52054 Financial Operations – Storm;  
**Acct**: 62200 Services-Professional

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*



N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council approve the Change Order to an OPENLY SOLICITED CONTRACT for Financial and Rate Consulting Services to FCS Group, Redmond, WA for the review of **Aurora Water's** in-house rates and outside rate for Wise in the Amount of \$100,000.00, RFP-2075?

---

**LEGAL COMMENTS**

Contracts for the purchase of supplies, services, and construction shall be awarded to the lowest responsive bidder or most advantageous proposal as specified in the Aurora City Code. See, Sec. 2-671 et. seq. A.C.C. (Hernandez)

**AWARDS \$25,000.00 - \$49,999.99 subject to call-up:**

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID NUMBER
<b>DELLENBACH CHEVROLET</b>  <b>FORT COLLINS, CO</b>  Dept: Public Works/Fleet	Award a competitively bid contract for the purchase of one (1) 2021 Chevrolet Silverado 4WD double cab pickup for use by Water.  <i>When Aurora piggy-backs off another government agency's competitive bid it is treated the same as if it were our own bid. 2-679</i>	\$31,062.00	State of Colorado Price Agreement #165051
<b>FCS GROUP</b>  <b>BOULDER, CO</b>  Dept: Water	Award an openly solicited contract for Water Rate Evaluation and Financial Services as required through March 31, 2022.  A Request for Proposals (RFP) was issued in order to select a firm based on the following criteria: <ol style="list-style-type: none"> <li>1. Project understanding, approach and schedule;</li> <li>2. Experience and availability of project team;</li> <li>3. Experience with similar services, including past record of performance;</li> <li>4. Overall experience with contracts requiring very specific, complicated calculations;</li> <li>5. Overall quality and responsiveness of proposal; and</li> <li>6. Price.</li> </ol> As a result, three firms were qualified for the shortlist: FCS Group, Willdan and Raftelis.  In the next phase of the solicitation process, the shortlisted firms were interviewed. After the interviews, the firms were scored again to select the top-ranked firm.  FCS Group was selected as the top-ranked firm based on their superior understanding of Aurora Water's rates, as well as their experience with complex calculations. Also, they strived to keep their pricing within the City's budget. Therefore, staff considers FCS' price to be fair and reasonable.  <i>This award is the result of an open solicitation where the City received at least 3 offers, and technical qualifications were used as part of the evaluation criteria along with the price. 2-672-(a), (3), (a) (2)</i>	\$35,250.00	R-2075  FCS Group \$35,250.00  Willdan \$45,920.00  Raftelis \$55,865.00  NewGen Strategies \$66,620.00

**AWARDS \$25,000.00 - \$49,999.99 subject to call-up:**

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID NUMBER
<b>FCS GROUP</b>  <b>BOULDER, CO</b>  Dept: Water	<p>Extend an openly solicited contract for consulting services to review Aurora Water's in-house rates and outside rate for Wise. The Consultant will also update the water connection fee, provide support in stakeholder outreach, and provide assistance with other financial services through March 31, 2024.</p> <p>FCS Group's extension pricing remains the same as the prior year award. Given the Municipal Cost Index (MCI) is up 3.05% year-to-year ending March 2023, extension pricing is considered to be fair and reasonable.</p> <p><i>Purchases where a vendor offers to extend an existing contract under the same terms and conditions within current market pricing are authorized to be awarded through noncompetitive negotiations. 2-674-2</i></p>	\$35,250.00	R-2075
<b>BEYONDTRUST</b>  <b>JOHNS CREEK, GA</b>  Dept: IT	<p>Award a competitively bid contract for the purchase of BeyondTrust remote support, concurrent user subscription and implementation through May 31, 2024.</p> <p><i>When Aurora piggybacks off another government agency's competitive bid it is treated the same as if it were our own bid. 2-679</i></p>	\$37,795.25	State of Colorado Price Agreement  #2017000000000000 00106  NASPO Master Agreement  #ADPSP016- 130652



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Evoqua Water Technologies for Akta Klor 25 Water Treatment Chemical 2023
<b>Item Initiator:</b> Brian Hancock, Procurement Agent, Finance
<b>Staff Source/Legal Source:</b> Bobby Oligo, Manager of Water Treatment, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.5--Meet all statutory and regulatory requirements governing water quality and environmental protection

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Consideration to AWARD A SINGLE SOURCE CONTRACT to Evoqua Water Technologies, Sarasota, Florida in the Not-to-Exceed Amount of \$437,250.00 for the Purchase of Akta Klor 25 Water Treatment Chemical (Sodium Chlorite) as Required by Aurora Water through August 31, 2024  
Bobby Oligo, Manager of Water Treatment, Aurora Water / Hanosky Hernandez, 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 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<br><i>Reason for waiver is described in the Item Details field above.</i> |   |

### 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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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.)*

Council approved the 2021-2022 award to Evoqua Water Treatment Technologies in the not-to-exceed amount of \$330,000 on August 9, 2021 Council Meeting, Agenda Item 10f.

Council approved the 2022-2023 award to Evoqua Water Treatment Technologies in the not-to-exceed amount of \$437,250.00 on August 8, 2022 Council Meeting, Agenda Item 9a.

---

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

AKTA KLOR 25 is a specialized water treatment chemical, which is critical to the water treatment process. AKTA KLOR 25 is used in the generation of chlorine dioxide. Chlorine dioxide is used as a **disinfectant to treat the City's** drinking water. The chemical is being used at both the Wemlinger and the Griswold Water Purification Facilities as the primary disinfectant to treat the drinking water for the citizens of Aurora. Evoqua also includes bi-monthly service of the chlorine dioxide generation systems located at both plants. Service of the generation systems ensures that the chemical produced meets the requirements for use in drinking water treatment.

Evoqua Water Technologies produces the product in Wichita, Kansas and delivers nationwide via dedicated, safe carriers. The Water Department has standardized on this chemical and has Evoqua generators installed in the Griswold and Wemlinger facilities. As the manufacturer of AKTA KLOR 25, Evoqua will service the equipment. Standardization of this chemical will maintain compatibility with existing water treatment facility operations and equipment installations.

The cost per liquid pound for AKTA KLOR 25 has increased from \$0.844 per liquid pound to \$0.93 per liquid pound which is a 10.2% increase from 2023. Although the cost for AKTA KLOR 25 has increased by 10.2%, the budgeted amount of \$437,250.00 is still sufficient to provide the quantity of chemicals needed in 2024.

Council approval is required for awards of \$50,000.00 or more without competition.

Based on the above, staff recommends proceeding with a single source contract to Evoqua Water Technologies in the not-to-exceed amount of \$437,250.00 for the purchase of AKTA KLOR 25 as required by Aurora Water through August 31, 2024.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Revenue Impact  | <input checked="" type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact                       |  |

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this single source contract will be from the Water Fund operating budget (Water Purification Program) in the not-to-exceed amount of \$437,250.00. Funds are appropriated annually, as part of the budget development process, for water treatment chemicals.  
ORG: 52023 (Wemlinger Water Purification); 52068(Griswold Water Purification)

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does City Council approve the award of a single source contract to Evoqua Water Technologies, Sarasota, Florida in the not-to-exceed amount of \$437,250.00 for the purchase of the water treatment chemical AKTA KLOR 25 as required by Aurora Water through August 31, 2024?

---

**LEGAL COMMENTS**

Purchase orders or contracts in any amount may be awarded without benefit of formal competitive bidding when only one specific source is known to exist for the required supplies or services (sole source), and the Purchasing Manager approves the use of negotiation prior to award (Section 2-674 (10) A.C.C.). (Hernandez)

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson  
Marcano, Murillo

6.b. June 14, 2021, Minutes

Motion by Marcano, second by Bergan, to approve the minutes of the June 14, 2021, City Council meeting, as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson  
Marcano, Murillo

7. **PROCLAMATIONS OR CEREMONIES**

None

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

Council heard public call-in testimony.

9. **ADOPTION OF THE AGENDA**

Motion by Hiltz, second by Bergan, to adopt the agenda as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson,  
Marcano, Murillo

10. **CONSENT CALENDAR**

*This portion of the agenda is a meeting management tool to allow the City Council to handle several routine items with one action. Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

10.a. Griswold WPF Solids Handling Improvements Construction Manager General Contractor (CMGC)

Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Garney Companies,

Inc., Littleton, Colorado in the amount of \$45,000.00 for Griswold Water Purification Facility Solid Handling Improvements Construction Manager / General Contractor Project, Project No. 5840A.

Elizabeth Carter, Principal Engineer, Aurora Water / Ian Best, Assistant City Attorney

10.b. Black and Veatch Strontia Springs Reservoir PRV Station Improvement Project

Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Black & Veatch Corporation, Denver, Colorado in the amount of \$421,054.00 for providing Engineering Services for the Strontia Springs Reservoir PRV Station Improvement Design Project, Project NO. R-2092

John Clark, Principal Engineer, Aurora Water / Ian Best, Assistant City Attorney

10.c. Consideration to AWARD A SOLE SOURCE CONTRACT to Water Technology Group, Kansas City, KS, in the amount of \$191,074.00 for a Gould pump and additional casing for Prairie Waters Conveyance System.

Mike Mills, Manager Water Ops & Maintenance / Ian Best, Assistant City Attorney

10.d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Colorado Flooring Center, Commerce City, Colorado in the amount of \$104,900.00 for Carpet Replacement with LVT Tile for 6 Fire Stations.

Lynne Center, Deputy Director PW / Ian Best, Assistant City Attorney

10.e. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to LAZ Parking, Denver, Colorado in the not-to-exceed amount of \$2,200,000.00 for the Aurora Municipal Parking Operations. R-2089

Scott Bauman – Parking Program Manager / Ian Best, Assistant City Attorney

10.f. Evoqua Water Technologies

Consideration to AWARD A SINGLE SOURCE CONTRACT to Evoqua Water Technologies, Sarasota, Florida in the not-to-exceed amount of \$330,000.00 for the purchase of the water treatment chemical AKTA KLOR 25 as required by Aurora Water through July 31, 2022

Bobby Oligo, Manager of Water Treatment, Aurora Water / Ian Best, Assistant City Attorney



Motion by Gardner, second by Gruber, to approve items 10a – 10f.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman called for a brief recess to allow staff to provide public call-in line instructions.

11. **RESOLUTIONS**

11.a. A Resolution setting the date of a public hearing on the petition for organization of the Windler BID No. 1

R2021-73 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, SETTING THE DATE OF A PUBLIC HEARING ON THE PETITION FOR ORGANIZATION OF THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO. 1 AND ORDERING THE PUBLICATION AND MAILING OF A NOTICE OF SUCH HEARING.

Cesarina Dancy, Project Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney

Cesarina Dancy, Project Manager, Office of Development Assistance, provided a summary of items 11a and 11b.

Christopher Fellows, representing the applicant, stated he was present to answer questions.

Mayor Pro Tem Bergan clarified a public hearing was not being held but rather Council was approving a resolution to set the date for the public hearings.

Ms. Dancy concurred.

Motion by Gruber, second by Berzins, to approve item 11a.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.b. A Resolution setting the date of a public hearing on the petition for organization of the Windler BID No. 2

R2021-74 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, SETTING THE DATE OF A PUBLIC HEARING ON THE PETITION FOR

6.b. **Aurora International Month**

Mayor Coffman proclaimed August 2022 as Aurora International Month.

7. **PUBLIC INVITED TO BE HEARD**

(non-agenda-related issues only)

Council heard public in-person testimony on non-agenda-related items.

CM Sundberg stated that the city has agreed to move forward with a traffic signal at the intersection of East 6<sup>th</sup> Avenue Parkway and North Catawba Way.

8. **ADOPTION OF THE AGENDA**

8.a. **Landmark at Town Center Site Plan (Item 12.d.)**

Motion by Gardner, second by Marcano to adopt the agenda with the appellant presentation.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

9. **CONSENT CALENDAR**

*This portion of the agenda is a meeting management tool to allow the City Council to handle several routine items with one action. Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

9.a. **Evoqua Water Technologies for Akta Klor 25 water treatment chemical**

Consideration to AWARD A SINGLE SOURCE CONTRACT to Evoqua Water Technologies, Sarasota, Florida in the not-to-exceed amount of \$437,250.00 for the purchase of Akta Klor 25 water treatment chemical (Sodium Chlorite) as required by Aurora Water through July 31, 2023.

Staff is requesting a waiver of reconsideration due to transportation challenges chemical suppliers are facing and their requirement to schedule deliveries much further in advance to assure timely delivery.

Bobby Oligo, Manager of Water Treatment, Aurora Water / Dave Lathers, Assistant City Attorney

Marshall Brown, General Manager of Aurora Water, provided a summary of the item.

CM Marcano mentioned that the backup states a difference of 32.5% but M. Brown said 25%. M. Brown clarified that 32.5% is correct. CM Marcano said that there are proprietary pieces of equipment, and the vendor doesn't allow other companies to serve. He added that there are other companies such as International Dioxide that produce sodium chloride. He asked if the markup is common through other providers

of the chemicals. M. Brown explained that it is calcium carbonate and added that there are increases of up to 88% and the contract they have now are included in those with smaller increases.

CM Marcano said that the vendor also has proprietary equipment in addition to the chemical compound. He asked if there are long-term vulnerabilities from continued price increases given that they use a sole source provider. He asked if they could transition towards a more competitive bid. M. Brown clarified that there are only a select few vendors with the specialized equipment used in water utilities.

Mayor Pro Tem Bergan pointed out that the other vendor that can provide the chemical is unable to provide the maintenance service on the equipment. M. Brown added that sometimes the chemical delivery is from the equipment maintenance if there is a cost saving.

**Motion by Marcano, second by Bergan to approve item 9a with a waiver of reconsideration.**

**Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek**

- 9.b. **Consideration to AWARD A COMPETITIVELY BID CONTRACT to BT Construction, Inc., Henderson, CO in the amount of \$20,570,000.00 for the First Creek Interceptor Segments 1B, 1C, 1D Bid Package 1 Project, Project No. 5858A.**

Andrea Long, Senior Engineer, Aurora Water / David Lathers, Senior Assistant City Attorney

- 9.c. **Consideration to AWARD A CHANGE ORDER TO A COMPETITIVELY BID CONTRACT with J.R. Filanc Construction Company, Inc., Denver, Colorado in the amount of \$270,387.84. for the Large Valve Rehabilitation Project, Project No. 5790A.**

Dean Bedford, Principal Engineer, Aurora Water / Dave Lathers, Senior Assistant City Attorney

- 9.d. **Consideration to AWARD WORK PACKAGE NUMBER TWO of the Griswold Water Purification Facility Solids Handling Improvements Project Phase 2 to Garney Companies, Inc., Littleton, Colorado in the amount of \$17,200,000.00.**

Elizabeth Carter, Principal Engineer, Aurora Water / David Lathers, Senior Assistant City Attorney

- 9.e. **Consideration to amend an OPENLY SOLICITED CONTRACT in the amount of \$18,137.00 with CH2M Hill Engineers, Inc., Englewood, Colorado for the Large Valve Rehabilitation Task 2 Project.**

Dean Bedford, Principal Engineer / David Lathers, Senior Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Southeast Area Maintenance Facility (SEAM) Service and Maintenance
<b>Item Initiator:</b> Mary Rasure, Planning and Engineering Project Manager, Aurora Water
<b>Staff Source/Legal Source:</b> Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Consideration to APPROVE A SINGLE SOURCE CONTRACT in the Amount of \$186,951.00 with MTech Mechanical, Westminster, CO, for Maintenance and Service for Mechanical, Plumbing, and Building Automation Systems for the Southeast Area Maintenance Facility

Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

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

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as Proposed at Study Session
- ☐ Approve Item and Move Forward to Regular Meeting ☒ Approve Item as Proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration  
*Reason for waiver is described in the Item Details field above.*

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A



---

**Policy Committee Date:** N/A

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

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes Attached

---

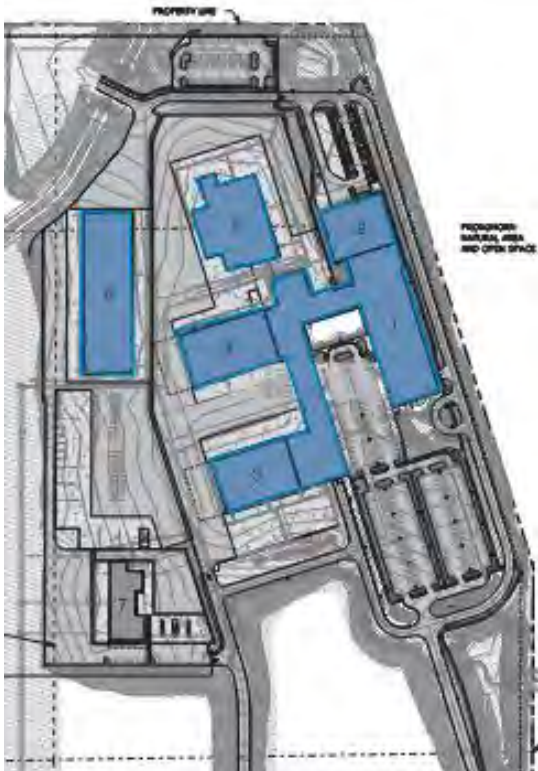
**HISTORY** (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)

N/A

---

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

**Background**



Aurora Water's new Southeast Area Maintenance Facility (SEAM), is located at 26791 E Quincy Avenue (see left). The contract with MTech Mechanical (MTech) is to provide regular maintenance and service of all mechanical, plumbing, and building automation systems at the SEAM facility Main Building, Warehouse and Trades building, and Maintenance building (maintenance and service of these systems at the Fleet building is to be managed by Public Works Facilities).

Construction on SEAM is expected to be complete in August 2023 and Aurora Water will be moving to the new facility in September and October of 2023. **MTech's proposal provides for regular maintenance and service of Mechanical, Plumbing, and Building Automation Systems not covered under the 1-year Saunders building construction warranty, as well as complete record keeping for all maintenance and service activities performed.**

In addition to maintenance and service of mechanical and plumbing systems, MTech has included in their proposal coordination and management of the Building Automation System (BAS) via a subcontract with Johnson Controls (JCI), who was the installing contractor of the BAS system at SEAM. The BAS system installed is a proprietary system that must be maintained by JCI. Since most of the automation controlled by the BAS system is building mechanical systems, and since both the maintenance and any troubleshooting issues with mechanical or BAS will typically involve both MTech and

JCI, it is logical and practical to contract this work through MTech as a single point of contact for this coordination.

As the installing contractor for mechanical and plumbing systems at the new SEAM facility, MTech has been single sourced for this contract. With the execution of this contract, MTech will be responsible for service and maintenance IN ADDITION TO the construction warranty they already own, making them a single point of contact responsible for the performance of the entire systems during the 1-year warranty period. This is necessary because SEAM is managed by Aurora Water directly and not Public Works Facilities, and to date Aurora Water does not have a facility manager for the building. Following the initial year during which the construction warranty is active, it is anticipated that a SEAM facility manager position will be created and filled. It is anticipated **that for year 2 of the facility's life**, the service contract will be competitively bid by the facility manager, capable of coordination of the work of various building trades.

If the contract is not executed, regular maintenance of systems at the new SEAM facility will not take place, likely resulting in user discomfort from poor building performance, undue wear to newly installed building systems, and gaps in building maintenance and service record keeping.

## **Item Scope**

This item is a request for approval of new 1-year contract for MTech mechanical for service and maintenance including the following scope items:

1. Cooling and heating seasonal startup on AHUs, MAUs, and RTUs, and indoor wall-mounts.
2. Cooling and heating mid-season inspection on all AHUs, MAUs, and RTUs, and indoor wall-mounts.
3. Quarterly filter changes on AHUs and RTU, and washes on all roof top units and indoor wall-mounts.
4. Bimonthly (6) filter changes on MAUs.
5. Quarterly maintenance and filter washing on AC-S-1 at the Maintenance Storage building.
6. Annual maintenance on gas, electric, and infrared unit heaters (includes man lift equipment as required).
7. Quarterly maintenance on indoor unit split systems.
8. Biannual maintenance on outdoor unit split systems.
9. Annual cleaning of condenser coils.
10. Annual inspections on CO and NO2 sensors.
11. Biannual maintenance on boilers with annual limestone filter change and maintenance kits.
12. Biannual maintenance on hot and chilled water pumps.
13. Biannual maintenance on glycol feeders.
14. Biannual maintenance on exhaust fans.
15. Annual maintenance on transfer fans.
16. Quarterly maintenance on water heater and circ pump with annual limestone filter change.
17. Quarterly maintenance on air compressors with annual air filter, oil filter, belt, and oil changes.
18. (26) full day preventive maintenance visits for Building Automation System.

## **Purchasing Process**

The engineer's estimate / opinion of probable cost for this scope of work is \$200,000.00; therefore, the price proposal from MTech in the amount of \$186,951.00 is considered to be fair and reasonable.

The MTech initial proposal was provided July 18, 2023, did not include the Building Automation System. The current proposal was provided August 10, 2023, to include all scope stated above.

In summary:

12 mo. Mechanical, Plumbing, BAS Maintenance and service, SEAM Main building	<b>\$ 169,694.00</b>
12 mo. Mechanical, Plumbing, BAS Maintenance and service, SEAM Warehouse & Trades Bldg.	<b>\$ 12,204.00</b>
12 mo. Mechanical, Plumbing, BAS Maintenance and service, SEAM Maintenance Storage Bldg.	<b>\$ 5,053.00</b>

Total contract value: **\$186,951.00** (value is below the engineer's estimate).

---

## **FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

### **REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### **BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this contract will be from the Water and Wastewater Fund operating budgets in the amount of \$186,951.00.

- Water Fund (ORG 52160) – in the amount of \$112,170.60.
- Sewer Fund (ORG 52161) – in the amount of \$ 46,737.75.

Stormwater Fund (ORG 52162) – in the amount of \$28,042.65.

### **NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council approve the award of A SINGLE SOURCE CONTRACT in the amount of \$186,951.00 with MTech Mechanical, Westminster, CO, for Maintenance and Service for Mechanical, Plumbing, and Building Automation Systems for the Southeast Area Maintenance Facility?

---

**LEGAL COMMENTS**

Purchase orders or contracts in any amount may be awarded without benefit of formal competitive bidding when only one specific source is known to exist for the required supplies or services (sole source), and the Purchasing Manager approves the use of negotiation prior to award (Section 2-674 (10) A.C.C.). (Hernandez)



All Buildings  
October 1, 2023

Revision:

## THE MTECH APPROACH TO SUPERIOR SERVICE PLANNING & DELIVERY

MTech promises to understand our client's expectations and to exceed them. We do this by starting with the creation of a plan with exacting detail of what we are delivering, providing some of the best technicians in the business and ending with our unwavering support and client obsession.

**At MTech we sell accountability.** Our open book approach to service planning ensures that the client knows exactly what is included in their preventive maintenance agreement. It is our open-book approach to "planning the work and working the plan" that builds trust in the relationships we have with our clients.

Our ability to **deliver** the work is equal to our skill in service **planning**. We provide documented evidence of our work, which enables the client to judge for themselves whether they are receiving value for their service dollar.

**Our client HVAC and Plumbing service plans provide you with the following:**

- **A task-based maintenance approach.** A separate task template for each piece of equipment so there can be no doubt as to the specific work that is to be performed.
- **A comprehensive equipment list** that includes every piece of equipment included in the service plan, leaving nothing to chance.
- **A complete list of all materials** to be used during PM visits.
- **A 12 month schedule of PM visits** which clearly outlines the months in which the work is to be performed.
- **A complete accounting of labor hours** for each PM visit, as well as a total number of hours to be delivered during the contract period.
- **An On-Site Book** to be used whenever we perform maintenance, including an area for the tech to sign and date their work. Trend logs are used to document our work and observations. They also enable the technician to determine how each piece of equipment is performing. Our goal is to solve small problems before they become costly equipment failures.
- **Plumbing Services:** MTech offers a full array of plumbing services to our HVAC preventive maintenance clients. These include repairs and equipment additions, drain jetting, underground repair services, camera services and back flow preventer certification.

**At MTech, we have taken a very intangible product (service sales) and given it form and substance. No guesswork. No grey area. Our mission is to deliver what the client bought in the most efficient manner possible. *That's quality service and that's just good business.***





# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
ACCU - M - 1	VERTIV / 110E8AD09JL	0.50	0.50	X	0.50			X	0.50		
		0.50	1.75			X	1.75			X	0.50
ACCU - M - 2	VERTIV / 110E8AD09JL	0.50	0.50	X	0.50			X	0.50		
		0.50	1.75			X	1.75			X	0.50
ACCU - M - 3	VERTIV / MCM040E1AD06I4	0.50	0.50	X	0.50			X	0.50		
		0.50	1.50			X	1.50			X	0.50
ACCU - M - 4	VERTIV / MCM040E1AD06I4	0.50	0.50	X	0.50			X	0.50		
		0.50	1.50			X	1.50			X	0.50
ACCU - M - 5	VERTIV / MCM040E1AD06I4	0.50	0.50	X	0.50			X	0.50		
		0.50	1.50			X	1.50			X	0.50
CRAC - M - 1	VERTIV / MCL110E8ADP636	2.00	2.00	X	2.00			X	2.00		
		2.00	2.00			X	2.00			X	2.00
CRAC - M - 2	VERTIV / MCL110E8ADP636	2.00	2.00	X	2.00			X	2.00		
		2.00	2.00			X	2.00			X	2.00
CRAC - M - 3	VERTIV /	2.00	2.00	X	2.00			X	2.00		
		2.00	2.00			X	2.00			X	2.00
CRAC - M - 4	VERTIV /	2.00	2.00	X	2.00			X	2.00		
		2.00	2.00			X	2.00			X	2.00
CRAC - M - 5	VERTIV /	2.00	2.00	X	2.00			X	2.00		
		2.00	2.00			X	2.00			X	2.00
AC - M - 1	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75				



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
AC - M - 2	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 3	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 4	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 5	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 6	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 7	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 8	MITSUBISHI / PKA-A36-KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 9	MITSUBISHI / PKA-A24KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 10	MITSUBISHI / PKA-A36KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 11	MITSUBISHI / PKA-A36KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 12	MITSUBISHI / PKA-A36KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
AC - M - 13	MITSUBISHI / PKA-A36KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - M - 14	MITSUBISHI / PKA-A24KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
CU - M - 1	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 2	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 3	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 4	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 5	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 6	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 7	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 8	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 9	MITSUBISHI / PUY-A24NHA7	-	0.50					X	0.50		
		-	1.25			X	1.25				



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
CU - M - 10	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 11	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 12	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 13	MITSUBISHI / PUY-A36NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CU - M - 14	MITSUBISHI / PUY-A24NHA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
UNIT HEATERS - M - (1 - 5)		-	-								
		3.75	-							X	3.75
CABINET UNIT HEATERS - M - (1 - 24)		12.00	-	X	12.00						
		12.00	-							X	12.00
INFRARED HEATERS - M - (1 - 6)		-	-								
		4.50	-							X	4.50
AIR COOLED CHILLER - M - 1	YORK / YVAA0343	-	8.00					X	8.00		
		8.00	20.00			X	20.00			X	8.00
BOILER - M - 1	RIELLO / AR 4000	6.00	-	X	6.00						
		16.00	-							X	16.00
BOILER - M - 2	RIELLO / AR 4000	6.00	-	X	6.00						
		16.00	-							X	16.00



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
BOILER - M - 3	RIELLO / AR 4000	6.00	-	X	6.00						
		16.00	-							X	16.00
CWP - M - 1		-	0.50					X	0.50		
		-	0.50			X	0.50				
HWP - M - 1		0.50	-	X	0.50						
		0.50	-							X	0.50
HWP - M - 2		0.50	-	X	0.50						
		0.50	-							X	0.50
EXPANSION TANK - M - 1	ARMSTRONG /	-	-								
		0.50	0.50			X	0.50			X	0.50
EXPANSION TANK - M - 1	ARMSTRONG /	-	-								
		0.50	0.50			X	0.50			X	0.50
AIR HANDLING UNIT - M1	YORK / XTO-084X114	2.50	2.50	X	2.50			X	2.50		
		4.25	4.00			X	4.00			X	4.25
AIR HANDLING UNIT - M2	YORK / XTO-090X120	2.50	2.50	X	2.50			X	2.50		
		4.25	4.00			X	4.00			X	4.25
AIR HANDLING UNIT - M3	YORK / XTO-084X114	2.50	2.50	X	2.50			X	2.50		
		4.25	4.00			X	4.00			X	4.25
AIR HANDLING UNIT - M4	YORK / XTO-096X108	2.50	2.50	X	2.50			X	2.50		
		4.25	4.00			X	4.00			X	4.25
AIR HANDLING UNIT - M5	YORK / XTO-042X075	0.75	0.75	X	0.75			X	0.75		
		1.50	1.25			X	1.25			X	1.50



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
AIR HANDLING UNIT - M6	YORK / XTO-090X102	2.25	2.25	X	2.25			X	2.25		
		3.75	3.50			X	3.50			X	3.75
AIR HANDLING UNIT - M - 7	YORK / XTO-090X096	2.00	2.00	X	2.00			X	2.00		
		3.50	3.25			X	3.25			X	3.50
MAKEUP AIR UNIT - M1	YORK / XTO-096X084	1.75	0.75	X	1.75			X	0.75		
		3.50	1.50			X	1.50			X	3.50
MAKEUP AIR UNIT - M2	YORK / XTO-096X084	1.75	0.75	X	1.75			X	0.75		
		3.50	1.50			X	1.50			X	3.50
MAKEUP AIR UNIT - M3	YORK / XTO-096X084	1.75	0.75	X	1.75			X	0.75		
		3.50	1.50			X	1.50			X	3.50
MAKEUP AIR UNIT - M4	YORK / XTO-096X084	1.75	0.75	X	1.75			X	0.75		
		3.50	1.50			X	1.50			X	3.50
ROOF TOP UNIT - M1	YORK / ZJ120C00N4D1ECD2A2	0.75	1.00	X	0.75			X	1.00		
		1.25	2.75			X	2.75			X	1.25
EXHAUST FAN - M - 1	GREENHECK / G-140-10-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 2	GREENHECK / G-140-10-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 3	GREENHECK / G-120-A-7-1-19-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 4	GREENHECK /	0.25	0.25	X	0.25			X	0.25		
		-	-								



## Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
EXHAUST FAN - M - 5	GREENHECK / FJC-STACK	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 6	GREENHECK / FJI-12-BI-41-10-0-A7-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 7	GREENHECK / FJI-12-BI-41-10-0-A7-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 8	GREENHECK / FJI-12-BI-41-10-0-A7-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 9	GREENHECK / FJU-12-BI-41-10-0-A7-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 10	GREENHECK / G-100HP-5-VG-1-19-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 11	GREENHECK / GB-140HP-7-1-22-CX	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 12	GREENHECK / G-140HP-7-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 13	GREENHECK / G-140-10-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 14	GREENHECK / USF-15-5-B1-65-01-01	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 15	GREENHECK / G-200HP-50-VG-1-30-X	0.25	0.25	X	0.25			X	0.25		
		-	-								



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
EXHAUST FAN - M - 16	GREENHECK / G-140-10-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 17	GREENHECK / GB-100HP-5-1-19-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 18	GREENHECK / G-140HP-7-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 19	GREENHECK / G-200HP-A-50-VGD-1-30-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 20	GREENHECK /	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 21	GREENHECK / G-240-B-50-VGD-1-34-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 22	GREENHECK / G-300	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 23	GREENHECK / G-300-C-50-VGD-1-40-X	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 24	GREENHECK / G-140-10-VG-1-22-X	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 25	GREENHECK / G-160-20-VG-1-22-X	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 26	GREENHECK / G-300-C-50-VGD-1-40-X	0.50	0.50	X	0.50			X	0.50		
		-	-								





# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
EXHAUST FAN - M - 27	GREENHECK / G-300-C-50-VGD-1-40-X	0.50	0.50	X	0.50			X	0.50		
		-	-								
EXHAUST FAN - M - 28	GREENHECK / G-140HP-7-VG-1-22-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - M - 29	GREENHECK / G-098-4-VG-1-19-X	0.50	0.50	X	0.50			X	0.50		
		-	-								
TRANSFER FANS - M - (1-12)		6.00	-	X	6.00						
		-	-								
AIR COMPRESSOR - M - 1	SULLAIR / ST1509AC	1.00	1.00	X	1.00			X	1.00		
		1.50	1.50			X	1.50			X	1.50
AIR COMPRESSOR - M - 2	SULLAIR /	1.00	1.00	X	1.00			X	1.00		
		1.50	1.50			X	1.50			X	1.50
GLYCOL FEEDER - M - 1		-	0.50					X	0.50		
		-	0.50			X	0.50				
GLYCOL FEEDER - M - 1		0.50	-	X	0.50						
		0.50	-							X	0.50
DOMESTIC WATER HEATER - M - 1	AO SMITH / BTH-300A 300	0.50	0.50	X	0.50			X	0.50		
		0.50	0.50			X	0.50			X	0.50
DOMESTIC CIRC PUMP - M - 1	GRUNDFOS / MAGNA3 50-150 F 280	0.25	0.25	X	0.25			X	0.25		
		0.25	0.25			X	0.25			X	0.25
DOMESTIC WATER HEATER	AO SMITH / BTH-300A 300	0.50	0.50	X	0.50			X	0.50		
		0.50	0.50			X	0.50			X	0.50



# Attachment A

**Building:** Main Building  
**Date:** 10/1/23  
**Revision:** 1

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
BAS MAINTENANCE		16.00	16.00	X	16.00			X	16.00		
		16.00	16.00			X	16.00			X	16.00
Total Hours for Preventive Maintenance		474.50			108.50		121.00		83.00		162.00
Travel and Setup Time		74.00									
Additional MAU Filter Changes		16.00									
Total Hours		564.50									
Condenser Coil Cleaning Time (Included in Spring visit)		27.00									



# Attachment A

**Building:** Warehouse and Trades Building  
**Date:** 10/1/23  
**Revision:**

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
DOMESTIC WATER HEATER - W - 1	AO SMITH / BTH-199A 300	0.50	0.50	X	0.50			X	0.50		
		0.50	0.50			X	0.50			X	0.50
DOMESTIC CIRC PUMP - W - 1	GRUNDFOS /	0.25	0.25	X	0.25			X	0.25		
		0.25	0.25			X	0.25			X	0.25
DOMESTIC EXPANSION TANK - W - 1	AMTROL /	-	-								
		0.50	0.50			X	0.50			X	0.50
INFARED HEATER - W - 1	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
INFARED HEATER - W - 2	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
INFARED HEATER - W - 3	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
INFARED HEATER - W - 4	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
INFARED HEATER - W - 5	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
INFARED HEATER - W - 6	ADVANCED / DU-60	-	-								
		0.75	-							X	0.75
ELECTRIC UNIT HEATER - W - 1	REZNOR / EGEB	-	-								
		0.50	-							X	0.50
ELECTRIC UNIT HEATER - W - 2	REZNOR / ECR	-	-								
		0.50	-							X	0.50



# Attachment A

**Building:** Warehouse and Trades Building  
**Date:** 10/1/23  
**Revision:**

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
ROOF TOP UNIT - W - 1	JCI / ZJ120N18N4D4ACD2A2	0.75	1.00	X	0.75			X	1.00		
		1.75	2.75			X	2.75			X	1.75
ROOF TOP UNIT - W - 2	JCI / GVB2G3A5KA2A60AB224EF2AGG3C0D0ABBA21001C0	1.25	1.50	X	1.25			X	1.50		
		2.25	3.75			X	3.75			X	2.25
ROOF TOP UNIT - W - 3	JCI / GVA2G3A5KA2A60AB224EF2AGG3C0D0ABBA21001C0	1.25	1.50	X	1.25			X	1.50		
		2.25	3.50			X	3.50			X	2.25
AC - W - 1	MITSUBISHI / PKA-A24KA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
AC - W - 2	MITSUBISHI / PLA-A24EA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
CONDENSING UNIT - W - 1	MITSUBISHI / PUY-A24NHA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
CONDENSING UNIT - W - 2	MITSUBISHI / PUY-A24NHA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
EXHAUST FAN - W - 1	NY BLOWER / RD141-3.0	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - W - 2	NY BLOWER / RD141-3.0	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - W - 3	NY BLOWER / RD141-3.0	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - W - 4	NY BLOWER / RD141-3.0	0.25	0.25	X	0.25			X	0.25		
		-	-								



# Attachment A

**Building:** Warehouse and Trades Building  
**Date:** 10/1/23  
**Revision:**

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
EXHAUST FAN - W - 5	GREENHECK / G-090-VG-1-17-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - W - 6	GREENHECK / G-080-VG-1-17-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
EXHAUST FAN - W - 7	GREENHECK / G-120-5-VG-1-19-X	0.25	0.25	X	0.25			X	0.25		
		-	-								
AIR COMPRESSOR - W - 1	SULLAIR / SN2212/A/SUL/460/60/YD/WS	1.00	1.00	X	1.00			X	1.00		
		1.50	1.50			X	1.50			X	1.50
COMPRESSED AIR EXPANSION TANK - 1		-	-								
		0.50	0.50			X	0.50			X	0.50
Total Hours for Preventive Maintenance		51.00			8.00		17.00		9.50		16.50
Travel and Setup Time		10.00									
Total Hours		61.00									
Condenser Coil Cleaning Time (Included in Spring visit)		4.25									



Attachment A

**Building:** Maintenance Storage Building  
**Date:** 10/1/23  
**Revision:**

Tag	Equipment Description	Fall and Winter	Spring and Summer	Winter		Spring		Summer		Fall	
AC - S - 1	MITSUBISHI / PLA-A42EA7	0.50	0.50	X	0.50			X	0.50		
		0.75	0.75			X	0.75			X	0.75
CONDENSING UNIT - S - 1	MITSUBISHI / PUY-A42NKA7	-	0.50					X	0.50		
		-	1.25			X	1.25				
UNIT HEATER - S - 1	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 2	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 3	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 4	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 5	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 6	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 7	REZNOR / UDAP	-	-								
		0.75	-							X	0.75
UNIT HEATER - S - 8	REZNOR / UDAP	-	-								
		0.75	-							X	0.75



Attachment A

**Building:** Maintenance Storage Building  
**Date:** 10/1/23  
**Revision:**

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
EXHAUST FAN - S - 1	GREENHECK / SBE-2L36-20	0.75	0.75	X	0.75			X	0.75		
		-	-								
EXHAUST FAN - S - 2	GREENHECK / SBE-2L36-15	0.75	0.75	X	0.75			X	0.75		
		-	-								
CO & NO2 Sensors		-	-								
		4.00	-							X	4.00
ELECTRIC UNIT HEATER - S - 1	REZNOR / EGEB-3	-	-								
		0.50	-							X	0.50
ELECTRIC UNIT HEATER - S - 2	REZNOR / EGEB-5	-	-								
		0.50	-							X	0.50
Total Hours for Preventive Maintenance		18.50			2.00		2.00		2.50		12.00
Travel and Setup Time		6.00									
Total Hours		24.50									
Condenser Coil Cleaning Time (Included in Spring visit)		0.75									



Attachment B

0  
Main Building  
10/1/23

PREVENTIVE MAINTENANCE MATERIAL LIST

Revision: 1

EQUIPMENT	MATERIAL DESCRIPTION	RECOMMENDED CHANGES PER YEAR	CHANGES PER YEAR INLCUDED IN PLAN	QUANTITY PER CHANGE	ANNUAL QUANTITY INCLUDED IN PLAN
MAU - M - 1	Filter 24x24x2 pleated	6	6	9	54
	Filter 12x24x2 pleated	6	6	3	18
MAU - M - 2	Filter 24x24x2 pleated	6	6	9	54
	Filter 12x24x2 pleated	6	6	3	18
MAU - M - 3	Filter 24x24x2 pleated	6	6	9	54
	Filter 12x24x2 pleated	6	6	3	18
MAU - M - 4	Filter 24x24x2 pleated	6	6	9	54
	Filter 12x24x2 pleated	6	6	3	18
AHU - M - 1	Filter 20x24x2 pleated	4	4	12	48
	Filter 24x24x2 pleated	4	4	3	12
AHU - M - 2	Filter 20x20x2 pleated	4	4	12	48
	Filter 20x24x2 pleated	4	4	8	32
AHU - M - 3	Filter 20x24x2 pleated	4	4	12	48
	Filter 24x24x2 pleated	4	4	3	12
AHU - M - 4	Filter 12x24x2 pleated	4	4	4	16
	Filter 24x24x2 pleated	4	4	12	48
AHU - M - 5	Filter 16x20x2 pleated	4	4	6	24
AHU - M - 6	Filter 20x20x2 pleated	4	4	4	16
	Filter 20x24x2 pleated	4	4	12	48
AHU - M - 7	Filter 20x20x2 pleated	4	4	12	48
	Filter 20x24x2 pleated	4	4	4	16
RTU - M - 1	Filter 20x24x2 pleated	4	4	4	16
	BX54	1	1	1	1
ALL CONDENSER COILS	Absorbent Filter Sock	1	1	20	20
EF - M - 5	AX27	1	1	1	1
EF - M - 6	A31	1	1	1	1
EF - M - 7	A30	1	1	1	1
EF - M - 8	A31	1	1	1	1
EF - M - 9	A31	1	1	1	1
EF - M - 11	<b>A31</b>	1	1	1	1
EF - M - 17	<b>A31</b>	1	1	1	1
ACCH - M - 1	Oil Analysis	1	1	2	2
PN# 026 35601 000	Centrifugal Chiller Oil Filter	1	1	2	2





Attachment B

0  
Main Building  
10/1/23  
1

PREVENTIVE MAINTENANCE MATERIAL LIST

Revision:

EQUIPMENT	MATERIAL DESCRIPTION	RECOMMENDED CHANGES PER YEAR	CHANGES PER YEAR INLCUDED IN PLAN	QUANTITY PER CHANGE	ANNUAL QUANTITY INCLUDED IN PLAN
PN# 028 13849 000	Centrifugal Chiller O-Ring	1	1	2	2
AIR COMPRESSOR - M - 1	O-Ring PN#88842053-155	1	1	1	1
PN# 02250175-741	Maintenance Kit	1	1	1	1
PN# 02250138-667	Fluid Sample Kit	1	1	1	1
	Oil Absorbent Filter	1	1	1	1
AIR COMPRESSOR - M - 2	Centrifugal Chiller O-Ring	1	1	4	4
	Maintnence Kit	1	1	1	1
	Fluid Sample Kit	1	1	1	1
	Oil Absorbent Filter	1	1	1	1
B - M - 1	Condensing Boiler Limestone Filter	1	1	1	1
PN# AR4000M1.0_2.0	Maintenance Kit	1	1	1	1
B - M - 2	Condensing Boiler Limestone Filter	1	1	1	1
PN# AR4000M1.0_2.0	Maintenance Kit	1	1	1	1
B - M - 3	Condensing Boiler Limestone Filter	1	1	1	1
PN# AR4000M1.0_2.0	Maintenance Kit	1	1	1	1
DWH - M - 1	Condensing Boiler Limestone Filter	1	1	1	1
DWH - M - 2	Condensing Boiler Limestone Filter	1	1	1	1
CRAC - M - 1	<b>Filter 20x25x4 pleated</b>	4	4	3	12
	<b>Filter 16x25x4 pleated</b>	4	4	1	4
CRAC - M - 2	<b>Filter 20x25x4 pleated</b>	4	4	3	12
	<b>Filter 16x25x4 pleated</b>	4	4	1	4
CRAC - M - 3	<b>Filter 24x24x4 pleated</b>	4	4	2	8
CRAC - M - 4	<b>Filter 24x24x4 pleated</b>	4	4	2	8
CRAC - M - 5	<b>Filter 24x24x4 pleated</b>	4	4	2	8
CABINET UNIT HEATERS (24)	<b>Filter 19x27x1 poly</b>	2	2	24	48

Materials Subject to Field Verification

See Attachment C for Material Inclusions and Exclusions



Attachment B

0  
Warehouse and Trades Building  
10/1/23  
Revision: 0

PREVENTIVE MAINTENANCE MATERIAL LIST

EQUIPMENT	MATERIAL DESCRIPTION	RECOMMENDED CHANGES PER YEAR	CHANGES PER YEAR INLCUDED IN PLAN	QUANTITY PER CHANGE	ANNUAL QUANTITY INCLUDED IN PLAN
WH - W - 1	Condensing Boiler Limestone Filter	1	1	1	1
RTU - W - 1	Filter 20x24x2 pleated	4	4	4	16
	BX56	1	1	1	1
RTU - W - 2 (D.D.)	Filter 16x20x2 pleated	4	4	18	72
RTU - W - 3 (D.D.)	Filter 16x20x2 pleated	4	4	18	72
Air Compressor	Air Filter PN# 02250125-372	1	1	1	1
PN# 02250155-709	Oil Filter	1	1	1	1
PN# 02250215-617	Seperator Element	1	1	1	1
PN# 02250180-260	Centrifugal Chiller Oil Filter	1	1	2	2
PN# 02250138-667	Fluid Test Kit	1	1	1	1
	Oil Absorbent Filter	1	1	1	1

**Materials Subject to Field Verification**  
**See Attachment C for Material Inclusions and Exclusions**



**PREVENTIVE MAINTENANCE MATERIAL LIST**

Attachment B

0  
**Maintenance Storage Building**  
10/1/23  
Revision: 0

EQUIPMENT	MATERIAL DESCRIPTION	RECOMMENDED CHANGES PER YEAR	CHANGES PER YEAR INLCUDED IN PLAN	QUANTITY PER CHANGE	ANNUAL QUANTITY INCLUDED IN PLAN
CU - S - 1	Nitrogen	1	1	1	1
CO & NO2 Sensors	Test Gas	1	1	1	1

**Materials Subject to Field Verification**  
**See Attachment C for Material Inclusions and Exclusions**



**Notes:**

1. A tax exempt certificate must be provided to MTech in order to make client tax exempt. This proposal has been priced with no tax included.

**Included:**

1. Cooling and heating seasonal startup on AHUs, MAUs, and RTU.
2. Cooling and heating mid season inspection on AHUs, MAUs, and RTU.
3. Quarterly filter changes on AHUs and RTU.
4. Bimonthly (6) filter changes on MAUs.
5. Biannual maintenance on exhaust fans.
6. Annual maintenance on gas, electric, and infrared unit heaters.
7. Quarterly maintenance on indoor unit split systems.
8. Biannual maintenance on outdoor unit split systems.
9. Annual cleaning of condenser coils.
10. Biannual maintenance on boilers with annual limestone filter change and maintenance kits included.
11. Biannual maintenance on hot and chilled water pumps.
12. Biannual maintenance on glycol feeders.
13. Annual maintenance on transfer fans.
14. Quarterly maintenance on water heater and circ pump, with annual limestone filter change.
15. Quarterly maintenance on air compressors with annual air filter, oil filter, belt, and oil changes.
16. (26) full day preventive maintenance visits for Building Automation System.
  - Trending, Database Backup, Scheduling
  - BAS Repairs & Programming (material quoted separately)
  - M-F, 7am-5pm (holidays, nights, weekends, and overtime excluded)

**Clarifications:**

1. Any work outside of this proposal's scope shall be performed on a time and material basis at the MTech rates attached.
2. Man lift included to maintain gas and infrared unit heaters.

**Excluded:**

1. Any equipment not listed on "Attachment A" is excluded.
2. Consequences of Force Majeure events.
3. Any client Covid protocol not specifically described above.
4. Costs associated with client Covid protocol and testing. These costs will be billed as necessary on a time and material basis.
5. Stand by time over 20 minutes is excluded. Additional stand by time will be billed separately on a time and material basis.
6. Backflow certification excluded and completed by others.
7. Terminal reheat boxes excluded and can be maintained on a time and material basis.



**Notes:**

1. A tax exempt certificate must be provided to MTech in order to make client tax exempt. This proposal has been priced with no tax included.

**Included:**

1. Cooling and heating seasonal startup on RTUs and indoor wall mounts.
2. Cooling and heating mid season inspection on RTUs and indoor wall mounts.
3. Annual belt changes on all equipment.
4. Quarterly filter changes and washes on all roof top units and indoor wall mounts.
5. Annual cleaning of condenser coils.
6. Quarterly maintenance on water heater and circ pump with annual limestone filter change.
7. Annual maintenance on infrared heaters.
8. Biannual maintenance on exhaust fans.
9. Quarterly maintenance on air compressors with annual air filter, oil filter, and oil changes.

**Clarifications:**

1. Any work outside of this proposal's scope shall be performed on a time and material basis at the MTech rates attached.
2. Man lift included for on infrared heaters.

**Excluded:**

1. Any equipment not listed on "Attachment A" is excluded.
2. Consequences of Force Majeure events.
3. Any client Covid protocol not specifically described above.
4. Costs associated with client Covid protocol and testing. These costs will be billed as necessary on a time and material basis.
5. Stand by time over 20 minutes is excluded. Additional stand by time will be billed separately on a time and material basis.
6. Backflow certification excluded and completed by others.



**Notes:**

1. A tax exempt certificate must be provided to MTech in order to make client tax exempt. This proposal has been priced with no tax included.

**Included:**

1. Annual maintenance on gas and electric unit heaters.
2. Quarterly maintenance and filter washing on AC - S - 1.
3. Biannual maintenance on condensing unit with annual condenser coil cleaning.
4. Annual inspections on CO and NO2 sensors.
5. Biannual maintenance on exhaust fans.

**Clarifications:**

1. Any work outside of this proposal's scope shall be performed on a time and material basis at the MTech rates attached.
2. Man lift included to maintain gas unit heaters and exhaust fans.

**Excluded:**

1. Any equipment not listed on "Attachment A" is excluded.
2. Consequences of Force Majeure events.
3. Any client Covid protocol not specifically described above.
4. Costs associated with client Covid protocol and testing. These costs will be billed as necessary on a time and material basis.
5. Stand by time over 20 minutes is excluded. Additional stand by time will be billed separately on a time and material basis.
6. Backflow certification excluded and completed by others.
7. Exhaust fan belts excluded and can be changed on a time and material basis.



Proposal for		Proposal by	
<b>Contact</b>	Mary Rasure	Paul Thibodaux	
<b>Client</b>	<b>Aurora Water SEAM</b>	MTech Mechanical	
<b>Address</b>	26791 E Qunicy Ave	12300 Pecos Street	
<b>City, State, Zip</b>	Aurora, CO 80016	Westminster, CO 80234	
<b>Phone</b>	646-229-8419	303-650-4000	
<b>Email</b>	<a href="mailto:msrasure@auroragov.org">msrasure@auroragov.org</a>		
<b>Building</b>	Main Building	<b>Site Address</b>	
<b>Date</b>	10/1/23	26791 E Quincy Ave	
<b>Revision</b>	1	Aurora, CO 80016	

This Proposal becomes a binding Services Agreement upon signature by the client as long as it is signed before \_\_\_\_\_ unless extended in writing by the MTech Mechanical ("MTech").

The name and address of the building owner is \_\_\_\_\_.  
(Provide if different than the client information listed above.)

The Value of this Agreement is **\$169,694.00** the cost breakdown and payment terms are as follows:

Labor	<b>\$76,772.00</b>
Materials	<b>\$27,281.00</b>
Tax	<b>\$ .00</b>
Subcontracts (BAS & Manlift)	<b>\$65,641.00</b>

Select Payment Cycle

- |  |                     |
|--|---------------------|
| <input type="checkbox"/> Lump sum payment after first visit                            | <b>\$169,694.00</b> |
| <input type="checkbox"/> Quarterly payments starting after the first maintenance visit | <b>\$42,423.50</b>  |

The Service Task Summary page(s), Attachment A, and the Material List page(s), Attachment B, that follow reflect all of the equipment, hours and parts included in this preventive maintenance agreement. Alternates, clarifications and exclusions are noted in Attachment C and the MTech rate sheet is Attachment D.

Credit card payments are subject to a 3% increase on total invoice.

The maintenance visit schedule is as set out in Attachment A. Should a need for repair occur outside the time of a scheduled visit, a maintenance visit may be conducted at that time and MTech may adjust the schedule in Attachment A accordingly.

MTech's response to a service call is dependent on the urgency level. Calls are classified as follows:

***Emergency (mission critical failure or life threatening):***

MTech will make its best efforts to respond within 2 hours of receiving notice. Client is responsible for taking precautions to prevent bodily injury, death or property damage including, but not limited to, contacting fire and medical emergency responders.

***Urgent (conditions are compromising the ability to use the premises):***

MTech will make its best efforts to respond same business day.

***Routine:***

MTech will be at your site as soon as our normal schedule will allow.



Proposal for		Proposal by
<b>Contact</b>	Mary Rasure	Paul Thibodaux
<b>Client</b>	<b>Aurora Water SEAM</b>	MTech Mechanical
<b>Address</b>	26791 E Quinicy Ave	12300 Pecos Street
<b>City, State, Zip</b>	Aurora, CO 80016	Westminster, CO 80234
<b>Phone</b>	646-229-8419	303-650-4000
<b>Email</b>	<a href="mailto:msrasure@auroragov.org">msrasure@auroragov.org</a>	
<b>Building</b>	Warehouse and Trades Building	<b>Site Address</b>
<b>Date</b>	10/1/23	26711 E Quincy Ave
<b>Revision</b>		Aurora, CO 80016

This Proposal becomes a binding Services Agreement upon signature by the client as long as it is signed before \_\_\_\_\_ unless extended in writing by the MTech Mechanical ("MTech").

The name and address of the building owner is \_\_\_\_\_.  
(Provide if different than the client information listed above.)

The Value of this Agreement is **\$12,204.00** the cost breakdown and payment terms are as follows:

Labor	<b>\$8,296.00</b>
Materials	<b>\$3,428.00</b>
Tax	<b>\$ .00</b>
Subcontracts	<b>\$480.00</b>

Select Payment Cycle

- |  |                    |
|--|--------------------|
| <input type="checkbox"/> Lump sum payment after first visit                            | <b>\$12,204.00</b> |
| <input type="checkbox"/> Quarterly payments starting after the first maintenance visit | <b>\$3,051.00</b>  |

The Service Task Summary page(s), Attachment A, and the Material List page(s), Attachment B, that follow reflect all of the equipment, hours and parts included in this preventive maintenance agreement. Alternates, clarifications and exclusions are noted in Attachment C and the MTech rate sheet is Attachment D.

Credit card payments are subject to a 3% increase on total invoice.

The maintenance visit schedule is as set out in Attachment A. Should a need for repair occur outside the time of a scheduled visit, a maintenance visit may be conducted at that time and MTech may adjust the schedule in Attachment A accordingly.

MTech's response to a service call is dependent on the urgency level. Calls are classified as follows:

***Emergency (mission critical failure or life threatening):***

MTech will make its best efforts to respond within 2 hours of receiving notice. Client is responsible for taking precautions to prevent bodily injury, death or property damage including, but not limited to, contacting fire and medical emergency responders.

***Urgent (conditions are compromising the ability to use the premises):***

MTech will make its best efforts to respond same business day.

***Routine:***

MTech will be at your site as soon as our normal schedule will allow.





Proposal for		Proposal by
<b>Contact</b>	Mary Rasure	Paul Thibodaux
<b>Client</b>	<b>Aurora Water SEAM</b>	MTech Mechanical
<b>Address</b>	26791 E Qunicy Ave	12300 Pecos Street
<b>City, State, Zip</b>	Aurora, CO 80016	Westminster, CO 80234
<b>Phone</b>	646-229-8419	303-650-4000
<b>Email</b>	<a href="mailto:msrasure@auroragov.org">msrasure@auroragov.org</a>	
<b>Building</b>	Maintenance Storage Building	<b>Site Address</b>
<b>Date</b>	10/1/23	26611 E Quincy Ave
<b>Revision</b>		Aurora, CO 80016

This Proposal becomes a binding Services Agreement upon signature by the client as long as it is signed before \_\_\_\_\_ unless extended in writing by the MTech Mechanical ("MTech").

The name and address of the building owner is \_\_\_\_\_.  
(Provide if different than the client information listed above.)

The Value of this Agreement is **\$5,053.00** the cost breakdown and payment terms are as follows:

Labor	<b>\$3,332.00</b>
Materials	<b>\$761.00</b>
Tax	<b>\$ .00</b>
Subcontracts	<b>\$960.00</b>

Select Payment Cycle

- |  |                   |
|--|-------------------|
| <input type="checkbox"/> Lump sum payment after first visit                            | <b>\$5,053.00</b> |
| <input type="checkbox"/> Quarterly payments starting after the first maintenance visit | <b>\$1,263.25</b> |

The Service Task Summary page(s), Attachment A, and the Material List page(s), Attachment B, that follow reflect all of the equipment, hours and parts included in this preventive maintenance agreement. Alternates, clarifications and exclusions are noted in Attachment C and the MTech rate sheet is Attachment D.

Credit card payments are subject to a 3% increase on total invoice.

The maintenance visit schedule is as set out in Attachment A. Should a need for repair occur outside the time of a scheduled visit, a maintenance visit may be conducted at that time and MTech may adjust the schedule in Attachment A accordingly.

MTech's response to a service call is dependent on the urgency level. Calls are classified as follows:

***Emergency (mission critical failure or life threatening):***

MTech will make its best efforts to respond within 2 hours of receiving notice. Client is responsible for taking precautions to prevent bodily injury, death or property damage including, but not limited to, contacting fire and medical emergency responders.

***Urgent (conditions are compromising the ability to use the premises):***

MTech will make its best efforts to respond same business day.

***Routine:***

MTech will be at your site as soon as our normal schedule will allow.



Proposal for		Proposal by
<b>Contact</b>	Mary Rasure	Paul Thibodaux
<b>Client</b>	<b>Aurora Water SEAM</b>	MTech Mechanical
<b>Address</b>	26791 E Qunicy Ave	12300 Pecos Street
<b>City, State, Zip</b>	Aurora, CO 80016	Westminster, CO 80234
<b>Phone</b>	646-229-8419	303-650-4000
<b>Email</b>	<a href="mailto:msrasure@auroragov.org">msrasure@auroragov.org</a>	
<b>Building</b>	All Buildings	<b>Site Address</b>
<b>Date</b>	10/1/23	26791 E Quincy Ave
<b>Revision</b>		Aurora, CO 80016

This Proposal becomes a binding Services Agreement upon signature by the client as long as it is signed before \_\_\_\_\_ unless extended in writing by the MTech Mechanical ("MTech").

The name and address of the building owner is \_\_\_\_\_.  
(Provide if different than the client information listed above.)

The Value of this Agreement is **\$186,951.00** the cost breakdown and payment terms are as follows:

Main Building	<b>\$169,694.00</b>
Warehouse & Trades	<b>\$12,204.00</b>
Maintenance Storage	<b>\$5,053.00</b>

Select Payment Cycle

- |  |                     |
|--|---------------------|
| <input type="checkbox"/> Lump sum payment after first visit                            | <b>\$186,951.00</b> |
| <input type="checkbox"/> Quarterly payments starting after the first maintenance visit | <b>\$46,737.75</b>  |

The Service Task Summary page(s), Attachment A, and the Material List page(s), Attachment B, that follow reflect all of the equipment, hours and parts included in this preventive maintenance agreement. Alternates, clarifications and exclusions are noted in Attachment C and the MTech rate sheet is Attachment D.

Credit card payments are subject to a 3% increase on total invoice.

The maintenance visit schedule is as set out in Attachment A. Should a need for repair occur outside the time of a scheduled visit, a maintenance visit may be conducted at that time and MTech may adjust the schedule in Attachment A accordingly.

MTech's response to a service call is dependent on the urgency level. Calls are classified as follows:

***Emergency (mission critical failure or life threatening):***

MTech will make its best efforts to respond within 2 hours of receiving notice. Client is responsible for taking precautions to prevent bodily injury, death or property damage including, but not limited to, contacting fire and medical emergency responders.

***Urgent (conditions are compromising the ability to use the premises):***

MTech will make its best efforts to respond same business day.

***Routine:***

MTech will be at your site as soon as our normal schedule will allow.



Client will meet MTech at the site of any service call and approve the services to be performed in writing. Should Client fail to do so, the service call will be completed and Client hereby waives any objections to the invoice for the service call.

Either party to this Agreement may terminate it upon 30 days written notice to the other. In the event of nonpayment, MTech may terminate this Agreement on 3 days written notice.

If MTech retains counsel due to client's failure to comply with its obligations under this Agreement, client agrees to pay the reasonable attorneys' fees, costs and expenses incurred by MTech even if there is no litigation or arbitration. In the event of arbitration or litigation the prevailing party shall be awarded its reasonable attorneys' fees, costs and related expenses of litigation. Payments must be received by MTech within 45 days of the date of the invoice. Payments not made when due will accrue interest at the rate of 5% per month beginning on the date the payment was due. Client agrees to pay all cost of collection, including but not limited to, attorney fees and costs.

Should a dispute arise out of this Agreement the parties may agree to resolve it by arbitration to be conducted in Denver, Colorado. Should the parties not agree to arbitration then the exclusive jurisdiction and venue for any litigation shall be in the courts of the City and County of Denver. Any dispute will be governed exclusively by the laws of the State of Colorado.

MTech's site maintenance books contain company proprietary and confidential information and may be left at the site for use by MTech technicians. Though Client is not obligated to secure the maintenance books, Client agrees not to distribute or otherwise make public the maintenance books or the information within.

This Agreement cannot be assigned without the written consent of MTech.

Written communications between the parties will be addressed to the contacts identified above.

This document contains the entire agreement between the parties.

For the protection of persons and property, MTech will comply with electrical flash protection rules and regulations established by OSHA, The National Electrical Code and NFPA 70E and others. Client acknowledges that unanticipated cost and time impacts may arise out of compliance with rules and regulations related to electrical flash protection.

A regulation issued by the State Engineers Office for the Colorado Division of Water Resources requires mechanical equipment service contractors to obtain a special permit for cleaning Heat Transfer Equipment (HTE). The Best Management Practices associated with this permitting process limit the type of chemicals and amount of water that can be used to clean HTE. Excessively dirty or oily HTE may require additional labor to clean. This will be done as needed on a time and materials basis. Client acknowledges that unanticipated cost and time impacts may arise out of compliance with regulations related to HTE service.

Non-Solicitation – During the Term of this Agreement, and for a period of one (1) year thereafter, each party agrees not to solicit or recruit any of the other party's employees with whom they came into contact in connection with this Agreement, or to otherwise interfere with such employee's current employment or such consultant's current assignment.

If MTech material prices increase after bid approval, an equitable adjustment shall be made to the contract price by an amount necessary to cover any such increases and in accordance with the agreement.

MTech Mechanical

Paul Thibodaux

10/1/2023

MTech Name

Date

10/1/2023

MTech Signature

Date

All Buildings  
Revision

Client Name

Date

Client Signature

Date

10/1/23



All Buildings  
October 1, 2023

## Attachment D

### MTEch Mechanical Service Labor Rates

Effective August 1, 2022  
Service Team Phone # 303-650-2882

#### Preferred Hourly Rates for Preventative Maintenance Agreement (PMA) Contract Clients

	Straight Time	Overtime	Double Time
HVAC Hourly Rate Preventative Maintenance (PM)	\$136.00	\$197.00	\$252.00
HVAC Hourly Rate T&M	\$141.00	\$204.00	\$261.00
Plumbing Hourly Rate PM	\$139.00	\$202.00	\$257.00
Plumbing Hourly Rate T&M	\$150.00	\$218.00	\$278.00
Sr. Technician Specialist	\$196.00	\$284.00	\$363.00
Specialist Chiller Technician Hourly Rate	\$198.00	\$287.00	\$366.00
Specialist Boiler Technician Hourly Rate	\$198.00	\$287.00	\$366.00

#### Street Hourly Rates

	Minimum Trip Hours Charged	Straight Time	Overtime	Double Time
HVAC Hourly Rate	1.50	\$161.00	\$233.00	\$298.00
Plumbing Hourly Rate	1.50	\$155.00	NA	\$287.00

#### Drain Cleaning Rates (For drains DT applies to all off hours work)

	Minimum Trip Hours Charged	Straight Time	Overtime	Double Time
Drain Cleaning	1.50	\$145.00	NA	\$257.00
Hydro Jetting (2 techs required)	2.00	\$145.00	NA	\$257.00
Mini Jetting	1.50	\$145.00	NA	\$257.00
Main and Secondary Lines	1.50	\$145.00	NA	\$257.00
Camera & Locate	1.50	\$145.00	NA	\$257.00

#### Backflow Certification

	Straight Time Only
First Backflow Certification	\$150.00
Trip charge flat rate (within our service region)	\$75.00
Filing fee with water department (per backflow)	\$20.00
Plumbing Hourly Rate T&M	\$150.00
Each additional backflow certification a part of the same trip	\$75.00



#### HOURS OF OPERATION

1. Standard Operating Hours: 7:30 am to 4:30 pm, Monday through Friday.
2. Off hours are any hours that are not standard operating.

#### Overtime (HVAC only)

Anything outside of standard operating hours that isn't double time.

#### Double Time (HVAC and Plumbing)

1. Plumbing: HOLIDAYS AND ALL OFF HOURS EMERGENCY WORK SHALL BE BILLED AT DOUBLE TIME RATES.
2. HVAC: Holidays shall be billed at double time rates.
3. Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas Day

#### TRAVEL POLICY

##### HVAC / PLUMBING/ DRAIN CLEANING/ BACKFLOW PREVENTION

During standard operating hours, client will be charged for travel time from previous site to client site. Travel time will be charged in 30-minute increments. Time for material pickup and handling is billable to client.

#### OVERTIME AND HOLIDAY TRAVEL POLICY

##### HVAC

Outside of standard operating hours, client will be charged for travel on a portal-to-portal basis. Travel time will be charged in 30-minute increments. Please note that after hours travel will be charged at overtime (OT) rates.

##### PLUMBING/ DRAIN CLEANING/ BACKFLOW PREVENTION

Outside of standard operating hours, client will be charged for travel on a portal-to-portal basis. Travel time will be charged in 30-minute increments. Please note that after hours travel will be charged at double-time (DT) rates.

#### BACKFLOW CERTIFICATION

We currently do not offer backflow certifications outside our straight time operating hours.

24 HOUR SERVICE - Call 303-650-2882 for service 24 hours per day, 365 days per year.

# Johnson Controls planned service proposal - BAS

## Prepared for CITY OF AURORA - SEAM

Customer  
CITY OF AURORA - SEAM

Local Johnson Controls Office  
10289 W CENTENNIAL RD  
LITTLETON, CO 80127

Agreement Start Date:  
10/01/2023

Proposal Date  
08/07/2023

Estimate No:  
1-1NWLQBED



## Partnering with you to deliver value-driven solutions

Every day, we transform the environments where people live, work, learn and play. From optimizing building performance to improving safety and enhancing comfort, we are here to power your mission.

A Planned Service Agreement with Johnson Controls provides you with a customized service strategy designed around the needs of your facility. Our approach features a combination of scheduled, predictive and preventative maintenance services that focus on your goals.

As your building technology services partner, Johnson Controls delivers an unmatched service experience delivered by factory-trained, highly skilled technicians who optimize operations of the buildings we work with, creating productive and safe environments for the people within.

By integrating our service expertise with innovative processes and technologies, our value-driven planned service solutions deliver sustainable results, minimize equipment downtime and maximize occupant comfort.

**With more than a century of healthy buildings expertise, Johnson Controls leverages technologies to successfully deliver smart solutions to facilities worldwide.**



Johnson Controls was recognized by Frost & Sullivan as the 2020 North American Company of the Year for innovation in the Smart connected Chillers market

## Planned service proposal for CITY OF AURORA - SEAM

Dear Customer,

We value and appreciate your interest in Johnson Controls as a service provider for your building systems and are pleased to provide a value-driven maintenance solution for your facility. The enclosed proposal outlines the Planned Service Agreement we have developed on your facility.

Details are included in the Planned Service Agreement summary (Schedule A), but highlights are as follows:

- In this proposal we are offering a service agreement for 5 Years starting 10/01/2023 and ending 9/30/2028.
- The agreement price for first year is \$51,745.00; see Schedule A, Supplemental Price and Payment Terms, for pricing in subsequent years.
- The equipment options and number of visits being provided for each piece of equipment are described in Schedule A, Equipment list.

As a manufacturer of both mechanical and controls systems, Johnson Controls has the expertise and resources to provide proper maintenance and repair services for your facility.

Again, thank you for your interest in Johnson Controls and we look forward to becoming your building technology services partner.

Please contact me if you have any questions.

Sincerely,

Patrick Littlejohn  
(720) 935-6603

The power behind **your mission**

## Benefits of planned service

A Planned Service Agreement with Johnson Controls will allow you to optimize your building's facility performance, providing dependability, sustainability and energy efficiency. You'll get a value-driven solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

With this Planned Service Agreement, Johnson Controls can help you achieve the following five objectives:



1. **Identify energy savings Opportunities**

Since HVAC equipment accounts for a major portion of a building's energy usage, keeping your system performing at optimum levels may lead to a significant reduction in energy costs.

2. **Reduce future repair costs**

Routine maintenance may maximize the life of your equipment and may reduce equipment breakdowns.

3. **Extend asset life**

Through proactive, factory-recommended maintenance, the life of your HVAC assets may be extended, maximizing the return on your investment.

4. **Ensure productive environments**

Whether creating a comfortable place where employees can be productive or controlling a space to meet specialized needs, maintenance can help you achieve an optimal environment for the work that is being accomplished

5. **Promote environmental health and safety**

When proper indoor conditions and plant requirements are maintained, business outcomes may be improved by minimizing sick leave, reducing accidents, minimizing greenhouse gas emissions and managing refrigerant requirements.

All of the services we perform on your equipment are aligned with "The 5 Values of Planned Maintenance" and our technicians understand how the work they perform can help you accomplish your business objectives.



## Our partnership

### Personalized account management

A Planned Service Agreement also provides you with the support of an entire team that knows your site and can closely work with you on budget planning and asset management. Your local Johnson Controls account management team can help guide planned replacement, energy retrofits and other building improvement projects. You'll have peace of mind that an entire team of skilled professionals will be looking out for what is best for your facility and budget.

### A culture of safety

Johnson Controls technicians take safety seriously and personally, and integrate it into everything they do. All of our technicians participate in regular and thorough safety training. Because of their personal commitment, we are a leader in the HVAC service industry for workplace safety performance. This means that you do not have to worry about us when we are on your site.

### Commitment to customer satisfaction

Throughout the term of your Planned Service Agreement, we will periodically survey you and use your feedback to continue to make improvements to our service processes and products. Our goal is to deliver the most consistent and complete service experience possible. To meet this goal, we've developed and implemented standards and procedures to ensure you receive the ultimate service experience – every time.

### Energy & sustainability

A more sustainable world one building at a time – Johnson Controls is a company that started more than 125 years ago with a product that reduced energy use in buildings. We've been saving energy for customers ever since. Today, Johnson Controls is a global leader in creating smart environments where people live, work and play, helping to create a more comfortable, safe and sustainable world.

### The value of integrity

Johnson Controls has a long, proud history of integrity. We do what we say we will do and stand behind our commitments. Our good reputation builds trust and loyalty. In recognition for our commitment to ethics across our global operations, we are honored to be named one of the World's Most Ethical Companies by Ethisphere Institute, a leading think tank dedicated to business ethics and corporate social responsibility. In addition, Corporate Responsibility Magazine recognizes Johnson Controls as one of the top companies in its annual "100 Best Corporate Citizens" list.

## Service delivery

As part of the delivery of this Planned Service Agreement, Johnson Controls will dedicate a local customer service agent responsible for having a clear understanding of the agreement scope, and your facility procedures and protocols.

A high-level overview around our service delivery process is outlined below including scheduling, emergency service, on-site paperwork, communication and performing repairs outside of the agreement scope.

### Scheduling

Preventative maintenance service will be scheduled using our automated service management system. In advance of the scheduled service visit, our technician is sent a notice of service to a smartphone. Once the technician acknowledges the request, your customer service agent will call or e-mail your on-site contact to let you know the start date and type of service scheduled.

The technician checks in, wears personal protective equipment, performs the task(s) as assigned, checks out with you and asks for a screen capture signature on the smartphone device. A work order is then e-mailed, faxed or printed for your records.

### Emergency services

Emergency service can be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the customer service agent. After hours, weekends and holidays, the emergency service number transfers to the Johnson Controls after-hours call center and on-call technicians are dispatched as needed.

Johnson Controls is committed to dispatching a technician within hours of receiving your call through the service line. A work order is e-mailed, faxed or printed for your records. Depending on the terms of your agreement, you may incur charges for after hour services.

### Communication

A detailed communication plan will be provided to you so you know how often we will provide information to you regarding your Planned Service Agreement. The communication plan will also provide you with your main contacts at Johnson Controls.

### Approval process for non-covered items

Johnson Controls will adhere to your procurement process. No work will be performed outside of the agreement scope without prior approval. Johnson Controls will work with you closely to ensure your procurement process is followed before any non-covered item work is started.

## Summary

Thank you for considering Johnson Controls as your building technology services partner. The following agreement document includes all the details surrounding your Planned Service Agreement.

With planned service from Johnson Controls, you'll get a value-driven solution that can help optimize your building controls and equipment performance, providing dependability, sustainability and energy efficiency. You'll get a solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

The power behind **your mission**

### Planned Service Agreement

Customer Name : CITY OF AURORA - SEAM  
Address: 26791 E QUINCY AVE, AURORA, CO 80018  
Proposal Date: 8/7/2023  
Estimate #: 1-1NWLQBED

### Scope of Service

Johnson Controls, Inc. ("JCI") and the Customer (collectively the "Parties") agree Preventative Maintenance Services, as defined in Schedule A ("Services"), will be provided by JCI at the Customer's facility. This Planned Service Agreement, the Equipment List, Supplemental Price and Payment Terms, Terms and Conditions, and Schedules attached hereto and incorporated by this reference as if set forth fully herein (collectively the "Agreement"), cover the rights and obligations of both the Customer and JCI.

### Extended Service Options for Premium Coverage

If Premium Coverage is selected, on-site repair services to the equipment will be provided as specified in this Agreement for the equipment listed in the attached Equipment List.

### Equipment List

Only the equipment listed in the Equipment List will be covered as part of this Agreement. Any changes to the Equipment List must be agreed upon in writing by both Parties.

### Term / Automatic Renewal

This Agreement takes effect on 10/01/2023 and will continue until 9/30/2028 ("Original Term"). The Agreement will automatically renew and extend for successive terms equal to the Original Term unless the Customer or JCI gives the other written notice it does not want to renew prior to the end of the then-current term (each a "Renewal Term"). The notice must be delivered at least (90) days prior to the end of the Original Term or of any Renewal Term. The Original Term and any Renewal Term may be referred to herein as the "Term". Renewal price adjustments are discussed in the Terms and Conditions.

### Refrigerant Charges

Refrigerant is not included under this Agreement and will be billed separately to the Customer by JCI.

## Price and Payment Terms

The total Contract Price for JCI's Services during the first year of the Original Term is \$51,745.00. This amount will be paid to JCI in advance in Annual installments. Pricing for each subsequent year of a multiyear Original Term is set forth in the Supplemental Price and Payment Terms. Unless otherwise agreed to by the parties, All payments will be due upon receipt. Renewal price adjustments are set forth in the Terms and Conditions.

Invoices will be sent to the following location:

Accounts Payable

☐ In lieu of paper invoices sent to the location above, invoices should be emailed to the following email address: \_\_\_\_\_

**This proposal is valid for thirty days from the proposal date.**

### JOHNSON CONTROLS Inc.

By: Donald Arnold

Signature:

Title: Service Manager

Date:

Signature:

Title:

Date:

By:

Signature:

Title:

Date:

Customer PO#:

JCI Branch: JOHNSON CONTROLS DENVER CO CB - 0N48

Address: 10289 W CENTENNIAL RD

LITTLETON, CO 801274216

Branch Phone: (866) 819-0233

Branch Email:

### Schedule A - Equipment List

<b>CITY OF AURORA CO</b>	<b>26791 E QUINCY AVE AURORA, CO 80018</b>
--------------------------	--

#### Metasys Bi-Weekly Service

Quantity: (26) Full Day Visits  
Coverage Level: Basic  
Equipment: Block Hours  
Style: Controls Technician

#### Services Provided

26 Preventive Maintenance Visits  
Trending  
Database Backup  
Scheduling  
BAS Repairs & Programming (material  
quoted separately)

### Supplemental Price & Payment Terms (Applies to Multi-Year Contracts Only)

Year	Total Annual Dollar Amount	Payment Frequency
Year1	\$51,745	Annually
Year2	\$55,886	Annually
Year3	\$60,357	Annually
Year4	\$65,186	Annually
Year5	\$70,401	Annually

### Special Additions and Exceptions

Parts & repair materials will be quoted separately.

All work to be completed during normal business hours of M-F, 7am-5pm. Holidays, nights, weekends, and overtime are not included.

Software subscriptions & upgrades are not included.

**TERMS AND CONDITIONS**  
**DEFINITIONS (REV 4/22)**

**DIGITAL ENABLED SERVICES** mean services provided hereunder that employ JCI software and cloud-hosted software offerings and tools to improve and enable such services. Digital Enabled Service may include, but are not limited to, (a) remote inspection, (b) advanced equipment fault detection and diagnostics, and (c) data dashboarding and health reporting.

**CONTRACT PRICE** means the price that Customer shall pay to JCI for the Services.

**COVERED EQUIPMENT** means the equipment for which Services are to be provided under this Agreement. Covered Equipment is set forth in Schedule A - Equipment List.

**EQUIPMENT FAILURE** means the failure, under normal and expected working conditions, of moving parts or electric or electronic components of the Covered Equipment that are necessary for its operation.

**PREMISES** means those Customer premises where the Covered Equipment is located or Services performed pursuant to this Agreement.

**REMOTE MONITORING SERVICES** means remote monitoring of Covered Equipment and/or systems including building automation, HVAC equipment, and fire alarm, intrusion, and/or other life safety systems for alarm and event notifications using a UL Certified Central Station.

**REMOTE OPERATIONS CENTER (ROC)** is the department at JCI that remotely monitors alarm and industrial (HVAC) process signals.

**REMOTE OPERATING SERVICES** means remote interrogation, modification and/or operation of building automation, HVAC equipment, and/or other Covered Equipment.

**REPAIR LABOR** is the labor necessary to restore Covered Equipment to working condition following an Equipment Failure, but does not include services relating to total equipment replacement due to obsolescence or unavailability of parts.

**REPAIR MATERIALS** are the parts and materials necessary to restore Covered Equipment to working condition following an Equipment Failure, but excludes total equipment replacement due to obsolescence or unavailability of parts, unless excluded from the Agreement. At JCI's option, Repair Materials may be new, used, or reconditioned.

**SCHEDULED SERVICE MATERIALS** are the materials required to perform Scheduled Service Visits on Covered Equipment, unless excluded from the Agreement.

**SCHEDULED SERVICE VISITS** are the on-site labor visits required to perform JCI recommended inspections and preventive maintenance on Covered Equipment.

**SERVICES** are the work, materials, labor, service visits, and repairs to be provided by JCI pursuant to this Agreement except that the Services do not include the Connected Equipment Services or the provision of other software products or digital or cloud services, which are provided under separate terms and conditions referenced in Section P.

**A. JCI'S SERVICES FOR COVERED EQUIPMENT**

**1. BASIC COVERAGE** means Scheduled Service Visits, plus Scheduled Service Materials (unless excluded from this Agreement). No parts, equipment, Repair Labor or Repair Materials are provided for under BASIC COVERAGE.

**2. PREMIUM COVERAGE** means BASIC COVERAGE plus Repair Labor, plus Repair Materials (unless excluded from the Agreement). If Customer has ordered PREMIUM COVERAGE, JCI will inspect the Covered Equipment within forty-five (45) days of the date of this Agreement, or as seasonal or operational conditions permit. JCI will then advise Customer if JCI finds any Covered Equipment not in working order or in need of repair. With Customer's approval, JCI will perform the work necessary to put the Covered Equipment in proper working condition, subject to the terms of this Agreement. Customer will pay for such work at JCI's standard rates for parts and labor in effect at the time that the work is performed. If Customer does not want JCI to perform the work identified as necessary by JCI, any equipment thereby affected will be removed from the list of Covered Equipment, and the Contract Price will be adjusted accordingly. Should Customer not make JCI's recommended repairs or proceed with the modified PREMIUM COVERAGE, JCI reserves the right to invoice Customer for the cost of the initial equipment inspection.

**3. EXTENDED SERVICE** means Services performed outside JCI's normal business hours and is available only if Customer has PREMIUM COVERAGE. Extended Service is available either 24/5 or 24/7, at Customer's election. The price for Extended Service, if chosen by Customer, is part of the total Contract Price.

**4. REMOTE MONITORING SERVICES OR REMOTE OPERATING SERVICES.** If Remote Monitoring Services or Remote Operating Services are provided, Customer agrees to furnish JCI with a list of the names, titles, addresses, email addresses, and phone numbers of all persons authorized to be contacted by, or be able to contact the ROC to perform specific agreed upon actions with the appropriate authority. If JCI's Services include "Remote Monitoring Services with Open and Close," Customer also agrees to furnish JCI with Customer's daily and holiday opening and closing schedules. Customer agrees to maintain and update the call lists with accurate information. Customer further agrees to notify JCI of such changes as soon as possible. JCI/ROC is not responsible to find new contacts/numbers if the contacts on the call lists cannot be reached. A maximum of three contacts are allowed for any time of the day. If none of those contacts can be reached, then neither JCI nor the ROC are responsible for damages. Customer is responsible for any and all costs and expenses arising from Customer's failure to provide



timely updates for any of the contact information submitted to the ROC.

**5. CUSTOMER SERVICE INFORMATION PORTAL.** Customer may be able to utilize JCI's Customer Service Information Portal during the term of the Agreement, pursuant to the then applicable Terms of Use Agreement.

**B. OUT OF SCOPE SERVICES**

If, during any Service Visit, JCI detects a defect in any of Customer's equipment that is not Covered Equipment under this Agreement (an "Out of Scope Defect"), JCI may (but shall have no obligation to) notify Customer of such Out of Scope Defect. If Customer elects for JCI to repair such Out of Scope Defect, or if JCI otherwise performs any Services or provides any materials, parts, or equipment outside the scope of the Services (collectively, "Out of Scope Services"), Customer shall direct JCI to perform such Out of Scope Services in writing, and Customer shall pay for such Out of Scope Services at JCI's standard fees or hourly rates. If, after receiving notice of an Out of Scope Defect, Customer elects not to engage JCI to repair such Out of Scope Defect, Customer shall defend and indemnify JCI from and against any and all losses, damages, claims, costs and expenses arising directly or indirectly out of such Out of Scope Defect. Any Out of Scope Services performed by JCI at the direction of Customer pursuant to this Section shall be subject to the Customer Terms in effect as of the Effective Date (the "**Customer Terms**"), which Customer Terms are incorporated into this Agreement by this reference. A copy of the Customer Terms currently in effect is found at [www.johnsoncontrols.com/customerterms](http://www.johnsoncontrols.com/customerterms).

**C. EXCLUSIONS**

JCI's Services and warranty obligations expressly exclude:

- (a) the repair or replacement of ductwork, casings, cabinets, structural supports, tower fill/slats/basin, hydronic and pneumatic piping, and vessels, gaskets, and piping not normally replaced or maintained on a scheduled basis, and removal of oil from pneumatic piping;
- (b) disposal of hazardous wastes (except as otherwise expressly provided herein);
- (c) disinfecting of chiller condenser water systems and other components for biohazards, such as but not limited to, Legionella unless explicitly set forth in the scope of services between the parties. Unless explicitly provide for within the scope of services, this is Out of Scope Services and the Customer's exclusive responsibility to make arrangements for such services with a provider other than JCI. Mentions of chiller tube cleaning, condenser cleaning, cooling tower cleaning or boiler tube cleaning in any scope of services, only involve work to remove normal buildup of debris and scale using tube brush cleaning, pressure washing or acid flushing. Reference to such cleaning does not include chemical cleaning, disinfection or chemical water treatment required to eliminate, control or disinfect against biohazards such as but not limited to Legionella;
- (d) refrigerant; supplies, accessories, or any items normally consumed during the use of Covered Equipment, such as ribbons, bulbs and paper;
- (e) the furnishing of materials and supplies for painting or refinishing equipment;
- (f) the repair or replacement of wire in conduit, buried cable/transmission lines, or the like, if not normally replaced or maintained on a scheduled basis;
- (g) replacement of obsolete parts; and
- (h) damages of any kind, including but not limited to personal injury, death, property damage, and the costs of repairs or service resulting from:
  - abuse, misuse, alterations, adjustments, attachments, combinations, modifications, or repairs to Covered Equipment not performed, provided, or approved in writing by JCI;
  - equipment not covered by this Agreement or attachments made to Covered Equipment;
  - acts or omissions of the Customer, including but not limited to the failure of the Customer to fulfill the Customer Obligations and Commitments to JCI as described in Section F of this Agreement, operator error, Customer's failure to conduct preventive maintenance, issues resulting from Customer's previous denial of JCI access to the Covered Equipment, and Customer's failure to keep the site clean and free of dust, sand, or other particles or debris, unless such conditions are previously expressly acknowledged by JCI in writing;
  - use of the Covered Equipment in a manner or environment, or for any purpose, for which it was not designed by the manufacturer;
  - site-related and environmental conditions, including but not limited to power failures and fluctuations in electrical current (or "power surges") and biohazards such as but not limited to Legionella associated with condenser water, cooling tower systems and subcomponent systems;
  - the effects of erosion, corrosion, acid cleaning, or damage from unexpected or especially severe freezing weather;
  - issues or failures not specifically covered by this Agreement; or
  - occurrences beyond JCI's reasonable control and without JCI's fault or negligence.

**D. PAYMENT TERMS; PRICE ADJUSTMENTS**

Unless otherwise agreed by the parties in writing, fees for Services to be performed shall be paid annually in advance. Fees and other amounts due hereunder are due upon receipt of the invoice, which shall be paid by Customer via electronic delivery via EFT/ACH. Such payment is a condition precedent to JCI's obligation to perform Services under the Agreement. Any invoice disputes must be identified in writing by Customer within 21 days of the date of invoice. Payments of any disputed amounts are due and payable upon resolution. Customer acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and that failure by Customer to make payment in full when due is a material breach of this Agreement. Customer further acknowledges that if there is any amount outstanding on an invoice, it is material to company and will give JCI, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend JCI's obligations under or terminate this Agreement; and (ii) charge Customer interest on the amounts

## Johnson Controls Planned Service Proposal

### Prepared for CITY OF AURORA - SEAM

unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. JCI's election to continue providing future services does not, in any way diminish JCI's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. JCI shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of services for non-payment. In the event that there are exigent circumstances requiring services or the JCI otherwise performs services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Customer disputes any late payment notice or JCI's efforts to collect payment, Customer shall immediately notify JCI in writing and explain the basis of the dispute. Customer will pay all of JCI's reasonable collection costs (including legal fees and expenses). In the event of Customer's default, the balance of any outstanding amounts will be immediately due and payable.

JCI may increase prices upon notice to the Customer to reflect increases in material and labor costs. All stated prices are exclusive of and Customer agrees to pay any taxes, fees, duties, tariffs, false alarm assessments, installation or alarm permits and levies or other similar charges imposed and/or enacted by a government, however designated or imposed, including but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under this Agreement. If this Agreement is renewed, JCI will provide Customer with notice of any adjustments in the Contract Price applicable to any Renewal Term. Unless Customer terminates this Agreement in writing at least ninety (90) days prior to the end of the then-current Term, the adjusted Contract Price shall be the price for the Renewal Term. Prices for products covered by this Agreement may be adjusted by Company, upon notice to Customer at any time prior to shipment and regardless of Customer's acceptance of the Company's proposal or quotation, to reflect any increase in Company's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements.

#### E. WARRANTIES

JCI warrants its Services will be provided in a good and workmanlike manner for 90 days from the date of Services. If JCI receives written notice of a breach of this warranty prior to the end of this warranty period, JCI will re-perform any non-conforming Services at no additional charge within a commercially reasonable time of the notification.

JCI warrants that equipment manufactured or labeled by Johnson Controls, Inc. shall be free from defects in material and workmanship arising from normal usage for a period of 90 days. No warranty is provided for third-party products and equipment installed or furnished by JCI. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and JCI will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not covered under this Agreement shall be borne by Customer. Except as provided herein, if JCI receives written notice of a breach of this warranty prior to the end of this warranty period, JCI will repair or replace (at JCI's option) the defective equipment.

These warranties do not extend to any Services or equipment that have been misused, altered, or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty decals have been removed or altered. All replaced parts or equipment shall become JCI's property. This warranty is not assignable. Warranty service will be provided during normal business hours, excluding holidays. The remedies set forth herein shall be Customer's sole and exclusive remedy with regards to any warranty claim under this Agreement. Any lawsuit based upon the warranty must be brought no later than one (1) year after the expiration of the applicable warranty period. This limitation is in lieu of any other applicable statute of limitations. **CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THESE WARRANTIES ARE JCI'S SOLE WARRANTIES AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** JCI makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, prevent, treat, or mitigate the spread, transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

#### F. CUSTOMER OBLIGATIONS AND COMMITMENTS TO JCI

1. Customer warrants it has given JCI all information concerning the condition of the Covered Equipment. The Customer agrees and warrants that, during the Term of this Agreement, Customer will:

- (1) operate the Covered Equipment according to the manufacturer's and/or JCI's recommendations;
- (2) keep accurate and current work logs and information about the Covered Equipment as recommended by the manufacturer and/or JCI;
- (3) provide an adequate environment for Covered Equipment as recommended by the manufacturer and/or JCI, including, but not limited to adequate space, electrical power, water supply, air conditioning, and humidity control;
- (4) notify JCI immediately of any Covered Equipment malfunction, breakdown, or other condition affecting the operation of the Covered Equipment;
- (5) provide JCI with safe access to its Premises and Covered Equipment at all reasonable and necessary times for the performance of the Services;
- (6) allow JCI to start and stop, periodically turn off, or otherwise change or temporarily suspend equipment operations so that JCI can perform the Services required under this Agreement;
- (7) as applicable, provide proper condenser, cooling tower and boiler water treatment for the proper functioning of Covered Equipment and protect against any environmental issues and instances of biohazards such as but not limited to Legionella;
- (8) carefully and properly set and test the intrusion alarm system each night or at such other time as Customer shall close the Premises;
- (9) obtain all necessary licenses and permits required for and pay all taxes associated with the Services;
- (10) notify JCI immediately of any claimed inadequacy in, or failure of, the Covered Equipment or other condition affecting the operation of the Covered Equipment;
- (11) furnish any necessary 110 volt A/C power and electrical outlets at its expense;
- (12) properly maintain, repair, service, and assure the proper operation of any other property, system, equipment, or device of Customer or others to which the Covered Equipment may be attached or connected, in accordance with manufacturer recommendations, insurance carrier requirements, or the requirements of any fire rating bureau, agency, or other authorities having jurisdiction thereof;
- (13) not tamper with, alter, adjust, disturb, injure, remove, or otherwise interfere with any Covered Equipment (including any related software) and not permit the same to be done;

## Johnson Controls **Planned Service Proposal**

### Prepared for CITY OF AURORA - SEAM

- (14) refrain from causing false alarms, and reimburse JCI for any fine, penalty, or fee paid by or assessed against JCI by any governmental or municipal agency as a result thereof;
- (15) be solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply JCI secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access; and
- (16) take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

2. Customer acknowledges and understands that unless water treatment for biohazards (such as Legionella) is explicitly included in the services JCI is providing, it is Customer's responsibility to provide such treatment. Customer also acknowledges that its failure to meet the above obligations will relieve JCI of any responsibility for any Covered Equipment breakdown, or any necessary repair or replacement of any Covered Equipment. If Customer breaches any of these obligations, JCI shall have the right, upon written notice to Customer, to suspend its Services until Customer cures such breach. In addition, Customer shall be responsible for paying or reimbursing JCI for any costs associated with corrective work required as a result of Customer's breach of these obligations.

#### **G. INSURANCE**

Customer is responsible for obtaining all insurance coverage that Customer believes is necessary to protect Customer, Customer's property, and persons in or on the Premises, including coverage for personal injury and property damage. THE PAYMENTS CUSTOMER MAKES UNDER THIS AGREEMENT ARE NOT RELATED TO THE VALUE OF THE PREMISES, CUSTOMER'S PROPERTY OR POSSESSIONS, OR THE PERSONS OCCUPYING OR AT ANY TIME PRESENT IN OR ON THE PREMISES, BUT RATHER ARE BASED ON THE COST OF THE SYSTEM AND THE SERVICES, AND TAKE INTO CONSIDERATION THE PROTECTION AFFORDED TO JCI UNDER THIS AGREEMENT. Customer hereby releases JCI from any liability for any event or condition customarily covered by commercial liability insurance. Customer understands that neither the Services nor the Covered Equipment are designed to reduce, but not eliminate, certain risks. JCI does not guaranty that neither the Services nor Covered Equipment will prevent personal injury, unauthorized entrances or fire and smoke damage to the Premises. Customer further agrees that Customer has read and understands the terms and conditions of this Agreement.

#### **H. INDEMNITY**

JCI and Customer shall each indemnify the other party and its officers, agents, directors, and employees, from any and all damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of third party claims, demands, or suits for bodily injury (including death) or damage to tangible property to the extent arising out of the negligence or intentional misconduct of the indemnifying party or its employees or agents. Customer expressly agrees that JCI shall be responsible for injury, damage, or loss only to the extent caused directly by JCI's negligence or intentional misconduct. The obligations of JCI and Customer under this section are further subject to sections I and K below.

#### **I. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL JCI AND ITS AFFILIATES AND THEIR RESPECTIVE PERSONNEL, SUPPLIERS AND VENDORS ("JCI PARTIES") BE LIABLE TO YOU OR ANY THIRD PARTY UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR ANY: (1) SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR INDIRECT DAMAGES; (2) LOST PROFITS, REVENUES, DATA, CUSTOMER OPPORTUNITIES, BUSINESS, ANTICIPATED SAVINGS, OR GOODWILL; (3) BUSINESS INTERRUPTION; OR (4) DATA LOSS OR OTHER LOSSES ARISING FROM VIRUSES, RANSOMWARE, CYBER ATTACKS OR FAILURES OR INTERRUPTIONS TO NETWORK SYSTEMS. IN ANY CASE, THE ENTIRE AGGREGATE LIABILITY OF THE JCI PARTIES UNDER THIS AGREEMENT FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE SHALL BE LIMITED TO \$250,000. CUSTOMER UNDERSTANDS THAT JCI IS NOT AN INSURER REGARDING THE WORK OR THE SERVICES. JCI SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE OR LOSS THAT MAY RESULT FROM FIRE SAFETY OR SECURITY EQUIPMENT THAT FAILS TO PERFORM PROPERLY OR FAILS TO PREVENT A CASUALTY OR LOSS.

#### **J. FORCE MAJEURE**

JCI shall not be liable, nor in breach or default of its obligations under this Agreement, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this Agreement, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under the Agreement. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the scheduled milestones set forth in the Agreement due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.

#### **K. RESOLUTION OF DISPUTES**

If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve such dispute by negotiation. In the event the dispute is unable to be resolved, either party shall have the right to initiate arbitration by filing with the American Arbitration Association provided no other legal action has been previously filed. Upon filing of the arbitration, the AAA shall have the exclusive jurisdiction over the Dispute. Thus, either party may decide to file an action in a court of competent jurisdiction. If that court filing is the first legal proceeding filed, that court shall

## Johnson Controls **Planned Service Proposal**

### Prepared for CITY OF AURORA - SEAM

have jurisdiction over the Dispute to the exclusion of any arbitration. Arbitration shall be conducted in accordance with the then current arbitration rules of the American Arbitration Association or other arbitration service mutually agreed to by the parties. Arbitration must be completed within sixty (60) days after the Dispute is submitted to arbitration unless the parties mutually agree otherwise. The award rendered by the arbitrator shall be final, and judgment issued by the Arbitrator may be entered in accordance with applicable law in any court having competent jurisdiction. The party prevailing in the arbitration or court proceeding shall be entitled to an award of its reasonable costs, including reasonable attorneys' fees, incurred as a result of the Dispute. CUSTOMER MUST BRING ANY CLAIM AGAINST JCI WITHIN ONE (1) YEAR AFTER THE CLAIM AROSE. IF CUSTOMER DOES NOT, CUSTOMER WILL HAVE IRREVOCABLY WAIVED ITS RIGHT TO SUE JCI AND/OR INSTITUTE OTHER PROCEEDINGS, AND JCI SHALL HAVE NO LIABILITY TO CUSTOMER FOR SUCH CLAIM. TIME IS OF THE ESSENCE RELATIVE TO CUSTOMER PURSUING ANY SUCH CLAIM. THE PROVISIONS OF THIS AGREEMENT WHICH APPLY TO ANY CLAIM SHALL REMAIN IN EFFECT EVEN AFTER THE AGREEMENT IS TERMINATED. JCI AND CUSTOMER EACH WAIVE THEIR RIGHT TO A JURY TRIAL.

#### **L. TERM AND TERMINATION**

1. The Original Term is as set forth herein. At the conclusion of the Original Term, this Agreement shall automatically renew and extend for successive terms equal to the Original Term unless the Customer or JCI gives the other written notice it does not want to renew prior to the end of the then-current term (each a "Renewal Term"). The notice must be delivered at least ninety (90) days prior to the end of the Original Term or any Renewal Term. The Original Term and any Renewal Term may be referred to herein as the "Term." Customer agrees to issue and send a Purchase Order to JCI at least thirty (30) days prior to expiration of the Original Term or any Renewal Term if necessary for payments to be processed, but failure to do so is not a pre-condition to Renewal Term payments being due to JCI.
2. Remote Monitoring Services and Remote Operating Services may be immediately canceled by either party if JCI's Remote Operations Center, connecting wires, or monitoring systems are destroyed by fire or other catastrophe, or where the Premises are so substantially damaged that it is impractical to continue Services.
3. If either party fails to perform any of its material obligations under this Agreement, the other party shall provide written notice thereof to the party alleged to be in default. Should the party alleged to be in default fail to respond in writing or take action to cure the alleged default within ten (10) days of receiving such written notice, the notifying party may terminate this Agreement by providing written notice of such termination.
4. JCI & the Customer may terminate this Agreement and discontinue any Services if JCI is unable to obtain or continue to support technologies, equipment or component parts that are discontinued, become obsolete or are otherwise not commercially available, or for convenience upon forty-five (45) days written notice. JCI will not be liable for any damages or subject to any penalty as a result of any such termination.
5. Upon termination of this Agreement for any reason, Customer shall pay to JCI all undisputed amounts owed through the date of termination within thirty (30) days of such termination. If Customer terminates this Agreement, other than in accordance with this Section L, Customer shall also pay Johnson Controls 35% of the charges for Services remaining to be paid for the unexpired Term of this Agreement as liquidated damages and not as a penalty. Customer shall provide JCI with reasonable access to the Premises to remove the Gateway Device and any other JCI property and to un-program any controls, intrusion, fire, or life safety system, as applicable. Customer shall be liable for all fees, costs, and expenses that JCI may incur in connection with the enforcement of this Agreement, including without limitation, reasonable attorney fees, collection agency fees, and court costs.

#### **M. ASBESTOS, MOLD, BIOHAZARDS, AND HAZARDOUS MATERIALS**

"Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant, or contaminant under any local, state, or federal law, regulation, or ordinance relating to or addressing public and employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold, lead-based paints, biohazards such as but not limited to Legionella and asbestos-containing materials ("ACM"). Neither Customer nor JCI desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of ACM.

JCI will be responsible for removing or disposing of any Hazardous Materials that it uses in providing the Services ("JCI Hazardous Materials") and for the remediation of any areas affected by the release of JCI Hazardous Materials. For other Hazardous Materials that may be present at its facilities ("Non-JCI Hazardous Materials"), Customer shall supply JCI with any information in its possession relating to the presence of Hazardous Materials if their presence may affect JCI's performance of the Services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Services, it shall immediately stop the Services in the affected area and notify the other party. As between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and for the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials and must provide a certificate of abatement before JCI will be obligated to perform or continue its Services, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted in disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) Customer shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Services. Customer shall defend and indemnify JCI against any losses, costs, damages, expenses, and claims arising out of its failure to comply with this Section M.

#### **N. CUSTOMER DATA**

Customer data obtained from the Services is owned by and shall belong to Customer. JCI will access and use Customer data to provide Services to Customer. Except as set forth herein, JCI will not disclose to any third party any individual Customer data acquired through performance of the Services without Customer's consent. Customer agrees that JCI and its subsidiaries, affiliates and approved third party contractors and developers may collect and use Customer data for any reason, as long as any external use of the data is on a de-identified basis that does not personally identify Customer or any individual. Customer hereby grants JCI a perpetual, worldwide, irrevocable, royalty free license to use, modify, manipulate, sublicense, and create derivative works from such data. JCI shall retain all rights to any intellectual property, data, materials and products created as a result of its performance of Services.

#### O. JCI'S INTELLECTUAL PROPERTY

JCI shall retain all right, title and interest in any (a) work provided to Customer, including without limitation, all software source and object code, documentation, technical information or data, specifications and designs and any changes, improvements or modifications thereto ("Deliverables"), and (b) Know-How (defined below) employed by JCI in the creation of the Deliverables or performance of the Services, whether known to JCI prior to, or developed or discovered or acquired in connection with, the performance of its obligations under this agreement. Ownership of all Deliverables and Know-How shall vest solely in JCI and no Deliverables shall be deemed "works made for hire." Without limiting the generality of the foregoing, ownership of all source files used in the course of performing the Services shall remain the exclusive property of JCI. For purposes of this Agreement, "Know-How" means any know-how, processes, techniques, concepts, methodologies, tools, analytical approaches, database models and designs, discoveries, and ideas furnished, produced by, developed, or used by JCI in the creation or provision of the Deliverables or in the performance of the Services, and any changes, improvements, or modifications thereto or derivatives thereof.

#### P. DIGITAL ENABLED SERVICES

If JCI provides Digital Enabled Services under this Agreement, these Digital Enabled Services require the installation and deployment of site assessment tools and the collection, transfer and ingestion of building, equipment, system time series, and other data to JCI's cloud-hosted software applications. **Customer consents to the installation and deployment of site assessment tools and the collection, transfer and ingestion and use of such data by JCI to enable JCI to provide, maintain, protect and improve the Digital Enabled Services and JCI's products and services. Customer acknowledges that, while Digital Enabled Services generally improve equipment performance and services, Digital Enabled Services do not prevent all potential malfunction, insure against all loss, or guarantee a certain level of performance and that JCI shall not be liable for any injury, loss or damage caused by any act of omission of JCI related to or arising from the monitoring of the equipment under the Digital Enabled Services.** Certain equipment sold hereunder includes by default JCI's Connected Equipment Services. **Digital Enabled Services may be on by default and the remote connection will continue to connect to Customer's Equipment through the full equipment lifecycle, unless Customer specifically requests in writing that JCI disable the remote connection or JCI discontinues or removes such remote connection.** If Customer's equipment includes Digital Enabled Services, JCI will provide a cellular modem or other gateway device ("Gateway Device") owned by JCI or Customer will supply a network connection suitable to establish a remote connection with Customer's applicable equipment to permit JCI to perform Digital Enabled Services. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using Digital Enabled Service's mobile or web application. Any Gateway Devices provided hereunder shall remain JCI's property, and JCI may upon reasonable notice access and remove such Gateway Device and discontinue services in accordance with the Software Terms. If Customer does not permit JCI to connect via a connection validated by JCI for the equipment or the connection is disconnected by Customer, and a service representative must therefore be dispatched to the Customer site, then the Customer shall pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for services performed by the service representative.

#### Q. JCI DIGITAL SOLUTIONS

**JCI Digital Solutions.** Use, implementation, and deployment of the software and hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto. Notwithstanding any other provisions of this Agreement, unless otherwise set forth in the applicable order, quote, proposal or purchase documentation, the following terms apply to Software that is provided to Customer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"):

Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted in the applicable order, quote, proposal or purchase documentation. At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term. To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable. Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof. Customer shall pay all invoiced amounts within thirty calendar days after the date of invoice. Payments not made within such time period shall be subject to late charges as set forth in the Software Terms. Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at Johnson Controls' then-applicable list price for that Software offering. Any use of Software that exceeds the scope, metrics or volume set forth in this Agreement and applicable SOW will be subject to additional fees based on the date such excess use began.

#### R. Privacy.

**1. JCI as Processor:** Where JCI factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at [www.johnsoncontrols.com/dpa](http://www.johnsoncontrols.com/dpa) ("DPA") shall apply.

**2. JCI as Controller:** JCI will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent

#### S. MISCELLANEOUS PROVISIONS

**1.** All notices required to be given hereunder shall be in writing and shall be considered properly given if: (a) delivered in person, (b) sent via



## Johnson Controls **Planned Service Proposal**

### Prepared for CITY OF AURORA - SEAM

the United States Postal Service, postage prepaid, registered or certified with return receipt requested, (c) sent by overnight delivery service (e.g., FedEx, UPS), or (d) sent by facsimile, email or other electronic means and confirmed by facsimile, return email or telephone.

2. This Agreement may not be assigned by Customer without JCI's prior written consent. JCI shall have the right to assign this Agreement to any other person, firm, or corporation without Customer's consent. JCI shall also have the right, in its sole discretion, to subcontract any portion of the Services. This Agreement inures to the benefit of and is applicable to any assignees or subcontractors of JCI, and is binding upon Customer with respect to said assignees or subcontractors with the same force and effect as it binds Customer to JCI.

3. This Agreement shall be subject to and governed by the laws of the State where the Services are performed.

4. If any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

5. This Agreement is the entire contract between JCI and Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between the parties.

6. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.

7. JCI expressly disclaims any requirement, understanding or agreement, express or implied, included directly or incorporated by reference, in any Customer purchase order, solicitation, notice or otherwise, that any of JCI's personnel be vaccinated against Covid-19 under any federal, state/provincial or local law, regulation or order applicable to government contracts or subcontracts, including, without limitation, Presidential Executive Order 14042 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors") and Federal Acquisition Regulation (FAR) 52.223-99 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors"). Any such requirement shall only apply to JCI's personnel if and only to the extent contained in a written agreement physically signed by an authorized officer of JCI.

8. If there are any changes to Customer's facilities or operations, or to applicable regulations, laws, codes, taxes, or utility charges, that materially affect JCI's performance of the Services or its pricing thereof, JCI shall have the right to an equitable and appropriate adjustment to the scope, pricing, and other affected terms of this Agreement.

9. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.

#### **ADDENDUM TO PSA TERMS AND CONDITIONS FOR MONITORING OF INTRUSION, FIRE AND OTHER SAFETY SYSTEMS**

If Remote Monitoring Services explicitly includes remote fire alarm monitoring, security alarm monitoring or video monitoring in the scope of work or customer charges, the Agreement is hereby modified and amended to include the terms and provisions of this Addendum to the PSA for Monitoring of Intrusion, Fire and Safety Systems (the "Addendum"). Capitalized terms that are not defined herein, shall have the meaning given to them in the Agreement. In the event of a conflict between the terms and conditions of this Addendum and those appearing in the Agreement, the terms and conditions of this Addendum shall prevail.

**1. Remote Monitoring of Alarm Signals.** If JCI receives an emergency alarm signal at JCI's ROC, JCI shall endeavor to notify the appropriate police or fire department, or other emergency response agency having jurisdiction and JCI shall endeavor to notify Customer or its designated representative by email unless instructed to do otherwise by Customer in writing and/or based on standard operating procedures for the ROC. JCI, upon receipt of a non-emergency signal from the Premises, shall endeavor to notify Customer's representative pursuant to Customer's written instructions, defaulting to email or text notification. Customer acknowledges that if the signals transmitted from the Premises will be monitored in a monitoring facility not operated by JCI, the personnel in such monitoring facilities are not the agents of JCI, nor does JCI assume any responsibility for the manner in which such signals are monitored or the response to such signal.

**2. Remote Monitoring Services Pricing.** Remote Monitoring Services shall be provided by JCI if the Agreement includes a charge for such Service. If such Service is purchased, JCI will monitor the number of alarms for the Premises and the initial charge is based on the pricing agreed to by the parties, subject to the terms and conditions of this Addendum. If the number of alarms produced at the Premises goes beyond the contracted number of alarms in a month, Customer will be billed an overage fee.

**3. Communications Media.** Customer acknowledges that monitoring of Covered Equipment requires transmission of signals over standard telephone lines and/or the Internet and that these modes of transmission may be interrupted, circumvented, or compromised, in which case no signal can be transmitted from the Premises to the monitoring facility. Customer understands that to allow the monitoring facility to be aware of such a condition, additional or alternative protection can be installed, such as line security devices, at Customer's cost and expense and for transmission via telephone line only. Customer acknowledges it is aware that line security devices are available and, unless expressly identified in Schedule A - Equipment List, has declined to purchase such devices. Customer further acknowledges that such additional protection is not available for Internet transmission under this Agreement.

**4. False/Unnecessary Alarms; Service Calls.** At JCI's option, an additional fee may be charged for any false alarm or unnecessary Service Visit caused or necessitated by Customer. In addition, Customer shall be fully responsible and liable for fines, penalties, assessments, taxes, fees or charges imposed by a governmental body, telephone, communication, or signal transmission company as the result of any false alarm and shall

## Johnson Controls **Planned Service Proposal**

### Prepared for CITY OF AURORA - SEAM

reimburse JCI for any costs incurred by JCI in connection therewith. Customer shall operate the system carefully so as to avoid causing false alarms. False alarms can be caused by severe weather or other forces beyond the control of JCI. If an undue number of false alarms are received by JCI, in addition to any other available remedies available to JCI, JCI may terminate this Agreement and discontinue any Service(s) and seek to recover damages. If an agent is dispatched, by a governmental authority or otherwise, to respond to a false alarm, where the Customer, or any other party has intentionally, accidentally or negligently activated the alarm signal, Customer shall be responsible for and pay any and all fees and/or fines assessed with respect to the false alarms and pay to JCI the additional charges and costs incurred by it from a false alarm. If the Customer's system has a local audible device, Customer authorizes JCI to enter the Premises to turn off the audible device if JCI is requested or ordered to do so by governmental authorities, neighbors or anyone else and Customer will pay JCI its standard service call charge for each such visit. Police agencies require repair of systems which cause false dispatches. Customer shall maintain the equipment necessary for JCI to supply the Services and Customer shall pay all costs for such maintenance. At least monthly, Customer will test the system's protective devices and send test signals to the ROC for all monitoring equipment in accordance with instructions from JCI or the ROC. Customer agrees to test the monitoring systems, including testing any ultrasonic, microwave, infrared, capacitance or other electronic equipment prior to the end of each month and will immediately report to JCI if the equipment fails to respond to the test. Customer shall make any necessary repairs as soon after receipt of notice as is reasonably practical. Customer shall at all times be solely responsible for maintaining any sprinkler system in good working order and provide adequate heat to the Premises.

**5. Remote Monitoring of Video Monitoring Services.** During the Term, JCI's sole and only obligation arising from the inclusion of Video Monitoring Services in any Service offering shall be to monitor the digital signals actually received by JCI at its ROC from means of the Video System and upon receipt of a digital signal indicating that an alarm condition exists, to endeavor, as permitted by law, to notify the police or other municipal authority deemed appropriate in JCI's absolute discretion and to such persons Customer has designated in writing to JCI to receive notification of such alarm condition as set forth herein. No alarm installation, repair, maintenance or guard responses will be provided under this Video Monitoring Services option. JCI may, without prior notice to Customer, in response to applicable law or insurance requirements, revise, replace, discontinue and/or rescind its response policies and procedures.

**a. Inception and conclusion of service.** Video Monitoring shall be provided by JCI if this Agreement includes a charge for Video Monitoring Services. If such Video Monitoring Service is purchased, Video Monitoring Services will begin when the Video System is installed and operational, and when the necessary communications connection is completed. No obligation for the provision of this Video Monitoring Service will commence until these requirements are met.

**b. Customer Equipment.** Customer shall obtain, at its own cost and expense: (a) the equipment necessary to connect to JCI's ROC; and (b) whatever permission, permits or licenses that may be necessary from all persons, governmental authorities, utility, and any other related service providers in connection with the Services. The video system to be used by the Customer is intended to produce and transmit video images (the "Video System Images") of the Premises to the ROC (the "Video System"). JCI makes no promise, warranty or representation that the video system will operate as intended. Customer further agrees that, notwithstanding any role or participation by JCI in Video System and Video System Images, JCI shall have no responsibility or obligation with regard to Customer, the Video System or any other Customer equipment.

**c. System Location.** The Video System related cameras shall be located and positioned by Customer along with attendant burglary digital alarm signal(s). Customer shall ensure that the Video System related cameras will be positioned and located such that it will only produce or capture Video System Images of areas of the Premises. Customer will provide adequate illumination under all operating conditions for the proper viewing of the cameras. Customer acknowledges and agrees that JCI has exercised no control over, or participated in locating or positioning the Video System related camera including, but not limited to selecting what areas, locations, things or persons that the Video System Images may depict or capture.

**d. Images.** Customer shall be solely responsible for the Video System Images produced or captured by the Video System and Customer shall defend, indemnify and hold harmless JCI and its officers, agents, directors, and employees, from any and all damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of third party claims, demands, or suits in connection with the use, operation, location and position of the Video System, and the Video System Images resulting there from, including, but not limited to, any claims of any person depicted in a Video System image, including but not limited to, any claim by such person that his or her privacy has been invaded or intruded upon or his or her likeness has been misappropriated. Any duty to obtain the consent or permission of any person depicted in a Video System Image to have his or her likeness to be depicted, received, transmitted or otherwise used, and the duty to determine and comply with any and all applicable laws, regulations, standards and other obligations that govern the legal, proper and ethical use of video capturing devices, such as the Video System, including, but not limited to, notification that the Video System is in use at the Premises, shall be the sole responsibility of the Customer. JCI agrees to make Video System Images available to Customer and upon their respective request. JCI makes no promise, warranty or representation as to the length of time that it retains Video Images, or the quality thereof.

**e. Video System Signals.** When a signal from the Video System is received, JCI reserves the right to verify all alarm signals before notifying emergency personnel, and may choose not to notify emergency personnel if it has reason to believe, in its sole discretion, that an emergency condition does not exist. JCI will first attempt to verify the nature of the emergency by using visual verification and/or the two-way voice system (if applicable) of the Video System included in Customer's system. If JCI determines that an emergency condition exists, JCI will endeavor to notify the proper police or emergency contact on a notification call list provided in writing by Customer to JCI, or its designee. When a non-emergency signal is received, JCI will attempt to contact the first available Customer representative on the notification call list but will not notify emergency authorities, this notification will be in the form of email or text and follow ROC processes. If the customer requires phone calls to the call list for any emergency or non-emergency situation, the customer will need to make this request in writing. Customer authorizes and directs JCI, as its agent, to use its full discretion in causing the arrest or detention of any person or persons on or around the premises who are not authorized by Customer. **JCI WILL NOT ARREST OR DETAIN ANY PERSON.**

**f. Recordings.** Customer consents to the tape recording of all telephonic communications between the Premises and JCI. JCI will have no liability arising from recording (or failure to record) or publication of any two-way voice communications, other video recordings or their quality. JCI shall have no liability in connection with Video System or the Video System Images, including, but not limited to, any

## Johnson Controls **Planned Service Proposal**

### Prepared for CITY OF AURORA - SEAM

failure, omission, negligence or other act by JCI, or any of its officers, employees, representatives, agents, contractors, or any other third party in connection with the receipt (or failure of receipt), transmission, reading, interpreting, or response to any Video Image.

**6. Risk of Loss is Customer's.** JCI does not represent or warrant that the Services will prevent any loss by burglary, holdup, fire or otherwise, or that the Services will in all cases provide the protection for which it is installed or intended, or that the Services will be uninterrupted or error-free. Customer assumes all risk of loss or damage to the Premises being monitored and to its contents, whether belonging to Customer or others; and has not relied on any representations and warranties of JCI, express or implied, except as specifically set forth in this Agreement. Further, expressly excluded from this Agreement are the warranties of merchantability or fitness or suitability for a particular purpose.

**7. JCI'S RECEIPT OF ALARM SIGNALS, ELECTRONIC DATA, VOICE DATA OR IMAGES (COLLECTIVELY, "ALARM SIGNALS") FROM THE EQUIPMENT OR SYSTEM INSTALLED IN THE PREMISES IS DEPENDENT UPON PROPER TRANSMISSION OF SUCH ALARM SIGNALS. JCI'S ROC CANNOT RECEIVE ALARM SIGNALS WHEN THE CUSTOMER'S TELCO SERVICE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH, OR IS OTHERWISE DAMAGED, OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELCO SERVICE OR TRANSMISSION MODE FOR ANY REASON INCLUDING BUT NOT LIMITED TO NETWORK OUTAGE OR OTHER NETWORK PROBLEMS SUCH AS CONGESTION OR DOWNTIME, ROUTING PROBLEMS, OR INSTABILITY OF SIGNAL QUALITY. CUSTOMER UNDERSTANDS THAT SIGNAL TRANSMISSION FAILURE MAY OCCUR OVER CERTAIN TYPES OF TELCO SERVICES SUCH AS SOME TYPES OF DSL, ADSL, VOIP, DIGITAL PHONE, INTERNET PROTOCOL BASED PHONE OR OTHER INTERNET INTERFACE-TYPE SERVICE OR RADIO SERVICE, INCLUDING CELLULAR, WIRELESS OR PRIVATE RADIO, OR CUSTOMER'S PROPRIETARY TELCOMMUNICATION NETWORK, INTRANET OR IP-PBX, OR OTHER THIRD-PARTY EQUIPMENT OR VOICE/DATA TRANSMISSION NETWORKS OR SYSTEMS OWNED, MAINTAINED OR SERVICED BY CUSTOMER OR THIRD PARTIES, IF: (1) THERE IS A LOSS OF NORMAL ELECTRIC POWER TO THE MONITORED PREMISES OCCURS (THE BATTERY BACK-UP FOR JCI'S ALARM PANEL DOES NOT POWER CUSTOMER'S COMMUNICATION FACILITIES OR TELCO SERVICE); OR (2) ELECTRONIC COMPONENTS SUCH AS MODEMS MALFUNCTION OR FAIL. CUSTOMER UNDERSTANDS THAT JCI WILL ONLY REVIEW THE INITIAL COMPATIBILITY OF THE ALARM SYSTEM WITH CUSTOMER'S TELCO SERVICE AT THE TIME OF INITIAL INSTALLATION OF THE ALARM SYSTEM AND THAT CHANGES IN THE TELCO SERVICE'S DATA FORMAT AFTER JCI'S INITIAL REVIEW OF COMPATIBILITY COULD MAKE THE TELCO SERVICE UNABLE TO TRANSMIT ALARM SIGNALS TO JCI'S ROC. IF JCI DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S TELCO SERVICE IS COMPATIBLE, JCI WILL PERMIT CUSTOMER TO USE ITS TELCO SERVICE AS THE PRIMARY METHOD OF TRANSMITTING ALARM SIGNALS, ALTHOUGH CUSTOMER UNDERSTANDS THAT JCI RECOMMENDS THAT CUSTOMER ALSO USE AN ADDITIONAL BACK-UP METHOD OF COMMUNICATION TO CONNECT CUSTOMER'S ALARM SYSTEM TO JCI'S ROC REGARDLESS OF THE TYPE OF TELCO SERVICE USED. CUSTOMER ALSO UNDERSTANDS THAT IF JCI DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S TELCO SERVICE IS, OR LATER BECOMES, NON-COMPATIBLE, OR IF CUSTOMER CHANGES TO ANOTHER TELCO SERVICE THAT IS NOT COMPATIBLE, THEN JCI WILL REQUIRE THAT CUSTOMER USE AN ALTERNATE METHOD OF COMMUNICATION ACCEPTABLE TO JCI AS THE PRIMARY METHOD TO CONNECT CUSTOMER'S ALARM SYSTEM TO JCI'S ROC. JCI WILL NOT PROVIDE FIRE OR SMOKE ALARM MONITORING FOR CUSTOMER BY MEANS OTHER THAN AN APPROVED TELCO SERVICE AND CUSTOMER UNDERSTANDS THAT IT IS SOLELY RESPONSIBLE FOR ASSURING THAT IT USES APPROVED TELCO SERVICE FOR ANY SUCH MONITORING AND THAT IT COMPLIES WITH NATIONAL FIRE ALARM STANDARDS AND LOCAL FIRE CODES. CUSTOMER ALSO UNDERSTANDS THAT IF CUSTOMER'S ALARM SYSTEM HAS A LINE CUT FEATURE, IT MAY NOT BE ABLE TO DETECT ALARM SIGNALS IF THE TELCO SERVICE IS INTERRUPTED, AND THAT JCI MAY NOT BE ABLE TO DOWNLOAD SYSTEM CHANGES REMOTELY OR PROVIDE CERTAIN AUXILIARY MONITORING SERVICES THROUGH A NON-APPROVED TELCO SERVICE. CUSTOMER ACKNOWLEDGES THAT ANY DECISION TO USE A NON-APPROVED TELCO SERVICE AS THE METHOD FOR TRANSMITTING ALARM SIGNALS IS BASED ON CUSTOMER'S OWN INDEPENDENT BUSINESS JUDGMENT AND THAT ANY SUCH DECISION IS MADE WITHOUT ANY ASSISTANCE, INVOLVEMENT, INPUT, RECOMMENDATION, OR ENDORSEMENT ON THE PART OF JCI. CUSTOMER ASSUMES SOLE AND COMPLETE RESPONSIBILITY FOR ESTABLISHING AND MAINTAINING ACCESS TO AND USE OF THE NON-APPROVED TELCO SERVICE FOR CONNECTION TO THE ALARM MONITORING EQUIPMENT. CUSTOMER FURTHER UNDERSTANDS THAT THE ALARM SYSTEM MAY BE UNABLE TO SEIZE THE TELCO SERVICE TO TRANSMIT AN ALARM SIGNAL IF ANOTHER CONNECTION HAS DISABLED, IS INTERFERING WITH, OR BLOCKING THE CONNECTION.**



Johnson Controls **Planned Service Proposal**  
Prepared for CITY OF AURORA - SEAM

**CUSTOMER ACCEPTANCE**

In accepting this Agreement, Customer agrees to the terms and conditions contained herein including those on the following page(s) of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes requested by Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. **ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.**

Pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment due date of NET 30, and invoices are to be paid via ACH bank transfer. Johnson Controls ACH/EFT bank transfer details will be forth coming upon contractual agreement.

This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.

To ensure that JCI is compliant with your company's billing requirements, please provide the following information:

PO is required to facilitate billing: ☐ NO: This signed contract satisfies requirement

☐ YES: Please reference this PO Number: \_\_\_\_\_

AR Invoices are accepted via e-mail: ☐ YES: E-mail address to be used: \_\_\_\_\_

☐ NO: Please submit invoices via mail ☐ NO: Please submit via \_\_\_\_\_

[END OF DOCUMENT]



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Custodial Services for the Southeast Area Maintenance Facility (SEAM)
<b>Item Initiator:</b> Heidi Ellis, Procurement Agent, Finance
<b>Staff Source/Legal Source:</b> Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Consideration to AWARD A CHANGE ORDER in the Not-to-Exceed Amount of \$112,998.00 to Add the Southeast Area Maintenance Facility (SEAM) to the Contract with Velociti Services dba ISS Facility Services, Inc. for Custodial Cleaning Services for the Southern Half of the City through February 28, 2024

A waiver of reconsideration is requested because Aurora Water Staff will be moving into the SEAM facility starting on September 1, 2023. The change order to add the SEAM facility to the Velociti Services dba ISS Facility Services Inc., for custodial cleaning services for Southern Half of the City contract is needed to begin prior to the end of August so the facility can be outfitted with cleaning supplies, toilet paper, soap, and other essential day porter materials prior to move in.

Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Hanosky Hernandez, 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 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 checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration<br><i>Reason for waiver is described in the Item Details field above.</i> |   |

### 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 first extension of the contract with Velociti Services dba ISS Facility Services, Inc. for Custodial Services for the Southern Half of the City Facilities in the amount of \$403,951.58 was reported on the Weekly Report to Council dated March 13, 2023.

---

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

Aurora Water's new facility known as the Southeast Area Maintenance Facility (SEAM), is located at 26791 E. Quincy Avenue will require daily, weekly, and monthly custodial cleaning services at the SEAM facility Main Building, the office portion of the Warehouse, Trades building, and throughout the exterior portions of the campus. Construction on SEAM is expected to be completed in August 2023 with Aurora Water moving to the new facility during the months of September and October.

To ensure that all custodial cleaning service requirements are staffed properly and scheduled cleaning and stocking of bathrooms supplies are completed within the timeline, the SEAM facilities will be added to the current Velociti Services d/b/a ISS Facility Services Inc. contract through February 28, 2024.

Velociti Services d/b/a ISS Facility Services Inc. submitted a proposal in the not-to-exceed amount of \$112,998.00 for custodial cleaning services for the SEAM facility to begin in September 2023. The pricing is in line with their 2023 contract pricing. Therefore, staff considers the Velociti Services d/b/a ISS Facility Services Inc.'s pricing to be fair and reasonable.

Purchasing Staff and the Project Manager determined that it is in the best interest of the City to award this change order. Aurora Water has submitted a budget in the not-to-exceed amount of \$112,998.00 for the additional custodial cleaning services as required at the SEAM facility.

City Council approval is required for Change Orders exceeding an accumulative total over \$100,000.00.

Based on the above, staff recommends the award of a Change Order to Velociti Services d/b/a ISS Facility Services Inc., in the not-to-exceed amount of \$122,998.00 00 for additional custodial cleaning services as required for the SEAM facility through February 28, 2024.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this change order will come from the Water and Wastewater Fund operating budgets in the not-to-exceed amount of \$112,998.00.

ORGS: 52160 (SEAM Facility-Water); 52161 (SEAM Facility-Sewer); 52162 (SEAM Facility-Storm)

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does City Council approve a Change Order to the contract with Velociti Services dba ISS Facility Services Inc. to provide Custodial Cleaning Services for the new SEAM facility through February 28, 2024, in the not-to-exceed amount of \$112,998.00?

---

## **LEGAL COMMENTS**

Any change order or amendment that would cause the **cumulative** total of all change orders to a contract to exceed \$100,000.00 requires City Council approval (Section 2-676(II)(b)(3) A.C.C.). (Hernandez)



Services Proposal for

CITY OF AURORA  
SEAM Building

*Prepared for*  
**CITY OF AURORA**



## Contents

<b>Executive Summary .....</b>	<b>3</b>
<b>Velociti History and Formation .....</b>	<b>4</b>
Company Geographic Coverage .....	5
Industries We Serve .....	5
Services Capabilities .....	5
<b>References with Contact .....</b>	<b>7</b>
<b>Valued Customers.....</b>	<b>8</b>
Spotlight on Stand Out Partnerships- Footprint Arena: Phoenix, AZ .....	8
<b>Our Experience .....</b>	<b>9</b>
Service Philosophy .....	9
The Velociti Services Approach .....	9
<b>Organizational Structure.....</b>	<b>12</b>
Corporate Leadership and Support Team .....	12
Regional Support Team .....	13
<b>Safety Plan and QA Plan .....</b>	<b>14</b>
Client Feedback .....	15
Identification and Correcting Deficiencies .....	16
Compliance Resolution Program.....	16
Initial Employee Training.....	18
Emergency Response Plan .....	20
<b>Service Methodology .....</b>	<b>22</b>
Cleaning Methodology .....	23
Products & Machinery.....	23
Compliance.....	23
Sustainability & Green Cleaning Program .....	24
Transition Milestone .....	24
Service Assessments .....	25
Background Check Process.....	25
Hiring and Onboarding Plan .....	25
<b>Our People.....</b>	<b>26</b>
110% Club.....	26
Purpose .....	26
Program Overview .....	26
KPIs .....	Error! Bookmark not defined.
<b>Appendix A Pricing.....</b>	<b>29</b>
COI – Sample .....	30
W-9.....	30

## Executive Summary

August 8<sup>th</sup>, 2023

Tracy Walton

Dear Tracy,

Velociti Services is incredibly pleased to provide our capabilities for SEAM Building and have designed a facilities management program to specifically accommodate your needs.

Velociti Services provides a wide range of hard and soft facilities services solutions to a diverse set of clients and industries to include SEAM Building. Our company is a division of Argenbright Holdings, a company that employs over 20,000 associates and produces over \$1 billion in revenue in the facility services and aviation services industries. The Argenbright family of companies has been operating since 1978. Key deliverables SEAM Building.

- **Expertise & Solutions:** Fresh minds/Expertise, transparent communication, and implementation of betterment solutions to improve efficiencies and production in all aspects for general cleaning, floor care, restroom care, exterior/parking lots, periodic work, offices, utility rooms, service corridors, and stairwells. We will inspect what we expect, measure to manage the team live through time and motion.
- **Consistent and measurable training program-** Fresh minds and expertise will evaluate all working employees at SEAM Building. We will measure existing efficiencies with our 60-day evaluation. Training opportunities will be identified, scheduled, deployed, and tracked continuously.

We propose to have Quarterly Business Reviews with all CITY OF AURORA to ensure our entire business operation and partnership are serving the county through the duration of our partnership. These QBR (Quarterly Business Review) sessions are attended by our local, regional, and corporate support teams to ensure our new client in CITY OF AURORA would be thoroughly supported by all layers of our organization routinely.

Velociti plans to heavily invest dedicated resources in supporting this program for SEAM Building if awarded this business. Our primary objective will be to provide SEAM Building the highest quality working environment that is safe and keeps its attractive appearance at all times.

The entire staff of Velociti Services anticipates the opportunity to maintain your facility at the very highest standards. Our promise is to deliver the best service there is to you and your users'.

We look forward to discussing our proposal in detail in the coming weeks. Please let me know if you need additional information or have any questions. Thank you for this opportunity.

Respectfully,

Derek Mazurkewycz  
Director of Operations

## Velociti History and Formation

### **Background**

The Argenbright family of companies began our journey 50 years ago when our founder, Frank Argenbright, had a vision to start a business that provided a level of customer service that was lacking in the services industry and create a company where front-line, hourly associates felt valued.

Since those humble beginnings, this vision has never wavered. We continue to provide innovative solutions to our clients at a level of service excellence and responsiveness unmatched in the multiple industries we serve. Most importantly, it is critical for us to point out that we have a 50-year legacy of providing solutions-oriented services to the airline industry where we provide maintenance, security, and cleaning services to some of the most iconic international carriers in the world including, Delta, American, United, Southwest and FedEx. These airline customers have been with Frank Argenbright and our family of companies since the group's inception. These partnerships required us to comply with complex customer and regulatory standards and mirror much of the work that this RFP has outlined.

We have consistently delivered impressive customer engagement scores year over year that have significantly contributed to the positive experience of the millions of travellers we directly and indirectly touch. We wanted to share this to underscore that uncompromising service and innovative solutions are in our DNA and we hope we have the privilege of demonstrating these to SEAM Building and its residents.

### **Formation**

In 2021, Frank saw the opportunity to extend his vision and operating model to the facility services industry whose customers and associates were frequently underserved by large, inflexible, and unresponsive companies whose only focus was growth and bottom-line results, many times at the expense of their associates. So, in December 2021, the Argenbright Group acquired the Specialized Services Division of ISS Facilities Services, a multi-billion-dollar global facilities management company, which was re-branded as Velociti Services.

Our focus is simple. Be the change agent in an industry commonly viewed as a commodity (where price is the only differentiator) into one that provides unprecedented levels of service, engagement, value, and innovation.

### **Leadership**

Our leadership team, many of whom have been with the Argenbright family for over a decade, is passionately dedicated to challenging the norms within the facility services industry and enacting the change needed to prepare our customers and their businesses "to be ready for tomorrow." Our leaders, at all levels, are not only experts in understanding the nuances of the cleaning, maintenance, and engineering business, they have a mindset of providing unmatched service to both our clients and our associates that provides a unique and meaningful service delivery model.

### **Signature**

Through empowering and investing in our front-line associates, we have a closely bonded team who possess an unrelenting commitment to building trust, reliability, and responsiveness to ensure that wherever people gather their experience was enhanced by our team having been there.

We create environments that are safe, clean, perfectly maintained, and most importantly, represent the brands of our clients with distinction.

### **Future**

Velociti Services will continue to accelerate the rate of positive change in the facility services industry that allows clients to have a different, more effective option from which to choose for their diverse needs. We will remain committed to performing to evolving standards through education, innovation, and by infusing innovative ideas and technologies into programs. And we will always put our people in the center of everything we do.



## Company Geographic Coverage

We presently operate in 50 states under five geographic regions all led by an experienced Regional Leaders.



## Industries We Serve

We serve multiple industries to include:

- Retail, Malls, and Shopping Centers
- Airports
- Food courts/retail concourses
- Office buildings, corporate campuses, office parks
- Residential including apartment complexes and high-rise condominiums.
- Schools and universities
- Hospitals, medical facilities, and senior care living centers
- Government facilities
- Sports and leisure venues
- Manufacturing/coordination
- Energy resources
- Pharmaceutical

## Services Capabilities

Velociti Services provides a wide range of both hard and soft facility services to include:

### **Cleaning, Roads, and Grounds**

We provide daily cleaning, routine/specialized building cleaning, recycling, waste management, linen services, landscaping, roads & grounds services, winter services, mat services, and more.

### **Building Maintenance**

Providing both planned and reactive maintenance, Velociti provides external building, interior, elevator, mechanical, systems, forklift, security management, and ID services.

### **Physical Plant Operations**

Our plant operations services include engineering, building automation systems, instrument calibration, water systems, HVAC (Heating, Ventilation, and Air Conditioning), chemical treatment, incinerator operations, solid waste management, fire systems, and more!

### **Hospitality Services**

Velociti offers soft facility services for cafeteria, c-store, catering, vending, event services, reception area, shuttle bus services, and more.

### **Pharmaceutical Laboratory & EHS**

We provide biology support, HPLC support media preparation, and autoclaves reagent management. We provide sample receipt and distribution for specialty and bulk gasses.

### **Other facility Support Services**

Our team offers additional support services like mail services, document shredding, shipping & receiving, archive management, and more.

## Related Service Experience




We also have extensive experience and expertise in providing a wide range of janitorial cleaning and floorcare services to large, iconic, public-facing, and heavily trafficked properties including servicing:


- PNC Bank's 5 million square foot corporate headquarters complex in Pittsburgh, PA where we are responsible for cleaning VCT, carpet, marble, and terrazzo flooring.
- Baltimore Washington International (BWI) Airport, which contains expansive public areas and extensive terrazzo and unfinished concrete flooring (and extremely high customer standards).
- Bank of America Tower, a 35-story iconic high-rise in downtown Houston comprising 800,000 square feet, where we are responsible for providing a full range of cleaning services, floorcare, power washing, and window cleaning.
- The City of Jacksonville, Florida, has partnered with Velociti Services to provide cleaning services for all its facilities including City Hall, courthouse complex, and other municipal buildings. Under this contract, our team maintains with "dedicated perfection" 3,584,000 square feet across 83 different sites. In addition to general janitorial services, we provide a wide range of floorcare services including waxing, scrubbing/buffing, recoating, and carpet cleaning.


As one of the operating entities of the Argenbright group, Velociti has two sister companies in Unifi Services and ERM services that are currently operating locally in Los Angeles with brick and mortar, field operations, and hundreds of local employees. Leveraging our shared services, relationships with unions, the local workforce and interested in strategic growth with premier partners we have a network and infrastructure that is has capacity to serve the market at the highest level of attention to detail and service excellence.

## References with Contact



MC Realty Group	Services Provided: Janitorial/Housekeeping	
114 W 11 <sup>th</sup> St Ste 200 Kansas City, MO		
Square Footage: 5M+		
Years of Service- 20+		
Gregg Bedell		
855-605-1065		

Copaken Brooks	Services Provided: Janitorial/Housekeeping	
1100 Main Street, Kansas City, MO		
Square Footage: 1M+		
Years of Service- 20+		
Customer Contact – Craig Cooper		
816-701-5000		

H&R Block	Services Provided: FM (to include lead engineer and technicians)	
One H&R Block Way, Kansas City, MO		
Square Footage: 500,000		
Years of Service- 10+		
Customer Contact – Scott Conkling		
816-854-3000		

## Valued Customers

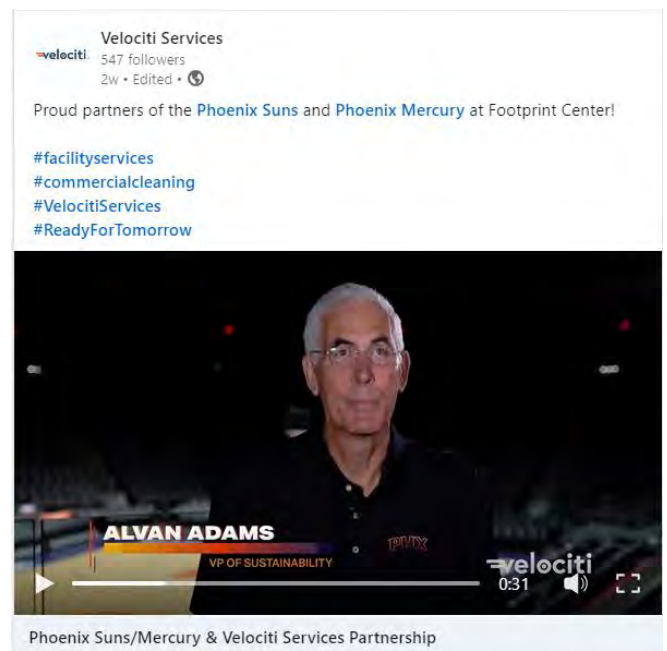
### Industry Segments

Velociti Services provides a wide range of facility support and management services to hundreds of clients spanning diverse industries including,



### Spotlight on Stand Out Partnerships- Footprint Arena: Phoenix, AZ

The Phoenix Suns and Footprint center arena have been kind enough to provide an endorsement of our service and partnership that you can see here:



<https://www.linkedin.com/feed/update/urn:li:activity:702330684089438208>

## Our Experience

At every location, our expertise enables us to provide:



- World-leading expertise in addressing cleaning, disinfection, and hygiene during pandemics, including SARS, H1N1, and COVID-19.
- The ability to recruit and train the best, most service-minded cleaning talent in the business, and helping them to put the customer's needs first.
- Cost-effective cleaning of the highest standard, while ensuring compliance with health, safety and environmental regulations across industries and continents.
- Partnerships with world-leading suppliers and innovators in cleaning solutions to embrace the latest innovations, including self-driving robots that reduce water and chemical use, chemical-free and plant-based detergents, and much more.
- Services that reduce waste and lower our environmental impact by recycling, saving on energy emissions, and cutting the use of plastic, transport, and packaging.

## Service Philosophy

First impressions matter – now maybe more than ever before. When a traveller, retail tenant, associate, or visitor enters a space managed and maintained by your organization, they will be immediately forming an opinion that will affect their perception of your property. In a COVID-19 world, people will want to know that your facilities are not only clean but also safe and sanitized. Every day, the custom cleaning services provided by Velociti Services help people keep healthy and safe, nurture wellbeing, and shape strong, pleasing, and reputable workplaces.

We use smart technology, highly effective cleaning products, and expertly trained associates to give you the peace of mind you need to run your operations to serve your constituents and community.

## The Velociti Services Approach

Velociti Services follows the principles of the Argenbright Group in providing responsive and legendary service to its customers and, by doing so, delivering a level of service that is unmatched by any of its competitors in an industry that is typically viewed as solely commodity and cost based. Velociti Services embraces the vision of being the BEST facility services company our clients and associates have ever worked with and, by doing so, earn lifetime partnerships. This fuels unprecedented associate engagement and loyalty that is translated into service excellence, measurable value to our customers and long-term client retention.

We believe that our proposed service offerings will have the following benefits to you, as a valued customer, and equally important, to the local service teams that support you.

- Highly experienced, responsive, and tenured management team who share a passion for providing an elevated level of service and caring for its front-line associates, treating them as valued customers.
- A work culture based on mutual respect, recognition, trust, and dignity – we never forget that our services to you are only as good as how we treat our associates.
- Large national and expanding presence that will lead to unprecedented career opportunities for our associates.
- Wide span and depth across markets, enabling us to better serve clients nationwide and to leverage more robust resources to support our clients and associates.
- An ability to attract the highest-quality, best-trained cleaning professionals in the industry.
- Flat, nimble, adaptable, and bureaucracy-free organizational structure
- Highly responsive regional and corporate support teams to address issues and concerns with a sustained level of urgency.
- Significant investments in our service team in the areas of infrastructure, technology, training, benefits, and human capital processes to enhance and better support the work product of each account team, district manager, and client.

- A philosophy of collaboration – actively seeking the input and involvement of our customers and service teams to make our offerings better, cost-effective, and more value-driven with metrics that are customized to what is important to each client and their stakeholders.



Our overall approach to facilities management is to serve as an important addition to your suite of value-add services by helping contribute to better business performance through a positive workplace and traveller/visitor experience.

And we do so with people who care about the job they do, the people they support, and the impact they make. We enable and empower our work teams to provide the highest levels of service through proven processes and the latest tools, equipment, and comprehensive training to make their efforts a success - to both our associates and you!

All our teams take immense pride in what they do and leverage their years of experience to take care of you and your tenants just like they would take care of their own families. Our frontline associates do not just understand how to clean to elevated standards, but why it is important to do so. They understand the impact they can make at your property in terms of cleanliness, disinfection, and the value of the property. In other words, they know that their job has true value and meaning.

The facility management services will be provided by a motivated workforce in whom we continue to invest considerable time, and money. We treat each frontline associate as a valued client. We reward and recognize their efforts and provide a culture based on respect and dignity. This translates into service excellence no matter the task.

Finally, using the latest technology, we inspect our work regularly, evaluate its completion, and report on our progress and success (good and bad!). Our method of self-delivery brings you peace of mind by providing a single point of contact that ensures effective communication, updates on performance and, if required, areas of needed improvement

## Facility Services Available from Velociti Services

Velociti Services can provide a flexible and scalable cleaning solution customised for you to include:

### Daily Cleaning

- Interior cleaning- Restroom care
- Exterior cleaning- Parking Lots
- Floor Care- Stripping waxing burnishing
- Quality Control Inspections
- Waste handling
- Work Order Completion

### Engineering & Maintenance

- Training and Safety
- Audits and Assessments
- Compliance
- Building and Exterior
- Preventative Maintenance
- Inspection and Make Ready
- Water Intrusion

- HVAC and Boilers
- Lighting and Fixtures
- Work Order Completion

### Periodic Cleaning

- Carpet cleaning
- Maintenance of floors
- Window cleaning
- Road sweeping
- Grounds cleaning

### Specialized Cleaning

- Cleaning of fixtures and installations
- Duct and HVAC cleaning
- Height cleaning
- Laundry services
- Façade and signage cleaning



## Above Base, Periodic, and One Time Work

### SOFT SURFACE

- Hot water extraction deep clean
- Low Moisture detailed cleaning
- Spot cleaning
- Upholstery cleaning



### GLASS / WINDOW

- Exterior/Interior,
- Partition & Cubical,
- Glass Railing



### EMERGENCY

- Flood and recovery clean up
- Water extraction
- Storm clean up
- Snow removal
- Steam/Deep clean



### PRESSURE WASHING

- Parking Lot/Deck
- Degreasing
- Graffiti Removal



### CONSTRUCTION

- Miscellaneous clean up
- Construction cleaning services
- Post Construction



### EXTERIOR

- Landscape
- LED Light Conversion
- Sidewalk Detail



### HANDYMAN SERVICES

- Clean fixtures
- Plumbing
- Painting
- Move Furniture



### EVENT/VENUE SERVICES

- After event clean up
- Event services
- Leasing tour route
- Move in cleaning



### ADMINISTRATIVE AND SUPPORT SERVICES

- Mail room staff
- Concierge
- Property ambassadors



### RESTROOM

- Steam Cleaning
- Grout Recoloring
- Tile Cleaning



### LEED

- HHP Cleaning
- Certified products and practices



### SANITIZE/DISINFECT

- Electrostatic Misting
- High Touch Surfaces



### STAIRS/ENTRY REHABS

- Rubber restoration
- High Traffic
- contaminant removal



### CONCRETE/STONE

- Granite Buffing
- Granite Polishing
- Concrete Polishing



## Organizational Structure

### Corporate Leadership and Support Team

Velociti maintains a focused corporate team to support our field service delivery process. This team includes resources in several key areas, including human resources, associate benefits, recruiting, finance, accounting, billing, payroll, vendor/subcontractor management, training, risk management/safety and technology support. Our corporate support team conducts weekly calls with our regional teams to ensure they are provided robust and meaningful resources and assistance to maximize their success in creating a safe and solutions-based service model for both our associates and clients.

#### Thomas Givens

Thomas is Velociti's President and leads our National Operations effort in serving all aspects of servicing our customers. Thomas would be your highest-level elevated contact and would be client facing at our proposed QBR.

#### Joseph Murphy

Joseph Murphy is our Senior Vice President of Operations for Velociti Services leading our regional service teams and working with customers across the United States. Joe would have routine internal support responsibility of the project and would be also would be client facing at minimum on our proposed QBR.

#### Billie Ann Reader

Billie oversees Velociti's business portfolio for the West Region which includes the greater metropolitan area. In this role, she is responsible for operations, service excellence, client retention, business development, and financial performance. As Regional Vice President Billie would have no less than monthly responsibility with your account.

#### Barry Poston

Barry is the HSEQ Corporate Director. Barry has 20+ years' experience in HSEQ management having held senior level positions in both domestic and international operations across multiple industries. His passion and knowledge of industry standards in safety and quality management result in a very safe work environment

#### John Garrigan

John leads our Operational Excellence team and will be instrumental in creating site specific training and customer service programs/initiatives that we intend to deploy for our workforce dedicated to SEAM Building.



Thomas Givens  
President



Joseph Murphy  
Senior Vice President, Operations



Ron Hall  
Vice President, People & Culture



Billie Ann Reader  
Regional Vice President, West



Barry Poston  
Health and Safety Director



Tom Grindle  
Business Development Manager



John Garrigan  
Senior Vice President  
Operation Excellence



John Maynard  
Chief Financial Officer



Seth Higdon  
Vice President, Finance

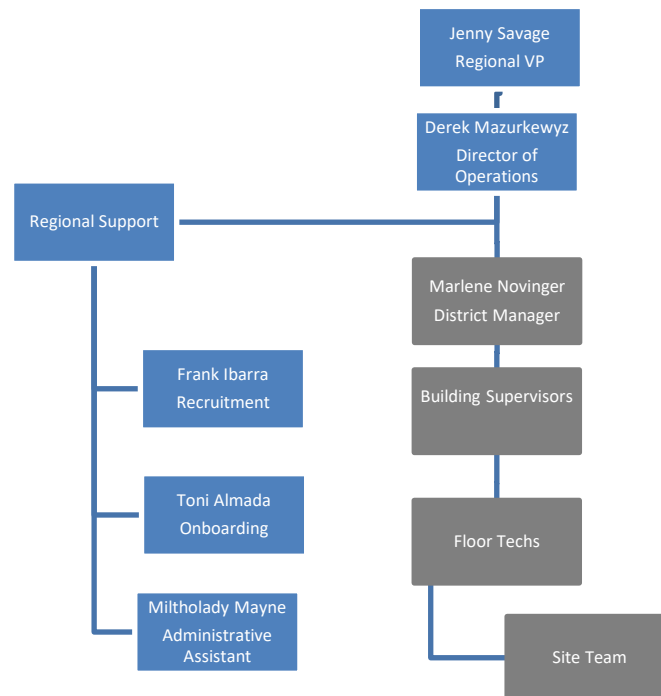


Ashley Todd  
Director, Talent Acquisition



## Regional Support Team

Velociti staffs an accessible and engaged local team with dedicated focus on supporting our local customers. Our regional and corporate teams support our local operating structure who in turn serves our field service delivery teams. This team includes resources in several key areas, including (people and culture) human resources, associate benefits, recruiting, finance, accounting, billing, payroll, vendor/subcontractor management, training, risk management/safety and technology support. Our corporate support team conducts weekly calls with our regional teams to ensure they are provided robust and meaningful resources and assistance to maximize their success in creating a safe and solutions-based service model for both our associates and clients.



## Safety Plan and QA Plan

### Safety Plan

Our safety program, which is entrenched in our operational plan, is managed by Barry Poston, our senior Health, Safety and Environmental (HSE) executive who leads our risk and safety program. Program elements include:

- Comprehensive workplace safety and OSHA (Occupational Safety and Health Administration) compliance policy (see attached document)
  - NOTE: this will be customized to SEAM Building once a risk assessment has been completed (see next bullet)
- A detailed Health and Safety Site and Project Risk Assessment for each job function and working environment to ensure we are in full compliance of Velociti's Health, Safety and Environment policies, OSHA and other regulatory agency requirements, and SEAM Building's safety and risk management mandates and protocols.
- Extensive, multi-dimensional safety training program (see our response to Question i)
- Management accountability at all levels for reducing injury frequency and severity.
- Monthly corporate audits of our operations that assess compliance to Velociti, client and OSHA standards and practices, to include shift visits with our front-line personnel, safety roundtables and safety observations or work-in-progress.
- Site and position-specific safety information at all employee clock-in locations
- Structured on-the-job training that includes detailed instructions on job hazards and how to avoid/mitigate injuries.
- Personal protective equipment standards.
- Required monthly training sessions (ALL ASSOCIATES) through *Safety Skills*, our interactive safety learning management system.
- Utilization of a nurse triage program through our workers compensation third party provider, Gallagher Bassett that is used to assess each injury, recommend the appropriate treatment strategy, and ensure each employee is provided with the best care possible
- Performance dashboards and trend analysis
- The use of *Benchmark ESG*, a state-of-the-art enterprise-wide software platform that stores safety incident data, analyzes trends and root causes, tracks corrective actions, creates detailed JSA, and identifies areas of non-compliance.
- Comprehensive program review by our insurance broker, Lockton, who assists Velociti in integrating industry best practices into our program.

We have included a copy of Velociti's EHS plan with this RFP response document. - See attached

## Quality Control Program

### **GoSpotCheck**

At SEAM Building, Velociti Services will use *GoSpotCheck*, a Mobile App designed to allow our field personnel to collect and share site-level data in real time. The app includes geotagging, timestamping, date stamping, and sharing of photos of facility conditions at MV and contains a GPS tool to keep our service personnel within their geographic scope of work.

It also allows Velociti Services to attach instructions, guides, and training materials specifically related to the types of environments at the apartment complex. It provides MV project-related photos, instructions, and SLA information to our associates who provide services at each building and common area, so they know exactly what is expected of them.

### **Proactive Plan**

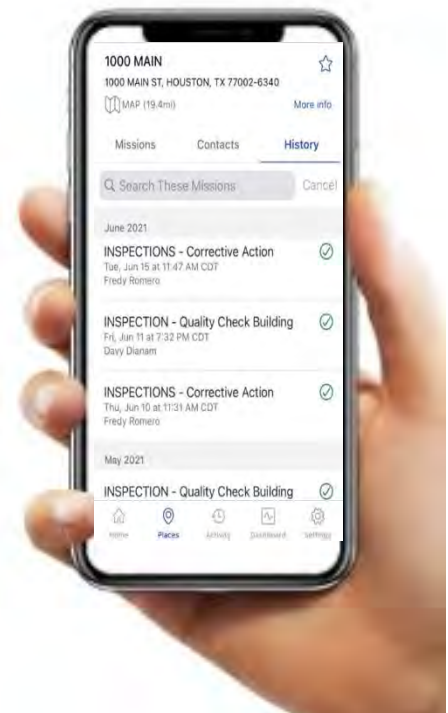
Our quality assurance programs mirror a *Six Sigma* process. We use SEAM Building contract specifications and the collection of quantifiable data, which is gathered through both inspections and your input, then we measure and track our performance. The inspection process is a closed-loop process that allows Velociti Services management the ability to quickly contact employees, resolve issues and to communicate effectively with representatives by responding with results in real-time. We can quickly identify locations and services within each property that may need improvement and make the necessary adjustments before a larger issue arises.

### **Electronic Recordkeeping System**

GoSpotCheck keeps a record of all inspections, reports, feedback, health/safety/environmental task responses and corrective actions from day one of use.

Along with inspections, GoSpotCheck also keeps a record of our safety reports and can have corrective actions generated for all these missions:

1. Quality Control Inspections
2. Annual HSE Risk Assessment
3. Monthly First Aid and Eyewash Check
4. Weekly Vehicle Check
5. Monthly Ladder Checks
6. Deficiency Log
7. Job Hazard Analysis training
8. Uniform Issued



### **Client Feedback**

The system also allows client feedback to be entered directly so we can obtain real-time data on user satisfaction.

If negative feedback is given, it is logged within the quality system and the report is automatically sent to our Project Manager for review. The Project Manager would then work with our site managers to produce a plan to increase performance back to a satisfactory level.

## Identification and Correcting Deficiencies

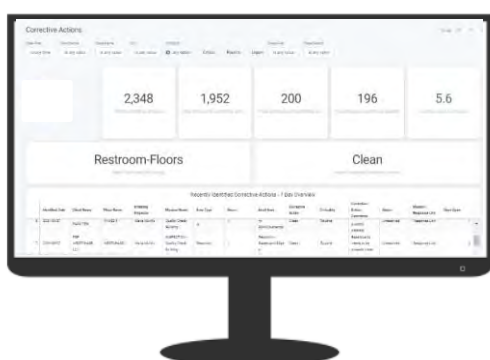
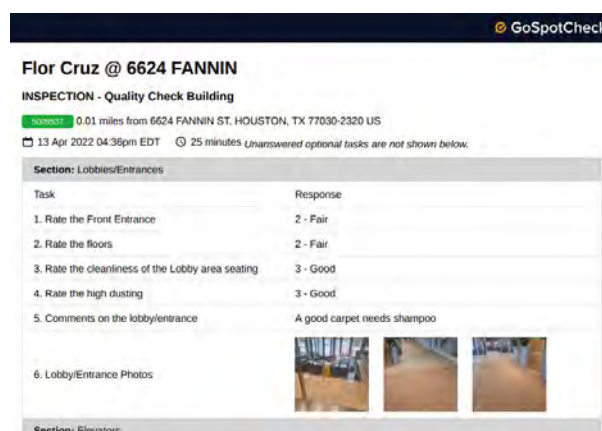
GoSpotCheck is our auditing tool, so that site inspections can be conducted easily and in real time.

Any noted corrective actions or deficiencies are documented immediately and escalated for quick resolution through the corrective action functionality.


When conducting a Quality Check (QC) property inspection, if an area of the property being reviewed has a corrective action needed, then this is marked as “Action Needed” on the inspection sheet and the details needed to bring that area back to an acceptable standard is entered into the system photos can also be attached to ensure the correction need is clearly identifiable.

The frequency of inspections will be agreed on; we will design inspections for pre- and post- cleaning on move-in and outs.

All QC Inspection reports are available immediately after the Inspection is finished and can be emailed directly to the appropriate MV representative in PDF format.

**Flor Cruz @ 6624 FANNIN**  
**INSPECTION - Quality Check Building**  
 0.01 miles from 6624 FANNIN ST, HOUSTON, TX 77030-2320 US  
 13 Apr 2022 04:36pm EDT 25 minutes Unanswered optional tasks are not shown below.

Task	Response
1. Rate the Front Entrance	2 - Fair
2. Rate the floors	2 - Fair
3. Rate the cleanliness of the Lobby area seating	3 - Good
4. Rate the high dusting	3 - Good
5. Comments on the lobby/entrance	A good carpet needs shampoo
6. Lobby/Entrance Photos	

**Section: Elevators**

## Compliance Resolution Program

Once the Inspection/task is completed in the system, the “Corrective Actions” are generated and shown as a new task called “Corrective Action Follow Up” which is visible to anyone who has access to the Mobile App for this location.

Once the follow up action is complete, it is “resolved” in the system and the Mobile App user can no longer see it.

The Corrective Action also populates on the Corrective Action Dashboard, which is available through the online portal. The dashboard is available to our management team so they can monitor the resolution and closure of any actions needed in a timely fashion.

At any point of time, if a deficiency is found at the site this can be logged as a deficiency within the system which creates an entry on the Deficiency dashboard. This allows all users to be able to log any defects through the Mobile App that our management team can view in real time through the online portal and rectify the deficiency identified.

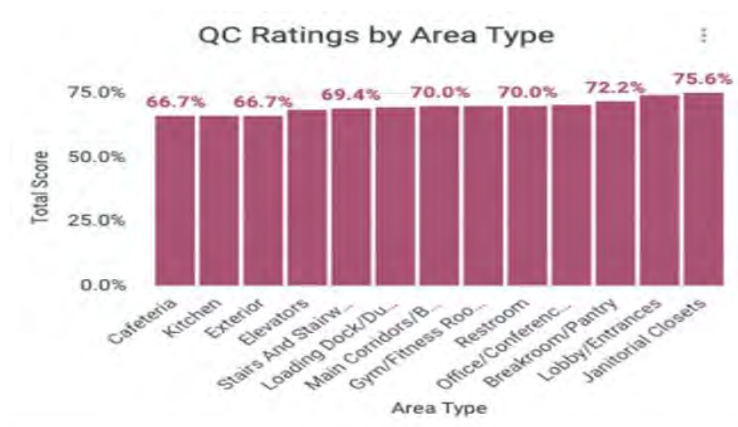
Our quality policy and Quality Management System (QMS) is part of our integrated management system, together with health and safety and environmental management. Quality manuals are developed for each property using the QMS to ensure that they control the right quality definitions for each stakeholder group.

Comparative analysis graphs showing how one area is performing against the next, trend analysis comparing areas over time, and graphs showing the performance against specific task types can all be produced in GoSpotCheck. The results of the audits will be evaluated regularly, and inconsistencies and deficiencies will be noted and rectified.

Our approach to providing services begins with the same goal at every unit, building, amenity area, and property within the footprint of the apartment complex - *to enhance the myriad environments and discerning standards of SEAM Building employees and visitors. We want to contribute to making SEAM Building "a better place" to live and visit for all stakeholders!*

### Audit and Inspection Schedule

As our quality system is fully automated, we can set a schedule for when inspections/audits are performed, agreed between us, and the reports can be auto scheduled to be delivered directly from the system at to what time and interval we mutually agree.



### Operational Deficiency Action Plans

In the event a serious concern or pattern of non-compliance/performance defects is identified, senior leadership will immediately set up a call with our site manager and appropriate property management representatives to obtain the details of the issue, its impact, required actions, and SEAM Building expectations. With the oversight of our Operational Excellence Team, we will create a 30-day action plan (with weekly milestones and assigned owners) to remedy the conditions and causes related to each concern. Our Senior Vice President of Organizational Excellence, John Garrigan, along with Joe Murphy, our Senior Vice President of Operations, and Billie Ann Reader, Regional Vice President- West, will work with our corporate, regional, and local teams to develop a “Client Concern Action Plan” and performance improvement dashboard that includes the following information:

- Location/date/Velociti management customer relationship owners
- 30-day client issues/expectations (from client feedback)
- 30-day deliverables
- Action Plan for each issue identified:
  - Task description
  - Owner
  - By when
  - Status
  - Status date

Each action plan is updated weekly after a conference call between John Garrigan, Joe Murphy and Billie Ann Reader and our regional and local operational leaders and the updated plan is forwarded to the company’s president, Thomas Givens. Resolution only occurs when we receive specific feedback from your property management team(s) and documentation from our service team, that your stakeholder is satisfied, and the deficiency has been corrected.

## Initial Employee Training

### On-the-Job Initial Training

All Velociti associates must satisfactorily complete a comprehensive and supervised job certification process that includes classroom and on-the-job training modules over a two-week period. Process elements include detailed floor/area work plans, illustrated cleaning guides for each task and workplace safety protocols all under the umbrella of the requirements associated with our services agreement. Areas of focus will include:

- Site/work area familiarization to include storage closets for equipment and supplies
- Job duties
- Correct use of equipment
- Security rules and procedures
- Trash and waste disposal
- Janitorial cleaning (surfaces, appliances, fixtures)
- Refurbishing of hard wood floors
- Carpet shampooing, repair, and stain removal
- Mechanical AP
- QC inspections
- Keys (re-keying, biting system, record-keeping) and key control
- Desired MV end-result and acceptable defect rate

## Safety Training

Velociti's safety training includes the following elements:

- Copy and explanation of the OSHA standard.
- Epidemiology and symptoms of bloodborne pathogens, modes of transmission and prevention/exposure reduction
- Biohazard signage, labels, and color-coding
- Velociti Services Exposure Control Plan and how to obtain a copy.
- Use and limitations of engineering control, work practices, and PPE.
- Hepatitis B Vaccine
- Emergency procedures and Exposure incident procedures

Our training plan identifies all Environment, Health, and Safety (EHS) specific training required for our team members. The result produces safety conscious associates who are receptive to learning and instilled with a safety culture. Depending on their position, team members receive between 8-20 hours of safety-related training annually (which occurs monthly). We ensure EHS related training is identified, developed, delivered, and tracked to meet the needs of the regulations for the specific operation, risk, and associate. This training is deployed through an online Learning Management System (LMS) and hands-on via equipment, chemical and supplies management and usage. We track and record our training through our web-based system.

Courses to be completed each year at site are:

- Back Injury Prevention
- Suspicious Packages
- Violence in the Workplace
- Small Spill Response
- Heat Stress in the Workplace
- Hazard Communication
- Active Shooter: Run/Hide/Fight
- Bloodborne Pathogens
- Slips/Trips/Falls
- Personal Protective Equipment
- Lockout/Tagout
- Ladder Safety
- Globally Harmonized System (GHS)

## Risk Training

To ensure associates possess the required knowledge to safely perform their role, each element of work within our Standard Operating Procedures (SOPs) include Job Hazard Analysis sheets for our associates to review and sign off their understanding of the content. In the future we will be able to manage this process through our Quality Management System, GoSpotCheck, to automatically monitor this compliance.

To facilitate the above training, Velociti Services has developed a comprehensive collection of SOPs based on years of operating experience and the resources of select key vendors. The combination of the Velociti Services capabilities and the research and development of our key vendor partnerships offers state-of-the-art methods, tools, and chemistry. As part of our transition process, we will customize each SOP to the specific requirements and quality standards of MV.

## Standard Operating Procedures (SOPs) Training

Velociti Services has developed a comprehensive collection of SOPs based on years of operating experience and the resources of select key vendors. The combination of the Velociti Services capabilities and the research and development of our key vendor partnerships offers state-of-the-art methods, tools, and chemistry. Components of these procedures include:

- A - Step-by-step illustrated guide with multimedia support, product specifications and ordering URLs
- B - Method Cards – an abbreviated reminder for associates to keep in possession on the job site.
- C - Wall Charts- Illustrations mounted in strategic locations in the account space to remind all associates of procedures, safety, and sustainability measures.
- D - Workflow – Using a strategic path and routine for each type of space serviced to maximizes efficiency.

## Emergency Response Plan

Velociti Services has in place an HSEQ policy and procedure which outlines the company's emergency response plan governing a wide range of emergency conditions. The policy provides general guidance on what associates should do in an emergency but since each client site has developed customized protocols for occupants and contractors, Velociti will work with JLL and SEAM Building risk, safety and property management representatives to create a specific plan for MV. At a minimum, the response plan will address the following:

- Medical emergency
- Fire
- Fire alarm
- Evacuation to include evacuation routes and assembly areas
- Earthquakes
- Flooding
- Active shooter
- Workplace violence to include threats
- Bomb threats
- Crime-in-progress
- Elevator entrapment
- Power outage
- Chemical spill
- MV/LA/CA-specific

The plan will also outline site-specific contacts and emergency numbers along with associated materials.

As we would have a team on-site, a team member should be able to respond to an emergency call within 15 minutes, depending upon the location of the emergency. During unmanned hours, the site's Project Manager and Department Managers, can be contacted, in escalation order, to respond to the emergency. Maximum response time: 30-60 minutes.



## Biohazard Spill and Clean-up

All associates have Biohazard e-learning as part of their standard training. In addition to the training, the associates who are designated to deal with spills will be offered a Hepatitis B Vaccination to ensure they are protected against any cross contamination. An associate can decline the vaccine if they sign the declination form.

To ensure the supplies needed for a Biohazard clean-up are readily available, we would ensure we had many Blood Borne Pathogens (BBP) packs distributed in Janitorial Closets around the facility. Once used, the pack would be replaced, and the spoiled pack and all its contents would be disposed of immediately in the red trash bag that is supplied in the pack.



## Service Methodology

### Operational Excellence Program

Operational Excellence at Velociti Services is a process optimization program based on the collection of best practices. The main objective is to provide you with a customized cleaning solution where the use of calculations, methods and procurement are carefully adjusted to deliver the optimal and most cost-effective solution to meet your facilities specific needs. Legendary Service is achieved through continual innovation and by using the best:

- People
- Methodology
- Products & Machinery
- Systems

### Assessment and Planning

Every project undertaken by Velociti Services will begin with a detailed assessment of your needs with every space taken into consideration. We then build the appropriate cleaning process around the desired results from the assessment, building on best practices. The operations plan section of this document identifies the specific plan developed for your property. We continually review our methods and systems to provide evidence-based solutions.

### Outcome-Based Program

We will continue to bring a partnership mentality where we not only strive to understand your specific facilities needs and goals but will develop the right plan to achieve the outcomes you desire. In essence – you tell us the “what” and, as the industry experts, we determine the “how.”

This partnership methodology allows Velociti Services to apply our knowledge and experience to design the most efficient and effective work plan to meet your expectations for cleanliness, productivity, and service quality. We achieve this through technological innovations and work process efficiency; thereby raising productivity and reducing reliance on workforce.

The second part of Outcome-Based Program includes key performance indicators (KPIs) that are developed with you to measure Velociti Services’ success in meeting your desired goals. Velociti Services will provide near and real-time monitoring of performance measures through weekly/monthly meetings, our inspection process and quarterly business reviews.

## Cleaning Methodology

### Steps to Achieving Cleaning Excellence

Every outcome-based project with Velociti Services starts with an assessment of your needs. The steps include:

1. **Time Engineering / Work loading** – Captures how long and how many times it takes to complete a required task and the needed labor and equipment to service every area of a facility in an effective manner. This data allows us to determine the exact duration of time needed in each of your facilities and, in doing so, craft a customized workforce resource matrix to maximize the cost effectiveness of our services.
2. **Standard Operating Procedures** – Velociti Services cleaning SOPs are created to train our cleaning teams on how to deliver a consistent level of service excellence, so every section of your buildings is cleaned the right way every time. These include based SOP procedures and building procedures (base, common areas, and tenant spaces)
3. **Cleaning Methods** – Once Cleaning operating procedures are scaled to meet your specifications to ensure that your facility is clean and safe.
4. **Microbial and Bacterial** – Our unique partnership with Diversey Holdings, a world-class provider of industrial cleaning and hygiene products has led to jointly defined SOPs which identify the correct chemical usage by area specifically designed for microbial and bacterial kill times, and/or removal - this covers the operational activities connected with the contractually agreed KPIs and SLAs
5. **Tools and Equipment** – Streamlining equipment and materials has resulted in identifying the best tools and chemicals available, resulting in high efficiency, effectiveness, and safety. Velociti Services has taken advantage of shared best practices, resulting in a substantial reduction of equipment and materials utilized, driving compliance, and reducing costs.
6. **Purchasing Power** – Local and national agreements with major suppliers and manufacturers have been established which guarantee we are receiving the best-in industry pricing.

## Products & Machinery

Establishing a superior product range as well as the most innovative products and chemicals available is essential to providing your facility with the highest quality of cleaning. As part of our efforts, we have established a specific range of cleaning products and equipment with key suppliers including Kimberly-Clark, Diversey, 3M, Vileda, Rubbermaid, Karcher, Opalium and Clean Core.

### Electrostatic Sprayers

Velociti Services has invested in the most powerful and safe disinfecting equipment and chemicals approved by the EPA (Environmental Protection Agency). The systems we utilize disinfect surfaces by spraying a mist which electrostatically attracts to surfaces like a magnet and the sprayer equipment uses Oxivir TB resulting in a colorless and environmentally friendly solution.

## Compliance

All chemistry is registered with by the EPA at the highest classification of disinfection recommended by the CDC and WHO to treat emerging pathogen threats like Coronavirus (COVID-19), Candida Auris, and future threats. This solution is fast, affordable, effective, and easy to administer. In just four minutes the solution will kill a range of infectious diseases including Cold & Flu, Coronavirus, Norovirus, Hand, Foot & Mouth, Measles, and MRSA.

## Sustainability & Green Cleaning Program

We are happy to comply with written or standardized policies that MV has established on this initiative. As we understand all chemicals and products are provided by MV for these scopes of work. In addition, we would offer an audit on MV's Sustainability and Green Cleaning Program and provide a summary to include recommendations if applicable as it relates this MV program performance compared against Velociti's base green/sustainability programs.

### Low Environmental Impact Cleaning Policy

HHPC (Healthy High-Performance Cleaning) aligns with LEED policies and procedures which insist on:

- Sustainable cleaning systems
- Use of sustainable cleaning products
- Use of chemical concentrates and appropriate dilution systems
- Proper training of maintenance personnel in the hazards, use, maintenance and disposal of cleaning chemicals, dispensing equipment, and packaging
- Use of cleaning equipment that reduces impact on IAQ

## Transition Milestone

If we are fortunate to be awarded a partnership, we would be able to continue our service offerings without the distraction and challenges that are many times associated with a transition from one provider to another.

Velociti Services' transition plan is comprehensive and highly communicative. We have utilized this process with repeated success at other large transitions. Our focus is to immediately get in front of the onsite team to let them know who we are and hopefully relieve much of the angst and worry that many times is associated with a transition. This is accomplished in a variety of ways, including:

- Initial welcome letter to the onsite team and instructions on how to apply with us.
- Site visits by members of our partnership launch team.
- Staff welcome meetings scheduled at convenient times during first week of transition team presence.
- Weekly transition updates
- Continuing site and shift visibility of Velociti's management team
- Pre-assignment training program that centers on support of SEAM Building brand and how our onsite team supports it through engaging hospitality.

We also will follow a detailed four-phased transition plan and manage to this plan using daily and weekly transition dashboards for the property. This will include daily updates to the property manager, as needed, and a weekly update of the master transition plan. The transition process will be facilitated by our team of seasoned transition team members.

## Service Assessments

Our total service program hinges around meeting both internally as a team and externally with our customers at specific intervals to ensure that our efforts are designed to have the maximum positive impact in the marketplace. We have broken down a few of the common client facing meetings that we would plan to deploy to your program should we be given the opportunity to partner with you.

- **Weekly**
  - Tactical meetings between our dedicated-on site personal and direct day to day customer contacts. These are designed to address the most important objectives and initiatives that we are working towards accomplishing as the needs of the property shift from one day or season to the next. These are more strategic and tactical in nature to address the routine on property operations and successful outcomes over short periods of time.
- **Monthly**
  - Mid-range focused sessions that are held among the on-site leadership/management teams to look back on the most recent 30 days performance and look forward strategically to the upcoming 30 days. These meetings are to be strategic to look at the overarching operation and set goals to achieve better outcomes over longer periods of time across the broader business relationship.
- **Quarterly Business Review**
  - Periodic business reviews that are attended by our Senior and Executive leadership teams and our on-site customers. These sessions also include a focus on recent past performance as well as plans for future performance. Measuring and discussing results achieved with KPI's and SLAs are a critical component of these sessions. Having our most experienced leaders and executives invest in our programs and customer success is critical for a long-term progression of the service program. A key component of these meetings is to ensure that past action items and commitments made have been complete or have had traction since the last interaction and that our entire company is supporting this program success.
- **Annual Review**
  - Having our entire team including our Executive Leadership invested in our customer and program success is a staple of our business. Velociti President, Thomas Givens, would be engaged both at the start-up phase and through the year as the highest level of elevated contact available to MV. We would welcome the opportunity to make the appropriate introductions and ensure that executive investment in our mutual success can be counted on from day one forward.

## Background Check Process

Our standard background check package includes a SSN Trace, a Criminal Felony & Misdemeanor – 7 Years County trace as revealed by Social Security Number (SSN) Trace, and a Widescreen Plus National Criminal Search, along with Managed Adjudication 3.0don.

## Hiring and Onboarding Plan

### Overview

Velociti Services has a team of dedicated human resources professionals including full-time recruiters as part of our People & Culture (P&C) department. This group provides support throughout the entire associate journey from recruitment through hiring and onboarding to on-going training and personal development plans. Our P&C team members assist with hiring and onboarding utilizing formal processes and procedures we have developed.

## Our People

We equip each associate with the right equipment/tools and empowerment to act as “CEO of their work zone,” Velociti Services can deliver services that impact satisfaction throughout your property.

- We will work to achieve your goals.
- We empower our associates to make a difference in the services they provide.
- We use the latest technology to manage our workforce and evaluate their performance – providing continual improvement.
- Our programs provide tools to clean AND sanitize efficiently.
- We bring a low-risk industry specialist approach that ensures a seamless transition.
- We will derive cost savings that can be diverted to your core business.

## 110% Club

### Purpose

To reward and recognize superior job performance by Velociti associates who, by their consistent actions, attitude, and professionalism, epitomize our mission to provide operational excellence to our customers.

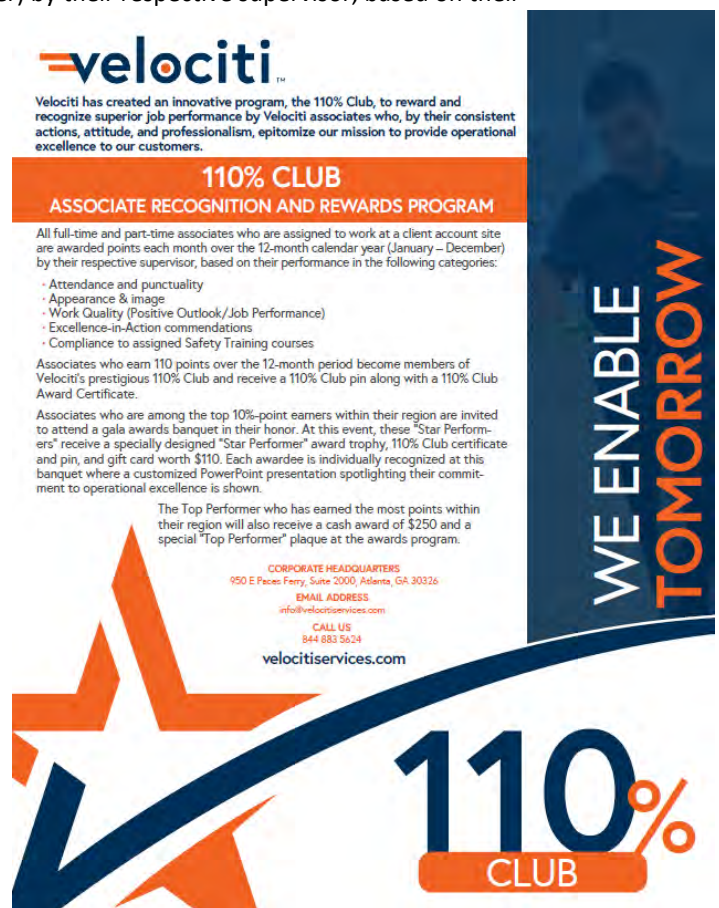
### Program Overview

All full-time and part-time associates who are assigned to work at a client account site are awarded points each month over the 12-month calendar year (January – December) by their respective supervisor, based on their performance in the following categories:

- Attendance and punctuality
- Appearance & image
- Work Quality (Positive Outlook/Job Performance)
- Excellence-in-Action commendations
- Compliance to Safety Training courses assigned

Performance points are awarded based on a specific set of measurable criteria identified for each category. Associates who earn 110 points over the 12-month period become members of prestigious 110% Club and receive a **110% Club pin** along with a **110% Club Award Certificate**.

Associates who are among the top 110%-point earners within their region, are invited to attend a gala awards banquet in their honor. At this event, these “Star Performers” receive a specially designed “Star Performer” pin, award trophy, certificate, and gift card worth \$110. Each awardee is individually recognized at this banquet where a customized PowerPoint presentation spotlighting their commitment to operational excellence is shown. The Top Performer who has earned the most points within their region will receive a cash award of \$250 and a special “Top Performer” plaque at the awards program.



**110% CLUB**  
ASSOCIATE RECOGNITION AND REWARDS PROGRAM

All full-time and part-time associates who are assigned to work at a client account site are awarded points each month over the 12-month calendar year (January – December) by their respective supervisor, based on their performance in the following categories:

- Attendance and punctuality
- Appearance & image
- Work Quality (Positive Outlook/Job Performance)
- Excellence-in-Action commendations
- Compliance to assigned Safety Training courses

Associates who earn 110 points over the 12-month period become members of Velociti's prestigious 110% Club and receive a 110% Club pin along with a 110% Club Award Certificate.

Associates who are among the top 110%-point earners within their region are invited to attend a gala awards banquet in their honor. At this event, these “Star Performers” receive a specially designed “Star Performer” award trophy, 110% Club certificate and pin, and gift card worth \$110. Each awardee is individually recognized at this banquet where a customized PowerPoint presentation spotlighting their commitment to operational excellence is shown.

The Top Performer who has earned the most points within their region will also receive a cash award of \$250 and a special “Top Performer” plaque at the awards program.

**CORPORATE HEADQUARTERS**  
950 E Paces Ferry, Suite 2000, Atlanta, GA 30326  
**EMAIL ADDRESS**  
info@velocitiservices.com  
**CALL US**  
844.883.5624  
velocitiservices.com

**WE ENABLE TOMORROW**

**110% CLUB**

## Hiring Associates

Velociti Services embraces a solid recruiting strategy that seeks to employ people who can add value and provide the level of service our client's demand. Each associate goes through a pre-screening process, through E-Verify, that includes a background check, work history check, criminal background check as well as other pre-employment screening tools that assist in promoting a safer, more productive workplace. Specifically, all candidates undergo the following:

- ☑ Formal application and interview process conducted at Velociti Services field office.
  - Assurance that associates in your building are properly screened before they are placed in your building.
  - Proper documentation and identification collected and reviewed for each associate working in your building.
  - Enables us to place the right people in your building to accomplish the tasks required in your building.
  - Confirms that each person hired has the proper attitude, professional appearance, and the desire to succeed
- ☑ Reference and work history checks
  - Only people who have positive references and a strong work ethic are placed in your building.
  - Provides workers with strong characteristics of reliability and punctuality.
  - Promotes a better fit and protects the hiring investment by retaining the associate in your building.
- ☑ Social Security Number Verification
  - Ensures peace of mind that all associates have valid social security numbers.
- ☑ Criminal background checks:
  - Eliminates criminals from being hired.
  - Increases the safety of the workplace.
  - Reduces the risk of workplace violence.
- ☑ National Sex Offender Registry
  - Prevents persons with a sex offender status from working for Velociti and at your site.
- ☑ Five-panel drug test
  - Reduces potential liabilities from workers being under the influence of drugs.
  - Promotes a drug-free workplace.
  - Helps maintain a safe working environment.
- ☑ Structured pre-assignment training program.
  - Enables associates to perform the job well and efficiently.
  - Fewer mistakes are made.
  - Proper training which leads to greater productivity

## Uniforms

We are representatives of your brand and the many people who work, travel, and visit your facilities, as such, we place great emphasis on the way our cleaners look.

Each associate is provided with three sets of professional uniforms (customized to the job they are assigned and the preference of our client). Garments include shirts, slacks, aprons, outerwear, safety gear, safety shoes and climate/weather-required supplemental items

All associates are issued with an identification badge that will include Associate Photo, Associate Name, Company logo and Associate Position.

## Expertise in Recruiting, Training, and Retaining Management, and Leadership

### Recruiting

In an extremely competitive labor market, Velociti Services has been successful in identifying qualified, eager, and service-oriented candidates for employment. Our corporate Director of Talent Acquisition is responsible for the development and management of our network of experienced regional recruiting managers who have intimate knowledge of the markets they serve, to include challenges and innovative recruiting methods to attract (and retain) the most qualified service teams. Every major market has a dedicated, bi-lingual recruiter to ensure we are creating a large funnel of candidates for current and future openings.

### Selection

Velociti's multi-tiered selection process assures our customers that every cleaning professional has been fully vetted to include a comprehensive background investigation, criminal history check, drug test and work eligibility verification. Our streamlined on-boarding process enables us to interview and hire candidates within days, allowing us to staff quickly and respond to short-notice demands.

### Training- SEAM Building Specific

All associates must satisfactorily complete a comprehensive and supervised job certification process that includes classroom and on-the-job training modules over a two-week period. Process elements include detailed floor/area work plans, illustrated cleaning guides for each task and workplace safety protocols all under the umbrella of the requirements associated with our services agreement.



## Appendix A Pricing

Night Cleaning- 5 employees, 5 hour daily

\$13,938 per month

(x12) = \$167,256.00/y

Day Porter- 8 hours per day

\$4,895 per month

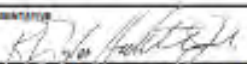
(x12) = \$ 58,740.00/y

~~Day Porters- 2 porters, 3 hours per day~~

~~\$4,033 per month~~

\$ 18,833.00 /m total

**\$225,996.00 /y total**

ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)		
				12/1/2022 3/7/2023		
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 have ADDITIONAL INSURED provisions or 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		INSURED		INSURER		
Lockton Companies 5200 Peachtree Road NE, Suite #250 Atlanta GA 30305 (404) 460-3600		Jaco FS 3, LLC Velociti Services 950 East Paces Ferry Rd NE Suite 2000 Atlanta GA 30326		INSURER A: Zurich American Insurance Company 16535 INSURER B: Arch Insurance Company 11150 INSURER C: Everest National Insurance Company 10120 INSURER D: INSURER E: INSURER F:		
COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:		
PS 2 - Velociti		19376808		XXXXXX		
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.						
LINE	TYPE OF INSURANCE	PROD. NO.	PROD. DATE	PROD. EXP. DATE	LIMITS	
A	COMMERCIAL GENERAL LIABILITY	Y	N	12/1/2022	12/1/2023	EACH OCCURRENCE: \$ 2,000,000 AGGREGATE: \$ 5,000,000 MEDICAL: \$ 5,000 PERSONAL & ADJUTORY: \$ 2,000,000 GENERAL AGGREGATE: \$ 10,000,000 PRODUCTS - COMPLETED: \$ 4,000,000
B	AUTOMOBILE LIABILITY	Y	N	12/1/2022	12/1/2023	COMBINED SINGLE LIMIT: \$ 2,000,000 BODILY INJURY (per person): \$ XXXXXXXX BODILY INJURY (per accident): \$ XXXXXXXX PROPERTY DAMAGE (per accident): \$ XXXXXXXX
C	UMBRELLA/LIB	Y	N	12/1/2022	12/1/2023	EACH OCCURRENCE: \$ 10,000,000 AGGREGATE: \$ 10,000,000 RETENTION: \$ XXXXXXXX
D	WORKERS COMPENSATION AND EMPLOYERS LIABILITY	Y	N	12/1/2022	12/1/2023	E.C. EACH ACCIDENT: \$ 1,000,000 E.C. DISEASE - EA EMPLOYEE: \$ 1,000,000 E.C. DISEASE - POLICY LIMIT: \$ 1,000,000
E	EXCESS LIABILITY	N	N	12/1/2022	12/1/2023	\$15M Excess of \$10M
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 90, Additional Remarks Schedule, may be attached if more space is required) Manhattan Village Shopping Center and Jones Lang LaSalle Americas, Inc. are named as additional insured, including their officers, directors and employees as respect to General Liability, Automobile Liability, and Excess/Umbrella Liability. All policies shall be primary and noncontributory.						
CERTIFICATE HOLDER		CANCELLATION				
19376808 Jones Lang LaSalle Americas, Inc. c/o Manhattan Village Shopping Center 200 E. Randolph Dr. 72nd Floor Chicago, IL 60601		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: 				
© 1988-2015 ACORD CORPORATION. All rights reserved.						

ACORD 25 (2016/03)

The ACORD name and logo are registered marks of ACORD

**W-9**  
Form (October 2019)  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer  
Identification Number and Certification**

Go to [www.irs.gov/FormW9](https://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
requester. Do not  
send to the IRS.

1. Name (as shown on your income tax return). Name is required on this form. Do not leave this area blank.

**JanCo P53, LLC**

2. Business name (disregarded entity name, if different from above)

**Velocity Services**

3. Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following when filing:

☐ Individual sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☒ Limited liability company (check the tax classification (S-C corporation, S-S corporation, Partnership) on line 3)

4. If exemption (codes) apply only to certain entities, not individuals, see instructions on page 3.

Exempt payer code (if any):

Exemption from FATCA reporting code (if any):

5. Address (including street, and apt., or suite no.) See instructions.

**550 East Paces Ferry Rd, Suite 2000**

6. City, state, and ZIP code.

**Atlanta, GA 30328**

7. List account number(s) (see optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, line 1. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN, later.

Make: if the account is in more than one name, see the instructions for line 1. Also see White Paper and Number 1 to Give the Requester for guidelines on what number to enter.

Social security number:

Employer identification number:

**Part II Certification**

Under penalty of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and

2. I am not subject to backup withholding (because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA codes entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification exceptions.** You must answer item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, suspension or abandonment of secured property, satisfaction of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions for Part I, later.

Sign Here:  Date: **3/23/22**

**General Instructions**

Special instructions are in the Miscellaneous Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](https://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reported on the information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-MISC (miscellaneous income)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-INT (interest on bonds, notes, or other debt instruments)
- Form 1099-NEC (non-employee compensation)
- Form 1099-C (contractor payment)
- Form 1099-G (government payments)
- Form 1099-E (employee wages)
- Form 1099-B (brokerage statement)
- Form 1099-A (mortgage interest statement)
- Form 1099-L (loan statement)
- Form 1099-R (pension or annuity payment)
- Form 1099-4 (distribution of assets or proceeds)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you may be subject to backup withholding. See How to backup withholding, later.

Oct. No. 102018 Form W-9 (Rev. 10-2019)

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID / RESULTS
<b>VELOCITI</b>  <b>DBA</b>  <b>ISS FACILITY SERVICES, INC.</b>  <b>SAN ANTONIO, TX</b>  Dept: Public Works/ Facilities	<p>Extend a competitively bid contract for annual Custodial Services for the Southern Half of the City through February 28, 2024.</p> <p>Pricing was obtained from Velociti dba ISS Facility Services, and they are proposing a 5% increase over their original contract pricing. The increase is due to the additional hours, days and locations added to the award as permitted by the contract. Given the Municipal Cost Index (MCI) is up 6.27%, the pricing is considered to be fair and reasonable.</p> <p>This award represents year two of a possible a four-year contract.</p> <p><i>Purchases where a vendor offers to extend an existing contract under the same terms and conditions within current market pricing are authorized to be awarded through noncompetitive negotiations. 2-674-2</i></p>	\$403,951.58	B-4636
<b>VELOCITI</b>  <b>DBA</b>  <b>ISS FACILITY SERVICES, INC</b>  <b>SAN ANTONIO, TX</b>  Dept: Public Works/ Facilities	<p>Extend a competitively bid contract for annual Custodial Services for the Northern Half of the City through February 28, 2024.</p> <p>Pricing was obtained from Velociti dba ISS Facility Services, and they are proposing a 5% increase over their original contract pricing. The increase is due to the additional hours, days and locations added to the award as permitted by the contract. Given the Municipal Cost Index (MCI) is up 6.27%, the pricing is considered to be fair and reasonable.</p> <p>This award represents year two of a possible a four-year contract.</p> <p><i>Purchases where a vendor offers to extend an existing contract under the same terms and conditions within current market pricing are authorized to be awarded through noncompetitive negotiations. 2-674-2</i></p>	\$473,935.73	B-4637



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AMEND AN OPENLY SOLICITED CONTRACT in the Amount of \$260,592.00 with HDR Engineering, Inc., Denver, Colorado for the Structures Demolition Program Project, Project No. R-2282.

**Item Initiator:** Daniel Pershing, Engineer, Aurora Water

**Staff Source/Legal Source:** Andrea Long, Principal Engineer, Aurora Water / Hanosky Hernandez, Senior Assistant 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:** N/A

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Andrea Long, Principal Engineer, Aurora Water / Hanosky Hernandez, Senior Assistant City Attorney

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

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as Proposed at Study Session
- ☐ Approve Item and Move Forward to Regular Meeting ☒ Approve Item as Proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration  
*Reason for waiver is described in the Item Details field above.*

### 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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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 award of an OPENLY SOLICITED CONTRACT in the amount of \$148,441.00 to HDR Engineering, Inc., Denver, Colorado, for the Structures Demolition Program **was reported on Purchasing's Weekly Report to Council dated October 24, 2022.**

---

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

Aurora Water underwent a study to identify facilities that were no longer in use and can come off-line within the near future. The findings of this study identified ten facilities through this effort:

- The Lowry Wastewater Treatment Plant
- Single Tree Lift Station
- Highpoint Lift Station
- Prologis Lift Station
- First Creek Lift Station
- Second Creek Lift Station
- Senac Creek Lift Station
- Sorin Parcel home sites
- Tetsel Parcel home sites
- First Creek Detention Pond

It is Aurora's intent to scope this work in phases over the next 5-6 years. The initial scope of services for this project involved the selected consultant assisting Aurora in establishing the demolition program and prioritizing the sites for demolition. Projects will be prioritized based on existing risk and liability, decommission timing, and cost, along with other factors identified during the program establishment. The current proposal is for demolition of the Second Creek Lift Station (see map for reference)

**Item Scope**

This phase of the project involves the demolition of the Second Creek Lift Station. The work includes environmental sampling for compliance with all pertinent regulations, and providing 50%, 90%, and 100% design deliverables. At a 50% design, HDR will be delivering items such as a preliminary design, specification table of contents, and bid form. For 90% design, Aurora Water will see a completed design package ready to be submitted to the City for formal review. Once final comments have been addressed by City departments, the design will reach 100%.

Once design is complete, the selected consultant will provide a scope for construction phase services including attending meetings, reviewing submittals, Requests for Information (RFI), and change orders, and possibly providing construction inspection. **It is the City's intention to demolish one to two of the identified sites each year based off the determined priorities.**

The Demo project is within the CIP budget (Org: 52365/Acct. 68110). The 2022 projected cost estimate for the project is \$200,000 with future amendments expected in future years for the remaining sites. The fee proposed by HDR for the design services of Second Creek Lift Station demolition is \$260,592.00. To date, this project has incurred a cost of \$63,321.00.

Specific cost, schedule, and scope details associated with the proposed amended work are provided as an Attachment Two to this commentary. The original contract amount of \$148,441.00 plus this Amendment Number One in the amount of \$260,592.00 brings the total contract amount to \$409,033.00. The hourly fees are in alignment with HDR's MESA VII rates and are considered fair and reasonable.

### Recommendation

Based on the above, City staff recommends the award of an AMENDMENT TO AN OPENLY SOLICITED CONTRACT in the amount of \$260,592.00 to HDR Engineering, Inc., Denver, Colorado for the Structures Demolition Program Project, Project No. R-2282.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this contract will be from the Capital Improvement Program, Wastewater Fund in the amount of \$260,592.00.  
(Org 52365 – Structures Demolition-Sewer)

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does City Council recommend the award of an AMENDMENT TO AN OPENLY SOLICITED CONTRACT in the amount of \$260,592.00 to HDR Engineering, Inc., Denver, Colorado for the Structures Demolition Program Project, Project No. R-2282?

---

## LEGAL COMMENTS

Contracts for the purchase of supplies, services, and construction shall be awarded to the lowest responsive bidder or most advantageous proposal as specified in the Aurora City Code. See, Sec 2-671 et. seq. A.C.C. (Hernandez)

**AWARDS \$50,000.00 - \$2,000,000.00 subject to call-up and not based on lowest dollar basis (usually awards where qualifications rather than price dominate the process):**

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID / RESULTS
<b>HDR ENGINEERING, INC.</b>  <b>DENVER, CO</b>  Dept: Water	<p>Award an openly solicited contract to HDR Engineering, Inc. for Engineering Services for the Structures Demolition Project. The engineering services were solicited under a formal competitive Request for Proposal (RFP) using a qualifications-based selection process where the top-ranked firm is selected for contract award. Due to the nature of the services, pricing is not a factor in the selection of the top-ranked firm. Price is negotiated with the top-ranked firm only.</p> <p>HDR Engineering was selected as the top-ranked firm out of the three (3) firms that responded. All of the firms were evaluated based on the following criteria contained in the RFP:</p> <ol style="list-style-type: none"> <li>1. Specialized experience and technical competence of key personnel;</li> <li>2. Past performance and references;</li> <li>3. Project approach;</li> <li>4. Overall impression of proposal.</li> </ol> <p>As a result, a detailed scope of work, project schedule and price proposal in the not-to-exceed amount of \$148,441.00 were negotiated with HDR Engineering. The proposed hourly labor rates are the same as their MESA VII agreement. Based on the above, the price proposal for providing the proposed services is considered to be fair and reasonable.</p> <p><i>This award is the result of an open solicitation where the City received at least 3 offers, and the price was negotiated with the top ranked firm on the basis of qualifications. 2-672-(a), (3), (a) (2)</i></p>	\$148,441.00	<b>R-2282</b>  <b>HDR Engineering, Inc.</b>  NV5, Inc.  Tetra Tech, Inc.



# **SCOPE OF WORK**

## **CITY OF AURORA HDR ENGINEERING, INC.**

Second Creek Lift Station Demolition  
Aurora Water Project No. 526729

**Date: 7/26/23**

### **PROJECT BACKGROUND**

The City of Aurora (City) identified ten facilities that are not in use or slated to come off-line in the next few years. The sites will be a risk and liability for the City if left in place. The sites are located in and outside City limits and include:

- The Lowry Wastewater Treatment Plant
- Single Tree Lift Station
- Highpoint Lift Station
- Prologis Lift Station
- First Creek Lift Station
- Second Creek Lift Station
- Senac Creek Lift Station
- Sorin Parcel home sites
- Tetsel Parcel home sites
- First Creek Detention Pond

HDR identified preliminary requirements and costs for demolishing or abandoning each of these sites to minimize risk and liability to the City and developed a program for demolishing the sites over a six-year timeframe. The first site to be abandoned and demolished is the Second Creek lift station. This scope of work identifies the activities necessary to prepare design drawings and specifications necessary to abandon the site.

### **TASK 1 – PROJECT MANAGEMENT**

The Task 1 scope of work and required deliverables anticipated for Project Management include the following:

#### **TASK 1.1 Project Management Plan**

Develop a Project Management Plan to set forth project procedures and clearly define individual responsibilities, task schedules, milestones, deliverables, change management procedures, and task budgets. The Project Management Plan is intended to:

- Facilitate HDR and City coordination
- Document objectives, budget, scope, and schedule
- Define deliverables and milestone dates
- Facilitate risks identification and mitigation
- Define project standards
- Detail quality control requirements

- Define project team roles
- Provide change management procedures to manage the scope of work
- Establish document filing procedures

An electronic draft of the initial PMP will be delivered to the City for review and comment. HDR will routinely update the PMP as the project progresses.

### **TASK 1.2 Project Initiation Team Meeting**

The Project Initiation Team Meeting will be scheduled to provide an opportunity for HDR and the City to collaboratively establish the operating procedures for the project and kick-off the Project. The 2-hour initiation team meeting will be held virtually and be attended by HDR's PIC, PM, Project Engineer, Structural Lead, Sie Civil Lead, Environmental Sub, and their representatives as required. The hours shown on the fee estimate include time to prepare for the meeting, distribute notes and follow up on action items.

The goals of this initial meeting are to:

- Review scope and schedule.
- Specify the lines of communication.
- Review formats and quantities for deliverables.
- Establish team coordination meeting dates for review of the progress of the project.
- Identify City personnel who are to provide information/services during the work.
- Identify the format or venue to share documents/data/deliverables and track action items/decisions/meeting notes.
- Formalize project goals and brainstorm ideas for accomplishing project goals.
- Identify project critical success factors.
- Discuss project risks and potential risk mitigation strategies which will be captured and maintained in a risk register
- Identify information needs from the City and set a timeline for transmittal of that information to HDR.
- Go over requirements and restrictions for site visits.
- Update the schedule for the project.
- Review invoicing requirements.
- Comments on the Project Management Plan.
- Identify CAD standards for Submittals
- Discuss City Plan review process and Public Works review

### **1.3 Project Management**

Monitor project progress, internal coordination, including work completed, work remaining, budget expended, schedule, estimated cost of work remaining, estimated cost at completion, and any additional out of scope items. Manage activities and subconsultants within task budgets and project schedule. Process subconsultant invoices and prepare and submit a brief monthly progress memorandum, spending plan, and invoice.

With input from the City, the project team prepare a risk register for design and construction related risks. A matrix will be prepared to summarize project related risks and mitigation strategies should the risks be encountered. The Draft Risk Register will be provided for City review and comment and updated on an as needed basis as the project progresses. Formal updates will be submitted to the City at the 50% and 90% design milestones

The hours shown on the fee estimate also includes time associated with biweekly internal team coordination meetings for the duration of the design phase.

#### **TASK 1.4 Task 103 - Team Coordination Meetings**

During the preliminary and final design phases, team coordination meetings with City staff and Consultant will be held monthly via video conferencing. The 1-hour virtual meetings will be attended by HDR's PM, Project Engineer, staff engineer and select sub consultants as necessary.

The purpose of these meetings will be to discuss project status, exchange information requirements, for the Consultant to provide updates on the design status, revisit project risks, and for the City team to provide information and review comments. Meeting notes along with a list of action items and decisions made will be provided by HDR after each coordination meeting. The design phase is assumed to last 6 months (6 meetings). Coordination meetings are not anticipated during the Bid Phase. The hours shown on the fee estimate include time to prepare for the meeting, distribute notes and follow up on action items.

#### **TASK 1.5 Workshops**

Prepare for and facilitate workshops to review the site and challenges associated with the demolition, discuss the City's goals for the project, and address outstanding items that are important for advancing the design package. HDR will prepare meeting agenda and minutes for the workshop. It is anticipated that targeted review meetings (3 workshops total) with the City project team will be held as predesign and design progresses. The anticipated workshops are:

- Workshop 1 - review preliminary design
- Workshop 2 - review 50% design completion milestone
- Workshop 3 - review 90% design completion milestone

Meeting notes along with a list of action items and decisions made will be provided by HDR after each workshop. Each workshop is assumed to last 2 hours and will be attended by HDR's Project Manager, Project Engineer, and select staff or subconsultants as necessary.

#### **1.6 QA/QC**

HDR's QA/QC policy provides a systematic approach to verify that technical work and documents receive thorough reviews by senior staff. Steve Pool will be responsible for performing QC reviews of deliverables and calculations. In addition, Mike Gossett,

Principal-in-Charge, will conduct routine QA audits to verify procedures are being followed.

**Task 1 Deliverables:**

- Electronic copy of Project Management Plan
- Monthly invoices, spending plans, and progress reports
- Risk register

**Task 1 City Provided Services and/or Information:**

- Compiled set of City comments for the Project Management Plan
- Provide available data and information as requested by HDR

**TASK 2 – DEMOLITION DESIGN**

The scope of work and anticipated deliverables anticipated for the demolition of the Second Creek LS are included below.

**Task 2.1 Environmental Sampling**

This task includes sampling for asbestos and lead based paint in the Second Creek LS building as well as diesel in the soil surrounding the generator on the site. The findings from the sampling effort will be incorporated into the design drawings and specifications.

**Task 2.2 Prepare 50% Design Drawings and Specifications**

Based on input received from the City during the preliminary design workshop, HDR will prepare 50% level design drawings and specifications for demolition of the Second Creek LS. HDR will submit drawings and specifications to the City for review. The 50% Design Drawings will include the following elements:

- Cover Sheet and Vicinity map
- Drawing List, general notes and abbreviations
- Site and Building Plan drawings depicting the general scope of demolition.
- Preliminary demolition sections

The 50% Specifications will include the following elements:

- Table of contents for all anticipated specifications
- Preliminary bid form
- Preliminary Division 1
- Demolition and Salvage

Prepare an AACE Level 2, +20% to -15% Opinion of Probable Construction Cost.

**Task 2.3 Prepare 90% Design Drawings, Specifications, and Opinion of Cost**

Based on comments received from the City on the 50% design package, prepare 90% level design drawings and specifications for demolition of the Second Creek LS. Submit drawings to the City for review. The 90% documents will include all drawings and specifications anticipated for bidding of the work.

Prepare an AACE Level 1, +10% to -10% Opinion of Probable Construction Cost.

**Task 2.4 Prepare stormwater Management Plan and Drawings (Not Required)**

Prepare Storm Water Management Plans (SWMP) including the associated report and specifications for inclusion in the 90% documents.

**Task 2.5 Public Works Review**

Submit the 90% plans to the City's Public Works Department for pre-acceptance screening to initiate the Public Works Plan Review Process. Comments provided by the City from the screening will be addressed and the revised documents uploaded into the City's AMANDA system to initiate the review. Anticipated timelines indicate an 8-week review process for the three rounds of review (1st, 2nd, & final) to Public Works.

During this review process, HDR will coordinate with the City PM on holding a meeting with City departments involved in the permitting review process. This meeting is assumed to be a one (1) hour meeting and will be attended by the HDR PM and project Engineer.

**Task 2.5 Assumptions**

- HDR has assumed that the City review process will consist of up to two (2) rounds of City comments. We will address comments and questions from each department review to receive approval.
- The final submission of the design documents will include facsimiled and stamped drawings by HDR as final for construction, and the CAD files in a format to meet the City of Aurora's CAD standards.
- The City will be responsible for the fees associated with the Public Works Plan Review process.

**Task 2.6 CDPHE Coordination for Decommissioning**

Following the 50% design, reach out to CDPHE to obtain the current framework for submittals regarding decommissioning and abandonment of the lift station. Submit the 90% plans along with a design narrative memo addressing the framework information provided to CDPHE. The City will pay all review costs required by CDPHE.

**Task 2.7 Final Bid Package**

Issue final bid package to the City including the plans, specifications, Bid Form, and cost estimate. Submittal will include one PDF of the combined Division 01 and technical specifications, and a separate word and PDF file for each technical specification. Division 00 specifications will be prepared by the City, with limited input by HDR.

Following the completion of the 90% design review and Public Works approval process, plans and specifications will be considered ready to advertise for bid with no additional changes. HDR will provide a final electronic copy of the bid documents for City records.

**Task 2.8 Bidding Phase Assistance**

HDR will support the City during the bidding phase by answering questions from contractors and providing additional information to clarify intent in drawings and specifications. HDR will prepare necessary information to issue addenda during the bidding phase.

**Task 2 Deliverables:**

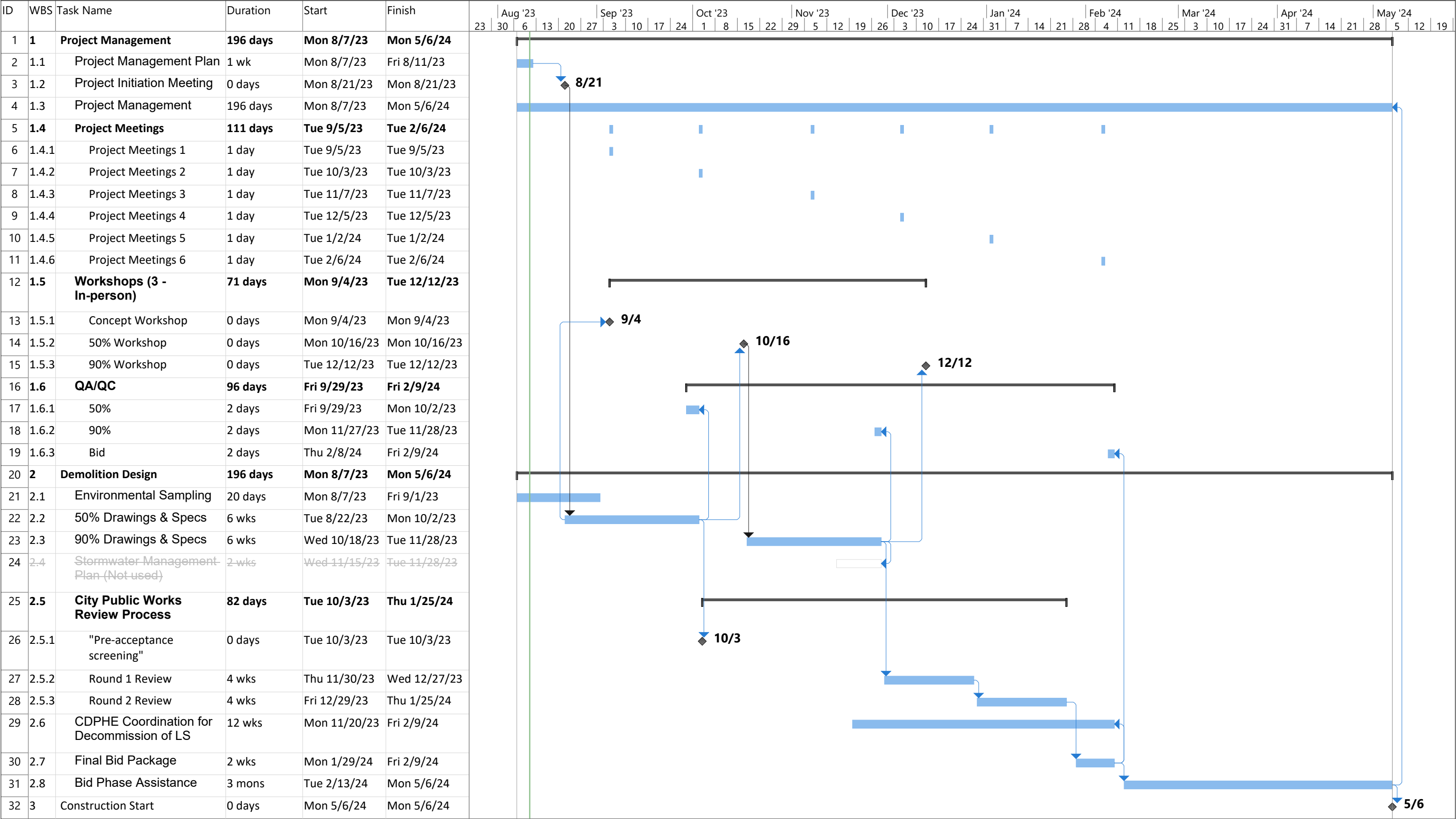
- Meeting agenda and minutes from the preliminary design workshop
- 50% design drawings and specifications
- 90% design drawings and specifications
- Opinion of probable construction cost
- Final design drawings and specifications
- Electronic copies of design drawings
- Bidding phase documentation to include up to two addenda

**Task 2 City Provided Services and/or Information:**

- Attendance and input at meetings and site visits
- Available data and information as requested by HDR

**TASK 3 – SUPPLEMENTAL SERVICES****Task 3.1 – Supplemental Services**

A City controlled allowance of \$10,000 is included in the scope of work and fee proposal to provide for items not initially included in this scope. The allowance is controlled by the City and will be used at the City's discretion. No work will be performed in this task without prior written approval from the City.



		HDR Engineering																			Pinyon Environmental	Total Fee	
Aurora Water Second Creek Lift Station Demolition Design		Contract Manager Mike Gossett	QA/QC Steve Pool	Project Manager II Brad Reiner	Senior Engineer Ron Manske	Engineer III Colin Mulderick	Engineer II Greg Young	Design Engineer Natalie Brooker	CAD Eduardo Paz Gonzalez	Public Outreach Manager Tara Bettale	Administrative Assistant	Controller Tiffany						Hours	Labor	Total Expenses			HDR Fee
		\$270.00	\$270.00	\$227.00	\$238.00	\$199.00	\$174.00	\$135.00	\$163.00	\$175.00	\$100.00	\$125.00	\$140	\$85	\$100	\$100	\$100						
Task 1 Project Management																							
1.1	Project Management Plan		1	4							2							7	\$1,378	\$0	\$1,378		\$1,378
1.2	Project Initiation Meeting	1.5		2		2	2				1							8.5	\$1,705	\$150	\$1,855		\$1,855
1.3	Project Management	7.5		50		20	20	20				40						157.5	\$28,535	\$0	\$28,535		\$28,535
1.4	Project Meetings (virtual)	6		12		6	6	6			6							42	\$7,992	\$0	\$7,992		\$7,992
1.5	Workshops (3 - In-person)	8		12		12	12	12			3							59	\$11,280	\$450	\$11,730		\$11,730
1.6	QA/QC	4	48	6		2	2	2										64	\$16,418	\$0	\$16,418		\$16,418
Sub-total		27	49	86	0	42	42	40	0	0	12	40	0	0	0	0	0	338	\$67,308	\$600	\$67,908	\$0	\$67,908
Task 2 Demolition Design																							
2.1	Environmental Sampling			4			4											8	\$1,604	\$0	\$1,604	\$10,000	\$12,104
2.2	50% Drawings and Specifications	4		64	12	82	52	82	120	4	20							440	\$77,160	\$75	\$77,235		\$77,235
2.3	90% Drawings and Specifications	4		60	8	50	30	80	60									292	\$52,354	\$250	\$52,604		\$52,604
2.4	Stormwater Management Plan (Not Required)																	0	\$0	\$0	\$0		\$0
2.5	City Public Works Review Process			14			22	22	8									66	\$11,280	\$250	\$11,530		\$11,530
2.6	CDPHE Coordination for Decommission of LS	2		24				24			8							58	\$10,028	\$250	\$10,278		\$10,278
2.7	Final Bid Package	2		6	2	16	4	24	0	2								56	\$9,848	\$25	\$9,873		\$9,873
2.8	Bid Phase Assistance	2		8	4	8	4	16	8									50	\$9,060	\$0	\$9,060		\$9,060
Sub-total		14	0	180	26	156	116	248	196	6	28	0	0	0	0	0	0	970	\$171,334	\$850	\$172,184	\$10,000	\$182,684
Task 3 Supplemental Services																							
3.1	Supplemental Services (TBD - As Needed)																	0	\$0	\$10,000	\$10,000		\$10,000
Sub-total		0	0	0	0	0	0	0	0	0	0	0						0	\$0	\$10,000	\$10,000	\$0	\$10,000
Hours		41	49	266	26	198	158	288	196	6	40	40	0	0	0	0	0	1,308					
Fee		\$11,070	\$13,230	\$60,382	\$6,188	\$39,402	\$27,492	\$38,880	\$31,948	\$1,050	\$4,000	\$5,000	\$0	\$0	\$0	\$0	\$0		\$238,642	\$11,450	\$250,092	\$10,000	\$260,592
Sub-consultant Budget w/ Mark-up																					\$10,500		
TOTAL FEE																					\$260,592		

Assumptions  
1. 6 month project duration  
2. SWMP will not be required due to area of disturbance less than 1 acre





# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AWARD A COMPETITIVELY BID CONTRACT to Lighthouse Transportation Group, LLC, Westminster, CO in the Amount of \$257,045.00 for the 2023 Traffic Calming Device Installation Services; Project 5947A.

**Item Initiator:** Kristin Chewiwi, Procurement Supervisor, Finance

**Staff Source/Legal Source:** Carl Harline, Engineering Supervisor, Public Works / Hanosky Hernandez, Senior Assistant City Attorney

**Outside Speaker:** N/A

**Council Goal:** 2012: 3.1--Develop and implement infrastructure maintenance and replacement plans

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Waiver of Reconsideration is requested due to industry wide materials shortages and long lead times experienced for equipment included as part of this contract.

Carl Harline, Engineering Supervisor, Public Works / Hanosky Hernandez, 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 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 checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration<br><i>Reason for waiver is described in the Item Details field above.</i> |   |

### 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 |
|--|--|

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes 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.)*

N/A

---

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

The 2023 Traffic Calming Device Installation consists of a contractor providing and installing speed limit feedback signs (SLFS) also know as Radar Speed Signs (RSS) at various locations throughout the City of Aurora. The contractor will also furnish to the City Rectangular Rapid Flashing Beacons (RRFBs).

Construction is expected to be completed within seven (7) months from issuance of Notice to Proceed.

An Invitation for Bid (IFB) was publicly advertised through the Rocky Mountain E-Purchasing System (BidNet) on July 17, 2023. Bids were opened by Purchasing Services on August 2, 2023. Two bids were received and the results are as follows:

Name of Bidder	Base Bid
Lighthouse Transportation Group	\$257,045.00
Morton Electric, Inc.	\$258,718.00

No Aurora firms submitted a bid.

The estimated cost for this project ranged from \$251,000.00 to \$264,770.00. The price from Lighthouse Transportation Group is considered to be fair and reasonable when compared to the option of probable construction costs. Bid acceptance period expires on October 1, 2023.

Council approval is required when less than three bids are received during the competitive bid process.

Based on the above, staff recommends awarding a competitively bid contract to Lighthouse Transportation Group in the amount of \$257,045.00 for the 2023 Traffic Calming Device Installation Services, Project 5947A.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

This procurement is to be funded from the following ORG and ACCT:  
49983 (Traffic Calming Improvements) - 68410 (CIP-Construction Costs)

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council approve the waiver of reconsideration and award to LighthouseTransportation Group in the amount of \$257,045.00 for the 2023 Traffic Calming Device Installation Services; Project 5947A?

---

**LEGAL COMMENTS**

Contracts for the purchase of supplies, services, and construction shall be awarded to the lowest responsive bidder or most advantageous proposal as specified in the Aurora City Code. See, Sec 2-671 et. seq. A.C.C. (Hernandez)



## BID TABULATION SHEET

Project Name: 2023 Traffic Calming Device Installation Services  
 Project / Bid #: 5947A  
 Project Estimate: \$251,000.00 to \$264,770.00

Date: 8/2/2023 Time: 2:00 PM  
 Project Manager: C. Stephan  
 Opened by: K. Chewiwi KC

No.	Name of Bidder	Acknowledged Addendum No. 1	Bid Bond	Base Bid	Alternate Bid(s)			Total Alternate Amt.	Total Bid	Notes
					1	2	3			
1	Lighthouse Transportation Group	Yes	Yes	\$ 257,045.00	N/A	N/A	N/A	\$ -	\$ 257,045.00	
2	Morton Electric, Inc.	Yes	Yes	\$ 258,718.00	N/A	N/A	N/A	\$ -	\$ 258,718.00	
3								\$ -	\$ -	
4								\$ -	\$ -	
5								\$ -	\$ -	
6								\$ -	\$ -	
7								\$ -	\$ -	
8								\$ -	\$ -	
9								\$ -	\$ -	
10								\$ -	\$ -	

Note: All bidding documents are subject to further review and evaluation.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Restaurant Program Subrecipient Agreement Approval with JWS Second Property, LLC for Izakaya Japanese Restaurant (Ward 4)
<b>Item Initiator:</b> Andrea Amonick, Development Services Manager
<b>Staff Source/Legal Source:</b> Robert Oliva, Senior Project Manager, Planning and Development Services / Rachel Allen, Group Client Manager, City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 5.7--Develop and maintain an aggressive retail retention and expansion strategy

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Sponsor: Juan Marcano, Council Member  
Robert Oliva, Senior Project Manager, Planning and Development Services / Rachel Allen, Group Client Manager, 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 checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only   |   |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field above. |   |

### 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"/> Minutes Not Available       |

---

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

On July 25, 2022, the Aurora City Council approved Resolution 2022-144, to assist multiple Aurora food and beverage establishments with renovating and reopening restaurants in existing real estate that contains some current needed tenant improvements. This program was funded under The American Rescue Plan Act (ARPA, In Pub. Law 117-2 Subtitle M. Sec. 9901).

This Restaurant Program anticipates the opening of six new restaurants, which will be evenly distributed among all Wards. The renovation work that will be eligible for this program must be for improvements that will stay with the property and cannot be easily removed without demolition. The agreement between the building owner and the City of Aurora will state that this location must stay a restaurant space for the duration of the agreement, while the City of Aurora maintains the ability to approve any replacement restaurant operator if the first restaurant ceases operations. Although not a party to the lease, the City will also review the lease agreement between the owner and tenant to ensure that this agreement conforms to the program requirements.

The Restaurant Program anticipates higher sales tax generation from a food/beverage service operator rather than a typical retailer in the same size space. In addition to higher sales per square foot, restaurants also employ more staff per square foot; as many as three times more employees for the same size retailer space.

---

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

This free-standing restaurant pad has been closed for over a year and is being proposed as a Japanese sushi restaurant. This location near the important high-traffic intersection of Havana St and Parker Rd. The owner is local and owns several Asian concepts in the area. He believes there is a significant market for a Japanese restaurant and plans on investing \$1.6 million for the renovation of this building.

Their request is for the costs that qualify for the restaurant program's reimbursement; in this case it was below the budget and is approximately \$270,000. The elements that qualified were the HVAC system upgrades, repairs to the roof system and upgraded bathrooms to Code and renovations to handle more patrons, inclusive of a new outdoor dining area. They plan to open in 2024.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☒ Revenue Impact      ☒ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

This restaurant will increase sales tax to the City as much as \$100,000.

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Planned ARPA fund expenditures to assist the business.

**NON-BUDGETED EXPENDITURE IMPACT**

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

**WORKLOAD IMPACT**

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council wish to move forward with this grant agreement?

---

**LEGAL COMMENTS**

In Pub. Law. 117-2, Subtitle M, Sec. 9901, (The American Rescue Act or “ARPA”) the US Congress allocated money to local government for various purposes. The Department of the Treasury issued Rule 2021-10283 discussing the lawfully permitted uses of the funds allocated by the US Congress. The City Council has discretion to provide the necessary funding for the programs or needs across the city that have been impacted by the Covid-19 pandemic. The Council has found that providing funds for the restaurant program described herein fulfills these purposes. (Hernandez)

**RESTAURANT PROGRAM SUBRECIPIENT AGREEMENT  
CORONAVIRUS STATE FISCAL RECOVERY - ARPA FUNDS  
ASSISTANCE LISTING NUMBER (formerly CFDA): 21-027**

This Subrecipient Agreement entered into as of the 14th day of August, 2023, by and between **The City of Aurora, Colorado**, a municipal corporation of the State of Colorado (the "City") and **JWS Second Property LLC, A Colorado Limited Liability Company**, Owner/Tenant or "Subrecipient",

**WITNESSETH:**

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, In Pub. Law. 117-2, Subtitle M, Sec. 9901, (The American Rescue Act or "ARPA") the US Congress allocated money to local government for various purposes; and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under ARPA Section 603 (c)(1)(A) and (3) and the Interim Final Rule 31 CFR 35.6(b)(7) recipients may use Coronavirus Local Fiscal Recovery ("CLFR") Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, under ARPA Section 603 (c)(1)(A) and the Interim Final Rule 31 CFR 35.6(b)(7) and (12) recipients may provide CLFR Funds to programs or services to disproportionately impacted communities; and

WHEREAS, the City desires to disburse funds from Project No. CI-2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, the City has developed incentives through the Restaurant Program for redevelopment of Aurora restaurant/bar spaces, located within Wards across the City, and

WHEREAS, the Subrecipient is redeveloping the property located in Ward 1 at **2710 South Havana Street, Aurora, Colorado** (the "**Property**") as a Japanese Restaurant; and

WHEREAS, the Subrecipient has requested funding for the completion of specific restaurant improvements through the Restaurant Program that will create a destination along Havana Street and draw visitors to the area; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

**NOW, THEREFORE, the Parties hereby agree to the following:**



## **Section 1. Definitions.**

"**Agreement**" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

"**City**" means the City of Aurora, Colorado, a municipal corporation of the State of Colorado.

"**Eligible Expenses or Reimbursements**" are approved categories of potential cost Items needed for the completion of the Project and funded by the Project Funds as spelled out In Section 4 of this Agreement and approved by the City as an authorized expense.

"**Leasehold Improvements**" means additions, alterations, remodeling, or renovations done as real property permanent or affixed Improvements on the Property.

"**On Premises**" means inside the building or within the legal property boundary of the Property.

"**Operating Years**" means any year(s) where an approved restaurant is open for business at the Property after the completion of the Project per the terms of the Agreement.

"**Parties**" mean the City and the Subrecipient.

"**Project**" means all Improvements, renovations, and redesign of the current building and site located on the Property needed to upgrade a vacant building to a restaurant, including all fixtures, decor, and equipment per the renderings and preliminary plans submitted and presented to the City for the Restaurant Program.

"**Project Budget**" means a master budget approved by the City and the Landlord for the work needed to complete the Project.

"**Project Funds**" are the sources of funding and financing the completion of The Project per the terms of this Agreement between the City and the Subrecipient.

"**Property or Building**" means the building currently located at 2710 South Havana Street, Aurora, CO to be converted into a Japanese Restaurant [**Attachment A**]

"**Tenant**" means the Japanese Restaurant business that will occupy 2710 South Havana Street, Aurora, CO for a minimum of 15 years and per the approval of the City. Fully functioning and operating restaurant tenant, shall mean that the tenant is required to be open to the public and operating for a minimum of 45 hours, Tuesday – Saturday, from 11 am – 8 pm.

"**Tenant Build-Out**" means the Tenant contribution to finish out the space Including decor, design, and non-leasehold equipment and fixtures.

## **Section 2. Scope Of Services.**

The purpose of this Agreement is to provide funding for the redevelopment and approved improvements undertaken by the Subrecipient for the conversion of the property into a Japanese Restaurant pursuant to the terms and conditions of this Agreement.

Subrecipient agrees to satisfactorily perform and complete the Project, all items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described herein within Sections 3 – 6 and attached hereto as Exhibits A and B/C and incorporated herein by reference, in full

compliance with all provisions of this Agreement.

### **Section 3. Grant and Method of Payment.**

The City will provide a grant through the Restaurant Program payable to the Subrecipient (and/or their assigns) for costs for eligible work completed to improve the Property for the purpose of converting the existing building into a Japanese Restaurant.

(a) City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment:

- (i) That Subrecipient has expended funds for eligible approved expenditures;
- (ii) That Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation;
- (iii) That Subrecipient submits timely requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City; and
- (iv) That Subrecipient certifies with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Three Hundred Thousand Dollars (U.S. \$300,000.00).

(d) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

### **Section 4. Budget.**

Work by the Subrecipient must be completed within a City approved budget for the program funds and must provide documentation and lien waivers for payment of all program work completed.

### **Section 5. City Eligible Reimbursements.**

The following improvements are eligible for 100% reimbursement as part of the City's responsibilities per the approved project and Restaurant Program's goals and guidelines. These items and/or installation shall be completed as part of the approved expenses and improvement costs needed to create the new restaurant and related upgrades including Infrastructure, design and mechanicals budgeted for the project. All approved expenses related to the construction of an approved Japanese Restaurant (the "Project") per this Agreement as approved by the City would be eligible for reimbursement per the terms set forth in this agreement. Eligible expenses are for the space, unless otherwise designated, and can include, but are not limited to the items identified in Exhibit B/C and referenced as the Column Attachment B.

## **Section 6. Subrecipient Project Costs/Responsibilities.**

The Subrecipient is responsible for completing all improvements needed for the completion of the Project. These items and/or installations shall be done as part of the approved Subrecipient's scope of work and should include all improvement costs needed to create the restaurant and bring the space up to City standards and occupancy requirements. Eligible Subrecipient expenses are for space, unless otherwise designated, and can Include, but are not limited to the items identified in Exhibit B/C and referenced as the Column Attachment C.

## **Section 7. Ineligible City Reimbursements.**

The following are not subject to reimbursement by the City for this Agreement but may be required for the completion of the Project either by the Subrecipient and/or the Tenant:

- o Decor- Interior design & Installation.
- o Interior Design Finishes / Wall / Ceiling / Floor
- o Bar and Bar Equipment.
- o Exterior and Interior light fixtures.
- o Exterior Storefront, including but not limited to, design, lighting, windows and doors. (Except as noted in Attachment B)
- o Exterior sign(s)
- o Exterior seating, tables & fixtures.
- o Kitchen equipment (other than those declared eligible in Attachment B.)
- o Bath decor
- o Demolition
- o Fixturing (tables, chairs, & like Items relegated to the operation of this establishment)
- o Kitchen and dining utensils and cookware
- o Liquor license
- o Perishable Inventory & food
- o Personnel or staffing related items or expenses
- o Marketing or advertising costs
- o Travel or entertainment expense
- o Any administrative expenses

## **Section 8. Funding and Payment Obligations.**

The funding for the completion of the Project shall include responsibilities and payments from the City, Subrecipient per the approved Project Budget including work to be completed by all parties, including the Subrecipient's Tenant whose work and responsibilities are not necessarily covered within this Agreement. Funding sources include:

- The City's work for the Project shall not exceed a total budget of \$300,000 in Restaurant Program funding. This will cover the City's scope of work as defined in Sections 2 – 5 and Exhibits A and B/C as Eligible Expenses
- Any expenses submitted for approved expenses which exceed the City's maximum contribution, or any ineligible expenses shall be paid by the Subrecipient based on their obligations per this Agreement or the Tenant lease.
- The Subrecipient and any Tenant must complete the project as proposed, agreed upon, and approved by the City.

- All construction expenses shall be paid and approved per the terms of this Agreement.

### **Section 9. Subrecipient's Construction Requirements & Construction Responsibilities.**

The Subrecipient will manage the completion and construction of the Project on behalf of all parties and must complete the project as proposed and agreed upon by the parties. The City shall approve all expenditures spent in the process of completing the Project.

The Subrecipient shall be responsible for the oversight of all of the Project's design, construction and its timely completion, plus the quality of the finished product, including all construction-related activities and costs for the Project with the approval of the City. The City shall pay 100% of any approved Restaurant Program costs listed in Exhibit B/C (Column Attachment B) *as they are spent and completed* or upon reaching the maximum budget of \$300,000.

The Subrecipient shall pay for all approved construction expenses and obtain all lien waivers or certifications required by the City before submitting any request for payment of any authorized eligible work completed for the Project. Bills may be submitted once per month to the City for payment. The City shall then reimburse the Contractor directly or the Subrecipient for any approved work completed for the submitted expenses per normal City disbursement policy. Project funds shall be made available to the Subrecipient subject to the terms and conditions of this Agreement, and documentation evidencing the propriety of the proposed use of funds with each draw request.

In addition to design & construction drawings, permits, and licenses related to the build out of the space, the Subrecipient shall submit bid line items and a construction budget to the City for review. Eligible costs must be approved by the City in order to be considered reimbursable from the Program.

The City shall have the right to approve the design of the building and restaurant designs before the start of and during construction. All final construction plans must be officially approved per the approval requirements, regulations and laws of the City and the State of Colorado.

### **Section 10. Bid Requirements.**

The Subrecipient shall provide documentation verifying that the costs for any work or repairs have been competitively negotiated. All contractors must be certified to work in Aurora and be approved by the City. The Subrecipient shall have the right to choose the contractor. The Subrecipient shall be responsible for acquiring lien waivers from each contractor and wage rates for the contractor's employees for all portions of the Project. The Subrecipient will be responsible for any claims or repayment of any legally sustained requirements resulting from any lien action. The City may withhold payment until the Subrecipient, and the contractor provide lien waivers on the work completed by all subcontractors for the work subject to reimbursement by the City.

### **Section 11. Property of the Subrecipient.**

Any leasehold or fixed improvements reimbursed by the City will become the property of the Subrecipient at the end of the term of this Agreement. The Subrecipient is responsible for the upkeep and maintenance of all leasehold improvements which are installed or repaired in the building so that all warranties are kept current, not in default in any manner, and suggested maintenance is done in a timely basis to keep the equipment in good working order. The Subrecipients' obligations for upkeep and maintenance may become the responsibility of a Tenant pursuant to the terms of any lease between Landlord and a tenant. Failure to comply by either the Landlord or the Tenant with upkeep and maintenance shall cause the Subrecipient to be responsible for the reimbursement to the City for either the repairs or for the amortized cost of the item.

### **Section 12. City Project Manager.**

The City, through its Development Services Manager, shall have the right to designate an individual to manage and supervise the project for all City funded parts of the work. City shall have the right to monitor and evaluate the progress and performance of Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. City may at least quarterly review Subrecipient's performance using on-site visits, progress reports required to be submitted by Subrecipient, audit findings, disbursements transactions, and contact Subrecipient as necessary. Subrecipient shall furnish the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipient shall fully cooperate with the City in relation to monitoring, evaluation, and audits.

### **Section 13. Subrecipient Warranties and Representations. Fifteen Year Operating Requirement.**

The Subrecipient will guarantee a fully functioning and operating restaurant tenant for the building for a minimum of fifteen (15) years. Noncompliance with this provision of the agreement shall constitute an event of default, that shall require cure, or will result in termination of the agreement and repayment of funds spent by the City.

### **Section 14. Subrecipient's Contribution.**

The Subrecipient shall contribute a minimum of \$600,000.00 (Six Hundred Thousand Dollars) towards the construction and conversion of the building into a Japanese Restaurant per the designs and plans submitted to and approved by the City and defined as the Project. Any funds remaining upon completion of the Subrecipient's responsibilities under Section 9 shall be remitted to the Subrecipient upon Project completion,

### **Section 15. Opening Deadline.**

The Subrecipient shall be responsible for the remodel of the building. All work on the Project will be completed no later than **August 1, 2024**. Any change' to this deadline must be approved by the City. Failure to comply in a timely manner on the obligations of this Agreement will cause obligations of the City in the Agreement to be null and void with the Subrecipient to repay the City for any monies expensed to date of notice,

### **Section 16. Replacement Tenant.**

The Subrecipient shall give the City the right to approve all prospective replacement tenants for use and viability if the Subrecipient closes during the first fifteen (15) years of the leasable life of the building post renovation and this Agreement.

### **Section 17. City Approval rights for Replacement or Change in Design.**

The City shall also have the right to approve the design of any physically substantial changes in design by the Subrecipient or tenant in future, as well as the approval of any replacement retail and restaurant uses for the building before the start of construction and submittals of formal plans.

### **Section 18. Change of Ownership Requirements.**

In the event that the Subrecipient sells the Property before the first fifteen (15) operating years of the restaurant are complete, any new Subrecipient must be approved in writing by the City and the new Owner shall be obligated to all terms of this Agreement or the Subrecipient shall pay the City the unamortized value of the actual reimbursements of the leasehold Improvements placed in the building for the time left per the terms of the Agreement. This shall not include transfers within the family but will be enforced if that or any family entity sells the property within the 15-year operation period.

## **Section 19. Term.**

This Agreement shall become effective upon the date of last signature of the Parties and shall remain effective for fifteen years from the date of issuance of the certificate of occupancy for the restaurant. Each party agrees to give the other the right to act towards the completion of the Project while the full execution of the Agreement takes place. The term of the Project shall be from the date this Agreement. The Project will be completed on June 30, 2024 unless this Agreement is sooner terminated as herein provided.

## **Section 20. Accounting.**

The Subrecipient shall keep accurate books and records of accounts in accordance with generally accepted accounting principles. Subrecipient shall record all expenditures made and all costs and liabilities incurred utilizing the Restaurant Program or Project funds. The aforementioned accounts and all project records shall be made available upon request by the City. All books and records of accounts must be retained for five (5) years from the date of this Agreement.

Subrecipient shall maintain records as to all improvements completed, reimbursable expenses incurred in constructing the Project and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by any representative of the City. Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

## **Section 21. Compliance with Law.**

The Subrecipient shall comply with all federal, state, and local laws, rules, and regulations. Subrecipient agrees to execute and abide by the certifications contained in Exhibit "E" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

## **Section 22. Assignment.**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at the City's election, be deemed void and of no effect whatsoever.

## **Section 23. No Agency.**

The Subrecipient and any of its personnel operating under the terms of this Agreement are not to be considered agents or employees of the City for any purpose and are not entitled to any of the benefits that the City provides for the City's employees.

## **Section 24. Indemnification.**

The Subrecipient hereby covenants and agrees to, and does hereby, indemnify, hold harmless, and defend the City, its elected and appointed officials, agents, and employees, from and against all claims for injuries or damages to persons or property of whatsoever kind or character, whether real or asserted, arising out of this Agreement for the Project activity to be performed hereunder. The Subrecipient hereby assumes all liability and responsibility for injuries, claims or suits for damages to persons or

property of whatsoever kind or character, whether real or asserted, arising out of the performance of this Agreement.

Pursuant to Colorado Constitution Article XI, Sections 1 and 2 the City shall not indemnify or hold harmless Subrecipient, or any party related or operating under this Agreement with or without the City's consent. No provision in this Agreement shall limit or set the amount of damages available to the City to any amount other than the actual direct and indirect damages to the City, regardless of the theory or basis for such damages. Any provision included or incorporated herein by reference which purports to negate this provision in whole or in part shall not be valid or enforceable or available in any action at law or equity, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by this provision shall not invalidate the remainder of the Agreement.

#### **Section 25. Termination.**

The City may suspend and/or terminate this Agreement if the Subrecipient fails to comply with any material term or condition of the award of any City related Project or Program funds. The City may suspend and/or terminate payment of funds for the Project Activity In whole, or in part, for cause. "Cause" shall include but not be limited to the following:

- o Improper use of Program or Project Funds
- o Failure to comply with any material term and/or condition of this Agreement or to perform the Project activity as described in this Agreement;
- o If, for any reason, the carrying out of the Agreement is rendered impossible or Infeasible, including if the source of the Funding should be eliminated before disbursal; and
- o Failure to comply with any applicable local, state, and federal laws and regulations.

#### **Section 26. Cure.**

The Subrecipient agrees to cure any issue of noncompliance or event of default upon receiving written notification of such issue or event. If the City withholds disbursement of City funds, it shall advise the Subrecipient in writing and, in the case of suspension, specify any actions that must be taken as a condition precedent to the resumption of payments and a reasonable date for compliance therewith.

#### **Section 27. Withholding of funds.**

The City may suspend and/or terminate payment of funds for the Project Activity in whole, or in part, which may include but not be limited to the following:

- o Written agreement between the City and the Subrecipient;
- o Written notification from the Subrecipient to the City; and
- o A determination by the City that all or any portion of the City program funds awarded to the Subrecipient remaining unpaid will not accomplish the purpose for which such Restaurant Program funds were granted.

#### **Section 28. Use of Property Requirement.**

Any real property that is acquired or improved in whole or in part with City Project funds must meet the following:

The Subrecipient agrees to use any real property acquired or improved for the original authorized

purpose as set forth within this Agreement for this time period and shall not dispose of or encumber its title or other interests therein.

### **Section 29. Nondiscrimination.**

The Subrecipient shall not discriminate against any employee, applicant for employment, contractor, or subcontractor because of race, color, religion, creed, age, gender, gender identity, gender expression, national origin, disability, or veteran status. Owners may be subject to denial, suspension, or termination of reimbursement funding for acts of discrimination.

The Subrecipient shall not discriminate against anyone on the Property because of race, color, religion, creed, gender, gender identity, gender expression, national origin, age disability, sexual orientation or veteran status in landlord and tenant services, activities, accommodations, or facility use. The Subrecipient shall adhere to and assure that employment and activity programming are conducted such that all individuals and groups, clients, participants, and/or employees will be treated equally. The Subrecipient may be subject to loss of funding, reimbursement of funds allocated, or denial of future funds for discrimination.

### **Section 30. Change of Use or Sale of Premises.**

The Subrecipient shall not change the use or planned use of any such acquisition, including the beneficiaries of such use, from that for which the acquisition or related improvement was made unless the City is notified and approves such use change in advance and in accordance with this Agreement which approval shall not be unreasonably withheld by the City.

The Subrecipient shall Immediately inform the City in writing, thirty (30) days prior to any proposed sale, transfer, conveyance, exchange, or entry into any lease agreement which involves the property acquired with City or Restaurant Program funds. The Subrecipient may not sell, transfer, exchange, or convey any interest or the property without written consent of the City which consent shall not be unreasonably withheld.

The Subrecipient agrees to maintain a good appearance of the acquired property and further agree to maintain the property in such condition so as to comply with all applicable local laws and ordinances and generally recognized business practices applicable to the Subrecipient's business.

### **Section 31. Notices.**

All notices, certificates, reports, or other communications hereunder shall be deemed given when personally delivered, or after the lapse of five (5) business days following their mailing by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

**To the City:**

City of Aurora, Colorado  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: Development Services Manager

**With a copy to:**

City of Aurora, Colorado  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: City Attorney



**To Subrecipient:**

JW Lee  
JWS Second Property LLC  
2080 South Havana Street  
Aurora CO 80014

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF AURORA, COLORADO

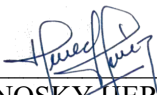
SUBRECIPIENT

\_\_\_\_\_  
JASON BATCHELOR,  
Interim City Manager

By:   
JONG WOOK LEE, JWS Second Property LLC

Title: **President**  
\_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
HANOSKY HERNANDEZ  
Sr. Assistant City Attorney



2710 S Havana St. Restaurant Program Construction Breakout				Exhibits B and C	
Project Name : Izakaya Japanese restaurant		ATTACHMENT C Owner Total Costs before Reimbursements			ATTACHMENT B Aurora Eligible Grant Reimbursement With a Cap of \$300,000
2710 S. Havana St.					
Aurora CO 80012					
DECO Design & Construction Mgmt. LLC					
DIV	SCOPE OF WORK	Value	Tenant Portion	Owner Portion	Restaurant Program Items
1	General Requirement				
	o Permit fees	N.I.C.			
	Subtotal	\$ -			
2	INTERIOR WORK				
G.C	1. RESTROOMS	\$ 45,000			45,000
	- Replacing wall and floor tiles				
	- Replacing vanity counter with quartz				
	- Replacing light fixtures				
	- Replaing toilet partitions				
	- Replacing doors and frames				
	- Patching/ skim coats/ paint				
	- Accessories				
G.C	2. KITCHEN	\$ 53,500	53,500		
	- Refurbishing FRP boards @ all wall				
	- Reapir/ replaing quarry kitchen tiles/ base				
	- Replaing walk-in cooler/ freezer				
	- Replaing ceiling tiles/ grids				
	- Replaing stainless steel wall flashing				
	- Replacing gas quick connects				
G.C	3. DINING/ BAR/ SUSHI BAR	\$ 285,000	142,500	142,500	
	- Replacing existing raised platform				
	- Remove existing tile floor				
	- Remove existing drywall at wall				
	- Replaing patio doors				
	- Replacing windows and entrance door				
	- Grinding and seal on concrete floor @ hallway				
	- Replacing all light fixtures				
	- Mill work				
	- Stain/ paint finish				
	Subtotal	\$ 383,500			
4	EXTERIOR WORK				
G.C	1. ROOF	\$ 85,000			85,000
	- Replacing roofing system with PTO				
	- Replacing roof drain				
G.C	2. ROOF TOP EQUIPMENT	\$ 98,000			98,000
	- Replacing (4) roof top units				
	- Replacing (2) hood exhaust fans				
G.C	3. PATIO				
	- Refurbishing existing patio (south side) - Tiles and stucco	\$ 4,500		4,500	
	- Concrete patio expansion to storefront (Southwest side)	\$ 28,000			28,000
	- Covered patio (existing and new) with metal roofing	\$ 25,800		25,800	
	- Remove existing wooden retaining wall	\$ 9,700		9,700	
	- and replacing with concrete retaining wall				
G.C	4. Landscaping	\$ 19,500		19,500	
	- Remove existing dead tress				
	- Trim existing trees				
	- Addition garden rocks and mulches				
	- Refurbishing irrigation system				
G.C	5. Façade renovation	\$ 250,000		250,000	
	- Addition porch with pilastes @ entrance				
	- Raised parapet with structural reinforcement				
	- Framing work for new wall finishing				
	- Metal siding and brick veneer finish				
	- Paint on existing stucco wall				



2710 S Havana St. Restaurant Program Construction Breakout					Exhibits B and C	
Project Name : Izakaya Japanese restaurant 2710 S. Havana St. Aurora CO 80012 DECO Design & Construction Mgmt. LLC			ATTACHMENT C Owner Total Costs before Reimbursements			ATTACHMENT B Aurora Eligible Grant Reimbursement With a Cap of \$300,000
DIV	SCOPE OF WORK		Value	Tenant Portion	Owner Portion	Restaurant Program Items
	G.C	6. Parking lot	\$ 58,000		58,000	
		- 2" new layer on top of existing asphalt				
		- New line marking for parking				
		- Refurbishing dumpster enclosure with metal or split face block				
		Subtotal	\$ 578,500			
5	ELECTRIC					
	G.C	- Trimming unused elctric circuits and wiring				
		- Addition/ replacing light fixtures include interior and exterior				
		- Identify all electric breakers				
		Subtotal	\$ 85,000		85,000	
6	FIRE SUPPRESSION					
	G.C	- Refurbishing existing hood ansul system				
		Subtotal	\$ 12,000			12,000
7	KITCHEN/ SERVICE EQUIPMENT/ FURNITURE BY					
	Owner	- Kitchen equipment	\$ 200,000	200,000		
	Owner	- Furniture : tables and chairs	\$ 100,000	0.00		
	Owner	- Store sign	\$ 50,000	50,000		
		Subtotal	\$ 350,000			
		TOTAL CONST. COST	\$ 1,409,000	\$ 446,000	\$595,000	\$ 268,000
		OVERHEAD & MOBILIZATION (15%)	\$ 211,350	\$ 90,550	\$120,800	0
		GRAND CONST. TOTAL	\$ 1,620,350	\$ 536,550	\$715,800	\$ 268,000

EXHIBIT D  
COMPLIANCE PROVISIONS INCORPORATED  
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid, and item is necessary. Similarly, cash receipts for the payment of wages are mandatory. Paid invoices revealing check number, date paid, and evidence of goods or services received are to be filed per the expense account they were charged. The City must review and approve your account system and internal controls prior to the release of funds.

2. There is no flexibility regarding budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

4. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
  - a) recipient
  - b) brief description of purchase
  - c) amount with method of computation detailed
  - d) how expense meets program goal per approved proposal

Cost Summary must be submitted monthly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

6. The City shall not be obligated to any third-party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

7. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

8. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

9. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

## EXHIBIT E CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

- (1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;
- (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;
- (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;
- (4) Section 3 of the Housing and Urban Development Act of 1968, as amended;
- (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;
- (6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;
- (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;
- (8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;
- (9) The Subrecipient, as applicable to a governmental or nongovernmental agency, shall comply with the requirements and standards of 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225 and 230, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" aka "Super Circular"; and shall comply with applicable sections of 79 FR 75871 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".
- (10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;
- (11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
- (12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally assisted program;
- (13) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];
- (14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of 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 agency, 14 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

## EXHIBIT F INSURANCE REQUIREMENTS

During the term of this Agreement and until final acceptance by the City of all work covered by the Agreement, Subrecipient 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 Subrecipient, their employees, subcontractors or representatives, along with: the activities of any and all subcontractors retained by the Subrecipient or Subcontractors, the activities of anyone employed by any Subrecipient, Subcontractors, their representatives or anyone for whose acts they may be liable.

**Commercial General Liability Insurance.** Subrecipient shall maintain commercial general liability insurance covering all operations by or on behalf of Subrecipient 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.

**Workers' Compensation and Employers Liability Insurance.** Subrecipient 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, Subrecipient shall maintain Employers Liability Insurance with minimum limits of \$500,000 bodily injury for each accident, \$500,000 bodily injury by disease each employee and \$500,000 bodily injury disease aggregate. If Subrecipient does not have employees, Subrecipient will provide a written statement indicating that it has no employees and is not subject to the provisions of Colorado Workers' Compensation Act.

If Subrecipient engages services of a subcontractor, Subrecipient is responsible for verifying that the subcontractor's insurance meets the insurance requirements set forth above and that it is in effect prior to and throughout the term of this agreement. Any subcontractor who 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 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.** Subrecipient 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 insurance policy. 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, Subrecipient shall provide certificates of insurance to the City demonstrating that at the minimum coverages required herein are in effect. Subrecipient 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 Subrecipient's or its subcontractor's coverage is renewed at any time prior to completion of the services, Subrecipient shall be responsible for obtaining updated insurance certificates for itself and such subcontractor from the respective insurance carriers and forwarding the replacement certificates to the City within ten (10) days of the expiration date of any previously delivered certificate.

The minimum A.M. Best rating of each primary insurer shall be A- VIII and the minimum A.M. Best rating of each excess insurer shall be A- VII. The Subrecipient 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 in response to the particular circumstances giving rise to the contract.

**Subrecipient'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.** Subrecipient shall maintain professional liability insurance with minimum limits of One Million Dollars (\$1,000,000), covering those claims which arise out of the negligent acts or omissions of the Subrecipient, 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 Subrecipient'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 ten (10) days of the expiration date of any previously delivered certificate.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Consideration to Appoint Two (2) Members to the Arts in Public Places Commission
<b>Item Initiator:</b> Midori Clark, Director of Library & Cultural Services
<b>Staff Source/Legal Source:</b> Kadee Rodriguez, City Clerk/ Tim Joyce, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 4.1--Develop and maintain high quality parks, rec facilities/programs, libraries, natural areas, trails and open space

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney

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

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as Proposed at Study Session
- ☒ Approve Item and Move Forward to Regular Meeting ☐ Approve Item as Proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration  
*Reason for waiver is described in the Item Details field above.*

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes 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 mission of the Art in Public Places Program is to create great places that contribute to neighborhood development, economic vitality, and enrich and engage the community of Aurora.

The Arts in Public Places Commission is composed of nine (9) members who are residents of Aurora and registered voters. Members may serve a three (3) year term for up to three (3) terms.

---

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

The Art in Public Places Commission currently has two (2) vacancies. The commission received two (2) applications and interviews were conducted July 31, 2023.

Among the applicants were:

Karen Jorgensen

Elaine Lee

Upon conducting interviews, the Art in Public Places respectfully recommends the appointment of the following candidates:

Karen Jorgensen – 1st term beginning 9/1/2023 and ending on 8/31/2026

Elaine Lee – 1st term beginning on 9/1/2023 and ending on 8/31/2026

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does Council wish to appoint Karen Jorgensen & Elaine Lee to the Arts in Public Places Commission?

---

## LEGAL COMMENTS

All boards and commissions shall be appointed by Council. (City Charter, art III, sec. 3-11 and art. IX, sec. 9-1)  
The art in public places commission shall consist of nine voting members, each of whom shall be registered electors. The commissioners shall be appointed so as to represent different interests in the community, and at least one member shall be from the visual arts field. (Aurora Colo. Code sec. 34-166). The art in public places commission shall be directly responsible to the City Council. It shall be the function and the duty of the commission to develop and administer a public art policy applicable to public areas in public buildings, outdoor areas, and parks within the city. (Aurora, Colo. Code sec. 34-169). (TJoyce)

---



## MEMORANDUM

TO: Mayor Coffman and Members of City Council

FROM: Brittany Pirtle, Chair, Art in Public Places Commission

THROUGH: Tristen Sheptock, City Clerk Analyst

DATE: August 8, 2023

SUBJECT: New Appointments to the Art in Public Places Commission

---

**Board or Commission:** Art in Public Places Commission

**Number of Vacancies:** 2

### Interview Information

**Date of Interviews:** July 31, 2023

**Names of Applicants:** Elaine Lee, Karen Jorgensen

**Applicants Interviewed:** Elaine Lee, Karen Jorgensen

### Recommendation

**Suggested Appointment(s):** Elaine Lee, Karen Jorgensen

#### Summary:

The Art in Public Places Commission currently has one open position and a second position will become open on September 1, 2023.

The Art in Public Places Commission Interview Committee met virtually with both candidates on Monday evening, July 31, 2023 and conducted individual interviews.

Karen Jorgensen participated in the Commissions 5-Year Plan Survey and indicated her possible interest in serving on the commission through that process. When this position became available, everyone who had expressed interest was contacted via email. Karen, who is a long-time resident of Aurora, submitted her application and was selected for an interview. The commissioners enjoyed her relaxed and easy demeanor, sense of humor, and thoughtful responses to their questions. The fact that she had chosen to complete the AIPP 5Year Planning Survey through Engage Aurora and that she is currently serving on the Commission for Active Adults indicates her commitment to civic engagement.

The Art in Public Places Commission unanimously recommends the appointment of Karen Jorgensen to the Commission and looks forward to working with her.

Elaine Lee is a relative newcomer to Aurora, having relocated from Denver about 2 years ago. She has lived in the Denver/Aurora metro area for over 40 years, and her now grown children participated in theatre education programs at the Fox Art Center when they were young. She has also enjoys attending Global Fest and the public art she has seen in Aurora. Elaine's background is in Journalism, History, and Sociology. She is an accomplished writer with experience in community service engaging with culturally diverse communities, and at one point served as the Public Information Specialist for the Colorado Civil Rights Division. The AIPP Commission found that her perspective gained from working with many different kinds of communities and her skills as a writer and as an advocate were consistent with the values and goals of the Art in Public Places Commission.

The Art in Public Places Commission unanimously recommends the appointment of Elaine Lee to the Commission and looks forward to working with her.

**The Art in Public Places Commission strongly supports the appointment of both Karen Jorgensen and Elaine Lee as commissioners on the Art in Public Places Commission.**

**Art In Public Places Commission**

**Applicant Package - Ward 3**

Art In Public Places Commission - Ward 3

**Term:** 01 Sep 2023 - 31 Aug 2026

**Positions Available:** 1

**Number of applicants in this package:** 1

- Lee, Elaine

Date Received: 07/18/2023

Registered Voter & Resident of Aurora

08/28/2021 Ward: 3 County: Arapahoe

*Tristen Sheptock*

**Name :**Lee, Elaine

**Address :** [REDACTED]

**Email** [REDACTED]

**Board Name :**Art in Public Places Commission

**Date of Birth :**

[REDACTED]

**Home Phone Number :**

[REDACTED]

**Work Phone Number :**

[REDACTED]

**How long have you lived in Aurora? :**

2 years

**Are you registered to vote? :**

Yes

**Years of Education Completed :**

18+

**Degree(s) Received :**

M.A., Journalism; B.A. degrees in History & Sociology

**College(s) Attended :**

University of Missouri-Columbia (M.A. degree) Northwestern University (B.A. degrees)

**Employer Name :**

self

**Employer Address :**

[REDACTED]

**Current Position :**

p.t. childcare for working parents (i.e., I volunteer care for grandchild)

**Years with Current Employer :**

9 mos.

**Work Experience :**

Varied; please see resume for details.

**Certification(s) :**

IL secondary teaching certification, social studies CO Supervisory certification Social Media Marketing specialization, Northwestern U. series of online courses via Coursera LinkedIn Learning certificates for various courses

**How are you involved in your community? :**

Recently my community involvement has centered on family health, home & hearth, including moving during the pandemic from Denver to Aurora, where I've been getting acquainted & settling into this locale.

**List your interests and activities. :**

Walking, hiking, reading, spending time with family & friends (trying to make good memories)



**Do you presently serve in any other appointed position on a board, commission or committee? :**

No

**If yes, enter the board name and position :**

N/A

**Are you currently a member and seeking reappointment on the board you are applying for? :**

No

**Why do you desire this appointment? :**

As a relative newcomer here, I look forward to helping to advance Aurora's best interests through arts & otherwise, now & for the future. I'm ready to join neighbors & the wider community hoping to support & strengthen this city's quality of life for everyone here through the arts, myriad cultures of residents & innovative place-making efforts.

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

Currently, I'm estimating 10-15 hours per month.

**Do you have any conflicts of interest that should be disclosed? :**

No

**If yes, please explain :**

N/A

**Reference 1: Full Name, Phone Number and Address :**

Diana & Ben Matsumoto (new neighbors)

**Reference 2: Full Name, Phone Number and Address :**

Pamela & Charles Pea ( longtime friends)

**Reference 3: Full Name, Phone Number and Address :**

Roberta Bloom (prior involvement in organizations) office Cultural Services Manager and Public Art Supervisor Library and Cultural Services | City of Aurora

**How did you hear about us? :**

Word of Mouth

**By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :**

Elaine Lee

**Time of Submission :**07/17/23 7:36:09 PM

**Attachments:**

- Elaine Lee Resume.pdf



## ELAINE LEE

I try to use my expertise in writing, editing, public relations and event planning for community progress. When each person's strengths are recognized and individual potential is encouraged, then I believe communities are more apt to reach shared goals. My hope is to find work that needs and stretches me to be the best I can be.

### EMPLOYMENT

**Freelancer** – past five years doing brand ambassadorships, event staffing, writing, administrative work and connecting international exchange students with host families via “public diplomacy” programs seeking to advance global understanding and goodwill.

**Membership and Communications Director** (former Public Relations Coordinator/Office Manager) – Temple Micah, Denver, CO, 2/95-7/15. Full-time position as synagogue's promoter, prime publicist and membership steward, while congregation grew from about 40 to 200+ member households. Honorary membership conferred 2015. Featured speaker at 2012 High Holidays Services and Honoree of 2004 fundraising event for “devotion to congregation” by promoting its *Do Justly* mission and recruiting, connecting, retaining members. Tasks were three-fold:

- **COMMUNICATIONS**, external and internal
    - o shaped and conveyed temple brand, advanced organization visibility, upheld and honed its image
    - o fielded public and prospective member requests, while keeping almost all members content
    - o provided credibility, reliability, timeliness and savvy in media relations
    - o ensured temple continuity, stability, outreach, positive impacts via community relations
    - o publicized all aspects of congregation -- wrote, edited, distributed monthly e-newsletter/blog and print version, press releases, announcements, flyers and so on
    - o arranged interviews, informational booths, sponsorships, testimonials, ads
    - o managed website content
    - o gave invocations at Volunteers of America “Dinner for Those Who Hunger” and for Thanksgivings
  - **MEMBERSHIP**, serving current and prospective members
    - o chief welcomer and resource-provider
    - o produced member directories, calendars, prayer lists, reminders and more
    - o composed and oversaw acknowledgments
    - o supported congregants during life's troubles and triumphs, led Chesed team in kind acts
    - o served as congregation's point of contact and first responder during clergy sabbaticals, trips and other absences, and served as the only full-time staff for extended spans
    - o shepherded the membership process
    - o maintained database and other records
  - **SPECIAL EVENTS**, activities, programs, projects, meetings and miscellany
    - o High Holidays coordination – tracked reservations and donations, allocated honor roles, assigned and oriented volunteers, produced remembrance booklets, provided other materials, procured break-the-fasts, arranged security precautions and childcare, etc.
    - o tracked RSVPs and payments for other celebrations including rabbi's run, Passover seders, Hanukkah Top Latke Taste-off parties, Spring fundraisers, Summer golf tournaments and conversation series with Mike Littwin, Howie Movshovitz, David Sirota, Happy Haynes
    - o explored technical options to streamline temple operations and to increase volunteerism
    - o coordinated with colleagues, committees, volunteers, participants, community partners, sponsors, grantor, facilities managers, caterers, other vendors and staffs of two churches
    - o advised families in planning bar and bat mitzvah celebrations and implementing prayerbook drive; developed building use guidelines in shared spaces
    - o collaborated with diverse entities on community-wide innovations such as “Women's Expressions of the Soul,” and programming for seniors, children, GLBT and other specific sectors
- Supervisors: Adam Morris, Birdie Becker, Sara Gilbert, Sandra Cohen, rabbis; Brenda Bruno, Sharon Thorson, ancillary personnel.



### **Public Relations and Ad Sales**

- Robert E. Loup Jewish Community Center and Mizel Arts & Culture Center, Denver, CO, 2004-2011. Publicist/contractor producing press releases, writing news and features, blogging, delivering marketing materials, selling ads. Supervisors: Janice Silver, Barbara Yost, Ruth Segal.
- Prime Time for Seniors, 2012-2014. Sold ads and wrote occasionally for this Colorado monthly newspaper for age 55+ readers. Supervisor: Bill Watson.

**Program Coordinator** – Pacific American Institute, Inc., Aurora, CO 3/88-9/88. Temporary West coast rep. Recruited host families for Japanese high school students, planned cultural activities and events, hired and supervised teachers in US history, government and English. Colleague: Patty Cordova.

**Public Information Specialist** – Colorado Civil Rights Division, Denver, CO. Full-time. 5/85-12/87, publicizing state agency that enforces laws against discrimination. Handled all info requests, inquiries from public and media; initiated stories, arranged interviews with staff; served as a liaison between the division and commission; coordinated meetings, conferences and special events; represented agency and its director on boards and advisory teams; compiled annual reports, quarterly newsletter, brochures, flyers, other publications; researched and organized material for director speeches. Laid groundwork for 1st King Holiday observances at local-international levels. Earned state supervisory certification. Supervisor: Dr. Dorothy Porter.

**Feature Writer Positions** – Full-time.

- Boulder Daily Camera “Accent” and special sections, Boulder, CO 8/84-12/84. Temporary (commuting from Denver), stories ranged from family day-care dilemmas and children’s swimming risks to nonprofit groups’ wish lists. Supervisor: Patti Burnett.
- Concurrent stringer for Time magazine’s Denver Bureau.
- Cincinnati Post “Accent” and “Newscience” sections, Cincinnati, OH 2/81-5/84. Produced features from humorous fluff to serious, in-depth pieces, trends, profiles, human interest, newsfeatures; covered migration of aging Ohioans to Florida in special series; expanded science and technology coverage launching new section. Supervisor: Linda Cagnetti.
- Greenville News “Carolina Style” section and “More” Friday tabloid magazine, Greenville, SC 7/80-2/81. Wrote articles on all subjects, from a preemie baby’s hospital debut to tap star Gene Kelly’s shuffling steps at a mall opening, from construction process at a handmade-furniture factory to mystique of a senior romance. Supervisor: John Bennett.
- Milwaukee Journal “Spectrum” summer intern, Milwaukee, WI, 5/79-8/79. Wrote about city’s multifaceted populace, including stories on harrowing experiences and resettlement of refugees, continuing torment for families of American soldiers long missing in action... plus a light expose on what summer camp was REALLY like for kids in it! Supervisor: Barbara Strain.
- Editing Positions – Full-time.

**Assistant Editor** – *Dental Economics*, national practice management magazine for dentists, Tulsa, OK 1/78-6/78. Writing, editing, layout; screening submissions. Supervisor: Pat Redmond.

**Manuscript Editor** – American Dental Association, Chicago, IL. 2/77-1/78. Copy editing clinical journals and biweekly national newspaper for dentists. Editing, layout, proofing articles and writing “New Products” column. Supervisor: John Goetz.

**Instructor Positions** – Adjunct.

- Parks Jr. College, Aurora, CO, 5/91-10/92. Taught English composition. School administration in flux.
- Metropolitan State University of Denver, 1/89-5/90. Taught introductory mass communications and news writing courses. Supervisor: Barbara Haddad Ryan.
- University of Cincinnati, Cincinnati, OH 1/84-3/84. Taught news writing and reporting, augmenting *Cincinnati Post* position. Supervisor: Dean of Liberal Arts



## WRITING AWARDS

- First Place, Best Feature Story, United Press International – Ohio, 1982, for “Born of War,” a story about Amerasian children searching for a place to belong.
- First Place, Home, Food, Fashion, Furnishings and Family Category, Ohio Newspaper Women’s Association, 1982, for “Death in the Family,” a story about how a teenager’s death affected his family.
- Top Prize, Anne Silverman Award, Northwestern University, 1977, writing contest for all NU students, sponsored by Iota Sigma Epsilon Journalism Society, for “We and They,” story about race relations in a dormitory -- and another award for “The Patriot,” poem about a VietNam veteran.
- First Place, Best Newsfeature, National Gold Key Award, Quill and Scroll, 1972, for “Students Involved in Tutoring Programs,” a story about high school students tutoring grade school students.

## FREELANCE CREDITS

*Colorado Homes and Lifestyles, Rocky Mountain News, San Jose Mercury News, Milwaukee Journal, Wichita Eagle, St. Petersburg Times, Rochester Times-Union, Emporia Gazette, Phoenix Jewish News, American Jewish World, Southern Jewish Weekly, National Catholic Reporter, Mountain Moving and She.*

## EDUCATION

**University of Missouri, Columbia, MO.** -- M.A. Degree, Journalism, 1980.

- John W. Jewell Journalism Scholarship.
- Penney-Missouri Newspaper Awards Workshop Participant.
- Middle East Reporting Program independent foreign correspondence in Israel, Jordan, Egypt.

**Northwestern University, Evanston, IL.** -- B.A. Degrees, History and Sociology, 1976.

- Chicago campus, NU Postgraduate Journalism Studies, 1977.
- NU Social Media Marketing Specialization online courses and Capstone project, 2015-2016.
- IL Secondary Teaching Certification, 1976; Evanston Township HS Alternative Education student teaching.

Mortar Board and Alpha Lambda Delta honor societies.

Resident Assistant for two dorms; Advisory Member, Women’s Residential College Committee.

Chair, Big Sister-Big Brother Program.

PR Board Member and Production Assistant, Waa-Mu Show.

Intern, Federal Aviation Administration, Washington, D.C.

Alum, Brandeis Camp Institute, Simi Valley, CA.

**Ponca City High School, Ponca City, OK.** -- Graduate, 1972; 4.0 GPA.

National Honor Society.

Outstanding Senior Girl, American Association of University Women Award.

Editor-in-Chief, *The Poncan* student newspaper, and Staff Member, *Cat Tale* yearbook.

Other Interests: family activities, friends, hikes, walks, reading, continuing education and lifelong work.

## COMMUNITY SERVICE

Distributed neighborhood newspapers as community-building tool.

Led a Jr. Great Books group at Cory Elementary, while developing auctions, bake sales, teacher appreciation meals, class parties, the school directory -- and subbed as principal for tribute to scholars.

Past president, Denver JCC Early Childhood Education Advisory Committee, former member of the J’s Program Committee and founder of the JCC Preschool Havurah.

Served seven years on Temple Micah Board of Trustees, including several terms as vice-president and secretary.

Volunteer toy librarian, Denver Public Library, Park Hill branch.

Elsewhere, taught American history and civics classes for immigrants applying for US citizenship, researched grant funding for a school designed to educate adult dropouts, counseled battered women, and tutored jail inmates in a rehabilitation initiative.

**Art In Public Places Commission**

**Applicant Package - Ward 4**

Art In Public Places Commission - Ward 4

**Term:**01 Sep 2023 - 31 Aug 2026

**Positions Available:** 1

**Number of applicants in this package:** 1

- Jorgensen, Karen

Date Received: 06/15/2023

Registered Voter & Resident of Aurora

10/14/1994 Ward: 4 County: Arapahoe

*Tristen Sheptock*

**Name :**Jorgensen, Karen

**Address :** [REDACTED]

**Email** [REDACTED]

**Board Name :**Art in Public Places Commission

**Date of Birth :**

[REDACTED]

**Home Phone Number :**

[REDACTED]

**Work Phone Number :**

[REDACTED]

**How long have you lived in Aurora? :**

30 years

**Are you registered to vote? :**

Yes

**Years of Education Completed :**

College Graduate

**Degree(s) Received :**

BS Communication Disorders, CSU

**College(s) Attended :**

Mesa State CSU

**Employer Name :**

Sanctuary Wealth Advisors

**Employer Address :**

[REDACTED]

**Current Position :**

Office Manager

**Years with Current Employer :**

11

**Work Experience :**

I have worked for over 40 years in the Financial Services Industry

**Certification(s) :**

Series 7, 8, 63 and 65

**How are you involved in your community? :**

Commissioner on the Aurora Commission for Older Adults. Attend Ward Meetings

**List your interests and activities. :**

quilting, gardening

**Do you presently serve in any other appointed position on a board, commission or committee? :**

Yes

**If yes, enter the board name and position :**

Commissioner, Aurora Commission for Older Adults

**Are you currently a member and seeking reappointment on the board you are applying for? :**

No

**Why do you desire this appointment? :**

Art is so important in our culture and society and we need to embrace and celebrate art

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

few hours

**Do you have any conflicts of interest that should be disclosed? :**

No

**If yes, please explain :**

N/A

**Reference 1: Full Name, Phone Number and Address :**

Linda Disette;

**Reference 2: Full Name, Phone Number and Address :**

Mara Hellert;

**Reference 3: Full Name, Phone Number and Address :**

Diana Steverson;

**How did you hear about us? :**

News Aurora (water bill newsletter)

**By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :**

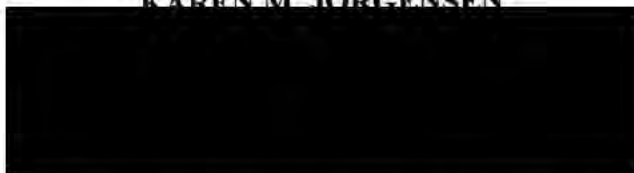
Karen Jorgensen

**Time of Submission :**06/15/23 10:20:15 AM

**Attachments:**

- Resume.pdf

## **KAREN M. JORGENSEN**



Talented financial services professional with extensive experience in various capacities in the securities industry. Strong background in areas such as Operations, Personnel Management and Compliance. Solid leadership skills, organized and efficient and able to communicate effectively within all levels of an organization.

### **PROFESSIONAL ACCOMPLISHMENTS**

Organized and implemented training processes and procedures for complexes within the firm  
Received numerous Employee Acknowledgement Awards  
Assisted with successful recruitment of Financial Consultants  
Devised and executed new office organization and implementation

### **EMPLOYMENT HISTORY**

2011 – Present

**SANCTUARY WEALTH ADVISORS**  
Greenwood Village, Colorado

#### **OFFICE MANAGER**

- \*Responsible for daily operational practices
- \*Extensive client contact including all paperwork, reporting, trading
- \*Primary contact for all systems utilized within firm
- \*Act as liaison between office and parent firm
- \*Maintain and review all incoming and outgoing correspondence

2004 – 2011

**RBC WEALTH MANAGEMENT**  
Greenwood Village, Colorado

#### **ADMINISTRATIVE COMPLEX MANAGER**

- \*Supervise and monitor 11 separate branch office support staff personnel
- \*Responsible for operational practices, including training, resolving issues
- \*Act as liaison between complex and branch offices
- \*Responsible for review and maintenance of daily operational work flow
- \*Utilize wide ranging knowledge of industry and system to ensure all work generated by branches and completed by complex is within guidelines
- \*Act as primary source for questions concerning operations and procedures
- \*Function as branch technology source
- \*Participate on BAAT committee
- \*Participate on Policy and Procedure committee
- \*Back-up Complex Director when appropriate

1995 – 2004  
1986 – 1994

**WACHOVIA SECURITIES LLC**  
Denver, Colorado

#### **REGIONAL SUPERVISOR**

- \*Supervise and monitor 51 separate branch manager's personal production with average production of \$315,000



- \*Supervise and manage 4 "Profit Formula" practices with over \$3.2 million in production
- \*Responsible for maintaining and reviewing various compliance reports
- \*Responsible for reviewing, taking action on trade exceptions
- \*Frequent contact for procedural and operational questions and problems
- \*Instrumental in providing training and instruction for branch managers, operations managers and branch compliance managers
- \*Provide on-sight mini compliance reviews
- \*Primary contact for reporting branches in areas of regulation
- \*Primary control for outside e-mail correspondence
- \*Act as intermediary branch manager in cases of absence
- \*Regularly travel to branch locations for review and training of personnel

#### **REGIONAL ADMINISTRATIVE LIAISON**

- \*Primary contact between home office and branches and frequent trainer in operations
- \*Recognized by company for developing compliance procedure manual
- \*Back-up to branch managers and operations managers
- \*Responsible for providing problem solving, training branch employees, decision making for branch budgeting and hiring
- \*Conduct biweekly operations manager calls and publish call notes
- \*Major participant in firm-wide back-office conversion process
- \*Provide assistance to all employees within region in matters of problem solving, research, correspondence, compliance

#### **OPERATIONS MANAGER**

Englewood, Colorado; Newport Beach, California; Long Beach, California

- \*Responsible for office compliance
- \*Monitoring of employee activities including trading, customer service, correspondence, errors, meeting client needs
- \*Liaison in Human Resource matters
- \*Produce, construct and conduct various office meetings
- \*Provide feedback and assistance to other branch personnel in matters of company policy, problem solving
- \*Proficient in all job functions within branch and provide support for such
- \*Instrumental in training of new employees and also outside employees including new branches, new company acquisitions

#### **SERIES 7, 8, 63 AND 65 LICENSES**

#### **REFERENCES FURNISHED UPON REQUEST**



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Consideration to Reappoint Two (2) Members to the Historic Preservation Commission
<b>Item Initiator:</b> Chris Geddes, Historic Preservation Specialist/Midori Clark, Director of Library Cultural Services
<b>Staff Source/Legal Source:</b> Kadee Rodriguez, City Clerk/Tim Joyce, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> Select a Council Goal

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Kadee Rodriguez, City Clerk /Tim Joyce, 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<br><i>Reason for waiver is described in the Item Details field above.</i> |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes 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 purpose of the Historic Preservation Commission is to review and make recommendations to City Council regarding potential landmark status for historical sites, districts and other properties for the educational, cultural and economic benefit of Aurora citizens.

The Historic Preservation Commission consists of eleven (11) members appointed by the Aurora City Council. The term length is three (3) years and members may serve up to three (3) terms.

---

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

The Historic Preservation Commission currently has two (2) vacancies. The Commission received two (2) applications for reappointment.

Among the applicants were:

Mike Ackman

Charlie Peters

The Historic Preservation Commission respectfully recommends the reappointment of the following candidates:

Mike Ackman – 3rd term beginning 8/1/2023 and ending on 07/31/2026

Charlie Peters – 3rd term beginning on 8/1/2023 and ending on 07/31/2026

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to “Questions for Council”)

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does Council wish to reappoint Mike Ackman & Charlie Peters to the Historic Preservation Commission?

---

## LEGAL COMMENTS

All boards and commissions shall be appointed by Council. (City Charter, art III, sec. 3-11 and art. IX, sec. 9-1)  
The historic preservation commission has eleven voting members consisting of five "professional" members, as defined in section 78-27, and six qualified citizens. The eleven voting members shall be registered electors of the City, to be appointed pursuant to City Charter, art. IX, sec. 9-1. In addition, the five professional voting members shall meet the following qualifications: (1) An interest, competence, or knowledge of historic preservation; and (2) Professional experience in the disciplines of history, architecture, historic architecture, architectural history and archaeology, as described in section 78-27. (Aurora, Colo. Code § 78-26) (TJoyce)

---



## MEMORANDUM

TO: Mayor Coffman and Members of the City Council

FROM: Chris Geddes, Historic Preservation Specialist

THROUGH: Tristen Sheptock, City Clerk Analyst

DATE: August 8, 2023

SUBJECT: Reappointment of Members to the Historic Preservation Commission

---

**Board or Commission:** Historic Preservation Commission

**Number of Vacancies:** 2

### Interview Information

**Date of Interviews:** N/A

**Names of Applicants:** Mike Ackman; Charlie Peters

**Applicants Interviewed:** N/A

### Recommendation

**Suggested Reappointment(s):** Mike Ackman; Charlie Peters

### Summary:

The Aurora History Museum and Historic Sites Office is seeking to reappoint Mike Ackman (Vice Chair) and Charlie Peters (Citizen) to the Historic Preservation Commission (HPC). Both men are members in good standing, attend meetings consistently, and served previous terms on the HPC with integrity, accountability, and avid interest. Both men actively participate in monthly meetings, serve on subcommittees, and attend community events as representatives of the HPC. Fellow HPC members speak highly of both men and feel they bring good ideas and input to the group. Both men expressed a strong interest in remaining on the HPC, and as the Historic Preservation Specialist, I wholly concur.

**The Aurora Historic Preservation Commission and Aurora History Museum and Historic Sites Office strongly supports the reappointment of Mike Ackman and Charlie Peters as members of the Historic Preservation Commission.**

**Historic Preservation Commission**

**Applicant Package - Ward 6**

Historic Preservation Commission - Ward 6

**Term:** 01 Aug 2023 - 31 Jul 2026

**Positions Available:** 1

**Number of applicants in this package:** 1

- Ackman, Mike

Date Received: 08/07/2023

Registered Voter & Resident of Aurora

04/21/1983 Ward: 6 County: Arapahoe

*Tristen Sheptock*

**Name :**Ackman, Mike

**Address** [REDACTED]

**Email** [REDACTED]

**Board Name :**Historic Preservation Commission

**Date of Birth :**

[REDACTED]

**Home Phone Number :**

[REDACTED]

**Work Phone Number :**

[REDACTED]

**How long have you lived in Aurora? :**

63 years

**Are you registered to vote? :**

Yes

**Years of Education Completed :**

14

**Degree(s) Received :**

AA Degree

**College(s) Attended :**

CCD Red Rocks Campus

**Employer Name :**

City of Aurora

**Employer Address :**

15151 E. Alameda Ave.

**Current Position :**

Facility Manage

**Years with Current Employer :**

43 years

**Work Experience :**

Firefighter 42 years

**Certification(s) :**

AA Fire Science

**How are you involved in your community? :**

HPC Commission since 2017

**List your interests and activities. :**

Sports, TV, History

**Do you presently serve in any other appointed position on a board, commission or committee? :**

No

**If yes, enter the board name and position :**

n/a

**Are you currently a member and seeking reappointment on the board you are applying for? :**

Yes

**Why do you desire this appointment? :**

To continue my efforts at preserving our cities robust heritage.

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

8 to 10 hours per month, as needed.

**Do you have any conflicts of interest that should be disclosed? :**

No

**If yes, please explain :**

n/a

**Reference 1: Full Name, Phone Number and Address :**

Chris geddes

**Reference 2: Full Name, Phone Number and Address :**

Bryan neill

**Reference 3: Full Name, Phone Number and Address :**

Chuck Rash

**How did you hear about us? :**

Other

**By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :**

Mike Ackman

**Time of Submission :**07/30/23 2:40:42 PM

**Attachments:**

- HPC Resume (1).pdf



## Resume

Michael E. Ackman

[REDACTED]

[REDACTED]

[REDACTED]

**Personal:** Born and raised in Aurora. Family with Aurora roots dating to 1916. Married 46 years with 2 grown children.

**Education:** Educated entirely in Aurora Public Schools. Graduated in 1974 from Aurora Central High School. Attended and graduated from CCD Red Rocks campus in 1977 with an AA in Applied Fire Science.

**Professional:** Member Glendale Fire Department 1975 – 1980

Member Aurora Fire Department 1980 – 2018 (Retiring as Captain)

City Of Aurora Public Safety training Center Facility Manager 2018 – Present.

**Community:** Numerous APS Committees and City of Aurora HPC Member since 2017.

**Historic Preservation Commission**

**Applicant Package - Ward 5**

Historic Preservation Commission - Ward 5

**Term:** 01 Aug 2023 - 31 Jul 2026

**Positions Available:** 1

**Number of applicants in this package:** 1

- Peters, Charles

Date Received: 08/07/2023

Registered Voter & Resident of Aurora

06/13/2003    Ward: 5    County: Arapahoe

*Tristen Sheptock*

**Name :**Peters, Charles

**Address :** [REDACTED]

**Email** [REDACTED]

**Board Name :**Historic Preservation Commission

**Date of Birth :**

[REDACTED]

**Home Phone Number :**

[REDACTED]

**Work Phone Number :**

[REDACTED]

**How long have you lived in Aurora? :**

20 years

**Are you registered to vote? :**

Yes

**Years of Education Completed :**

19

**Degree(s) Received :**

Juris Doctorate Bachelor's in History

**College(s) Attended :**

Campbell University University of Wyoming College of Law

**Employer Name :**

Riggs Abney Neal Turpin Orbison and Lewis

**Employer Address :**

188 Inverness Dr West, Suite 225 Englewood, CO 80112

**Current Position :**

Associate Attorney

**Years with Current Employer :**

Total 6 over two employment periods

**Work Experience :**

Attorney at Law, Municipal Court Judge in Aurora, Brighton, Fort Morgan, Thornton and Yuma Municipal Courts

**Certification(s) :**

Law License Colorado Law License Wyoming Admitted to the Colorado Federal Court  
Admitted to the Wyoming Federal Court Admitted to the Colorado Bankruptcy Court

**How are you involved in your community? :**

Current Commissioner, Aurora Historic Preservation Commission Snow Busters Lots of unofficial volunteer assistance to neighbors and others

**List your interests and activities. :**

History Architecture Vehicle Restoration Travel

**Do you presently serve in any other appointed position on a board, commission or committee? :**

Yes

**If yes, enter the board name and position :**

Aurora Historic Preservation Commission

**Are you currently a member and seeking reappointment on the board you are applying for? :**

Yes

**Why do you desire this appointment? :**

I enjoy being a part of the Historic Preservation Commission and preserving Aurora historic sites. I led a successful effort to have a local residence added to the list of historic sites.

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

4 - 6 hours per month

**Do you have any conflicts of interest that should be disclosed? :**

No

**If yes, please explain :**

None

**Reference 1: Full Name, Phone Number and Address :**

Chris Geddes Historic Preservation Specialist Aurora Historic Sites Office | Library & Cultural Services | City of Aurora Office [REDACTED]

**Reference 2: Full Name, Phone Number and Address :**

Drake Brownfield Historic Preservation Specialist Aurora History Museum and Historic Sites 15051 E. Alameda Parkway Aurora, CO 80012 Office: [REDACTED]

**Reference 3: Full Name, Phone Number and Address :**

Steven Ruddick [REDACTED]

**How did you hear about us? :**

Other

**By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :**

Charles Lee Peters

**Time of Submission :**07/28/23 7:49:37 PM



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Intergovernmental Agreement with Arapahoe County for the 2023 Coordinated Election
<b>Item Initiator:</b> Kadee Rodriguez, City Clerk
<b>Staff Source/Legal Source:</b> Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

### COUNCIL MEETING DATES:

**Study Session:** 8/7/2023

**Regular Meeting:** 8/14/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Staff: Kadee Rodriguez, City Clerk

Estimated time: 5 mins

### 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 checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration    |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 7/25/2023

### 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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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.)*

Aurora City Code Section 54-7 - Declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams, and Douglas counties.

CRS Section 1-7-116(2) - Intergovernmental Agreements (IGA) between the municipality participating in a coordinated election and the county clerk and recorder conducting the election must be signed no less than 70 days prior to the scheduled election.

---

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

The IGA includes an allocation of responsibilities between the County and City for the preparation and conduct of the coordinated election. The deadline for the County and City to sign this IGA is August 29, 2023.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☒ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

There is \$77,000 budgeted in Org 17016 (Elections). Total cost is estimated to be \$127,635.06. A revised cost estimate will be provided by Arapahoe County in September after the ballot certification deadline based on the final number of coordinating jurisdictions.

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

Any cost above the amount budgeted in Org 17016 will be in the Spring Supplemental.

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council wish to support the Intergovernmental Agreement with Arapahoe County for the 2023 Coordinated Election?

---

**LEGAL COMMENTS**

Section 1-7-116, C.R.S. sets forth that the county clerk and recorder shall be the coordinated election official and shall conduct the elections on behalf of the City and requires that the City and the County enter into an agreement concerning the conduct of the coordinated election. Such an agreement must be signed no later than seventy days prior to the scheduled election. Because the proposed agreement involves the furnishing of services by one

governmental entity to another, Section 10-12 of the City Charter requires a Council resolution to authorize its execution. The motion to approve shall include a waiver of reconsideration. (Wood)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

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

WHEREAS, the City of Aurora, Colorado (the "City"), and Arapahoe County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding conducting and administering the November 7, 2023 coordinated general election; and

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

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

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

Section 1. The Intergovernmental Agreement presented with this Resolution and appended thereto by reference between the City of Aurora, Colorado, and Arapahoe County, Colorado, for conducting and administering the coordinated general election to be held November 7, 2023, is hereby approved which approval shall include adopting Arapahoe County's designations of Voter Service and Polling Centers (VSPCs).

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

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

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



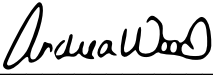

RESOLVED AND PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

   
\_\_\_\_\_  
ANDREA WOOD, Criminal Prosecution Manager

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**ARAPAHOE COUNTY CLERK AND RECORDER**

**AND**

**CITY OF AURORA**

**REGARDING THE CONDUCT AND ADMINISTRATION OF THE**

**NOVEMBER 7, 2023**

**COORDINATED ELECTION**

**PREPARED BY:**

**ARAPAHOE COUNTY CLERK AND RECORDER'S OFFICE**

**ELECTIONS DIVISION**

**5334 S. PRINCE STREET**

**LITTLETON, COLORADO 80120**

**303-795-4511**

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

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

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

**WHEREAS**, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct a Coordinated Election on November 7, 2023; and

**WHEREAS**, such agreements are authorized by State law.

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

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

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

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

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

FURTHER, the Parties agree as follows:

**SECTION I.**  
**PURPOSE AND GENERAL MATTERS**

**1.01 DEFINITIONS.**

- A. **“Address Library Report”** means the address report from the Secretary of State voter registration system that defines street addresses and precincts within the jurisdiction.
- B. **“Coordinated Election Official”** (hereinafter **“CEO”**) shall mean the County Clerk and Recorder who shall act as the **“coordinated election official,”** as defined within the Code and Rules and, as such, shall conduct the election for the Jurisdiction for all matters in the Code and the Rules which require action by the CEO.
- C. **“Colorado Election Code”** or **“Code”** means any part of the Uniform Election Code of 1992, (Articles 1-13 of Title 1, C.R.S.) or any other Title of C.R.S governing participating Jurisdiction's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules.
- D. **“Coordinated Election”** means an election where more than one jurisdiction with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the County Clerk is the Coordinated Election Official for the jurisdictions.
- E. **“Contact Officer”** means the individual who shall act as the primary liaison or contact between the Jurisdiction and the County Clerk. The Contact Officer shall be that person under the authority of the County Clerk who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.
- F. **“Designated Election Official”** (hereinafter **“DEO”**) means the individual who shall be identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder. To the extent that the Code requires that an Election Official of the Jurisdiction conduct a task, the DEO shall conduct same.
- G. **“IGA”** or **“Agreement”** means this Intergovernmental Agreement between the County and the Jurisdiction for election coordination.
- H. **“Jurisdiction”** means a political subdivision as defined in § 1-7.5-103(6), C.R.S. and referenced in the Code and, in this Agreement, is interpreted to refer to the City of Aurora.
- I. **“Logic and Accuracy Test”** means a test of all electronic and electromagnetic voting equipment to test mail, provisional and audio ballots, in accordance with § 1-7-509, C.R.S. by processing a preaudited group of ballots.
- J. **“Mail Ballot Packet”** means the packet of information provided by the CEO to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, and a return envelope. § 1-7.5-103(5), C.R.S.

- K. **“Post Election Audit”** means such audit as set forth substantially in the Colorado Election Code.
- L. **“Precinct”** means an area with established boundaries within a political jurisdiction used to establish election districts.
- M. **“Proposed Jurisdiction”** means a jurisdiction which may be formed pursuant to this election which is not yet identified by a tax authority code in the County Assessor database. When the context of this Agreement so requires, a Proposed Jurisdiction will simply be referred to as a Jurisdiction.
- N. **“SOS”** means the Colorado Secretary of State.
- O. **“Election Calendar”** means the “2023 Coordinated Election – Abridged Calendar Key Dates for Coordinating Jurisdictions,” attached hereto as Attachment B, which is based upon and incorporates the most recent election calendar as published on the SOS website located at [www.sos.state.co.us](http://www.sos.state.co.us).
- P. **“TABOR”** means a ballot issue that is governed by article X, § 20 of the Colorado Constitution.
- Q. **“UOCAVA voters”** means military personnel and overseas civilians who are registered to vote and receive services under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the Military and Overseas Voter Empowerment Act of 2009.

## **1.02 JURISDICTIONAL LIMITATION.**

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

## **SECTION II. COUNTY/JURISDICTION RESPONSIBILITIES**

### **2.01 JOINT RESPONSIBILITIES.**

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

All parties shall:

- A. Familiarize themselves and adhere to all applicable provisions and timelines of the Colorado Election Code while performing their official responsibilities for the conduct of the election, unless superseded by other legal authority.
- B. Enforce all applicable provisions of the Fair Campaign Practices Act.
- C. Review and execute this IGA with all required signatures on or before the deadline set forth in § 1-7-116(2), C.R.S.
- D. Confirm they have sufficient funds available and appropriated in an approved budget to pay their expenses for this election.

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

## **2.02 COUNTY RESPONSIBILITIES.**

The County shall perform the following duties:

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

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

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

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

- a. Use the Colorado SCORE voter registration database to produce an Address Library Report that indicates residential street ranges included within the boundaries of the Jurisdiction.
- b. Provide the Jurisdiction with the Address Library Report in an electronic format, along with an Acknowledgement Form that the Jurisdiction should use to confirm the accuracy of the ranges, the accuracy of the map of the Jurisdiction's boundaries as found on ArapaMAP or note any errors, omissions, and/or corrections.
- c. Verify any errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.

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

- a. Pursuant to § 1-5-905, C.R.S., and SOS Rule 4.1.2, the County is required to provide in-person and sample ballot translations for all ballot content in Spanish in Coordinated Elections using a translator subject to the requirements of the Code and SOS Rules 4.8.8 and 4.8.9.
- b. The County will be responsible for obtaining a Spanish translation of the Jurisdiction's ballot content from the County's certified translation vendor. Cost of Spanish translation will be included in shared election cost calculations.

- c. To the extent that the Jurisdiction includes territory in more than one county, the County will coordinate with the Jurisdiction and the other county or counties to determine responsibility for obtaining a Spanish translation so that only one translation is completed for each ballot issue or question and that the same translated version is used by each county.
- F. Determine the number and letter of each ballot issue and question for the Jurisdiction and any other coordinating jurisdictions participating in the election, in accordance with SOS Rule 4.5.2:
- a. If the Jurisdiction is entirely contained within Arapahoe County, the County has authority to set the ballot measure order and number.
  - b. If the Jurisdiction includes territory in more than one county, the County will coordinate with the other applicable counties for purpose of determining the controlling county and agreeing upon ballot measure numbers for shared issues and questions.
- G. Conduct a Logic and Accuracy Test in accordance with § 1-7-509, C.R.S. Invite the Jurisdiction to participate along with the Testing Board to verify the accuracy of electronic vote tabulation equipment. Post a public notice of the Test seven (7) days in advance.
- H. Provide a candidate hotline at 303-734-5365, which every candidate running for office in the Jurisdiction (if applicable) shall call to provide the phonetic pronunciation of their name as it appears on their Statement of Intent, title of the office, and Jurisdiction for which they are running.
- I. Prepare an accessible audio ballot for the electronic ballot marking devices to be made available to voters upon request at any Voter Service and Polling Center.
- J. Contract with a vendor acceptable to the SOS to print and send Mail Ballot Packets to every active registered voter and transmit ballots electronically to every active registered UOCAVA voter.
- K. Publish and post the required legal notice of election pursuant to § 1-5-205(1), C.R.S., for the Jurisdiction's ballot issues, ballot questions, and/or candidates.
- L. If the Jurisdiction's election includes a TABOR issue, the County shall perform the following duties relative to the TABOR Notice:
- a. Provide a Microsoft Word document template for the TABOR Notice to the Jurisdiction with instructions to submit its certified ballot language, pro/con statements and financial summary for each ballot question or issue governed by TABOR by the deadline listed in Attachment B.
  - b. Prepare the TABOR Notice using the certified content provided by the Jurisdiction, without revision.
  - c. Contract with a printing vendor to produce and mail one copy of the TABOR Notice to every household where an active registered voter of the Jurisdiction resides at the least cost possible in the time frame as required by law. If the Jurisdiction is a special district, the TABOR Notice also will be mailed to every eligible property owner who is not already a registered voter in Arapahoe County. The County may send the TABOR Notice to persons other than electors of the Jurisdiction in an effort to mail the TABOR Notice package at the "least cost."

- d. Post the TABOR Notice on [www.arapahoevotes.gov](http://www.arapahoevotes.gov).
  - e. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's TABOR Notice services for the Jurisdiction. The Jurisdiction's proportional share of actual costs shall be based on the County's total expenditures relative to the TABOR Notice.
- M. Hire, instruct and oversee election judges and temporary workers necessary for the conduct of the election.
- N. Establish and maintain mail ballot 24-hour drop-boxes, and designate and operate Voter Service and Polling Centers as required by the Code.
- O. Provide trained personnel to pick up sealed ballot containers containing voted ballots from every Voter Service and Polling Center and 24-hour drop-box each business day. Provide a replacement sealed empty ballot container(s), except if the location is a stand-alone 24-hour drop-box.
- P. Provide the necessary equipment, the adequately trained personnel, and the secure facility, and conduct and oversee the process to receive, verify voter signatures, open, tabulate and store ballots.
- Q. Maintain a record of every eligible voter's registration and every ballot sent, received, voided and cast using the Colorado SCORE voter registration and election management system. A SCORE download providing an update on every eligible voter's registration and ballot status will be posted on [www.arapahoevotes.gov](http://www.arapahoevotes.gov) daily during the voting period. No person will be given preferential treatment regarding the receipt of updated SCORE information, except that the Clerk's Office may respond to lawful records requests made pursuant to the Colorado Open Records Act.
- R. Send letters to voters whose mail ballot envelopes are missing a signature, missing identification or have a signature discrepancy, and provide instructions and an affidavit to cure this issue within eight (8) days of Election Day for the ballot to be counted. Conduct the process to receive and verify voter affidavits and where appropriate, cure and count these ballots.
- S. Maintain the following reports for all Arapahoe County eligible voters, and publish a public version (excluding confidential voters) on [www.arapahoevotes.gov](http://www.arapahoevotes.gov) :
- a. A registered voter list, including the names of eligible electors;
  - b. A turnout list, including the names of eligible electors, precinct number, date mail ballot was sent, and date ballot was issued at a Voter Service and Polling Center.
- T. Accept public inquiries by phone at 303-795-4511 and by email at [elections@arapahoegov.com](mailto:elections@arapahoegov.com). Respond to all correspondence and calls within the County's expertise relating to election procedures. Refer members of the public and news media to the DEO for any matters pertaining to the Jurisdiction's race, questions, measures or operations.
- U. Post unofficial election results by ballot question after the polls close on Election Night at [www.arapahoevotes.gov](http://www.arapahoevotes.gov) , and regularly update the unofficial results as more eligible ballots are counted. Election results will not be shared before the online posting.



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

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

X. Appoint a Canvass Board and conduct a canvass of the votes in order to certify the results of the Jurisdiction's election pursuant to § 1-10-101, C.R.S. Provide the Jurisdiction with a copy of all election statements and certificates which are to be created under the Code.

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

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

- a. The County allocates costs using a Weighted Population Average, which reflects the proportionate number of active registered voters in each Jurisdiction on Election Day compared to the sum of all active registered voters in all coordinating jurisdictions for that election (including the County itself).
- b. The total shared costs attributable to the County's administration of the election are multiplied by the Weighted Population Average to determine the Jurisdiction's allocation based on this formula. The final invoice detailing the Jurisdiction's portion of shared election costs will reflect actual cost totals as well as any changes in the total number of coordinating jurisdictions participating in the election and any increases in active voter count between the cost estimates and Election Day.

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

## **2.03 JURISDICTION RESPONSIBILITIES.**

The Jurisdiction shall perform the following duties:

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

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

C. Review the Address Library Report provided by the County, which determines which residential addresses are within the jurisdiction. View the street ranges in a map format at: <http://gis.arapahoegov.com/ArapaMAP/>. Confirm the street ranges and/or map are correct and identify any errors, omissions or deletions if necessary. Provide the County with certification of any annexations,

inclusions, and/or exclusions to the Jurisdiction, including all supporting documents. Return via email a signed copy of the provided Acknowledgement Form to the County, including any corrections if necessary, by the date set forth in Attachment B.

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

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

- a. Coordinate directly with the Arapahoe County Assessor's Office to order and pay for an initial and a supplemental certified list of all recorded owners of taxable real and personal property within the Jurisdiction's boundaries in Arapahoe County, in accordance with § 1-5-304, C.R.S. and by the deadlines in Attachment B.
- b. Contact Minerva Padron at the Colorado SOS's Office to receive access to DEO SCORE lookup. (Minerva Padron, 855-428-3555 ext. 6332, [minerva.padron@sos.state.co.us](mailto:minerva.padron@sos.state.co.us)).
- c. Using the list from the Assessor's Office:
  - i. Remove from the list non-person entities and persons not living in the State of Colorado.
  - ii. Look up the remaining names using the SOS SCORE look-up tool to determine if each person is a registered voter. Remove from the list those individuals who are not registered to vote.
  - iii. Remove from the list persons who reside in the district, as they will already receive a mail ballot.
  - iv. Deliver to the County via email an initial and a supplemental list of property owners who are property owners in the district, registered to vote in the state of Colorado, and not physically residing in the district. Each list should be delivered by the deadline indicated in Attachment B. The list should be a Microsoft Excel spreadsheet and must contain no more than one (1) eligible elector's name per line. Each line must consist of the following separated fields: eligible elector's voter identification number, last name, first name, middle name, mailing address, city, state, zip, parcel number, and phone number, if available.

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

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

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

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

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

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

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

- a. Receive petition representative's written summary of comments relating to ballot issues/ballot questions. Receive and compile community members' written summary of pro/con statements relating to ballot issues/ballot questions.
- b. Prepare a financial summary for each ballot question or issue.
- c. Prepare a Microsoft Word document using the template provided by the County for the TABOR Notice with the final and exact text of its certified ballot language, pro/con statements and financial summary for each ballot question or issue governed by TABOR by the deadline in Attachment B, delivered to Briana Kacinski at [bkacinski@arapahoegov.com](mailto:bkacinski@arapahoegov.com).
- d. Defend and resolve, at the Jurisdiction's sole expense, all challenges related to the candidates, ballot issues and/or ballot questions, or to the TABOR Notice if applicable, as certified to the County.

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

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

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

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

### **SECTION III. CANCELLATION OF ELECTIONS**

#### **3.01 CANCELLATION OF ELECTION BY THE JURISDICTION.**

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

### **SECTION IV. MISCELLANEOUS**

#### **4.01 NOTICES.**

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

To County:

Joan Lopez  
Arapahoe County Clerk and Recorder's Office

Elections Division  
5334 S. Prince St.  
Littleton, Colorado 80120  
Fax: (303) 794-4625  
Email: [jlopez@arapahoegov.com](mailto:jlopez@arapahoegov.com)

To Jurisdiction: Kadee Rodriguez  
Designated Election Official  
15151 E. Alameda Pkwy.  
Aurora CO 80012  
Email: [Aurora.Elections@auroragov.org](mailto:Aurora.Elections@auroragov.org);  
[kvrodrig@auroragov.org](mailto:kvrodrig@auroragov.org)  
Phone: 303-739-7180

#### **4.02 TERM OF AGREEMENT.**

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

#### **4.03 AMENDMENT.**

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

#### **4.04 INTEGRATION.**

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

#### **4.05 CONFLICT OF LAW.**

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

#### **4.06 TIME OF ESSENCE.**

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

#### **4.07 GOOD FAITH.**

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

#### **4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.**

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

#### **4.09 NO THIRD PARTY BENEFICIARIES.**

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

#### **4.10 GOVERNING LAW: JURISDICTION AND VENUE.**

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

#### **4.11 SEVERABILITY.**

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

#### **4.12 ATTACHMENTS.**

The following attachments are incorporated herein by this reference.

Attachment A – 2023 Preliminary Cost Estimate

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

**END OF PAGE**

**Arapahoe County**

\_\_\_\_\_  
Joan Lopez, Coordinated Election Official  
Clerk and Recorder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kadee Rodriguez, City Clerk  
Designated Election Official

\_\_\_\_\_  
Date

\_\_\_\_\_



**ARAPAHOE COUNTY**  
CLERK & RECORDER

## ATTACHMENT A - PRELIMINARY COST ESTIMATE

City of Aurora

NOV. 7, 2023 ELECTION COORDINATING COSTS  
(no TABOR issue)

### Jurisdiction's Share of Total Election Costs Based On:

Total Jurisdiction Active Registered Voters	197,886
÷ Sum of Active Registered Voters for all Coordinating Entities	1,187,579
= Weighted Population Average (WPA)	0.166630

Election Expenses for Coordinated Election	Total Cost
<b>County Staff</b>	
Permanent staff overtime compensation (after 9/09/2023)	\$ 20,000.00
Temporary election staff compensation (after 9/09/2023)	\$ 10,000.00
<b>Total</b>	<b>\$ 30,000.00</b>
<b>Election Judges</b>	
Election Judge training materials	\$ 5,000.00
Election Judge compensation (VSPPCs & ballot processing)	\$ 145,000.00
Election Judge communications	\$ 300.00
<b>Total</b>	<b>\$ 150,300.00</b>
<b>Ballot and Envelope Printing (Mail, in-person, test, etc.)</b>	
Mail Ballot Printing	\$ 140,000.00
Ballot envelopes (outgoing, return and labels)	\$ 90,000.00
Voter instructions, secrecy sleeves, inserts	\$ 80,000.00
Ballot shipping fees	\$ 25,000.00
Ballot-on-Demand supplies (card stock, toner, etc)	\$ 8,000.00
<b>Total</b>	<b>\$ 343,000.00</b>
<b>Ballot Printing, Programming &amp; Insertion</b>	
Vendor onsite election support (3rd party vendor only)	\$ -
Ballot layout and programming (3rd party vendor only)	\$ -
Ballot insertion and mailing fees (3rd party vendor only)	\$ 125,000.00
BOD Ballot Programming (3rd party vendor only)	\$ -
<b>Total</b>	<b>\$ 125,000.00</b>
<b>VSPC Location Costs</b>	
VSPC set up expenses	\$ 5,000.00
VSPC location rental expenses	\$ -
Signage	\$ 2,000.00
Office Supplies (pens, forms, etc.)	\$ 2,500.00
Electronic equipment for VSPPCs purchased/leased	\$ 10,000.00
Vehicle expenses (rentals, mileage etc)	\$ 8,000.00
Ballot and equipment delivery/collection	\$ 8,500.00
Remote connectivity expenses (Wifi)	\$ 1,200.00
<b>Total</b>	<b>\$ 37,200.00</b>
<b>Security Expenses related to Judges and VSPPCs</b>	
Transfer cases and portable ballot boxes	\$ -
Security personnel costs	\$ 1,200.00
CBI background checks for Election Judges/temp staff	\$ 9,000.00



<i>Total</i>	<b>\$ 10,200.00</b>
<b>Election Notices</b>	
Statutory notice of election	\$ 280.00
TABOR Notice - printing and production	n/a
<i>Total</i>	<b>\$ 280.00</b>
<b>Postage</b>	
Mail Ballot Postage	\$ 70,000.00
TABOR Notice Postage	n/a
Mail Ballot Undeliverable/Return Postage Due	n/a
<i>Total</i>	<b>\$ 70,000.00</b>

Total Election Expense	\$ 765,980.00
x Weighted Population Average (WPA)	<u>\$ 0.1666</u>
Total Due to Arapahoe County	\$ 127,635.06



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Intergovernmental Agreement with Adams County for the 2023 Coordinated Election
<b>Item Initiator:</b> Kadee Rodriguez, City Clerk
<b>Staff Source/Legal Source:</b> Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

### COUNCIL MEETING DATES:

**Study Session:** 8/7/2023

**Regular Meeting:** 8/14/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Staff: Kadee Rodriguez, City Clerk

Estimated time: 5 mins

### 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 checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration    |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 7/25/2023

### 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"/> 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.)*

Aurora City Code Section 54-7 - Declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams, and Douglas counties.

CRS Section 1-7-116(2) - Intergovernmental Agreements (IGA) between the municipality participating in a coordinated election and the county clerk and recorder conducting the election must be signed no less than 70 days prior to the scheduled election.

---

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

The IGA includes an allocation of responsibilities between the County and City for the preparation and conduct of the coordinated election. The deadline for the County and City to sign this IGA is August 29, 2023.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☒ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

There is \$77,000 budgeted in Org 17016 (Elections). The estimated cost is \$2.00 per active registered voter. A multiple page ballot will result in additional costs. Actual costs may include charges for extraordinary ballot question length if said length results in increased printing costs.

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

Any cost above the amount budgeted in Org 17016 will be in the Spring Supplemental.

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council wish to support the Intergovernmental Agreement with Adams County for the 2023 Coordinated Election?

---

**LEGAL COMMENTS**

Section 1-7-116, C.R.S. sets forth that the county clerk and recorder shall be the coordinated election official and shall conduct the elections on behalf of the City and requires that the City and the County enter into an agreement concerning the conduct of the coordinated election. Such an agreement must be signed no later than seventy days

prior to the scheduled election. Because the proposed agreement involves the furnishing of services by one governmental entity to another, Section 10-12 of the City Charter requires a Council resolution to authorize its execution. The motion to approve shall include a waiver of reconsideration. (Wood)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY  
AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD  
NOVEMBER 7, 2023

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

WHEREAS, the City of Aurora, Colorado (the "City"), and Adams County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding conducting and administering the November 7, 2023 coordinated general election; and

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

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

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

Section 1. The Intergovernmental Agreement presented with this Resolution and appended thereto by reference between the City of Aurora, Colorado, and Adams County, Colorado, for conducting and administering the coordinated general election to be held November 7, 2023, is hereby approved which approval shall include adopting Adams County's designations of Voter Service and Polling Centers (VSPCs).

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

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

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

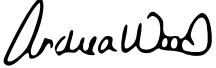
RESOLVED AND PASSED this\_\_\_\_day of\_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

 *gk*  
\_\_\_\_\_  
ANDREA WOOD, Criminal Prosecution Manager

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
ADAMS COUNTY AND THE CITY OF AURORA  
FOR THE NOVEMBER 7, 2023 COORDINATED ELECTION**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into on this \_\_\_\_\_ of \_\_\_\_\_ 2023, by and between the Adams County Clerk and Recorder located at 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601, hereinafter referred to as the “Clerk and Recorder” and the City of Aurora, located at 15151 E. Alameda Parkway, Aurora, Colorado 80012, hereinafter referred to as the “Municipality” for the purpose of conducting a Coordinated Election held on November 7, 2023. The Clerk and Recorder and the Municipality may be collectively referred to herein as the “Parties”.

**RECITALS**

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

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

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

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

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

## AGREEMENT

### **ARTICLE I: DUTIES OF THE CLERK AND RECORDER**

1. **ELECTION OFFICIAL.** The Clerk and Recorder shall act as the “Coordinated Election Official,” pursuant to § 1-1-104(6.5), C.R.S., and shall be responsible for the conduct of the election, which shall be in accordance with the provisions of the Code, the Taxpayer’s Bill of Rights, Colo. Const. art. X, § 20, hereinafter referred to as “TABOR,” and any pertinent Rules promulgated by the Colorado Secretary of State, hereinafter referred to as the “Rules.”
2. **NO RUN-OFF ELECTION.** This Agreement is for the November 7, 2023 election only. In the event the Municipality’s Code and/or Charter provide for a run-off election, and a run-off election becomes necessary, the Adams County Clerk and Recorder will not conduct that election for the Municipality.
3. **CONTACT OFFICER.** The Deputy Director of Elections, Jami Martinez, will be the designated contact officer for the County and will act as the primary liaison between the Election Office and the Municipality for purposes of the election. Jami Martinez can be reached at (720) 523-6421 or [jcmartinez@adcogov.org](mailto:jcmartinez@adcogov.org).
4. **VOTER LISTS.** Upon the request of the Municipality, the Clerk and Recorder shall provide to the Municipality a list of the names and addresses of the registered voters in the Municipality. The list shall be certified by the Clerk and Recorder upon the request of the Municipality’s designated election official. If the Municipality believes the Clerk and Recorder’s voter registration list is inaccurate, the Municipality shall immediately advise the Clerk and Recorder and shall work with the Clerk and Recorder on corrections and revisions in a timely manner.
5. **VOTING.** The Clerk and Recorder shall provide for voter service and polling centers, mail, emergency, and provisional voting, pursuant to the relevant provisions of the Code and/or the Rules.
6. **CERTIFICATION OF RESULTS.** The Clerk and Recorder shall appoint a canvass board, pursuant to § 1-10-101 or § 1-10-201, *et seq.*, C.R.S.
7. **RECORDS AND STORAGE.** The Clerk and Recorder shall store all election records, and any other such materials as required under the Code, for a period of at least twenty-five (25) months after the election. Such storage shall be accessible by the Municipality, if legally necessary, upon accompaniment by the Clerk and Recorder or a designated representative, to resolve any challenges or other legal questions that might arise. In addition, upon request, the Clerk and Recorder shall compile a list of the names of persons who vote in the election and, shall provide to the Municipality a printed or electronic list containing the names of those persons.



## **ARTICLE II: DUTIES OF THE MUNICIPALITY**

1. **DESIGNATED ELECTION OFFICIAL.** The Municipality has designated Kadee Rodriguez, City Clerk

303-739-7094

[kvrodrig@auroragov.org](mailto:kvrodrig@auroragov.org)

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

2. **ORDINANCE OR RESOLUTION.** In order to avoid any potential discrepancies and as allowed by § C.R.S. 1-1-102, the Municipality will pass an Ordinance or Resolution indicating that it will utilize and be subject to the requirements and procedures of the Uniform Election Code of 1992 while participating in this election and that said Code will apply in lieu of the “Colorado Municipal Election Code of 1965”, article 10 of title 31, C.R.S., with respect to any election. Municipality will supply a copy of this Ordinance or Resolution when returning a signed copy of this IGA to the Clerk and Recorder.
3. **SECTION 203 OF THE VOTING RIGHTS ACT.** In order to maintain compliance with 52 USC 10503, (Section 203 of the Voting Rights Act), the District is required to use a qualified translator or interpreter as defined in § C.R.S. 1-5-903 (4) and provide to the Clerk and Recorder a Spanish translation of the District’s ballot certification referenced in Article II, section 9 of this Agreement; and TABOR notice and pro / con statements referenced in Article III of this Agreement at the same time that the original content is provided.
4. **STREET LOCATOR FILE.** In order for the Clerk and Recorder to provide correct ballots to electors, it is critical that the information contained in the Municipality’s street locator file be accurate. It is the Municipality’s responsibility to ensure that the information contained in the street locator file is an accurate representation of the Municipality’s street indexes contained within the Municipality’s legal boundaries.

As long as the Clerk and Recorder has been timely notified of the Municipality’s intent to participate in the election, the Clerk and Recorder will provide to the Municipality a street locator file by **June 1, 2023**.

- The file will contain a list of the street address ranges the Clerk and Recorder’s system currently shows as being located in the Municipality.

- The designated election official for the Municipality shall inspect the information contained in the locator file and shall notify the Clerk and Recorder’s Office by **August 1, 2023** of any changes, additions or deletions that need to be made. If required, the Clerk and Recorder will make the required changes and resubmit the locator file to the Municipality.
  - The Municipality will inspect the file and shall make a final certification as to the accuracy of the locator file by no later than **September 5, 2023**.
  - If the locator information and/or certification are not provided by the Municipality on the date specified herein, the Municipality may not participate in the election on **November 7, 2023**.
5. **LEGAL NOTICES.** The Clerk and Recorder shall publish notice of the election, as required by the Code, and such publication shall satisfy the publication requirement for all political subdivisions participating in the election, pursuant to § 1-5-205(1.4), C.R.S. However, the Municipality shall post and/or publish any other legal notices required of the Municipality, pursuant to relevant provisions of its charter, the Code, TABOR, the Rules, or the Colorado Municipal Code of 1965, § 31-10-101, *et seq.*, C.R.S., except as otherwise provided herein.
  6. **PETITIONS.** Petitions, where applicable, shall be made available through the Municipality’s designated election official, pursuant to the applicable laws and/or rules.\
  7. **VERIFICATION OF PETITIONS.** Petitions shall be verified by the Municipality, pursuant to the applicable laws and/or rules. The Clerk and Recorder will provide access to voter registration information to the Municipality if petitions are verified.
  8. **WRITE-IN CANDIDATES.** Affidavits of intent to become a write-in candidate, where applicable, shall be filed with the Municipality’s designated election official, pursuant to the applicable laws and/or rules, and a copy will be provided to the Clerk and Recorder.
  9. **BALLOT CERTIFICATION AND PREPARATION.** The Municipality shall provide to the Clerk and Recorder the Municipality’s ballot text and translation by no later than **September 8, 2023 at 3:00 p.m.**, which is sixty (60) days prior to the election, pursuant to § 1-5-203(3)(c), C.R.S. The Municipality shall be solely responsible for the language, content, and accuracy of the ballot text.

In accordance with § 1-5-407(7), C.R.S., no printing or distinguishing marks shall be on the ballot except as specifically provided in section 1-40-106 (3)(e) to (3)(g) and (3)(j). Additionally, the ballot text shall be submitted by e-mail as an attachment that conforms to the following requirements, to Jami Martinez at [jcmartinez@adcogov.org](mailto:jcmartinez@adcogov.org). Ballot questions and issues will be designated a number and a letter after ballot certification.

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

- In Microsoft Word format

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

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

An audio recording of all candidate names for Municipality’s portion of the ballot must be provided by having the candidates call (720) 523-6046 and follow the recorded instructions by no later than the ballot certification deadline of **September 8, 2023 at 3:00 p.m.**

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

- 10. ELECTION TESTING, AUDIT AND RESULTS.** The Municipality may attend and observe any ballot testing, as scheduled by the Clerk and Recorder, prior to the election. The Municipality may also attend and observe any logic and accuracy, or post- election audit conducted after Election Day, pursuant to §§ 1-7-509 and 1-7-514, C.R.S. Election results will not be final and official until certified by the canvass board, which may be up to 22 days after Election Day.
- 11. ELECTION DAY.** On Election Day, the Municipality shall provide election support by telephone and/or in-person from 7 a.m. until 7 p.m. or longer, as requested by the Clerk and Recorder. The Municipality must also act as a voter registration agent as required by § 1-2-202 (2), C.R.S., and assist voters with “same day voter registration” needs, if a voter appears and requests such service.
- 12. REFERENCE CALENDAR.** The Municipality will comply with all of the dates listed in the Important Elections Dates calendar attached as “Exhibit B”.

### **ARTICLE III: TABOR**

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

If the Municipality is required to prepare a TABOR notice for any ballot issue(s), the Municipality shall be solely responsible for its preparation, accuracy, and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, and the required translations to the Clerk and Recorder by no later than **September 25, 2023 at 12:00 p.m.**, which is forty-three (43) days prior to the election, pursuant to § 1-7-904, C.R.S. Such notice, including pro and con summaries and fiscal information, shall be submitted by e-mail as an attachment that conforms to the following requirements to Jami Martinez at [jcmartinez@adcogov.org](mailto:jcmartinez@adcogov.org).

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

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

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

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

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

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

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

#### **ARTICLE IV: COSTS**

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

For the 2023 election, it is estimated that costs to the Municipality will be approximately \$2.00 per active registered voter in the Municipality. This is an estimate only.

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

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

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

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

## **ARTICLE V: CANCELLATION OF THE ELECTION**

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

## **ARTICLE VI: DAMAGES**

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

## **ARTICLE VII: CONDUCT OF THE ELECTION**

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

## **ARTICLE VIII: MISCELLANEOUS**

1. **COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures.
2. **NOTICES.** Any and all notices required to be given to the Parties by this Agreement are deemed to have been received and to be effective: a) three (3) days after the same shall have been mailed by certified mail, return receipt requested; b) immediately upon hand delivery; or c) immediately upon receipt of confirmation that a facsimile transmission thereof was received. All notices shall be addressed to the following Parties:

**For the Clerk and Recorder:**

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

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

**For the Municipality:**

Kadee Rodriguez  
City of Aurora  
15151 E. Alameda Pkwy.  
Aurora, CO 80012  
Phone: 303-739-7094  
E-mail: [kvrodrig@auroragov.org](mailto:kvrodrig@auroragov.org)

3. **INGEGRATION OF UNDERSTANDING.** This Agreement contains the entire understanding of the Parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by all of the Parties.
4. **SEVERABILITY.** If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect. No subsequent resolution or ordinance enacted the Municipality shall impair the rights of the Clerk and Recorder or the Municipality hereunder without the written consent of the Parties.
5. **TIME OF ESSENCE.** Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement.

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

CLERK AND RECORDER  
ADAMS COUNTY, COLORADO

\_\_\_\_\_  
Josh Zygielbaum

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Adams County Attorney's Office

FOR THE Municipality:

\_\_\_\_\_  
Kadee Rodriguez, City Clerk

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Municipal Clerk

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Municipality Attorney's Office



# **Exhibit A**

## **Ballot Text Examples**

### **Contests**

**“District” “Office”**

“Term of Office”

“(Vote for #)”

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

### **Ballot Questions**

**“District” Question “#”**

“Ballot Title”

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

### **Ballot Issue**

**“DISTRICT” BALLOT ISSUE “#”**

“BALLOT TITLE”

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

## **Exhibit B**

### **Important Election Dates**

The following are dates of important activities related to the 2023 election for reference by the Municipality.

<b>2023 Election Activity Dates</b>	
7/28	Last day for Municipality to notify Clerk of intent to participate
6/1	Clerk supplies Municipality with street locator file
8/1	Last day for Municipality to notify Clerk of street locator file discrepancies
8/29	Last day to sign IGA
9/5	Last day for Municipality to certify street locator file
9/8	Last day for Municipality to certify ballot order and content to the Clerk
9/8	Last day for Municipality to provide audio recording of candidates' names
9/25	Last day for Municipality to certify TABOR content, if applicable
11/7	Election day – Municipal Clerk’s office must be open 7 a.m. - 7 p.m. to assist voters



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Intergovernmental Agreement with Douglas County for the 2023 Coordinated Election
<b>Item Initiator:</b> Kadee Rodriguez, City Clerk
<b>Staff Source/Legal Source:</b> Kadee Rodriguez, City Clerk / Andrea Wood, Criminal Prosecution Manager
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

### COUNCIL MEETING DATES:

**Study Session:** 8/7/2023

**Regular Meeting:** 8/14/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN DOUGLAS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

Staff: Kadee Rodriguez, City Clerk

Estimated time: 5 mins

### 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 checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration    |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 7/25/2023

### 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"/> Minutes Not Available       |

☐ Minutes 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.)*

Aurora City Code Section 54-7 - Declares that all regular municipal elections shall be held as part of coordinated elections conducted by the county clerk and recorders for Arapahoe, Adams, and Douglas counties.

CRS Section 1-7-116(2) - Intergovernmental Agreements (IGA) between the municipality participating in a coordinated election and the county clerk and recorder conducting the election must be signed no less than 70 days prior to the scheduled election.

---

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

The IGA includes an allocation of responsibilities between the County and City for the preparation and conduct of the coordinated election. The deadline for the County and City to sign this IGA is August 29, 2023.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☒ Budgeted Expenditure Impact      ☒ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

There is \$77,000 budgeted in Org 17016 (Elections). The estimated cost is \$1.00 per active registered voter. There may be additional costs for excess linear ballot column inches (over 5").

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

Any cost above the amount budgeted in Org 17016 will be in the Spring Supplemental.

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council wish to support the Intergovernmental Agreement with Douglas County for the 2023 Coordinated Election?

---

**LEGAL COMMENTS**

Section 1-7-116, C.R.S. sets forth that the county clerk and recorder shall be the coordinated election official and shall conduct the elections on behalf of the City and requires that the City and the County enter into an agreement concerning the conduct of the coordinated election. Such an agreement must be signed no later than seventy days prior to the scheduled election. Because the proposed agreement involves the furnishing of services by one

governmental entity to another, Section 10-12 of the City Charter requires a Council resolution to authorize its execution. The motion to approve shall include a waiver of reconsideration. (Wood)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN DOUGLAS COUNTY AND THE CITY OF AURORA FOR THE COORDINATED ELECTION TO BE HELD NOVEMBER 7, 2023

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

WHEREAS, the City of Aurora, Colorado (the "City"), and Douglas County, Colorado (the "County"), wish to enter into an agreement setting forth the respective responsibilities of the City and the County regarding conducting and administering the November 7, 2023 coordinated general election; and

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

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

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

Section 1. The Intergovernmental Agreement presented with this Resolution and appended thereto by reference between the City of Aurora, Colorado, and Douglas County, Colorado, for conducting and administering the coordinated general election to be held November 7, 2023, is hereby approved which approval shall include adopting Douglas County's designations of Voter Service and Polling Centers (VSPCs).

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

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

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

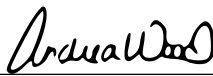
RESOLVED AND PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk and Designated Election Official

APPROVED AS TO FORM:

 *JK*  
\_\_\_\_\_  
ANDREA WOOD, Criminal Prosecution Manager

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**DOUGLAS COUNTY CLERK AND RECORDER**

**AND**

City of Aurora

---

**(Jurisdiction Name)**

**REGARDING THE CONDUCT AND ADMINISTRATION OF THE**

**NOVEMBER 7, 2023  
COORDINATED ELECTION**

**SHERI DAVIS  
DOUGLAS COUNTY CLERK AND RECORDER  
ELECTIONS DIVISION  
CASTLE ROCK, CO 80109**





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

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

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

**WHEREAS**, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct the Coordinated Election on November 7, 2023; and

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

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

## **SECTION I. PURPOSE AND GENERAL MATTERS**

### **1.01 DEFINITIONS:**

- A. **"Coordinated Election Official"** (hereinafter "CEO") means the County Clerk and Recorder who acts as the "coordinated election official", as defined within the Code and Rules.
- B. **"Contact Officer"** means the person who acts as the primary liaison or contact between the Jurisdiction and the CEO. The Contact Officer shall be that person under the authority of the CEO who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.
- C. **Canvass Board** is appointed by the major political parties before the election. The canvass is the audit function of the election and the process of reconciling the number of ballots counted to the number of voters who voted. The Canvass Board

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

- D. **"Designated Election Official"** (hereinafter "DEO"), means the person identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction, as specified within the Code.
- E. **Logic & Accuracy Test** The county must conduct a Logic and Accuracy Test on its voting equipment at least 21 days before the election. Voting devices must be tested before they are used in an election. One registered elector from each major political party is required to serve on the Logic and Accuracy Testing Board.
- F. **Risk Limiting Audit** This audit provides strong statistical evidence that the election outcome is correct. The number of ballots required to conduct an RLA will vary based on the smallest margin of the contest selected by the Secretary of State and the risk limit. The smaller the margin, the more ballots to audit. The smaller the risk limit, the more ballots to audit. The Audit Board is appointed by the major political parties and must complete its report no later than 5:00 p.m. one business day before the canvass deadline. At least one member of each major political party's Canvass Board will serve as an observer of the audit.
- G. **TABOR** (Taxpayer Bill of Rights) is a constitutional measure that requires voter approval for tax increases.

## 1.02 JOINT RESPONSIBILITIES

- A. All parties shall familiarize themselves with all statutory and regulatory requirements impacting coordinated elections and TABOR notices and shall adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the duties required.
- B. Nothing herein shall be deemed to relieve the CEO or the Jurisdiction from their official responsibilities for the conduct of the election, including any of their respective responsibilities under the Fair Campaign Practices Act or any local ordinances concerning fair campaign practices.

## 1.03 JURISDICTION

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

## **SECTION II. COUNTY/JURISDICTION RESPONSIBILITIES**

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

### **2.01 COUNTY RESPONSIBILITIES:**

- A. Assist the DEO on any matter related to the election to ensure the smooth and efficient operation of the election (such information shall not include legal advice) by designating a Contact Officer with the specific duty of assisting with the election of the Jurisdiction and acting as the primary liaison between the County and Jurisdiction.
- B. Provide an Address Confirmation Form (Appendix A) accompanied by an Address Library Report and Jurisdiction Boundary Map that defines Jurisdictional boundaries in terms of residential street ranges based on County Assessor records. The Address Library Report will include the address report from the Secretary of State voter registration system, which defines street addresses within the Jurisdiction.
- C. Verify errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.
- D. Contract for the mail ballot packets (ballot(s), voter instructions, and return envelope) and remit payment directly to the vendor.
- E. Provide ballot printing layouts compliant with the Code for proofreading and signature approval by the Jurisdiction prior to final ballot printing.
- F. Mail the ballot packets as required by the Code.
- G. Provide a certified list of the Jurisdiction's registered voters, as requested.
- H. Conduct all associated tasks relating to election judges including, but not limited to, eligibility, placement, training, and oversight.
- I. Conduct all functions of the Canvass Board to include a canvass of the votes and certification of the results. Additionally, provide the Jurisdiction a copy of all election statements required under the Code.
- J. Prepare and conduct the Logic and Accuracy Test.
- K. Publish and post the required legal notices. pursuant to § 1-5-205(1), C.R.S.
- L. Refer members of the public and press to the DEO regarding specific questions about ballot measures or candidates.

- M. Provide all necessary equipment, system programming, and personnel for ballot tabulation.
- N. Conduct and oversee the process of counting ballots and reporting results.
- O. Conduct a recount of the ballots cast if required by law, requested by the Jurisdiction, or requested by an interested party as allowed by the Code.
- P. Prepare and conduct the Risk Limiting Audit before certifying election results.
- Q. Provide the Jurisdiction an invoice for all expenses incurred under this Agreement.
- R. Archive and maintain all election records as required by the Code.

## **2.02 JURISDICTION RESPONSIBILITIES:**

- A. Identify a DEO who shall familiarize themselves with all statutory and regulatory requirements impacting the Jurisdiction.
- B. Identify immediately to the Contact Officer if Jurisdiction is shared by additional county(ies).
- C. Provide a copy of the Ordinance or Resolution stating that the Jurisdiction has adopted the exclusive use of the Code for the conduct of the election and that the Jurisdiction will participate in the coordinated election in accordance with the terms and conditions of this Agreement.
- D. Confirm sufficient funds are available and appropriated in Jurisdiction's approved budget to pay election expenses. The Jurisdiction recognizes that the County cannot accurately predict the exact cost for the election, but represents to the County that it will pay its calculated prorated share and has appropriated sufficient funds to do so.
- E. Return this Intergovernmental Agreement with the signature page completed on or before the seventieth (70) day prior to the election per the Code.
- F. May appoint one representative to participate in the Canvass Board. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.
- G. May appoint one representative to participate in the Logic and Accuracy Test. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.
- H. May choose to appoint an observer for the Risk Limiting Audit. If there is not a representative appointed, an employee of the Douglas County Clerk and Recorder will be appointed on the Jurisdiction's behalf by the Contact Officer.
- I. Certify Jurisdictional boundaries by completing and returning the Address Confirmation Form or the Jurisdiction Boundary Map (Appendix A)

- J. Review all petition information, if applicable, and verify the information against the registration records, and, where applicable, the county assessor's records as per § 1-4-908, C.R.S. After review, the DEO shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient, and after the time for protest has passed, the DEO shall certify the candidate to the ballot, and notify the Contact Officer.
- K. The DEO shall refer correspondence and calls relating to the election outside of the DEO's expertise to the Contact Officer for response.
- L. Determine the ballot title and text. Certify, if applicable, the candidate, how many selections a voter should make (e.g., Vote for One), whether there is a certified write-in candidate, the list of ballot issues and/or ballot questions electronically (with receipt confirmed by the Contact Officer) in a plain text format, on or before the sixtieth (60) day, no later than 5:00 pm. The ballot content must be certified in the order in which it will appear on the ballot and must include specific instructions (e.g., Vote for One, etc.). The certified list of candidates and ballot measures shall be final, and the Contact Officer will not be responsible for making any changes after the certification, except those prescribed by statute. The use of all capital letters is reserved for TABOR issues only, per the Code.
- M. Provide either directly by the DEO or by the candidate on behest of the DEO, the phonetic pronunciation of each candidate's name to assist in the preparation of the audio ballot at the time ballot content is certified to the County. Record a voice message at (303) 663-6279 and include the candidate name, jurisdiction, and title of office no later than sixty (60) days prior to the election.
- N. Indicate whether question(s) are a referred measure or an initiative from a citizen petition. The Jurisdiction understands and agrees that any untimely ballot content submitted may result in candidates, issues, or questions not being on the ballot for the coordinated election.
- O. Proofread the layout and the text of the Jurisdiction's portion of the official ballots and TABOR notice (if applicable) and provide written confirmation (electronic format) of acceptance before the printing of the ballots. **Approval or requested changes must be received within four (4) business hours of receiving the layout and text from the county** or as identified by the Contact Officer. This may require availability outside of normal business hours. Such acceptance is final, and no changes will be made after written notice (electronic format) is given to the Contact Officer. Failure to respond by the deadline will be considered acceptance "as is". A penalty for delay or rework of the ballot or TABOR notice will result in an additional fee to the Jurisdiction for all associated costs with fixing or correcting Jurisdictional errors.
- P. Perform the following tasks (as applicable) where Jurisdictional property owners are eligible to vote:

- a. Notify Contact Officer of the Title under which the political subdivision is formed and specifically which property owners are eligible to vote in the election.
  - b. Provide a certified list of eligible property owners, as determined by the Jurisdiction, who:
    - i. Own property within the Jurisdiction, appear on the State of Colorado list of registered voters and reside at an address that is not within the boundaries of Douglas County ("Out of County" property owners); or,
    - ii. Own property within the Jurisdiction, appear on the Douglas County list of registered voters, reside at an address that may not match the property address as shown on the County Assessor's list, but is within the boundaries of Douglas County ("In County" property owners).
  - c. Coordinate directly with the Douglas County Assessor's Office (303-660-7450), or visit their website to obtain the list of all recorded owners of taxable real and personal property at <https://apps.douglas.co.us/assessor/advanced-search/>.
  - d. Exclude non-person entities and persons not living in the state of Colorado; any individuals not registered to vote; any person who resides in the district, as they will already receive a mail ballot.
  - e. Submit the lists as an electronic copy using Microsoft Excel format. The spreadsheet shall contain no more than one (1) eligible elector's name per line. Each line shall consist of the following separated fields: Last name, first name, middle name, mailing address, city, state, zip, parcel number, phone number, if available, and voter identification number. All files provided to the Contact Officer are to be clearly named.
- Q. Publish and post any required legal notices for the Jurisdiction's ballot content, other than the notice required by § 1-5-205, C.R.S, which Douglas County will publish. A copy of such published legal notice shall be submitted to the Douglas County Clerk and Recorder, Recording Division for its records.
- R. Provide phone support on Election Day from 7:00am – 7:00pm. Designated contact person for Jurisdiction must be provided upon execution of this Agreement. Emergency contact information must also be provided for this purpose.
- S. Notify the Contact Officer within 24 hours of the completion of the final ballot tabulation whether a recount is required or desired. The Jurisdiction shall reimburse the County for the full cost of the recount. If other Jurisdictions are included in the recount, the cost will be pro-rated among the participating Jurisdictions as per § 1-10.5-101, C.R.S. Refer to SOS Rule 10.9.5 for Jurisdictions in more than one County.
- T. Within thirty (30) days from the date of receipt of such invoice, the Jurisdiction shall remit total payment to the County.
- U. Pay any additional or unique election costs resulting from Jurisdiction delays, mistakes, recounts, and/or special preparations or cancellations relating to the Jurisdiction's participation in the coordinated election. Charges are \$1.00 per registered voter, with a minimum charge of \$1,000, not including publication cost, excess linear ballot column

inches cost (\$2,000 for Coordinated over 5”), special text formatting such as italic, underline, bullets, numbering, tables, strike-through or indentations (\$500 if applicable) the use of all capital letters is reserved for TABOR issues only, per the Code., and TABOR Notice costs with a minimum charge of \$500 (if applicable).

**Illustrative Pro-Rated Costs Table:**

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

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

### **SECTION III. CANCELLATION OF ELECTION**

#### **3.01 CANCELLATION OF ELECTION BY THE JURISDICTION.**

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

(remainder of page intentionally blank)

## **SECTION IV. MISCELLANEOUS**

### **4.01 NOTICES.**

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

To County:

Sheri Davis  
Douglas County Clerk and Recorder  
Elections Division  
125 Stephanie Place  
Castle Rock, Colorado 80109

Email: [Elections@Douglas.co.us](mailto:Elections@Douglas.co.us)

To Jurisdiction:  
(Enter Contact and address  
information)

Kadee Rodriguez

City Clerk

15151 E Alameda Pkwy

Aurora, CO 80012

### **4.02 TERM OF AGREEMENT.**

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

### **4.03 AMENDMENT.**

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

### **4.04 INTEGRATION.**

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

### **4.05 CONFLICT OF AGREEMENT WITH LAW, IMPAIRMENT.**

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

### **4.06 TIME OF ESSENCE.**

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



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

**4.07 GOOD FAITH.**

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

**4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.**

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

**4.09 NO THIRD-PARTY BENEFICIARIES.**

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

(remainder of page intentionally blank)

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

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

COORDINATED ELECTION OFFICIAL:

By \_\_\_\_\_  
Board of County Commissioners  
Chairperson

By \_\_\_\_\_  
Clerk and Recorder

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest \_\_\_\_\_  
Deputy Clerk to the Board

APPROVED AS TO FISCAL CONTENT:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Director of Finance

\_\_\_\_\_  
County Attorney

Jurisdiction Signatures:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest \_\_\_\_\_

Title: \_\_\_\_\_

## **Contents**

Appendix A – Address Confirmation Form

Appendix B – Contact Information Form

Appendix C – Important Dates

Appendix D – Checklist

Appendix E – TABOR Notice Agreement

Appendix F – TABOR Notice Proof Acceptance Form

Appendix G – Sample TABOR Notice

November 7, 2023

## Appendix A Address Confirmation Form

**JURISDICTION NAME:** \_\_\_\_\_

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

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

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

### Section 1

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

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

### Section 2

Enter other counties shared by Jurisdiction.

County Name(s): \_\_\_\_\_

\_\_\_ Not Applicable

2023 COORDINATED ELECTION

November 7, 2023

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

November 7, 2023

**Annexations, Inclusions, Exclusions**

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

**JURISDICTION NAME:** \_\_\_\_\_

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

**Section 1**

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

☐ Annexations

☐ Inclusions

☐ Exclusions

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Section 2**

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Appendix B**  
**Contact Information Form**

Please enter your Jurisdiction's information:

Jurisdiction: \_\_\_\_\_

Designated Election Official:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

Represented By:

\_\_\_\_\_  
Attorney / Law Firm

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Email

---

Phone

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

**Required Participation**

- 1. November 7, 2023; 7:00am – 7:00pm  
Election Day phone support for citizen inquiries**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Optional Participation**

- 2. September 29, 2023 (Alternate Date = October 2)  
Logic and Accuracy Test (LAT)**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

- 3. November 21 – 22, 2023 (Additional days may be needed)  
Risk Limiting Audit (RLA)**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_



November 7, 2023

**4. November 27, 2023 (Alternate Date = November 28)  
Canvass Board and Final Certification of Election**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

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

Douglas County Coordinated Election Official: Sheri Davis, Clerk and Recorder Name

301 Wilcox Street, PO Box 1360

Mailing Address

Castle Rock, CO 80104

City, State, Zip

sdavis1@douglas.co.us

Email

303-663-7364

Phone

Douglas County Contact Officer: Jack Twite Jr, Deputy of Elections Name

125 Stephanie Place

Mailing Address

Castle Rock, CO 80109

City, State, Zip

jtweite@douglas.co.us

Email

303-814-7618

Phone

2023 COORDINATED ELECTION

November 7, 2023

Douglas County Deputy of Elections:

Jack Twite Jr  
Name

125 Stephanie Place  
Mailing Address

Castle Rock, CO 80109  
City, State, Zip

jtweite@douglas.co.us  
Email

303-814-7618  
Phone

Douglas County Senior Assistant Attorney:

Christopher Pratt  
Name

100 Third Street  
Mailing Address

Castle Rock, CO 80104  
City, State, Zip

cpratt@douglas.co.us  
Email

303-660-7321  
Phone

### Appendix C Important Dates

Event	Date
Last day to provide in writing to the County Clerk & Recorder Notice of Intent to coordinate for the 2023 Coordinate Election (-100 days)	July 28 (Friday)
Last day to return signed IGA to the Contact Officer (-70 days)	August 29 (Tuesday)
Last day to return completed Address Confirmation Form (Appendix A) or Boundary Map to ensure accurate voter information (-70 days)	August 29 (Tuesday)
Last day to submit certified ballot order and content to the Contact Officer (-60 days)	September 8 (Friday)
Last day for Secretary of State to certify state ballot order and content to county clerk (-57 days)	September 8 (Friday)
Last day to mail ballots to Uniformed and Overseas electors (UOCAVA) (-45 days)	September 23 (Saturday)
Last day to submit TABOR Notice Language and summarized Pro/Con & Fiscal Impact Statements to Contact Officer (-43 days)	September 25 (Monday)
Logic and Accuracy Test (LAT)	September 29 (Friday)
Logic and Accuracy Test (LAT) – Alternate Date	October 2 (Monday)
Ballots mailed to voters (-22 days)	October 16 (Monday)
Ballot Drop Boxes open (-15 days minimum)	October 16 - November 7 All boxes close Election Day, November 7 at 7 p.m.
Last day voter can request our office mail a ballot (-8 days)	October 30 (Monday)

2023 COORDINATED ELECTION  
November 7, 2023

<b>Voter Service and Polling Centers (VSPCs) open (-8 days)</b>	<b>October 30 – November 7 Monday - Friday, 8 a.m. - 5 p.m. Saturday, November 4, 9 a.m. - 1 p.m. Election Day, Tuesday, November 7, 7 a.m. – 7 p.m.</b>
<b>Election Day</b>	<b>November 7, 7 a.m. – 7 p.m. (Tuesday)</b>
<b>Risk Limiting Audit (RLA)</b>	<b>November 21-22 (Additional days may be needed)</b>
<b>Canvass Board and Final Certification of Election</b>	<b>November 27 (Monday)</b>
<b>Canvass Board and Final Certification of Election – Alternate Date</b>	<b>November 28 (Tuesday)</b>
<b>Final Certification of Election deadline</b>	<b>November 29 (Wednesday)</b>

## **Appendix D IGA Checklist**

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

- ☐ **Friday, July 28**
  - Provide in writing to the County Clerk and Recorder notice of intent to coordinate.
  
- ☐ **Wednesday, August 2**
  - Receive and review IGA and accompanying documents from the Contact Officer, including important District addressing verification.
  
- ☐ **Tuesday, August 29**
  - Complete and return all required documents of the IGA via USPS mail or email to the Contact Officer, [jtwite@douglas.co.us](mailto:jtwite@douglas.co.us)
  - Provide a copy of the Ordinance and/or Resolution that outlines intent to participate in the General Election.
  - Provide a statement to confirm sufficient funds to pay election expenses are available and appropriated in the Jurisdiction's approved budget.
  - For PROPOSED DISTRICTS:
    - Provide certified legal description, map, and street listing (including street ranges).
  
- ☐ **Friday, September 8**
  - Provide certified ballot order and content to the Contact Officer. C.R.S 1-5-203(3). Refer to Section 2.02 (L) of the IGA for specific requirements.
  - As applicable, provide phonetic pronunciation of each candidate's name via voicemail. Refer to Section 2.02 (M) of the IGA for instructions.
  - Proofread ballot layout and text for Jurisdiction's portion of the official ballot and provide written acceptance of content or written notice of necessary changes. Refer to Section 2.02 (O) of the IGA for instructions.
  
- ☐ **Monday, September 25**
  - Provide Contact Officer with full text of any required ballot issues or ballot questions and all summarized pro/con statements to the Contact Officer.
  
- ☐ **Tuesday, October 3 – For elections where property owners are eligible electors:**
  - Provide all applicable eligible property owner list(s). Refer to Section 2.02 (P) of the IGA for instructions and requirements.

November 7, 2023

- ☐ **Wednesday, October 18 – For elections where property owners are eligible electors:**
  - Provide a supplemental list of applicable eligible property owner(s) for eligible voters not submitted in the original list from Monday, September 13. Refer to Section 2.02 (P) of the IGA for instructions and requirements.
  
- ☐ **Election Day, Tuesday, November 7**
  - Provide phone support for Jurisdiction for hours of voting (7:00 a.m. -7:00 p.m.) should information be needed from Douglas County Elections office or the general public.
  
- ☐ **Post-Election Day**
  - Notify Contact Officer within 24 hours of completion of final ballot tabulation if a recount is required.
  - Remit payment within 30 days of receipt of billing invoice.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Second Amendment to Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road
<b>Item Initiator:</b> Sarah "Sam" Scorza, Stormwater Engineer, Aurora Water
<b>Staff Source/Legal Source:</b> James DeHerrera, Planning Services Manager, Aurora Water / Ian Best, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, d/b/a MILE HIGH FLOOD DISTRICT, SOUTHEAST METRO STORMWATER AUTHORITY, THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY, AND ARAPAHOE COUNTY REGARDING FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK RESTORATION AT ARAPAHOE ROAD

James DeHerrera, Planning Services Manager, Aurora Water / Ian Best, 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 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 above.

---

**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Water Policy

**Policy Committee Date:** 8/28/2023

**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"/> Minutes Not Available       |
| <input checked="" type="checkbox"/> Minutes 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.)*

On October 20, 2021, the Water Policy Committee supported an Intergovernmental Agreement regarding Drainage and Flood Control improvements for the Cherry Creek Restoration at Arapahoe Road and forwarded to Study Session.

On November 8, 2021, the City Council of the City of Aurora approved an Intergovernmental Agreement for Drainage and Flood Control Improvements for the Cherry Creek Restoration at Arapahoe Road as item 11m.

On October 19, 2022, the Water Policy Committee supported an Amendment to an Intergovernmental Agreement for Drainage and Flood Control improvements for the Cherry Creek Restoration at Arapahoe Road and forwarded to Regular Session.

On November 14, 2022, the City Council of the City of Aurora approved an Amendment to an Intergovernmental Agreement for Drainage and Flood Control Improvements for the Cherry Creek Restoration at Arapahoe Road as item 11m.

On August 10, 2023, the Water Policy Committee supported an Amendment to an Intergovernmental Agreement for Drainage and Flood Control improvements for the Cherry Creek Restoration at Arapahoe Road and forwarded to Regular Session.

---

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

**Background:**



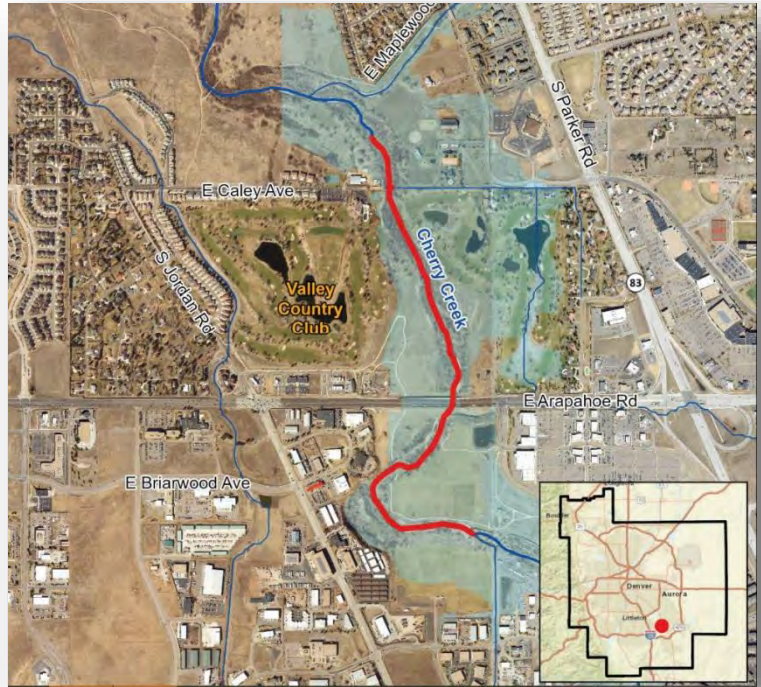
In 2004, the Mile High Flood District (MHFD) and Aurora completed a Master Drainageway Plan for the Cherry Creek Basin Upstream of the Cherry Creek reservoir. The Master Plan identified the need for bank stabilization and grade control to mitigate significant erosion concerns. Since that time, some grade control structures have been installed and portions of the reach have been improved. However, there is still significant erosion occurring in several other locations within the channel between the Cherry Creek Soccer Complex and the confluence with Piney Creek.

#### Scope:

The Scope of this Intergovernmental Agreement (IGA) is to identify ways to mitigate the erosion in the remaining portions of the channel. Future amendments will be required to complete mitigation design, and to construct identified projects.

#### Cost:

MHFD requested that all participating parties contribute to this study. Based on tributary area, Aurora previously contributed \$150,000.00, the Mile High Flood District contributed \$325,000.00, the Southeast Metro Stormwater Authority (SEMSWA) contributed \$70,000.00 and the Cherry Creek Basin Water Quality Authority (CCBWQA) contributed \$170,000.00. This amendment increases each **party's contribution** - \$500,000.00 from Aurora, \$300,000.00 from the MHFD and CCBWQA, and \$100,000.00 from SEMSWA. This percentage share more equitably matches the drainage area present in each jurisdiction.



In addition to these funds, the District identified a previous project account from 2015 with an identical scope and thus was able to transfer the remaining project funds to the project including \$90,258.84 from Aurora, \$115,531.32 from MHFD, \$1,790.74 from SEMSWA, and \$81,247.40 from CCBWQA.

	Previous Contribution	Previous Special Transfer	Contribution through this Amendment	Total Contribution
MHFD	\$325,000.00	\$115,531.32	\$300,000.00	\$740,531.32
Aurora	\$150,000.00	\$90,258.84	\$500,000.00	\$740,258.84
SEMSWA	\$70,000.00	\$1,790.74	\$100,000.00	\$171,790.74
CCBWQA	\$170,000.00	\$81,247.40	\$300,000.00	\$551,247.40
TOTAL	\$715,000.00	\$288,828.30	\$1,200,000.00	\$2,203,828.30

Further Amendments are anticipated as the project advances to the construction phase.

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact
 ☒ Budgeted Expenditure Impact
 ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact
 ☐ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Funding for this Intergovernmental Agreement will be from the Capital Improvement Program, Wastewater Fund in the amount of \$500,000.00. This IGA is the mechanism to pay \$500,000.00 to MHFD to complete the proposed investigation and design.

ORG: 52492 (Cherry Creek @ Arapahoe Road Drain Imp – SD)

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does City Council APPROVE A RESOLUTION for the Second Amendment to an Intergovernmental Agreement between the City of Aurora, acting by and through its Utility Enterprise, the Urban Drainage and Flood Control District, d/b/a Mile High Flood District, Southeast Metro Stormwater Authority, the Cherry Creek Basin Water Quality Authority, and Arapahoe County regarding final design, right-of-way acquisition, and construction of drainage and flood control improvements for Cherry Creek Restoration at Arapahoe Road?

---

**LEGAL COMMENTS**

Aurora is authorized 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 (Article XIV of the Colorado Constitution and C.R.S. 29-1-203). Aurora is authorized to enter into contracts or agreements with other governmental units, including special districts, for the joint use of buildings, equipment, or facilities or for furnishing or receiving commodities and services (Charter Section 10-12). (Best)

RESOLUTION NO. R2023- \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL’S SUPPORT OF THE SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, d/b/a MILE HIGH FLOOD DISTRICT, SOUTHEAST METRO STORMWATER AUTHORITY, THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY, AND ARAPAHOE COUNTY REGARDING FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK RESTORATION AT ARAPAHOE ROAD

WHEREAS, the City of Aurora, acting by and through its Utility Enterprise (“Aurora Water”), the Urban Drainage and Flood Control District d/b/a Mile High Flood District (“District”), Southeast Metro Stormwater Authority (“SEMSWA”), the Cherry Creek Basin Water Quality Authority (“CCBWQA”), and Arapahoe County (“Arapahoe”) have agreed to further fund and proceed with the design, right-of-way acquisition, and construction of drainage and flood control improvements for Cherry Creek restoration at Arapahoe Road; and

WHEREAS, the project costs funded through this amendment to the Intergovernmental Agreement include final design services, delineation and description and acquisition of right of way and easements, construction of improvements and necessary contingencies (“Project Costs”) ; and

WHEREAS, Aurora Water’s additional contribution to the Project Costs through this second amendment shall be \$500,000.00; and

WHEREAS, a summary of contributions to date is set forth in the table below:

	Previous Contribution	Previous Special Transfer	Contribution through this Amendment	Total Contribution
District	\$325,000.00	\$115,531.32	\$300,000.00	\$740,531.32
Aurora	\$150,000.00	\$90,258.84	\$500,000.00	\$740,258.84
SEMSWA	\$70,000.00	\$1,790.74	\$100,000.00	\$171,790.74
CCBWQA	\$170,000.00	\$81,247.40	\$300,000.00	\$551,247.40
TOTAL	\$715,000.00	\$288,828.30	\$1,200,000.00	\$2,203,828.30

; and

WHEREAS, the work performed pursuant to the Intergovernmental Agreement and this second amendment is necessary for the health, safety, and welfare of the people of Aurora; and

WHEREAS, the City is authorized, pursuant to Article XIV of the Colorado Constitution and Section 29-1-203 of the Colorado Revised Statutes, to cooperate and contract with any political subdivision of the State of Colorado, to provide any function, service, or facility lawfully authorized to each of the contracting or cooperating units of government; and

WHEREAS, Section 10-12 of the City Charter authorizes the City by resolution to enter into contracts or agreements with other governmental units, including special districts, for the joint use of buildings, equipment or facilities or for furnishing or receiving commodities and services.

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

Section 1. That the Aurora City Council approves and supports the second amendment to the Intergovernmental Agreement between Aurora, the District, SEMSWA, CCBWQA, and Arapahoe regarding final design, right-of-way acquisition, and construction of drainage and flood control improvements for Cherry Creek Restoration at Arapahoe Road.

Section 2. That the City of Aurora is hereby authorized to provide funding for this project in accordance with the terms of the Intergovernmental Agreement and this second amendment.

Section 3. That the Mayor of Aurora, City Clerk, and City Attorney are authorized to take such action and to execute such documents as necessary to implement the intent of this resolution.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

*RLA*  
*Ian J Best*  
\_\_\_\_\_  
IAN BEST, Assistant City Attorney

SECOND AMENDMENT TO  
AGREEMENT REGARDING  
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK  
RESTORATION AT ARAPAHOE ROAD

Agreement No. 21-06.17B  
Project No. 108670

THIS SECOND AMENDMENT TO AGREEMENT (hereinafter called "SECOND AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF AURORA, Colorado, a Colorado home rule municipal corporation of the counties of Adams, Arapahoe, and Douglas acting by and through its Utility Enterprise (hereinafter called "CITY"); SOUTHEAST METRO STORMWATER AUTHORITY (hereinafter called "SEMSWA"); CHERRY CREEK BASIN WATER QUALITY AUTHORITY (hereinafter called "CCBWQA") and collectively known as "PARTIES"; and ARAPAHOE COUNTY, Colorado (hereinafter called "Arapahoe County") ONLY as to Paragraphs 10 and 11 of the original AGREEMENT;

WITNESSETH:

WHEREAS, PARTIES have entered into " Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road " (Agreement No. 21-06.17) dated December 21, 2021, as amended (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to proceed with the design, right-of-way acquisition and construction of drainage and flood control improvements for Cherry Creek Restoration at Arapahoe Road (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$1,200,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 52, Series of 2023); and

WHEREAS, the City Council of CITY; Board of Directors of SEMSWA; Board of Directors of CCBWQA; and the Board of Directors of DISTRICT have each authorized, by appropriation or resolution, each party's share of the PROJECT costs.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this AGREEMENT, PROJECT costs shall consist of and be limited to the following:

1. Final design services;
  2. Delineation, description and acquisition of required rights-of-way/ easements;
  3. Construction of improvements;
  4. Contingencies mutually agreeable to PARTIES.
- B. It is understood that PROJECT costs as defined above are not to exceed \$2,203,828.30 without amendment to this AGREEMENT.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 845,000	\$ 345,000
2. Right-of-way	\$ -0-	\$ -0-
3. Construction	\$ 1,158,828.30	\$ 658,828.30
4. Contingency	\$ 200,000	\$ -0-
Grand Total	\$ 2,203,828.30	\$ 1,003,828.30

\* It is anticipated that additional funding for construction will be added through future amendments.

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest, if applicable.

- C. At the request of the CITY, SEMSWA, and CCBWQA, the following CITY, SEMSWA, CCBWQA, and DISTRICT funds pursuant to a prior amendment have been transferred to PROJECT from a separate special fund held by DISTRICT: Transfer from: Cherry Creek at Arapahoe Road; Project No. 100407; Account No. 5603; Agreement No. 12-08.04 Amendment E; Amount: \$288,828.30.

- D. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	Percentage Share	Previously Contributed	Previous Special Funds Transfer from Account No. 5603	Additional Contribution	Maximum Contribution
DISTRICT Special Funds Transfer	33.60%	\$325,000	\$115,531.32	\$300,000	\$740,531.32
CITY Special Funds Transfer	33.59%	\$150,000	\$90,258.84	\$500,000	\$740,258.84
SEMSWA Special Funds Transfer	7.80%	\$70,000	\$1,790.74	\$100,000	\$171,790.74
CCBWQA Special Funds Transfer	25.01%	\$170,000	\$81,247.40	\$300,000	\$551,247.40
TOTAL	100.00%	\$715,000	\$288,828.30	\$1,200,000	\$2,203,828.30

- E. DISTRICT Acknowledges that (i) CCBWQA does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) It is understood and agreed that notwithstanding any other provision contained herein to the contrary, any additional contribution obligation of CCBWQA hereunder, whether direct or contingent, shall extend only to funds duly and lawfully appropriated and encumbered by the Board of Directors of CCBWQA for the purposes of the Agreement, and paid into the Treasury of CCBWQA, and shall under no circumstances exceed \$551,247.40 without CCBWQA's prior express written consent.

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval.

Payment of each PARTY's full share (CITY - \$740,258.84; SEMSWA - \$171,790.74; CCBWQA - \$551,247.40; DISTRICT - \$740,531.32), to the extent not previously paid, shall be made to DISTRICT subsequent to execution of this AGREEMENT and within 30 days of

request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to PARTIES of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each PARTY shall receive a share of such monies, which shares shall be computed as were the original shares; or at PARTIES request, PARTY's share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this SECOND AMENDMENT to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND  
FLOOD CONTROL DISTRICT D/B/A  
MILE HIGH FLOOD DISTRICT

By \_\_\_\_\_

Name Laura A. Kroeger

Title Executive Director

Date \_\_\_\_\_

\_\_\_\_\_  
Checked By



CITY OF AURORA, COLORADO,  
ACTING BY AND THROUGH ITS  
UTILITY ENTERPRISE

Mike Coffman, Mayor

Date \_\_\_\_\_

ATTEST:

Kadee Rodriguez, City Clerk

---

Date

APPROVED AS TO FORM FOR AURORA:

Ian J Best

7/5/2023

Ian Best, Assistant City Attorney

---

Date

STATE OF COLORADO )  
 ) ss  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023 by Mike Coffman, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora, Colorado.

Witness my hand and official seal. \_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(SEAL)

CHERRY CREEK BASIN  
WATER QUALITY AUTHORITY

\_\_\_\_\_  
CCBWQA Checked By

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM FOR CCBWQA:

\_\_\_\_\_  
Timothy J. Flynn, General Counsel

Date: \_\_\_\_\_

SOUTHEAST METRO STORMWATER  
AUTHORITY

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

ARAPAHOE COUNTY

By \_\_\_\_\_

Title \_\_\_\_\_

Authorized by Resolution Number 22-049  
As to the obligations contained in  
Paragraphs 10 and 11 only

Date \_\_\_\_\_

**Water Policy Committee (WPC) Meeting**

October 20, 2021

**Members Present:** Council Member Crystal Murillo Chair; Council Member Allison Hiltz Vice Chair (Absent); Council Member Alison Coombs

**Others Present:** Leiana Baker, Casey Rossman, Jo Ann Giddings, Steve Sciba, Laura Perry, Sam Miller, Janet Marlow (CWAC), Sarah Young, Marshall Brown, Christine McKenney, Alex Davis, Ian Best, Angie Binder (CWAC), Ted Hartfelder, Rick Kienitz, John Murphy, Stephanie Neitzel, Swirvine Nyirenda, Jeffrey Sipes, Gail Thrasher

---

**1. Approval of Minutes**

The September 7, 2021, meeting minutes were approved as presented.

**2. Consent Items**

- A. Construction Change Order Summary Report
- B. Monthly Water Supply Update

Summary of Issue and Discussion: Council Member Coombs stated, it looks like we're doing ok in the Arkansas and Colorado basins. What is on the horizon with the Colorado River. M. Brown replied, there was a shortage declaration and that triggered some reductions primarily in Arizona and concerns in Nevada. Most of our water comes from the South Platte Basin. Council Member Coombs stated, if we are expected to reduce our use from the Colorado River what would we do? M. Brown replied, about 20% of our supply comes from the Colorado River. We can take water from the Prairie Waters System and we can add further restrictions to outdoor watering.

Outcome: The Consent items were supported as presented.

Follow-Up Action: The Consent items were supported as presented.

---

**3. Citizens' Water Advisory Committee Quarterly Update**

Summary of Issue and Discussion: J. Marlow gave an overview of the quarterly update.

- Kathy Kitzmann gave an update on state bills.
- Virtual water tour presentation.
- 2022 Budget presentation.
- Water tour was cancelled for this year.
- SEAM building update.
- Rocky Ford tour.
- Engage Aurora website presentation.

Outcome: Informational only.

Follow-Up Action: Informational only.

---

#### **4. Amendment to an Intergovernmental Agreement (IGA) with the City and County of Denver regarding the Gateway Lift Station**

Summary of Issue and Discussion S. Young stated, the need to amend the 2018 IGA is to reflect the Gateway Lift Station's actual baseline capacity and anticipated capacities associated with the proposed phased capacity movements.

Outcome: The Committee supports the Amendment to an Intergovernmental Agreement (IGA) regarding the Gateway Lift Station and forwarded to Regular Session for consideration.

Follow-Up Action: The Committee supports the Amendment to an Intergovernmental Agreement (IGA) regarding the Gateway Lift Station and will forward to Regular Session for consideration.

---

#### **5. Intergovernmental Agreement (IGA) regarding the Design and Construction and Flood Improvements for Cherry Creek Restoration at Arapahoe Road**

Summary of Issue and Discussion S. Miller stated, this IGA is to identify ways to mitigate the erosion in the remaining portions of channel and to complete a design for those mitigation measures.

Council Member Coombs asked, what is the cost percentages between the entities? S. Miller replied, we expect the percentages to increase next year. S. Young added, it depends on the entities that are involved in the project determines the percentages.

Outcome: The Committee supports the Intergovernmental Agreement (IGA) regarding the Design and Construction and Flood Improvements for Cherry Creek Restoration at Arapahoe Road and forwarded to Study Session for consideration.

Follow-Up Action: The Committee supports the Intergovernmental Agreement (IGA) regarding the Design and Construction and Flood Improvements for Cherry Creek Restoration at Arapahoe Road and will forward to Study Session for consideration.

---

#### **6. Resolution approving an Intergovernmental Agreement (IGA) between the City of Aurora and the United States Department of Agriculture Animal and Plant Health Inspection Service**

Summary of Issue and Discussion: A. Davis stated, this agreement would ensure Rocky Ford Ditch lands would continue to remain in compliance with the Water Court Decrees. The agreement would target areas where the native grass is most threatened and areas where there are neighboring farmlands in danger of being overrun and damaged by prairie dogs.

Council Member Murillo asked, are we exterminating the prairie dogs? A. Davis replied, yes. It is very difficult action to take. Not all prairie dogs will be exterminated, and some will be moved, however, we are not able to move them all. There are limited options regarding this. Council Member Coombs asked, is the issue that there are too many to move? A. Davis replied, yes. The population has grown so much that not all the prairie dogs can be moved. We are required by

decree to keep the revegetation of the native grasses. M. Brown added, we did try some alternative ideas years ago and they didn't work. Council Member Murillo stated, there is a study of non-lethal evacuations regarding prairie dogs. M. Brown replied, we're happy to look at other options. Council Members and staff agree that this is a difficult decision and continue to look for other alternatives. Council Member Murillo stated, is there a timeline, within the next month? A. Davis replied, there is a certain time of the year when the process happens that is more humane and helps to ensure that other wildlife will not be impacted. The item will go to Study Session November 15.

Outcome: The Committee supports moving this Resolution of the Intergovernmental Agreement between the City of Aurora and the United States Department of Agriculture Animal and Plant Health Inspection Service to Study Session for consideration.

Follow-Up Action: The Committee supports moving this Resolution of the Intergovernmental Agreement between the City of Aurora and the United States Department of Agriculture Animal and Plant Health Inspection Service to Study Session for consideration.

---

## **7. Northeast Aurora Potable Water Pipeline Project and Front Range Airport**

Summary of Issue and Discussion: S. Young stated, the Aurora Water Department completed the Integrated Water Master Plan (IWMP) in 2016. The IWMP identified a potable water pipeline extension to Northeast Aurora by 2025. The pipeline will provide service along the 26<sup>th</sup> Avenue corridor, service to the Transport development (dba Port Colorado) and a tie-in location for the Front Range Airport (FRA dba Colorado Air and Space Port (CASP)) to meet the obligations under the existing water services agreement.

Outcome: Informational only.

Follow-Up Action: Informational only.

---

## **8. Miscellaneous Matters for Consideration**

Summary of Issue and Discussion: None.

Outcome: N/A

Follow-Up Action: N/A

---

## **9. Confirm Next Meeting**

The next meeting is scheduled for November 17, 2021, 9:00 a.m. via WebEx.

  
Crystal Murillo (Nov 22, 2021 18:25 MST)

---

Crystal Murillo  
Chair, Water Policy Committee



## **MINUTES**

### **Regular Meeting of the Aurora City Council**

Monday, November 22, 2021

1. **RECONVENE REGULAR MEETING OF NOVEMBER 22, 2021. CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of City Council for November 22, 2021, at 6:30 p.m.

2. **ROLL CALL**– Kadee Rodriguez, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marciano, Murillo

Call-in instructions were provided in both English and Spanish.

3. **INVOCATION/MOMENT OF SILENCE** – Mike Coffman, Mayor

4. **PLEDGE OF ALLEGIANCE** (all standing)

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman stated legal advice was discussed in Executive Session.

6. **APPROVAL OF MINUTES**

6.a. September 13, 2021, Meeting Minutes

Motion by Bergan, second by Coombs, to approve the minutes of the September 13, 2021, City Council meeting, as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson  
Marciano, Murillo

6.b. October 11, 2021, Meeting Minutes

Motion by Coombs, second by Lawson, to approve the minutes of the October 11, 2021, City Council meeting, as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson  
Marcano, Murillo

6.c. October 25, 2021, Meeting Minutes

Motion by Berzins, second by Bergan, to approve the minutes of the October 25, 2021, City Council meeting, as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson  
Marcano, Murillo

7. **PROCLAMATIONS OR CEREMONIES**

7.a. Small Business Saturday

Mayor Coffman read the proclamation declaring November 27, 2021 as Small Business Saturday.

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

Council heard public call-in testimony on non-agenda related items.

9. **ADOPTION OF THE AGENDA**

Motion by Bergan, second by Berzins, to approve the agenda.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson,  
Marcano, Murillo

10. **CONSENT CALENDAR**

*This portion of the agenda is a meeting management tool to allow the City Council to handle several routine items with one action. Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar*

10.a. Consideration to AWARD A SINGLE SOURCE CONTRACT to Liberty Industrial Group, Inc., Arvada, Colorado in the amount of \$318,855.00 for the Binney Water Purification Facility Sodium Hydroxide Tank Rehabilitation (Phase 2) Project.

Elizabeth Carter, Principal Engineer, Aurora Water / Ian Best, Assistant City Attorney

- 10.b. Consideration to APPROVE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$112,000 IN 2022 between the city of Aurora, and Aurora Sister Cities International

Ricardo Gambetta, Manager of the Office of International and Immigrant Affairs / Hanosky Hernandez, Assistant City Attorney

Outside Speaker: Karlyn Shorb, Executive Director, Aurora Sister Cities International

- 10.c. Consideration to AWARD AN OPENLY SOLICITED contract to Saunders Construction, Englewood, Colorado in the amount of \$6,138,838.00 for the Work Package 4 of the Southeast Aurora Maintenance (SEAM) Facility Project, Project No. R-5661

Waiver of reconsideration requested due to market conditions and material procurement lead times.

Andrea Long, Senior Engineer, Aurora Water / Brian Rulla, Assistant City Attorney

- 10.d. Consideration to Award a Single Source Contract to Innovest Portfolio Solutions LLC in the amount of \$64,500 for investment advisory consulting services associated with the City's 457 and 401(a) plans through December 31, 2022

Nancy Wishmeyer, Controller / Hanosky Hernandez, Assistant City Attorney

- 10.e. Consideration to AWARD A SINGLE SOURCE CONTRACT to AM Signal, LLC., Littleton, Colorado in the amount of \$134,376.96 for the purchase of twenty-four (24) TrafiSense 2 Thermal Sensors and Video Detectors and related components.

Staff requests a waiver or reconsideration as these detection cameras are needed urgently to maintain functionality of the City's traffic signals as maintenance stock is low and the lead time on these cameras is 6 months due to current industry wide supply chain issues.

Carlie Campuzano, Traffic Manager, Public Works / Ian Best, Assistant City Attorney

- 10.f. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Liberty Waste Management, Englewood, Colorado in the not-to-exceed amount of \$80,600.00 for portable toilet rental services required through November 30, 2022.

John Wesolowski, Manager of Parks and Forestry / Ian Best, Assistant City Attorney

- 10.g. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Keesen Landscape Management, Inc., Englewood, Colorado in the not-to-exceed amount of \$210,000.00 for abatement services as required through March 31, 2022. (B-4543)

Sandra Youngman, Manager of Code Enforcement / Ian Best, Assistant City Attorney



- 10.h. Consideration to AWARD A SINGLE SOURCE CONTRACT to Accurate Legal Support Services, LLC, Littleton, Colorado in the not-to-exceed amount of \$88,600.00 for subpoena process services as required through December 31, 2022. (B-4630)

Julie Heckman, Deputy City Attorney / Ian Best, Assistant City Attorney

Motion by Bergan, second by Hiltz, to approve items 10a – 10h.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

- 10.i. Consideration to AWARD A SOLE SOURCE CONTRACT to ZETX Inc., Chandler, AZ in the amount of \$239,986.58 to purchase two each Drive Test Scanner Suites for the Police RAVEN Task Force

Chief Vanessa Wilson, Police / Megan Platt, Asst. City Attorney

Acting Division Chief Mark Hildebrand, Aurora Police, provided a summary of the item.

Council Member Marcano asked staff to speak to the City's fiduciary responsibility in this regard. Acting Division Chief Hildebrand did so. Council Member Marcano stated his understanding the item made efforts more efficient but did not do anything the police could not already do.

Acting Division Chief Hildebrand concurred.

Council Member Coombs stated her understanding the item did not violate anyone's privacy rights and it did not secure anyone's data.

Acting Division Chief Hildebrand concurred.

Council Member Hiltz suggested a larger Data Governance policy should be created for the City going forward.

Motion by Marcano, second by Bergan, to approve item 10i.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

- 10.j. Consideration to AWARD CHANGE ORDER #1 TO AN OPENLY SOLICITED CONTRACT to J. Brower Psychological Services, Denver, CO in the total amount of \$110,000.00 to provide psychological counseling services for the Aurora Police Dept. through 5/31/2022. (R-2081)

Chief Vanessa Wilson, Police / Ian Best, Asst. City Attorney

Motion by Bergan, second by Hiltz, to approve Item 10j.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman called for a brief recess of Council to allow staff to provide public call-in instructions.

## 11. **RESOLUTIONS**

### 11.a. Parkside at City Centre BID 2022 Operating Plan and Budget

R2021-128 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

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

Nancy Wishmeyer, Controller, provided a summary of Items 11a – 11j.

Motion by Berzins, second by Gardner, to approve item 11a.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

### 11.b. Painted Prairie No. 1 BID 2022 Operating Plan and Budget

R2021-129 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

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

Motion by Gardner, second by Coombs, to approve item 11b.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

### 11.c. Painted Prairie No. 2 BID 2022 Operating Plan and Budget

R2021-130 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

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

Motion by Bergan, second by Berzins, to approve Item 11c.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.d. Porteos BID 2022 Operating Plan and Budget

R2021-131 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

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

Motion by Marcano, second by Lawson, to approve item 11d.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.e. Tower BID 2022 Operating Plan and Budget

R2021-132 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

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

Motion by Coombs, second by Marcano, to approve Item 11e.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.f. Windler No. 1 BID 2022 Operating Plan and Budget

R2021-133 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

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

Motion by Bergan, second by Berzins, to approve Item 11f.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.g. Windler No. 2 BID 2022 Operating Plan and Budget (Resolution)

R2021-134 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

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

Motion by Gardner, second by Lawson, to approve Item 11g.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.h. 2022 Operating Plan and Budget for the Citadel on Colfax Business Improvement  
District

R2021-135 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

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

Council Member Murillo referenced p. 4 and noted there were two serving and three vacant positions on the board and asked staff if that was common. Ms. Wishmeyer answered no. Council Member Murillo asked if a vacancy like this has been seen before with this group. Ms. Wishmeyer answered affirmatively. Council Member Murillo asked when that occurred. Ms. Wishmeyer stated it was noted last year when the item was reviewed. Council Member Murillo expressed concerns that there were only two out of five board members making these decisions.

Motion by Bergan, second by Berzins, to approve item 11h.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.i. 2022 Operating Plan and Budget for the Fitzsimons Business Improvement District

R2021-136 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

Motion by Berzins, second by Lawson, to approve item 11i.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

11.j. Havana Business Improvement District - Operation Plan and Budget



**R2021-137 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

Outside Speaker: Chance Horiuchi, Executive Director, Havana BID

Motion by Marcano, second by Berzins, to approve Item 11j.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

**11.k. Property Negotiations - Solar Lease at NE Corner of 6th Ave and Tower Road**

**R2021-138 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE LEASE OF CITY OWNED LAND CONTAINING APPROXIMATELY 43.6 ACRES FOR A SOLAR GARDEN PROJECT AT THE NORTHEAST CORNER OF 6TH AVENUE AND TOWER ROAD**

Karen Hancock, Principal Planner / Michelle Gardner, Senior Assistant City Attorney

Karen Hancock, Principal Planner, provided a summary of the item.

Motion by Coombs, second by Gardner, to approve Item 11k.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

**11.l. Rocky Ford Land Management IGA**

**R2021-139 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE COOPERATIVE SERVICE AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, AND UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES**

Alexandra Davis, Deputy Director of Water Resources / Stephanie Neitzel, Assistant City Attorney

Alexandra Davis, Deputy Director of Water Resources, provided a summary of the item.

Mayor Pro Tem Bergan asked Ms. Davis to speak to the agricultural benefits of the item. Ms. Davis did so.

Council Member Marcano stated prairie dog removal was of great concern to some of his constituents. He asked if the City has attempted to trap and relocate them. Ms. Davis



answered no and discussed the capture and relocating process. She stated the City was looking into a US Fish & Wildlife Black-footed Ferret Project where the prairie dogs would become food for an endangered species. Council Member Marciano stated the City had to act sooner than that to remain in compliance.

Ms. Davis concurred.

Council Member Murillo acknowledged Ms. Davis and staff's effort in this regard. She asked Ms. Davis to speak to the timeline for substantial compliance. Ms. Davis did so. Council Member Murillo asked if an affirmative vote would allow the City to participate in the US Fish & Wildlife program. Ms. Davis answered no and explained the program process.

Mayor Pro Tem Bergan asked Ms. Davis to speak to the time element for compliance. Ms. Davis did so. Mayor Pro Tem Bergan stated her understanding the issue needed to be addressed right away.

Ms. Davis concurred.

Council Member Coombs asked Ms. Davis to speak to whether the City could consider other options if they came into compliance in the first year rather than finishing out the three-year contract and if so, what the likelihood was for that to occur. Ms. Davis stated the City could not utilize non-lethal management methods due to the sheer number of prairie dogs. She stated the City would work to preserve one whole colony and relocate others. Council Member Coombs asked Ms. Davis why some of the prairie dogs could not be relocated to northwesterly areas. Ms. Davis discussed prairie dog habitability and vegetation in those areas.

Council Member Murillo stated she was uncertain about supporting lethal options. She asked Ms. Davis to speak to the timeline to perhaps implement non-lethal methods. Ms. Davis did so.

Mayor Pro Tem Bergan stated she understood her colleagues' concerns and asked them to take the timeline into consideration. She noted alternative methods could be pursued moving forward.

Motion by Bergan, second by Berzins, to end discussion and call for the vote on the Item.

Voting Aye: Bergan, Berzins, Gardner, Gruber, Hiltz, Lawson, Murillo

Voting Nay: Coombs, Marciano

Motion by Gardner, second by Bergan, to approve Item 11I.

Voting Aye: Bergan, Berzins, Gardner, Gruber, Lawson

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

**Voting Nay:** Coombs, Hiltz, Marcano, Murillo

Council Member Coombs stated she might have gotten to an affirmative vote if she had been allowed to ask all her questions. She addressed Mayor Coffman and suggested he not move to the question without allowing people to ask all their questions.

**11.m. Drainage and Flood Control Improvements for the Cherry Creek Restoration at Arapahoe Road**

**R2021-140 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, d/b/a MILE HIGH FLOOD DISTRICT, SOUTHEAST METRO STORMWATER AUTHORITY, AND THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY REGARDING DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK RESTORATION AT ARAPAHOE ROAD**

**Swirvine Nyirenda, Planning Services Manager / Ian Best, Assistant City Attorney**

**Sarah Young, Deputy Director, Aurora Water, provided a summary of the item.**

**Motion by Coombs, second by Marcano, to approve Item 11m.**

**Voting Aye:** Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

**11.n. Larson Farms & Feeding LLC, Farming and Grazing Lease with Water Use Agreement**

**R2021-141 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE FARMING AND GRAZING LEASE WITH WATER USE AGREEMENT ON CITY-OWNED LAND IN WELD COUNTY BETWEEN CITY OF AURORA AND LARSON FARMS & FEEDING LLC**

**Hector Reynoso, Manager of Real Property Services / Dawn Jewell, Water Resources Supervisor / Michelle Gardner, Senior Assistant City Attorney**

**Hector Reynoso, Manager of Real Property Services, provided a summary of the item.**

**Motion by Marcano, second by Lawson, to approve item 11n.**

**Voting Aye:** Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

**11.o. Ford Farms LLC - Farm, Grazing and Property Lease with Water Use Agreement**

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



**R2021-142 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE FARM, GRAZING AND PROPERTY LEASE WITH WATER USE AGREEMENT ON CITY-OWNED LAND IN WASHINGTON AND LOGAN COUNTIES BETWEEN CITY OF AURORA AND FORD FARMS LLC**

**Hector Reynoso, Manager of Real Property Services / Dawn Jewell, Water Resources Supervisor, Aurora Water / Michelle Gardner, Sr. Asst. City Attorney**

**Hector Reynoso, Manager of Real Property Services, provided a summary of the item.**

**Motion by Bergan, second by Marcano, to approve item 11o.**

**Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo**

**11.p. Consent Decree Agreement**

**R2021-143 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL FOR ENTERING INTO THE STIPULATED CONSENT DECREE AGREEMENT WITH THE STATE OF COLORADO ATTORNEY GENERAL PURSUANT TO C.R.S. § 24-31-113**

Staff is requesting a waiver of reconsideration to accommodate the prompt filing of the Agreement with the Court.

Jim Twombly, City Manager / Peter Schulte, Public Safety Client Group Manager

Jason Batchelor, Deputy City Manager, and Peter Schulte, Public Safety Client Group Manager, gave presentations on the item.

Mayor Pro Tem Bergan referenced the resolution and asked staff to speak to Council's role in the consent decree. Mr. Schulte did so, noting this was the point where Council approved these steps.

Council Member Marcano asked staff to speak to what part labor organizations played in crafting the decree. Mr. Schulte did so.

Council Member Hiltz expressed appreciation to staff for their efforts in this regard. She stated the City had a lot of work to do and has for a long time in terms of policing. She stated it was unfortunate that it took this process to get it done, noting there were those in the City who did not want to have these discussions.

Council Member Lawson echoed Council Member Hiltz's thanks of staff. She referenced 317, Civil Service Commission, and noted it was rather broad. She asked Mr. Schulte to speak to how Council would be a part of the implementation process. Mr. Schulte did so.

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Council Member Hiltz gave a shout-out to former Council Member Johnston for her efforts in having the Chiefs provide input into the item. She discussed her experience in 2020 working on the Public Safety Committee where their efforts were dismissed, and they were called anti-police when now two separate independent investigations confirmed their concerns.

Council Member Berzins stated she heard the unions were not very involved which concerned her as that was their job. She asked staff if the unions had a seat at the negotiations table. Mr. Bachelor answered no, noting everything that was being negotiated was a management right as it had to do with department operations. He stated the item was reviewed with the unions to answer their questions once it was made public.

Mr. Schulte stated the unions would be an integral part once the policies were instilled.

Council Member Berzins expressed concerns related to the waiver of reconsideration because the role of Attorney General was a political position. She asked staff to speak to how a change in that position would impact the item. Mr. Batchelor stated the waiver of reconsideration was simply a Council procedural rule. Council Member Berzins asked if the consent decree could be changed at some point. Mr. Schulte answered no, noting it became an order of the court once it was approved and signed by the Court.

Troy Eid, outside counsel, explained the consent decree process.

Council Member Berzins stated her understanding Council was giving power to a judge.

Mr. Eid disagreed, noting progress and timeframes were very clear in the framework.

Council Member Berzins expressed concerns that crime would continue to increase as it did after 217 passed and wondered if this would help public safety at all. She stated Council cared about the consent decree only because they were intrinsically involved but noted the average person did not care about it as they just wanted to be safe.

Mr. Schulte discussed how the item was different from a Department of Justice consent decree.

Council Member Berzins stated she wanted to see the specifics in it before it passed. She expressed appreciation to staff for their efforts in this regard and restated her concerns that crime was on the rise.

Mr. Batchelor discussed the role of the independent monitor as called out in the decree.

Mayor Pro Tem Bergan expressed appreciation to staff for their efforts in this regard. She noted some of the trainings and reform were currently in place which expedited the process. She noted additionally the metrics were in place to ensure the City remained in compliance.

Mr. Schulte concurred.

Mayor Pro Tem Bergan stated more information provided more transparency to the public.

Mr. Schulte concurred.

Council Member Coombs expressed appreciation to staff for their attendance and for providing information. She referenced hiring and recruitment and noted backgrounding was not specifically addressed. She discussed the current situation where a disproportionate number of persons of color were being disqualified and lateral hires had significant backgrounding issues. She asked staff to speak to how those issues would be addressed. Mr. Batchelor did so, noting that process was not specified but having a qualified and diverse work force was a part of the requirement and it would be reached through input from an outside expert.

Mr. Schulte concurred, noting the background checks would go through the Human Resources and Police and Fire Departments.

Council Member Coombs referenced the waiver of reconsideration and asked staff to speak to what would happen should there not be a waiver of reconsideration and the item was called up, and Council chose not to support it. Mr. Schulte stated the Attorney General's Office would file a lawsuit and the City would litigate it.

Mr. Eid stated the Attorney General had a complaint and he would go to court and sue the City therefore either the City stated they disagreed with it and stipulated to a judgement, or they rolled the dice and went to court. He discussed the problem with going to court in this regard.

Mr. Schulte stated things could change until the agreement was signed and that was why staff was stressing the waiver.

Council Member Coombs referenced bias-based policing goals and measurements and asked if those offenses and related offenses were required to be included and what the related offenses were and why were they chosen. Mr. Schulte stated all three offenses would be included and he discussed how they related to misdemeanors.

Mr. Batchelor discussed the importance of ensuring Use of Force was proportional to the offense.

Motion by Hiltz, second by Coombs, to approve Item 11p.

Council Member Hiltz stated her appreciation for the conversation and noted the importance of recognizing not all people in Aurora were safe and that was due in large part to racially biased policing. She stated Chief Wilson and many City police officers have worked hard,



were committed to moving forward in a better direction and were being mindful of those policing policies but there was also police union leadership who were undermining that every step of the way. She stated she supported the Item because the City had a problem they have not been able to address because of representation that was fighting against it which caused more harm. She stated she was not an expert on youth violence but noted the importance of listening to the community. She stated Aurora's problems began long before Chief Wilson and she applauded the Chief's efforts in making the necessary changes in this regard. She stated it was evidenced by the actions of the police union leadership that Aurora needed a court order to force them to do better because it was very clear it was not happening organically. She addressed those officers who were attempting to do better to treat people as they should be treated, and she applauded their efforts. She stated this would be her final vote on a resolution of Council and it was very fitting considering the work that has been done over the last several years.

Council Member Marcano concurred and expressed appreciation to Council Member Hiltz for her comments. He added this was a framework for a conversation to come as there was nothing prescriptive in the decree and he expressed his hope the community would be largely involved in that discussion. He addressed Council and discussed the importance of digging into the root causes such as wages, healthcare, childcare, housing, food access and recreational opportunities that led to people getting involved with law enforcement to begin with. He noted these issues were within Council's policy-making wheelhouse and pointed out leaving them unaddressed would result in another big incident in the future. He stated his support for the item and expressed appreciation to staff for their efforts in this regard.

Council Member Murillo expressed appreciation to all those who worked hard to bring the item forward. She stated it was an understatement to state Aurora experienced a nationally organized movement that they never should have. She stated as a result, they had to react with the utmost care in terms of how to move forward. She stated she found peace in the process that the direction provided did not rely on opinion but rather on independent objective third-party recommendations. She stated the City has not resolved these issues on their own and the consent decree provided a framework of how the City could do better. She stated the consent decree allowed the City to be proactive in a reactive situation, to take control of what could be changed and to be cooperative with the opinions around policing in Aurora. She supported the item and looked forward to working with the community and staff to move Aurora forward because they owed it the community to do so.

Council Member Hiltz also expressed appreciation to Fire Chief Fernando Gray, Aurora Fire, for his efforts in this regard.

Council Member Coombs expressed appreciation to Council Members Hiltz, Murillo and Marcano for their comments and to staff for their hard work, thoughtfulness and swiftness in this regard. She stated her support for the item.

Mayor Coffman stated Aurora made tremendous progress prior to the consent decree and would continue to do so irrespective of it.

Dan Brotzman, City Attorney, asked if the waiver of reconsideration was included in the motion.

Mayor Coffman asked Council Member Coombs if it was included in her motion. Council Member Coombs answered affirmatively.

Voting Aye: Bergan, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

Voting Nay: Berzins

Mayor Coffman called for a brief recess of Council to allow staff to provide public call-in instructions.

12. **PUBLIC HEARING WITH RELATED ORDINANCE**

12.a. 2021 International Building Code Adoption

2021-65 FOR AN ORDINANCE AMENDING CHAPTER 22 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, REGARDING BUILDING AND BUILDING REGULATIONS, AND THE ADOPTION BY REFERENCE OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL PLUMBING CODE, THE INTERNATIONAL MECHANICAL CODE, THE INTERNATIONAL FUEL GAS CODE, THE INTERNATIONAL ENERGY CONSERVATION CODE, THE INTERNATIONAL RESIDENTIAL CODE, THE INTERNATIONAL EXISTING BUILDING CODE, AND THE INTERNATIONAL SWIMMING POOL AND SPA CODE

Jose Rodriguez, Building Plan Review Manager / Michelle Gardner, Sr. Assistant Attorney

Mayor Coffman opened the public hearing on the item and hearing none, closed the public hearing.

Jose Rodriguez, Building Plan Review Manager, provided a summary of the item.

Mayor Pro Tem Bergan pointed out the item was presented to the Joint Task Force who also supported the item.

Mr. Rodriguez concurred.

Motion by Marcano, second by Lawson, to approve Item 12a.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

12.b. 2021 International Fire Code Adoption

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

2021-66 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 66 OF THE CITY CODE ENTITLED "FIRE PREVENTION AND PROTECTION" RELATED TO THE ADOPTION OF THE 2021 EDITION OF THE INTERNATIONAL FIRE CODE AND LOCAL AMENDMENTS THERETO

Deputy Chief Caine G. Hills / Angela Garcia, Senior Assistant City Attorney

Mayor Coffman opened the public hearing on the item.

Commander Steven Wright, Aurora Fire Rescue, provided a summary of the item.

Mayor Coffman closed the public hearing on the item.

Motion by Marcano, second by Coombs, to approve item 12b.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

12.c. Battery Powered Electric Fence Ordinance

2021-67 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

Jason Batchelor, Deputy City Manager / Tim Joyce, Assistant City Attorney

Sponsor: Council Member Gardner

Mayor Coffman opened the public hearing on the item.

Brandon Cammarata, Manager, Planning, provided a summary of the item.

Council Member Marcano asked if there was any potential liability of a business owner if someone was injured by the battery powered fence.

Tim Joyce, Assistant City Attorney, stated someone could always bring a lawsuit as it depended on the circumstances. He noted there was no liability on the part of the City.

Motion by Gardner, second by Berzins, to approve item 12c.

Mayor Coffman closed the public hearing on the item.



Council Member Gardner recognized staff for their efforts in this regard.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

13. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

None

14. **INTRODUCTION OF ORDINANCES**

14.a. 2021 Fall Supplemental

2021-68 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR

Mike Franks, Budget and Finance Manager / Hanosky Hernandez, Assistant City Attorney

Greg Hayes, Budget Officer, provided a summary of the item.

Motion by Marcano, second by Bergan, to introduce item 14a.

Council Member Hiltz expressed appreciation to Mr. Hayes and staff for their efforts in this regard.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman asked Council if there was objection to combining items 15a – 15e in one vote and hearing none, proceeded to do so.

15. **FINALIZING OF ORDINANCES**

*Ordinances on final reading which were introduced by unanimous vote of those present on the first reading may be taken under consideration and voted upon as a single item. Related ordinances may be acted upon as one item after the titles are read in series by the City Clerk. Any member of the Council may request an item to be considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Finalizing of Ordinances.*

15.a. Municipal Court Surcharges (Correction of Ordinance)

2021-60 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 50-37 OF THE CITY CODE OF THE CITY OF

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

AURORA, COLORADO, RELATING TO MUNICIPAL COURT SURCHARGES,  
PROVIDING FUNDING FOR COMMUNITY SERVICE AGENCIES AND PROGRAMS, AND  
OTHER RELATED MATTERS

Jason Batchelor, Deputy City Manager / Hanosky Hernandez, Assistant City Attorney

15.b. Repeal of Stable License (Ordinance)

2021-61 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant  
City Attorney

15.c. Alcohol Beverage Festival Permit (Ordinance)

2021-62 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL  
BEVERAGE FESTIVAL PERMIT

Trevor Vaughn, Manager of Tax and Licensing / Tim Joyce, Assistant City Attorney

15.d. Short Term Rental Regulations

2021-63 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, AMENDING CHAPTER 26 RELATING TO THE SALES OF LODGING IN  
PRIVATE RESIDENCES

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant  
City Attorney

15.e. Tax Administration Clarifications

2021-64 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING  
TO CLARIFICATIONS ON SALES AND USE TAX

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant  
City Attorney

Motion by Bergan, second by Berzins, to approve Items 15a – 15e.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

16. **PLANNING MATTERS**

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

None

17. **ANNEXATIONS**

None

18. **RECONSIDERATIONS AND CALL UPS**

None

19. **GENERAL BUSINESS**

19.a. Consideration to appoint one (1) member to the Civil Service Commission

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

Motion by Marcano, second by Hiltz, to appoint Desmond McNeil to the Civil Service Commission.

Council Member Marcano stated Mr. McNeil had a great understanding of how the commission operated and he had thoughtful responses to Council's questions.

Mayor Pro Tem Bergan expressed appreciation to all three candidates as they all had good comments but noted her support for Mr. McNeil as he had experience and straight-forward answers to Council's questions.

Council Member Coombs concurred. She stated Mr. McNeil was very prepared and thoughtful in his interview.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

19.b. Consideration to reappoint two (2) members to the Board of Adjustments and Appeals

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

Motion by Bergan, second by Gardner, to reappoint Kari Gallo and Andris Berzins, to the Board of Adjustments and Appeals.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

- 19.c. Consideration to appoint one (1) member to the General Employees Retirement Board

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

Motion by Coombs, second by Marcano, to appoint Michelle Reding to the General Employees Retirement Board.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

- 19.d. 2021 and 2022 Council Meeting Calendars

James Twombly, City Manager

James Twombly, City Manager, provided a summary of the item.

Motion by Bergan, second by Gardner, to cancel the December 27, 2021 study session meeting.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Lawson, Marcano, Murillo

20. **REPORTS**

- 20.a. Report by the Mayor

Mayor Coffman noted everyone has been consumed by the recent tragedies in Aurora and he confirmed Council and City staff would continue to work to find a way forward once all the facts become known. He pointed out City Council has done a lot in terms of youth violence prevention, and he assured everyone they would continue to do so.

- 20.b. Reports by the Council

Mayor Pro Tem Bergan discussed her attendance at the recent Day Resource Center Thanksgiving Lunch and expressed appreciation to Greg Baker, Public Relations Manager, Aurora Water, and Tim York, Water Preservation Specialist, Aurora Water, for their presentation at the recent Ward VI Town Hall meeting. She stated she was saddened and troubled by the recent shootings at Central and Hinkley High Schools and how it made students fearful to go to school when schools should be safe. She echoed Chief Wilson's comments regarding the importance of parents, friends and the community helping each other in checking in with local youth. She stated School Resource Officers (SROs) in schools were important, but felt it was up to parents and the community to come together to help

- ♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

solve the issue. She noted her hope the City's Youth Violence Program would move forward to help youth in preventing crime.

Council Member Lawson echoed Mayor Pro Tem Bergan's comments and sent her thoughts and prayers out to those youth involved. She expressed appreciation to community leaders and Council for coming together and discussed the importance of listening to kids. She expressed her hope the City could move forward with the Youth Violence Prevention Program to provide adequate services and support initiatives in this regard. She discussed her participation in the Day Resource Center Thanksgiving Luncheon. She provided FSIR and NLC Conference updates.

Council Member Hiltz discussed her attendance at the recent Light of Dawn reopening and the State of Emergency on Youth Violence meetings. She expressed appreciation to Council Member Lawson for her efforts in that regard. She discussed the importance of listening to kids as they were the most impacted. She expressed her hope Council would support Council Member Lawson in her efforts moving forward.

Council Member Gardner discussed his and Council Member Hiltz's efforts in helping the non-profit Wholly Kicks restore what was lost when their storage unit was broken into. He recognized Amazon for their efforts in that regard. He discussed his attendance at the recent Southlands Christmas parade and expressed appreciation to Local #1290 for allowing him to ride along with Santa. He recognized these were challenging times and noted it weighed heavily on him. He pointed out government could not solve these problems. He stated they could contribute through more mental health funding and youth programming. He discussed the impact the last 18 months have had on youth's mental health and the need for everyone including parents and faith leaders to help by listening to and loving others.

Council Member Murillo announced the next Ward I Town hall was scheduled for Thursday, January 20, 2022, and she encouraged all those interested in attending to do so. She discussed staff's efforts in working to provide a hybrid model for the meetings. She echoed Council's comments related to youth and gun violence. She agreed it was everyone's responsibility to address and listen to youth in the City. She noted as the youngest council member ever elected, she empathized with people not hearing someone because of their youth. She discussed her attendance at recent Town Halls where youth were front and center speaking about their issues and the need for safe, physical spaces and things to do. She noted the importance of being responsive to and honoring of the City's youth. She stated they discussed mental health, conflict resolution, and feeling the need to be armed for self-protection. She stated a holistic approach was needed and she looked forward to continuing those conversations. She stated not one policy would fix it because it was an ever-evolving process, but she resolved to work collaboratively with youth and other leaders to solve these complex issues in the City.

Council Member Berzins concurred. She stated it came down to parents and caretakers to help youth because they could not grow up alone. She stated they needed someone to talk

- ♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***



to such as church youth groups and pastors to work out their problems. She stated there were many leaders in the community who were willing to help with the youth and Council needed to use those leaders and point the City's youth in the right direction. She discussed the negative impact social media had on youth and noted there was a lot of hate going on. She echoed Council Member Gardner's comment that everyone needed to focus more on loving each other and taking care of each other. She stated it was a long process, but youth were at stake, and they were the future. She asked parents and neighbors to step up and reach out to help a young person as they gave out signs when they were troubled. She discussed her attendance at the recent annual Visit Aurora meeting and encouraged everyone to visit the Cirque Dreams Holidaze Christmas event at the Gaylord Rockies.

Council Member Marcano discussed the success of the recent Aurora Sister Cities Fall Fundraiser and expressed appreciation to Mayor Coffman, Debi Hunter-Holen and Bill Holen for their efforts in that regard. He acknowledged and echoed his colleagues' comments on the recent tragedies in Aurora. He discussed a pastor's comment where he begged youth to talk about what was going on and noted adults have failed to take meaningful steps to address the root causes of youth violence. He referenced the Educational Fund to Stop Gun Violence and listed their primary reasons behind gun violence. He noted the importance of providing more youth resources, having difficult conversations, and providing mental health services as the world was much more complicated for this generation. He believed it would take everyone pulling together to address the problem because they were failing future leaders today.

Council Member Coombs expressed appreciation to her colleagues for their comments related to youth violence and the recent violent incidents. She stated the tone of the youth was fear and they and their parents stated they needed the City to use their power to act. She stated parents were working hard to support their families and while they were responsible, they also needed support through programming and adequate childcare. She noted other issues that arose from the youth was they did not feel accepted for who they were from those places they were supposed to feel safe, seek resources and be heard. She stated it was important to listen to them about their needs but also about their experience because they were not feeling supported or listened to by the adults they were turning to. She stated it was everyone's responsibility to convey acceptance, care and love and a part of loving people was for them to know they were loved for who they were. She stated it was also important to take their issues seriously because not all their experiences were the same. She stated it was not only social media that made those experiences not the same. She expressed appreciation to the youth and their parents for their courage in being very real with their leaders in this regard. She discussed her participation at the recent Young Invincibles program event. She provided Visit Aurora, DRCOG, Mile High Behavioral Healthcare, Mayoral Mission to El Salvador and State of Recycling and Compost Colorado updates.

Mayor Coffman called for a brief recess of Council to determine if Council Member Gruber could be made available to provide a report. He returned from the recess and announced Council Member Gruber was unable to speak due to technical issues.

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

21. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)


22. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 9:46 p.m.



MIKE COFFMAN, MAYOR

ATTEST:



KADEE RODRIGUEZ, CITY CLERK

**Water Policy Committee (WPC) Meeting**  
**October 19, 2022**

**Members Present:** Council Member Steve Sundberg Chair, Council Member Angela Lawson Vice-Chair, Council Member Curtis Gardner

**Absent:**

**Others Present:** Rachel Allen, Greg Baker, Ian Best, Todd Brewer, Marshall Brown, Melina Bourdeau, Steve Cann, Alex Davis, Rick Kienitz, Sam Miller, Swirvine Nyirenda, Casey Rossman, Rich Vidmar, Sarah Young, Daniel Pershing

---

**1. Approval of Minutes**

The September 21, 2022, meeting minutes were approved as presented.

**2. Consent Items**

- A. Construction Change Order Report
- B. Monthly Water Supply Update

**Summary of Issue and Discussion:** None.

**Outcome:** The Consent items were supported as presented.

**Follow-Up Action:** The Consent items were supported as presented.

---

**3. Water Education Colorado Water Fluency Program**

**Summary of Issue and Discussion:** Council Member Coombs – not available.

**Outcome:** Informational only.

**Follow-Up Action:** Informational only.

---

**4. Consideration to appoint one (1) member to the Homestake Steering Committee**

**Summary of Issue and Discussion:** M. Brown stated, Aurora Water is requesting Mathew Allsopp be appointed to serve the remainder of Steve Sciba's appointment ending in December 2023 and an additional three (3) years from December 2023 to December 2026.

**Outcome:** The Committee supports the Consideration to reappoint one (1) member to the Homestake Steering Committee.

**Follow-Up Action:** Forward to Study Session for consideration.

---

**5. Consideration to appoint one (1) member to the Joint Water Authority**



Summary of Issue and Discussion: M. Brown stated, Aurora Water is requesting Mathew Allsopp be appointed to serve the remainder of Steve Sciba’s appointment ending in December 2023 and an additional three (3) years from December 2023 to December 2026.

Outcome: The Committee supports the Consideration to reappoint one (1) member to the Joint Water Authority.

Follow-Up Action: Forward to Study Session for consideration.

---

**6. First Amendment to Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue**

Summary of Issue and Discussion: S. Miller gave a presentation.

Outcome: The Committee supports the First Amendment to Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue.

Follow-Up Action: Forward to Regular Session for consideration.

---

**7. First Amendment to Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road**

Summary of Issue and Discussion: S. Miller gave a presentation. Council Member Sundberg asked, what length of stream needs to be repaired? S. Miller replied, I don’t have the exact length, it is quite a bit but not every foot of it is going to need to be included in this project.

Outcome: The Committee supports the First Amendment to Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road.

Follow-Up Action: Forward to Regular Session for consideration.

---

**8. Rockinghorse Reimbursement Agreement**

Summary of Issue and Discussion: S. Young and D. Pershing gave an overview of the agreement.

Outcome: The Committee supports the Rockinghorse Reimbursement Agreement.

Follow-Up Action: Forward to Study Session for consideration.

---

**9. Colorado State Forest Service Funding Agreement**

Summary of Issue and Discussion: R. Vidmar gave an overview of the agreement.

Outcome: The Committee supports the Colorado State Forest Service Funding Agreement.

Follow-Up Action: Forward to Study Session for consideration.

---

#### **10. Stewardship West Memorandum of Understanding**

Summary of Issue and Discussion: R. Vidmar gave an overview of the Memorandum of Understanding. Council Member Sundberg asked, what type of physical work is performed in that 500 acres to mitigate? R. Vidmar replied, several things are done. There is pre-removal of standing dead or what we call groupie clumpy. It's basically thinning within the forest to limit that crown movement of fire and to get the fire to go back to the ground so that it can be fought and stopped on the ground. That is the primary method being used in this area and is set up by the U.S. Forest Service.

Outcome: The Committee supports the Stewardship West Memorandum of Understanding.

Follow-Up Action: Forward to Study Session for consideration.

---

#### **11. Joint Water Authority Second Amendment to a Water Transmission Agreement**

Summary of Issue and Discussion: A. Davis gave an overview of the agreement.

Outcome: The Committee supports the Joint Water Authority Second Amendment to a Water Transmission Agreement.

Follow-Up Action: Forward to Regular Session for consideration.

---

#### **12. Intergovernmental (IGA) Water Lease Agreement with the Board of Water Works of Pueblo**

Summary of Issue and Discussion: A. Davis gave an overview of the IGA. Council Member Sundberg asked, what is the value for this water in your opinion? A. Davis replied, It's expensive, but we think it's worth it because it's that high mountain pristine water and it's fully consumable. It's the same price that we are paying in our long-term lease with Pueblo.

Outcome: The Committee supports the IGA Water Lease Agreement with the Board of Water Works of Pueblo.

Follow-Up Action: Forward to Study Session for consideration.

---

#### **13. PFAS Update Presentation**

Summary of Issue and Discussion: T. Brewer gave a presentation regarding PFAS. Council Member Gardner asked, does the Environmental Protection Agency (EPA) put out an advance notice that they are looking at doing some type of regulation and asking for comments? T. Brewer replied, the EPA process takes a while. They have to do a draft proposed rule in the

office of management and budget, a cost benefit analysis and to make sure that what they're doing can stand up to litigation and have it open for public comment. Currently they have a draft regulation that is under review in their budget office. Council Member Lawson asked, how much testing do we do on our pipes in the city and do we have PVC pipes? T. Brewer replied, we do have some PVC pipes in our system, and we have done sampling at the plants to see what's going out into the system.

Outcome: The Committee supports the PFAS updated.

Follow-Up Action: Forward to Study Session for consideration.

---

#### **14. Future Development Water Supply Needs and Constraints**

Summary of Issue and Discussion: S. Young gave a presentation on how utilities are planned for new development from the Aurora Places Comprehensive Plan through construction by the development community.

Outcome: Informational only.

Follow-Up Action: Informational only.

---

#### **15. Miscellaneous Matters for Consideration**

Summary of Issue and Discussion: Council Member Sundberg asked about the intersection of Chambers and 6<sup>th</sup> Avenue. Chambers northbound has been shut down for quite a while is that a water project? G. Baker replied, it's an XCEL project for new gas lines. Relative to the regional conservation Memorandum of Understanding (MOU), Council Member Gardner asked, what is the definition of non-functional turf? M. Brown replied, the definition is left for each individual municipality to define their own. Aurora created our definition during the Water Conservation Ordinance process and some others are following our lead. Council Member Gardner asked, are we being proactive with asking or incentivizing residents to remove existing turf? M. Brown replied, we've enhanced our rebate programs for residential and commercial properties starting January 1, 2023.

Outcome: Informational only.

Follow-Up Action: Information only.

---

#### **7. Confirm Next Meeting**

The next meeting is scheduled for November 16, 2022, 10:30 a.m. via WebEx.

X

~~Steve Sundberg~~ (Nov 22, 2022 14:42 MST)

---

Steve Sundberg  
Chair, Water Policy Committee

## MINUTES

### Regular Meeting of the Aurora City Council

Monday, November 14, 2022

1. **RECONVENE REGULAR MEETING OF NOVEMBER 14, 2022, AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of the City Council for November 14, 2022, at 6:30 p.m.

2. **ROLL CALL**– Kadee Rodriguez, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky  
Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

*Public call-in instructions were provided in both English and Spanish.*

3. **INVOCATION/MOMENT OF SILENCE**– Mike Coffman, Mayor

Mayor Coffman led the prayer and followed by reading the Land Acknowledgement.

4. **PLEDGE OF ALLEGIANCE** (all standing)

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman stated that during the executive session, the council discussed settlement negotiations and police chief recruitment.

6. **APPROVAL OF MINUTES**

6.a. **October 24, 2022, Meeting Minutes**

Motion by Bergan, second by Sundberg, to approve the minutes of October 24, 2022 as presented.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano,  
Medina, Murillo, Sundberg, Zvonek

7. **PROCLAMATIONS OR CEREMONIES**

7.a. **National Homeless and Hunger Awareness Week**

♦ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Mayor Coffman proclaimed November 12<sup>th</sup> through 20<sup>th</sup>, 2022 as National Homeless and Hunger Awareness Week.

Mayor Coffman recognized the presence of Cub Scout Pack 11-27.

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda-related issues only)

Council heard public in-person and call-in testimony on non-agenda-related items.

9. **ADOPTION OF THE AGENDA**

9.a. **Grand Avenue Townhome Site Plan with an Adjustment (Item 13.a.)**

Applicant presentation: 15 minutes permitted under Council Rules

Appellant presentation: 15 minutes allowed if approved by Council

MPT Bergan explained that they normally approve the 15-minute presentations during the adoption of the agenda, and they will present at the beginning of the designated item. Mayor Coffman asked if they should move it to the end of the meeting since it would be lengthy.

CM Gardner expressed his opposition to the motion to move the item to the end of the agenda. CM Marcano mentioned that they previously had presentations during their designated slot, or they are moved earlier in the meeting.

CM Murillo expressed her opposition to moving the item to the end of the meeting but wants to approve the appellant's presentation. She offered a substitute motion.

Motion by Bergan, second by Lawson to adopt the agenda with the appellant presentation and move item 13a to the end of the agenda.

***SUBSTITUTE MOTION***

Motion by Murillo, second by Bergan to adopt the agenda with the appellant presentation.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

10. **CONSENT CALENDAR**

*This portion of the agenda is a meeting management tool to allow the City Council to handle several routine items with one action. Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar.*

- 10.a. **Consideration to EXTEND A SINGLE SOURCE CONTRACT with GolfNow, Chicago, Illinois in the Amount of \$69,000.00 for the Golf Course Point of Sale Software for the Points of Sale at the Five City of Aurora Owned Golf Courses through December 31, 2023**

Doug McNeil, Manager of Golf / Dave Lathers, Senior Assistant City Attorney

- 10.b. **Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Republic Services of Denver, Commerce City, Colorado in the Amount of \$113,000.00 for Trash Collection – South Side of the City through August 31, 2023**

Lynne Center, Deputy Director of Public Works / David Lathers, Senior Assistant City Attorney

- 10.c. **Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Republic Services of Denver, Commerce City, Colorado in the Amount of \$130,000.00 for Trash Collection – North Side of the City through August 31, 2023**

Lynne Center, Deputy Director of Public Works / David Lathers, Senior Assistant City Attorney

- 10.d. **ARPA Nonprofit Grant Agreements**

Christina McClelland, Grant Development Manager / Hanosky Hernandez, Senior Assistant City Attorney

Nancy Wishmeyer, Controller, provided a summary of the item.

MPT Bergan requested to make a motion to table item 10d until the next meeting to have more time to review it. CM Marcano mentioned that there had been frustration from some council members in the past for postponing items due to the inability to read through them all. He asked if there are specific items that MPT Bergan had questions about.

CM Gardner asked how the \$313,598 for East Colfax Community Collective would be used. N. Wishmeyer answered that it would be for legal services, the community navigator which will help residents and small businesses go through the application process for grant sources, and translation services. CM Coombs stated that she does not see a reason to delay already vetted grants since October 3<sup>rd</sup> when they've had over a month to review them, and they had larger grant awards. MPT Bergan said that they delayed the youth grant awards. She explained that she is asking to postpone to go more in-depth.

CM Marcano commented that he encountered a similar issue with the federal and state priorities that were readily available for comment and review weeks prior to the meeting. He mentioned that CM Lawson will be bringing forward a proposal to make being in Council a full-time paying job. He stressed that he does not like delaying city business since they were given ample opportunity to read through the items and check in with staff and other council members.

Motion by Bergan, second by Lawson to table the item to the next regular Council Meeting.

Voting Aye: Mayor Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Marciano, Medina, Murillo

- 10.e. **Consideration to AWARD A SINGLE SOURCE CONTRACT to Innovest Portfolio Solutions LLC in the Amount of \$67,750 for Investment Advisory Services Associated with the City's 457 and 401(a) Plans through December 31, 2023**

Nancy Wishmeyer, Controller / Hanosky Hernandez, Senior Assistant City Attorney

- 10.f. **Consideration to EXTEND AN OPENLY SOLICITED CONTRACT to LOOMIS, Aurora, Colorado in the Amount Not-to-exceed \$65,000.00 for Armored Car Services. (RFP-1972)**

Nancy Wishmeyer, Controller / Hanosky Hernandez, Senior Assistant City Attorney

- 10.g. **Consideration to AWARD A SOLE SOURCE CONTRACT to MMLJ INC., Houston, Texas in the Amount of \$68,000.00 for the Purchase of a Portable Dustless Blasting System**

Sandra Youngman, Code Enforcement Manager / David Lathers, Senior Assistant City Attorney

- 10.h. **Granular Activated Carbon for Binney Water Purification Facility**

**Consideration to AWARD A COMPETITIVELY BID CONTRACT to Cabot Norit Americas, Inc., Marshall, Texas, in the Amount of \$480,240.00 for the Purchase of Granular Activated Carbon Water Treatment Media for the Binney Water Purification Facility, Invitation for Bid B-4667.**

**Bobby Oligo, Manager of Water Treatment, Aurora Water / Dave Lathers, Senior Assistant City Attorney**

- 10.i. **Consideration to AWARD A COMPETITIVELY BID CONTRACT to American Civil Constructors, Inc., Littleton CO in the Amount of \$8,443,892.50 for the High Line Canal Trail Improvements; Project 5890A**

Waiver of reconsideration is requested to accommodate the completion of the award process before the expiration of construction bids. This project is a DRCOG TIP project and required multiple CDOT approvals before this award could be brought forward for Council's consideration resulting in a compressed award schedule.

Matt Kozakowski, Transportation Project Delivery Manager / David Lathers, Senior Assistant City Attorney



**10.j. First Creek Interceptor Connection to Prologis Lift Station Project, Project No. 5906A**

Consideration to AWARD A COMPETITIVELY BID CONTRACT to American West Construction LLC, Denver, CO, in the amount of \$2,394,100 for the First Creek Interceptor Connection to Prologis Lift Station Project, Project No. 5906A, with \$500,000 to be funded and awarded in 2022

Andrea Long, Principal Engineer, Aurora Water / Dave Lathers, Senior Assistant City Attorney

**10.k. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Cumming Management Group, Inc., Englewood, CO in the Amount of \$300,000.00 for Staff Augmentation for Aurora Water Project Management Services, Project NO. R-2295**

Sarah Young, Deputy Director Planning and Engineering / Dave Lathers, Senior Assistant City Attorney

**10.l. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Morton Electric, Inc., Pueblo, CO in the amount of \$2,419,708.30 for the 2022 Traffic Signal Construction; Project 5900A.**

Carlie Campuzano, Manager of Traffic, Public Works / Dave Lathers, Senior Assistant City Attorney

**10.m. Consideration to AWARD A SINGLE SOURCE CONTRACT to Flexential Corporation, Charlotte, NC in the Amount of \$234,306.00 for Hosted Datacenter Services.**

Waiver of reconsideration was requested to allow for a quicker transition to the new provider due to the critical services provided at the City datacenters.

Scott Newman, Chief Information Officer, Information Technology / Dave Lathers, Senior Assistant City Attorney

**10.n. Consideration to AWARD A SOLE SOURCE CONTRACT to Cadre Research Labs, Evanston, IL in the Amount of \$130,900.00 for the Purchase of a Top Match-3D High Capacity Imaging and Analysis System.**

Tim Dufour, Lieutenant, Police / Dave Lathers, Senior Assistant City Attorney

**10.o. Consideration of a Professional Services Agreement with Capitol Capital in the amount of \$71,000 for the 2023 State Lobbying Contract**

Sponsor: Angela Lawson, Council Member

Roberto Venegas, Deputy City Manager

10.p. **Consideration of a Professional Services Agreement with Holland & Knight in the Amount of \$120,000 for the 2023 Federal Lobbying Contract**

Sponsor: Angela Lawson, Council Member

Roberto Venegas, Deputy City Manager

Motion by Bergan, second by Sundberg to approve the consent calendar items 10a through 10c, and 10e through 10p.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

11. **RESOLUTIONS**

11.a. **Homeless Initiative**

**R2022-195** A RESOLUTION FROM THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S DESIRE TO REDUCE THE NUMBER OF PEOPLE EXPERIENCING HOMELESSNESS THROUGH EMPLOYMENT-BASED PROGRAMMING AND CONDITIONS-BASED TRANSITIONAL HOUSING THAT LEADS TO SELF-SUFFICIENCY. THE CITY COUNCIL DIRECTS THE CITY MANAGER AND HIS STAFF TO SUPPORT THIS EFFORT BY DEVELOPING AND EXECUTING A COMPREHENSIVE APPROACH THAT ALIGNS WITH THE NECESSARY SUPPORT TO MEET THE NEEDS OF THE DIVERSE HOMELESS POPULATION IN AURORA

Sponsor: Mike Coffman, Mayor

Council heard public in-person testimony.

Mayor Mike Coffman provided a summary of the item.

Discussion on the Bergan Amendment

Mayor Coffman asked G. Koumantakis to speak to Mayor Pro Tem Bergan's previous amendment. G. Koumantakis explained that Mayor Pro Tem Bergan's previous amendment requires the campus to be operated by a nonprofit organization but does not allow the use of general fund revenues for construction, maintenance, or operations. G. Koumantakis said that Mayor Coffman wants to change this into the city being responsible for maintaining the facility and reimbursing the operator for the cost of the low-barrier emergency shelter. Mayor Pro Tem Bergan asked if the city would only be responsible for maintenance but not operations. Mayor Coffman confirmed this. He explained that Colorado Springs Rescue Mission was reimbursed by the city for the first phase. They raised money from foundations, grants, and CDBG money, but not general funds for Colorado Springs to provide programming and transitional housing, and work. Rescue Mission also mentioned that Aurora may not need general fund revenue to support the low-barrier emergency shelter.

Mayor Pro Tem Bergan asked for confirmation if the language states that they would maintain the shelter versus they "might." Mayor Coffman explained that they are referring to the mechanical parts of the facility such as the roof. Mayor Pro Tem Bergan expressed concern about possible high-cost facility maintenance. She said that she does not want taxpayers to be responsible for a building that they are not constructing. Mayor Coffman said that they are. Mayor Pro Tem Bergan said that they are constructing using money from the state. Mayor Coffman said that they have a commitment from Adams and Arapahoe County in addition to the money that they are applying for from the state. He added that they are using the city's ARPA dollars dedicated to capital construction. He explained that it will be a city-owned facility that will be operated by a nonprofit contractor.

CM Coombs pointed out that they don't have commitments from Adams and Arapahoe Counties and that the state grant applications are competitive. J. Prosser explained that they don't have a formal written commitment. However, the item has gone before both Board of County Commissioners through Study Session. Arapahoe County has already agreed. Adams County would have to go back to the County Commissioners on December 6<sup>th</sup>. CM Coombs asked what the counties are supporting. J. Prosser answered that they presented a concept plan for the Navigation Campus to include an emergency shelter, transitional housing, and a day center that would include navigation services such as mental health, medical, laundry, and food. A commitment to those participating in funding the facility would be part of the RFP and selection process for an operator wherein the specifics of the operations would be discussed. CM Coombs pointed out that they did not say that they were on board with what is in the resolution, but they approve of having a say in the operator and operations if they give their funds. J. Prosser reiterated that they presented a conceptual plan but the discussion on operations would come later. Mayor Coffman said that this provides a direction in terms of how the campus will operate programmatically. He said that the state and the counties will come on board.

MPT offered a different change to her amendment to remove the language regarding funding but retain that the campus will be operated by a nonprofit. Mayor Coffman considered this a friendly amendment.

*Discussion on Marcano Amendment (self-reliance)*

CM Marcano mentioned that some of his amendments were adopted in the Whereas clauses, but the bulk was unaddressed. He said that he does not believe that the County partners would support a Treatment or Work-First program. He mentioned that the commissioners and the state are looking for evidence-based solutions that are not exclusive to Housing-First and other best practices.

CM Marcano presented his first amendment to strike "self-sufficiency" throughout the text and replace it with "self-reliance". He explained that self-reliance empowers people to have control over their decision-making. However, self-sufficiency means depending on nobody else but yourself. Mayor Coffman urged a no vote and stated that self-sufficiency is an aspirational goal.

Discussion on Marcano Amendment (4<sup>th</sup> Whereas Clause)

CM Marcano presented his next amendment to replace "include employment-based programming and conditions-based transitional housing to increase the number of people who exit homelessness on an annual basis" with "that empower individuals experiencing homelessness to choose for themselves their path to self-reliance, to include mental and physical health care, job training, educational assistance, and low-barrier housing" in the 4<sup>th</sup> Whereas Clause.

Mayor Coffman urged a no vote and said that it waters down the program. He reiterated that the people opt to participate and are given a navigation plan by a case manager. Mayor Pro Tem Bergan urged a no-vote and said that people should have a plan.

CM Marcano reiterated that the project was meant to be a regional campus and they are trying to get state support. He said that it would be unlikely to get support if they are insistent on a narrow work-first scope of programming. He added that they must set themselves up for success and serve as many people as possible. He mentioned that they have niche programs such as Bridge House that are workforce focused. But people must be of sound mind, willing, able, and sober to participate in the program. However, a percentage of the unhoused population is not. He stressed that they should not be tailoring a large project to a niche population since it would not make them attractive for grants and it would not be as effective. He urged a yes vote. Mayor Pro Tem Bergan asked if those on the low barrier would still be receiving services. Mayor Coffman said yes.

Discussion on Marcano Amendment 8

CM Marcano presented his amendment which adds another bullet to Section 1.

Mayor Coffman stated that this contradicts other parts of the resolution that states they are not going to accept federal funds if it compromises the program. He said this is not the direction they want to go with the program. He stressed the outcome they want is for people to get back on their feet, get job training, and acquire jobs. CM Lawson said that intergovernmental collaboration will be important if they are seeking funding. Mayor Coffman said the language is unnecessary because the resolution already speaks to working with other entities and establishing IGAs. He mentioned that permanent supportive housing is successful for those who cannot work. He expressed concern that the amendment might be interpreted as Aurora negotiating its approach with everybody. He said they should show the state and counties that this is what Aurora wants to do and they can either come along or not. Mayor Coffman said he believes that the Governor would be in support of the program.

CM Coombs pointed out that the language may only either be unnecessary because it is implied or it is contradictory, but it cannot be both. She pointed to the program in Houston that showed leadership in regional collaboration. She stressed that they are relying on other jurisdictions' money as well and they should show leadership by working together and recognizing each other as equals. Mayor Pro Tem Bergan said they do not know what the development of necessary infrastructure implies. She

pointed out that the amendment is unnecessary since they already do work with federal, state, and local governments.

CM Zvonek expressed concerns about the amendment potentially tying them to the federal government's preferred Housing-First Policy which only works for a small segment of the unhoused population who are unable to reach self-reliance. He stated that they should encourage regional and state partners to do differently, take an all-of-the-above approach, and not treat everything with a one-size-fits-all policy such as Housing-First which does not work. He expressed his opposition to the amendment. CM Zvonek mentioned the official position of the city to request a waiver or a block grant from the federal government to give cities and the state more flexibility on how to spend funding for homelessness. He mentioned that they have an opportunity to help people with behavioral, mental, or addiction issues who are being left untreated unless they want to. Through this resolution, they can encourage these people and incentivize them to become self-reliant. He stressed that if this ultimately leads to not getting funding, then they should still do something differently rather than going down the same failed path as Housing First.

Mayor Pro Tem Bergan asked if there is expected funding from philanthropic organizations. Mayor Coffman said that it would be for the operations but not for the construction.

CM Marcano stressed that Housing First is the most effective approach that they can take to solve homelessness. He mentioned that they could secure once-in-a-lifetime funding for Aurora through intergovernmental collaboration. He stated that narrowly tailoring the resolution against the best evidence available is setting Aurora and the state up for failure. He encouraged other council members to rethink their approach and lean into cooperation. CM Coombs pointed out that they are presenting a rhetoric that Aurora does not care about others' input on the project. She said that this kind of thinking results in different entities using resources and pulling in different directions rather than putting all resources together in the same direction.

CM Gardner asked if they could still collaborate with other jurisdictions and governmental agencies if the amendment would not be added. G. Koumantakis said that there is language present in the resolution.

#### Discussion on Marcano Amendment 9

CM Marcano presented his amendment which revises "co-locate necessary services" to "co-locate necessary services to the maximum extent possible" in Section 1.

Mayor Coffman expressed his support for the amendment and said that it was already expressed in the language but reinforcing it would not be a problem. He further stated that their goal is to have partner agencies for mental health, addiction recovery, and job training on campus.

CM Lawson commented on why they did not approve of reinforcing collaboration with federal, state, and local partners.

CM Marcano explained that he is forwarding this amendment because it is important to stress that they are doing these to the maximum extent possible and not send a message to staff or partners that all services must be co-located. He wanted to demonstrate flexibility in the spirit of cooperation. Mayor Coffman added that it reinforces the spirit of the proposal. However, the prior amendment would cause the city to negotiate or compromise the direction that they want to take.

#### Discussion on Marcano Amendment 10

CM Marcano presented his amendment which revises the word "arranged" to "sought" in Section 1 which states "Provide a navigation center to offer short-term bridge housing along with supportive services while long-term housing is being arranged."

Mayor Coffman said that the amendment is unnecessary, and people are going to be participating in programs. He stressed the importance of people going through the programs, so they do not go back on the street. He expressed concern that this amendment would swerve the resolution into a different approach and would take people into housing instead of going through case management and participating in addiction recovery and job training. CM Coombs clarified that the amendment more broadly encompasses what people would get at the Navigation Center since it includes case management and other supportive services. She explained that the only difference is that the amendment says that the Navigation Center would offer short-term bridge housing, which is also the intent of providing transitional housing.

CM Coombs offered an amendment to change "short-term bridge housing" into "transitional housing." Mayor Coffman said that transitional housing is in the latter phase. CM Marcano considered this as a friendly amendment. CM Marcano pointed out that the Navigation Center programs do not preclude case management. He stressed that any program addressing homelessness requires case management. He explained that the amendment adds clarity, and it specified that the Navigation Center is not simply a rebranded congregant shelter. It bridges the unhoused population to move towards self-reliance and independence.

#### Discussion on Marcano Amendment 11

Mayor Pro Tem Bergan commented that the resolution should be fairly simple, but they are discussing numerous amendments. Mayor Coffman responded that the resolution sets a direction for the campus. CM Coombs mentioned that they did not finish discussing all the amendments last time because some council members requested the mayor to revise the resolution and bring it back. However, the Mayor did not participate in further discussions before bringing it to the floor again. Mayor Pro Tem Bergan said that they don't have to do several amendments to a resolution. Mayor Coffman explained that he had the amendments before him and added some to the resolution, including ones that passed during the previous Regular Meeting.

CM Marcano forwarded his amendment that adds "Provide Rapid Re-Housing (RRH) services to ensure a quick exit from homelessness for low-acuity individuals and families" to Section 1. He explained that this is for people who are down on their luck

and do not need to be on campus. This reiterates to partners that it is a priority for Aurora to ensure that no one falls through.

Mayor Pro Tem Bergan asked if the city does rapid rehousing. J. Prosser said that they currently offer rapid rehousing through different service providers and some federal funding. CM Zvonek asked if anyone could go into rapid rehousing and if there are conditions. J. Prosser said it would be people that can afford their rent or a portion of it. The program has a two-year time limit and comes with case management. CM Zvonek asked if they could avail of the program for any reason that they're experiencing homelessness. J. Prosser said that people can apply regardless of the reason why they are unhoused. CM Coombs clarified that there are conditions to this. She mentioned that she referred people to the program but have not qualified.

Mayor Pro Tem Bergan said that there must be conditions for not bringing drugs into pallet homes. J. Prosser clarified that pallet homes are not considered rapid rehousing but bridge or transitional housing. She added that those in pallet shelters may eventually qualify for rapid rehousing.

Mayor Coffman asked if there were directions to have partner nonprofits deal with families and not have families on the campus. G. Koumantakis said that there is a warehouse clause stating that the city shall be responsible for identifying an alternative location to provide for the needs of homeless families while providing emergency shelter until a transfer can occur. Mayor Coffman asked if this is done out of the Day Resource Center. J. Prosser answered that rapid rehousing is done out of partner agencies like Mile-High and the Salvation Army. It is partially funded through federal funds like HUD, HOME, and ESG. It is also funded through the city's Flex Fund which is a one-time assistance.

Mayor Coffman clarified that even though off-campus partner agencies would deal with family issues, the resolution states that they will relocate them under emergency purposes. Mayor Coffman expressed his support for the amendment. He asked if this is current policy. J. Prosser said yes. G. Koumantakis clarified that he was only explaining that the resolution also has something in place for families.

CM Medina asked what the availability of rapid rehousing is. J. Prosser answered that the funds are limited. She added that she will get back to the Council on the exact number of families and individuals that utilize the program yearly. Mayor Pro Tem Bergan suggested changing the language from "provide" to "if possible." CM Marciano explained that using "provide" shows a commitment to the strategy and emphasizes Aurora's priorities. He stressed the importance of collaboration and consolidating resources.

Mayor Coffman expressed concerns about other funds being diverted from the supportive services to rapid rehousing. J. Prosser explained that the funding from HUD for rapid rehousing could not be used for addiction recovery since it is specific that a certain portion must go to sheltering. She added that this would be worked out in the operations agreement with the partners and operator. CM Coombs clarified that organizations that provide supportive services use different sources of funding from

housing funds. She stressed that they are different buckets of money and that funds would not be diverted to rapid rehousing from supportive services.

Discussion on Marcano Amendment 13

CM Marcano presented Amendment 13 which replaces "offer workforce development opportunities" with "provide opportunities for workforce development through job training and educational assistance in coordination with case management."

Mayor Coffman said that it is unnecessary language and could be interpreted in a way that is contrary to the intent of the proposal. He added that educational assistance will be broad and that earning degrees does not necessarily lead to jobs that pay a living wage.

CM Jurinsky expressed her disappointment regarding all the unnecessary amendments despite the Mayor and CM Marcano being requested to hash out the resolution before bringing it back. CM Marcano explained that he also would have preferred sitting down with the Mayor, and revising it, but it did not happen. He added that the resolution did not even go to a policy committee. Mayor Coffman urged a no vote on the amendment.

Discussion on Marcano Amendment 14

CM Marcano presented his amendment that replaces "Continuously measure success by more than meals served and beds provided and instead centered around the number of people who reach self-sufficiency," with:

Continuously measure, for everyone enrolled in the program, the efficacy of the program as follows:

- Their utilization of supportive services.
- Their utilization of workforce development opportunities.
- Their housing status and income sources for 36 months beginning from their move-in date.
- Their employment status and income level for 36 months beginning from their move-in date.

Mayor Coffman said that it is unnecessary since these issues will be in the RFP.

Discussion on Marcano Amendment 15

CM Marcano presented his amendment that replaces "Reliance on community support (individuals, business community, and foundations) rather than federal support if it comes with inflexible requirements," with:

Develop an initiative to supplement Federal funding and City staffing and funding by generating financial and volunteer support from:

- Individuals



- Private businesses
- Non-Governmental Organizations
- Philanthropic Foundations

Mayor Coffman stated that it is unnecessary.

#### Discussion on Marcano Amendment 17

CM Marcano presented his amendment that adds "Develop a strategy to reach out to jurisdictions throughout the metropolitan region with the goal of building consensus on a shared regional strategy utilizing evidence-based best practices to reduce homelessness, sharing resources, and eliminating redundancies where appropriate to maximize the effectiveness of our collective efforts," to Section 1.

Mayor Coffman said that the resolution already has language on working with surrounding jurisdictions and developing IGAs.

#### Discussion on Marcano Amendment 12

CM Marcano presented his amendment which replaces "Incentivize participation in supportive services and require conditions for transitional housing," with "Provide Permanent Supportive Housing (PSH) services to ensure stability and supported recovery for individuals and families for whom Rapid Re-Housing alone would not be enough to prevent homelessness," in Section 1.

CM Marcano explained that this is a "yes, and..." He reiterated the importance of regional collaboration on projects where federal dollars and other jurisdictions are involved. He mentioned that Aurora is an outlier in its opposition to Permanent Supportive Housing. Mayor Coffman said that this is unnecessary and that other organizations are doing Permanent Supportive Housing.

#### Discussion on the Resolution

CM Marcano expressed his disappointment with the continuous abuse of calling for the question. He said that they should be as clear as possible with their intent when crafting resolutions. They need to signal to partners that they are willing to collaborate and that they have a clear idea of the potential of the Campus. He expressed his opposition to the resolution as it is not a wise use of resources, and they will not be able to garner regional support. He mentioned that this is signaling that they are opposed to following successful policy and utilizing evidence to address issues in the city.

CM Jurinsky commented on being accused of abuse by someone joining the meeting virtually while other Council members showed up in City Hall. CM Marcano explained that he is recovering from surgery.

Mayor Pro Tem Bergan commented that they have had amendments to resolutions, but not this many. CM Marcano said that the resolution should have been brought to a

policy committee or Mayor Coffman could have accepted his multiple offers to meet up and discuss the resolution.

Mayor Coffman explained that he was able to review CM Marcano's amendments beforehand and added in ones that he agreed with. He said that the resolution is a major policy initiative, and it allows Aurora to lead in a different direction than previous failed attempts. He added that it will be a tough-love approach in moving people into self-sufficiency through work and dealing with addiction and mental health challenges. He mentioned that not all people experiencing homelessness are in encampments, and some are couch surfing or do not have stable housing. He highlighted that this would move Aurora in a different direction and become a leader in addressing homelessness. He urged a yes vote on the resolution.

CM Coombs expressed her opposition to the resolution and stated that they should start within Aurora if they want to lead.

Motion by Bergan, second by Coffman to approve the Bergan amendment which adds "it would be operated by a non-profit."

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

Motion by Marcano, second by Coombs to approve the Marcano Amendment which replaces self-sufficiency with self-reliance.

Voting Aye: Bergan, Coombs, Lawson, Marcano, Medina, Murillo

Voting Nay: Gardner, Jurinsky, Sundberg, Zvonek

Motion by Marcano, second by Coombs to approve the Marcano amendment which revises the 4<sup>th</sup> Whereas Clause.

Voting Aye: Coombs, Marcano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Marcano, second by Coombs to approve Marcano Amendment 8 which adds "foster and strengthen intergovernmental collaboration with the Federal government, the State government, County governments, as well as other Municipal governments, in the

development of the necessary infrastructure to address homelessness as expeditiously and effectively as possible," to Section 1.

Voting Aye: Coombs, Lawson, Marcano, Medina, Murillo

Voting Nay: Mayor Coffman, Bergan, Gardner, Jurinsky, Sundberg, Zvonek

Motion by Marcano, second by Coombs to approve Marcano Amendment 9 which revises "co-locate necessary services" to "co-locate necessary services to the maximum extent possible" in Section 1.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Zvonek

Voting Nay: Sundberg

Motion by Marcano, second by Coombs to approve Marcano Amendment 10 which revises "provide a navigation center to offer short-term bridge housing along with supportive services while long-term housing is being arranged" to "provide a navigation center to offer transitional housing along with supportive services while long-term housing is being arranged being sought" in Section 1.

Voting Aye: Coombs, Marcano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Marcano, second by Coombs to approve the Marcano Amendment 11 that adds "provide Rapid Re-Housing (RRH) services to ensure a quick exit from homelessness for low-acuity individuals and families," to Section 1.

Voting Aye: Mayor Coffman, Coombs, Marcano, Lawson, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Sundberg, Zvonek

Motion by Jurinsky, second by Bergan to end debate on Marcano Amendment 13.

Voting Aye: Coffman, Bergan, Gardner, Jurinsky, Lawson, Marcano, Sundberg, Zvonek

Voting Nay: Coombs, Medina, Murillo

Motion by Marciano, second by Coombs to approve the Marciano Amendment 13 that replaces "offer workforce development opportunities" with "provide opportunities for workforce development through job training and educational assistance in coordination with case management," in Section 1.

Voting Aye: Coombs, Marciano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Coffman, second by Zvonek to end debate on Marciano Amendment 14.

Voting Aye: Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Medina, Marciano, Murillo

Motion by Marciano, second by Coombs to approve the Marciano Amendment 14 which replaces "Continuously measure success by more than meals served and beds provided and instead centered around the number of people who reach self-sufficiency," with "Continuously measure, for everyone enrolled in the program, the efficacy of the program as follows: their utilization of supportive services, their utilization of workforce development opportunities, their housing status and income sources for 36 months beginning from their move-in date, and their employment status and income level for 36 months beginning from their move-in date," in Section 1.

Voting Aye: Coombs, Marciano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Coffman, second by Zvonek to end debate on Marciano Amendment 15.

Voting Aye: Coffman, Bergan, Gardner, Jurinsky, Lawson, Marciano, Sundberg, Zvonek

Voting Nay: Coombs, Medina, Murillo

Motion by Marciano, second by Coombs to approve the Marciano Amendment 15 which replaces "Reliance on community support (individuals, business community, and foundations) rather than federal support if it comes with inflexible requirements," with "Develop an initiative to supplement Federal funding and City staffing and funding by generating financial and volunteer support from individuals, private businesses, non-governmental organizations, and philanthropic foundations," in Section 1.

Voting Aye: Coombs, Marcano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Coffman, second by Jursinky to end debate on Marcano Amendment 17.

Voting Aye: Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Medina, Marcano, Murillo

Motion by Marcano, second by Coombs to approve the Marcano Amendment 17 which adds "Develop a strategy to reach out to jurisdictions throughout the metropolitan region with the goal of building consensus on a shared regional strategy utilizing evidence-based best practices to reduce homelessness, sharing resources, and eliminating redundancies where appropriate to maximize the effectiveness of our collective efforts," to Section 1.

Voting Aye: Coombs, Marcano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Coffman, second by Jursinky to end debate on Marcano Amendment 12.

Voting Aye: Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Medina, Marcano, Murillo

Motion by Marcano, second by Coombs to approve the Marcano Amendment 12 which replaces "Incentivize participation in supportive services and require conditions for transitional housing," with "Provide Permanent Supportive Housing (PSH) services to ensure stability and supported recovery for individuals and families for whom Rapid Re-Housing alone would not be enough to prevent homelessness," in Section 1.

Voting Aye: Coombs, Marcano, Medina, Murillo

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Motion by Coffman, second by Zvonek to approve item 11a.

Voting Aye: Bergan, Gardner, Jurinsky, Lawson, Medina, Sundberg, Zvonek

17

- ◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Voting Nay: Coombs, Marcano, Murillo

Mayor Coffman called for a brief recess of Council to allow staff to provide call-in instructions.

**11.b. Citadel on Colfax BID 2023 Operating Plan and Budget**

**R2022-200** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Motion by Sundberg, second by Medina to approve item 11b.

Voting Aye: Bergan, Jurinsky, Lawson, Medina, Murillo, Sundberg, Zvonek

Absent: Coombs, Gardner, Marcano

**11.c. Painted Prairie No. 1 BID 2023 Operating Plan and Budget**

**R2022-201** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER ONE

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Motion by Sundberg, second by Medina to approve item 11c.

Voting Aye: Bergan, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

Absent: Coombs, Gardner

**11.d. Painted Prairie No. 2 BID 2023 Operating Plan and Budget**

**R2022-202** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE PAINTED PRAIRIE BUSINESS IMPROVEMENT DISTRICT NUMBER TWO

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Motion by Sundberg, second by Bergan to approve item 11d.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.e. Porteos BID 2023 Operating Plan and Budget**

**R2022-203** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE PORTEOS BUSINESS IMPROVEMENT DISTRICT

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Council heard public in-person testimony.

Motion by Sundberg, second by Lawson to approve item 11e.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

CM Coombs made a motion to move item 13a ahead. Mayor Pro Tem Bergan commented that they are only doing this because they had to vote on several amendments in item 11a. CM Gardner expressed his opposition. He mentioned that he previously brought forward an item to address the issue of dealing with perfunctory resolutions.

Motion by Coombs, second by Murillo to move item 13a after 11e.

Voting Aye: Mayor Coffman, Coombs, Medina, Murillo, Zvonek

Voting Nay: Bergan, Gardner, Jurinsky, Lawson, Marcano, Sundberg

**11.f. Tower BID 2023 Operating Plan and Budget**

**R2022-204** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE TOWER BUSINESS IMPROVEMENT DISTRICT

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

CM Coombs called for a point of order. She asked if all the remaining resolutions may be taken in a single vote since they all moved unanimously out of the Study Session. K. Rodriguez said that they were advised to vote on the items separately since they are budget items.

Motion by Sundberg, second by Lawson to approve item 11f.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo,  
Sundberg, Zvonek

**11.g. Windler No. 1 BID 2023 Operating Plan and Budget**

**R2022-205** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO.1

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Motion by Sundberg, second by Coombs to approve item 11g.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo,  
Sundberg, Zvonek

**11.h. Windler No. 2 BID 2023 Operating Plan and Budget**

**R2022-206** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO.2

Carol Toth, Manager of Accounting / Hanosky Hernandez, Senior Assistant City Attorney

Carol Toth, Manager of Accounting, provided a summary of the item.

Motion by Sundberg, second by Jurinsky to approve item 11h.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo,  
Sundberg, Zvonek

**11.i. Fitzsimons Business Improvement District - Operation Plan and Budget**

**R2022-207** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE FITZSIMONS BUSINESS IMPROVEMENT DISTRICT

Chad Argentar, Senior Development Project Manager / Hanosky Hernandez, Senior Assistant City Attorney

Chad Argentar, Senior Development Project Manager, provided a summary of the item.

Motion by Medina, second by Jurinsky to approve item 11i.



Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.j. Fitzsimons Business Improvement District – New Board Member Appointment**

**R2022-208** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPOINTING A MEMBER OF THE BOARD OF DIRECTORS OF THE FITZSIMONS BUSINESS IMPROVEMENT DISTRICT

Chad Argentar, Senior Development Project Manager / Hanosky Hernandez, Senior Assistant City Attorney

Chad Argentar, Senior Development Project Manager, provided a summary of the item.

Motion by Jurinsky, second by Coombs to approve item 11j.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.k. Havana Business Improvement District - Operation Plan and Budget**

**R2022-209** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE HAVANA BUSINESS IMPROVEMENT DISTRICT

Chad Argentar, Senior Development Project Manager / Hanosky Hernandez, Senior Assistant City Attorney

Chad Argentar, Senior Development Project Manager, provided a summary of the item.

Motion by Gardner, second by Marcano to approve item 11k.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.l. Parkside at City Centre BID 2023 Operating Plan and Budget**

**R2022-210** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2023 OPERATING PLAN AND BUDGET FOR THE PARKSIDE AT CITY CENTRE BUSINESS IMPROVEMENT DISTRICT

Jennifer Orozco, Development Project Manager / Hanosky Hernandez, Senior Assistant City Attorney

Jennifer Orozco, Development Project Manager, provided a summary of the item.

CM Coombs asked if the funds being used for maintenance will be directed toward repairing any damage caused. She mentioned that the explosion caused damage to

other infrastructure and not just the utility room. J. Orozco said that the operating budget is small and is already spoken for budget audit and snowplow maintenance. She mentioned that the Metro District might provide additional funding.

Motion by Bergan, second by Gardner to approve item 11l.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.m. First Amendment to Drainage and Flood Control Improvements for Cherry Creek Restoration at Arapahoe Road**

**R2022-211** CONSIDERATION OF THE CITY COUNCIL TO APPROVE A RESOLUTION FOR THE FIRST AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, D/B/A MILE HIGH FLOOD DISTRICT, SOUTHEAST METRO STORMWATER AUTHORITY, THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY, AND ARAPAHOE COUNTY REGARDING DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR CHERRY CREEK RESTORATION AT ARAPAHOE ROAD

Swirvine Nyirenda, Planning Services Manager / Ian Best, Assistant City Attorney

Vern Adam, Engineering Services Manager of Aurora Water, provided a summary of the item.

Motion by Sundberg, second by Coombs to approve item 11m.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.n. First Amendment to Drainage and Flood Control Improvements for Westerly Creek at Alameda and Dakota Avenue**

**R2022-212** CONSIDERATION TO APPROVE A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA FOR AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE-HIGH FLOOD DISTRICT REGARDING FINAL DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR WESTERLY CREEK AT ALAMEDA AND DAKOTA AVENUE.

Swirvine Nyirenda, Planning and Engineering Services Manager, Aurora Water / Ian Best, Assistant City Attorney

Vern Adam, Engineering Services Manager of Aurora Water, provided a summary of the item.

CM Sundberg asked how many entities will be sharing the \$600,000 cost. V. Adam said that it would only be Mile High and the city of Aurora.

Motion by Sundberg, second by Coombs to approve item 11n.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.o. **Joint Water Authority Second Amendment to a Water Transmission Agreement**

**R2022-213** CONSIDERATION TO APPROVE A RESOLUTION OF THE CITY COUNCIL FOR THE SECOND AMENDMENT TO EXTEND THE FIRST REVISED WATER TRANSMISSION SERVICE CONTRACT AMOUNT THE AURORA AND COLORADO SPRINGS JOINT WATER AUTHORITY

Alexandra Davis, Deputy Director of Water Resources, Aurora Water / Ian Best, Assistant City Attorney

Alexandra Davis, Deputy Director of Water Resources, provided a summary of the item.

Motion by Sundberg, second by Coombs to approve item 11o.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.p. **Colfax Sable Metropolitan District Board of Directors Appointment**

**R2022-214** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO APPOINTING DIRECTORS TO THE BOARD OF DIRECTORS OF THE COLFAX SABLE METROPOLITAN DISTRICT

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney II

Cesarina Dancy, Senior Development Project Manager, provided a summary of the item.

Motion by Coombs, second by Lawson to approve item 11p.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.q. **The Point Metropolitan District Director Disqualification and Appointment**

**R2022-215** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO APPOINTING DIRECTORS TO THE BOARD OF DIRECTORS OF THE POINT METROPOLITAN DISTRICT

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney II

Cesarina Dancy, Senior Development Project Manager, provided a summary of the item.

Mayor Pro Tem Bergan asked if vacancies occurred due to disqualifications. C. Dancy said that there was a property transfer in 2019 and they were inadvertently disqualified. Council for the Metro District just saw the error recently.

Motion by Bergan, second by Marcano to approve item 11q.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.r. **Windler Business Improvement District No. 1 Board of Directors Appointments**

**R2022-216** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPOINTING A MEMBER OF THE BOARD OF DIRECTORS OF THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO 1

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Hanosky Hernandez, Senior Assistant City Attorney

Cesarina Dancy, Senior Development Project Manager, provided a summary of the item.

Motion by Sundberg, second by Lawson to approve item 11r.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.s. **Windler Business Improvement District No. 2 Board of Directors Appointments**

**R2022-217** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPOINTING A MEMBER OF THE BOARD OF DIRECTORS OF THE WINDLER BUSINESS IMPROVEMENT DISTRICT NO 2

Cesarina Dancy, Senior Development Project Manager, Office of Development Assistance / Hanosky Hernandez, Senior Assistant City Attorney

Cesarina Dancy, Senior Development Project Manager, provided a summary of the item.

Motion by Sundberg, second by Medina to approve item 11s.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.t. **Cherry Creek School District and Aurora Police Department Intergovernmental Agreement**

**R2022-218** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CHERRY CREEK SCHOOL DISTRICT AND THE CITY OF AURORA REGARDING SCHOOL RESOURCE OFFICERS

Daniel J. Oates, Interim Chief of Police / Megan Platt, Assistant City Attorney

Megan Platt, Assistant City Attorney, provided a summary of the item.

MPT asked how many school resource officers would be allocated between different schools. M. Platt answered that there will be eight in high schools, and as-needed services would be available for middle schools.

Motion by Bergan, second by Lawson to approve item 11t.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.u. **Intergovernmental Agreement with the City and County of Denver for the Colfax Bus Rapid Transit Project**

**R2022-219** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN DENVER AND AURORA REGARDING FUNDING, DESIGN AND PRECONSTRUCTION OF THE EAST COLFAX AVENUE BUS RAPID TRANSIT PROJECT

Carlie Campuzano, Traffic Manager / Michelle Gardner, Senior Assistant City Attorney

Carlie Campuzano, Traffic Manager, provided a summary of the item.

Motion by Gardner, second by Coombs to approve item 11u.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.v. **Peoria Crossing Bridge Maintenance Intergovernmental Agreement**

**R2022-220** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA AND THE CITY AND COUNTY OF DENVER REGARDING THE OWNERSHIP AND MAINTENANCE RESPONSIBILITIES FOR THE PEORIA CROSSING PROJECT

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

Matt Kozakowski, Transportation Project Delivery Manager, provided a summary of the item.

Mayor Pro Tem Bergan asked if the maintenance would include snow removal and trash services. M. Kosakowski confirmed this. He said that Denver is currently plowing the bridge and Aurora is conducting the street-sweeping.

Motion by Coombs, second by Medina to approve item 11v.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.w. Rockinghorse Reimbursement Agreement**

**R2022-221** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF AURORA ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND NASH INSPIRATION, LLC

Sarah Young, Deputy Director of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

Vern Adam, Engineering Services Manager of Aurora Water, provided a summary of the item.

Motion by Sundberg, second by Bergan to approve item 11w.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.x. Colorado State Forest Service Funding Agreement**

**R2022-222** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, ACTING BY AND THROUGH COLORADO STATE UNIVERSITY FOR THE USE AND BENEFIT OF THE COLORADO STATE FOREST SERVICE

Alexandra Davis, Deputy Director of Water Resources, Aurora Water / Ian Best, Assistant City Attorney

Alexandra Davis, Deputy Director of Water Resources at Aurora Water, provided a summary of the item.

Motion by Coombs, second by Sundberg to approve item 11x.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.y. Stewardship West Memorandum of Understanding**

**R2022-223** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF AN AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND STEWARDSHIP WEST

Alexandra Davis, Deputy Director of Water Resources, Aurora Water / Ian Best, Assistant City Attorney

Alexandra Davis, Deputy Director of Water Resources at Aurora Water, provided a summary of the item.

Motion by Sundberg, second by Coombs to approve item 11y.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.z. Water Lease Intergovernmental Agreement with Board of Water Works of Pueblo**

**R2022-224** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF AN INTERGOVERNMENTAL WATER LEASE AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE BOARD OF WATER WORKS OF PUEBLO COLORADO

Alexandra Davis, Deputy Director of Water Resources, Aurora Water / Stephen Cann, Senior Assistant City Attorney

Alexandra Davis, Deputy Director of Water Resources at Aurora Water, provided a summary of the item.

Motion by Coombs, second by Sundberg to approve item 11z.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.aa. Creation of Ad Hoc Citizen's Charter Review Task Force**

**R2022-225** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING CITY COUNCIL'S DIRECTION TO THE CITY MANAGER TO HAVE APPROPRIATE CITY STAFF CREATE AN AD HOC CITIZEN'S CHARTER REVIEW TASK FORCE, EXISTING FOR FOUR MONTHS, WITH THE PURPOSE OF THE TASK FORCE BEING DETERMINING WHETHER ANY PROPOSED CHANGES TO THE CITY

- ◆ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

CHARTER SHOULD BE RECOMMENDED TO THE AD HOC CHARTER REVIEW COMMITTEE OF CITY COUNCIL AND TO REVIEW AND PROVIDE FEEDBACK, IN A WRITTEN REPORT, TO THE AD HOC CHARTER REVIEW COMMITTEE OF CITY COUNCIL ON ANY PROPOSED CHARTER AMENDMENTS RECOMMENDED BY THAT TASK FORCE

Sponsor: Alison Coombs, Council Member

Dave Lathers, Senior Assistant City Attorney / George Koumantakis, Manager of Client Services, City Attorney

Councilmember Alison Coombs provided a summary of the item.

Motion by Coombs, second by Bergan to approve item 11aa.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.ab. Dedicate the City Council Chambers in the Name of Former Mayor Paul Tauer, Sr.**

**R2022-226** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, CHANGING THE OFFICIAL NAME DESIGNATION OF THE "AURORA CITY COUNCIL CHAMBERS" TO THE "PAUL TAUER AURORA CITY COUNCIL CHAMBERS" AND DIRECTING THE CITY MANAGER TO PREPARE AN APPROPRIATE DEDICATION PLAQUE FOR DISPLAY IN THE CHAMBERS AS WELL AS CHANGING CITY SIGNAGE AND DOCUMENTS TO REFLECT THE NEW DESIGNATION OF THE CHAMBERS. THIS RESOLUTION SUPERSEDES RESOLUTION R93-37 PERTAINING TO NAMING OF CITY PARKS AND BUILDINGS, BUT IN THIS INSTANCE ONLY

Sponsor: Curtis Gardner, Council Member Dave Lathers, Senior Assistant City Attorney

Councilmember Curtis Gardner provided a summary of the item.

Motion by Gardner, second by Sundberg to approve item 11ab.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**11.ac. Rules of Order and Procedure: Backup Material For Council Member Sponsored Items**

**R2022-227** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO AMEND THE RULES OF ORDER AND PROCEDURE FOR THE AURORA, COLORADO, CITY COUNCIL REGARDING BACKUP MATERIAL FOR COUNCIL MEMBER SPONSORED ITEMS



Sponsored: Danielle Jurinsky, Council Member

Daniel L. Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney

Councilmember Danielle Jurinsky provided a summary of the item.

Gardner Amendment

CM Gardner presented an amendment. CM Jurinsky considered this as a friendly amendment.

Discussion on the Resolution

CM Murillo expressed her support. She asked if there were anything in the resolution that would preclude staff from providing input regarding their concerns. CM Jurinsky said that they can circle back with staff if they feel that staff has not been able to fully explain something. J. Twombly said that the resolution does not present any issues for staff.

Motion by Jurinsky, second by Gardner to approve item 11ac.

Motion by Jurinsky, second by Gardner to approve the Gardner Amendment which requires any information or presentations presented at Study Session or Regular City Council Meetings be included in the backup packet to be provided before the meeting.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

Motion by Jurinsky, second by Zvonek to end debate.

Voting Aye: Mayor Coffman, Bergan, Gardner, Jurinsky, Lawson, Marcano, Medina, Sundberg, Zvonek

Voting Nay: Coombs, Murillo

Motion by Jurinsky, second by Gardner to approve item 11ac as amended.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

11.ad. **Resolution to Establish a Fitzsimons Innovation Community Subcommittee to Update the Master Plan and GDP**

**R2022-228 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPOINTING MEMBERS TO THE FITZSIMONS INNOVATION COMMUNITY MASTER PLAN AND GENERAL DEVELOPMENT PLAN SUBCOMMITTEE**

Sponsor: Dustin Zvonek, Council Member

Brian Rulla, Assistant City Attorney / Rachel Allen, Client Group Manager, City Attorney

Councilmember Dustin Zvonek provided a summary of the item.

Mayor Pro Tem Bergan asks if the subcommittees would then come back to Council for information only when it concludes. CM Zvonek explained that it is highly likely that the recommendations for the updated master plan and mobility plan will require changes to the GDP that will need approval.

Motion by Zvonek, second by Jurinsky to approve item 11ad.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

Mayor Coffman called for a brief recess of Council to allow staff to provide call-in instructions.

**12. PUBLIC HEARING WITH RELATED ORDINANCE**

**12.a. Standards for Other Types of Signs**

**2022-71 FOR AN ORDINANCE AMENDING CHAPTER 146 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO STANDARDS FOR OTHER TYPES OF SIGNS**

Brandon Cammarata, Planning Manager / George Koumantakis, Manager of Client Services, City Attorney

Mayor Coffman opened the public hearing.

Brandon Cammarata, Planning Manager, provided a summary of the item.

Mayor Coffman closed the public hearing.

CM Zvonek explained that the City Code requires pennants to have a permit, have a limitation on how long they could be hung, and must be in good condition. Having these requirements, other than pennants being in good condition, is an undue burden on businesses. He mentioned that the pennants oftentimes are used to advertise sales and events. He added that they have received complaints from constituents regarding the need for code enforcement and having these requirements in place takes time away from code enforcement for other pressing matters. CM Coombs expressed her support. She commented that constituents expressed concerns regarding code changes that

would take code enforcement away from other issues that may seem trivial but are big concerns of residents like the placement of trash cans.

Motion by Zvonek, second by Jurinsky to approve item 12a.

Voting Aye: Bergan, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

13. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

13.a. **Public Hearing and Appeal of the October 12, 2022, Planning Commission's Approval of the Grand Avenue Townhome Site Plan with an Adjustment**

Stephen Rodriguez, Planning Supervisor / Daniel L. Money, Senior Assistant City

Attorney Outside Speaker: Nathan Adams, CEO of redT Homes

Mayor Coffman opened the public hearing.

Stephen Rodriguez, Planning Supervisor, provided a summary of the item.

CEO of redT Homes Nathan Adams and Project Manager Joshua Botts discussed the background of redT Homes and how the development met all the necessary criteria for application in Aurora.

The appellants expressed concerns regarding the high cost of homes provided by the development which could not be attained by low-income families, including the immigrant and refugee population, within the community. They stressed the importance of building affordable housing.

Council heard public in-person testimony.

Mayor Pro Tem Bergan asked if the applicant conducted their market studies and what their investment is in construction costs. She asked if they could lower the price point. N. Adams said that the total investment will be over \$20 million to build 53 townhomes. He added that they spent \$200,000 per door on land, architecture, tap fees, and infrastructure before they were able to build vertically. He said that the land cost was around \$57,000 per door. If the price moves lower, they need construction costs to come down. Mayor Pro Tem Bergan asked if anybody showed interest in the vacant lot prior to redT Homes. S. Rodriguez said that they were not aware of any. N. Adams mentioned that the property was on the market for some time, and they were the only ones interested.

CM Gardner highlighted that the development meets all the criteria of the comprehensive plan. He asked if they have a legal requirement to approve it and what the potential liabilities would be if it were denied. D. Money explained that the Council must review the appeal based on the standards and criteria of the UDO, and the decision of the planning commission, and ensure that the development is compatible

with the neighborhood. He added that the zoning district in question is mixed-use and is designed for a diversity of housing types for a diversity of income. It is Council's role and prerogative how to apply the standards of the UDO. He further explained that the land is use-by-right, and if the city says that they cannot build on or use it, then it would set the city up for a potential lawsuit. This would have to be litigated in court and determined if the government did a takings.

CM Marcano asked what the estimated HOA dues would be. N. Adams said that they will intentionally be kept low, around \$70 to \$100 a month. He added that it may be on the lower end since they have an obligation to put one water line to each property. This fee includes snow removal and landscape maintenance. He stressed that the project has no swimming pools, gyms, or fitness centers. CM Marcano asked if they estimated the impact the development might have on comparable rent in the area or on property taxes. N. Adams said no since they are a for-sale development and are not looking at rents. He explained that they are adding inventory on the site. He added that they did not look at taxes since policymakers are the ones that set them.

CM Coombs mentioned that the cost of parking requirements often increases the cost of development. She asked for the estimated amount of cost per home and the cost to develop in line with the parking requirements of the city. N. Adams said that they are building a one-car garage and additional off-street space for most of the units to keep the cost down. Constructing a one-car garage costs \$12,000. Some properties would have two-car garages. He explained that the only they could do to bring the cost lower is to build it to a LEED gold certification standard, which is non-negotiable for the company.

CM Coombs asked about the density of the site as it relates to parking requirements. N. Adams said that there are exactly two spaces per unit, totaling 106 parking spaces. He highlighted that this would seem to be the right amount for three and four-bedroom units. He added that they were intentional about adding multi-bedroom townhomes to appeal to people that are currently in the neighborhood.

CM Coombs pointed out that the area has more access to transit than the rest of the city. She asked if the developer looked at transit-oriented development and the impact that may have on parking requirements. N. Adams reiterated that they do not set the policy and only follow the parking requirement of the city. He said that they would love to see more people taking public transportation, but there are not a lot of people waiting for the bus on Colfax. CM Coombs said that people are using the bus along Colfax. She mentioned that they can get waivers associated with TOD, which the development would qualify for. Therefore, if they are looking for ways to encourage transit use, there is a policy in place to enable this and bring down the cost of development.

CM Coombs asked if the city looked at the site for land banking. J. Twombly said no. CM Coombs commented that this is an opportunity that would be beneficial for the city moving forward. She asked if they are permitted to utilize the housing plan in deciding whether to approve or deny the proposal. C. Money said that the judge would strictly go by code and other adopted city regulations, which this developed complies with and

where the housing plan would be taken into account. They would also decide based on conditions specifically applied to the development by the Planning and Zoning Commission or City Council and a prior decision affecting the property. He explained that it would depend on how it would be interpreted.

CMM Coombs mentioned that if they have data demonstrating a compelling government interest, then they could use this as an argument against being found to have engaged in illegal regulatory takings. The conducted housing study has demonstrated a cost burden for housing for the community, including this area. She asked if this could be used as a defense against any potential takings claim. D. Money said they would use all they can as a defense, should they go to court. He explained that if the government takes land or prevents its use, then the government must pay for it. The payment would be either through a lawsuit that has higher damages or through buying the land.

CM Gardner asked how removing all parking would impact the ability to obtain financing. N. Adams said that it would be difficult, but not impossible. He explained that they must raise equity and produce an economically viable project with a high probability of selling to get financing. He added that they are only near buses, but not light rail. CM Marciano mentioned that the Colfax Corridor has the most heavily utilized bus in the network. The Corridor is also about to become a Bus Rapid Transit (BRT) corridor, which will be a big asset to the city and the project. He asked if the developers currently own the land. N. Adams said yes.

CM Marciano asked if they are aware of how long previous owners owned it. N. Adams said they do not know, and it was not relevant to whether it made sense to develop on the site. CM Marciano explained that he wants to know if the previous owners were intending to develop the land or if they were hoping to sell it to development that would increase the cost in the community. N. Adams said that they do not have any insight. CM Marciano asked staff for records of the property. B. Cammarata said that the County Assessor would have the information.

Mayor Coffman mentioned that residents in the area expressed concern regarding four boarded-up homes that were continually broken into and were nests for illegal activity. They wanted something done with the property for their safety. Mayor Coffman pointed out that they are not tearing down low-income property and replacing it with higher income. They are simply redeveloping a vacant parcel that is crime infested. CM Sundberg requested the spreadsheet on the work done by Mr. Green on providing \$3 million in rental assistance. He mentioned that Aurora has 20 affordable housing projects in the pipeline including Weatherstone, Elevate Aurora, etc. He pointed to a testimony from an apartment complex manager indicating that there is not a big disparity between current homes there that could sell for over \$500,000. CM Sundberg mentioned testimonies indicating that the project could improve lighting, safety, speeding, and drug use in the area. He stressed that these improvements were also indicated by the developer. He thanked the developer for providing a service to the city.

Mayor Coffman closed the public hearing.

Mayor Pro Tem Bergan thanked the individuals that shared testimonies. She mentioned that she sat on a hearing for a developer trying to bring in affordable housing to CHFA to get state grants. However, these grants are few and far between and there are only so many per year that a developer can apply for across the state. She said that there are ways to work on getting affordable housing and reducing construction costs on some standards in the city. She stressed that the property is currently on vacant land with no interest from other developers to provide affordable housing. She said that it is heartbreaking to hear stories from residents, but it is a good project that will improve the neighborhood.

CM Gardner thanked the residents that provided their testimonies. He expressed frustration that the developers have been put through a lot by organizations that are not in Aurora. He stressed that the developers have the right to build, and Council does not have the legal right to turn it down. He stated that those from Aurora that were urged to speak were lied to by organizations and used as pawns to push rent control. He added that this was not an argument regarding affordable housing, gentrification, or displacement; rather, it was how the project complies with the UDO and the city's comprehensive plan. He stated that they will continue to support affordable housing projects that are appropriate for the city but will not be bullied by organizations from Denver.

CM Jurinsky stressed that there is a housing shortage at every price point and there are people that could afford \$500,000 but have not been able to find a home due to bidding wars. She said that these new home builds would avoid these bidding wars. She mentioned that she received past criticism when she stood up to a developer who she felt was displacing people in businesses. However, she could not find how this project would displace anyone as it is a vacant lot. She expressed her support for the project.

CM Medina stressed how every change and development in the area, including The Stanley, affected people in the community. He referred to a study saying that The Stanley did not know how to reach out to the community and 90% of the people who lived a block away did not know that The Stanley existed. He stressed the importance of talking to the residents, including them in meetings, and reaching out to the immigrant and refugee populations. They should not assume that everybody speaks English, has access to a computer, or has time to go to meetings. He stated that he will look at ways to mitigate these issues in the future.

CM Jurinsky mentioned that they received an email stating that Nano has been involved with the developer for some time. Mayor Pro Tem Bergan said that the notice goes out to every neighborhood, registered neighborhood associations, residents within, and adjacent property owners. N. Adams said that they have engaged with Nano and Del Mar who were both previously in opposition. N. Adams met and compromised with them and changed their position to support them by allowing them to have a say in the development. He added that most of the people in opposition are from the East Colfax Collective, which is not a registered neighborhood organization. He mentioned that they refused to engage despite being given his direct contact details until they came into his office on Thursday of last week.

Mayor Pro Tem Bergan asked if they attended the meetings. N. Adams said that ECC did not attend any meetings. But they started the development process in 2021. CM Gardner referred to the memo from the police chief stating that there has been a 60% decrease in crime events, a 75% reduction in drug crimes, and a 60% reduction in motor vehicle thefts since they increased focus on crime in the area. He highlighted that this development would continue to turn crime around and make residents feel safer.

CM Marcano said that the amenities of the project are great and would love to see this development all over the city but for a reasonable price. He mentioned that it may be a little over-parked given the proximity to the busiest transit corridor in the metro. He stated that the median income in Aurora is \$67,700 a year. To afford this, the minimum income required would be \$140,000. He stressed how this development in the most diverse and lowest-income part of town would lead to displacement by raising property values in the area. He added that they would then end up with a larger public safety issue by not addressing the root cause of crime. CM Marcano stated that they should prioritize people living in the community and work with developers that would provide a hood housing product at an affordable rate. He said that they should utilize this vacant lot for community benefit and deter crime, but not by building million-dollar townhomes in an area with a \$36,000 to \$40,000 median income. CM Marcano pointed to the UDO which requires the application to mitigate any adverse impacts on the surrounding area to the maximum degree possible. He mentioned how the developers did not study how the project will impact existing residents and property owners and how it may trigger displacement.

CM Coombs mentioned that the proposal was submitted for late submission approval and was specifically asked to be moved to today's meeting despite numerous resolutions. She said that the mayor is the one that asked for this and is the only person that sees and sets the agenda. She highlighted how this impacted people's ability to stay and participate. She suggested opening the agenda-setting process. She added that one of the organizations involved in speaking for the appellant was specifically called out during the ARPA Grant Item. CM Coombs said that she hopes that this was not an effort at intimidation. CM Coombs pointed out that the top five professions in the area cannot afford a cost of a home in this development. She highlighted that construction is one of the most lucrative jobs among those professions and is prevalent in wage theft. She mentioned the importance of actual attainable missing middle housing which this development is not. She suggested looking into the housing study to acknowledge the reality in the city.

CM Murillo expressed her appreciation for CM Coombs for calling out the delayed vote on ARPA dollars that have already been vetted by staff for projects. She mentioned that the organization, despite being from Denver, also has Aurora members. She expressed her disappointment to the applicant referring to the appellant's comments as straight-out lies despite their testimonies being rooted in the impact of the project and not directed at the business. CM Murillo pointed out the positives of the development including being near BRT and being LEED certified. She stressed the importance of acknowledging the housing plan, affordability, and the reality of the people living in the area. She highlighted that people are not against development and a safe community. However, they want to see development that will have long-term benefits. CM Murillo

thanked the work of APD regarding the decrease in crime. However, she pointed out that these improvements were not due to housing development. She stressed the importance of pushing for safer communities regardless of the price of the homes. She thanked the organizations like the East Colfax Community Collective for empowering people and providing testimony.

Motion by Gardner, second by Zvonek to approve item 13a.

Motion by Sundberg, second by Jurinsky to end debate.

Voting Aye: Mayor Coffman, Bergan, Coombs, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Medina, Murillo

Motion by Gardner, second by Zvonek to approve item 13a.

Voting Aye: Mayor Coffman, Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Marciano, Medina, Murillo

#### 14. **INTRODUCTION OF ORDINANCES**

##### 14.a. **Gun Club Road Rights-Of-Way Vacation No. 2**

**2022-72** INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, VACATING TWO PORTIONS OF THE PUBLIC RIGHT-OF-WAY FOR GUN CLUB ROAD, LOCATED EAST OF E-470, BETWEEN EAST 38TH AVENUE AND EAST 48TH AVENUE, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO (GUN CLUB ROAD RIGHTS-OF-WAY VACATIONS NO. 2)

Deborah Bickmire, Senior Planner / Daniel L. Money, Senior Assistant City Attorney

Deborah Bickmire, Senior Planner, provided a summary of the item.

Motion by Sundberg, second by Bergan to approve item 14a.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marciano, Medina, Murillo, Sundberg, Zvonek

##### 14.b. **2022 Fall Supplemental Ordinance**

**2022-73** FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2021-56, AND 2022-24 FOR THE 2022 FISCAL YEAR



Jackie Ehmann, Budget Program Manager / Hanosky Hernandez, Senior Assistant City Attorney

Jackie Ehmann, Budget Program Manager, provided a summary of the item.

Motion by Gardner, second by Sundberg to approve item 14b.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

15. **FINALIZING OF ORDINANCES**

*Ordinances on final reading which were introduced by unanimous vote of those present on the first reading may be taken under consideration and voted upon as a single item. Related ordinances may be acted upon as one item after t Harvest Mile Initial Zoning the titles are read in series by the City Clerk. Any member of the Council may request an item to be considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Finalizing of Ordinances.*

15.a. **Harvest Mile Initial Zoning**

**2022-56** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING APPROXIMATELY 308.6 ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED NORTH AND SOUTH OF SMITH ROAD AND WEST OF POWHATON ROAD, COUNTY OF ADAMS, STATE OF COLORADO, TO BUSINESS/TECH ZONE DISTRICT AND AMENDING THE ZONING MAP ACCORDINGLY (HARVEST MILE INITIAL ZONING)

Aja Tibbs, Senior Planner / Dan Money, Senior Assistant City Attorney

15.b. **Best Box Self Storage – 26th Ave. Initial Zoning**

**2022-57** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING APPROXIMATELY FIVE- ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED 400 FEET EAST OF THE NORTHEAST CORNER OF PICADILLY ROAD AND EAST 26TH AVENUE, COUNTY OF ADAMS, STATE OF COLORADO, TO BUSINESS/TECH ZONE DISTRICT AND AMENDING THE ZONING MAP ACCORDINGLY (26TH AVENUE INITIAL ZONING)

Erik Gates, Planner / Dan Money, Senior Assistant City Attorney

Outside speaker: Beau Reinberg, BCN Management Partners / Michael Cleary, Strategic Site Design LLC

15.c. **2023 Adopting Budget**

**2022-58** AN ORDINANCE OF THE CITY OF AURORA, COLORADO, ADOPTING AN OPERATING AND CAPITAL IMPROVEMENTS PROJECTS BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Greg Hays, Budget Officer / Hanosky Hernandez, Senior Assistant City Attorney

Greg Hays, Budget Officer, provided a summary of the item.

CM Coombs expressed her opposition. CM Murillo expressed her opposition due to decisions made regarding the DEI office and the independent monitor. CM Lawson mentioned that she will be supporting the budget for things made for the residents. However, she expressed her disappointment in having the independent monitor and DEI positions cut. CM Marcano expressed his opposition to the budget due to items that were cut.

Motion by Gardner, second by Sundberg to approve item 15c.

Voting Aye: Bergan, Gardner, Jurinsky, Lawson, Sundberg, Zvonek

Voting Nay: Coombs, Marcano, Medina, Murillo

**15.d. 2023 Budget Appropriations**

**2022-59** AN ORDINANCE OF THE CITY OF AURORA, COLORADO, APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Greg Hays, Budget Officer / Hanosky Hernandez, Senior Assistant City Attorney

Greg Hays, Budget Officer, provided a summary of the item.

Motion by Coombs, second by Gardner to approve item 15d.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

**15.e. Transportation Maintenance Fund Creation**

**2022-60** FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO, CREATING THE TRANSPORTATION MAINTENANCE FUND

Greg Hays, Budget Officer / Hans Hernandez, Senior Assistant City Attorney

**15.f. 2023 Tax Levy**

**2022-61** FOR AN ORDINANCE ESTABLISHING THE TAX LEVY ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF AURORA, COLORADO,

FOR THE TAX COLLECTION YEAR BEGINNING JANUARY 1, 2023, AND ENDING  
DECEMBER 31, 2023

Greg Hays, Budget Officer / Hanosky Hernandez, Senior Assistant City Attorney

15.g. **Water Rate Ordinance**

**2022-62** CONSIDERATION OF THE CITY COUNCIL OF THE CITY OF AURORA TO APPROVE AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 138 OF THE CITY CODE OF THE CITY OF AURORA RELATING TO SERVICES FOR THE PROVISION OF WATER

Jo Ann Giddings, Deputy Director of Business Services, Aurora Water / Rachel Allen, Client Group Manager, City Attorney

Marshall Brown, General Manager of Aurora Water, provided a summary of the item.

CM Gardner expressed his opposition. Mayor Pro Tem Bergan asked what the consequences will be if they do not pass the water rate. M. Brown explained that they would rethink how to cover the operating costs and may cut into water reserves. They have to rethink operations that they do proactively to exceed regulatory requirements such as PFAS lead service line removals. He added that there would be consequences for the confidence of the public in the water system and they would have to send public notices out explaining the delay and deferral of some operations.

Mayor Pro Tem Bergan asked if they would still be required to raise rates next year by a higher amount. M. Brown confirmed this. He mentioned that the rate increases would compound the regulatory items. They could be delayed for a year or two, but they would eventually be required to comply which will destroy public confidence and still raise the rates. Mayor Pro Tem Bergan asked if the budget has been approved. M. Brown said yes.

Motion by Coombs, second by Marcano to approve item 15g.

Voting Aye: Bergan, Coombs, Marcano, Medina, Murillo, Sundberg

Voting Nay: Gardner, Jurinsky, Lawson, Zvonek

15.h. **General Improvement District 3-2008 (Meadow Hills Country Club) 2023 Operating Budget**

**2022-63** AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 3-2008 (MEADOW HILLS COUNTRY CLUB) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.i. **General Improvement District 2-2011 (Aurora Conference Center) 2023 Operating Budget**

**2022-64** AN ORDINANCE OF THE AURORA CONFERENCE CENTER GENERAL IMPROVEMENT DISTRICT (NO. 2-2011) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.j. **General Improvement District 1-2007 (Cherry Creek Racquet Club) 2023 Operating Budget**

**2022-65** AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 1-2007 (CHERRY CREEK RACQUET CLUB) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.k. **Cobblewood General Improvement District 1-2016 2023 Operating Budget**

**2022-66** AN ORDINANCE OF COBBLEWOOD GENERAL IMPROVEMENT DISTRICT 1-2016 (COBBLEWOOD GENERAL IMPROVEMENT DISTRICT) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.l. **General Improvement District 1-2008 (Peoria Park) 2023 Operating Budget**

**2022-67** AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 1-2008 (PEORIA PARK) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.m. **Pier Point 7 General Improvement District 2-2009 2023 Operating Budget**

**2022-68** AN ORDINANCE OF PIER POINT 7 GENERAL IMPROVEMENT DISTRICT

2-2009 ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023

Andrew Jamison, Debt and Treasury Supervisor, Finance / Hanosky Hernandez, Senior Assistant City Attorney

15.n. **2023 Ward Redistricting**

**2022-69** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADOPTING AN UPDATED MAP OF WARD BOUNDARIES PURSUANT TO THE MANDATE OF SECTION 54-5(B) OF THE CITY CODE

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

15.o. **Ward Realignment Recommendation Deadline**

**2022-70** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 54-5 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, BY ADOPTING ADDITIONAL CLARIFYING LANGUAGE TO SUBSECTIONS (b) AND (c) TO DIRECT THE AURORA ELECTION COMMISSION TO COMPLETE ITS REVIEW OF WARD BOUNDARIES AND SUBSEQUENT RECOMMENDATIONS FOR REALIGNMENT OF WARD BUNDARIES, IF ANY, AND TO TRANSMIT THE SAME TO CITY COUNCIL NO LATER THAN THE FIFTEENTH (15TH) DAY OF OCTOBER IN THE YEAR PRECEDING THE YEAR IN WHICH THE REALIGNMENT SHALL TAKE EFFECT, CURRENTLY IN CALENDAR YEARS ENDING IN "3" AND "9"

Sponsor: Juan Marcano, Council Member Dave Lathers, Senior Assistant City Attorney

Motion by Sundberg, second by Marcano to approve items 15a, 15b, 15e, 15f, 15h through 15o.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

16. **PLANNING MATTERS**

17. **ANNEXATIONS**

18. **RECONSIDERATIONS AND CALL UPS**

19. **GENERAL BUSINESS**

19.a. **Consideration to Appoint Two (2) Members to the Aurora Immigrant and Refugee Commission**

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

Motion by Bergan, second by Sundberg to appoint Carlos Diaz and Coralie Betrand-Guerrero to the Aurora Immigrant and Refugee Commission

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

19.b. **Consideration to Appoint One (1) Member to the Library Board**

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

Motion by Coombs, second by Lawson to appoint Hannah Poertner to the Library Board.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

19.c. **Consideration to Reappoint One (1) Member to the General Employees' Retirement Board**

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

Motion by Marcano, second by Bergan to reappoint Tom Tobiasen to the General Employees Retirement Board.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

19.d. **Consideration to Appoint One (1) Member to the Joint Water Authority**

Marshall Brown, General Manager, Aurora Water / Rachel Allen, Client Group Manager, City Attorney

Motion by Coombs, second by Marcano to appoint Mathew Allsopp to the Joint Water Authority.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

19.e. **Consideration to Appoint One (1) Member to the Homestake Steering Committee**

Marshall Brown, General Manager, Aurora Water / Rachel Allen, Client Group Manager, City Attorney

Motion by Coombs, second by Sundberg to appoint Mathew Allsopp to the Homestake Steering Committee.

Voting Aye: Bergan, Coombs, Gardner, Jurinsky, Lawson, Marcano, Medina, Murillo, Sundberg, Zvonek

20. **REPORTS**

20.a. **Report by the Mayor**

None.

20.b. **Reports by the Council**

CM Lawson gave her condolences to Dr. Jules Smith of the Rising Star Missionary Baptist Church and Mr. Ernie Clark.

CM Jurinsky also gave her condolences. She wished everyone a Happy Thanksgiving.

CM Murillo extended her condolences. She mentioned that one of AFR's family members also passed away. She announced that her town hall would be moved to December 1<sup>st</sup> at the Moorhead Recreation Center. She wished everyone a Happy Thanksgiving.

CM Marcano thanked the residents who voted in the elections and the candidates who ran. He congratulated the winners and is optimistic about the collaborative opportunities Aurora has in the coming years with new state and county-level partners. He announced that the next Ward IV meeting would be on January 12<sup>th</sup> at the Colorado Early Colleges from 6:30 PM. Arapahoe County District 4 Commissioner would be in attendance to discuss her role on the county commission and collaboration between Arapahoe County and Aurora.

CM Coombs echoed the condolences. She added that Mr. Ernie Clark's volunteers and daughters intend to continue his legacy of providing bikes for the community. She announced that the Ward V Town Hall would be on November 15<sup>th</sup> at the Central Recreation Center and WebEx.

Mayor Pro Tem expressed her condolences to Mr. Clark. She announced that her Town Hall would be on November 16<sup>th</sup> with topics on crime, motor vehicle theft, and prosecuting crime. She wished everyone a Happy Thanksgiving.

Councilmembers Gardner, Zvonek, Sundberg, and Medina did not have reports.

21. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of the City Council.

  
MIKE COFFMAN, MAYOR

ATTEST:

  
KADEE RODRIGUEZ, CITY CLERK



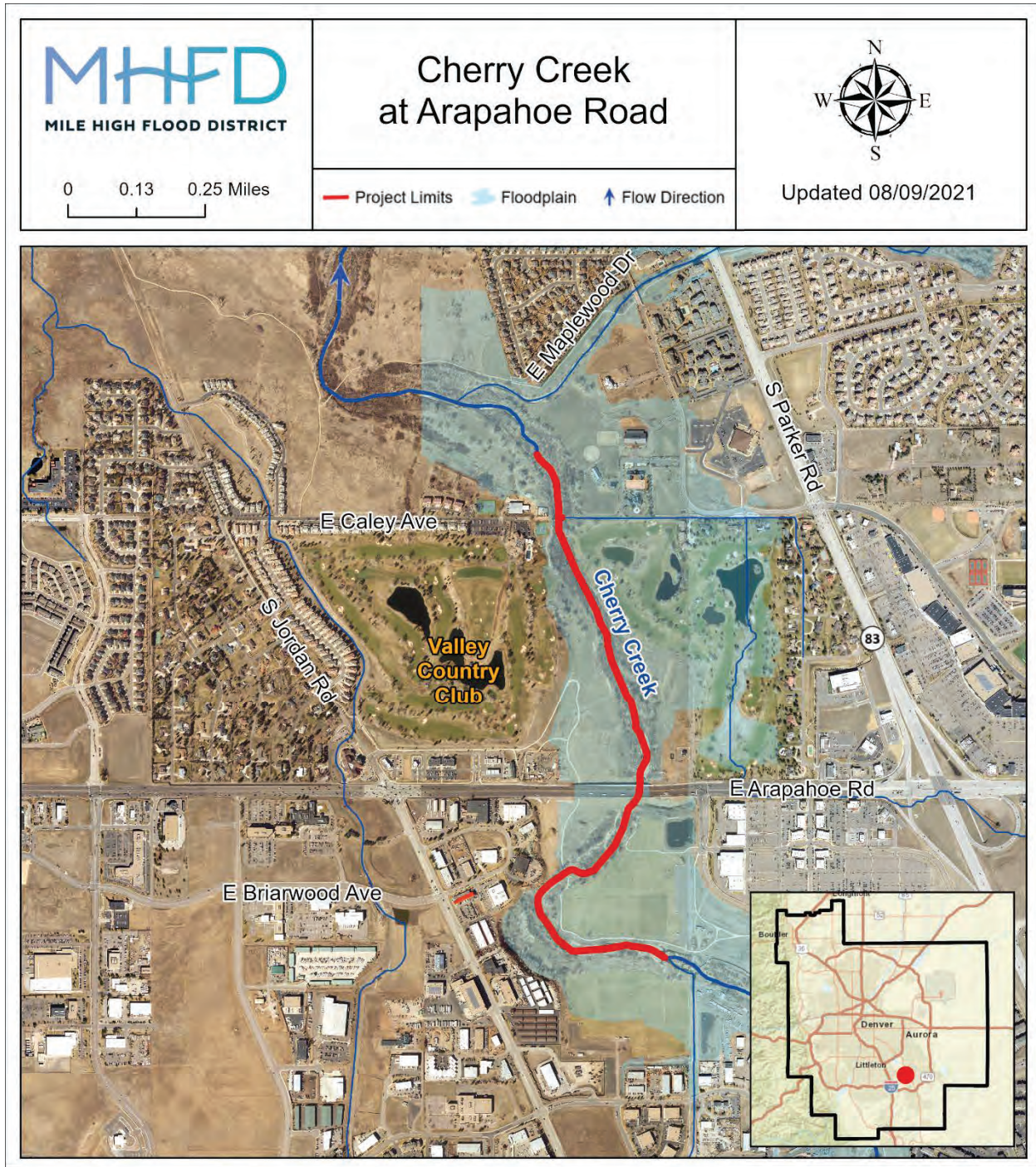
- ◆ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*



AGREEMENT REGARDING  
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
CHERRY CREEK RESTORATION AT ARAPAHOE ROAD

Agreement No. 21-06.17

Exhibit A





# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Senac Site Historic Landmark Nomination
<b>Item Initiator:</b> T. Scott Williams, Museum Supervisor, Library and Cultural Services, Chris Geddes, Historic Preservation Specialist, Library and Cultural Services
<b>Staff Source/Legal Source:</b> T Scott Williams, Museum Supervisor, Library and Cultural Services / Tim Joyce, Assistant City Attorney
<b>Outside Speaker:</b> Dr. Gordon Tucker Jr., Historic Preservation Commission Member / Todd McMahon, Historic Preservation Commission Member
<b>Council Goal:</b> 2012: 4.1--Develop and maintain high quality parks, rec facilities/programs, libraries, natural areas, trails and open space

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE DESIGNATING THE SENAC SITE LOCATED AT 5800 SOUTH POWHATAN ROAD, AURORA RESERVOIR VICINITY, AURORA, COLORADO, AS A LOCAL HISTORIC LANDMARK

T. Scott Williams, Museum Supervisor, Library and Cultural Services / Tim Joyce, Assistant City Attorney  
Outside Speakers: Dr. Gordon Tucker Jr. and Todd McMahon, Historic Preservation Commission Members

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

- |   |   |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session   | <input checked="" 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 above.*

---

## PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Public Relations, Communications, Tourism, Libraries, Boards and Commissions & Citizen Groups

**Policy Committee Date:** 11/21/2022

### 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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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 Aurora History Museum and Historic Sites and the Historic Preservation Commission have voted to nominate the Senac Site (5AH.380) located at the south end of Aurora Reservoir. The Senac Site has yielded abundant data that provide valuable insight into the lifeways of Indigenous inhabitants of the Plains Woodland tradition and the Early Ceramic period in eastern Colorado. Because much of the site remains unexcavated, it is likely to yield additional archaeological data on the precontact era in this region. Furthermore, museum staff is currently curating and rehousing the artifacts collected at the site to provide secure access for scholarly research and public education.

---

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

In 1986, Powers Elevation Co. discovered and recorded the Senac Site (5AH.380) during an intensive cultural resources survey for the City of Aurora (City) in a large area that would be inundated by a reservoir behind the proposed Senac Dam (Tate and Friedman 1986). This area has since been renamed the Aurora Reservoir and is administered by the City. The site was initially recorded as a large, diffuse scatter of lithic artifacts made of siccified wood with a quarry source at the west end, and a fire hearth feature in the northeast corner. The site covered slightly more than 5 acres and straddled Senac Creek (Figures 2, 4-6). Culturally modified bison bones were exposed in the cutback of Senac Creek (Figures 3, 7-8) and determined to have been redeposited before the site occupation from an unknown original location upstream. Limited testing of the site in 1986 revealed the presence of significant buried cultural deposits and a charcoal sample collected from the hearth returned a radiocarbon age estimate of 1060+/- 80 radiocarbon years before present. Based on these results, the site was assessed as eligible for listing in the National Register of Historic Places and data recovery at the site was recommended to mitigate potential adverse effects resulting from the construction of Senac Dam and filling of the reservoir behind the dam. Data recovery at the site was conducted between June and August 1987 based on a mitigation plan prepared for the City by Powers (Tate and Friedman 1986). As described in the final report (O'Neil et al. 1988), a total of approximately 110 cubic meters were hand excavated at the site to an average depth of 80 centimeters. In addition, 7 backhoe trenches mechanically removed 230 cubic meters in order to investigate site activity areas, determine the depth and extent of cultural deposits, and provide information on the site geomorphology and soils. Excavation Area A on the north side of Senac Creek recovered sufficient chronometric data and temporally diagnostic artifacts to indicate that the occupations in Area A occurred during the Early Ceramic Period (A.D. 150-1150) on the eastern Colorado plains (Gilmore et al 1999).

Chipped stone or lithic artifacts are the most abundant artifacts recovered from the Senac Site. The 15 classifiable projectile points include corner-notched arrow points, corner-notched dart points, and side-notched dart points (Figures 9-10). Other artifacts include end and side scrapers, bifaces (Figure 11), preforms and blanks, spokeshaves, a drill, 160 utilized flakes, 31 retouched flakes, and 2,526 pieces of debitage (Gilmore et al. 1999: 193). Bone tools (Figure 12) and groundstone (Figure 13) were also recovered. Over 100 ceramic sherds were collected, all assigned to the Colorado Plains Woodland affiliation (Figure 14). Site occupants hunted and ate mostly ungulates (pronghorn and deer), supplemented by prairie dog. The ungulates were taken elsewhere and brought to the Senac Site, where the meat was removed from the bones and the bones broken for the marrow (Gilmore et al.

1999: 193). The presence of fetal and neonate bones suggests at least three springtime occupations. Plants consumed at the site include mostly charred Ceno-am seeds of either *Chenopodium* (goosefoot) or *Amaranthus* (pigweed). Pollen recovered from the site indicates that the regional climate was warmer and drier than the periods immediately preceding and following the occupation(s) of the site. More xeric conditions followed until the Little Ice Age at ca. A.D. 1550-1850 (O'Neal et al. 1988: 212). The geological data substantiate these findings.

Dr. James Grady, with the assistance of Mr. E. Dederick Carrasco of Huerfano Consultants, organized a semester-long weekend field school at the site for students from the University of Colorado at Denver in the spring of 1989. This was the last field investigation at the site prior to the dam construction. The field school's research focus was on areas adjacent to those previously investigated. The field school recovered more chipped stone tools, ground stone, and fire-cracked rock, confirming the site served as a habitation camp during its occupation.

Research conducted at the Senac Site has greatly expanded our understanding of the Early Ceramic Period in eastern Colorado. The site retains significant potential for future research because it lies at the edge of the reservoir pool and much of the site remains unexcavated. Portions of the site may be exposed as water levels in the reservoir rise and fall. The site should be properly managed so that the data it still retains can be properly protected. The Aurora History Museum and Historic Sites seeks approval of the Senac Site Local Landmark nomination from this study session to move forward to City Council for the Mayor's signature.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does Council wish to support this Historic Landmark nomination form to be forwarded to City Council for a final hearing and Mayor's signature?

---

## LEGAL COMMENTS



The purpose of historic preservation is to establish historic areas and landmarks for the educational, **cultural, and economic benefit of Aurora's citizens. (Aurora, Colo. Code § 146-2.6.5.)** The designation of a landmark or landmark site is authorized if the site is of particular historical, architectural, cultural, or archaeological significance and exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state or community. (Aurora, Colo. Code § 146-5.4.1.D.3). The Historic Preservation Commission has the authority to make recommendations to City Council regarding the designations of landmarks, landmark sites, and historic districts, and for the approval of adjustments to the provisions of this UDO related to those properties, as described in Aurora, Colo. Code § 146-5.4.1.D.2.a, and for removal from designation as a landmark, landmark site, or historic district as described in Section 146-5.4.1.D.2.b. (Aurora, Colo. Code § 146-5.1.4.B.). The Historical Preservation Commission is required to conduct a public hearing on all landmark, landmark site, or historical district applications. (Aurora, Colo. Code § 146-5.4.1.D.2.a.iii) Following the public hearing the Historical Preservation Commission forwards a recommendation to City Council. (Aurora, Colo. Code § 146-5.4.1.D.2.a.v) City Council is then required to conduct a public hearing on the landmark, landmark site, or historical district application and shall decide on the application. (Aurora, Colo. Code § 146-5.4.1.D.a.2.vi) City Council shall act by ordinance, resolution or motion. (City Charter Art. V, Sec. 5-1.) (TJoyce)

---

# AURORA LANDMARK PROPERTIES

## NOMINATION FORM



City of Aurora Historic Preservation Commission

### SECTION A: SITE INFORMATION AND DESCRIPTION

1. *Name of Nominated Site*

Historic Name: **5AH.380**

Current Name: **Senac Dam Site (5AH.380)**

2. *Address of Property*

Street Address: **Aurora Reservoir, 5800 S. Powhaton Rd.**

County: **Arapahoe**

Zip Code: **80016**

3. *Geographic Description*

P.M.: **6th** Township: **5 South** Range: **65 West**

**NE** $\frac{1}{4}$  of **S W**  $\frac{1}{4}$  of **NE** $\frac{1}{4}$  of **S W**  $\frac{1}{4}$  of Section: **21**  
UTM: Zone **13** UTM East: **528210** UTM North: **4383198**

Quad Map: **Piney Creek, CO** Year: **1966, rev. 1994** Map Scale: **7.5'**

Lot(s): **1** Block: **1**

Addition: **Aurora Reservoir Subdivision** Year of Addition: **1988**

Boundary Description: **Site boundary is a rounded polygon, bounded by Senac Creek to the south and east, a smaller drainage and ridge to the north, and higher elevations to the west (Figure 1).**

4. *Legislative Information*

Aurora Ward #: **VI** Colorado House District: **56** Colorado Senate District: **27**

5. *Site Owner*

Current:

Name: **City of Aurora**

Address: **15151 E. Alameda Parkway** Phone: **(303) 739-7000** City: **Aurora**

State: **CO** Zip: **80012**

Historic: **United States of America (1940)**

Name(s): **Lowry Bombing and Gunnery Range**

Source(s) of information: **General Land Office Records BLM Doc. No. 11181940 BLM Serial OC 011308 0 August 1, 1888: Acquired-Military Purposes (25 Stat. 357)**

6. *Site Classification*

☐ building(s) ☐ district ☒ site ☐ structure ☐ object ☐ area

7. *Site Condition*

☐ excellent      ☒ good      ☐ fair      ☐ deteriorated      ☐ ruins

8. *Site Location*

☒ original location      ☐ moved (date of move \_\_\_\_\_ )

9. *Site Use*

Historic: **Early Ceramic Period Multi-activity Campsite**

Current: **Recreation Area Near Aurora Reservoir**

**SECTION B: DESIGN AND CONSTRUCTION INFORMATION**

10. *Physical and Site Description:* Site 5AH.380, the Senac Dam Site, was discovered and recorded by Powers Elevation Co, Inc. (Powers) in 1986 during an intensive cultural resources survey for the City of Aurora (City) of a large area that would be inundated by a reservoir behind the proposed Senac Dam (Tate and Friedman 1986). This area has since been renamed the Aurora Reservoir and is administered by the City. The site was initially recorded as a large, diffuse scatter of lithic artifacts made of silicified wood, with a quarry source at the west end and fire hearth feature in the northeast corner. The site covered slightly more than 5 acres and straddled Senac Creek (Figures 2, 4-6). Culturally modified bison bones were exposed in the cutbank of Senac Creek (Figures 3, 7, and 8) and determined to have been redeposited before the site occupation from an unknown original location upstream. Limited testing of the site in 1986 revealed the presence of significant buried cultural deposits, and a charcoal sample collected from the hearth returned a radiocarbon age estimate of  $1060 \pm 80$  radiocarbon years before present. Based on these results, the site was assessed as eligible for listing in the National Register of Historic Places and data recovery at the site was recommended to mitigate potential adverse effects resulting from the construction of Senac Dam and filling of the reservoir behind the dam. Data recovery at the site was conducted between June and August 1987 based on a mitigation plan prepared for the City by Powers (Friedman and Tate 1986). As described in the final report (O'Neil et al. 1988), a total of approximately 110 cubic meters were hand excavated at the site to an average depth of approximately 80 centimeters. In addition, seven backhoe trenches mechanically removed 230 cubic meters in order to investigate site activity areas, determine the depth and extent of cultural deposits, and provide information on the site geomorphology and soils. Excavation of Area A on the north side of Senac Creek recovered sufficient chronometric data and temporally diagnostic artifacts to indicate that the occupations in Area A occurred during the Early Ceramic period (A.D. 150-1150) on the eastern Colorado plains (Gilmore et al. 1999).

Chipped stone or lithic artifacts are the most abundant artifacts recovered from the Senac Dam Site. The 15 classifiable projectile points include corner-notched arrow points, corner-notched dart points, and side-notched dart points (Figures 9 and 10). Other artifacts include end and side scrapers, bifaces (Figure 11), preforms and blanks, spokeshaves, a drill, 160 utilized flakes, 31 retouched flakes, and 2,526 pieces of debitage (Gilmore et al. 1999: 193). Bone tools (Figure 12) and groundstone (Figure 13) were also recovered. Over 100 ceramic sherds were collected, all assigned to the Colorado Plains Woodland affiliation (Figure 14). Site occupants hunted and ate mostly ungulates (pronghorn and deer), supplemented by prairie dog. The ungulates were taken elsewhere and brought to the site, where the meat was removed from the bones and the bones broken for the marrow (Gilmore et al. 1999: 193). The presence of fetal and neonate bones

suggests at least three springtime occupations. Plants consumed at the site include mostly charred Cheno-am seeds of either *Chenopodium* (goosefoot) or *Amaranthus* (pigweed).

Pollen recovered from the site indicates that the regional climate was warmer and drier than the periods immediately preceding and following the occupation(s) of the site. More xeric conditions followed until the Little Ice Age at ca. A.D. 1550-1850 (O'Neil et al. 1988: 212). The geological data substantiate these findings.

Dr. James Grady, with the assistance of Mr. E. Dederick Carrasco of Huerfano Consultants, organized a semester-long weekend field school at the site for students from the University of Colorado at Denver in the Spring of 1989. This was the last field investigation at the site prior to the dam construction. The field school's research focus was on areas adjacent to those previously investigated. The field school recovered more chipped stone tools, ground stone and fire-cracked rock, confirming the site had served as a habitation camp during its occupation.

Research conducted at the Senac Dam Site has greatly expanded our understanding of the Early Ceramic period in eastern Colorado. The site retains significant potential for future research because it lies at the edge of the reservoir pool and much of the site remains unexcavated. Portions of the site may be exposed as water levels in the reservoir rise and fall. The site should be properly managed so that the data it still retains can be properly protected.

## **SECTION C: SITE SIGNIFICANCE**

### *13. Significance of Property Nomination*

Criteria:

☒ 1. The Property (District) Exemplifies or Reflects the Broad Cultural, Political, Economic, or Social History of the Nation, State, or Community.

☐ 2. The Property (District) Is Identified With a Historic Person or Historic Group Significant To National, State, or Local History.

☐ 3. The Property (District) Embodies Distinguishing Characteristics of an Architectural Type Inherently Valuable to the Study of a Period, Style, Method of Construction, or Indigenous Materials or Craftsmanship.

☐ 4. The Property (District) Is Representative as the Work of a Master Builder or Architect.

☒ 5. The Property (District) Contains the Possibility of Important Archaeological Discoveries in Prehistory or History.

☐ 6. The District Consists of a Definite Area That, Due To Its Unique Location or Singular Characteristics, Represents Established and Familiar Visual Features of the Neighborhood, Community, or City

### *14. Period of Significance*

*Period of Significance:* **Early Ceramic Period, A.D. 250-1000**

*Justification:* **Radiocarbon age estimates and temporally diagnostic artifacts**

### *15. Significance Statement*

**The Senac Dam Site (5AH.380) has yielded abundant data that provide valuable insights into the lifeways of Indigenous inhabitants of the Plains Woodland tradition and the Early Ceramic period in eastern Colorado. Because much of the site remains unexcavated, it is likely to yield additional archaeological data on the precontact era in this region.**

### *16. Bibliography*

**Friedman, Paul D. and Marcia J. Tate**



**1986 *Proposed Data Recovery Program at the Senac Dam Site, Arapahoe County, Colorado.***  
Powers Elevation Co., Inc., Denver.

**Gilmore, Kevin P., Marcia Tate, Mark L. Chenault, Bonnie Clark, Terri McBride, & Margaret Wood**  
**1999 *Colorado Prehistory: A Context for the Platte River Basin.*** Colorado Council of Professional Archaeologists, Denver.

**O'Neil, Brian P., Marcia J. Tate, Paul D. Friedman, and Robert J. Mutaw**  
**1988 *Data Recovery Program at Site 5AH380 for the City of Aurora Proposed Senac Dam and Reservoir, Arapahoe County, Colorado.*** Powers Elevation Co., Inc., Denver.

**Tate, Marcia J.**

**1986 Cultural Resource Reevaluation Form for 5AH380. Recording Form on file at the Office of Archaeology and Historic Preservation, History Colorado, Denver.**

**Tate, Marcia J. and Paul D. Friedman**

**1986 *A Cultural Resources Inventory of the Proposed Senac Dam Site, Arapahoe County, Colorado.*** Powers Elevation, Inc., Denver.

17. *Nomination Preparer*

Name: **Gordon C. Tucker Jr., Todd Christopher McMahon** Date: **June 2022**

Organization: **Aurora Historic Preservation Commission**

Address: **15051 E. Alameda Parkway** City: **Aurora** State: **CO** Zip: **80012**

Phone: **(303) 739-6600**

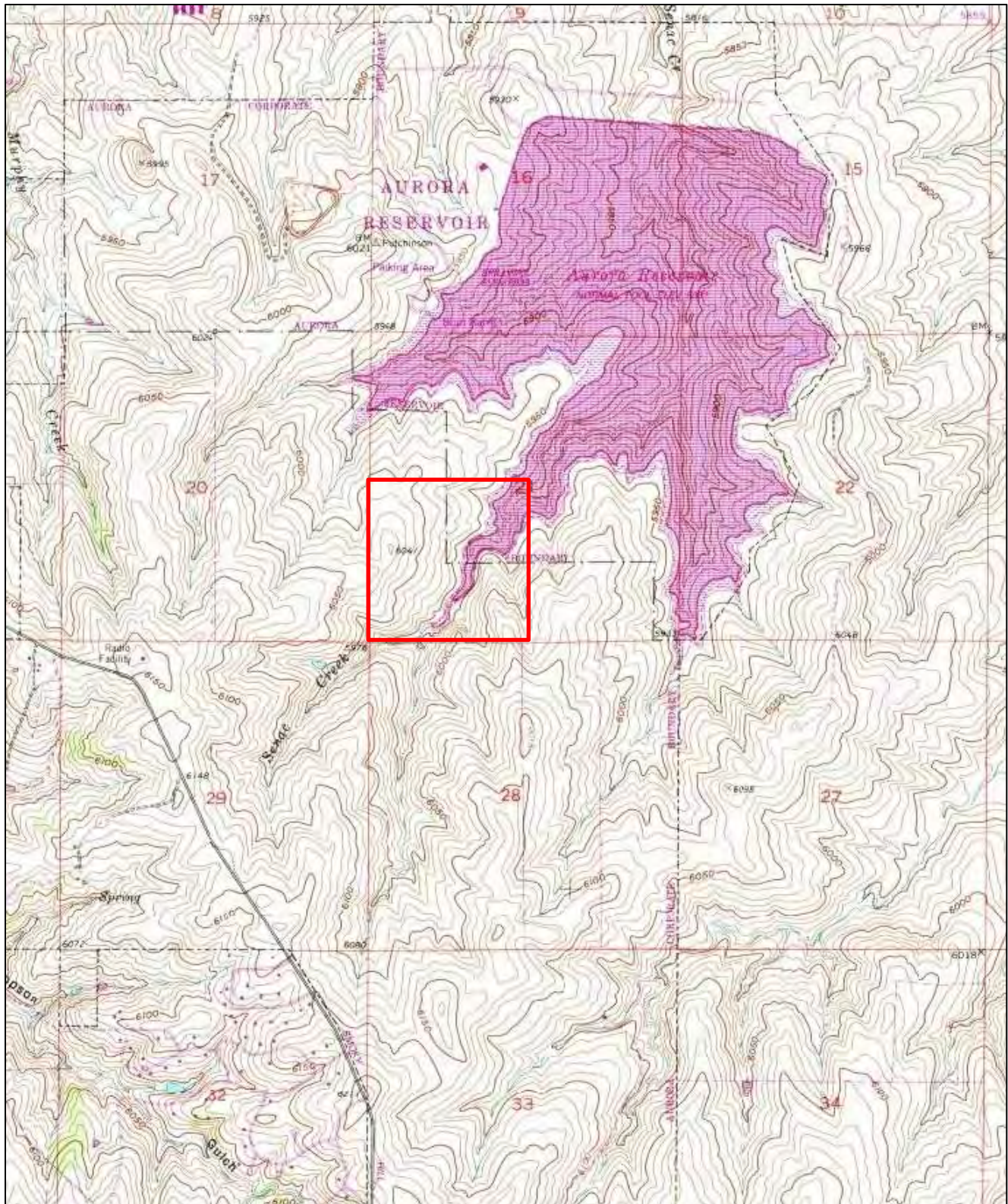






Figure 2. Plan View Sketch Map of the Senac Dam Site (5AH.380). Source: O'Neil et al. (1988: Figure 5).

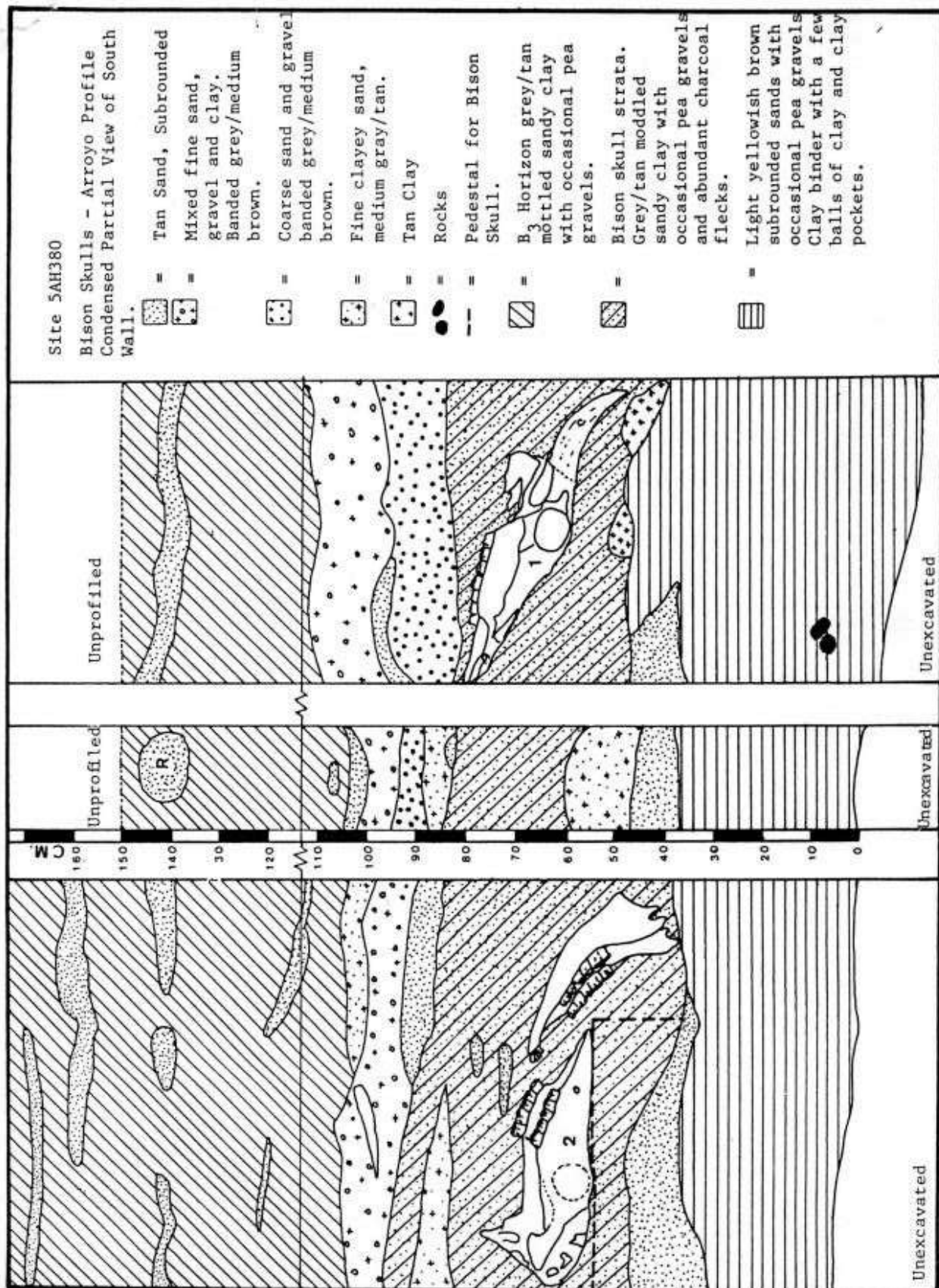


Figure 3. Profile of South Wall of Arroyo Showing Geological Deposits and Bison Skulls (numbered "1" and "2"). Source: Tate (1986).





**Figure 4. General overview of south end of Aurora Reservoir, looking northwest.**



**Figure 5. View of Senac Dam Site (5AH.380, looking south.**



**Figure 6. View of Senac Dam Site (5AH.380), looking north.**



**Figure 7. Bison Skull from Senac Creek Cutbank (AHM Collection).**

**Figure**

Page | 10





**8. Bison Mandibles from Senac Creek Cutbank (AHM Collection).**

**Figure**

Page | 11





**Figure 9. Corner-notched Projectile Point (AMH Collection 5AH380.4).**

**Figure**

Page | 12



**10. Corner-notched Projectile Point (AMH Collection 5AH380.5).**

**Figure**

Page | 13



**Figure 11. Biface (AMH Collection 5AH380.9).**

**Figure**

Page | 14



12. Bone Awl (AMH Collection 5AH380.6).

**Figure**

Page | 15



Figure 13. Metate Fragment (AMH Collection 5AH380.171).



**Figure 14. Cord-marked Pottery Sherds (AMH Collection 5AH380.7 and 5AH380.8).**



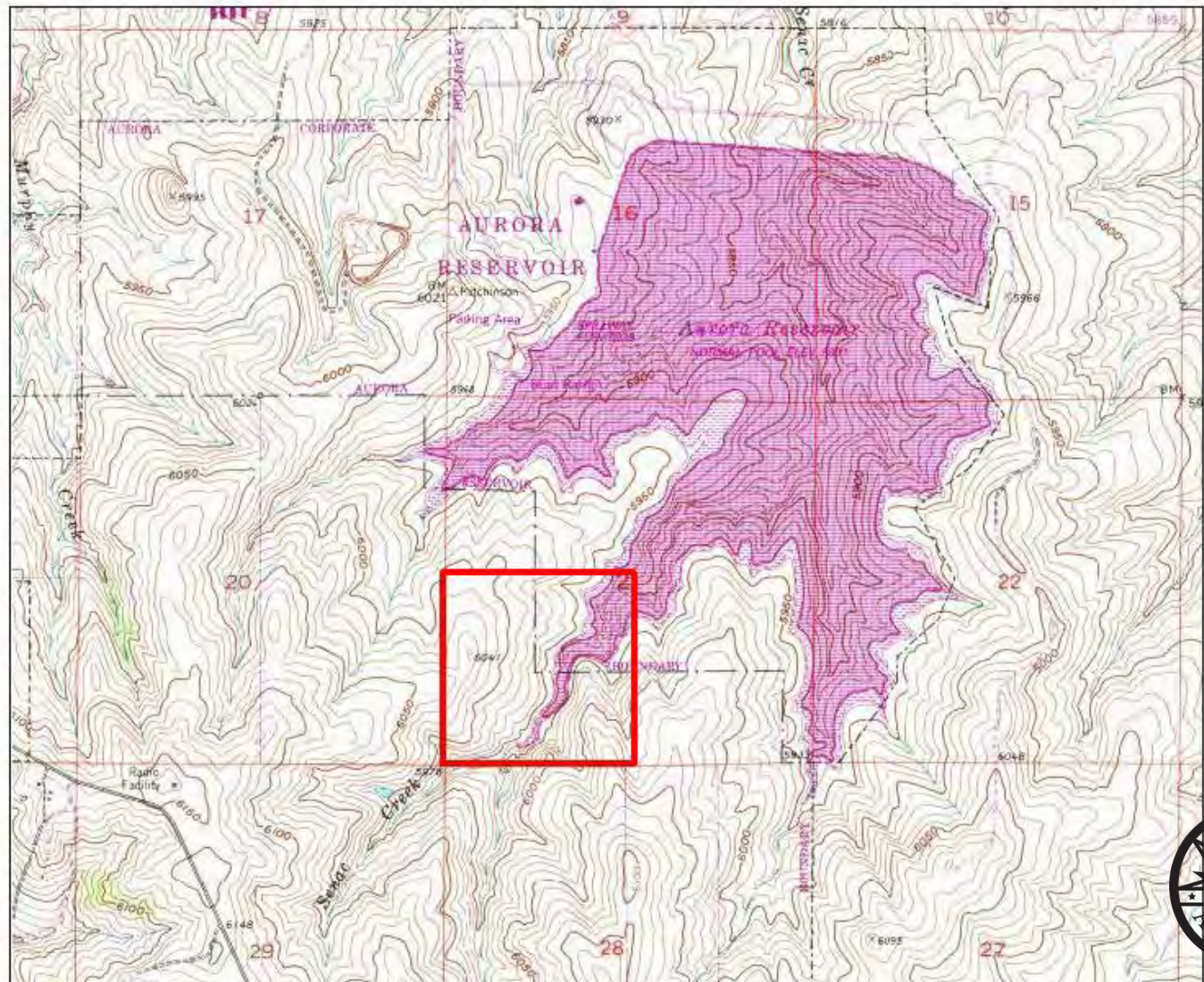
# SENAC SITE (5AH.380) HISTORIC LANDMARK NOMINATION PRESENTATION FOR THE AURORA CITY COUNCIL'S APPROVAL OF THE DESIGNATION OF THE CITY OF AURORA'S 33RD HISTORIC LANDMARK

COA City Council Study Session Presentation

*City of Aurora*



# Senac Site (5AH.380)





# Senac Site (5AH.380)



General overview of south end of Aurora Reservoir, looking northwest.



View of Senac Dam Site (5AH.380), looking south.



# Senac Site (5AH.380)



**View of Senac Dam Site (5AH.380), looking north.**





# Archaeological Collections at AHM



Bison Skull from Senac Creek Cutbank (AHM Collection).



Bison Mandibles from Senac Creek Cutbank (AHM Collection).



Corner-notched Projectile Point (AMH Collection 5AH380.4).



Corner-notched Projectile Point (AMH Collection 5AH380.5).





# Archaeological Collections at AHM



Biface (AMH Collection 5AH380.9).



Figure 13. Metate Fragment (AMH Collection 5AH380.171).



Bone Awl (AMH Collection 5AH380.6).



Cord-marked Pottery Sherds (AMH Collection 5AH380.7 and 5AH380.8).

# **Aurora History Museum & Historic Sites**

**Please check us out on Facebook, Twitter and Instagram!**

**303-739-6660**

**[www.auroramuseum.org](http://www.auroramuseum.org)**

**FREE ADMISSION**



**For more information on group tours  
of the Museum or Historic Sites,  
please call Scott Williams at 303-739-6667  
or e-mail: [twilliam@auroragov.org](mailto:twilliam@auroragov.org).**





THANK-YOU!!! See you at the museum & historic sites!



Delaney Farm Historic District, Round Barn



RESOLUTION NO. R2023- \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE DESIGNATING THE SENAC SITE LOCATED AT 5800 SOUTH POWHATAN ROAD, AURORA RESERVOIR VICINITY, AURORA, COLORADO, AS A LOCAL HISTORIC LANDMARK

WHEREAS, the Senac Site, located at 5800 South Powhatan Road, Aurora, Colorado, reflects the broad cultural, political, economic, or social history of the community for its role in the Early Ceramic Period (A.D. 250-1000) and the indigenous occupation in the Plains Woodland tradition of what would become Aurora; and

WHEREAS, the Senac Site has yielded abundant data providing valuable insights into the indigenous inhabitants in the Plains Woodland tradition as well as the Early Ceramic Period (A.D. 250-1000), it is likely to yield additional archaeological data as the site remains largely unexcavated; and

WHEREAS, a public hearing was conducted on June 14, 2022, by the Historic Preservation Commission for the purpose of considering the nomination of the Senac Site, located at 5800 South Powhatan Road, Aurora Reservoir vicinity, Aurora, Colorado, as a local historic landmark; and

WHEREAS, the Historic Preservation Commission recommends City Council should approve a local historic landmark designation for the Senac Site, located at 5800 South Powhatan Road, Aurora Reservoir vicinity, Aurora, Colorado; and

WHEREAS, City Council conducted a public hearing on whether the Senac Site, located at 5800 South Powhatan Road, Aurora Reservoir vicinity, Aurora, Colorado, should be designated as a local historic landmark; and

WHEREAS, the City Council finds and determines that historic designation for the Senac Site, located at 5800 South Powhatan Road Aurora Reservoir vicinity, Aurora, Colorado, is appropriate.

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

The Senac Site, located at 5800 South Powhatan Road, Aurora Reservoir vicinity, Aurora, Colorado, is hereby designated as a local historic landmark for the City of Aurora, Colorado.

RESOLVED AND PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023.

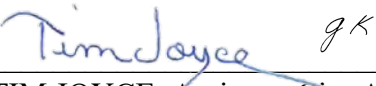
\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

---

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 *gk*

---

TIM JOYCE, Assistant City Attorney





# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Property Acquisition for the Parker Quincy Smoky Hill Improvements Project
<b>Item Initiator:</b> Stephon Fitch, Senior Real Estate Specialist
<b>Staff Source/Legal Source:</b> Hector Reynoso, Real Property Services Manager / Michelle Gardner Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** N/A

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO FOR THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR THE PARKER QUINCY SMOKY HILL IMPROVEMENTS PROJECT

Hector Reynoso, Real Property Services Manager / Michelle Gardner, 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 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<br><i>Reason for waiver is described in the Item Details field above.</i> |   |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Transportation, Airports & Public Works

**Policy Committee Date:** 7/12/2017

### 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"/> Minutes Not Available       |

☒ Minutes Attached

## HISTORY

July 12, 2017 - meeting of the TAPS policy committee, City Staff briefed the Committee on DRCOG exploring the development of a Dual Model Project Selection process for the upcoming 2020-2023 Transportation Improvement Project (TIP) cycle.

April 11, 2018 - meeting of the TAPS policy committee, more information was provided on the process. Specifically, that the 2020-2023 TIP cycle would include Regional and Sub-regional Share Projects. Sub-regional County Forums would be responsible for soliciting, selecting, recommending and submitting a list of projects to the DRCOG Board.

January 16, 2019 - meeting of the TAPS policy committee, an update was provided that IGAs with Adams and Arapahoe Counties had been executed by the City for the Sub-regional Forum TIP Selection Process. The call for projects had been completed and a total of eight projects totaling approximately \$32M had been selected, including the Parker / Quincy / Smoky Hill Project.

November 9, 2021 – Parker/Quincy/Smoky Hill Intersection Improvements - State of Colorado, and City of Aurora Intergovernmental Agreement.

March 3, 2022 – Transportation, Airport, and Public Works Policy Committee - Approval of Funding IGA for Parker Quincy Smoky Hill Project.

---

## ITEM SUMMARY

The City of Aurora ("City") has prepared plans to construct operational improvements within and around the intersection of Parker Road and Quincy Avenue through the Quincy Avenue and Smoky Hill Road intersection and surrounding areas, known as the Parker Quincy Smoky Hill Project ("Project"). A 2016 study identified the improvements as a means to reduce congestion and improve operational performance and safety in the project area. In early 2020, the city began the next step toward constructing the improvements, including a study to obtain environmental clearance and preparation of preliminary (30%) design plans. Final design is planned to begin in early 2022 and will be complete by the end of the year. Public Works has applied for and received federal Transportation Improvement Program ("TIP") funding for the construction of the project. To maximize the amount of TIP funding for construction, and to speed up the overall design process, Public Works elected to fund the design with city funds previously approved with the Tier 1 Priority Projects for this corridor, approved by City Council in March of 2018.

The Project required acquisition of property interest from 11 property owners. As of August 28, 2023, City staff has closed with 6 of the 11 property owners. City staff has negotiated with representatives from Furniture ROW ("FRRE"), 1 of the 11 property owners, to acquire fee simple title, drainage easement, and temporary construction easement rights to construct public improvements on private property as shown on the attached "**Exhibit A.**" Fee simple title will allow the City to construct a triple right turn lane at the intersection of Parker Road and Quincy Avenue. The drainage easement will allow the City to construct a water quality pond at the location Aurora deemed beneficial along the property. To accommodate the triple right turn lane the city had to relocate the FRRE electronic monument sign, also the removal of one light pole. Total compensation for fee simple title, drainage easement, and temporary construction easement rights to FRRE is not to exceed \$766,000.00 based on an appraisal.

City staff recommends approval of this acquisition from FRRE in an amount not to exceed \$766,000, plus incidental expenses and closing costs as part of the Project.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Revenue Impact  | <input checked="" type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact                       |  |

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Org# 49699 Account#68210

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does City Council approve acquiring the necessary property interests from FRRE in an amount not to exceed \$766,000, plus incidental expenses and closing costs, as part of the Parker/Quincy/Smoky Hill Improvements Project?

---

**LEGAL COMMENTS**

Pursuant to Colorado Revised Statute Section 31-15-101(d), the City of Aurora has the authority to acquire, hold, lease, and dispose of property, both real and personal. Pursuant to City Code Section 2-62(b), the City Manager shall have the power to approve and execute, on behalf of the City, each contract for the acquisition, lease, or rental of real property. BPM No. 4-14 states that all property acquisitions of \$500,000 or more must be approved by formal City Council action. (M. Gardner)

RESOLUTION NO. R2023-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, FOR THE ACQUISITION OF CERTAIN REAL PROPERTY  
INTERESTS NECESSARY FOR THE PARKER QUINCY SMOKY HILL  
IMPROVEMENTS PROJECT IN THE AMOUNT NOT TO EXCEED \$766,000  
PLUS INCIDENTAL EXPENSES AND CLOSING COSTS

WHEREAS, the City of Aurora, Colorado (“City”), desires to acquire certain real property interests from FRRE, LLC (“Seller”) located in Aurora, Arapahoe County (the “Property”), and necessary for the Parker Quincy Smoky Hill Improvements Project approved by City Council in Resolution 2022-73; and

WHEREAS, the acquisition of certain real property interests includes obtaining fee simple title to land by quit claim deed, a drainage easement, and a temporary construction easement; and

WHEREAS, the City desires to purchase the Property and Seller desires to sell the Property subject to the terms and conditions stated in the Memorandum of Agreement presented to City Council herein; and

WHEREAS, the acquisition of the Property will cost \$766,000 plus incidental expenses and closing costs; and

WHEREAS, pursuant to Colorado Revised Statute Section 31-15-101(d), the City has the authority to acquire, hold, lease, and dispose of property, both real and personal; and

WHEREAS, pursuant to City Code Section 2-62(b), the City Manager has authority to approve and execute, on behalf of the City, each contract for the acquisition, lease, or rental of real property; and

WHEREAS, all real property acquisitions over \$500,000 must be approved by formal City Council action, pursuant to Business Policy Memorandum No. 4-14; and

WHEREAS, the City Council of the City of Aurora finds and determines that it is in the best interest of the City and its citizens to authorize the purchase of the Property for the Parker Quincy Smoky Hill Improvements Project.

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

Section 1. The acquisition of the Property owned by FRRE, LLC, necessary for the Parker Quincy Smoky Hill Improvements Project, in the amount of \$766,000 plus incidental expenses and closing costs is hereby approved.

Section 2. The Mayor, City Clerk, and City Manager are hereby authorized to execute and deliver the real property acquisition documents 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 \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor



ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

RLA

Michelle Gardner  
MICHELLE GARDNER, Sr. Assistant City Attorney

<b>MEMORANDUM OF AGREEMENT</b> City of Aurora, Colorado		<b>Project:</b> Parker Quincy Smokey Hill	<b>Location/Legal:</b> Parcel # 228713 - PE-9, 228714 - RW-9, TE -9 See attached Exhibit A(s)
			
This Agreement made on this <u>24<sup>th</sup></u> day of <u>May</u> , 20 <u>23</u> , is between the property owner, <b>FRRE, LLC</b> ("GRANTOR") and the <b>CITY OF AURORA, COLORADO</b> , a home-rule city and Colorado municipal corporation of the Counties of Adams, Arapahoe, and Douglas, ("CITY"). The amount of money and/or compensation to be determined is full consideration for the following land described in the attached "Exhibit A" (herein after the "Property").			
<b>Total Compensation for Temporary Construction Easement</b>			<b>\$ 100,954.00</b>
<b>Total Compensation for Permanent Drainage Easement</b>			<b>\$ 85,277.00</b>
<b>Total Compensation for Fee Simple Title</b>			<b>\$ 342,666.00</b>
<b>Affected Site Improvements</b>			<b>\$ 237,104.00</b>
<b>TOTAL COMPENSATION</b>			<b>\$ 766,000.00</b>
<b>Other Conditions and Agreements:</b> GRANTOR and CITY agree that: <ol style="list-style-type: none"> <li>this Agreement is binding upon the GRANTOR and GRANTOR'S heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees upon execution by GRANTOR;</li> <li>this Agreement is binding upon the CITY, its successors or assigns, when executed by duly authorized representatives of the CITY;</li> <li>Just compensation was determined by an appropriate value procedure in accord with City's real property acquisition policy and Colorado state law and regulations;</li> <li>the compensation shall be considered payment in full for the Property;</li> <li>the scanned or facsimile signature of any signatory to this document shall be deemed an original for all purposes. This document may be executed in identical counterparts, each of which shall be deemed a duplicate original;</li> <li>CITY and GRANTOR agree that this memorandum, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject thereof, and any prior agreements pertaining thereto, whether oral or written have been merged and integrated into this memorandum;</li> <li>Closing shall take place at Fidelity National Title Company. ("Title Company").</li> </ol>			
<b>GRANTOR:</b> <ol style="list-style-type: none"> <li>will be responsible for securing releases from all liens resulting from work requested by Grantor, judgments against Grantor, and deeds of trusts securing loans to Grantor;</li> <li>will execute and deliver to CITY appropriate Quitclaim Deed, Drainage Easement and Temporary Construction Easement;</li> <li>will execute all documents as may reasonably be required by Fidelity National Title Company to convey the fee simple interest to the Property that are necessary for title company to provide insurable title for the CITY;</li> <li>will not grant any additional easements, leases or other uses of the Property from the date of GRANTOR's execution of this Agreement through the date of transfer of the abovementioned real property interest to the CITY;</li> <li>Shall not market the Property for sale prior to closing, or before this Agreement is terminated.</li> </ol>			
<b>CITY:</b> <ol style="list-style-type: none"> <li>will prepare the Quitclaim Deed and Drainage Easement.</li> <li>will prepare the Temporary Construction Easement.</li> <li>will remit payment to GRANTOR at closing after delivery of the Quitclaim Deed, and all executed Easements.</li> </ol>			
<b>Recommended By</b> Stephon Fitch - Sr. Real Estate Specialist  <i>Stephon Fitch</i>		<b>Date:</b> 5/31/2023	
<b>Reviewed By:</b> Matthew Cresto - City of Aurora Project Manager  <i>Matthew Cresto</i>		<b>Date:</b> 06/05/2023	
<b>Reviewed By:</b> Hector Reynoso - Real Property Manager  <i>Hector Reynoso</i>		<b>Date:</b> 5/31/23	
<b>Approved as to form By:</b> Michelle Gardner - Senior Assistant City Attorney		<b>Date:</b> 5/31/23	
		FRRE, LLC A Colorado limited liability company  By:  As: Manager  Print: Gregory A. Ruegsegger	

Approved as to form By:

Date:

Michelle Gardner – Senior Assistant City Attorney

6/5/2023

*Michelle Gardner*

Approver:

Date:

Cynthia A Colip, – Director of Public Works

06/05/2023

Elly Watson, Acting Director of Public Works

*Elly Watson* for Cindy Colip



## EXHIBIT A

PROJECT CODE: 23283  
PROJECT NUMBER: AQC M055-052  
PARCEL NUMBER: PE-9  
DATE: DECEMBER 22, 2022

A parcel of land No. PE-9 of the Colorado Department of Transportation, Project Code 23283, Project No. AQC M055-052, situated in the SW 1/4 of Section 6, Township 5 South, Range 66 West of the 6th Principal Meridian, City of Aurora, County of Arapahoe, State of Colorado, being a part of Lot 1, Block 1, East Bank Mall Subdivision Filing No. 2, the plat of said subdivision being recorded at Rec. No. 1466871 in the office of the Arapahoe County Clerk and Recorder, more particularly described as follows:

Commencing at the SW corner of said Section 6 (from whence the W 1/4 corner of said section bears N00°08'02"E, a distance of 2644.21 feet);

Thence N00°08'02"E, coincident with the westerly line and the westerly line extended of said Lot 1, a distance of 189.44 feet to the **Point of Beginning**;

Thence continuing N00°08'02"E, coincident with said westerly line, a distance of 21.21 feet;

Thence S89°51'30"E, a distance of 37.89 feet;

Thence S00°08'05"W, a distance of 32.76 feet;

Thence S34°33'41"E, a distance of 66.44 feet;

Thence S47°43'25"E, a distance of 10.79 feet;

Thence N89°54'37"E, a distance of 56.54 feet;

Thence S00°03'03"W, a distance of 25.88 feet;

Thence S89°54'37"W, a distance of 12.57 feet;

Thence N00°02'41"E, a distance of 16.72 feet;

Thence N89°57'19"W, a distance of 85.64 feet to a point of non-tangent curvature to the right;

Thence along said curve (whose chord bears N32°00'04"W, a distance of 52.65 feet) having a radius of 128.50 feet and a central angle of 23°38'36", an arc distance of 53.03 feet to a point of tangency;

Thence N20°10'46"W, a distance of 40.47 feet to the **Point of Beginning**.



The above-described parcel containing 4,987 square feet (0.114 acres), more or less.

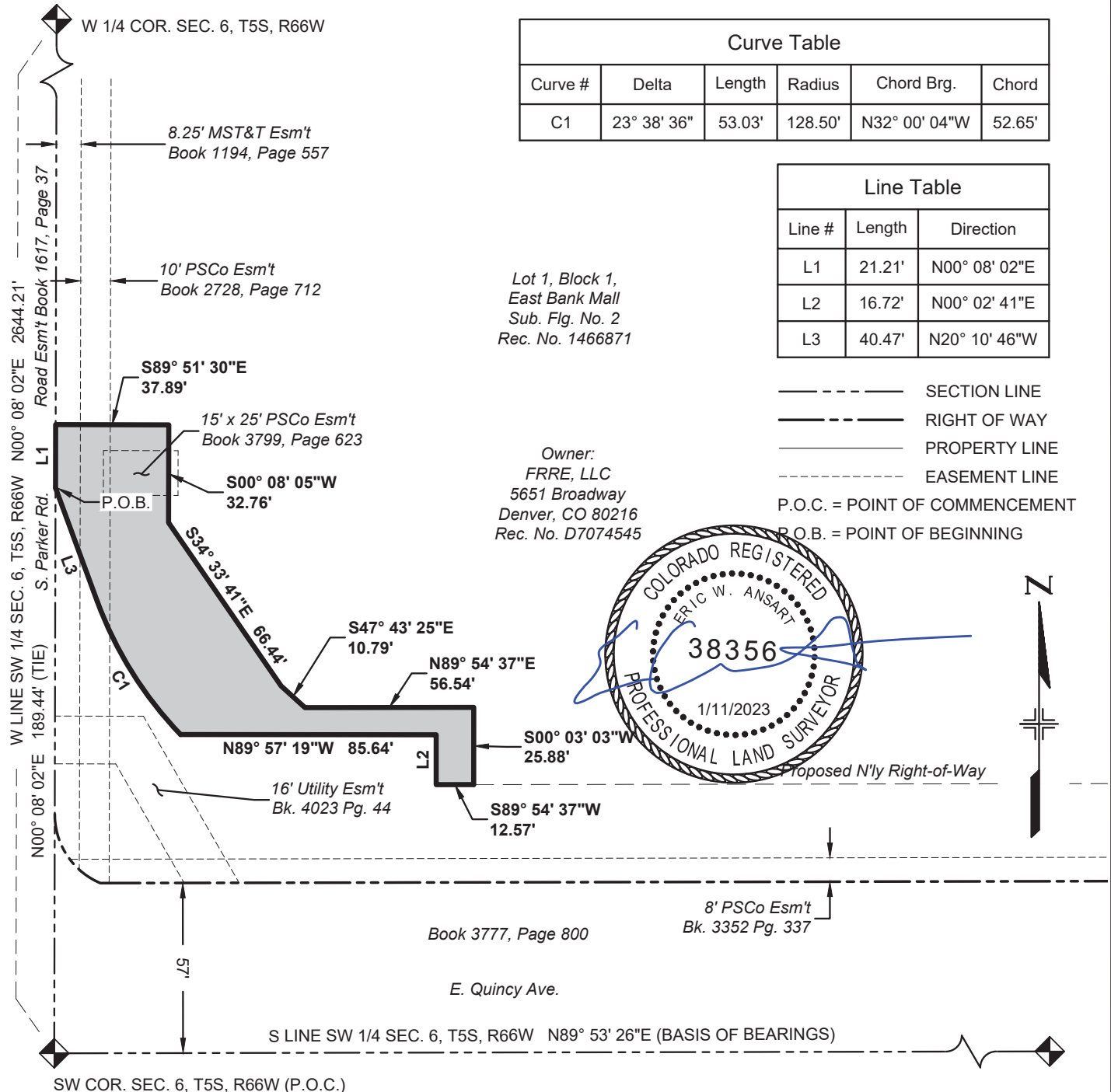
Bearings based on the south line of the SW 1/4 of Section 6, T5S, R66W, 6th PM, being N89°53'26"E, said bearing being a grid bearing of the NAD 1983(1992) State Plane Coordinate System of Colorado, Central Zone, and all lineal distances are represented in US Survey Feet.

Illustration attached and made a part hereof.

Eric W. Ansart  
Colorado PLS# 38356  
For and on behalf of the  
City of Aurora, Colorado  
13636 E. Ellsworth Ave.  
Aurora, Colorado 80012



# ILLUSTRATION FOR EXHIBIT A



## CITY OF AURORA, COLORADO

DRAWN BY: EWA	SCALE: NONE	R.O.W. FILE NUMBER PE-9
CHECKED BY: DMR	DATE: 12/22/2022	JOB NUMBER: 18065

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF  
SEC. 6, T5S, R66W, 6TH P.M., CITY OF AURORA,  
COUNTY OF ARAPAHOE, STATE OF COLORADO

## EXHIBIT A

PROJECT CODE: 23283  
PROJECT NUMBER: AQC M055-052  
PARCEL NUMBER: RW-9 REV1  
DATE: DECEMBER 22, 2022

A parcel of land No. RW-9 REV1 of the Colorado Department of Transportation, Project Code 23283, Project No. AQC M055-052, situated in the SW 1/4 of Section 6, Township 5 South, Range 66 West of the 6th Principal Meridian, City of Aurora, County of Arapahoe, State of Colorado, being a part of Lot 1, Block 1, East Bank Mall Subdivision Filing No. 2, the plat of said subdivision being recorded at Rec. No. 1466871 in the office of the Arapahoe County Clerk and Recorder, more particularly described as follows:

Commencing at the SW corner of said Section 6 (from whence the W 1/4 corner of said section bears N00°08'02"E, a distance of 2644.21 feet);

Thence N00°08'02"E, coincident with the west line of the SW 1/4 of said Section 6, a distance of 80.11 feet to a southwesterly corner of said Lot 1, said point being the **Point of Beginning**;

Thence continuing N00°08'02"E, coincident with the westerly line of said Lot 1, a distance of 109.33 feet;

Thence S20°10'46"E, a distance of 40.47 feet to a point of tangent curvature to the left;

Thence along said curve (whose chord bears S32°00'04"E, a distance of 52.65 feet) having a radius of 128.50 feet and central angle of 23°38'36", an arc distance of 53.03 feet to a point of non-tangency;

Thence S89°57'19"E, a distance of 85.64 feet;

Thence S00°02'41"W, a distance of 16.72 feet;

Thence N89°54'37"E, a distance of 310.38 feet;

Thence S00°06'34"E, a distance of 21.60 feet;

Thence S78°47'58"E, a distance of 33.08 feet;

Thence N89°55'10"E, a distance of 216.19 feet to a point on the southerly line of said Lot 1, said point being a point of non-tangent curvature to the right;

Thence coincident with said southerly line the following three (3) courses:

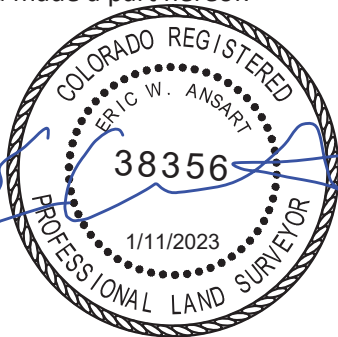
1. Thence along said curve (whose chord bears S57°17'12"W, a distance of 8.28 feet) having a radius of 25.00 feet and central angle of 19°03'35", an arc distance of 8.32 feet to a point of non-tangency;
2. Thence S89°53'26"W, a distance of 664.60 feet to a point of non-tangent curvature to the right;
3. Thence along said curve (whose chord bears N33°26'49"W, a distance of 27.66 feet) having a radius of 25.00 feet and central angle of 67°10'37", an arc distance of 29.31 feet to the **Point of Beginning**;

The above-described parcel containing 19,037 square feet (0.437 acres), more or less.

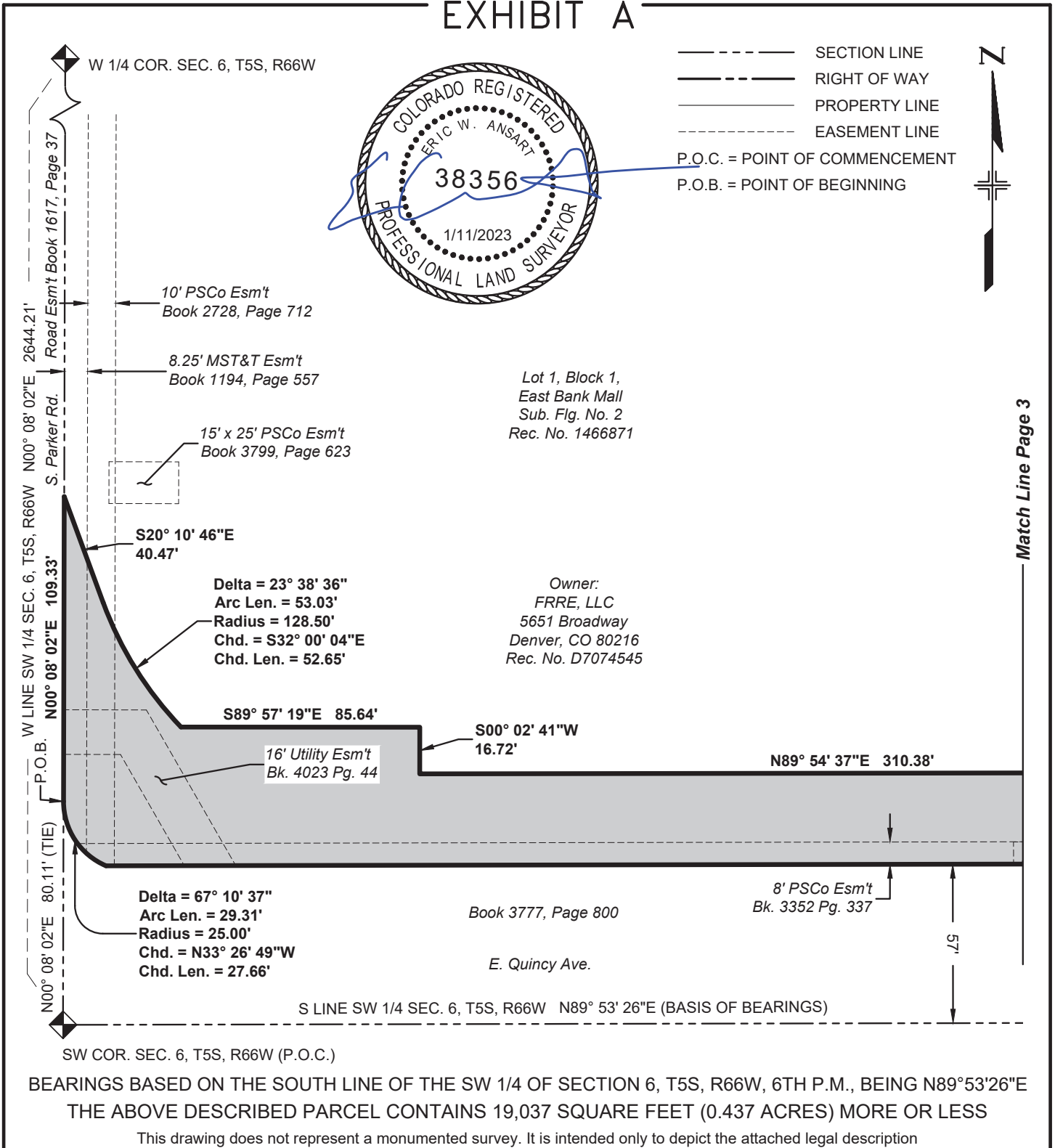
Bearings based on the south line of the SW 1/4 of Section 6, T5S, R66W, 6th PM, being N89°53'26"E, said bearing being a grid bearing of the NAD 1983(1992) State Plane Coordinate System of Colorado, Central Zone, and all lineal distances are represented in US Survey Feet.

Illustration attached and made a part hereof.

Eric W. Ansart  
Colorado PLS# 38356  
For and on behalf of the  
City of Aurora, Colorado  
13636 E. Ellsworth Ave.  
Aurora, Colorado 80012



# ILLUSTRATION FOR EXHIBIT A



## CITY OF AURORA, COLORADO

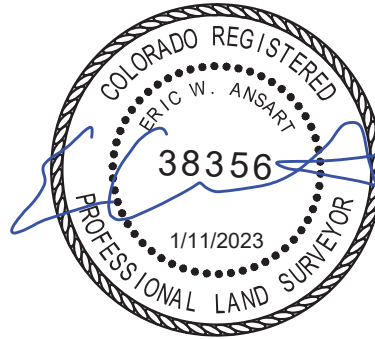
DRAWN BY: EWA	SCALE: NONE	R.O.W. FILE NUMBER RW-9 REV1
CHECKED BY: DMR	DATE: 12/21/2022	JOB NUMBER: 18065

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF  
SEC. 6, T5S, R66W, 6TH P.M., CITY OF AURORA,  
COUNTY OF ARAPAHOE, STATE OF COLORADO

# ILLUSTRATION FOR EXHIBIT A



- - - - - SECTION LINE  
 - - - - - RIGHT OF WAY  
 - - - - - PROPERTY LINE  
 - - - - - EASEMENT LINE  
 P.O.C. = POINT OF COMMENCEMENT  
 P.O.B. = POINT OF BEGINNING



Lot 1, Block 1,  
 East Bank Mall  
 Sub. Flg. No. 2  
 Rec. No. 1466871

Owner:  
 FRRE, LLC  
 5651 Broadway  
 Denver, CO 80216  
 Rec. No. D7074545

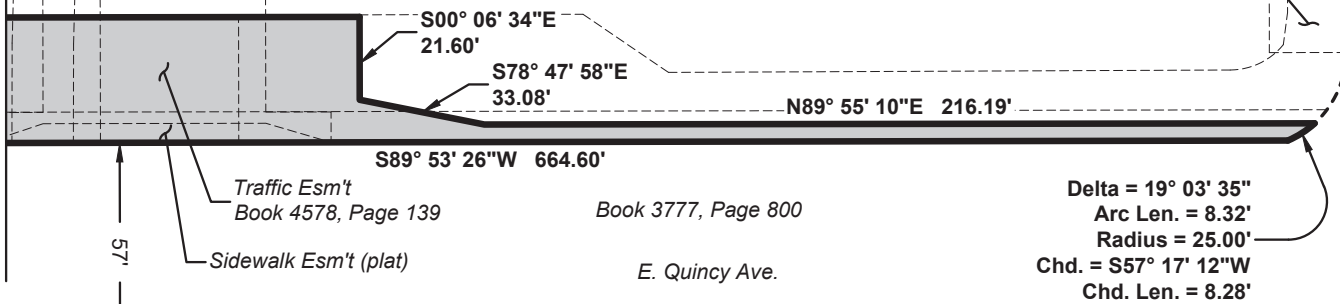
Match Line Page 2

16' Utility Esm't Book 3191, Page 536

30' Fire Lane Esm't Book 6516, Page 40

16' Utility Esm't  
Book 3314, Page 26

S. Atchison Way



Book 3777, Page 800

E. Quincy Ave.

S LINE SW 1/4 SEC. 6, T5S, R66W N89° 53' 26"E (BASIS OF BEARINGS)

S 1/4 COR. SEC. 6, T5S, R66W

BEARINGS BASED ON THE SOUTH LINE OF THE SW 1/4 OF SECTION 6, T5S, R66W, 6TH P.M., BEING N89°53'26"E  
 THE ABOVE DESCRIBED PARCEL CONTAINS 19,037 SQUARE FEET (0.437 ACRES) MORE OR LESS

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

## CITY OF AURORA, COLORADO

DRAWN BY: EWA	SCALE: NONE	R.O.W. FILE NUMBER RW-9 REV1
CHECKED BY: DMR	DATE: 12/21/2022	JOB NUMBER: 18065

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF  
 SEC. 6, T5S, R66W, 6TH P.M., CITY OF AURORA,  
 COUNTY OF ARAPAHOE, STATE OF COLORADO

## EXHIBIT A

PROJECT CODE: 23283  
PROJECT NUMBER: AQC M055-052  
PARCEL NUMBER: TE-9 REV1  
DATE: DECEMBER 22, 2022

A parcel of land No. TE-9 REV1 of the Colorado Department of Transportation, Project Code 23283, Project No. AQC M055-052, situated in the SW 1/4 of Section 6, Township 5 South, Range 66 West of the 6th Principal Meridian, City of Aurora, County of Arapahoe, State of Colorado, being a part of Lot 1, Block 1, East Bank Mall Subdivision Filing No. 2, the plat of said subdivision being recorded at Rec. No. 1466871 in the office of the Arapahoe County Clerk and Recorder, more particularly described as follows:

Commencing at the SW corner of said Section 6 (from whence the W 1/4 corner of said section bears N00°08'02"E, a distance of 2644.21 feet);

Thence N00°08'02"E, coincident with the westerly line and the westerly line extended of said Lot 1, a distance of 210.65 feet to the **Point of Beginning**;

Thence continuing N00°08'02"E, coincident with said westerly line, a distance of 6.47 feet;

Thence S89°41'54"E, a distance of 55.85 feet;

Thence S00°04'46"W, a distance of 13.76 feet;

Thence S89°52'29"E, a distance of 37.49 feet;

Thence S26°13'57"E, a distance of 16.91 feet;

Thence N90°00'00"E, a distance of 109.18 feet;

Thence S00°06'34"E, a distance of 74.18 feet;

Thence N89°54'37"E, a distance of 143.20 feet;

Thence S00°05'23"E, a distance of 9.61 feet;

Thence S89°57'29"E, a distance of 119.71 feet;

Thence S87°00'38"E, a distance of 201.97 feet;

Thence S89°51'30"E, a distance of 20.00 feet to a point on the easterly line of said Lot 1;

Thence coincident with said easterly line the following two (2) courses:

1. Thence S00°08'30"W, a distance of 12.36 feet to a point of curvature to the right;
2. Thence along said curve (whose chord bears S23°56'57"W, a distance of 20.18 feet) having a radius of 25.00 feet and central angle of 47°36'55", an arc distance of 20.78 feet to a point of non-tangency;

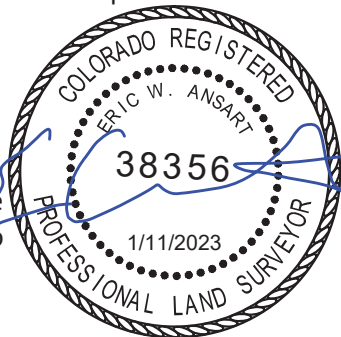
Thence S89°55'10"W, a distance of 216.19 feet;  
Thence N78°47'58"W, a distance of 33.08 feet;  
Thence N00°06'34"W, a distance of 21.60 feet;  
Thence S89°54'37"W, a distance of 297.81 feet;  
Thence N00°03'03"E, a distance of 25.88 feet;  
Thence S89°54'37"W, a distance of 56.54 feet;  
Thence N47°43'25"W, a distance of 10.79 feet;  
Thence N34°33'41"W, a distance of 66.44 feet;  
Thence N00°08'05"E, a distance of 32.76 feet;  
Thence N89°51'30"W, a distance of 37.89 feet to the **Point of Beginning**;

The above-described parcel containing 28,043 square feet (0.644 acres), more or less.

Bearings based on the south line of the SW 1/4 of Section 6, T5S, R66W, 6th PM, being N89°53'26"E, said bearing being a grid bearing of the NAD 1983(1992) State Plane Coordinate System of Colorado, Central Zone, and all lineal distances are represented in US Survey Feet.

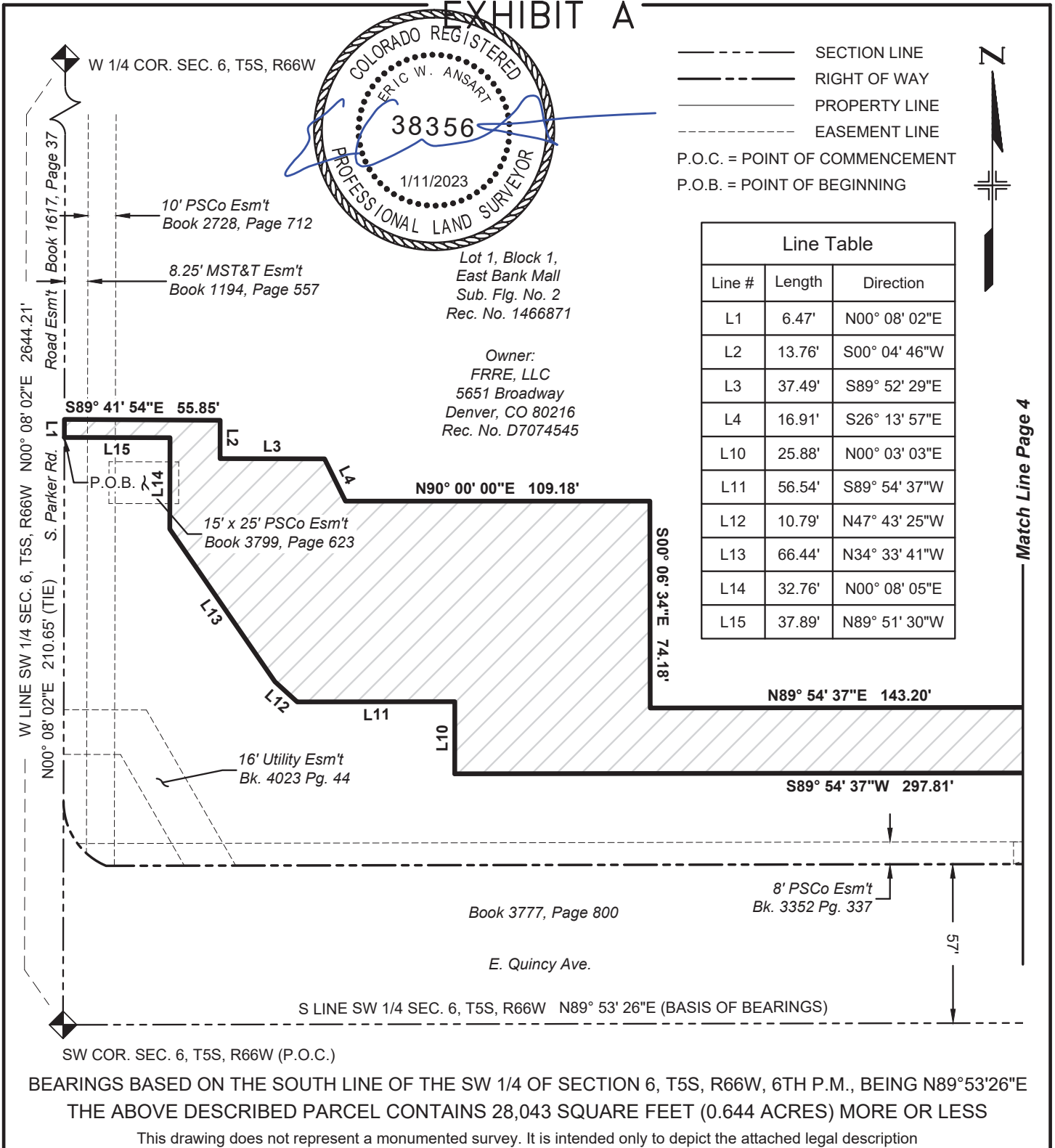
Illustration attached and made a part hereof.

Eric W. Ansart  
Colorado PLS# 38356  
For and on behalf of the  
City of Aurora, Colorado  
13636 E. Ellsworth Ave.  
Aurora, Colorado 80012





# ILLUSTRATION FOR EXHIBIT A



## CITY OF AURORA, COLORADO

<b>DRAWN BY:</b> EWA	<b>SCALE:</b> NONE	<b>R.O.W. FILE NUMBER</b> TE-9 REV1
<b>CHECKED BY:</b> DMR	<b>DATE:</b> 12/21/2022	<b>JOB NUMBER:</b> 18065

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF  
SEC. 6, T5S, R66W, 6TH P.M., CITY OF AURORA,  
COUNTY OF ARAPAHOE, STATE OF COLORADO

# ILLUSTRATION FOR EXHIBIT A



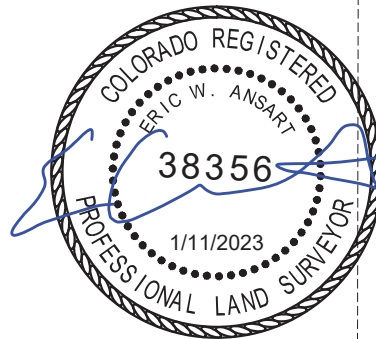
- - - - - SECTION LINE  
 - - - - - RIGHT OF WAY  
 - - - - - PROPERTY LINE  
 - - - - - EASEMENT LINE  
 P.O.C. = POINT OF COMMENCEMENT  
 P.O.B. = POINT OF BEGINNING

Curve Table					
Curve #	Delta	Length	Radius	Chord Brg.	Chord
C1	47° 36' 55"	20.78'	25.00'	S23° 56' 57"W	20.18'

Line Table		
Line #	Length	Direction
L5	9.61'	S00° 05' 23"E
L6	20.00'	S89° 51' 30"E
L7	12.36'	S00° 08' 30"W
L8	33.08'	N78° 47' 58"W
L9	21.60'	N00° 06' 34"W

Lot 1, Block 1,  
 East Bank Mall  
 Sub. Flg. No. 2  
 Rec. No. 1466871

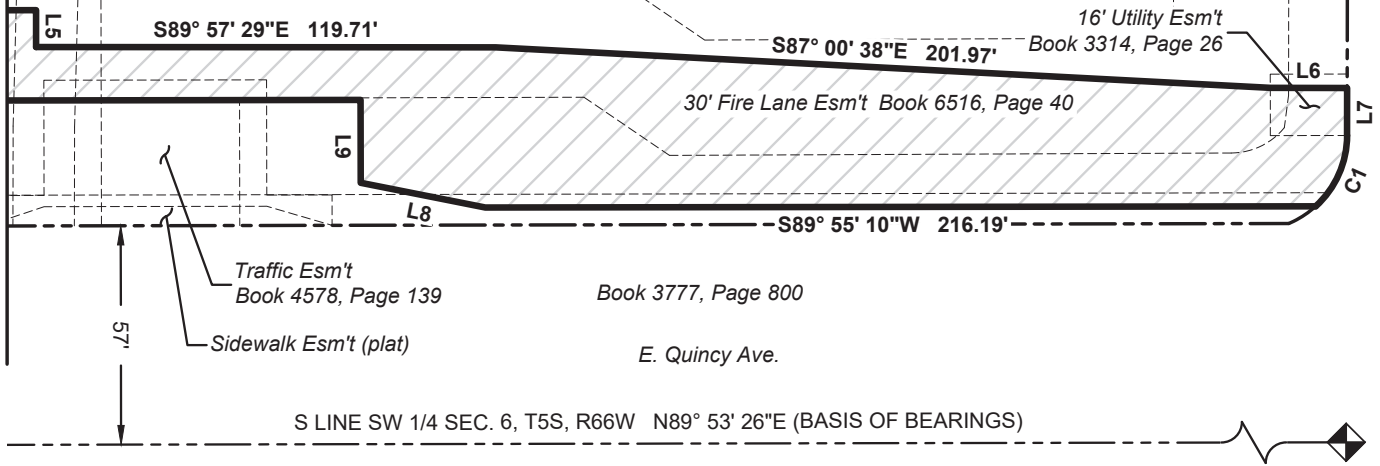
Owner:  
 FRRE, LLC  
 5651 Broadway  
 Denver, CO 80216  
 Rec. No. D7074545



Match Line Page 3

16' Utility Esm't Book 3191, Page 536

S. Atchison Way



BEARINGS BASED ON THE SOUTH LINE OF THE SW 1/4 OF SECTION 6, T5S, R66W, 6TH P.M., BEING N89°53'26"E  
 THE ABOVE DESCRIBED PARCEL CONTAINS 28,043 SQUARE FEET (0.644 ACRES) MORE OR LESS

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

## CITY OF AURORA, COLORADO

DRAWN BY: EWA	SCALE: NONE	R.O.W. FILE NUMBER TE-9 REV1
CHECKED BY: DMR	DATE: 12/21/2022	JOB NUMBER: 18065

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF  
 SEC. 6, T5S, R66W, 6TH P.M., CITY OF AURORA,  
 COUNTY OF ARAPAHOE, STATE OF COLORADO

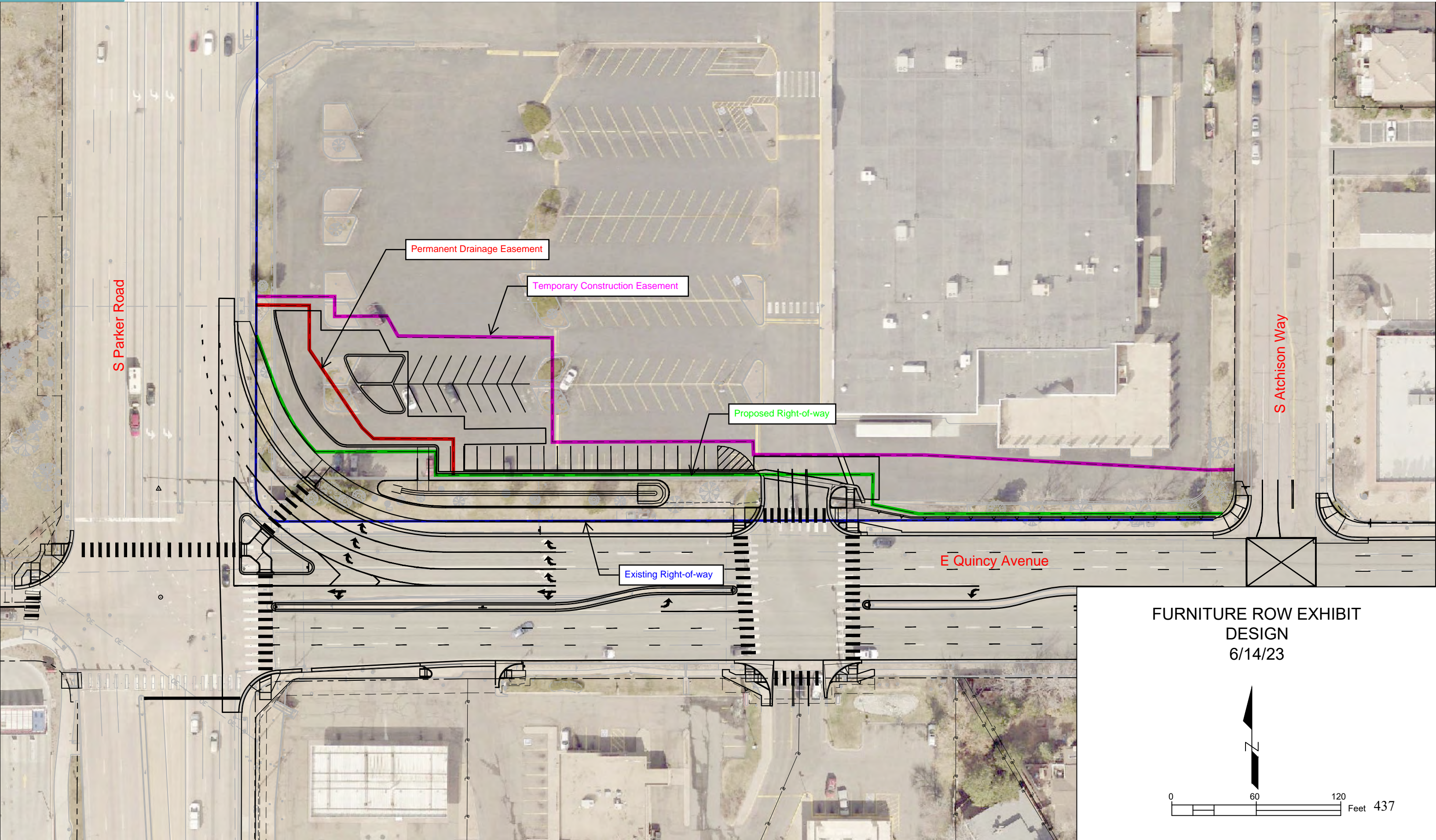




# EXHIBIT A

## Parker Road/Quincy Avenue/Smoky Hill Road

Final Design



FURNITURE ROW EXHIBIT  
DESIGN  
6/14/23



0 60 120 Feet 437



**STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT**  
**Signature and Cover Page**

<b>State Agency</b> Department of Transportation		<b>Agreement Routing Number</b> 22-HA1-XC-00241	
<b>Local Agency</b> CITY OF AURORA		<b>Agreement Effective Date</b> The later of the effective date or November 09, 2021	
<b>Agreement Description</b> Parker/Quincy/Smokey Hill Intersection Improvements		<b>Agreement Expiration Date</b> November 08, 2031	
<b>Project #</b> AQC M055-052 (23283)	<b>Region #</b> 1	<b>Contract Writer</b> LSC	<b>Agreement Maximum Amount</b> \$7,492,500.00

**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.

<p align="center"><b>LOCAL AGENCY</b> CITY OF AURORA</p> <p>DocuSigned by: <i>Michael Coffman</i> 6BED1A94972549D...</p> <p align="center">Signature</p> <p align="center">Michael Coffman</p> <p align="center">By: Mike Coffman Mayor</p> <p align="center">Date: <u>8/5/2022</u></p>	<p align="center"><b>STATE OF COLORADO</b> Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>DocuSigned by: <i>Steve Harelson</i> AB4C0B01642B42E...</p> <p align="center">Stephen Harelson, P.E., Chief Engineer</p> <p align="center">Date: <u>8/8/2022</u></p>
<p align="center">Local Agency Signatures</p> <p>Attest: <i>Kadee Rodriguez</i> Kadee Rodriguez, City Clerk</p> <p align="center">Date: <u>8/8/2022</u></p> <p>Approved as to Form: <i>Michelle Gardner</i> Michelle Gardner, Sr. Assistant City Attorney</p> <p align="center">Date: <u>8/2/2022</u></p>	<p align="center"><b>LEGAL REVIEW</b> Philip J. Weiser, Attorney General</p> <p align="center">N/A</p> <p align="center">Assistant Attorney General</p> <p align="center">By: (Print Name and Title)</p> <p align="center">Date: _____</p>
<p align="center">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.</p> <p align="center"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p align="center">DocuSigned by: <i>Loni Copelana</i> BDA801C5CFAC77...</p> <p align="center">By: _____ Department of Transportation</p> <p align="center">Effective Date: <u>8/8/2022</u></p>	

**TABLE OF CONTENTS**

1. PARTIES .....	2
2. TERM AND EFFECTIVE DATE .....	2
3. AUTHORITY .....	3
4. PURPOSE .....	4
5. DEFINITIONS .....	4
6. STATEMENT OF WORK .....	6
7. PAYMENTS .....	9
8. REPORTING - NOTIFICATION .....	14
9. LOCAL AGENCY RECORDS .....	14
10. CONFIDENTIAL INFORMATION-STATE RECORDS .....	15
11. CONFLICTS OF INTEREST .....	16
12. INSURANCE .....	16
13. BREACH .....	18
14. REMEDIES .....	18
15. DISPUTE RESOLUTION .....	19
16. NOTICES AND REPRESENTATIVES .....	20
17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION .....	20
18. GOVERNMENTAL IMMUNITY .....	21
19. STATEWIDE CONTRACT MANAGEMENT SYSTEM .....	21
20. GENERAL PROVISIONS .....	21
21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3) .....	23
22. FEDERAL REQUIREMENTS .....	25
23. DISADVANTAGED BUSINESS ENTERPRISE (DBE) .....	25
24. DISPUTES .....	25

EXHIBIT A, STATEMENT OF WORK  
EXHIBIT B, SAMPLE OPTION LETTER  
EXHIBIT C, FUNDING PROVISIONS  
EXHIBIT D, LOCAL AGENCY RESOLUTION  
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST  
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS  
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE  
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES  
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS  
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS  
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS  
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 November 08, 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](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)
Tracy Vance, CEPM 1
CDOT -- Region 1
2829 W Howard Pl, 2nd Floor
Denver, CO 80204
303-512-4090
Tracy.vance@state.co.us

### For the Local Agency

CITY OF AURORA
Matthew Cresto, Project Manager
15151 E. Alameda Parkway, Ste 3200
Aurora, CO 80012
303-739-7860
mcresto@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.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

**EXHIBIT A**  
**STATEMENT OF WORK**

**Parker/Quincy/Smoky Hill Intersection Improvements**  
**AQC M055-052**  
**23283**

This project will move the recommendations forward through environmental clearance, preliminary engineering, final design, ROW acquisition, and construction.

At the Parker/Quincy intersection, reconfiguration of the westbound Quincy Avenue approach to provide triple right turn lanes and a shared through-left lane. This allows the three westbound lanes on Quincy Avenue to feed directly into the three right turn lanes, substantially increasing capacity for the heavy westbound-to northbound movement while minimizing lane changing maneuvers.

At the Quincy/Smoky Hill intersection, reconfiguration of the northbound Smoky Hill Road approach to provide three exclusive left turn lanes and a shared through-right lane. This will allow drivers to utilize all three northbound left turn lanes from Smoky Hill Road to feed directly into the three westbound right turn lanes leading to northbound Parker Road. The southbound approach is reconfigured with a shared through-right lane and a left-turn lane, providing acceptable traffic operations for southbound traffic with more sidewalk area in the northwest corner of the intersection.

Shift of the crosswalk across Parker Road to improve the travel path alignment for pedestrians along the north side of Quincy Avenue with the Cherry Creek State Park entrance and regional trail access in the northwest corner of the intersection. Bicycle detection and counting equipment is recommended to facilitate bicyclists crossing Parker Road at Quincy Avenue and to measure the use of the crossing to access Cherry Creek State Park and regional trail.

At the Quincy Avenue and Smoky Hill Road intersection, a blank-out sign for the eastbound approach to warn right-turning drivers of pedestrians in the crosswalk across the south leg of the intersection. This blank-out sign would be activated with the pedestrian push button activation for the south crosswalk.

A new 12-foot sidewalk along the west side of Parker Road from Quincy Avenue to the existing end of the Parker West Trail, improving the multimodal connection between regional trails in the area.

A widened 12-foot sidewalk along the east side of Parker Road from Quincy Avenue to Rice Place, improving the multimodal connection to the retail and commercial properties south of the intersection.

A widened 10-foot sidewalk with pedestrian-oriented lighting along the north side of Quincy Avenue from Parker Road to Dillon Way, east of Smoky Hill Road, improving comfort and safety for pedestrians and bicyclists along Quincy Avenue.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.**

**EXHIBIT B****SAMPLE IGA OPTION LETTER**

<b>Date</b>	<b>State Fiscal Year</b>	<b>Option Letter No.</b>
<b>Project Code</b>	<b>Original Agreement #</b>	

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****AQC M055-052 (23283)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$7,492,500.00, which is to be funded as follows:

<b>1. BUDGETED FUNDS</b>				
a.	Federal Funds - CMAQ (80.00% of Participating Costs)			\$5,994,000.00
b.	Local Agency Matching Funds (20.00% of Participating Costs)			\$1,498,500.00
<b>TOTAL BUDGETED FUNDS</b>				<b>\$7,492,500.00</b>
<b>2. OMB UNIFORM GUIDANCE</b>				
a.	Federal Award Identification Number (FAIN):			TBD
b.	Federal Award Date (also Phase Performance StartDate):			See Below
c.	Amount of Federal Funds Obligated:			\$0.00
d.	Total Amount of Federal Award:			\$5,994,000.00
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
<b>3. ESTIMATED PAYMENT TO LOCAL AGENCY</b>				
a.	Federal Funds Budgeted			\$5,994,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs			\$0.00
<b>TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY</b>				<b>\$5,994,000.00</b>
<b>4. FOR CDOT ENCUMBRANCE PURPOSES</b>				
a.	Total Encumbrance Amount			\$7,492,500.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109			\$0.00
Net to be encumbered as follows:				\$7,492,500.00
<i>Note: No funds are currently available. Additional Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.</i>				
WBS Element 23283.10.30	Performance Period Start*/End Date TBD / TBD	Design	3020	\$0.00
WBS Element 23283.20.10	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 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, it being understood that such ratio applies only to the \$7,492,500.00 that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$7,492,500.00, and additional federal funds are made available for the Work, the Local Agency shall pay 20.00% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal 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 \$7,492,500.00, then the amounts of Local Agency and federal-aid 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 \$5,994,000.00 (for CDOT accounting purposes, the federal funds of \$5,994,000.00 and the Local Agency matching funds of \$1,498,500.00 will be encumbered for a total encumbrance of \$7,492,500.00), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. 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.

EFFECTIVE DATE: 4/11/2022

RESOLUTION NO. R2022-73

**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) FOR THE PARKER/QUINCY/SMOKY HILL INTERSECTION IMPROVEMENT 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 intends to construct operational improvements within and around the intersection of Parker Road and Quincy Avenue through the Quincy Avenue and Smoky Hill Road intersection and surrounding areas; and

WHEREAS, a 2016 study identified the improvements as a measure to reduce congestion and improve operational performance and safety in the project area; and

WHEREAS, in early 2020 the City began taking steps towards constructing the improvements, including a study to obtain environmental clearance and preparation of preliminary design plans and final design plans, which should be complete by the end of 2022; and

WHEREAS, the City’s Public Works Department has applied for and received federal Transportation Improvement Program (TIP) funding for the construction of the project; and

WHEREAS, to maximize the amount of TIP funding for construction, and to speed up the overall design process, Public Works Department elected to fund the design with City funds previously approved with the Tier I Priority Projects for this corridor, approved by City Council in March of 2018; and

WHEREAS, the grant application was submitted with a 55/45 ratio of federal to local agency dollars that includes an “overmatch” type of commitment, however, in Spring of 2021 DRCOG identified additional funding in the TIP and modified the project’s ratio to be 65/35; and

WHEREAS, as the administrator of the project, CDOT is only required to track the minimum local contribution of 20% match to federal funds, therefore, the intergovernmental agreement represents a total of \$7,492,500 while the total project budget is \$9,171,000, and the difference of \$1,678,500 is the City’s overmatch amount; 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 the Intergovernmental

Agreement between the City and CDOT for the Parker/Quincy/Smoky Hill Intersection Improvement Project.

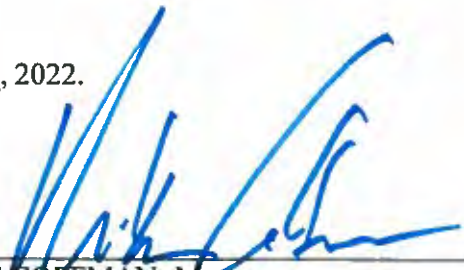
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Resolution Approving the Intergovernmental Agreement between the City and CDOT for the Parker/Quincy/Smoky Hill Intersection Improvement 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 11th day of April, 2022.

  
\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

  
\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

RLA

Michelle Gardner  
\_\_\_\_\_  
MICHELLE GARDNER, Sr. Assistant City Attorney

## EXHIBIT E - LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>			
<b>LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST</b>			
Project No. AQC M055-052	STIP No. SDR 6744	Project Code 23283	Region 01
Project Location Parker/Quincy/Smoky Hill Intersection Improvements			Date 02/10/2021
Project Description Reconfigure intersection to accommodate existing and future travel demand while improving ped safety			
Local Agency City of Aurora	Local Agency Project Manager Matthew Cresto		
CDOT Resident Engineer Maria Hajiaghaee	CDOT Project Manager Tracy Vance		
<p><b>INSTRUCTIONS:</b></p> <p>This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the <i>CDOT Local Agency Desk Reference (Local Agency Manual)</i>. LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource.</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, # will denote that CDOT must concur or approve.</p> <p>Tasks that will be performed by Headquarters staff are indicated with an X in the CDOT column under Responsible Party. 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>			

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		<b>TIP / STIP AND LONG-RANGE PLANS</b>		
	2.1	Review Project to ensure it is consistent with STIP and amendments thereto		X
		<b>FEDERAL FUNDING OBLIGATION AND AUTHORIZATION</b>		
	4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement). <i>Please write in "NA", if Not Applicable.</i>		x
		<b>PROJECT DEVELOPMENT</b>		
1	5.1	Prepare Design Data - CDOT Form 463	x	X
	5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
2	5.3	Conduct Consultant Selection/Execute Consultant Agreement <ul style="list-style-type: none"> <li>Project Development</li> <li>Construction Contract Administration (including Fabrication Inspection Services)</li> </ul>	X x	# #
3,3A	5.4	Conduct Design Scoping Review Meeting	x	X
3,6	5.5	Conduct Public Involvement		X
3	5.6	Conduct Field Inspection Review (FIR)		X

Previous editions are obsolete and may not be used.

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
4	5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5	5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
3	5.9	Obtain Utility and Railroad Agreements	X	
3	5.10	Conduct Final Office Review (FOR)	X	X
3A	5.11	Justify Force Account Work by the Local Agency	X	#
3B	5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
3	5.13	Document Design Exceptions - CDOT Form 464	X	#
3	5.14	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.15	Ensure Authorization of Funds for Construction		X
	5.16	Electronic Signatures	X	
	5.17	Records Management	X	
<b>PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE</b>				
3	6.1	Set Disadvantaged Business Enterprise (DBE) 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.)  Maria Hajaighaee 02/10/2021 _____ CDOT Resident Engineer (Signature on File) Date		X
	6.3	Set On-the-Job Training Goals (CDOT Region EEO/Civil Rights Specialist) "NA", if Not Applicable		X
3	6.4	Title VI Assurances	X	#
6,7		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	#
<b>ADVERTISE, BID AND AWARD of CONSTRUCTION PROJECTS</b>				
6,7	7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	#
7	7.2	Advertise for Bids	X	#
7	7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7	7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7	7.5	Open Bids	X	
7	7.6	Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. <i>Please write in "NA", if Not Applicable.</i>		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. <i>"NA", if Not Applicable.</i>		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
7,8	7.9	Award Contract	X	#
8	7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
<b>CONSTRUCTION MANAGEMENT</b>				
8	8.1	Issue Notice to Proceed to the Contractor	X	#
8	8.2	Project Safety	X	
8	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 CDOT Construction Manual)	X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i> )	<b>x</b>	
		HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i> )	<b>x</b>	
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	<b>x</b>	
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Matthew Cresto _____ 303-739-7860 Local Agency Professional Engineer or Phone number CDOT Resident Engineer	<b>x</b>	
		Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	<b>x</b>	
		Construction inspection and documentation	<b>x</b>	
		Fabrication Inspection and documentation	<b>x</b>	
9	8.6	Approve Shop Drawings	<b>x</b>	<b>#</b>
9	8.7	Perform Traffic Control Inspections	<b>x</b>	
9	8.8	Perform Construction Surveying	<b>x</b>	
9	8.9	Monument Right-of-Way	<b>x</b>	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent)  Provide the name and phone number of the person authorized for this task.  Matthew Cresto _____ 303-739-7860 Local Agency Representative Phone number	<b>x</b>	<b>#</b>
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	<b>x</b>	<b>#</b>
9B	8.12	Prepare and Authorize Change Orders	<b>x</b>	<b>#</b>
9B	8.13	Submit Change Order Package to CDOT	<b>x</b>	
9A	8.14	Prepare Local Agency Reimbursement Requests	<b>x</b>	
9	8.15	Monitor Project Financial Status	<b>x</b>	<b>#</b>
9	8.16	Prepare and Submit Monthly Progress Reports	<b>x</b>	<b>#</b>
9	8.17	Resolve Contractor Claims and Disputes	<b>x</b>	<b>#</b>
	8.18	Conduct Routine and Random Project Reviews  Provide the name and phone number of the person responsible for this task.  Maria Hajaighaee _____ 303-757-9014 CDOT Resident Engineer Phone number		<b>x</b>
9	8.19	Ongoing Oversight of DBE Participation		
	<b>MATERIALS</b>			
9,9C	9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required <b>prior to</b> installation of steel	<b>x</b>	<b>#</b>
9,9C	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	<b>x</b> <b>x</b>	<b>x</b>
9C	9.3	Perform Project Acceptance Samples and Tests	<b>x</b>	
9C	9.4	Perform Laboratory Verification Tests	<b>x</b>	
9C	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	<b>x</b> <b>x</b> <b>x</b>	

Previous editions are obsolete and may not be used.

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
9C	9.6	Approve Sources of Materials	x	
9C	9.7	Independent Assurance Testing (IAT), Local Agency Procedures <input type="checkbox"/> CDOT Procedures <input checked="" type="checkbox"/> <ul style="list-style-type: none"> <li>• Generate IAT schedule</li> <li>• Schedule and provide notification</li> <li>• Conduct IAT</li> </ul>	x x	x
9C	9.8	Approve mix designs <ul style="list-style-type: none"> <li>• Concrete</li> <li>• Hot mix asphalt</li> </ul>	x x	# #
9C	9.9	Check Final Materials Documentation	x	#
9C	9.10	Complete and Distribute Final Materials Documentation	x	
<b>CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE</b>				
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	x	
8,9	10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to CDOT EEO/Civil Rights Specialist	x	x
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	x	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	x	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. <ul style="list-style-type: none"> <li>• Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements.</li> <li>• Complete CDOT Form 838 – OJT Trainee / Apprentice Record.</li> <li>• Complete CDOT Form 200 - OJT Training Questionnaire</li> </ul>	x	
9	10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	x	x
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	x	
<b>FINALS</b>				
	11.1	Conduct Final Project Inspection. (Resident Engineer or CDOT PM with mandatory Local Agency participation.) Resident Engineer initiates CDOT Form 1212 - Final Acceptance Report.		x
10	11.2	Write Final Project Acceptance Letter	x	
10	11.3	Advertise for Final Settlement	x	
11	11.4	Prepare and Distribute Final As-Constructed Plans	x	
11	11.5	Prepare EEO Certification and Collect EEO Forms	x	
11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	x	
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	x	x
11	11.8	Obtain CDOT Form 1419 from the Contractor and Submit to the CDOT Project Manager	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	11.11	Process Final Payment	x	
	11.12	Complete and Submit CDOT Form 950 - Project Closure		x
11	11.13	Retain Project Records	x	
11	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

Previous editions are obsolete and may not be used.



## **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 journeymen 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 of 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.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**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**

 <b>CDOT SUBRECIPIENT RISK ASSESSMENT</b>		<b>Date:</b>			
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:					
<b>Instructions: (See "Instructions" tab for more information)</b> 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
<b>EXPERIENCE ASSESSMENT</b>			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"/>		
<b>MONITORING/AUDIT ASSESSMENT</b>			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"/>		
5	a) Were there non-compliance issues in this prior review?	<input type="checkbox"/>	<input type="checkbox"/>		
	b) What were the number and extent of issues in prior review?	<input type="checkbox"/>	<input type="checkbox"/>		
		1 to 2	>3		
<b>OPERATION ASSESSMENT</b>			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? 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.	<input type="checkbox"/>	<input type="checkbox"/>		
<b>FINANCIAL ASSESSMENT</b>			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"/>	<input type="checkbox"/>		
		>10%	<10%		
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	<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"/>		
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: <b>YES</b> = 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. <b>NO</b> = 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. <b>N/A</b> = 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"/>

**Comments** - As needed, include the question number and provide comments related to the above questions.  
Insert additional rows as needed.

☐ 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.


 Tool Version:  
v2.0 (081816)

**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. 2 CFR §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.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Tower Crossings South Zoning Map Amendment
<b>Item Initiator:</b> Erik Gates, Planner
<b>Staff Source/Legal Source:</b> Erik Gates, Planner, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 8/14/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 8/28/2023

**Item requires a Public Hearing:** ☒ Yes ☐ No

### ITEM DETAILS

A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 22.4 ACRES MORE OR LESS AT THE SOUTHEAST CORNER OF TOWER RD AND E 32ND PKWY FROM BUSINESS/TECH DISTRICT (I-1) TO MIXED-USE CORRIDOOR (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (TOWER CROSSINGS SOUTH ZONING MAP AMENDMENT)

Erik Gates, Planner, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney

### ACTIONS(S) PROPOSED

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

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Planning and Zoning Commission

**Policy Committee Date:** 7/26/2023

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

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☒ Minutes Attached

---

## HISTORY

The Planning and Zoning Commission heard the applicant's request for a Zoning Map Amendment in a public hearing on July 26<sup>th</sup>, 2023 and voted unanimously (7-0) to recommend approval to City Council. The Planning Commission Meeting Summary is attached (see Exhibit E) and this details the discussion and Planning Commission action on this item.

---

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

The applicant, Majestic Realty Co, is requesting approval of a Zoning Map Amendment to rezone approximately 22.4 acres from the Business/Tech (I-1) zone district to the Mixed-Use Corridor (MU-C) zone district. The subject property is located within Subarea C, at the southeastern corner of Tower Rd and E 32<sup>nd</sup> Parkway. The area is bounded by the Highline Canal and I-70 to the east and south, respectively. The anticipated uses for this property would be a mix of commercial uses, including restaurants, commercial service, a recreation center, and a hotel.

The area is located entirely within the Commercial Hub placetype of the Aurora Places Comprehensive Plan. The Commercial Hub placetype is stated to be intended to provide goods and services to nearby neighborhoods and other placetypes in the area. The proposed MU-C zone district aligns with the designated placetype and permits compatible uses, which are primarily identified to be restaurant and commercial uses in the Comprehensive Plan.

The proposal is being driven by the desire to expand the allowed commercial uses for this area, particularly for the hotel use, which is not allowed in the existing I-1 zone district. The zoning change also aligns with the previously approved Majestic Commercenter FDP, which identifies this area as being a retail/commercial subarea within the overall Majestic Commercenter development. The commercial uses allowed by this zoning will also support the nearby neighborhoods to the north and south of this area.

One (1) adjacent property owner and seven (7) registered neighborhood organizations were notified of the application. No comments were received by Staff regarding the zoning map amendment application during Staff review. Therefore, no neighborhood meeting was held.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A



**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does the City Council wish to approve the Zoning Map Amendment from the I-1 District to the MU-C District?

---

**LEGAL COMMENTS**

An application for rezoning to the Zoning Map for individual parcels or small areas shall only be recommended if the Planning Director and the Planning and Zoning Commission finds that the following criteria have been met, and shall only be approved if City Council finds that the following criteria have been met.

- i. The change to the Zoning Map is needed to correct an error (change in the character of surrounding areas does not constitute an error in the map); or
  
- ii. The change to the Zoning Map is required because of changed conditions or circumstances on the property or in the surrounding area and:
  - (a) The applicant has demonstrated that the proposed initial zoning or rezoning is consistent with the spirit and intent of the Comprehensive Plan, with other policies and plans adopted by the City Council, and with the purpose statement of the proposed new zone district(s);
  
  - (b) The applicant has demonstrated that the size, scale, height, density, and multi-modal traffic impacts of the proposed initial zoning or rezoning are compatible with surrounding development or can be made compatible with surrounding development through approval conditions; and
  
  - (c) The application demonstrates that the change in zoning will not create significant dislocations of tenants or occupants of the property, or that any impacts are outweighed by other public benefits or progress toward other Comprehensive Plan goals that would be achieved by approval of the application. (City Code Sec. 146-5.4.1.C.3). (Allen)





**Tower Crossing South  
Zoning Map Amendment**

**City of Aurora, Colorado**



*Aurora is  
Worth Discovering!*



Case Number: 1997-2023-05  
Development Application: #1127-44

Feet  
0 500 1,000

**Planning &  
Development Services**  
15151 E. Alameda Parkway  
Aurora CO 80012 USA  
AuroraGov.org  
303.739.1721  
GIS@auroragov.org





20100 East 32nd Parkway, Suite 150  
Aurora, CO 80011  
(303) 371-1400

MajesticRealty.com

June 28, 2023

City Of Aurora  
15151 East Alameda Parkway  
Aurora, CO 80012

Attention: Jacob Cox, Manager, Office of Development Assistance  
Justin Andrews, Project Manager, Office of Development Assistance  
Brandon Cammarata, Manager, Planning and Development Services  
Erik Gates, Planner, Planning and Development Services

RE: Re-Zone of Tower Crossings South at Tower Road and 32<sup>nd</sup> Parkway within the Majestic Commercenter

To Whom It May Concern:

Majestic Realty Co. is the owner of Tower Crossings South and is pleased to submit a Zoning Map Amendment request to rezone this property to MU-C zoning. Located at the Tower Road entrance to the Majestic Commercenter, Tower Crossings South consists of approximately 22.4 acres fronting Tower Road and I-70, and also bounded by East 32nd Parkway and the Highline Canal.

This zoning change meets the following criteria listed in Unified Development Ordinance Section 5.4.1.C.3.b.i.c, *Criteria for Approval for Ordinance Text Amendments and Legislative Rezoning of Large Areas*, which states that “the applicant has demonstrated that the proposed Ordinance amendment is consistent with the spirit and intent of the Comprehensive Plan and with other policies and plans adopted by the City Council; and the change to the Ordinance text is required to promote economic growth and investment that will not create material risks to the public health, safety, and welfare.”

The proposed rezoning for Tower Crossings South is consistent with the Aurora Places Comprehensive Plan, which designates this specific area as a Commercial Hub placetype, of which retail, commercial services and restaurants are permitted land uses. Additionally, the 2020 Framework Development Plan governing this area also allows for hotel and other retail uses as approved uses of the property, consistent with MU-C zoning.

Fronting the Tower Road retail corridor, with close proximity to Green Valley Ranch and other rooftops and businesses, this area is perfectly suited to serve the commercial needs of the surrounding area. Current zoning for Tower Crossings South currently allows industrial and some commercial uses under I-1 industrial zoning. MU-C zoning will allow for full commercial uses in this area in addition to aligning the zoning with Tower Crossings North, directly north of this area, and the other properties along the Tower Road retail corridor. This will, in turn, allow the property to achieve its highest and best use and maximize economic growth and investment in this area and the City of Aurora.



In essence, a rezone of Tower Crossings south will provide the most flexibility to create a thriving commercial and retail center that will benefit everyone in the area.

Thank you for your consideration. Please reach out if there are any questions.

Sincerely,  
Majestic Realty Co.

A handwritten signature in blue ink, reading "Michael V. Kapoor", written over the printed name.

Michael V. Kapoor  
Senior Vice President





Quik Trip

Car Wash

Bank

Storage

Hotel

East 32nd Parkway

Sit-Down Restaurant

Freddy's

Quick Serve Restaurant

Auto Services

IHOP

Fast Food Restaurants

Coffee

Sit-Down Restaurant

Recreation Center

Hotel

Tower Road

Interstate-70





**Planning and Zoning Commission  
DRAFT MINUTES  
July 26, 2023**

**1. General Business**

**7a. TOWER CROSSINGS SOUTH – ZONING MAP AMENDMENT**

The applicant, Majestic Realty Co, is requesting a recommendation of approval to the City Council for a Zoning Map Amendment to rezone a 22.4-acre site from the I-1 (Business/Tech) zone district to the MU-C (Mixed-Use Corridor). The subject property is located within Subarea C, at the southeastern corner of Tower Road and E 32<sup>nd</sup> Parkway. The area is bounded by the Highline Canal and I-70 to the east and south. The anticipated uses for this property would be a mix of commercial uses, including restaurants, commercial service, a recreation center, and a hotel.

The area is located entirely within the Commercial Hub placetype of the Aurora Places Comprehensive Plan. The Commercial Hub placetype is intended to provide goods and services to nearby neighborhoods and other placetypes in the area. The proposed MU-C zone district aligns with the designated placetype and permits compatible uses, which are primarily identified to be restaurant and commercial uses in the Comprehensive Plan.

The proposal is driven by the desire to expand the allowed commercial uses for this area, particularly for the hotel use, which is not allowed in the existing I-1 zone district. The zoning change will align with the previously approved Majestic Commercenter Framework Development Plan (FDP), which identifies this area as a retail/commercial subarea within the overall Majestic Commercenter development. The commercial uses allowed by this zoning will also support the nearby neighborhoods to the north and south of this area.

A legal notice appeared in the Aurora Sentinel on June 29, 2023.

**Testimony Given at the Hearing:**

Erik Gates, Case Manager, gave a presentation of the item, including the staff recommendation.

The Planning Commission did not have any questions for staff or the applicant.



**Planning and Zoning Commission  
DRAFT MINUTES  
July 26, 2023**

**Planning Commission Results**

**AGENDA ITEM 7a – ZONING MAP AMENDMENT**

A MOTION WAS MADE BY COMMISSIONER JETCHICK AND SECONDED BY COMMISSIONER BUSH.

MOVE TO RECOMMEND APPROVAL OF THE ZONING MAP AMENDMENT TO THE CITY COUNCIL TO REZONE THE SUBJECT PROPERTY FROM I-1 (BUSINESS/TECH) TO MU-C (MIXED-USE CORRIDOR), BECAUSE THE PROPOSAL COMPLIES WITH THE CRITERIA IN SECTION 146-5.4.1.C.3 OF THE UNIFIED DEVELOPMENT ORDINANCE FOR THE FOLLOWING REASONS:

1. THE PROPOSAL IS CONSISTENT WITH THE SPIRIT AND INTENT OF THE COMPREHENSIVE PLAN AND MAJESTIC COMMERCENTER FDP;
2. THE ZONING MAP AMENDMENT IS COMPATIBLE WITH THE SURROUNDING AREAS, ZONING DISTRICTS, AND USES; AND,
3. IT WILL NOT CREATE ANY DISLOCATIONS OF TENANTS OR OCCUPANTS OF THE PROPERTY.

**Further Discussion:**

Chair Walls stated that he believes that this zoning change makes a lot of sense, especially given the adjacency to Tower Road and the other Mixed Use zone districts in the area. This also provides more opportunities for services to residents and travelers.

Commissioner Gaiser stated that changing the zoning district to MU-C which allows hotels is important for the development of the industrial parks in the area.

Commissioner Hogan concurred with Chair Walls and Commissioner Gaiser and further stated it will provide both goods and services to those who work every day in the Majestic Commercenter.

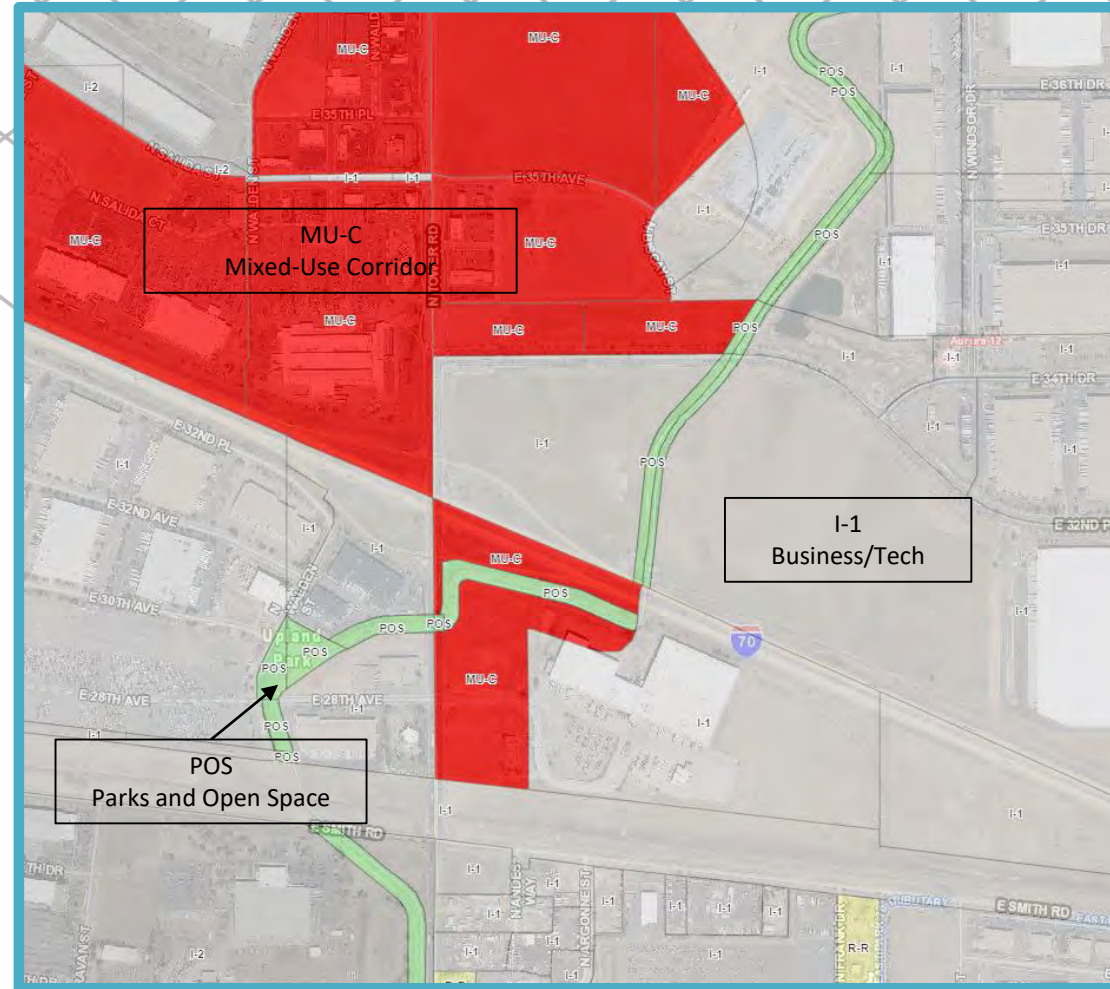
MOTION PASSED UNANIMOUSLY.

# VICINITY MAP

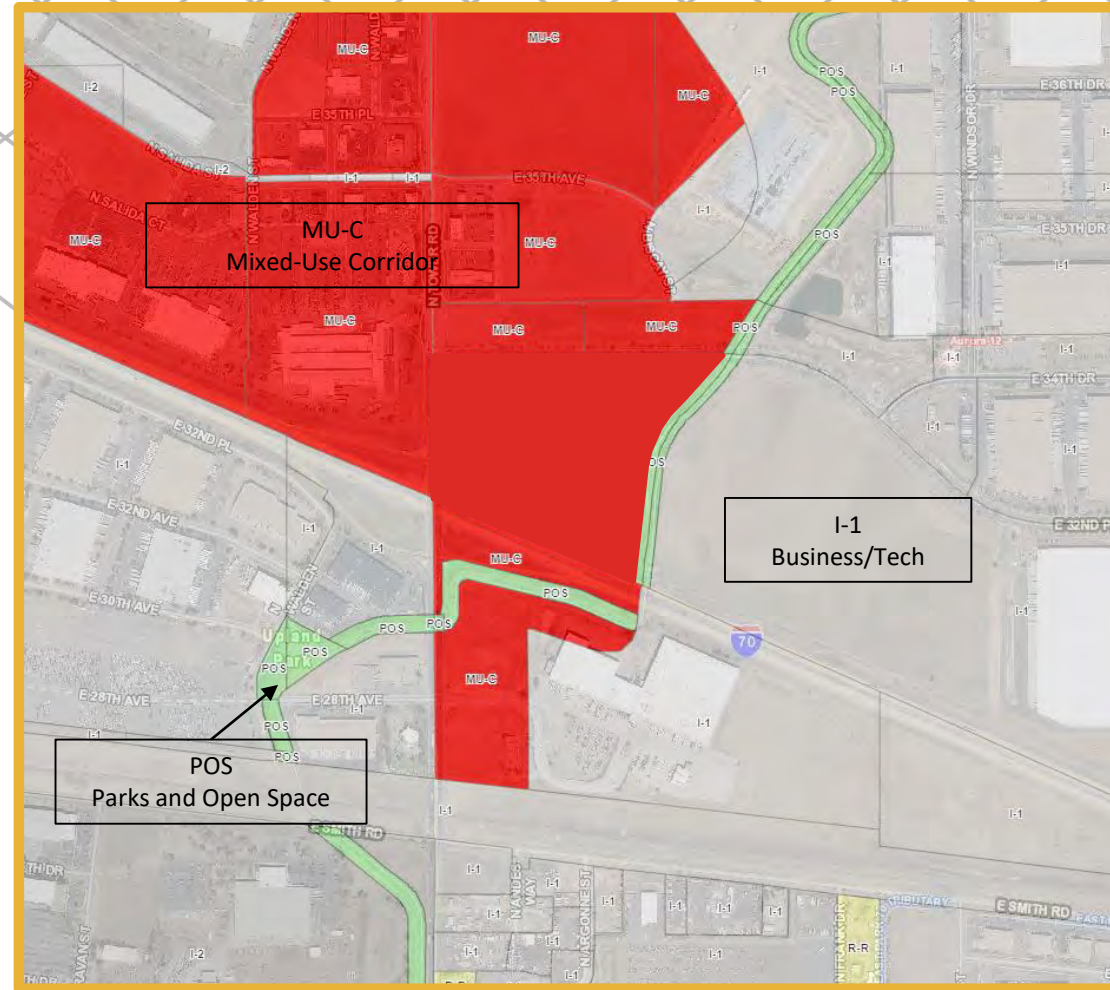




# CURRENT ZONING MAP



# PROPOSED ZONING MAP



ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING A PARCEL OF LAND MEASURING 22.4 ACRES MORE OR LESS AT THE SOUTHEAST CORNER OF TOWER RD AND E 32ND PKWY FROM BUSINESS/TECH DISTRICT (I-1) TO MIXED-USE CORRIDOOR (MU-C) AND AMENDING THE ZONING MAP ACCORDINGLY (TOWER CROSSINGS SOUTH ZONING MAP AMENDMENT)

WHEREAS, the applicant, Majestic Realty Co., has requested that 22.4 acres of land, more or less, located within Subarea C, at the southeastern corner of Tower Rd and E 32<sup>nd</sup> Parkway, City of Aurora, County of Adams, State of Colorado, be rezoned from Business/Tech (I-1) zone district to the Mixed-Use Corridor (MU-C) zone district; and

WHEREAS, Section 146-5.4.1.C.3 of the City Code provides that all applications for the rezoning of property within the City of Aurora, Colorado (the “City”), shall be presented for a public hearing, both to the Planning and Zoning Commission, who shall render a recommendation to City Council, and to City Council for final decision; and

WHEREAS, on July 26, 2023, following a public hearing, the Planning and Zoning Commission voted unanimously (7-0) to recommend the rezoning of the parcel.

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

Section 1. Based on the evidence presented at tonight’s public hearing, City Council finds and determines that: the rezoning is consistent with the spirit and intent of the Comprehensive Plan, is compatible with surrounding development, and would not result in a significant dislocation of tenants or occupants of the property.

Section 2. The parcel, as more particularly described in “Exhibit A” attached hereto and incorporated herein, is zoned Mixed-Use Corridor District (MU-C) and the zoning map is hereby amended in accordance with said zoning.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All ordinances or parts of ordinances of the City in conflict with this Ordinance or with any of the documents hereby approved are hereby repealed only to the extent

of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ, AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
RACHEL ALLEN, Client Group Manager

**LEGAL DESCRIPTION:**

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 27, 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 WEST QUARTER CORNER OF SAID SECTION 27 AND CONSIDERING THE WEST LINE OF SAID SOUTHWEST QUARTER TO BEAR SOUTH 00°19'30" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

THENCE SOUTH 38°18'29" EAST, A DISTANCE OF 178.74 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF EAST 32ND PARKWAY RECORDED AT RECEPTION NUMBER 1981020344288 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER AND THE **POINT OF BEGINNING**;

THENCE NORTH 89°40'30" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 1,565.80 FEET TO THE WESTERLY BOUNDARY OF THE HIGH LINE CANAL ACCORDING TO DENVER WATER DEPARTMENT DRAWING 68 NUMBER 1916 AND A NON-TANGENT CURVE TO THE RIGHT;

THENCE ALONG SAID WESTERLY BOUNDARY THE FOLLOWING FOUR COURSES:

- 1) ALONG SAID NON-TANGENT CURVE HAVING A CENTRAL ANGLE OF 08°14'33", A RADIUS OF 743.61 FEET, AN ARC LENGTH OF 106.98 FEET AND A CHORD THAT BEARS SOUTH 38°36'46" WEST, A DISTANCE OF 106.88 FEET;
- 2) SOUTH 42°44'03" WEST, A DISTANCE OF 286.00 FEET TO A CURVE TO THE LEFT;
- 3) ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 37°03'00", A RADIUS OF 647.97 FEET, AN ARC LENGTH OF 419.00 FEET AND A CHORD THAT BEARS SOUTH 24°12'33" WEST, A DISTANCE OF 411.74 FEET;
- 4) SOUTH 05°41'03" WEST, A DISTANCE OF 453.79 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF INTERSTATE 70 ACCORDING TO CDOT PROJECT NO. IR-70-4(96);

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY THE FOLLOWING EIGHT COURSES;

- 1) NORTH 66°26'31" WEST, A DISTANCE OF 217.21 FEET;
- 2) NORTH 58°39'35" WEST, A DISTANCE OF 576.51 FEET;
- 3) NORTH 47°40'20" WEST, A DISTANCE OF 188.50 FEET;
- 4) NORTH 25°31'18" WEST, A DISTANCE OF 110.12 FEET;
- 5) NORTH 00°19'30" WEST, A DISTANCE OF 99.91 FEET;
- 6) NORTH 28°28'18" WEST, A DISTANCE OF 169.81 FEET;
- 7) SOUTH 89°55'05" WEST, A DISTANCE OF 122.35 FEET;
- 8) NORTH 06°40'30" WEST, A DISTANCE OF 247.70 FEET TO SAID SOUTHERLY RIGHT-OF-WAY AND A NON-TANGENT CURVE TO THE RIGHT;

THENCE ALONG SAID NON-TANGENT CURVE HAVING A CENTRAL ANGLE OF  $21^{\circ}04'21''$ , A RADIUS OF 55.00 FEET, AN ARC LENGTH OF 20.23 FEET AND A CHORD THAT BEARS NORTH  $79^{\circ}08'19''$  EAST, A DISTANCE OF 20.11 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL CONTAINS AN AREA OF 976,994 SQUARE FEET, OR 22.428 ACRES, MORE OR LESS.



## SHEET 2 OF 2

POINT OF COMMENCEMENT  
WEST QUARTER  
CORNER SECTION 27  
FOUND 2.5" ALUMINUM  
CAP "LS 10945" 0.6'  
BELOW GRADE IN  
RANGE BOX

FOUND 3.25"  
ALUMINUM CAP  
"PLS 24962 CDOH"

55'

S89°55'05"W 122.35' (M)  
N89°59'00"E 122.35' (R5)

PROJECT BENCHMARK  
FOUND 3.25" BRASS  
CAP "CDOH 1.031185"  
ELEVATION = 5439.72'

TOWER ROAD  
(PUBLIC RIGHT-OF-WAY VARIES)  
BOOK 2800, PAGE 670

WEST LINE SOUTHWEST QUARTER SECTION 27  
(BASIS OF BEARINGS)  
S00°19'30"E 2,338.08'

N06°40'30"W 247.70' (M)  
N06°21'25"W 247.88' (R5)

PARCEL 4  
RIGHT-OF-WAY  
BOOK 3484, PAGE 601

N28°28'18"W 169.81' (M)  
N28°05'43"W 169.95' (R5)

SITE BENCHMARK  
ELEVATION = 5417.93'

N00°19'30"W 99.91' (M)  
N00°02'30"W 100.0' (R5)

N25°31'18"W 110.12' (M)  
N25°12'33"W 110.22' (R5)

PARCEL 4A  
RIGHT-OF-WAY  
BOOK 3484, PAGE 601

N47°40'20"W 188.50' (M)  
N47°21'14"W 188.50' (R5)

INTERSTATE 70  
(PUBLIC RIGHT-OF-WAY VARIES)  
CDOH PROJECT NO. IR 70-4(196)

N58°39'35"W 576.51' (M)  
N58°20'30"W 576.42' (R5)

N66°26'31"W 217.21' (M)  
N66°04'30"W 213.21' (R5)

FOUND 3" BRASS CAP  
"DMWW LS 16898 1980"  
IN CONCRETE BOLLARD  
2.3' ABOVE GRADE

FOUND #5 REBAR 1.25"  
YELLOW PLASTIC CAP  
"PLS 28664 CDOH"

FOUND #5 REBAR 1.25"  
ORANGE PLASTIC CAP "LS  
10945 CR MOORE ASSOC"  
0.1' SOUTH 0.2' WEST  
(NOT ACCEPTED)

S05°41'03"W 453.79' (M)  
S06°29'30"W 455.40' (R4)

N66°26'31"W 105.07' (M)  
N66°04'30"W 105.10' (R5)

FOUND #5 REBAR 1.25"  
YELLOW PLASTIC CAP "PLS  
28664 CDOH"

FOUND #5 REBAR 1.25"  
ORANGE PLASTIC CAP "LS  
10945 CR MOORE ASSOC"  
0.2' SOUTH 0.2' WEST  
(NOT ACCEPTED)

HIGH LINE CANAL  
DWD 68 NO. 1976

MAJESTIC REALTY CO  
UNPLATTED  
REC. NO. 2007000113862

PARCEL A  
976,994 SQ.FT.  
22.428 ACRES

NO BUILDING  
NO POSTED ADDRESS

LOT 1 BLOCK 1  
MCC RETAIL  
SUBDIVISION  
FILING NO. 1

EAST 32ND PARKWAY  
(138' PUBLIC RIGHT-OF-WAY)  
REC. NO. 199902344288  
L=68.28'

703.47'

862.3'

65.73' (TIE)  
S89°40'30"W 1,627.45' (M)  
S89°40'30"W 1,627.45'.53' (R1)  
S38°18'29"E 178.74' (TIE)  
N89°40'30"E 1,565.80' (M)  
N89°52'43"E 1,565.77' (R1)

C7

C3

C1

C2

71.55'

100'

FOUND NAIL IN  
3" CONCRETE  
BOLLARD 2.3'  
ABOVE GRADE

**MAJESTIC REALTY COMPANY**  
13191 CROSSROADS PKWY,  
CITY OF INDUSTRY, CA 91746

A DRAINAGE EASEMENT SITUATED IN THE WEST HALF QUARTER  
OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE  
SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF  
ADAMS, STATE OF COLORADO

Job No. DCS20-4011



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> 2023 IT Lease Purchase Authority
<b>Item Initiator:</b> Scott Newman, Chief Information Officer
<b>Staff Source/Legal Source:</b> Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** 6/5/2023

**Regular Meeting:** 6/12/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 6/26/2023

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

FOR AN ORDINANCE AUTHORIZING THE CHIEF INFORMATION TECHNOLOGY OFFICER TO ACQUIRE CERTAIN TANGIBLE AND INTANGIBLE INFORMATION TECHNOLOGY PROPERTY DURING THE 2023 FISCAL YEAR, EITHER BY PURCHASE OR PURSUANT TO THE TERMS OF LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BETWEEN THE CITY, AS LESSEE, AND LEASE INVESTORS, VENDORS OR THE AURORA CAPITAL LEASING CORPORATION, EACH AS LESSOR, AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY

Scott Newman, Chief Information Officer / Hanosky Hernandez, Senior Assistant City Attorney

Estimated time: 5 mins

### 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<br>Reason for waiver is described in the Item Details field above. |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 6/27/2023



---

**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.)*

A similar ordinance was approved / enacted at the May 9<sup>th</sup>, 2022 regular meeting of the City Council.

---

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

The Information Technology Department has the need to procure both tangible and intangible technology assets to support existing City operations, modernize existing capabilities, and develop and deploy new digital services for the community and City departments. Working with the Finance Department, City Legal, and outside bond counsel, it was recommended an ordinance be established to authorize IT to enter such lease purchase agreements on an annual basis. By doing so, the ordinance clearly defines the authority granted to Information Technology to make lease purchases for technology. In addition, the ordinance will satisfy IRS requirements related to the utilization of tax-exempt financing on any equipment paid for, over time, through lease purchase or other borrowing alternatives.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Revenue Impact  | <input checked="" type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact                       |  |

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

Any technology assets procured through lease purchase agreements should be funded through the IT Capital funding adopted and approved by City Council during the annual budget process. These funds may be booked against:

37714 – SIS Networking  
37721 – Telephone  
37760 – Cybersecurity (911 related activities)

Ongoing maintenance, subscriptions and renewals outside of the lease arrangement may be paid out of Operating funds, across the IT funding Orgs, as necessary and appropriated in a given budget year.

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

All anticipated work will be programmed and scheduled against the overall IT Project Portfolio.

---

**QUESTIONS FOR COUNCIL**

Does the Committee wish to advance this item to Study Session for further consideration?

---

**LEGAL COMMENTS**

The City is authorized to enter into long-term or short-term rental or leasehold agreements in order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, which agreements may include an option to purchase and acquire title to such leased or rented property, and may have a term, at the discretion of the City, in excess of 30 years. See, Sec. 31-15-801, C.R.S. & City Code Sec. 2-683. Any use of lease-purchase financing by the City shall be approved by ordinance. City Charter Art. 5-3. (Hernandez)

ORDINANCE NO. 2023-\_\_\_\_\_

A BILL

FOR AN ORDINANCE AUTHORIZING THE CHIEF INFORMATION TECHNOLOGY OFFICER TO ACQUIRE CERTAIN TANGIBLE AND INTANGIBLE INFORMATION TECHNOLOGY PROPERTY DURING THE 2023 FISCAL YEAR, EITHER BY PURCHASE OR PURSUANT TO THE TERMS OF LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BETWEEN THE CITY, AS LESSEE, AND LEASE INVESTORS, VENDORS OR THE AURORA CAPITAL LEASING CORPORATION, EACH AS LESSOR, AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY

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

WHEREAS, the City is authorized pursuant to Section 31-15-801 C.R.S., as amended, the City’s home rule powers, and Section 2-683 of the Aurora City Code, to enter into long-term or short-term rental or leasehold agreements in order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, which agreements may include an option to purchase and acquire title to such leased or rented property, and may have a term, at the discretion of the City, in excess of 30 years; and

WHEREAS, by Ordinance No. 2022-58, the City Council of the City (the “Council”) appropriated not to exceed \$ 2,400,000.00 for the acquisition of information technology hardware, software, licenses, and related items for use in the City’s information technology infrastructure and systems; and

WHEREAS, the City’s Chief Information Officer (the “CIO”) is charged with the responsibility to equip, maintain, and supervise the operations and provide for the security of the City’s information technology assets; and

WHEREAS, it is in the best interests of the City and its inhabitants to provide the CIO with sufficient authority and resources to carry out such responsibility in the most expeditious and efficient manner; and

WHEREAS, information technology is a rapidly developing field in which new and improved hardware and software are constantly being developed, particularly for the purpose of improving operations or protecting against security risks; and

WHEREAS, the Council intends to provide the CIO with all practicable means of improving and protecting the City’s information technology assets and the data kept thereon, including, without limitation, the means to respond promptly to emergencies; and

WHEREAS, because of the wide variety of information technology products, services, pricing and financing terms available, the responsibilities of the CIO include identifying which combinations of property and financing will best serve the needs of the City; and

WHEREAS, the CIO is in the best position to evaluate the necessity and capabilities of information technology products, including whether advantageous financing is available for particular items; and

WHEREAS, in order to provide for the information technology needs of the City, the Council hereby determines that it is necessary and in the best interests of the City and its citizens to authorize the CIO, on a case -by-case basis, to undertake either the purchase or lease-purchase financing of information technology hardware, software or any other need for use by the City, on whatever terms the CIO finds to be most advantageous to the City;

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

Section 1.     *Ratification of Actions.* All action heretofore taken, not inconsistent with the provisions of this Ordinance, by the Council or the officers of the City, directed toward the acquisition of information technology property in the manner described herein are hereby ratified, approved and confirmed.

Section 2.     *Information Technology needs.* The CIO is hereby authorized, during fiscal year 2023, to select, as needed, and arrange for the acquisition of any reasonably required information technology property, including all equipment, software, warranties, and service contracts accessory thereto and/or associated therewith, and to finance its acquisition either (a) by purchase outright with appropriated funds, or (b) if the CIO certifies in writing that it is necessary or desirable to obtain lease-purchase financing and that the proposed rentals do not exceed a reasonable amount for comparable property, by entering into a lease-purchase agreement having the terms and made subject to the limitations provided in this Ordinance.

Section 3.     *Maximum Amounts; Interest Rates; Terms.* The sum of (a) the total cost of information technology property purchased during fiscal year 2022 with appropriated cash and (b) the capital cost of all information technology property financed during such fiscal year with lease-purchase financing shall not exceed \$2,400,000.00. In the case of any lease-purchase agreement, the interest component of rental payments to be made by the City shall accrue at a rate not to exceed five percent (5%) per annum, and the term of any lease-purchase agreement entered into hereunder shall not exceed the lesser of the estimated useful life of the financed property or eighty-four (84) months. Rental payments may be made annually, semi-annually, or at any other convenient interval approved by the Director of Finance or the Treasurer. Any lease-purchase agreement proposed to be entered into shall, prior to its execution, be subject to review by the City Attorney, who may, but shall not be required to, obtain the services of outside bond counsel, and review and approval by the Director of Finance or the Treasurer or their respective delegates, in each case for consistency with this Ordinance.

Section 4.     *Findings; Authorizations.* The Council hereby finds and determines, pursuant to the City's home rule powers and the laws of the State of Colorado, that the acquisition

of the information technology property as authorized hereby is necessary, convenient, and in furtherance of the governmental purposes of the City and in the best interests of the City and its citizens; and the Council hereby authorizes such acquisition.

Section 5.     *Additional Documents.* The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this Ordinance. The Mayor, the City Manager, the CIO, the Director of Finance and the Treasurer (collectively, the “Authorized Officers”) are each authorized, upon the delivery of the CIO’s certificate pursuant to Section 2 hereof and satisfaction of the other conditions provided in this Ordinance, to execute and deliver for and on behalf of the City the lease purchase agreements and any and all additional certificates, documents and other papers, including without limitation, any documents necessary to support the tax treatment of the interest component of rentals under any lease purchase agreement, and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Ordinance.

Section 6.     *No General Obligation or Other Indebtedness.* The obligation of the City to make rental payments under each lease purchase agreement shall be subject to annual appropriation by the Council and constitutes an undertaking of the City to make current expenditures. Such payments shall be subject to termination and nonrenewal by the City in accordance with the provisions of each such lease purchase agreement. No provision of this Ordinance or any transaction hereunder shall be construed as constituting or giving rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any home rule, constitutional or statutory debt limitation nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the current fiscal year.

Section 7.     *Expression of Need.* The City hereby declares its current and anticipated need for the information technology property. It is hereby declared to be the present intention and expectation of the Council that each lease purchase agreement authorized hereunder will be renewed annually until title to all of the property leased thereby is acquired by the City; but this declaration shall not be construed as contractually obligating or otherwise binding the City.

Section 8.     *Reasonable Rentals.* The Council hereby determines and declares that, after execution and delivery of each lease purchase agreement, provided such lease purchase agreement is entered into within the maximum amount, interest accrual and other terms authorized by this Ordinance, the rental payments due thereunder will represent the fair value of the use of the property leased thereby and the purchase price, as defined therein, will represent, as of any date upon which the City may exercise its option to purchase such property, the fair purchase price thereof. The Council further hereby determines and declares that, after the execution and delivery of each lease purchase agreement in compliance with this Ordinance, the rental payments due thereunder will not exceed a reasonable amount so as to place the City under an economic or practical compulsion to renew the lease or to exercise its option to purchase the property subject to the lease. In making such determinations, the Council has given consideration to the cost of acquiring and installing the property, the uses and purposes for which the property will be employed by the City, the benefit to the citizens of the City by reason of the acquisition and use of the property pursuant to the terms and provisions of each lease purchase agreement, the City’s option to purchase the property, the special expertise of the CIO expected to be exercised in

selecting and financing such property, and the expected eventual vesting of title to, or other indicia of ownership of, the property in the City. The Council hereby determines and declares that, after execution and delivery of each lease purchase agreement, the maximum duration of the portion of the Lease allocable to any item of property separately identified in the payment schedule appended thereto will not exceed the weighted average useful life of such item of property.

Section 9. *Operating Leases Not Affected.* The cash or lease purchase financing options authorized herein are not intended to be exclusive, and nothing herein limits any existing authority of the City or the CIO to arrange temporary operating leases (i.e., leases which do not provide for the transfer of title to the leased property at the end of their term) of real or personal property for the storage, use or operation of information technology assets.

Section 10. *Confirmation of Prior Acts.* All prior acts and doings of the officials, agents and employees of the City which are in conformity with the purpose and intent of this Ordinance and in furtherance of the acquisition of information technology property are in all respects ratified, approved and confirmed.

Section 11. *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 12. *Repealer.* 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 13. *Publication.* Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ, AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

---


MIKE COFFMAN, Mayor

ATTEST:

---

KADEE RODRIGUEZ,  
City Clerk

APPROVED AS TO FORM:

 JK

---

HANOSKY HERNANDEZ,  
Sr. Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Single Subject Ballot Initiatives
<b>Item Initiator:</b> Curtis Gardner, Mayor Pro Tem
<b>Staff Source/Legal Source:</b> Dan Brotzman, City Attorney / Jack Bajorek, Assistant City Attorney
<b>Outside Speaker:</b> None
<b>Council Goal:</b> Select a Council Goal

### COUNCIL MEETING DATES:

**Study Session:** 7/24/2023

**Regular Meeting:** 7/31/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 8/14/2023

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-121 AND 54-131 OF THE CITY CODE PERTAINING TO BALLOT INITIATIVES  
Sponsor: Curtis Gardner, Mayor Pro Tem  
Dan Brotzman, City Attorney / Jack Bajorek, Deputy City Attorney  
Estimated time: 20 mins

### 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 type="checkbox"/> Information Only   |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field above. |  |

### 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"/> Minutes Not Available       |



☐ Minutes 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.)*

This item was requested by Mayor Pro Tem Gardner.

---

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

An ordinance that requires each ballot initiative to include not more than one single subject.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☐ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

---

**QUESTIONS FOR COUNCIL**

Does Council wish to move this item forward to a Regular Meeting of the City Council?

---

**LEGAL COMMENTS**

Council has the power to make and publish ordinances consistent with the laws of the state for carrying into effect or discharging the powers and duties conferred by the State Constitution, State Statute, or City Charter and such as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the City and the inhabitants thereof. (City Code, Sec. 2-32 and C.R.S., Sec. 31-15-103). City Council shall act only by ordinance, resolution, or motion. All legislative enactments must be in the form of an ordinance. (City Charter, Art. 5-1). (Wood)

ORDINANCE NO. 2023- \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
AMENDING SECTIONS 54-121 AND 54-131 OF THE CITY CODE PERTAINING TO  
BALLOT INITIATIVES

WHEREAS, the City Council hereby finds that a single subject requirement for ballot initiatives is necessary to prohibit the practice of diverse and unrelated matters being presented to voters as one matter when such individual matters could not pass on their own merits; and

WHEREAS, the City Council further finds that this single subject limitation on initiatives submitted for voter approval facilitates concentration on the meaning and wisdom of the proposal preventing surprise and deception as to the matter being put to a vote; and

WHEREAS, Section 1(5.5) of article V of the state constitution requires that every law proposed by initiative be limited to a single subject, which shall be clearly expressed in its title; and

WHEREAS, the Colorado Supreme Court has held that the constitutional single-subject requirement for bills was designed to prevent or inhibit various inappropriate or misleading practices that might otherwise occur, and the intent of the general assembly in referring to the people section 1(5.5) of article V was to protect initiated measures from similar practices, and.

WHEREAS, Article 5-1 of the City Charter provides that ordinances and resolutions be limited to one subject, with limited exceptions; and

WHEREAS, any initiative or referendum petition shall be in the form of an ordinance pursuant to Section 54-121 (d)(1) of the City Code, and

WHEREAS, the City Council desires to clarify that the single subject requirement included in the Charter does apply to citizen initiative petitions, and

WHEREAS, the City Council further wishes to clarify that all initiatives and referenda petitions must address only “municipal legislation,” consistent with electors’ reservation of those powers in Article V, Section 1(9) of the Colorado Constitution.

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

Section 1. That subsection Section 54-121 of the City Code is hereby amended to read as follows:

Sec. 54-121 Initiative and referendum petitions-Generally

(a) *Statement of intent.* Petition representatives, who shall be registered electors of the City, shall submit to the city clerk a statement indicating their intent to circulate an initiative or referendum petition. Not later than ten days following the filing of the statement, a **complete petition section, including the proposed legislation prepared petition**, in ordinance form, shall be submitted to the city clerk.

(b) *All petitions to address municipal legislation, no more than single subject.* No petition shall address any matter except “municipal legislation,” consistent with Article V, Section 1 (9) of the Colorado Constitution, and no petitioned legislation shall address more than one subject, which shall be clearly expressed in its title.

(c) *Clerk’s initial review of petition section.* Within five business days of the petition section being submitted to the clerk pursuant to subsection (a), the clerk, after consultation with the city attorney and such other city officials that the clerk deems necessary, shall issue a written determination whether the proposed petition concerns municipal legislation and addresses a single subject, and if so, whether the form of the petition section complies with applicable law. ~~Initiated and referred ordinances which meet all the requirements for submission to the electorate shall be scheduled on an appropriate date in accordance with the Colorado Constitution, applicable state statutes, and municipal ordinances.~~

(d) *Ballot title.* **If the city clerk issues a determination that the petition addresses a single subject and concerns municipal legislation, and approves the petition section as to form, the following shall apply:** ~~Procedures for fixing the ballot title of initiative and referendum petitions shall be as follows:~~

(1) ~~Any initiative or referendum petition shall be in the form of an ordinance, the original of which shall be submitted to the city clerk before it is signed by registered electors. The city clerk, with the assistance of such other city officials as the clerk deems necessary, shall designate and fix a ballot title and submission clause which shall fairly and accurately express the intent and meaning of the proposed ordinance. Ballot titles shall be brief and shall not conflict with titles selected for any petitions previously filed for the same election. Proceedings for fixing the ballot title and submission clause shall be concluded not later than ten five business days after the city clerk has issued the written determination pursuant to subsection (c) of this section. initial determination of sufficiency.~~

(2) If any person submitting an initiative or referendum petition claims **that the clerk’s determination pursuant to subsection (c) of this section was in error** ~~that the ballot title and submission clause do not fairly express the meaning and intent of the proposed measure~~ **that person he or she must file a protest motion for a hearing with the city clerk no later than three business days after the clerk issues the written determination pursuant to subsection (c) of this section. If any person submitting an initiative or referendum petition claims that the ballot title and submission clause do not fairly express the meaning and intent of the proposed measure, he or she must file a protest within three business days after the ballot title and submission clause are fixed by the city clerk. A hearing on any such protest - the ballot title and submission clause shall be held before an independent hearing officer not less than 10 or more than 20 days after the protest motion for a hearing has been filed. The person filing the protest may appeal an adverse ruling from the hearing officer. If the city clerk finds that the ballot title and submission clause fairly express the meaning and intent of the proposed measure the person submitting such measure may appeal such decision to the**

Arapahoe County District Court as set forth in the Colorado Rules of Civil Procedure.

**(3) Any qualified elector in Aurora, other than those persons submitting the initiative or referendum petition, who claims that the determination of the clerk pursuant to subsection (c) of this section was in error, or that the ballot title or submission clause do not fairly express the intent and meaning of the proposed ordinance, may file an appeal with a court of competent jurisdiction no later than ten days after the clerk's determination pursuant to paragraph (c) of this section is issued, or no later than ten days after the ballot title and submission clause are fixed by the clerk, depending on the basis of the protest.**

**(b e)** *Time for filing.*

(1) *Initiative.* A petition for an initiative ordinance shall be filed with the city clerk not later than 120 days from the date the petition has been approved as to form, pursuant to the provisions of this article. The city clerk shall not accept any petition for filing which is not timely filed under this section. A petition for an initiative ordinance shall be placed upon the ballot at either a regular or special municipal election subject to all constitutional, statutory, and municipal ordinance deadlines having been met.

(2) *Referendum.* A petition for a referendum shall not be of any force or effect unless filed with the city clerk not later than 30 days following the final publication of an ordinance to which the referendum is applicable. The referendum shall apply to all ordinances passed by the city council, except ordinances fixing the rate of taxation on property each year for municipal purposes, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.

**(e f)** *Number of signatures.*

(1) *Initiative.* A petition for an initiative ordinance shall be signed by registered electors in a number equal to at least 15 percent of the total vote cast in the last regular municipal election held by the City.

(2) *Referendum.* A petition for a referendum shall be signed by registered electors in a number equal to at least ten percent of the total vote cast in the last regular municipal election held by the City.

Section 2. That Section 54-131 of the City Code is hereby amended to read as follows:

54-131. Referral by Council

a) The city council shall have the power to submit any proposed or adopted ordinance or any question to a vote of the registered electors without the receipt of a petition. Submission by city council shall be by resolution, except as otherwise required by the City Charter.

(b) The city council shall have the right to revive, repeal, amend, or pass any ordinance submitted by the council upon its own initiative.

(c) Initiative and referendum amendments shall be referred to the registered electors by resolution.

**(d) Any qualified elector in Aurora who claims that an ordinance referred to the electors by the City Council does not satisfy the requirement of Section 5-1 of the City Charter or Section 54-121 of the City Code may file an appeal with a court of competent jurisdiction no later than ten days after Council approves the ordinance or resolution referring the proposed ordinance to the electors.**

Section 3. The changes to the City Code as provided for in this ordinance shall become effective on January 1, 2024.

Section 4. 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 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.

Section 6. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

---

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

*Daniel L Brotzman*

---

DANIEL L. BROTZMAN, City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Unified Development Ordinance (UDO) Amendments to Clarify Parks and Open Space Provisions
<b>Item Initiator:</b> Nicole Ankeney, PROS Planning, Design & Construction Manager
<b>Staff Source/Legal Source:</b> Nicole Ankeney, PROS Planning, Design & Construction Manager /Michelle Gardner, Sr. Assistant City Attorney
<b>Outside Speaker:</b> None
<b>Council Goal:</b> 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 9/11/2023

**Item requires a Public Hearing:** ☒ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

FOR AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 146 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO PROVIDE CORRECTIONS, CLARIFICATIONS AND UPDATES TO THE LAND USE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Nicole Ankeney, Planning, Design and Construction Manager of Parks, Recreation and Open Space / Michelle Gardner, Senior Assistant City Attorney

Estimated time: 15 Mins

### 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<br>Reason for waiver is described in the Item Details field above. |  |

### PREVIOUS ACTIONS OR REVIEWS:

---

**Policy Committee Name:** Planning & Economic Development

**Policy Committee Date:** 7/12/2023

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

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☒ Minutes 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 Unified Development Ordinance (UDO) was originally approved by City Council in 2019 and serves as the city's codified zoning and subdivision regulations. Several of the twelve purpose statements in Chapter 146 are related to the work of the Parks, Recreation and Open Space department:

*1.3.2. Ensure that all development in the City is consistent with the spirit and intent of any other plans and policies adopted by City Council.*

*1.3.7. Encourage the conservation and efficient use of water and other natural resources.*

*1.3.8. Ensure the provision of adequate public facilities and services for new development and redevelopment.*

*1.3.9. Provide for the consistent, predictable, and equitable administration of City land use and development regulations.*

*1.3.10. Implement a connected system of parks, trails, and open spaces that promote improved outdoor activity and public health.*

In addition to the UDO, development is regulated through the Parks, Recreation and Open Space (PROS) Dedication and Development Criteria Manual, which was first adopted in 2004. The PROS Dedication & Development Criteria Manual is a guide for the planning, design, construction, management and operation of parks, recreation sites and open space areas provided under the authorities granted to the Parks, Recreation & Open Space Department. As such, this manual establishes minimum criteria to be followed by PROS and non-city entities, such as the development community (i.e., developers and builders and their consultants and contractors) to ensure that goals, policies, procedures and standards for a quality parks, recreation and open space system are implemented as the city continues to grow and develop.

To ensure the consistent, predictable and equitable administration of City land use and development regulations, the UDO and the PROS Dedication and Development Criteria Manual must be reviewed regularly and amended as per City code and policy.

Changes to the UDO require a public hearing and recommendation from the Planning and Zoning Commission, held August 9<sup>th</sup>, 2023, and adoption by the City Council at a public hearing ([UDO Section 146-5.4.1.C](#)).

---

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

Over the last few months, the City's Parks, Recreation and Open Space Department, and the Planning and Development Services Department have identified several sections of the Unified Development Ordinance (UDO) needing amendment based upon clarifications, administrative errors and omissions, and recommendations from the development community.

Additional evaluation the PROS Dedication and Development Criteria Manual will occur over the next year. The following revisions to the UDO are intended to be a first step toward ensuring alignment between the two codes.

Section 146-4.3.18 - Schools, Parks, and Other Lands for Public Facilities



- Clarifies language for consistency and reduces redundancies by removing the specifics of the methodology for land dedication standards from the UDO, since they are already stated in the PROS Dedication and Development Criteria Manual.

#### Section 146-4.7.5 - Required Landscape

- Revises language, at the request of the development community, to allow and regulate sidewalks for primary entry into residences within public park, open space and trail buffers.

#### Section 146-4.7.9 - Fence and Wall Regulations

- Revises language, at the request of the development community, to allow privacy fencing in lieu of the three-rail fence to screen view into side and rear yards on residential lots that abut public open space which are adjacent to a street, alley or shared drive.

#### Section 146-5.3.20 - Park Development Fees

- Amends an administrative error by adding Park Development Fees back into city code which were inadvertently omitted at the time of UDO adoption.

---

### FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

#### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

#### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

#### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

#### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

### QUESTIONS FOR COUNCIL

Does City Council wish to support the ordinance amending the Unified Development Ordinance (UDO) and forward for final consideration?

---

### LEGAL COMMENTS

An application for an amendment to the text of the UDO or a legislative rezoning of a large area shall only be recommended if the Planning Director and the Planning and Zoning Commission find that the following criteria have been met, and shall only be approved if City Council finds that the following criteria have been met. i. The applicant has demonstrated that the proposed Ordinance amendment is consistent with the spirit and intent of the Comprehensive Plan and with other policies and plans adopted by the City Council; and a. The change to the

Ordinance text is required because of changed conditions or circumstances in all or a portion of the city; or b. The change to the Ordinance text is required to address a new or unforeseen threat to the public health, safety, and welfare; or c. The change to the Ordinance text is required to promote economic growth and investment that will not create material risks to the public health, safety, and welfare. (City Code § 146-5.4.1.C.3.B). Council shall act only by ordinance, resolution, or motion. (City Charter § 5-1). (M. Gardner)

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

**Members Present** Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

**Others Present** Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

**1. CALL TO ORDER**

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for

## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.

## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the

## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

## ORDINANCE NO. 2023- \_\_\_\_\_

## A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 146 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO PROVIDE CORRECTIONS, CLARIFICATIONS AND UPDATES TO THE LAND USE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

WHEREAS, when the Unified Development Code (UDO) was enacted into Chapter 146 of the City Code some of the previous provisions of Chapter 146 relevant to development of parks and open spaces were omitted or need to be clarified; and

WHEREAS, the omitted provisions of Chapter 146 need to be included into the UDO for the proper administration of the dedication and development of parks and open spaces; and

WHEREAS, the Director of Parks, Recreation and Open Space (PROS) has authority to establish dedication and development criteria for parks and open spaces; and

WHEREAS, the Parks, Recreation and Open Space Dedication and Development Criteria Manual establishes minimum criteria to ensure that goals, policies, procedures and standards are met so that a quality parks, recreation and open space system can be implemented.

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

Section 1. That section 146-4.3.18.B of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.3.18. Schools, Parks, and Other Lands for Public Facilities.

B. Park and Open Space Land **Dedication** and Cash-in-Lieu.

1. *Requirement.* Public land shall be dedicated to provide for parks and open space to serve the future residents of the development, **and address the impacts of additional residents within existing neighborhoods**. The dedication of such land shall be as required by an annexation agreement, if one has been approved for the property. If land uses change from those approved at the time of annexation or no annexation agreement exists for the subdivision, park **land** dedication shall be required **as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual**.

2. *Dedication Timing.* The dedication of land for parks and open space purposes shall occur, by plat or separate document at the discretion of the City, at the time that the first plat for property adjacent to such land is submitted to the City. *Standards.* The amount of land dedicated for parks and open space purposes shall comply with the **methodology, population-based standards in Table 4.3-3, housing unit types, average household sizes, and other criteria, such as cash-in-lieu, as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.**

~~Table 4.3-3~~

~~Standard Acres per 1,000 Population~~

<del>Facility Type</del>	<del>Requirement</del>
<del>Neighborhood Parks</del>	<del>3 ac. per 1,000 residents</del>
<del>Community Parks</del>	<del>1.1 ac per 1,000 residents</del>
<del>Open Space, Other Park Uses and Trails</del>	<del>7.8 ac per 1,000 residents</del>

~~4. Average Household Size.~~

~~a. For purposes of applying the population based standards, population projections shall be calculated based on the following average household sizes:~~

~~i. 2.65 persons per single family dwelling unit;~~

~~ii. 2.50 persons per multifamily dwelling unit;~~

~~iii. 2.02 persons per dwelling unit in a transit station area; and~~

~~iv. 1.58 persons per active adult dwelling unit in a residential community;~~

~~(a) In which occupancy is limited by deed or title to residents over 55 years of age, or~~

~~(b) That qualifies as “housing for older persons” as defined and regulated under the federal Fair Housing Act, as amended.~~

~~v. Assisted living, continuing care retirement, skilled nursing and convalescent communities or facilities shall be exempt from the land dedication requirements unless the use includes a mix of dwelling unit types for active adults or persons under age 55, in which case land dedication requirements may be imposed upon the number of~~



~~units intended to be occupied by persons without the age limitation or residents not in need of personal care or health services.~~

~~b. These numbers may be modified as determined by the City Council based upon census data.~~

#### ~~4. 5. Cash-in-Lieu of Land Dedication Payments.~~

**a. Developments unable to provide the required land dedication per the standards set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual shall be required to pay a cash-in-lieu of land dedication fee. The timing of any required cash-in-lieu of land dedication payments, land value calculations and payment tracking are set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.**

### ~~3. Land Dedication~~

~~For subdivisions that are not large enough to generate a minimum of five acres for neighborhood parks and 40 acres for community parks, the City Manager may, at the City Manager's sole discretion, require a cash payment in lieu of land dedication.~~

~~i. The amount of such payment shall be based upon the market value of property within the subdivision as fully developed, with all attendant infrastructure, in accordance with the land uses approved for the subdivision. This approach to valuing cash in lieu shall also be used if cash in lieu is accepted for dedication of park lands outside of the subdivision approval process.~~

~~ii. Cash in lieu of land shall only be used to provide park and open space facilities to serve the future residents of the subdivision.~~

~~iii. Cash in lieu payment shall occur at the time that the first plat for the subdivision is submitted to the City.~~

~~b. For infill developments in Subareas A and B and for development within transit station areas that are required to provide cash in lieu of land dedication, the amount of such payment shall be based upon a per-acre value derived from a case study analysis of the market value of property acquired by the City for community-based park, recreation, and open space purposes. Such per-acre value shall be determined annually by the Director of Parks, Recreation, and Open Space in accordance with the provisions of Section 2-587 of the Aurora City Code.~~

**5. ~~6~~ Dedication and Development Criteria Manual.** Park and open space land dedication, **development** and design criteria, which govern the eligibility of land and areas to receive land dedication credit, shall be as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.

Section 2. That section 146-4.7.5.H.1.c. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.5. Required Landscape.

H. *Special Landscape Buffers for Development Adjacent to I-70, I-225, E-470, Public Parks, Open Space, and Trails.*

1. General.

c. The encroachment of buildings or portions of buildings including porches and patios, trash enclosures, dumpsters, parking lots and internal vehicular drives, sidewalks and detention and water quality pond infrastructure into landscape buffers is prohibited. Exceptions to this rule in the case of public parks, open space and trail buffers including the provision of trail connections **and sidewalks**, may be made on a case-by-case basis by the Parks, Recreation and Open Space Department based on unique site conditions and alternatives to those impacts, including any proposed mitigation measures.

i. The provision of trail connections through **public park, open space and trail** buffers is generally permitted, but at those locations approved by the Parks, Recreation and Open Space Department based on trail connectivity, public safety, and appearance.

ii. **Sidewalks which provide access to the primary entry to residential uses may be permitted in public park, open space and trail buffers, provided the sidewalk is set back a minimum of 10 feet from the property line of the adjacent park, open space or trail.**

Section 3. That section 146-4.7.9.K. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.9. Fence and Wall Regulations.

K. *Fences and Walls Along Open Space Tracts, Parks, Reservoirs, Golf Courses, Trails, and Drainage Ways.*

1. **For proposed development and new construction, ~~Fences~~ fences** adjacent to ~~open space tracts~~, **public** parks, **open space**, trails, and drainage ways shall meet the design standards shown in Figure 4.7-37 and the screening requirements of Section 146-4.7.5.H.2 (Buffer Standards for Areas Adjacent to Public Parks, Open Space, and Trails) shall also apply.

a. **Within a master-planned development, residential lots that abut public open space where the open space also abuts a street, alley or shared drive may use a privacy fence in lieu of a three-rail fence to screen views into side and rear yards located across from the street, alley or shared drive. The fence design and material shall be included in the approved master plan and shall not exceed 6 feet in height. Additional landscaping may be required adjacent to the privacy fence depending on the context of it and will be reviewed with each site plan.**

2. **Existing fences adjacent to public parks, open space, trails, and drainage ways not within a master planned development shall be maintained and repaired in accordance with the location, height, design, and materials as shown on approved Site Plans.**

a. **For replacement fences, the Director of Parks, Recreation, and Open Space shall determine the location, height, design, and materials of fences adjacent to city-owned property taking into consideration consistency in the appearance and treatment along neighboring properties and the screening and access control needs relative to abutting land uses if no Master Plan or Site Plan exists for a property.**

**3. 2.** Fences adjacent to public golf courses or reservoirs shall be an open wrought iron style with masonry columns, or other styles or column spacing as may be specified by the Director of Parks, Recreation, and Open Space. Screening requirements of Section 146-4.7.5.H.2 (Buffer Standards for Areas Adjacent to Public Parks, Open Space, and Trails) shall also apply.

**4. 3.** Fences may be up to four feet in height for parks and open space, and up to nine feet for athletic courts and fields and may exceed those maximum heights if the Parks, Recreation and Open Space Department determines that the additional height is needed and will not create a traffic hazard.

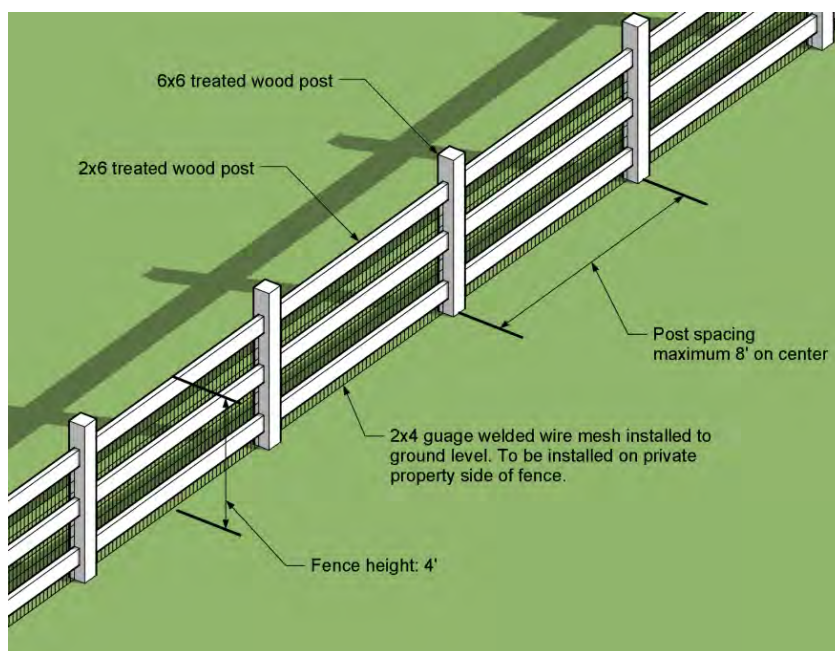


Figure 4.7-37: Fencing Along Open Areas

Section 4. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new subsection, to be numbered 146-5.3.20, which subsection shall read as follows:

**5.3.20. Park Development Fees.**

**A. In addition to other fees required by this UDO, applicants for development and redevelopment containing residential land uses are required to pay park development fees for development and improvement of parks and recreation facilities.**

**B. The methodology and criteria which govern the computation of the fees, including any policies which exempt certain types of residential projects from fees, shall be as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.**

**C. Park development fees shall be payable at time of issuance of building permit.**

Section 5. 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 6. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 7. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

RLA

Michelle Gardner  
MICHELLE GARDNER, Sr. Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Unified Development Ordinance (UDO) Amendments to Update Various Sections in the Landscape, Dimensional, and Parking Standards

**Item Initiator:** Brandon Cammarata, Planning Manager, Planning and Development Services

**Staff Source/Legal Source:** Brandon Cammarata, Planning Manager, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney

**Outside Speaker:** N/A

**Council Goal:** 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 9/11/2023

**Item requires a Public Hearing:** ☒ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 time (For Study Session items only, indicate combined time needed for presentation and discussion)

Brandon Cammarata, Planning Manager, Planning and Development Services / Rachel Allen, Client Services Manager, City Attorney  
Estimated time: 10 Mins

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

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as Proposed at Study Session
- ☒ Approve Item and Move Forward to Regular Meeting ☐ Approve Item as Proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration  
*Reason for waiver is described in the Item Details field above.*

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Planning and Zoning Commission

**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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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.)*

This proposal came before the Planning and Economic Development Committee (PED), City Council Subcommittee on July 12, 2023, and was recommended to advance. Planning staff has not received comments or concerns regarding this proposal.

A Planning Commission Public Hearing was held August 9, 2023. Planning Commission recommends adoptions of the UDO amendments.

---

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

The proposed Unified Development Ordinance (UDO) amendment includes updates to a variety of sections of code. The UDO is the city's zoning code and subdivision regulations. These regulations describe where land uses (i.e., commercial, industrial, and residential) can be permitted and establishes design standards associated with those uses, such as parking, landscape, and signage requirements.

This proposed ordinance includes changes that add flexibility, correct discrepancies, and clarify specific allowances. Sections of code addressed by this proposal include landscaping (146-4.5.7), dimensional standards (146-4.5.2), and parking (146-4.5.6).

In general, these proposals respond to circumstances that have arisen where added flexibility is necessary and in keeping with the purpose and intent of the original requirement.

Proposed revisions that allow more code flexibility include simplifying rear setbacks along alleys and allowances for pedestrian sidewalks and related facilities within landscape buffers. Other changes include the removal of duplicative or outdated sections of code and minor clarifications regarding landscape materials.

The amendment is supported by a variety of goals, policies, and practices (ref. Aurora Places Chapter 6). The amendment supports infill, compact, and urban areas, supporting the "strong economy" policy. This amendment also assists the development and integration of a variety of housing types supporting the "housing for all" policy. Planning Staff recommends approval of the text amendment to the UDO.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Revenue Impact  | <input type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input checked="" type="checkbox"/> No Fiscal Impact |  |

**REVENUE IMPACT**

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

**BUDGETED EXPENDITURE IMPACT**

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

**NON-BUDGETED EXPENDITURE IMPACT**

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

**WORKLOAD IMPACT**

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council wish to approve proposed amendments to the Unified Development Ordinance

---

**LEGAL COMMENTS**

Council shall act only by ordinance, resolution, or motion. (City Charter § 5-1). An application for an amendment to the text of the UDO or a legislative rezoning of a large area shall only be recommended if the Planning Director and the Planning and Zoning Commission find that the following criteria have been met, and shall only be approved if City Council finds that the following criteria have been met. i. The applicant has demonstrated that the proposed Ordinance amendment is consistent with the spirit and intent of the Comprehensive Plan and with other policies and plans adopted by the City Council; and a. The change to the Ordinance text is required because of changed conditions or circumstances in all or a portion of the city; or b. The change to the Ordinance text is required to address a new or unforeseen threat to the public health, safety, and welfare; or c. The change to the Ordinance text is required to promote economic growth and investment that will not create material risks to the public health, safety, and welfare. (City Code § 146-5.4.1.C.3.B). (Allen)



## ORDINANCE NO. 2023- \_\_\_\_\_

## A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 146 OF THE CITY CODE, TO ADDRESS LANDSCAPE, DIMENSIONAL AND PARKING STANDARDS WITHIN THE CITY

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

Section 1. That Section 146-4.2.2.B. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.2.2. General Dimensional Standards Summary Tables.

B. Mixed Use Districts. Dimensional standards for mixed-use districts are shown in Table 4.2.3.

Table 4.2-3								
Summary of Mixed-Use Districts Dimensional Standards								
See additional standards in Section <a href="#">146-2.4</a> (Mixed-Use Districts)								
Zone District	MU-N	MU-OI	MU-C	MU-OA	MU-FB	MU-TOD	MU-R	MU-A
Building Standards								
General	Subarea A: See Aurora Infill Handbook; Subareas B & C: 2 stories max.	75 ft. max.	<del>Subarea A: See Aurora Infill Handbook; Subareas B &amp; C: 75 ft. max.</del> <b>75 ft max</b>	See Table 2.4-5	19 ft. min. on arterials	Core: No max.  3 story min.  Edge:  No max.  No min.	Max for Focal Point: N/A  Max General:  No building taller than Focal Point; If no Focal	Single- family and duplex: 38 ft. max.; Multifamily or mixed- use: 100 ft.; Non- residential: 100 ft.

Table 4.2-3

## Summary of Mixed-Use Districts Dimensional Standards

See additional standards in Section [146-2.4](#) (Mixed-Use Districts)

Zone District	MU-N	MU-OI	MU-C	MU-OA	MU-FB	MU-TOD	MU-R	MU-A
							Point yet constructed:  100 ft.	

Section 2. That Section 146-4.6.3.F. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.6.3. Required Off-Street Parking.

##### F. Bicycle Parking

##### 1. *Bicycle Parking Spaces Required.*

a. Multifamily and non-residential development in Subarea A shall provide bicycle parking spaces equal to at least 10 percent of required automobile parking spaces, and multifamily and non-residential development in Subareas B and C, shall provide bicycle parking spaces equal to at least five percent of the required automobile parking spaces; provided, that each multifamily and non-residential use shall install a minimum of two U-racks or other similar bicycle storage, and no multifamily or non-residential use shall be required to install more than 15 U-racks or other similar bicycle storage.

b. The requirements of Subsection F.1 above also apply to the non-residential component of each mixed-use development.

c. Each inverted-U bicycle rack counts as two bicycle parking spaces.

~~d. Multifamily development shall provide at least one bicycle parking space per five dwelling units in Subarea A and at least one bicycle parking space per 10 dwelling units in Subareas B and C.~~

Section 3. That Section 146-4.6.5.C.8. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.6.5. Parking Design and Location.

#### C. *Single Family Detached and Two-Family Lots*

#### 8. *Garage Variation Required.*

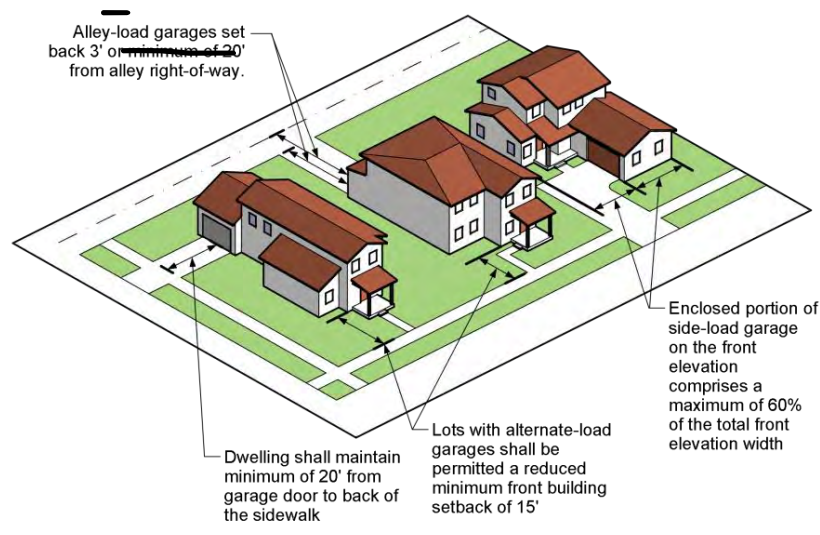


Figure 4.6-3: Alternate-load Garage

Section 4. That Section 146-4.7.3.B. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.3. General Landscaping Standards

#### B. Plant Material Requirements.

#### 8. Plant Beds

d. Where rock is the chosen mulch treatment and no plant material will be installed, weed barrier fabric shall be used to block weed growth and conserve moisture. **Crusher fines may not be used as a mulch treatment unless specified as permitted in another section of the UDO.**

#### 11. Artificial Turf Standards

Where this UDO permits the use of artificial turf, it shall comply with the following standards.

a. *Allowed Use.*

- i. Artificial turf may be used in sports field applications.
- ii. Artificial turf may be used in front yards to replace sod or native seed areas of single-family residential lots if approved by a homeowners' association and/or Title 32 District, ~~but may not be used in the Water Wise landscape option in which no turf is allowed.~~ Homeowners shall meet the Residential Yard Landscape Requirements per Table 4.7-3 in addition to providing artificial turf.
- iii. Artificial turf may be used in commercial developments.
- iv. Artificial turf may be used in street frontage buffers.**
- v. Artificial turf may be used in dog parks.**
- vi. Artificial turf may be used in back yards.**

f. *Specific Prohibited Uses.*

- i. Artificial turf may not be used within curbside planting areas in any zone district.
- ii. ~~Artificial turf may not be used in street frontage buffers.~~
- iii. ~~Artificial turf may not be used in dog parks.~~

Section 5. That Section 146-4.7.5.C.2. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.5. Required Landscaping

*C. Curbside Landscaping*

*2. Detached Walks.*

- i. Curbside landscape areas that are less than ~~three~~ **four** feet in width shall be mulched with rock mulch **or wood mulch**, no white rock. Rock shall be a minimum of 2.5 inch diameter.

ii. Curbside landscape areas that are between ~~three~~ **four** and ~~seven and half~~ **six** feet in width shall be planted ~~a minimum~~ with shrubs **meeting the minimum quantity requirements as defined by this section**. Ornamental grasses may also be provided.

v. ~~When shrub and ornamental grasses are used,~~ **Curbside landscapes shall provide** no less than one shrub per 40 square feet **of curbside landscape area.** ~~or Shrub equivalents may be installed within the curbside landscape area and but may not~~ **account for** ~~no~~ more than 40 percent of the **total shrub count provided as shrub equivalents** ~~can be ornamental grasses provided as shrub equivalents~~. Shrubs are assumed to be an average of four feet wide at maturity. No more than five percent of perennials may be provided as shrub equivalents.

vii. When located within a sight distance triangle, plant materials shall comply with the provisions of Section 146-4.2.3.I. Refer to the Aurora Roadway Design and Construction Specifications Manual for sight distance triangle design parameters.

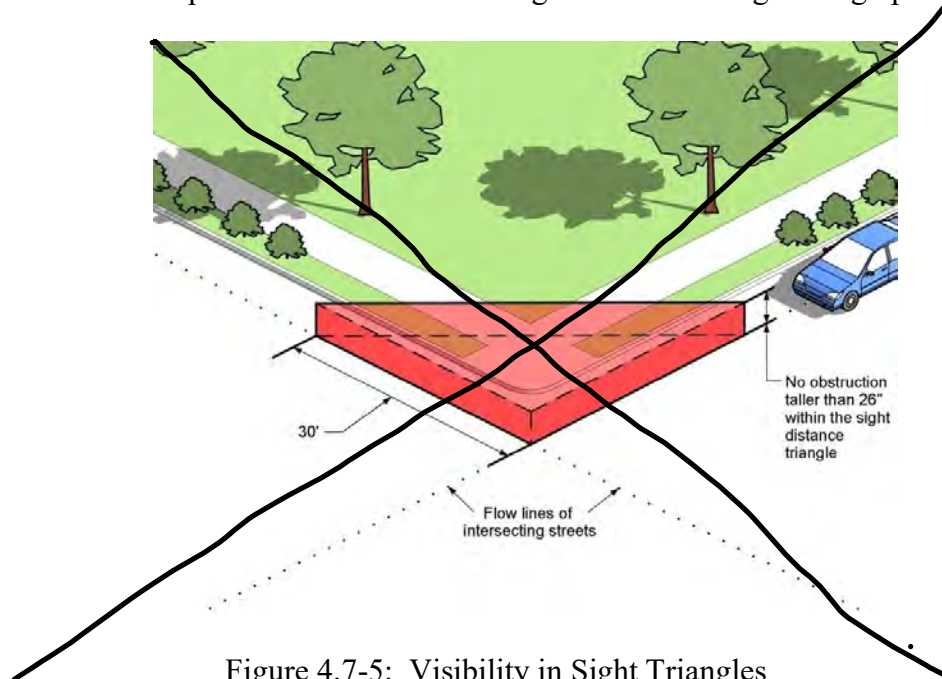


Figure 4.7-5: Visibility in Sight Triangles

c. *Use of Living and Non-Living Materials.* The following standards apply to sites with detached sidewalks.

i. In addition to the required street trees, curbside landscaping within the right-of-way may consist of both living and non-living landscape materials.

iii. Non-living landscape materials may consist of wood mulch and rock mulch in combination with living plant material consistent with Section 146-4.7.5.C.2.a.ii. **Crusher fines may not be used as a mulch treatment. Crusher fines may be installed to support limited areas of high pedestrian traffic**

generated by adjacent land uses or as step out areas supporting on-street parking within the curbside landscapes as a means to access adjoining sidewalks.

Section 6. That Section 146-4.7.5.C.4. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5. Required Landscaping

##### *C. Curbside Landscaping*

##### *4. Urban Street Frontages.*

*b. Urban Street Trees.* Refer to the Landscape Reference Manual regarding the City of Aurora Recommend Xeriscape and No-Water Plant List. ~~for a list of recommended street trees.~~

Section 7. That Section 146-4.7.5.D.2. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5. Required Landscaping

##### *D. Street Frontage Landscape Buffers*

##### *2. Exceptions*

a. Landscape Street frontage buffers for single-family detached and multifamily developments facing an arterial and/or collector street shall measure their street frontage buffer from the **back of walk**. ~~flow line~~. Refer to Figures 4.7-14 through 4.7-17.



Figure 4.7-14: Arterial Street Frontage Buffer Measurement Detached Straight Walk



Figure 4.7-15: Arterial Street Frontage Buffer Measurement Detached Meandering Walk

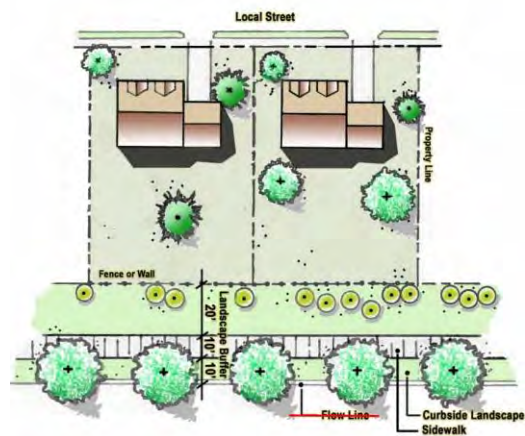


Figure 4.7-16: Arterial Street (Painted Median) Frontage Buffer Measurement Detached Straight Walk

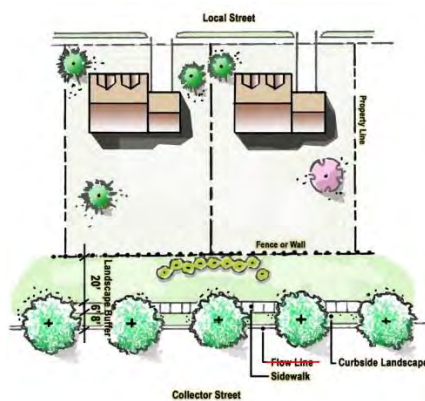


Figure 4.7-17: Collector Street Frontage Buffer Measurement Detached Straight Walk

Section 8. That Section 146-4.7.5.D.5. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.5. Required Landscaping

*D. Street Frontage Landscape Buffers*

5. *Encroachments into Buffers.* No buildings or portions of buildings including ~~porches or patios~~, drive lanes, ~~sidewalks~~, detention ponds, parking stalls, dumpsters or dumpster enclosures may intrude into the minimum required buffer.

Section 9. That Section 146-4.7.5.E.4. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.5. Required Landscaping

*E. Non-Street Perimeter Buffers*

4. *Encroachments into Buffers.* No buildings or portions of buildings including ~~porches or patios~~, drive lanes, ~~sidewalks~~, structured or unstructured detention ponds, parking stalls, dumpsters or dumpster enclosures may intrude into the minimum required buffer.

Section 10. That Section 146-4.7.5.G. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

4.7.5. Required Landscaping

*G. Buffer Width and Allowed Reduction Table.*

1. All development and redevelopment shall comply with the provisions of Table 4.7-2 unless an exception or alternative standard is included in this UDO.

	Residential [1]	Multifamily	Institutional [2]	Office, Commercial and Mixed-Use	Industrial
STANDARD DESIGN [3]					
Plant material quantities per code requirements.					
Standard design means without buffer reduction incentive features.					
[1] Includes all residential uses listed in Table 3.2-1 (Permitted Use Table) except multifamily dwellings.					
[2] Includes all institutional uses listed in Table 3.2-1 (Permitted Use Table) except parks and open spaces.					
[3] Standard design refers to the required plant material per linear foot of required buffer.					



	Residential [1]	Multifamily	Institutional [2]	Office, Commercial and Mixed-Use	Industrial
[4] Buffer reductions are not permitted for industrial developments along arterial streets.					
[5] When an Urban Street Frontage is <b>proposed</b> <del>required by or approved under this UDO,</del> <b>with no intervening vehicular area between the building and street</b> , no street frontage buffers are required.					
[6] Where the rear lots of single-family detached and multifamily abut an arterial or collector roadway, a 20-foot-wide landscape setback is required in accordance with Section <a href="#">146-4.7.9.H</a> . Buffer reductions are not permitted for multifamily dwelling units adjacent to arterial and collector streets.					
[7] Buffer reductions are not permitted adjacent to parks, trails, or open space.					
[8] Single-family residential developments are exempt from the 25-foot buffer except under those circumstances noted in Section 146-4.7.5.H(2)(b)(iii).					
[9] Landscape plant material quantities shall remain the same regardless of any approved reduction in buffer width.					
[10] For a tall landscape screen, deciduous trees and evergreen trees shall mature to a height of 15-25 feet tall, and shrubs shall mature to an average height of five feet tall. If option 2 in Table 4.7-2 is chosen, then 50 percent of the buffer trees shall be evergreen species.					
[11] Fences and masonry walls shall not be permitted as a buffer reduction feature installed along the rear lots of homes adjacent to arterial and collector streets.					
[12] Parallel fencing along adjoining properties shall be avoided to the maximum extent practicable to avoid inefficiencies in maintaining either fence. If two parallel fences are necessary, a minimum separation of 10 feet shall be maintained for maintenance purposes.					

Section 11. That Section 146-4.7.5.J.2.a. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5 Required Landscape.

#### J. Building Perimeter Landscaping

##### *2. Non-residential and Mixed-Use Structures*

a. *Requirements.* Building perimeter landscaping is required for all non-residential buildings in Subareas A (excluding the MU-OA zone district), B and C when said building elevations face public streets, transportation corridors, public open space, residential neighborhoods, or whenever an entrance door is present. Applicants shall

provide one tree or tree equivalent for each 40 linear feet of elevation length.  
**Measurements are not cumulative but shall be measured per side of the building.**

**i. Ornamental grasses may comprise up to 25% of the total shrub requirement.**

Section 12. That Section 146-4.7.5.K.3.f. and g. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5 Required Landscaping

##### K. Parking Lot Landscaping

##### *3. Interior Parking Lot Landscaping.*

f. In addition to trees, grasses (maximum 30 percent per island) and shrubs ~~with trees~~ shall be provided at a ratio of six plants per nine-by-19-foot island or 12 plants per nine-by-38-foot island. Plant materials shall be sited appropriately to not exceed the confines of the planting area. **Perennials may be provided as accents but may not be used to satisfy the parking lot island landscape requirements.**

g. Landscaped islands may be mulched with either wood or rock mulch. The use of white rock mulch **or cursher fines** is prohibited. **The use of crusher fines for pedestrian connectivity to an adjoining walk will be reviewed on a case-by-case basis.**

**h. No portion of the required parking lot island landscaping maybe displaced by lighting, trash enclosures, recycling containers, transformers, fire hydrants, vacuum equipment or other mechanical equipment.**

Section 13. That Section 146-4.7.5.K.5. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5 Required Landscaping

##### K. Parking Lot Landscaping

##### *5. Parking Lot Perimeter Screening.*

a. Parking lots shall be visually screened ~~along from the~~ public rights-of-way, **private streets as well as from open** space and adjacent property. Such screening can be integrated into buffer requirements and is not in addition to such buffer requirements when the buffer and parking lot screening overlap with one another.

Section 14. That Section 146-4.7.5.O. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.5 Required Landscaping

##### *O. Medians.*

All medians in the public street rights-of-way that are to be maintained by the Parks, Recreation and Open Space Department (PROS) shall be landscaped in accordance with the PROS Dedication and Development Criteria Manual. A copy of the manual is available on the City's website. The applicant shall prepare median design and construction drawings for submission to PROS for review and approval independent of the required site plan submittal to the Planning and Development Services Department. A separate review fee is collected by PROS at time of submission. Coordinate with PROS on specific submittal requirements.

All medians in the public street rights-of-way that are to be privately owned and maintained by a homeowner's association or Title 32 District **may be landscaped in accordance with the PROS Dedication and Development Criteria Manual or** in accordance with the following requirements:

**Trees:** One deciduous canopy/shade tree (two and one-half inches) or ornamental tree (two inches) every 35 feet on average. At least half of the trees shall be canopy or shade trees. Evergreen trees are not permitted within medians unless a narrow species is selected and preapproved by Planning staff. Ornamental trees may be grouped closer together to achieve a specific aesthetic look.

**Shrubs:** Shrubs shall be provided at a ratio of six shrubs per 36 linear feet of median. Shrub installation size shall be five-gallon containers.

**Ornamental Grasses:** Ornamental grasses may be provided but may not count for more than 30 percent of the total shrub quantity. Ornamental grass installation shall be five-gallon containers.

**Mulch:** Mulch may be either organic or inorganic or a combination of both at the direction of the designer. Shredded cedar is the preferred mulch treatment as it has moisture retention qualities, unlike rock mulch that retains and radiates heat. No white rock **or crusher fines** is permitted.

Section 15. That Section 146-4.7.6.D. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.6 Site Design For Low Impact Development

##### *D. ~~Water Conservation and Irrigation.~~*

~~1. Single Family, Two Family (Duplex), and Single Family Attached Dwellings. The design and installation of the all new turf areas for each lot shall comply with all of the~~

requirements listed in Section 146-4.7.5.P (Residential Yard Landscape) and the turf area limitations in Subsection 2 Below.

~~2. All Other Development Except Playfields and Golf Courses. In all development sites except playfields and golf courses, the use of cool season grass sod, seed and seed mixtures that contain cool season grass species shall be limited to not more than 33 percent of a site's total landscaped area. The area consisting of high water using species of cool season grasses, such as Kentucky Blue Grass, shall be contiguous and patches located throughout the site shall be avoided. For purposes of these standards "contiguous" shall mean all abutting areas and areas that may be separated by a pedestrian walk or trail. Areas separated by pavement used for vehicular circulation are not considered contiguous. A cool season grass species shall be considered a high water user if it requires one and one half inches of water or more per week to survive. Tot lots and recreational areas that will benefit from the durability of cool season grasses are exempt from contiguity requirements of this Section. All other requirements shall apply.~~

~~3. Z-Zone Program Option. Applicants may choose to temporarily water native seed areas for a three year period for establishment purposes under the Z-Zone Program administered by Aurora Water. The annual water allocation will be adjusted accordingly after three years or upon successful establishment of the z-zone areas as determined by Aurora Water. The adjusted water allocation will be based upon the permanently irrigated areas. Contact Aurora Water, Water Conservation Division for details on the Z-Zone Program. (Ord. No. 2019-49 § 1, 08-19-2019)~~

Section 16. That Section 146-4.7.9.K. of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

#### 4.7.9. Fence and Wall Regulations.

~~N. *Swimming Pools.* The swimming pool area shall be completely enclosed by a fence not less than four feet in height with openings of not more than four inches. The fence shall be located not more than 100 feet from the edge of the pool. All gates shall be equipped with self latching and self closing devices placed on the inside top of the gate. See the International Building Code for additional restrictions on height, vertical member spacing, and access gates. Chain link and welded wire fences are prohibited.~~

#### N. *Reserved.*

Section 17. 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 18. 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 19. 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 \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

*Daniel L Money* <sup>RLA</sup>  
\_\_\_\_\_  
DANIEL L. MONEY, Senior Assistant City Attorney

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

**Members Present** Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

**Others Present** Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

**1. CALL TO ORDER**

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for

## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.

## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the



## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Amending Chapter 70-20 of the City Code Regarding Designation of Floodplain Administrator (Ordinance)
<b>Item Initiator:</b> Casey Rossman, Executive Specialist, Aurora Water
<b>Staff Source/Legal Source:</b> Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> Select a Council Goal

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

FOR AN ORDINANCE AMENDING SECTION 70-20 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO,  
REGARDING DESIGNATION OF FLOODPLAIN ADMINISTRATOR  
Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney  
Estimated time: 5 Mins

### 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<br><i>Reason for waiver is described in the Item Details field above.</i> |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Planning & Economic Development

**Policy Committee Date:** 7/12/2023

### 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"/> Minutes Not Available       |

☐ Minutes 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.)*

On July 12, 2023 the Planning and Economic Development Committee supported and Ordinance Amending Chapter 70-20 of the City Code Regarding Designation of Floodplain Administrator.

---

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

Over the last several months, the City's Public Works Department and Aurora Water have reorganized their respective development review functions to create more direct accountability for staff and improve responsiveness and predictability in the development review process. One critical part of the reorganization is to clarify approval authority so that approvals are specific to the functions of the two departments. Previously this approval authority resided solely with the City Engineer. This ordinance would assign the following specific responsibility to the General Manager of Aurora Water:

- Assign designation of the floodplain administrator, including the responsibilities to administer, implement and enforce the provisions within Chapter 70 of City Code and all other appropriate sections of the National Flood Insurance Program (NFIP) Regulations pertaining to floodplain management.

In support of these changes, the title of Director of Water that is currently codified will be updated to General Manager of Aurora Water by separate amendment to ordinance.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does Council support the Ordinance Amending Chapter 70-20 of the City Code Regarding Designation of Floodplain Administrator?

---

## **LEGAL COMMENTS**

The city manager shall keep Council advised of the future needs of the City and make such recommendations to Council for adoption as he may deem necessary or expedient. (City Charter Section 7-4(f)). Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Section 5-1). (M. Gardner)

ORDINANCE NO. 2023-\_\_\_\_\_

A BILL

FOR AN ORDINANCE AMENDING SECTION 70-20 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, REGARDING DESIGNATION OF FLOODPLAIN ADMINISTRATOR

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

Section 1. That Section 70-20 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 70-20. - Designation of the floodplain administrator.

The **General Manager of Aurora Water** ~~city engineer~~ or his/her designee is hereby designated as **the** floodplain administrator to administer, implement and enforce the provisions of this article and other appropriate sections of the NFIP Regulations pertaining to floodplain management.

Section 2. That all ordinances, or parts of ordinances, of the city Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. That 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 \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM

*Ian J Best*

RLA

---

IAN BEST, Assistant City Attorney

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

Members Present Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

Others Present Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

---

**1. CALL TO ORDER**

---

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

---

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for

## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.



## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the

## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.c. UDO Text Amendment, which includes simplification to rear setback along alleys, other clarifications****Summary of Issue and Discussion:**

Brandon Cammarata, Planning Manager

Brandon Cammarata presented a set of minor amendments to the UDO. He mentioned that they have been coordinating with PROS and Aurora Water over the last few months in the preparation of various packages.

The amendments include the landscape section of the zoning code to address unclear or conflicting language and provide more flexibility. This includes allowing greater use of artificial turf, clarifying guidelines for mulch, and enhancing the usability of landscape buffers. The amendments also touch on other sections of the code, with the highlight being the simplification of alley setbacks. The proposed change would establish a minimum setback of three feet, simplifying the current

## Draft – Subject to Approval

complex regulations. This modification is intended to address concerns raised by the development community regarding utility-related discussions in alleys.

B. Cammarata provided a high-level overview of the amendments, acknowledging that there are more detailed aspects to discuss if needed. He asked the Committee for their decision on proceeding with the amendments, as well as any specific points they would like to clarify during the process.

- CM Sundberg asked about the buffer zone mentioned in alleyways, questioning if it was influenced by developer feedback and previous concerns. B. Cammarata explained that when dealing with alleyways, which are typically 16 to 20 feet wide, the setback determines how close a building, often a garage, can be constructed to the alley. This aspect has been identified as a complexity, resulting in the need for variances and their subsequent approval. Recognizing the routine approval of variances, he stressed the importance of revisiting that section of the code to address the underlying complexity and potentially make necessary amendments. CM Sundberg acknowledged the reasoning and expressed appreciation for the clarification.
- CM Bergan asked about the minimum height requirement. She recalled a recent development that experienced confusion regarding how the height was measured. B. Cammarata clarified that the specific amendment being discussed is related to the MUC (Mixed-Use Commercial) Zone District, which is commonly used for commercial and multifamily projects. He mentioned that there have been several proposals within the MUC Zone District, and the amendment aims to provide clarity regarding height expectations in those areas.
- CM Bergan asked whether the proposed amendment addresses the calculation complexities that were previously encountered. She also requested clarification if it may need to be changed in a different location or manner. B. Cammarata acknowledged the question, specifically referencing the height calculation. He explained that the existing calculation method considers factors such as grades and aims to ensure flexible roof design options. At present, there are no plans to modify the calculation, but he expressed openness to listening to concerns or thoughts the Committee may have or any feedback they have received regarding the height calculation.
- CM Bergan asked regarding the amendment concerning artificial turf and rock mulch, inquiring whether the change applies to both current and future developments, encompassing residential and commercial properties. B. Cammarata confirmed CM Bergan's understanding, noting that existing homes will have the option to convert to artificial turf and that the amendment provides more frequent and accessible opportunities for such conversions.
- CM Bergan also asked whether the proposed changes also apply to the city's municipal grounds. B. Cammarata confirmed that the changes apply to nonresidential uses, including institutional and government properties.

## Draft – Subject to Approval

However, CM Bergan requested further clarification from others present to ensure that the city's municipal grounds are indeed included in the proposed amendments. Kelly Bish, Landscape Architect, confirmed that the ordinance changes apply citywide and do not exempt any specific use, building, or type of land development. CM Bergan acknowledged the clarification and expressed gratitude to B. Cammarata.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.d. Ordinance Clarifying the Designation of the Floodplain Manager****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented this item. He explained that he will cover both the current item and the next item on the agenda. Although the items are in different chapters, they are closely related and serve the same purpose.

He mentioned that the Public Works Department and Aurora Water have been working diligently to reorganize the development review process. The goal is to clarify the code regulations involved in reviewing development projects between the two departments. The aim is to allocate responsibilities to the appropriate personnel within each department and minimize redundancy that arises when multiple departments review the same issues.

He explained that the proposed changes will significantly impact two positions: the City Engineer in Public Works and the General Manager of Aurora Water. The Chapter 70 Changes involve transferring the Floodplain Management responsibilities from the City Engineer to the Floodplain Administrator in Aurora Water. The Chapter 138 Changes assign Aurora Water with the responsibilities of reviewing the Master Preliminary and Final Drainage Plan and Master Utility Studies and reviewing and approving the Stormwater Management Plan Reports, which were previously handled by the City Engineer. Additionally, the changes clarify inspection responsibilities and allocate them appropriately between Aurora Water and Public Works.

The purpose of these changes is to streamline and clarify the assignment of responsibilities within the respective departments. As a follow-up to these ordinances, there will be a subsequent amendment to update the titles within the code. Specifically, the title of the Director of Aurora Water will be changed to the

## Draft – Subject to Approval

General Manager of Aurora Water to align with the current organizational titles in effect.

- CM Bergan requested clarification on whether the title changes were included in the backup of the ordinance. S. Durian clarified that the title changes indeed exist, but they are mentioned in multiple sections throughout the code, making it challenging to include them all in a single ordinance. He explained that it would have been difficult to incorporate a third ordinance solely to address the title changes. CM Bergan expressed understanding and noted that the updates would involve assigning responsibilities to the General Manager of Aurora Water. S. Durian confirmed this and reiterated that the title changes will be addressed as a follow-up action.
- CM Bergan asked about the approval process for development reviews and whether it always needs to go to the General Manager for final approval. She expressed concern about potential delays due to the General Manager's busy schedule. S. Durian assures CM Bergan that the duties can be delegated to the staff within the department. CM Bergan acknowledged this information and expressed satisfaction with the clarification provided.
- CM Bergan asked CM Sundberg if he had any questions. CM Sundberg answered that his concern is all about creating efficiencies and expressed hope that the proposed changes will streamline processes.
- CM Bergan mentioned hearing a rumor and asked about S. Durian leaving. S. Durian confirmed that he is indeed leaving due to an opportunity in another jurisdiction. He expressed regret about not being able to complete all their goals in his current position. CM Bergan expressed appreciation for S. Durian's contributions and wishes him good luck. She also asked if S. Durian knew anyone who could potentially fill his position and requested that he informs the Committee if he comes across suitable candidates. S. Durian acknowledged the request and mentioned that he is actively searching for potential replacements.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.e. Ordinance Amending and Clarifying Drainage Approval Authority****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented the item, and it was discussed along with the previous item.

**Outcome:**

## Draft – Subject to Approval

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.f. Revisions to the Axis Exploration LLC Operator Agreement****Summary of Issue and Discussion:**

Jeffrey Moore, Manager of Energy & Environment Division

Jeffrey Moore introduced himself and informed the council members and staff that the applicant, Dan Harrington from Civitas Resources representing Axis Exploration, will be making the presentation.

The purpose of the amendment being sought is to add a new well site and remove two existing well sites from the Aurora Axis Operator agreement of 2019. The intention is to add a new well site named "Deuce" with 18 wells while eliminating two offset well sites that were initially approved for 40 wells. This amendment would result in a net decrease of one site and 22 fewer wells in the Operator Agreement (OA).

The addition of the new well site, Deuce, is being requested through the Future Well Sites mechanism outlined in section 7.B.ii of the Operator Agreement. If the amendment moves forward, Deuce will be included in Exhibits A and D via a Council vote.

Furthermore, Axis has committed to constructing the Deuce site and commencing drilling within three years from the effective date of the amendment, as per the request of the Energy & Environment Division.

In addition to the well site amendment, Axis is also seeking an exemption from the requirement for produced water takeaway by pipeline, as stated in section 4 of the Operator Agreement for the Deuce Site. Instead, trucked-produced takeaway during the Production Phase will be allowed. This aligns with the practices of Axis and Crestone in other areas of Aurora.

D. Harrington presented an overview map of the area under consideration, which is located south of DIA, spanning E470 and east of Pena Boulevard. They propose adding a new site called the Deuce in the industrial park area east of E470. Zooming in on the map, the Deuce site is positioned as a shift from the previously approved ACP-E site located in the southern part. The relocation of the site covers approximately 1,700 feet within the same section. This move offers several advantages. Firstly, it significantly improves the setback from Second Creek, which is a designated Mile High Flood District stream. Secondly, it increases the distance between the site and future residential development planned south of 56<sup>th</sup> Avenue. Additionally, by implementing extended-reach drilling from the Deuce site, it



## Draft – Subject to Approval

becomes possible to eliminate another site to the west known as the Hammer site. He mentioned that they have engaged in discussions with the surface owners' representative regarding the site relocation, and they have received full support for the proposed move.

D. Harrington presented the updated Exhibits A and D, which would be approved and included in the Operator Agreement. The proposed changes involve the elimination of the ACP-E site, originally approved for eight wells, and the Hammer site located west of E470 initially approved for 32 wells. Instead, the focus will be on the Deuce site, which will accommodate 18 wells.

Additionally, D. Harrington emphasized the intention to evaluate and potentially reenter and re-plug several non-Civitas-operated legacy wells in the area. He stressed the importance of re-plugging these wells to meet modern standards, as some of them were plugged in the past using outdated methods. There are approximately 19 legacy wells in the area, and some of them have already been re-plugged or are scheduled for re-plugging.

- CM Bergan expressed her appreciation for the proposed changes, noting that the reduction in the number of wells and their relocation away from residential areas and the creek is beneficial from an environmental standpoint. She also acknowledged the importance of re-plugging legacy wells for safety reasons.
- J. Moore agreed with the previous statements and highlighted the significance of removing the former location west of E470 from consideration and officially removing it from the Operator Agreement. They express appreciation for Civitas' commitment to re-plug old wells, which benefits the city. He mentioned that their division has reviewed the proposal and fully supports the changes. If approved, they are ready to move forward with a Study Session on July 24 and a public hearing at Council on July 31.
- CM Bergan asked about the timeline for drilling, and D. Harrington answered that the current plan is to start drilling approximately 18 months from now. However, he noted that the timeline is subject to change. He assured that they are committed to commencing drilling within three years from the approval of the amendment.
- J. Moore agreed with Dan's explanation and confirmed that the water used for completion operations at the site will be transported through lay flat lines, while natural gas and oil production will be connected to pipelines. The only aspect handled by trucks will be the transportation of produced water. He explained that the number of trucks needed for water removal decreases significantly as production progresses. CM Bergan expressed her appreciation and thanked them for the clarification.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

## Draft – Subject to Approval

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.g. Small Business Event Update****Summary of Issue and Discussion:**

Marcia McGilley, SBDC Executive Director

Marcia McGilley introduced herself and announced an upcoming event, the Veterans Small Business Conference, which the city is sponsoring.

M. McGilley discussed the 16<sup>th</sup> Annual Veterans Small Business Conference, highlighting the presenting sponsors: Aurora South-Metro Small Business Development Center and Pikes Peak Small Business Development Center. The City of Aurora through A-U-R-A is the premier sponsor for the second consecutive year. The event is a partnership with the Aurora Chamber, Colorado Springs Chamber, SBA, and Connect2DOT. The conference is considered the premier event for military veteran entrepreneurs and their partners and spouses. Last year, due to COVID-19, the conference was held remotely, but this year it will be an in-person event.

She highlighted the successes of the previous year's conference, including 2,578 total page views, 161 registrants (exceeding the goal of 150), 26 exhibitors in the online program, and 60 participants in the roundtable discussions. The event was well-received, and registrations for this year's in-person conference have already started coming in since the website opened.

The event details are as follows: the conference will take place on Monday, September 18, from 8:00 AM to 4:00 PM at the Hyatt Regency Aurora. The goal is to have 200 in-person attendees, with 15 small businesses having the opportunity to exhibit and 10 to 15 community partners having tables. The website is now open for registration, and tickets are priced at \$129 per attendee, \$250 for small business exhibitors, and \$500 for community partner exhibitor booths.

She presented the agenda for the event, which includes a VIP Reception the night before for speakers, sponsors, and dignitaries. The main event starts at 8:00 AM on Monday, September 18. The program begins with welcoming remarks from the mayor and other individuals. The opening keynote speaker is Danny Moore, President, and Founder of De Novo Solutions in Aurora, who is a Navy veteran with 24 years of service and experience in running the Aerospace Facility in Aurora.

After the keynote speech, there will be breakout sessions that cover different topics and concurrent sessions will also be open for exhibits, and the event will conclude with a closing event, following the format of other conferences.



## Draft – Subject to Approval

M. McGilley presented the floor plan of the Hyatt, indicating that there will be booths set up in the hallway. She informed the Committee members that they are collaborating with various organizations, including the SBDC, Colorado Springs Chamber, Aurora Chamber, Mt. Carmel Veterans Service Center, the VBOC (Veterans Business Office Center), and the SBA (Small Business Administration). They express excitement about the new VBOC in Colorado, which was previously located in Utah and is now funded by the SBA.

She mentioned the sponsors for the event, including the City of Aurora, Connect2DOT, the Department of Transportation, the City of Colorado Springs, BSide, CEDS, the Armed Forces Bank, and the Colorado Enterprise Fund. She added that more sponsors are being finalized and that the sponsorship sheet includes benefits for the City of Aurora as the first sponsor. She also stated that they are working on marketing and promotion, and a marketing toolkit has been sent out to promote registration for the event.

M. McGilley provided information about the impact of the event, stating that they anticipate 40 room nights and 200 attendees from across the state. They mention that the event is being promoted by SBDC centers in the network, which tends to draw a wide range of participants to the City of Aurora. She expressed excitement about the event and offered to answer any questions.

- CM Bergan asked about Council members' invitations to the VIP Reception and mentioned the late notice they usually receive for events. M. McGilley clarified that the mayor will be speaking at the conference opening. She assured CM Bergan that the Council members will be invited and included in the VIP Reception. CM Bergan expressed gratitude for the clarification and thanked M. McGilley.
- CM Sundberg expressed curiosity about how they target the possible attendees for the event, specifically veteran entrepreneurs and those interested in becoming entrepreneurs. M. McGilley explained that they reach out to organizations supporting veterans, promote through the Chambers, utilize attendee lists from previous years, and leverage the large veteran population associated with Buckley Air Force Base. They also promote within the SBDC system to reach a broader audience of potential attendees. She added that around 15 organizations are involved in marketing and outreach efforts to ensure the conference is well-attended and serves the veteran community.
- CM Sundberg acknowledged the creativity and entrepreneurial spirit of veterans, including some within the Council. CM Bergan expressed appreciation for the update and finds the event exciting.

**Outcome:**

Information only.

**Follow-up Action:**

---

---

#### 4. MISCELLANEOUS MATTERS FOR CONSIDERATION

##### 4. a. Aurora Economic Development Council

- Yuriy Gorlov

Y. Gorlov provided an update to the Committee members regarding absorption, construction rates, and planned development in Aurora. Despite some market inconsistencies every month, he highlighted that the city has seen positive numbers and ongoing activity in terms of industrial and office velocities during the first half of the year. He assured the Committee that there are numerous projects underway and progressing well, without going into specific details as they were already familiar with them.

He stated that the Economic Development Council (EDC) is actively forming partnerships with community organizations and engaging in statewide initiatives to promote new industry efforts in Aurora. They are pursuing grants and exploring opportunities to leverage additional resources to attract more attention to the city and continue promoting its economic growth.

He mentioned recent legislation regarding data centers, the film industry, and employer housing credits, which have been positively received by businesses. He also noted an increasing interest from manufacturers in pursuing federal funding, particularly in advanced manufacturing related to energy, batteries, hydrogen, and other related fields. They have been successful in their recruitment trips to Phoenix and California and are planning additional trips to Texas, North Carolina, and other markets to engage with aerospace, bioscience, and manufacturing companies.

- CM Bergan asked about the semiconductor industry and the incentives passed by the federal government. Y. Gorlov responded that the state is also setting up an office and dedicating staff to attract the semiconductor industry. He mentioned that while this industry presents opportunities, it also requires significant resources such as power and water. He mentioned that although some semiconductor companies have expressed interest in Aurora, there have been concerns about their heavy utility usage. However, he believes there are opportunities to attract companies in the semiconductor supply chain that require less power and water.
- CM Bergan raised the issue of China's monopoly on certain minerals used in chip making, which could potentially impact the expansion of the semiconductor industry. Y. Gorlov acknowledged the constraints and challenges faced by the semiconductor industry. He also stated that there are emerging technologies, such as solid-state batteries, that are exploring alternative resources.

## Draft – Subject to Approval

- CM Sundberg stressed the importance of being a business-friendly state. He referred to the challenges faced by California, where several hundred businesses have relocated in recent years due to overregulation, taxation, and difficulties in conducting business. Y. Gorlov agreed with the comment and thanked the Council members.

**4.b. Havana Business Improvement District**

- Chance Horiuchi
- NO REPORT

**4.c. Aurora Chamber of Commerce**

- Kevin Hougen:
- NO REPORT

**4.d. Planning Commission**

- Becky Hogan

B. Hogan highlighted the success and consistency of the planning and development process in Aurora. Over the past 13 months, the Planning Commission has reviewed 133 development projects, with only two cases being appealed to City Council. In both appeals, City Council upheld the decisions made by the Planning Commission. Additionally, out of the 18 zoning cases reviewed, City Council upheld 100 percent of the Planning Commission's recommendations for rezoning. This consistency demonstrates a streamlined and efficient process, reducing time and costs for the development community. She emphasized the positive collaboration between the Planning Commission and City Council, working independently while marching in lockstep towards common goals.

- CM Bergan commended Becky and her team for their exceptional work and emphasized the significance of their role in the decision-making process. She appreciated the existence of independent entities that provide residents with the opportunity to appeal and present their cases. CM Sundberg also thanked Becky and her team for their time, experience, and expertise on the Committee.

**4.e. Oil and Gas Committee**

- Brad Pierce
- NO REPORT

**4.f. Business Advisory Board**

- Garrett Walls
- NO REPORT

**4.g. Retail**

- Bob Oliva
- NO REPORT

Draft – Subject to Approval

**4.h. Small Business**

- Marcia McGilley
- NO REPORT

**4.i. Visit Aurora**

- Bruce Dalton
- NO REPORT

---

**5. CONFIRM NEXT MEETING DATE**

Scheduled for August 2, 2023, at 8:30 AM MT.

---

**6. ADJOURNMENT**

APPROVED: \_\_\_\_\_  
Francoise Bergan, Committee Chair



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Amending Chapter 138 of the City Code Pertaining to Certain Stormwater Drainage and Floodplain Administrator Delegations of Authority (Ordinance)

**Item Initiator:** Casey Rossman, Executive Specialist, Aurora Water

**Staff Source/Legal Source:** Sarah Young, Assistant General Manager or Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

**Outside Speaker:** N/A

**Council Goal:** 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE PERTAINING TO CERTAIN STORMWATER DRAINAGE AND FLOODPLAIN ADMINISTRATOR DELEGATIONS OF AUTHORITY

Sarah Young, Assistant General Manager or Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

Estimated time: 5 Mins

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

☐ Approve Item and Move Forward to Study Session

☐ Approve Item as Proposed at Study Session

☒ Approve Item and Move Forward to Regular Meeting

☐ Approve Item as Proposed at Regular Meeting

☐ Information Only

☐ Approve Item with Waiver of Reconsideration

*Reason for waiver is described in the Item Details field above.*

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Planning & Economic Development

**Policy Committee Date:** 7/12/2023

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

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☒ Minutes 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.)*

On July 12, 2023, the Planning and Economic Development Committee supported an ORDINANCE Amending Sections of Chapter 138 of the City Code Pertaining to Certain Stormwater Drainage and Floodplane Administrator Delegations of Authority.

---

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

Over the last several months, the City's Public Works Department and Aurora Water have reorganized their respective development review functions to create more direct accountability for staff and to improve responsiveness and predictability in the development review process. One critical part of the reorganization is to clarify approval authority so that approvals are specific to the functions of the two departments. Previously this approval authority resided solely with the City Engineer. This amendment to ordinance will assign the following specific responsibilities to the General Manger of Aurora Water:

- Review and approval of master, preliminary, and final drainage plans and reports as well as Stormwater Management Facility Inspection and Maintenance Plans.
- Review and approval of master utility studies (plans and reports)
- Review and approval of stormwater management plan reports.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

### WORKLOAD IMPACT

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

## QUESTIONS FOR COUNCIL

Does Council support the amendment to ordinance of Chapter 138 of the City Code Pertaining to Certain Stormwater Drainage and Floodplain Administrator Delegations of Authority?

---

## **LEGAL COMMENTS**

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Section 5-1). (M. Gardner)

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE PERTAINING TO CERTAIN STORMWATER DRAINAGE AND FLOODPLAIN ADMINISTRATOR DELEGATIONS OF AUTHORITY

WHEREAS, the City of Aurora (“City”) has determined that it is in the City’s best interest to assign the General Manager of Aurora Water (or designee) the responsibility for approval of drainage plans and reports; and

WHEREAS, the City has determined that it is in the City’s best interest to designate the General Manager of Aurora Water (or designee) as the floodplain administrator; and

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

Section 1. The City hereby amends Section 138-153 of the City Code pertaining to water extension agreements and public improvement permits.

Sec. 138-153. Water extension agreement; public improvement permit.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public water system extension, main, or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a water extension agreement with the utility enterprise. The agreement shall provide for the dedication of all **public** water system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the director of water may determine.
- (b) Application for a water extension agreement shall be made to the utility enterprise on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed water system improvements as may be required by the director.
- (c) Following execution of the water extension agreement and prior to commencing construction or installation of any water system improvements **in the right of way**, each applicant shall procure a public improvement permit from the City as required. Application for such permit shall be made to the public works department on forms provided by the director of public works.
- (d) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in article V of chapter 126 of this Code.
- (e) No person may enter into a water extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any



such agreement or permit when such person or contractor has failed to diligently complete and discharge the performance and warranty obligations under a prior agreement or permit.

- (f) It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.
- (g) Developers are responsible for construction of regional facilities if development timing occurs ahead of the approved capital improvement budget. A regional facility is defined as infrastructure with a capacity larger than that which is required for the respective development and as defined in the department master plans. The developer may be eligible for reimbursement for infrastructure oversizing as further defined by the water department rules and regulations.

Section 2. The City hereby amends Section 138-261 of the City Code pertaining to building sewers and connections.

Sec. 138-261. Construction requirements.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public sanitary sewer system extension or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a sanitary sewer extension agreement with the utility enterprise. The agreement shall provide for the dedication of all sanitary sewer system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the director of water may determine.
- (b) Application for a sanitary sewer extension agreement shall be made to the utility enterprise on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed sanitary sewer system improvements as may be required by the director.
- (c) Following execution of the ~~sanitary sewer~~ extension agreement and prior to commencing construction or installation of any ~~sanitary sewer~~ system improvements **within the right of way**, each applicant shall procure a public improvement permit from the City. Application for such permit shall be made to the public works department on forms provided by the director of public works.
- (d) At the time of filing the permit application, each applicant shall pay ~~a public improvement~~ **all applicable** permit fees. Such fees shall be promulgated by ~~either the director of public works~~ **General Manager or the Director of Public Works** in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of public ~~sanitary sewer extensions and related~~ structures and facilities. In addition to such fee, any person requesting inspection of a public ~~sanitary sewer~~ **infrastructure** at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.

- (e) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in article V of chapter 126 of this Code.
- (f) No person may enter into an ~~sanitary sewer~~ extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a prior agreement or permit.
- ~~(g) All fees collected pursuant to this section shall be credited to and deposited in an account of the public works department in the general fund.~~
- (h) It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.
- (i) Developers are responsible for construction of regional facilities if development timing occurs before the approved capital improvement budget. A regional facility is defined as infrastructure with a capacity larger than that which is required for the respective development and as defined in the department master plans. The developer may be eligible for reimbursement for infrastructure oversizing as further defined by the water department rules and regulations.

Section 3. The City hereby amends Section 138-262 of the City Code pertaining to building sewers and connections.

Sec. 138-262. Building sewers and connections.

- (a) *Permit required.* It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. Any plumber, journeyman or other authorized person who shall make a connection with any pipe leading from any public sewer to any premises for the purposes of connecting the ~~sanitary~~ sewer system of any residential, commercial or industrial structure to the ~~sanitary~~ sewer system of the City, without first having procured a permit therefor, shall be in violation of this article and punished as provided for in section 138-257.
- (b) *Classes of permits.* There shall be two classes of permits as follows:
  - (1) For residential and commercial services.
  - (2) For service to establishments producing industrial wastes.
- (c) *Application; fee.* For either class of permit, the owner or his or her agent shall make application on a special form furnished by the City. Application shall be made to the building division of the development services department for a building permit, which permit shall include the building sewer system and that portion of the building sewer service line located within five feet of the building perimeter. Application shall be made to the director of public works for a public improvement permit for that portion of the building sewer service line extending from five feet outside of the building perimeter to the public sewer connection. The permit applications shall be supplemented by any

plans, specifications or other information requested by the City. At the time of filing the public improvement permit application, each applicant shall pay a permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with inspections and plan reviews for building sewers and connections to the sanitary sewer system of the City.

- (d) *Costs and expenses.* All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (e) *Separate sewer for each building.* A separate and independent building sewer shall be provided for every building. Except when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer or in the case of multi-family or commercial complexes where such sewer line may be designed as part of a private internal sewer system.
- (f) *Existing sewers.* Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the director of water or his or her designee, to meet all requirements of this article.
- (g) *Construction requirements.* The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or applicable rules and regulations of the City.
- (h) *Elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (i) *Runoff drain connections prohibited.* It shall be unlawful for any person to connect roof downspouts, exterior foundation drains, areaway drains, sump pumps or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Swimmingpool drains, other than backwash, shall not connect to the sanitary sewer except when authorized in writing by the director of water.
- (j) *Connection specifications.* The connection of the building sewer to the public sewer shall conform to the specifications and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the director of water before installation.
- (k) *Inspection.* The applicant for the building and public improvement permits shall notify the public works department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of an authorized representative of ~~the public works department~~ **Aurora Water**.

- (l) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- (m) Service line.
  - (1) The owner of any building connected to the public sewer system shall retain ownership and be responsible for all maintenance and repair of the service line and all appurtenances thereto from the building served to the tap connection, including any tapping saddle on the public sewer main.
  - (2) The owner shall maintain the service line in a structurally sound and intact condition and shall repair or replace, at owner's expense, any portion of the service line which, in the opinion of the director of water, has become so damaged or disintegrated as to no longer convey waste flow from the building served to the public sewer system or that permits excessive infiltration of groundwater or exfiltration of wastewater. The owner shall complete such repair or replacement within the time period given by the director. The director shall establish the time to be allowed for such repair or replacement based on any statutory or regulatory requirements and the present or potential harm or risk associated with the current condition and the nature of the repair required,
  - (3) The city reserves the right, at the discretion of the director of water and at city expense, to make repairs or modifications to any portion of the service line located in public property or the public right-of-way when such repairs or modifications serve the operational efficiency of the public sewer system.
  - (4) The director of water is authorized to suspend water service to a building to facilitate the reduction or elimination of wastewater flow when the director finds that the use of the service line or other building sewer components, in their present condition endanger the public sewer system, public or private property, the environment, or the health or safety of occupants or the public. The building owner and occupants shall be given written notice of such suspension. Notice shall include the reason(s) for the suspension and the corrective action(s) that must be taken prior resumption of water service. Monthly service charges will continue to accrue during such suspension.

Section 4. The City hereby amends Section 138-365 of the City Code pertaining to dedication of easements, construction and maintenance of minor facilities.

Sec. 138-365. Dedication of easements; construction and maintenance of minor facilities.

- (a) Every subdivider shall provide, without cost to the City, an easement of not less than 16 feet in width up to such maximum width as is necessary to accommodate drainage from a 100-year storm or for the purpose of constructing and maintaining drainage facilities for the transmission, through the subdivider's property, of all stormwater generated upstream from the subdivision. Notwithstanding this requirement, any natural drainageway having an identifiable bed and banks which traverses any

subdivider's property shall not be encroached upon or altered so as to render the drainageway less suitable to accept and transport stormwater which has historically flowed through such drainageway. The maximum width of the storm drainage easement to be provided by the subdivider shall be reasonably determined by ~~the directors of water and public works~~ **General Manager** and shall include criteria set forth by urban drainage and flood control district for maintenance eligibility **and Aurora Water's Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure and or the Drainage Criteria Manual.**

- (b) Wherever possible, existing street patterns may be utilized for the purpose for which an easement would otherwise be required. Alternatively, the city may, at its sole option, waive the requirement for granting such an easement.
- (c) It shall be the responsibility of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required within his or her subdivision for the acceptance and conveyance of all stormwater generated outside of his or her subdivision, as though such water was in fact generated from land in its fully developed state. It shall further be the duty of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required for the acceptance and conveyance of all stormwater generated from within his or her subdivision, as though such subdivision was in fact fully developed, or as may otherwise be approved by ~~the directors of water and public works departments~~ **General Manager**. Should a facility be deemed minor at the time of master planning but meets the criteria to be classified as a major facility at the time of development, the project can be reviewed by the water department for partial reimbursement as described in section 138-366 of this Code.
- (d) It shall be the responsibility of the property owner, unless evidenced by written agreement, to maintain all minor facilities.

Section 5. The City hereby amends Section 138-366 of the City Code pertaining to the construction of regional facilities.

Sec. 138-366. Construction of regional facilities.

- (a) Under this article, responsibility for the construction of regional facilities shall be apportioned between the city and the subdivider. It shall be the responsibility of the subdivider to construct or provide for the construction of regional facilities identified in the city master drainage plan and within the subdivider's master planned parcel. Facilities constructed by the subdivider may be eligible for partial reimbursement subject to a reimbursement agreement approved by ~~the director of the water department~~ **General Manager**. The subdivider shall not be eligible for partial reimbursement for project elements that do not meet the intent of the project identified in the city master drainage plan. The subdivider may receive a partial reimbursement only if the water department accepts the constructed improvement in accordance with the City's

standards and specifications and the subdivider provides receipts verifying actual construction costs which shall be provisions in a reimbursement agreement.

- (b) Following construction by a subdivider of any major facilities, record drawings signed by a professional engineer and bearing his or her seal shall be presented to the city for its review. Such plans must be reviewed by the ~~directors of water and public works~~ **General Manager** prior to the City's acceptance of such facilities. All major facilities and facilities appurtenant thereto, which are constructed under this section, shall, upon written acceptance by the city and fulfillment of the ~~one-year~~ **standard** warranty period, become city property and the city shall thereafter be responsible for the operation and maintenance of such.

Section 6. The City hereby amends Section 138-367 of the City Code pertaining to the preliminary and final drainage plans.

Sec. 138-367. Preliminary and final drainage plans.

- (a) Under this article, every subdivider shall, at his or her sole expense, be required to:
- (1) Establish, locate or otherwise define the boundaries of all subdrainage areas within his or her subdivision;
  - (2) Establish, locate or otherwise define the alignment and boundary of any natural drainageway or existing drainage facilities and private drainage works within his or her subdivision;
  - (3) Submit for review and approval by the ~~directors of water and public works~~ **General Manager**, prior to the final approval of any subdivision plat or site plan, a preliminary storm drainage plan for his or her subdivision, which shall include preliminary drawings of all proposed drainage facilities, drainage studies and reports, design computations, estimated costs of construction, and such other information as may be required to ensure that stormwater originating both from his or her proposed subdivision and lands lying upgradient from such subdivision will be adequately drained and controlled; and
  - (4) Convey to the City by dedication, deed and bill of sale, free and clear of all liens and encumbrances and in consideration of the City thereafter maintaining and operating such, all **public** drainage facilities, including adequate easements or rights-of-way within his or her subdivision necessary for the maintenance, repair or replacement of such facilities, which conform to the drainage master plan and which, in the opinion of the director of water, could reasonably be considered to be an integral part of the storm drainage system.
- (b) The ~~directors of water and public works~~ **General Manager** shall not approve any proposed storm drainage plan or construction of drainage facilities or accept any constructed drainage facilities which do not conform to the drainage master plan or such reasonable rules and regulations as may be promulgated to ensure the adequate drainage and control of stormwater.

- (c) The ~~directors of water and public works~~ **General Manager** shall not recommend approval for any subdivision plat or site plan which does not conform to the drainage master plan or such rules and regulations.
- (d) After the final approval of any subdivision plat, site plan, or part thereof for which final approval is requested and prior to the issuance of any building permits, the subdivider shall, at his or her sole expense, prepare and submit for review and approval by the ~~directors of water and public works~~ **General Manager** a final storm drainage plan, including detailed construction drawings, plans, profiles and specifications for the construction and installation of all drainage facilities necessary for the drainage and control of all stormwater within his or her subdivision and the conveyance of such water to a safe discharge or outflow point. Such plan shall conform to the approved preliminary drainage plan for the subdivision and the drainage master plan and shall bear the seal of a registered professional engineer of the state. The subdivider shall also prepare and submit an estimated construction schedule in accordance with chapter 147 of this Code. Prior to the issuance of any building permit, the subdivider must complete any and all improvements which may be necessary to remove the underlying subdivision from a 100-year floodplain.
- (e) The ~~directors of water and public works~~ **General Manager** may recommend another temporary discharge or outflow point at which the water will be received by an open channel or other minimum, temporary or substitute facility to carry the water, provided that it is technically feasible and not detrimental to the health, safety and welfare of the public. The city council may, in the interest of the health, safety and welfare of the public, direct the purchase of land or construction of drainage facilities as shown in the drainage master plan.
- (f) The approval of any preliminary or final drainage plan under this section shall be valid for a period of one year from the date such approval is given.
- (g) Land not otherwise excluded or exempted under this section shall be ineligible for replatting or resubdividing if:
  - (1) Drainage basin development fees have not been assessed;
  - (2) Drainage facilities have not been built in accordance with accepted plans and specifications;
  - (3) Preliminary drainage plans have not been submitted; or
  - (4) The subdivider has failed to comply with all of the requirements of this section.
- (h) Land may be replatted or resubdivided without additional assessment of drainage basin development fees or construction of additional drainage facilities if the drainage plan submitted with the replat or resubdivision indicates that no new drainage facilities are required as a result thereof, provided that:
  - (1) Drainage basin development fees have been paid; and
  - (2) Drainage facilities have been built in accordance with accepted plans and specifications.

Section 7. The City hereby amends Section 138-368 of the City Code pertaining to the requirements for mains, structures or facilities.

Sec. 138-368. Requirements for mains, structures or facilities.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any storm drainage system extension or related subsurface structure or facility within any public street, avenue, alley or other public way or to discharge into a public right-of-way or easement, without first having obtained a storm drainage system utility permit and stormwater quality discharge permit with the water department. The permit shall provide for the dedication of all public storm drainage system improvements so constructed or installed to the water department upon such terms and conditions as the director of water may determine.
- (b) Application for a storm drainage system utility permit **extension agreement** and stormwater quality discharge permit shall be made to the water department on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed storm drainage system improvements as may be required by the director.
- (c) Following issuance of the storm drainage system utility permit **extension agreement** and stormwater quality discharge permit and prior to commencing construction or installation of any storm drainage system improvements, **and if the improvements are in the right of way**, each permittee shall procure a public improvement permit from the public works department on forms provided by the director of public works.
- (d) At the time of filing the permit application, each applicant shall pay **all applicable fees per the then current City of Aurora and Aurora Water fee schedule** ~~a public improvement permit fee~~. Such fees shall be promulgated by the director of public works **and/or the General Manager** in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of storm drainage system extensions and related subsurface structures or facilities. In addition to such fee, any person requesting inspection of a storm drainage system extension or related subsurface structure or facility at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.
- (e) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in article V of chapter 126 of this Code.
- ~~(f) Reserved.~~
- ~~(g) All fees collected pursuant to this section shall be credited to and deposited in an account of the public works department in the general fund.~~
- (h) (f) It shall be the responsibility of the applicant or the developer of the subject property to obtain any permits required for the construction, placement or installation of the proposed drainage facilities under section 404 of the Clean Water Act or any other applicable federal or state statute, rule or regulation. Unless otherwise agreed to by the director of water, it shall be the responsibility of the applicant to obtain any floodplain map amendments or revisions required as the result of the construction, placement or installation.



Section 8. The City hereby amends Section 138-442.5 of the City Code pertaining to Permanent stormwater best management practices.

Sec. 138-442.5. Permanent stormwater best management practices.

- (a) All permanent stormwater quality best management practices installed prior to January 7, 2008, shall be maintained in a manner to meet their original design functionality.
- (b) All permanent stormwater quality best management practices installed after January 7, 2008, shall be inspected and maintained by the responsible party, in accordance with the provisions of this section 138-442.5 and the measures of the storm drainage design and technical criteria.
- (c) *PE certification.* All private and public permanent stormwater quality BMP construction shall be certified in compliance with the approved construction plans and specifications by a professional engineer (PE) licensed in the State of Colorado.
- (d) *Inspection and maintenance.* An inspection and maintenance plan (I&M plan) shall be developed concurrently with the design of the permanent BMPs and submitted with the final drainage plan and report for approval by **Aurora Water** ~~the public works department and water department~~. The I&M plan shall specify **each of the following**:
  - (1) The responsible party;
  - (2) Owner and responsible party contact information;
  - (3) Facility address;
  - (4) List recommended inspection and maintenance activities and frequencies;
  - (5) Access; **and**
  - (6) Approximate annual maintenance costs.
- (e) The responsible parties shall perform inspections of permanent stormwater BMPs pursuant to the approved I&M plan, document the inspection(s) and maintenance, and submit an annual inspection report to the ~~water department~~ **Aurora Water** by no later than March 31 of the following year.
- (f) The responsible party shall submit a signed maintenance agreement to the water department. The approved maintenance agreement shall be recorded with deed records to ensure that the maintenance agreement is bound to the property in perpetuity.
- (g) *Failure to submit annual inspection report.* If the annual inspection report is not submitted to the City by March 31 of the following year, the responsible party will be notified either by mail or electronically. The responsible party will have 45 days to complete the inspection upon being notified by the city and mail it to the City. A notice of violation (NOV) may be issued by the City if an inspection is not submitted by the 45th day.
- (h) *Review by city.* The responsible party shall allow the City to enter upon the subject property at reasonable times to conduct on-site visits.
- (i) *Correction of deficiencies.* If deficiencies are noted during ~~Ceity~~ site visit, the ~~Ceity~~ will notify the responsible party by either U.S. mail or electronically. The ~~Ceity~~ may also issue a notice of violation (NOV). The responsible party shall correct deficiencies and immediately notify the City of the corrections. If deficiencies have not been abated after notice pursuant to the time specified in the notice or any extension of time to

comply with such notice, the Ceity may conduct the maintenance at the responsible party's expense. Failure of the responsible party to correct deficiencies thereby consents, under terms of this section, to have the Ceity abate the violations. The responsible party will be responsible for all abatement costs incurred by the City.

- (j) If there exists an immediate danger to public health or safety, the City may enter upon the subject property and complete the necessary maintenance and/or repair at the responsible party's expense.
- (k) *City's lien*. If the responsible party fails to pay the abatement costs within 30 days of such notice being sent, the amount shall constitute a lien against the real property upon which the permanent BMP was or is situated. Any notice of lien shall consist of a sworn statement setting out:
  - (1) A description of the real estate sufficient for identification thereof.
  - (2) The amount of money representing the cost and expense incurred or payable to the City.
  - (3) The date when such cost and expense was incurred by the City.

Section 9. 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 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.

Section 11. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

*Ian J Best*

RLA

---

IAN BEST, Assistant City Attorney

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

Members Present Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

Others Present Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

---

**1. CALL TO ORDER**

---

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

---

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for

## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.

## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the

## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.c. UDO Text Amendment, which includes simplification to rear setback along alleys, other clarifications****Summary of Issue and Discussion:**

Brandon Cammarata, Planning Manager

Brandon Cammarata presented a set of minor amendments to the UDO. He mentioned that they have been coordinating with PROS and Aurora Water over the last few months in the preparation of various packages.

The amendments include the landscape section of the zoning code to address unclear or conflicting language and provide more flexibility. This includes allowing greater use of artificial turf, clarifying guidelines for mulch, and enhancing the usability of landscape buffers. The amendments also touch on other sections of the code, with the highlight being the simplification of alley setbacks. The proposed change would establish a minimum setback of three feet, simplifying the current

## Draft – Subject to Approval

complex regulations. This modification is intended to address concerns raised by the development community regarding utility-related discussions in alleys.

B. Cammarata provided a high-level overview of the amendments, acknowledging that there are more detailed aspects to discuss if needed. He asked the Committee for their decision on proceeding with the amendments, as well as any specific points they would like to clarify during the process.

- CM Sundberg asked about the buffer zone mentioned in alleyways, questioning if it was influenced by developer feedback and previous concerns. B. Cammarata explained that when dealing with alleyways, which are typically 16 to 20 feet wide, the setback determines how close a building, often a garage, can be constructed to the alley. This aspect has been identified as a complexity, resulting in the need for variances and their subsequent approval. Recognizing the routine approval of variances, he stressed the importance of revisiting that section of the code to address the underlying complexity and potentially make necessary amendments. CM Sundberg acknowledged the reasoning and expressed appreciation for the clarification.
- CM Bergan asked about the minimum height requirement. She recalled a recent development that experienced confusion regarding how the height was measured. B. Cammarata clarified that the specific amendment being discussed is related to the MUC (Mixed-Use Commercial) Zone District, which is commonly used for commercial and multifamily projects. He mentioned that there have been several proposals within the MUC Zone District, and the amendment aims to provide clarity regarding height expectations in those areas.
- CM Bergan asked whether the proposed amendment addresses the calculation complexities that were previously encountered. She also requested clarification if it may need to be changed in a different location or manner. B. Cammarata acknowledged the question, specifically referencing the height calculation. He explained that the existing calculation method considers factors such as grades and aims to ensure flexible roof design options. At present, there are no plans to modify the calculation, but he expressed openness to listening to concerns or thoughts the Committee may have or any feedback they have received regarding the height calculation.
- CM Bergan asked regarding the amendment concerning artificial turf and rock mulch, inquiring whether the change applies to both current and future developments, encompassing residential and commercial properties. B. Cammarata confirmed CM Bergan's understanding, noting that existing homes will have the option to convert to artificial turf and that the amendment provides more frequent and accessible opportunities for such conversions.
- CM Bergan also asked whether the proposed changes also apply to the city's municipal grounds. B. Cammarata confirmed that the changes apply to nonresidential uses, including institutional and government properties.



## Draft – Subject to Approval

However, CM Bergan requested further clarification from others present to ensure that the city's municipal grounds are indeed included in the proposed amendments. Kelly Bish, Landscape Architect, confirmed that the ordinance changes apply citywide and do not exempt any specific use, building, or type of land development. CM Bergan acknowledged the clarification and expressed gratitude to B. Cammarata.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.d. Ordinance Clarifying the Designation of the Floodplain Manager****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented this item. He explained that he will cover both the current item and the next item on the agenda. Although the items are in different chapters, they are closely related and serve the same purpose.

He mentioned that the Public Works Department and Aurora Water have been working diligently to reorganize the development review process. The goal is to clarify the code regulations involved in reviewing development projects between the two departments. The aim is to allocate responsibilities to the appropriate personnel within each department and minimize redundancy that arises when multiple departments review the same issues.

He explained that the proposed changes will significantly impact two positions: the City Engineer in Public Works and the General Manager of Aurora Water. The Chapter 70 Changes involve transferring the Floodplain Management responsibilities from the City Engineer to the Floodplain Administrator in Aurora Water. The Chapter 138 Changes assign Aurora Water with the responsibilities of reviewing the Master Preliminary and Final Drainage Plan and Master Utility Studies and reviewing and approving the Stormwater Management Plan Reports, which were previously handled by the City Engineer. Additionally, the changes clarify inspection responsibilities and allocate them appropriately between Aurora Water and Public Works.

The purpose of these changes is to streamline and clarify the assignment of responsibilities within the respective departments. As a follow-up to these ordinances, there will be a subsequent amendment to update the titles within the code. Specifically, the title of the Director of Aurora Water will be changed to the

## Draft – Subject to Approval

General Manager of Aurora Water to align with the current organizational titles in effect.

- CM Bergan requested clarification on whether the title changes were included in the backup of the ordinance. S. Durian clarified that the title changes indeed exist, but they are mentioned in multiple sections throughout the code, making it challenging to include them all in a single ordinance. He explained that it would have been difficult to incorporate a third ordinance solely to address the title changes. CM Bergan expressed understanding and noted that the updates would involve assigning responsibilities to the General Manager of Aurora Water. S. Durian confirmed this and reiterated that the title changes will be addressed as a follow-up action.
- CM Bergan asked about the approval process for development reviews and whether it always needs to go to the General Manager for final approval. She expressed concern about potential delays due to the General Manager's busy schedule. S. Durian assures CM Bergan that the duties can be delegated to the staff within the department. CM Bergan acknowledged this information and expressed satisfaction with the clarification provided.
- CM Bergan asked CM Sundberg if he had any questions. CM Sundberg answered that his concern is all about creating efficiencies and expressed hope that the proposed changes will streamline processes.
- CM Bergan mentioned hearing a rumor and asked about S. Durian leaving. S. Durian confirmed that he is indeed leaving due to an opportunity in another jurisdiction. He expressed regret about not being able to complete all their goals in his current position. CM Bergan expressed appreciation for S. Durian's contributions and wishes him good luck. She also asked if S. Durian knew anyone who could potentially fill his position and requested that he informs the Committee if he comes across suitable candidates. S. Durian acknowledged the request and mentioned that he is actively searching for potential replacements.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.e. Ordinance Amending and Clarifying Drainage Approval Authority****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented the item, and it was discussed along with the previous item.

**Outcome:**

## Draft – Subject to Approval

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.f. Revisions to the Axis Exploration LLC Operator Agreement****Summary of Issue and Discussion:**

Jeffrey Moore, Manager of Energy & Environment Division

Jeffrey Moore introduced himself and informed the council members and staff that the applicant, Dan Harrington from Civitas Resources representing Axis Exploration, will be making the presentation.

The purpose of the amendment being sought is to add a new well site and remove two existing well sites from the Aurora Axis Operator agreement of 2019. The intention is to add a new well site named "Deuce" with 18 wells while eliminating two offset well sites that were initially approved for 40 wells. This amendment would result in a net decrease of one site and 22 fewer wells in the Operator Agreement (OA).

The addition of the new well site, Deuce, is being requested through the Future Well Sites mechanism outlined in section 7.B.ii of the Operator Agreement. If the amendment moves forward, Deuce will be included in Exhibits A and D via a Council vote.

Furthermore, Axis has committed to constructing the Deuce site and commencing drilling within three years from the effective date of the amendment, as per the request of the Energy & Environment Division.

In addition to the well site amendment, Axis is also seeking an exemption from the requirement for produced water takeaway by pipeline, as stated in section 4 of the Operator Agreement for the Deuce Site. Instead, trucked-produced takeaway during the Production Phase will be allowed. This aligns with the practices of Axis and Crestone in other areas of Aurora.

D. Harrington presented an overview map of the area under consideration, which is located south of DIA, spanning E470 and east of Pena Boulevard. They propose adding a new site called the Deuce in the industrial park area east of E470. Zooming in on the map, the Deuce site is positioned as a shift from the previously approved ACP-E site located in the southern part. The relocation of the site covers approximately 1,700 feet within the same section. This move offers several advantages. Firstly, it significantly improves the setback from Second Creek, which is a designated Mile High Flood District stream. Secondly, it increases the distance between the site and future residential development planned south of 56<sup>th</sup> Avenue. Additionally, by implementing extended-reach drilling from the Deuce site, it

## Draft – Subject to Approval

becomes possible to eliminate another site to the west known as the Hammer site. He mentioned that they have engaged in discussions with the surface owners' representative regarding the site relocation, and they have received full support for the proposed move.

D. Harrington presented the updated Exhibits A and D, which would be approved and included in the Operator Agreement. The proposed changes involve the elimination of the ACP-E site, originally approved for eight wells, and the Hammer site located west of E470 initially approved for 32 wells. Instead, the focus will be on the Deuce site, which will accommodate 18 wells.

Additionally, D. Harrington emphasized the intention to evaluate and potentially reenter and re-plug several non-Civitas-operated legacy wells in the area. He stressed the importance of re-plugging these wells to meet modern standards, as some of them were plugged in the past using outdated methods. There are approximately 19 legacy wells in the area, and some of them have already been re-plugged or are scheduled for re-plugging.

- CM Bergan expressed her appreciation for the proposed changes, noting that the reduction in the number of wells and their relocation away from residential areas and the creek is beneficial from an environmental standpoint. She also acknowledged the importance of re-plugging legacy wells for safety reasons.
- J. Moore agreed with the previous statements and highlighted the significance of removing the former location west of E470 from consideration and officially removing it from the Operator Agreement. They express appreciation for Civitas' commitment to re-plug old wells, which benefits the city. He mentioned that their division has reviewed the proposal and fully supports the changes. If approved, they are ready to move forward with a Study Session on July 24 and a public hearing at Council on July 31.
- CM Bergan asked about the timeline for drilling, and D. Harrington answered that the current plan is to start drilling approximately 18 months from now. However, he noted that the timeline is subject to change. He assured that they are committed to commencing drilling within three years from the approval of the amendment.
- J. Moore agreed with Dan's explanation and confirmed that the water used for completion operations at the site will be transported through lay flat lines, while natural gas and oil production will be connected to pipelines. The only aspect handled by trucks will be the transportation of produced water. He explained that the number of trucks needed for water removal decreases significantly as production progresses. CM Bergan expressed her appreciation and thanked them for the clarification.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

## Draft – Subject to Approval

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.g. Small Business Event Update****Summary of Issue and Discussion:**

Marcia McGilley, SBDC Executive Director

Marcia McGilley introduced herself and announced an upcoming event, the Veterans Small Business Conference, which the city is sponsoring.

M. McGilley discussed the 16<sup>th</sup> Annual Veterans Small Business Conference, highlighting the presenting sponsors: Aurora South-Metro Small Business Development Center and Pikes Peak Small Business Development Center. The City of Aurora through A-U-R-A is the premier sponsor for the second consecutive year. The event is a partnership with the Aurora Chamber, Colorado Springs Chamber, SBA, and Connect2DOT. The conference is considered the premier event for military veteran entrepreneurs and their partners and spouses. Last year, due to COVID-19, the conference was held remotely, but this year it will be an in-person event.

She highlighted the successes of the previous year's conference, including 2,578 total page views, 161 registrants (exceeding the goal of 150), 26 exhibitors in the online program, and 60 participants in the roundtable discussions. The event was well-received, and registrations for this year's in-person conference have already started coming in since the website opened.

The event details are as follows: the conference will take place on Monday, September 18, from 8:00 AM to 4:00 PM at the Hyatt Regency Aurora. The goal is to have 200 in-person attendees, with 15 small businesses having the opportunity to exhibit and 10 to 15 community partners having tables. The website is now open for registration, and tickets are priced at \$129 per attendee, \$250 for small business exhibitors, and \$500 for community partner exhibitor booths.

She presented the agenda for the event, which includes a VIP Reception the night before for speakers, sponsors, and dignitaries. The main event starts at 8:00 AM on Monday, September 18. The program begins with welcoming remarks from the mayor and other individuals. The opening keynote speaker is Danny Moore, President, and Founder of De Novo Solutions in Aurora, who is a Navy veteran with 24 years of service and experience in running the Aerospace Facility in Aurora.

After the keynote speech, there will be breakout sessions that cover different topics and concurrent sessions will also be open for exhibits, and the event will conclude with a closing event, following the format of other conferences.

## Draft – Subject to Approval

M. McGilley presented the floor plan of the Hyatt, indicating that there will be booths set up in the hallway. She informed the Committee members that they are collaborating with various organizations, including the SBDC, Colorado Springs Chamber, Aurora Chamber, Mt. Carmel Veterans Service Center, the VBOC (Veterans Business Office Center), and the SBA (Small Business Administration). They express excitement about the new VBOC in Colorado, which was previously located in Utah and is now funded by the SBA.

She mentioned the sponsors for the event, including the City of Aurora, Connect2DOT, the Department of Transportation, the City of Colorado Springs, BSide, CEDS, the Armed Forces Bank, and the Colorado Enterprise Fund. She added that more sponsors are being finalized and that the sponsorship sheet includes benefits for the City of Aurora as the first sponsor. She also stated that they are working on marketing and promotion, and a marketing toolkit has been sent out to promote registration for the event.

M. McGilley provided information about the impact of the event, stating that they anticipate 40 room nights and 200 attendees from across the state. They mention that the event is being promoted by SBDC centers in the network, which tends to draw a wide range of participants to the City of Aurora. She expressed excitement about the event and offered to answer any questions.

- CM Bergan asked about Council members' invitations to the VIP Reception and mentioned the late notice they usually receive for events. M. McGilley clarified that the mayor will be speaking at the conference opening. She assured CM Bergan that the Council members will be invited and included in the VIP Reception. CM Bergan expressed gratitude for the clarification and thanked M. McGilley.
- CM Sundberg expressed curiosity about how they target the possible attendees for the event, specifically veteran entrepreneurs and those interested in becoming entrepreneurs. M. McGilley explained that they reach out to organizations supporting veterans, promote through the Chambers, utilize attendee lists from previous years, and leverage the large veteran population associated with Buckley Air Force Base. They also promote within the SBDC system to reach a broader audience of potential attendees. She added that around 15 organizations are involved in marketing and outreach efforts to ensure the conference is well-attended and serves the veteran community.
- CM Sundberg acknowledged the creativity and entrepreneurial spirit of veterans, including some within the Council. CM Bergan expressed appreciation for the update and finds the event exciting.

**Outcome:**

Information only.

**Follow-up Action:**



---

---

#### 4. MISCELLANEOUS MATTERS FOR CONSIDERATION

##### 4. a. Aurora Economic Development Council

- Yuriy Gorlov

Y. Gorlov provided an update to the Committee members regarding absorption, construction rates, and planned development in Aurora. Despite some market inconsistencies every month, he highlighted that the city has seen positive numbers and ongoing activity in terms of industrial and office velocities during the first half of the year. He assured the Committee that there are numerous projects underway and progressing well, without going into specific details as they were already familiar with them.

He stated that the Economic Development Council (EDC) is actively forming partnerships with community organizations and engaging in statewide initiatives to promote new industry efforts in Aurora. They are pursuing grants and exploring opportunities to leverage additional resources to attract more attention to the city and continue promoting its economic growth.

He mentioned recent legislation regarding data centers, the film industry, and employer housing credits, which have been positively received by businesses. He also noted an increasing interest from manufacturers in pursuing federal funding, particularly in advanced manufacturing related to energy, batteries, hydrogen, and other related fields. They have been successful in their recruitment trips to Phoenix and California and are planning additional trips to Texas, North Carolina, and other markets to engage with aerospace, bioscience, and manufacturing companies.

- CM Bergan asked about the semiconductor industry and the incentives passed by the federal government. Y. Gorlov responded that the state is also setting up an office and dedicating staff to attract the semiconductor industry. He mentioned that while this industry presents opportunities, it also requires significant resources such as power and water. He mentioned that although some semiconductor companies have expressed interest in Aurora, there have been concerns about their heavy utility usage. However, he believes there are opportunities to attract companies in the semiconductor supply chain that require less power and water.
- CM Bergan raised the issue of China's monopoly on certain minerals used in chip making, which could potentially impact the expansion of the semiconductor industry. Y. Gorlov acknowledged the constraints and challenges faced by the semiconductor industry. He also stated that there are emerging technologies, such as solid-state batteries, that are exploring alternative resources.

## Draft – Subject to Approval

- CM Sundberg stressed the importance of being a business-friendly state. He referred to the challenges faced by California, where several hundred businesses have relocated in recent years due to overregulation, taxation, and difficulties in conducting business. Y. Gorlov agreed with the comment and thanked the Council members.

**4.b. Havana Business Improvement District**

- Chance Horiuchi
- NO REPORT

**4.c. Aurora Chamber of Commerce**

- Kevin Hougen:
- NO REPORT

**4.d. Planning Commission**

- Becky Hogan

B. Hogan highlighted the success and consistency of the planning and development process in Aurora. Over the past 13 months, the Planning Commission has reviewed 133 development projects, with only two cases being appealed to City Council. In both appeals, City Council upheld the decisions made by the Planning Commission. Additionally, out of the 18 zoning cases reviewed, City Council upheld 100 percent of the Planning Commission's recommendations for rezoning. This consistency demonstrates a streamlined and efficient process, reducing time and costs for the development community. She emphasized the positive collaboration between the Planning Commission and City Council, working independently while marching in lockstep towards common goals.

- CM Bergan commended Becky and her team for their exceptional work and emphasized the significance of their role in the decision-making process. She appreciated the existence of independent entities that provide residents with the opportunity to appeal and present their cases. CM Sundberg also thanked Becky and her team for their time, experience, and expertise on the Committee.

**4.e. Oil and Gas Committee**

- Brad Pierce
- NO REPORT

**4.f. Business Advisory Board**

- Garrett Walls
- NO REPORT

**4.g. Retail**

- Bob Oliva
- NO REPORT



Draft – Subject to Approval

**4.h. Small Business**

- Marcia McGilley
- NO REPORT

**4.i. Visit Aurora**

- Bruce Dalton
- NO REPORT

---

**5. CONFIRM NEXT MEETING DATE**

Scheduled for August 2, 2023, at 8:30 AM MT.

---

**6. ADJOURNMENT**

APPROVED: \_\_\_\_\_  
Francoise Bergan, Committee Chair



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Amending Chapter 138 of City Code to Reflect Changes Made to Aurora Water's Organizational Structure (Ordinance)

**Item Initiator:** Casey Rossman, Executive Specialist, Aurora Water

**Staff Source/Legal Source:** Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

**Outside Speaker:** N/A

**Council Goal:** 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** N/A

**Item requires a Public Hearing:** ☐ Yes ☐ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE  
Sarah Young, Assistant General Manager of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney  
Estimated time: 5 Mins

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

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as Proposed at Study Session
- ☒ Approve Item and Move Forward to Regular Meeting ☐ Approve Item as Proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration  
*Reason for waiver is described in the Item Details field above.*

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

- ☐ Recommends Approval ☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes 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.)*

N/A

---

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

Over the last several months, the City's Public Works Department and Aurora Water have reorganized their respective development review functions to create more direct accountability for staff and improve responsiveness and predictability in the development review process. One critical part of the reorganization is to clarify approval authority so that approvals are specific to the functions of the two departments. This particular amendment to ordinance corrects the title and responsibilities of the General Manager of Aurora Water under Chapter 138 of City Code.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact      ☐ Budgeted Expenditure Impact      ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact      ☒ No Fiscal Impact

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council support the Amendment to Chapter 138 of City Code to Reflect Changes Made to Aurora Water's Organizational Structure?

---

**LEGAL COMMENTS**

The city manager shall keep Council advised of the future needs of the City and make such recommendations to Council for adoption as he may deem necessary or expedient. (City Charter Section 7-4(f)).

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Section 5-1). (M. Gardner)

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, AMENDING SECTIONS OF CHAPTER 138 OF THE CITY CODE

WHEREAS, Chapter 138 of the Aurora City Code pertains to the City's Utility Enterprise which is also referred to as "Aurora Water"; and

WHEREAS, it is necessary to update Chapter 138 to coincide with changes to the City's management structure including updating references to the General Manager of Aurora Water and to clarify and correct certain references within Chapter 138; and

WHEREAS, the proposed changes are necessary to ensure Aurora Water continues to provide excellent service to benefit the health, safety and welfare of all Aurora residents.

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

**Section 1.** The City hereby amends Section 138-26 of the City Code pertaining to definitions.

Sec. 138-26. Definitions.

The following words, terms and phrases, when used in this ~~a~~Article, shall have the meanings ascribed to them in this ~~s~~Section, except where the context clearly indicates a different meaning:

~~*Director* means the director of Aurora Water or the director's designee.~~

*Grant* means any direct cash subsidy or other direct contribution of money from the state or any local government in the state which is not required to be repaid. The term "grant" does not include:

- (1) Any indirect benefit conferred upon the utility enterprise from the state or any local government in the state;
- (2) Any revenues resulting from rates, fees, assessments, or other charges imposed by the utility enterprise for the provision of goods or services by such enterprise; or
- (3) Any federal funds, regardless of whether such federal funds pass through the state or any local government in the state prior to receipt by the utility enterprise.

***General Manager* means the General Manager of Aurora Water or designee.**

*Storm drainage facilities* means any one or more of the various devices used in the conveyance, control, or storage of stormwaters, floodwaters or surface drainage waters to, through and from drainage areas to points of final outlet.

*Utility activity* includes but is not limited to the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water, the provision of retail or wholesale water, wastewater, or storm drainage services, and the acquisition of water or water rights in accordance with applicable provisions of state law, the City Charter, and this Code.

*Utility enterprise* means the utility activity business owned by the City, which business receives under ten percent of its annual revenues in grants from all state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this Code or other applicable law. The utility enterprise shall also be referred to as Aurora Water.

*Wastewater facilities* means any one or more of the various devices used in the collection, treatment, or disposition of sewage or industrial, commercial, or domestic wastes of a liquid or water-carried nature, together with any groundwater, surface water, or stormwater that may be contributed into or permitted to enter such devices.

*Water facilities* means any one or more works and improvements used in and as a part of the collection, treatment, or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated.

**Section 2.** The City hereby amends Section 138-27 of the City Code pertaining to legislative declaration.

Sec. 138-27. Legislative declaration.

By virtue of ~~a~~Article XX, ~~s~~Sections 1 and 6 of the state constitution, the city has the power to construct, condemn and purchase, acquire, lease, add to, maintain, conduct and operate waterworks and any other public utilities, for its own use and the use of its citizens, and to legislate upon, provide, regulate, conduct, and control the issuance, refunding and liquidation of all kinds of municipal obligations. Accordingly, the city council finds and determines that the City, by and through ~~its water department~~ **Aurora Water**, has historically provided and will continue to provide water, wastewater, and storm drainage services by means of an enterprise, as that term is defined by state law. The city council further declares its intent that the City's utility enterprise be operated and maintained so as to exclude its activities from the application of ~~a~~Article X, ~~s~~Section 20 of the state constitution.

**Section 3.** The City hereby amends Section 138-68 of the City Code pertaining to the rules and regulations of the director of water.

Sec. 138-68. Rule and regulations of the ~~director of water~~ **General Manager**.

It shall be the duty of the ~~director of water~~ **General Manager** to formulate such reasonable rules and regulations not inconsistent with this ~~Article~~, ~~Articles~~ V and VI of this ~~Chapter~~ and ~~Chapter~~ 62, ~~Article~~ III, as well as ~~Chapter~~ 70, so as to facilitate the proper administration thereof. Such rules and regulations shall cover all subjects enumerated in such parts of this Code.

**Section 4.** The City hereby amends Section 138-151 of the City Code pertaining to definitions.

Sec. 138-151. Definitions.

The following words, terms and phrases, when used in this ~~Article~~, shall have the meanings ascribed to them in this ~~Section~~, except where the context clearly indicates a different meaning:

*Independent water system* means water supplies developed for use within city limits other than water supplies owned, leased, operated, controlled or otherwise utilized by the city water delivery system. Such water supplies shall include but not be limited to the following: nontributary groundwater supplies drawn from the Arapahoe, Laramie-Fox Hills, Denver, or Dawson aquifers subject to the provisions of C.R.S. § 37-90-137(4).

*Irrigation* shall mean the artificial watering of land to supply moisture for plant growth.

*Landscaped common area* shall mean the landscaped tract or area immediately adjacent to the facilities within a single-family detached or a commercial development, owned or maintained, or both, by the property owner or the responsible caretaker association, that is irrigated from a common irrigation system that is owned or maintained, or both, by the property owner or responsible caretaker association.

*Main* means any pipe, cast iron, steel or other approved material used as a conduit for water in the city water system.

*Nonwater conserving landscaped common area* means that area in which any type of grass and an irrigation system are incorporated in accordance with landscape plans approved by **Aurora Water** ~~the water~~ and ~~the~~ planning departments of the City.

*Service line* means the pipe, line or conduit from the main to an individual house or other structure.

*Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure* means the most recent version of the rules and regulations adopted by the ~~Director of Aurora Water~~ **General Manager** pursuant to authority granted in ~~s~~Section 138-68 and promulgated pursuant to ~~s~~Section 2-3 of this Code.

*Water delivery system* means all those systems of water delivery owned and operated and maintained by the city and all other delivery systems which are supplied water by the City.

*Water conserving landscaped common area* means that area in which nongrass vegetation and an irrigation system are incorporated in accordance with landscape plans approved by the water and planning departments of the City.

**Section 5.** The City hereby amends Section 138-152 of the City Code pertaining to penalty for violations.

Sec. 138-152. Penalty for violations.

Any person violating any provision of this ~~a~~Article or the rules and regulations ~~of the water division of the water department~~ promulgated by the ~~director of water~~ **General Manager** shall be subject to the penalties of ~~s~~Section 1-13. Upon a second conviction, in addition to the penalties of ~~s~~Section 1-13, the municipal court shall order termination of water service to the premises, and the person found guilty shall post a cash bond with the ~~director of water~~ **General Manager** in the sum of \$150.00 in order to obtain restoration of the water services, such bond to be conditioned that for any subsequent failure to pay a utility bill when presented, the ~~director of water~~ **General Manager** may forfeit all or any portion of such bond necessary to satisfy such utility billing.

**Section 6.** The City hereby amends Section 138-153 of the City Code pertaining to water extension agreement; public improvement permits.

Sec. 138-153. Water extension agreement; public improvement permit.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public water system extension, main, or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a water extension agreement with the utility enterprise. The agreement shall provide for the dedication of all water system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the ~~director of water~~ **General Manager** may determine.
- (b) Application for a water extension agreement shall be made to the utility enterprise on forms provided by the ~~director of water~~ **General Manager**. The applicant shall provide all necessary technical information and data regarding the proposed water system improvements as may be required by the ~~director~~ **General Manager**.
- (c) Following execution of the water extension agreement and prior to commencing construction or installation of any water system improvements, each applicant shall



procure a public improvement permit from the City as required. Application for such permit shall be made to the public works department on forms provided by the director of public works.

- (d) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in ~~a~~Article V of ~~e~~Chapter 126 of this Code.
- (e) No person may enter into a water extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge the performance and warranty obligations under a prior agreement or permit.
- (f) It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for ~~s~~Section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.
- (g) Developers are responsible for construction of regional facilities if development timing occurs ahead of the approved capital improvement budget. A regional facility is defined as infrastructure with a capacity larger than that which is required for the respective development and as defined in the department master plans. The developer may be eligible for reimbursement for infrastructure oversizing as further defined by ~~the water department~~ **Aurora Water** rules and regulations.

**Section 7.** The City hereby amends Section 138-154 of the City Code pertaining to the use of the independent water system; cross connection; use of the Dawson Aquifer.

Sec. 138-154. Water extension agreement; public improvement permit.

- (a) It shall be unlawful for any person to develop or use for any purpose, except as approved in writing by the ~~director of water~~ **General Manager**, including domestic and irrigation uses, within the city limits, any independent water system as defined in this ~~a~~Article.
- (b) Notwithstanding any other provisions of this ~~a~~Article, those persons who have existing wells, either shallow or deep, or any other valid water rights for use within the city limits, as of the effective date of the ordinance from which this ~~s~~Section derives, and those persons who filed notice of lack of consent to the City's use of water under their land, within the period established by the water court, water division no. 1, for filing such notice, shall be allowed to use such wells or water rights. However, the use of such wells or water rights for any purpose shall not permit cross connection between such private service line and a service line carrying water from the public water system as prohibited in ~~s~~Subsection (c) of this ~~s~~Section.
- (c) It shall be unlawful for any person to have a cross connection between a private service line carrying private well water or other private water with a service line carrying water from the public water system, or in any other manner endangering or contaminating the public water system. If, after notice and informal hearing, a violation of this ~~s~~Section

is found to exist, ~~the water department~~ **Aurora Water** is authorized to forthwith disconnect the cross connection or to terminate water service to the premises until such time as disconnection of the offending cross connection can be accomplished, in addition to any other penalties provided for a violation of this ~~a~~Article.

- (d) The following shall apply to the area within one-half mile of ~~s~~Section 6, township 5 south, range 65 west of the sixth principal meridian in the City in Arapahoe County:
- (1) It shall be unlawful for any person to drill, develop, or use any wells in the Dawson Aquifer within one-half mile of the exterior boundaries of ~~s~~Section 6 until such time as the Environmental Protection Agency's groundwater remedy for the Lowry Landfill superfund site has been implemented consistent with the record of decision and the agency's five-year performance review of the remedy has occurred, as determined by the city council. This prohibition shall not apply to wells that are used for monitoring groundwater quality, extracting groundwater for remediation, or reinjecting treated groundwater.
  - (2) After the five-year performance review has occurred and the Environmental Protection Agency reports that the remedy is protective at the compliance boundary, the prohibition against drilling wells in the Dawson Aquifer shall expire, provided that the drilling or use of such wells within one-half mile of the boundaries of ~~s~~Section 6 shall only occur with the approval of the City.
  - (3) There are adopted by this reference the state primary drinking water regulations, promulgated by the state board of health and found in volume 5 of the Colorado Code of Regulations 1007-3, as amended, which regulations shall apply to water quality at the point of use in the following categories:
    - a. Community drinking water systems;
    - b. Noncommunity drinking water systems; and
    - c. Systems with fewer than 15 service connections or which regularly serve an average of fewer than 25 persons fewer than 60 days of the year and providing well water for ordinary household purposes, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of home gardens and lawns.

Records of water quality monitoring required by the drinking water regulations shall be kept and shall be made available to the city upon request.

**Section 8.** The City hereby amends Section 138-155 of the City Code pertaining to maintenance of water mains and connections; water meter pits.

Sec. 138-155. Maintenance of water mains and connections; water meter pits.

- (a) It shall be the responsibility of ~~the water department~~ **Aurora Water** to maintain and repair all water mains and connections located on public rights-of-way or easements.
- (b) It shall be the responsibility of the property owner to repair and maintain water mains and connections from the point of connection to the city water infrastructure to the

property's various structures per standards and specifications regarding water, sanitary sewer and storm drainage infrastructure.

- (c) It shall be the responsibility of the property owner to maintain a safety zone around all water meter pits on the property. This safety zone shall include such area above and surrounding all sides of the meter pit lid as would permit ready access to the water meter pit for any legitimate purpose. It is unlawful for any person to place, install or maintain any foliage, landscaping or other object or material within the safety zone which interferes with the ready access of authorized **Aurora Water** agents or employees ~~of the water department~~ to the water meter pit.
- (d) The ~~director of water~~ **General Manager** is empowered to promulgate such rules and regulations, not inconsistent with this ~~s~~Section, as may be reasonably necessary to aid in the enforcement of this ~~s~~Section.

**Section 9.** The City hereby amends Section 138-156 of the City Code pertaining to the use of fire hydrants.

Sec. 138-156. Use of fire hydrants.

- (a) It shall be unlawful for any person to connect or in any way draw water from any fire hydrant located within the city which is served by city water unless such person has first obtained a permit issued by the ~~director of water~~ **General Manager** or his or her duly authorized representative designating the fire hydrant to be used for a specific period of time.
- (b) Any person who enters a plea of guilty or no contest, or is convicted at trial of violating this ~~s~~Section, shall in addition to any jail sentence ordered, be punished by a fine of not less than \$500.00 for the first offense of this ~~s~~Section within a one-year period, or \$1,000.00 for a second or subsequent offense of this ~~s~~Section within a one-year period. The court shall have authority to suspend up to half of the fine upon payment of restitution for water used and/or damage to property. In the event no restitution is sought, the court shall have authority to suspend up to half of these fines.

**Section 10.** The City hereby amends Section 138-159 of the City Code pertaining to resale of water or wastewater services.

Sec. 138-159. Resale.

Water and wastewater service is furnished by the city for the sole use of the customer at the premises designated in the service application. It shall be unlawful for any person to resell, redistribute, or otherwise dispose of water or sewer service to any other person except as authorized by City Code and/or ~~water department~~ **Aurora Water** rules and regulations.

**Section 11.** The City hereby amends Section 138-160 of the City Code pertaining to sub-billing for services.

Sec. 138-160. Sub-billing.

- (a) The following terms, when used in this Section, shall have the meaning herein set forth unless the context of their use clearly indicates otherwise:
- (1) Administrative fee: A fee to be paid by the tenant, not to exceed the actual costs incurred by the owner and/or charged by a third-party billing agent, for the calculation and collection of the sub-bill and maintenance of sub-billing records. The cost of installation, maintenance, or repair of infrastructure used for sub-billing may not be included in an administrative fee.
  - (2) Dwelling unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
  - (3) Master-meter: A meter used by Aurora Water to measure, for billing purposes, all water usage of a multi-family dwelling unit, a multiple use facility, or a manufactured home community.
  - (4) Multi-family dwelling unit: A building with two or more separate dwelling units.
  - (5) Multiple use facility: A commercial or industrial park, office complex, mall, or strip mall with multiple units that are rented or leased at intervals of one month or longer.
  - (6) Owner: The person or entity who has established a billing account with the City to receive water, wastewater, and or storm drain service from the City.
  - (7) Sub-billing: Water and/or wastewater and/or storm drain service, including monthly service charges, usage charges and surcharges that are billed to an owner by the Aurora Water Department and then allocated, using sub-meters or any other allocation method, and billed to a tenant by the owner or billing agent in addition to the established rent amount.
  - (8) Sub-metered service: Water service that is master-metered for the owner and individually metered by the owner at each dwelling unit; wastewater utility service based on sub-metered water utility service; water utility service measured by point-of-use sub-meters when all of the water used in a dwelling unit is measured and totaled; or wastewater utility service based on total water use as measured by point-of-use sub-meters.
  - (9) Tenant: A person who owns or is entitled to occupy a dwelling unit in a multi-family dwelling unit, or an individual unit in a multiple use facility or a manufactured home community, to the exclusion of others and, if rent is paid, who is obligated to pay for the occupancy under a written or oral rental agreement.
- (b) Sub-billing by an owner itself, or by an owner through a third party billing agent, shall be prohibited unless the owner complies with all of the following conditions:
- (1) Prior to sub-billing, the owner must provide to the tenant to be sub-billed a detailed written explanation of the method used to allocate the charges to each tenant. This explanation must include the exact formula to be used to calculate the tenant's

portion of the bill. This explanation must also disclose whether the tenant will be responsible for any portion of usage in common areas and facilities and landscape, as well as how such portion will be calculated. Such explanation must also disclose the existence and amount of any administrative expense and required deposit.

- (2) Any method of sub-billing must be a pass-through method in that the total of all charges for water and/or wastewater service sub-billed to all units cumulatively shall not exceed the total amount billed by Aurora Water. In the event that the tenants are not responsible for common areas and facilities and/or landscape usage, then the total of all charges for water and/or wastewater service sub-billed to all units cumulatively shall not exceed the total amount billed by Aurora Water minus common areas and facilities and landscape usage. The owner shall not bill tenants for any late charges, interest, other penalties, reconnection fees, or deposits owed by the owner to the City. The owner is responsible to the city for the entire amount billed for service, regardless of the amount collected by sub-billing. The owner may collect an administrative fee, lawful late fees, dishonored check fees, and a deposit provided such fees and deposit are disclosed to the tenant in advance and in writing. Such fees are in addition to the amount billed for water/wastewater service and are therefore not included in the calculation of pass-through maximum billed amounts.
- (3) Charges sub-billed must be itemized separately from each other and separate from any other utility billed by the owner. Combining charges, such as billing more for hot water than for cold water in an effort to recover power costs is prohibited.
- (4) The owner must maintain all necessary records from the preceding twelve month period concerning sub-billing including Aurora Water bills, the allocation formula and/or sub-meter readings if used, and a list with the consumption and/or allocation and the dollar amount billed and collected from each dwelling unit. The owner must also maintain proof of compliance with the notification requirements of ~~s~~Subsection (b)(1) of this ~~s~~Section. The tenant and/or a representative of ~~the~~ Aurora Water ~~Department~~ shall be allowed to review and copy these records, after redaction of all personally identifiable information, upon request during normal business hours. In the event such records are maintained at a location other than the master-metered property, the owner must make such records available at the master metered property within five business days of such request. There shall be no charge to review the records, but the owner may recover actual expenses for providing copies if requested.
- (c) The provisions of this ~~s~~Section are intended to insure a tenant is fully informed about sub-billing and to prevent the resale of Aurora water/wastewater services at a rate higher than that charged by the City. The city will make no determination of whether sub-billing is permitted by, or the specific terms of, a private lease or other agreement between parties other than the City. Nothing in this ~~s~~Section shall be construed to prevent an owner from including a tenant's cost of water or wastewater service within the rent set forth in a rental agreement. The resolution of any individual billing dispute arising out of sub-billing is not the responsibility of the City.

- (d) Any owner who sub-bills a tenant, or causes a tenant to be sub-billed, and has failed to comply with any one or more of the above requirements shall be subject to a civil penalty of not more than \$500.00 for each sub-bill presented to a tenant, with a maximum of \$2500.00 assessed for each calendar month of violations. In the event that the owner is found to be in violation of this ~~s~~Section in a second action brought within two years, the maximum penalty amounts shall be doubled, and such violation shall be grounds for discontinuance of water service to the master-metered property.
- (e) This ~~s~~Section shall apply to any sub-billing on or after June 1, 2007.

**Section 12.** The City hereby amends Section 138-170 of the City Code pertaining to the cross-connection control program.

Sec. 138-170. Cross-connection control program.

- (a) *Authority to implement.* Pursuant to ~~s~~Section 138-68, the ~~director~~ **General Manager** has the authority to adopt standards for water, wastewater and storm drainage infrastructure relating to backflow prevention and cross-connection control programs.
- (b) *Definitions.* When not clearly otherwise indicated by the context, the following words and phrases in this ~~s~~Section shall have the following meanings:

*Annual due date* means the annual date as established by the city when required tests must be completed and proof received by Aurora Water. In those years when the annual due date does not fall on a regular business day, the due date for that year will be the next regular business day.

*Approved* means accepted by Aurora Water as meeting the applicable specifications set forth in this ~~s~~Section, or as suitable for the proposed use.

*Backflow prevention assembly* means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contamination at the cross connection and is an in-line field-tested assembly.

*Backflow prevention method* means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified contamination at the cross connection.

*Certified cross-connection control technician* means a person who possesses a valid backflow prevention assembly tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA).

*Controlled* means having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross connection.

*Cross-connection* means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

*Containment* means the control of cross-connections within a property owner's plumbing system by the installation of approved backflow prevention assemblies or methods on the property owner's service line after the meter and before any branches.

*Degree of hazard* means an assessment of possible sources of backflow that may contaminate or alter the aesthetic or safe drinking qualities of potable water.

*Isolation* means the control of cross-connections within the plumbing system of a property owner by isolating individual cross-connections at or near the point of potential contamination or pollution with approved backflow prevention assemblies or methods.

*Responsible party* means the person billed for water service provided by the City, or the owner of the property served by city water if the owner is different than the person billed. In the event that the property owner and the person billed for city water service are different, the owner shall be solely responsible for all obligations and duties of this sSection.

*Uncontrolled* means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross connection.

(c) *Requirements.*

- (1) All water service connections to the city water system must be installed and maintained in accordance with Aurora Water Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure relating to backflow prevention and cross-connection control.
- (2) The installation or maintenance of any unprotected cross connection which may endanger the water supply of the City is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared unlawful and shall be immediately protected by a city-approved backflow assembly or method or eliminated.

- (3) No provision of this sSection exempts a responsible party from the cross-connection control requirements for water distribution systems as otherwise required by law.
- (d) *Inspections, testing and repair.*
- (1) The responsible party shall have operational tests conducted on any required backflow prevention assembly or inspect any required backflow prevention method prior to receiving a certificate of occupancy and at least annually thereafter. The responsible party shall ensure that proof of such test or inspection is provided to Aurora Water no later than the annual due date. These tests shall be made at the expense of the responsible party and must be performed by a certified cross-connection control technician.
  - (2) Where the city deems necessary, the city may require operational tests at more frequent intervals. The cost for any test shall be at the responsible party's expense. A certified cross-connection control technician shall perform all tests.
  - (3) Any required backflow prevention assembly or method shall be repaired or replaced at the expense of the responsible party whenever the assembly or method is found to be malfunctioning, defective, or is not approved by the city for the degree of hazard.
  - (4) Records of all tests, repairs or replacements shall be kept by the certified cross-connection control technician and the responsible party, and a copy of all such records shall be sent to Aurora Water within five working days of performance of such work.
  - (5) The city retains the right, at any time, to test or inspect the installation and operation of any containment or isolation assembly, device, or method, used for compliance with this sSection.
- (e) *Right of entry.* Upon presentation of credentials, a representative of the city shall have the right to request entry, at any reasonable time, to a property served by a connection to the water system for the purpose of inspecting the property for cross connections. If such entry is refused, the representative may procure the right to enter and inspect by application to and proper orders from the Aurora Municipal Court. It shall be unlawful for any owner or occupant to refuse to allow the representative access to a property when the representative is acting in compliance with a warrant for inspection and order issued by the Aurora municipal court. Refusing entry to the city representative shall be sufficient cause for Aurora Water to discontinue water service to the property.
- (f) *Compliance.*
- (1) Failure of the responsible party to comply with the requirements of Subsections (c) and (d) of this sSection shall be subject to the following actions and penalties:
    - a. Upon failure to comply, a notice of reminder will be mailed to the party billed for water service. In the event that the property owner is different than the party billed for water service, a notice of reminder will also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. The responsible party will have 30 calendar days from the annual due date to comply.



- b. In the event that the responsible party does not comply within 30 days of the annual due date, first violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a \$1,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the \$1,000.00 civil penalty will be mailed to the responsible party. If the responsible party provides proof of compliance to Aurora Water within 60 days of the annual due date, \$600.00 of this charge will be waived.
  - c. In the event that the responsible party does not comply within 60 days of the annual due date, a second violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a \$2,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the \$2,000.00 civil penalty will be mailed to the responsible party.
  - d. In the event that the responsible party does not comply within 90 days of the annual due date, notice of termination of service will be left at the property and mailed to the party billed for water service and the property owner, if different from the billed party. Water service may be terminated seven days after notice and may remain terminated until such time as the responsible party complies with the requirements of this ~~s~~Section.
  - e. Any penalty imposed pursuant to this ~~s~~Section may be appealed to the ~~director~~ **General Manager** pursuant to the appeal procedure set forth in ~~s~~Section 138-226.
- (2) Service of water to any premises may also be discontinued by the ~~director~~ **General Manager** if uncontrolled cross-connections exist on the premises, if any defect is found in an installed backflow prevention assembly, if a backflow prevention assembly has been removed or bypassed or does not adequately protect the public health.
- a. Service will be discontinued within 60 days of notification of a failed test or notification of an inadequate backflow prevention method and shall not be restored until such conditions or defects are corrected to the satisfaction of the ~~director~~ **General Manager**.

**Section 13.** The City hereby amends Section 138-186 of the City Code pertaining to definitions.

Sec. 138-186. Definitions.

The following words and phrases, when used in this division, shall have the following meanings ascribed to them:

~~Director means the director of water or his or her designee.~~

*Dwelling, single-family attached or townhouse* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

*Dwelling, single-family detached* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

*Dwelling, two-family* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

*Front yard* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

***General Manager* means the General Manager of Aurora Water or designee.**

*Lawn, turf, or sodded areas* means any area that is primarily devoted to the cultivation of any species of grass and is to be irrigated by water delivered through the water delivery system.

*Lot* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

*Rear yard* shall have the same meaning as in ~~eChapter 146, article 20~~ **the Unified Development Ordinance**.

**Section 14.** The City hereby amends Section 138-187 of the City Code pertaining to water conservation requirements and exemptions.

Sec. 138-187. Water conservation requirements; exemptions.

(a) Water conservation requirements.

(1) Lawn Permits.

- a. It shall be unlawful for any property owner or occupant or other person to install or enlarge any lawn, turf, or sodded area on any single-family detached, two-family, and single-family attached duplex lots without a valid lawn permit issued by the city and displayed on the lot so as to be visible from the public street.
- b. Applications for lawn permits shall be submitted to ~~the water department~~ **Aurora Water** using a form supplied by the City, and shall include the name of the applicant; the address of the lot; the lot size in square feet; the square footage to be devoted to lawn, turf, or sod; a site plan or drawing of the lot; and satisfactory evidence of soil preparation, such as a receipt for the recent purchase of organic matter.

- c. ~~The water department~~ **Aurora Water** shall review each lawn permit application and inspect soil amendment and soil preparation to determine whether the application satisfies the requirements of this ~~s~~Section. If such requirements are deemed satisfied, a permit shall be issued for the lot named in the application.
- d. There shall be an administrative fee for a lawn permit as approved pursuant to the City of Aurora administrative fees for ~~the water department~~ **Aurora Water**.
- (2) *Lawn, turf, and sodded area limitations for front and rear yard landscaping.* Lawn, turf, and sodded areas shall be subject to the requirements described in ~~e~~Chapter 146, ~~article 14~~ **the Unified Development Ordinance**.
- (3) *Soil preparation.* All soils upon which any lawn, turf, or sodded area is to be installed or enlarged must be properly amended in conformance with irrigation requirements in the Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure, as that term is defined in ~~s~~Section 138-151 of this ~~e~~Chapter.
- (4) ~~Large~~ **All lots.** Rain shutoff devices or soil moisture sensors shall be utilized in conformance with irrigation requirements in the Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure, as that term is defined in ~~s~~Section 138-151 of this ~~e~~Chapter.
- (b) Exemptions and special requirements.
  - (1) *Other properties.* Landscaping for property other than single-family detached, two-family, and single-family attached duplex lots shall comply with all applicable city requirements and with any applicable general or preliminary development plan, site plan, or redevelopment plan as required in ~~e~~Chapter 146, ~~article 14~~ **the Unified Development Ordinance**.
  - (2) *Declared drought emergency.* At such time as the city council may declare a drought emergency the issuance of lawn permits can be temporarily suspended by the ~~director of water~~ **General Manager**.
- (c) Enforcement and penalty.
  - (1) There shall exist a rebuttable presumption that the person who is billed for water service to a property is responsible for compliance with the requirements of this ~~s~~Section with respect to such property. Said presumption shall not relieve any property owner from such responsibility.
  - (2) The ~~director~~ **General Manager** or his or her designee is hereby authorized to enforce this ~~s~~Section, and may enter upon private property for the purpose of inspecting such property whenever he or she reasonably believes that a violation concerning such property is occurring or has occurred, or for the purpose of issuing a summons and complaint, provided that he or she shall first present identification to the occupant and request entry, explaining the reason or reasons therefor.
  - (3) Each violation of this ~~s~~Section shall be a violation of ~~s~~Section 138-190, waste of water.

**Section 15.** The City hereby amends Section 138-188 of the City Code pertaining to rules and regulations.

Sec. 138-188. Rules and regulations.

It shall be the duty of the ~~director of water~~ **General Manager** to promulgate such reasonable rules and regulations not inconsistent with this division as may be necessary to promote and facilitate maximum utilization of water and discourage and prohibit waste of water. Such rules and regulations will provide emergency procedures for situations where conditions affecting the water delivery system will require immediate shutdown or immediate curtailment of certain water uses. Such rules and regulations shall have full force and effect when published pursuant to the terms of ~~s~~Sections 2-3 and 138-189 of this Code.

**Section 16.** The City hereby amends Section 138-190 of the City Code pertaining to waste of water.

Sec. 138-190. Waste of water.

(a) *Waste of water prohibited.* Waste of water shall be defined as noncompliance with the City's water management plan as defined in ~~s~~Section 138-223(b). Notwithstanding the enforcement provisions set forth in ~~s~~Subsection (b) of this ~~s~~Section, the ~~director~~ **General Manager** may order the installation of a flow restricter or the shut off of water service to a property if the ~~director~~ **General Manager** reasonably finds that an extreme waste of water is occurring on the premises.

(b) *Enforcement.* The ~~director~~ **General Manager** is hereby authorized to enforce this ~~s~~Section. The person billed for water service to a property, whether owner or occupant, shall be responsible for compliance with ~~s~~Subsection (a) of this ~~s~~Section and shall be subject to the following actions and penalties:

(1) Upon a first violation, the person billed will be issued a warning.

(2) Upon any further violations at the same property within a 12-month period, from the date of the warning notice, the person billed will be issued a written violation and the following penalty will be added to the water bill for the property as a civil penalty.

	2 <sup>nd</sup> Violation	3 <sup>rd</sup> Violation	All Additional Violations
Single-family	\$125.00	\$250.00	\$500.00
Multifamily, Commercial and Irrigation	\$250.00	\$1,000.00	\$2,000.00

(3) Any penalty imposed pursuant to this ~~s~~Section may be appealed to the ~~director~~ **General Manager** of water pursuant to the appeal procedure set forth in ~~s~~Section 138-226.

(4) Upon any notice(s) of violation of this ~~s~~Section, a copy of such notice(s) shall also be mailed to the owner(s) of the real property served, if the owner(s) address differs from the subject property address.

**Section 17.** The City hereby amends Section 138-191 of the City Code pertaining to the use of turf and ornamental water features.

- (a) *Definitions.* As used in this sSection, the following words and phrases shall have the meanings ascribed to them below:

*Active or programmed recreation area* means an area with a primary function of sport field but can also accommodate secondary functions including but not limited to nonorganized sporting events, cultural activities and organized social gatherings.

*Aesthetic turf* means turf areas designed for aesthetic appeal only and are not conducive to active or programmed recreation.

*Commercial development* means any development that meets the commercial user definition in sSection 138-221.

*Curbside landscape* means the landscaped area between a sidewalk and curb.

*Landscaped common area* means areas within a private community designed for community use in sSection 138-151.

*Median* means the landscaped area between opposing directions street traffic lanes.

*Multi-family residential development* means developments that meet the multi-family user development definition in sSection 138-221.

*Ornamental water feature* means any exterior decorative fountains, waterfalls, basins, ponds, lakes, waterways or other similar aesthetic structures unless required under Article VIII, Stormwater, of this eChapter.

*Residential development perimeter* or *common landscape* means any landscaped area within a residential development not irrigated by a residential water meter and not dedicated as a park per the City of Aurora's Parks, Recreation and Open Space Dedication and Development Criteria Manual.

*Turf* means any cool-season turf species, variety or blend, including but not limited to Kentucky bluegrass and fescue.

*Water-wise landscape* means landscapes designed with shrubs, perennials and warm-season grasses with an annual irrigation water requirement of less than 15" (9.345 gallons) per square foot.

- (b) The intent of this ~~s~~Section is to assist the city in meeting future water needs.
- (c) *Use of turf and ornamental water features.* The provisions of this ~~s~~Section apply to all development and redevelopment within the city.
  - (1) *Exemptions.* Developments with complete site plan application submitted to the city prior to the date of September 30, 2022, are exempt from this ~~s~~Section.
  - (2) An exemption may be granted for consistency within developments when a site plan approved prior to January 1, 2023, is adjacent to a site plan without approval prior to January 1, 2023, and a net water savings can be accomplished beyond what is minimally required under this ~~s~~Section.

An exemption under this ~~s~~Subsection must be approved by both the ~~general manager of Aurora Water~~ **General Manager** and the City of Aurora director of planning.

- (d) Turf that serves primarily an aesthetic purpose shall not be permitted.
- (e) The installation of new turf shall be restricted as follows:
  - (1) Turf shall not be installed in the front or side yards of any single-family dwelling except as specified in ~~s~~Subsection (e)(2) of this ~~s~~Section.
  - (2) The installation of new turf in alley load residential front yards where backyard size prohibits the installation of turf shall not exceed the lesser of: 45 percent or 500 square feet.
  - (3) The installation of new turf in residential backyards shall not exceed the lesser of: 45 percent of the backyard area as defined by the Unified Development Ordinance or 500 square feet.
  - (4) The removal of water-wise landscaping for the purpose of installing turf is prohibited, regardless of building permit issue date.
  - (5) Turf shall not be installed in medians or curbside landscapes.
- (f) The installation of turf in the following developments shall be allowed only in active or programmed recreation areas:
  - (1) Multi-family developments;
  - (2) Commercial developments;
  - (3) Public and private schools;
  - (4) Interior landscaped common areas on a common irrigation meter designed for recreation and conforming to the City's Unified Development Ordinance, as modified from time to time; and
  - (5) Formal sports fields, informal play areas, active and reflective recreation areas only as defined in the City's Parks, Recreation and Open Space Dedication and Development Criteria Manual.
- (g) Turf shall not be installed for the development of golf courses.
- (h) *Ornamental water features.* The use of water in all public and private exterior ornamental water features and ponds is prohibited.

- (i) *Median and curbside landscape.* The installation of new spray and/or sprinkler irrigation systems in median and curbside landscaping is prohibited.
- (j) Except as indicated in ~~s~~Subsections (c)(1) and (2) of this ~~s~~Section, there shall be no waivers or variances to this ~~s~~Section permitted.
- (k) Three years after the effective date of the ordinance codified in this ~~s~~Section, the city manager shall have a third party economic study conducted to include at least the following elements: impact of this ~~s~~Section on water usage in the City of Aurora; impact of this ~~s~~Section on household water rates in the City of Aurora; impact of this ~~s~~Section on home values and prices in the City of Aurora; impacts of this ~~s~~Section on new home construction in the City of Aurora; and adoption of similar ordinances by other jurisdictions within the Denver metropolitan area.

**Section 18.** The City hereby amends Section 138-192 of the City Code pertaining to irrigation standards.

Sec. 138-192. Irrigation standards.

- (a) *Purpose.* To conserve water resources and promote the use of reclaimed water sources by establishing requirements for design, installation and maintenance of automatic irrigation systems.
- (b) *Applicability.* These standards shall apply to:
  - (1) *New development.* All new development where automatic underground irrigation of landscape areas is required per Chapter 146, ~~Article 14 (Landscaping)~~ **the Unified Development Ordinance**. Including all common area landscape tracts, tree lawns, private common open space and private parks.
    - a. *Individual residential lots.* The individual lots of single-family detached homes, two-family homes, and single-family attached duplex homes shall be required to comply only with equipment requirements and the final construction observation requirements of this ~~s~~Section.
  - (2) *Replacement of existing irrigation systems.* Existing irrigation systems being replaced, modified or expanded pursuant to Chapter 146, **the Unified Development Ordinance**.

Existing irrigation systems that are operating in an efficient manner and are not found to be wasting water as found in ~~s~~Section 138-190 of the City of Aurora Code are exempt from these standards when performing routine maintenance, component up-grades, and repairs.

- (c) *Landscape plans.* All landscape plans required by Chapter 146 ~~Zoning Code, Article 14, (Landscaping)~~ **the Unified Development Ordinance** shall carry a notation requiring compliance with these standards.
- (d) *Irrigation design plan.* Prior to the installation of the irrigation system ~~the water department~~ **Aurora Water** shall approve a design plan prepared by a designer that complies with the system requirements specified in this ~~s~~Section. ~~An electronic DWG~~

~~file in AUTOCAD is preferable.~~ The irrigation design plan shall accurately and clearly identify:

- (1) Property boundaries.
- (2) Locations, model and size of all components of the irrigation system.
- (3) Detailed drawings of all major components of the irrigation system.
- (4) Static water pressure at the point of connection.
- (5) Flow rate, zone number, application rate (inches per hour), and design operating pressure for each zone or station on the controller.
- (6) Backflow preventer.
- (7) The square footage of turf and planting beds on the plans.
- (8) Pressure loss worksheet.
- (9) Calculation of water usage in gallons for the year.
- (10) Irrigation schedule.
- (11) Clearly displayed registered landscape architect or certified irrigation designer stamp or registration number.

Submittal of irrigation plans shall be concurrent with the submittal of civil plans or if no civil plans are required with application for a building permit.

The design of irrigation systems shall be based on approved landscape plans. Amendments to landscape plans shall require amendments to the irrigation plan(s).

- (e) Designer qualifications. The irrigation designer shall be a certified irrigation designer (commercial) as regulated by the irrigation association, or a registered landscape architect with a current license issued by any state.
- (f) *System requirements.* Systems shall be in conformance with the Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure, as that term is defined in ~~s~~Section 138-151 of this ~~e~~Chapter.
  - (1) *Run times.* Watering shall occur in accordance with the Aurora Water Management Plan approved by city council.
  - (2) *Hydraulics.* Hydraulics shall be in conformance with the Standards and Specifications Regarding Water, Sanitary Sewer and Storm Drainage Infrastructure, as that term is defined in ~~s~~Section 138-151 of this ~~e~~Chapter.
- (g) *Requirements for reclaimed domestic wastewater.* All irrigation systems installed on a site must connect to the reclaimed water system where reclaimed domestic wastewater is available meeting the requirements of the Colorado Department of Health and Environment (CDPHE), "Reclaimed Domestic Wastewater Control Regulations" and the following guidelines.
  - (1) *Design requirements.* Design requirements for irrigation systems that will connect to reclaimed domestic wastewater shall meet the following criteria:
    - a. *Site water containment.* Reclaimed domestic wastewater shall be confined to the authorized use area, strictly minimizing runoff and/or ponding of the water. Zone slopes and microclimates to strictly minimize runoff and/or ponding of reclaimed domestic wastewater. Direct and windblown irrigation water spray shall be



confined to the site. Precautions shall be taken to ensure that reclaimed domestic wastewater will not be sprayed on any facility or area not designated for application.

- b. *Pipe marking.* Identification shall be one of the following:
  - The warning "CAUTION: RECLAIMED WATER - DO NOT DRINK" embossed or stenciled on the pipe at five-foot intervals.
  - Purple plastic marking tape the width of the pipe with the warning "CAUTION: RECLAIMED WATER - DO NOT DRINK", and taped to the pipe every ten feet.
  - Install purple-colored pipe.
- c. *Outlets.* All sprinkler heads, quick coupler valves, and other outlets shall have purple-colored tops or rubber covers. Permanent hose outlets are not allowed.
- d. *Valve boxes.* All valve boxes used in the irrigation system shall have purple-colored valve box lids.
- e. *Irrigation controllers.* Irrigation controllers shall be labeled inside and out with "CAUTION: RECLAIMED WATER - DO NOT DRINK". A laminated reduced drawing of the irrigation system shall be kept in the controller cabinet.
- f. *Backflow prevention.* An approved reduced-pressure principle backflow prevention device or an air gap shall be provided at all potable water service connections to reclaimed domestic wastewater use areas.
- g. *Warning signs.* Notification by clearly visible signs shall be provided to inform the public that reclaimed domestic wastewater is being used for irrigation and is not safe for drinking. The notification shall include posting of signs of sufficient size to be clearly read in all application areas and around impoundments with the following wording: ATTENTION: RECLAIMED DOMESTIC WASTEWATER - DO NOT DRINK  
Signs should be in the predominant language(s) spoken in the area at the site. These requirements are based on Colorado Department of Public Health and Environment Regulation 84, Reclaimed Domestic Wastewater Control Regulation and American Water Works Association Manual M24, Dual Water Systems.
- (h) *Enforcement and penalty.* Any violation of this §Section shall be considered a waste of water as defined in §Section 138-190 and the enforcement provisions of §Section 138-190 shall apply.

Upon the issuance of any violation the system shall be adjusted within three days of notification for commercial properties and within seven days of notification for residential properties whenever irrigation water falls or runs onto hard surfaces such as sidewalks, streets or driveways. Breakdowns or failures of the irrigation system shall be repaired within three days of notification for commercial properties and within seven days of notification for residential properties to avoid unnecessary wasting of water. Any observed or reported wasting of water may result in penalties as described by §Section 138-190 of the City of Aurora Code.

**Section 19.** The City hereby amends Section 138-221 of the City Code pertaining to service connection fees.

Sec. 138-221. Service connection fee.

(a) *Service connection fees.* A service fee shall be charged for each connection to the water system. The connection fee calculation includes the water transmission development fee and all other costs associated with connection to the water system. The service connection fee calculation is the average daily recoverable usage (gallons per day) multiplied by \$67.03 plus nonrecoverable usage (gallons per day) multiplied by \$94.33. New connections platted before January 1, 2017, may be subject to a credit for the water transmission fee paid. The service connection fee for each customer class is listed below:

(1) *Single-family detached users.* The service connection fee for a single-family detached user shall be equal to the sum of the fees attributable to indoor and outdoor use of the lot or parcel as follows:

a. *Indoor fee.* The portion of the fee attributable to indoor use shall be based upon number of bathrooms in the dwelling unit at time the certificate of occupancy for such unit is issued:

Table A. Indoor Fee

Number of Bathrooms	Indoor Use (measured in gallons per day)	Fee
1—2	95.89	\$6,427
3—4	154.93	\$10,385
5—6	268.49	\$17,997

b. *Outdoor fee.* The portion of the fee attributable to outdoor use shall be based upon the total square footage of the lot or parcel as described in the subdivision plat and shall be determined in accordance with the following calculation:

Properties not subject to ~~s~~Section 138-191:

Outdoor fee = Square footage of the lot or parcel x 0.01638 gallons per square foot x \$94.33

Properties subject to ~~s~~Section 138-191:

Outdoor fee = Square footage of the lot or parcel x 0.01160 gallons per square foot x \$94.33

Lots larger than 32,670 square feet may apply for an adjusted lot size calculation based on the nonnative areas. The ~~director of city water~~ **General Manager** may approve the adjusted square footage based upon the nonnative area in the landscaping plan for the property. The adjusted square footage for

purposes of calculating the outdoor fee shall be 32,670 square feet, plus any additional square footage for any nonnative area.

The property shall have an annual allocation in gallons that equals:

For properties not subject to ~~s~~Section 138-191:

(Indoor use from table A + (the adjusted square footage x 0.01638 x 365))

For properties subject to ~~s~~Section 138-191:

(Indoor use from table A + (the adjusted square footage x 0.01160 x 365))

The property owner must agree to the annual allocation pursuant to an allocation agreement that will be recorded on the property. The property owner and each successive owner may apply annually between September 1st and November 30th to the ~~director~~ **General Manager** for an increase to the allocation. Any changes to the allocation shall require an additional payment of the then current outdoor fee based on the increased square footage for the nonnative area.

For any year in which the water usage is more than the annual allocation, a capital recovery fee will be assessed as specified in ~~s~~Subsection (a)(6) of this ~~s~~Section.

(2) Single-family attached users. The service connection fee for a single-family attached user shall be equal to the sum of the fees attributable to indoor and outdoor use of the lot or parcel as follows:

- h. *Indoor fee.* The portion of the fee attributable to indoor use shall be \$10,284 per unit.
- i. *Outdoor fee.* Users with common areas not served by a separate irrigation shall be charged an outdoor fee based upon the total square footage of the lot or parcel as described in the subdivision plat and shall be determined in accordance with the following calculation:

For developments not applying ~~s~~Section 138-191:

Outdoor fee = Square footage of the lot or parcel x 0.01638 gallons per square foot x \$94.33

For developments applying ~~s~~Section 138-191:

Outdoor fee = Square footage of the lot or parcel x 0.01160 gallons per square foot x \$94.33

(3) Multi-family users. The service connection fee for a multi-family user shall be \$10,284 per unit. For any outdoor usage, multi-family users must utilize a separate irrigation meter and pay the connection fee set forth in this ~~s~~Subsection (a)(3).

- (4) *Commercial users.* The service connection fee for a commercial indoor user shall be as follows:

Table B. Service Connection Fee (Indoor Use)

Service Connection Size (Inches)	Fee
$\frac{5}{8}$ and $\frac{3}{4}$	\$23,386.00
1	\$41,861.00

*Outdoor use.* Commercial users with meters one inch and smaller with landscaped areas not served by a separate irrigation system shall be charged an outdoor fee based upon the total landscaped area in accordance with the irrigation users' connection fee described in this ~~s~~Subsection (a)(4).

For a service connection size of one and one-half inches or greater, the service connection fee for a commercial user shall be a minimum of annual allocation of 1,400 gpd and determined in accordance with the following calculation:

Verified average daily demand of the commercial user (measured in gallons per day) x \$67.03 + verified average daily nonrecoverable demand use (measured in gallons per day) x \$94.33

For purposes of this ~~s~~Section, verified average daily demand shall be determined by the ~~water director~~ **General Manager** and shall be based on the number of fixtures and the characteristics of the commercial development.

A property owner requiring a meter size of one and one-half inches or greater must agree to the annual allocation pursuant to an allocation agreement. The agreement will be recorded on the property as notification to each successive owner of the restrictions on the water allocation allowance. The property will be subject to the adjusted size capital recovery fee. For any year in which the water usage is more than the annual allocation, a capital recovery fee will be assessed. See ~~s~~Subsection (a)(7) of this ~~s~~Section for capital recovery fees.

- (5) *Irrigation users.* The service connection fee for an irrigation user shall be as follows:

- For non-water-conserving landscaped common areas, \$4.50 per square foot of landscaped area.
- For water-conserving landscaped common areas, \$2.42 per square foot of landscaped area.

For purposes of this ~~s~~Section, whether the landscaping proposed to be installed by the irrigation user qualifies as water-conserving landscaping shall be

determined at the sole discretion of the ~~water director~~ **General Manager** in accordance with all applicable provisions of this ~~eChapter~~ and ~~eChapter~~ 146 (Unified Development Ordinance).

- c. A property owner requiring an irrigation meter must agree to an allocation agreement. The agreement will be recorded on the property as notification to each successive owner of the restrictions on the irrigation allowance. For any year in which the water usage is more than the annual allocation, a capital recovery fee will be assessed. See ~~sSubsection (a)(7) of this sSection~~ for capital recovery fees.
- d. Irrigation users with a landscaped area that has been approved as a Z zone by the ~~director of Aurora Water~~ **General Manager** can apply for an adjusted size calculation for the designated Z zone irrigation area.

The allocation agreement for an irrigation user with an approved Z zone will have an adjusted allocation that only allows for three years of irrigation for plant establishment in the Z zone.

- (6) *Mixed-use users.* The service connection fee for mixed-use users shall be equal to the sum of the service connection fees attributable to each class of use identified in the service connection application.
- (7) *Capital recovery fee.* A capital recovery fee will be assessed monthly for any month in which cumulative water usage exceeds the annual allocation.

Table C. Monthly Capital Recovery Fee

	Recovery Fee for Exceedance of Annual Allocation Occurring Jan 1—Jun 30	Recovery Fee for Exceedance of Annual Allocation Occurring Jul 1—Dec 31
Fee per 1,000 gallons	\$16.80	\$8.40

If a user exceeds the annual allocation prior to July 1st, the recovery fee will be \$16.80 per 1,000 gallons through December 31st. If the user exceeds the annual allocation after July 1st, the monthly recovery fee shall be \$8.40 per 1,000 gallons through December 31st. The assessed capital recovery fee will be in addition to Aurora Water regular water rates.

The property owner and each successive property owner may apply annually between September 1st and November 30th to the ~~director~~ **General Manager** for an increase to the allocation. Any changes to the allocation shall require an additional payment to the fee based on the increased usage. The payment will be based on the then current fees.

There shall be no refund of the service connection fee under any circumstances.

(b) *Time of payment.*

- (1) *Nonirrigation users.* Payment of the service connection fee for a residential, commercial, or mixed-use user shall be paid in full prior to application of the building permit. Payment of such fee shall be a prerequisite to the issuance of a certificate of occupancy. The amount of such fee shall be calculated according to the fee schedule in effect at the time payment is made.
- (2) *Irrigation users.* Payment of the service connection fee for an irrigation user shall be made prior to the issuance of a building permit for the lot or parcel connecting to the water system. An irrigation tap shall be used only for irrigation purposes.

Each irrigation user will be assigned a service address and billing account in the name of the property owner and manager if different from property owner. Any landscape plans submitted by the irrigation user must be approved by both the ~~water~~ **Aurora Water** and the planning departments prior to the issuance of a building permit. All determinations as to the size and type of irrigation tap required shall be at the sole discretion of the ~~water director~~ **General Manager**, consistent with the provisions of this ~~Article~~. Any such determination involving area demarcations or calculations, or volumetric calculations, shall be made available to the user for inspection, upon request.

- (3) *Prepayment.* The prepayment of service connection fees shall not be permitted under any circumstances.
- (c) *Limitations.* A tap on the water system shall be used for the sole purpose of providing water service to the lot or parcel identified in the service connection application and for which a building permit is issued. If the building permit is canceled or expires at any time prior to the tapping of the water system, the applicant shall be required to submit a new service connection application and pay the service connection fee in effect at the time of such application; provided, however, that a credit for the service connection fees previously paid to the city will be applied toward the fee schedule in effect at the time a new building permit for such lot or parcel is issued.
- (d) *Transfers.* Upon request of the applicant, and in the city manager's sole discretion, the city manager may authorize the application of the service connection fee previously paid for one lot or parcel towards payment of the service connection fee for a substitute property; provided, that the applicant is the owner of both lots or parcels or the owner of the lot or parcel for which these service connection fee was originally paid; and provided, that the applicant submits to the city a request for the transfer and a written release of any claim to the fee. Such transfer may only occur after the issuance of a building permit for the substitute property. Payment of any deficiency between the amount transferred and the fee in effect at the time the payment is made will be required prior to issuance of a certificate of occupancy. Such transfer may only be approved if the city manager determines that such transfer is consistent with the operational

efficiency of the water system. This authorization does not grant authority to reduce, waive, defer, or assume service connection fees.

- (e) *Definitions.* For the purposes of this §Section, the following words and phrases shall have the meanings ascribed to them in this §Subsection, except where the context clearly indicates a different meaning:

*Capital recovery fee* means a fee paid in addition to the regular water rates for any property granted a reduced connection fee and allocation when the water usage exceeds the agreed upon allocation.

*City manager* means the city manager of the city; the term "city manager" shall also include such person's designee.

*Commercial user* means any lot or parcel which contains a building or structure that does not fall within any of the single-family attached, single-family detached, multi-family, or irrigation users as defined in this §Subsection (e).

***General Manager* means the General Manager of Aurora Water or designee.**

*Irrigation user* means any lot or parcel served by a tap on the water system used for the sole purpose of providing water to operate and maintain a permanent, underground, and automatically controlled artificial watering system, which system is designed to transport and distribute water to plant materials on said lot or parcel. A single-family attached, single-family detached, commercial, or mixed-use user may also be an irrigation user for purposes of this §Section.

*Master metered* means any user where one meter serves two or more independent dwelling units.

*Mixed-use user* means any lot or parcel which contains a building that includes both residential and commercial uses and where customers receive master-metered water service. A mixed-use user will be considered a commercial user for purposes of calculating and billing rates and fees.

*Multi-family user* means any lot or parcel which contains a building with two or more separate independent dwelling units for permanent occupancy arranged in a stacked configuration where residential customers receive master-metered water service. The term "multi-family user" shall also include any master-metered manufactured housing.

*Nonnative area(s)* means those areas identified as nonnative in the landscaping plan for the property.

*Nonrecoverable* means any water used by an Aurora Water customer where the unconsumed portion of the water after such use is not discharged to the sewer system

and of which Aurora Water is not able to maintain dominion and control. Examples include but are not limited to irrigation use, cooling towers, and other uses not discharged to the sewer system.

*Recoverable* means any water used by an Aurora Water customer where the unconsumed portion of the water after such use is discharged to the sewer system and of which Aurora Water is able to maintain dominion and control such that Aurora may use its reusable water to extinction.

*Service connection* means the connection of a service line to a city water main which, upon application to and approval by the ~~water director~~ **General Manager** and payment of the appropriate service connection fee, results in water service to the lot or parcel and for the particular user class identified in the application.

*Service connection fee* means a one-time charge assessed to an applicant to connect into the city's water system, including but not limited to transmission and distribution lines, treatment facilities, and source of supply, to permit water service to the lot or parcel and for the particular user class identified in the application.

*Single-family attached user* means any lot or parcel which contains two or more dwelling units attached as described in sSection 146-6.2 where each dwelling unit receives individually metered water service.

*Single-family detached user* means any lot or parcel which contains a single dwelling unit in a single building not attached to any other buildings other than those accessory to the dwelling where residential customers receive individually metered water service.

*Tap* means the physical connection of a service line to a city water main.

*Tapping* means the act of making a physical connection of a service line to a city water main.

~~*Water director* means the director of city water; the term "water director" shall also include such person's designee.~~

*Water system* means the municipal water system presently owned and operated and maintained by the city acting by and through its utility enterprise, together with all equipment of and improvements to such water system.

*Z zone* means landscaped area that incorporates native plants that do not require supplemental watering once the plants are established. All plant material within these areas must be listed in the "no-water" plant list—Z-rated plants, as found in the landscape manual.



- (f) Determination of user class. When there is a dispute about the classification of customers within one of the user classes, the decision of the ~~water director~~ **General Manager** shall be final and subject only to judicial review.
- (g) *Meter required.* All single-family detached and attached users shall be individually metered. Unless otherwise authorized by the ~~water director~~ **General Manager**, each building occupied by any multi-family or commercial user shall be separately metered. The landscape area associated with a multi-family user and/or a single-family attached common area must be irrigated through an irrigation meter. Clubhouses, swimming pools, and recreation facilities of a single-family attached or detached user cannot be served by an irrigation meter. Appropriately sized taps will be required to serve these facilities.
- (h) *Installation of meter.* The city shall, as part of its connection service, remuneration for which is to be considered part of the service connection fee, furnish and install the water meter. The applicant for the service connection shall, at his or her sole expense, make the tap, provide and backfill the trench, and provide and install the corporation stop, service line pipe, meter yoke where required, meter pit or vault, curb stop with box, pressure reducing valves where required, and backflow preventer where required, all in accordance with the specifications of the city.
- (i) *Size of service connection.* All service connections larger than three-fourths-inch shall be of uniform size from the tap to the building or structure. The ~~water director~~ **General Manager** shall reserve the right to reevaluate the size of the service connection when any existing building, structure, or development with a tap is remodeled or the existing usage of such building, structure, or development is changed. The ~~water director~~ **General Manager** may require a larger service connection to any building, structure, or development if the water requirements when calculated by the fixture unit method, as specified in ~~e~~Chapter 22, ~~a~~Article X, cause the service line velocity to exceed 10 feet per second.
- (j) *Stub-out of service line.* If the applicant for a service connection desires to stub-out service line connections from the water main to the property line for the purpose of paving, a permit for stub-out shall be requested.
- (k) *Backflow preventer required.* Wherever, in the opinion of the ~~water director~~ **General Manager**, a reduced pressure backflow preventer is required to eliminate contamination of the public water supply through a specific service connection, such backflow preventer of a type and design approved by the ~~water director~~ **General Manager** shall be furnished and installed by the applicant, at its expense, in accordance with the specifications of the city.
- (l) *Banking of meters prohibited.* Each service line and meter shall supply a specific building. The banking of meters where a particular building or group of buildings may be supplied by two or more meters shall be prohibited, except in unusual circumstances where two meters may be allowed by the ~~water director~~ **General Manager**.
- (m) *Building additions or improvements.* If a building or structure undergoes an addition or improvement in which the current meter size is incapable of servicing the resultant total demand per ~~s~~Subsection (i) of this ~~s~~Section, the applicant will have the option to either

replace the existing meter and service line with the appropriately sized meter and service line or install a separate meter and service line to directly service the addition. It is prohibited to interconnect any two or more meters in any situation.

- (n) *Deferral of service connection fees.* The city council declares that assisting owners of residential properties within the city which are not connected to the water system with the financial burden of making such connections serves the public interest by encouraging the use of a safe and reliable source of potable water by all city residents. Therefore, upon application by the owner of any residential property located within the city which is served by an independent water system permitted by ~~s~~Section 138-154, the ~~water director~~ **General Manager** shall defer payment of all service connection fees associated with the connection of such property to the water system. An interest rate of five percent per annum shall be charged on each deferral, with payment of all fees and the interest thereon to occur at such time as title to the property is transferred or five years from the date the deferral is granted, whichever is earlier. Upon request, the owner may enter into an agreement to make monthly payments of fees and interest, upon such terms and conditions as the water director may authorize; provided, however, that the term of such agreement shall not exceed five years from the date the deferral is granted. As security for payment, a lien shall be placed upon the property at the time the deferral is granted. Any failure of the owner to make payment when due shall result in the immediate certification of all unpaid amounts for collection to the treasurer of the county in which such property is located. This ~~s~~Subsection shall apply only to those residential properties which have been developed as of January 1, 1995.
- (o) *Wet tap fees.* Fees for taps for distribution line extensions and fees for taps for private fire protection facilities (wet tap fees) shall be set pursuant to ~~s~~Section 2-587. These fees shall be charged in addition to any applicable service connection fee charged for tapping into the distribution line extension.

**Section 19.** The City hereby amends Section 138-223 of the City Code pertaining to water rates and charges.

Sec. 138-223. Water rates and charges.

- (a) The water availability surcharges will be in addition to the rates described in ~~s~~Subsection (a)(2)(a) of this ~~s~~Section. The applied water availability surcharges for each customer shall be based on the customer's cumulative usage in each tier or rate as applicable and the approved water availability conditions stage. The water availability surcharges for each customer class shall be as follows:

(1) *Monthly service charges.* Effective January 1, 2023

Meter Size (Inches)	Residential, Multifamily and Commercial	Irrigation
5/8 and 3/4	\$13.51	\$12.91
1 and 1 1/4	\$20.66	\$18.91
1 1/2	\$32.58	\$28.90

2	\$46.90	\$40.91
3	\$85.04	\$72.90
4	\$127.95	\$108.89
6	\$247.18	\$208.88
8	\$505.74	\$328.84

- (2) a. *Metered water rates.* The rate for water used each billing period by each customer class shall be as follows:

Residential  
Effective January 1, 2023

Tier 1	0 5,000 gallons, per 1,000	\$5.63
Tier 2	5,001—10,000 gallons, per 1,000	\$6.53
Tier 3	10,001 — 20,000 gallons, per 1,000	\$7.35
Tier 4	20,001 gallons and over, per 1,000	\$11.55

Effective January 1, 2023

	Multifamily	Commercial	Irrigation
Cost per 1,000 gallons used up to 100% of customer's annual block allocation	\$5.98	\$6.29	\$7.68
Cost per 1,000 gallons used greater than 100% of customer's annual block allocation	\$6.58	\$6.92	\$8.46

- b. *Water availability surcharges.* Prior to imposing any water availability surcharges, the city council shall determine the water availability conditions by supplemental resolution. The water availability surcharges shall be in effect until further action by council.

The water availability surcharges will be in addition to the rates described in ~~s~~Subsection (a)(2)(a) of this ~~s~~Section. The applied water availability surcharges for each customer shall be based on usage above the customer's average monthly winter water consumption computed from meter readings taken during the winter period (winter quarter average). For purposes of this ~~s~~Section, the term "winter period" and the method of computing winter quarter average shall

be defined in rules and regulations promulgated by the ~~director of water~~  
**General Manager**. The water availability surcharges for each customer class shall be as follows:

Surcharges for Residential, Multifamily and Commercial  
Effective April 1, 2023

Water Availability Conditions				
Allowed water usage for tiers	Normal	Stage I	Stage II	Stage III
Surcharge per 1,000 gallons used up to 110% of winter quarter average	\$0.00	\$0.00	\$0.00	\$4.20
Surcharge per 1,000 gallons used above 110% winter quarter average	\$0.00	\$1.95	\$7.60	\$12.60

Surcharges for Irrigation  
Effective April 1, 2023

Water Availability Conditions				
Allowed water usage for tiers	Normal	Stage I	Stage II	Stage III
Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation	\$0.00	\$1.95	\$7.20	\$12.60
Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation	\$0.00	\$1.95	\$7.20	\$25.20

(b) *Definitions.* For purposes of this ~~s~~Section, the following words and phrases shall have the meanings ascribed to them:

- (1) A customer's "annual block allocation" is an individualized annual water budget amount allocated to each commercial, irrigation, and multi-family with five or more units for use in each calendar year. The annual block allocation shall be determined by the projected demand of the commercial, multi-family, irrigation or mixed-use user as defined in the city water engineer standards and specifications. Unused allocation amounts will not carry to subsequent years. The ~~director~~ **General Manager** may establish a review or appeal process and pursuant to such review or appeal process may adjust a customer's annual block allocation if the ~~director~~ **General Manager** determines that the customer's current annual block allocation is not appropriate; provided, that the ~~director~~ **General Manager** determines the customer is using best water management practices, the customer is not wasting

water, and the customer can clearly show water efficiency measures have been implemented.

- (2) The "water management plan" shall refer to the rules and regulations established by the ~~director of water~~ **General Manager** regarding water allocation, usage restrictions, and conservation adopted pursuant to ~~s~~Section 2-3.
- (3) The term "residential" shall mean single-family detached, individually metered single-family attached, and multi-family users. The terms single-family detached, single-family attached and multi-family will have the same definitions as in ~~s~~Section 138-221.
- (4) The term "multi-family" shall mean multi-family users and existing master metered single-family attached. The terms single-family attached and multi-family will have the same definition as ~~s~~Section 138-221.
- (5) "Irrigation users" are those accounts that consume water only for irrigating external lawn areas or areas covered with vegetation.
- (6) The term "commercial" shall mean commercial users as defined in ~~s~~Section 138-221.
- (7) "Construction and hydrant water users" are users that obtain water service through a hydrant meter.
- (8) The term "water service" shall mean the retail sale of water and all services attendant thereto by the city to single-family detached, single-family attached, multi-family, commercial, and irrigation users. Water service shall not include the sale or trade of water by the city to a municipal or quasi-municipal water supplier for resale or use by such water supplier in accordance with such terms and conditions as the city council may establish.
- (9) The term "base rate" shall mean the adopted charges for water services described in ~~s~~Subsection (a)(2)(a) of this ~~s~~Section.

(c) *Private fire protection service.*

Fire Line Tap Size (Inches)	Monthly Service Charge Inside City Effective January 1, 2023
2	\$2.42
3	\$5.28
4	\$9.51
6	\$21.14
8	\$36.24
10	\$57.38
12	\$75.50

- (d) *Outside city.* The council shall have the sole and exclusive authority to contract to furnish water service outside the city limits and to determine and classify all uses therefor. Whenever a contract is made to furnish water service outside of the city limits, the city council may establish a rate for furnishing water service, which rate may be

one and one-half times the in-city rate unless other consideration is recommended by the ~~director~~ **General Manager**. Factors the city council will consider establishing such rate include, but are not limited to, water acquisition costs, transportation costs, treatment costs, debt service costs, infrastructure development costs, improvement and maintenance costs, and any potential offsetting benefit to the water utility or the city. In such outside-city contracts, the city council may also require payment of a service connection fee not less than one and one-half times the in-city fee for each tap or tap equivalent which is to receive water from the city unless other consideration is recommended by the ~~director of city water~~ **General Manager**.

(e) *Nonpotable irrigation water service.* Internal city charges for nonpotable irrigation water services shall be determined by the city manager or designee in accordance with ~~s~~Section 2-587.

(f) *Construction and hydrant water.* The following charges are established for water service furnished through a hydrant meter:

(1) *Monthly service charge.* The monthly service meter charge shall be as follows:

Meter Size (Inches)	Monthly Charge Effective January 1, 2023
$\frac{3}{4}$	\$12.62
3	\$80.04

(2) *Water usage rate.* All water furnished shall be charged at the rate of \$10.19 effective January 1, 2023, per 1,000 gallons.

(g) *Public fire protection service.* An annual fee shall be paid to ~~the water department~~ **Aurora Water** by the fire department responsible for fire protection service within the limits of the city. The amount of such fee shall be established by the ~~director of water~~ **General Manager** in accordance with the provisions of ~~s~~Section 2-587.

(h) Water service may be provided to customers within ~~city water~~ **Aurora Water** service area by other service providers **only** when approved by the ~~director of city water~~ **General Manager** by written agreement. The rates paid by these customers will be the rates established by the outside service provider.

**Section 20.** The City hereby amends Section 138-226 of the City Code pertaining to billing appeals.

Sec. 138-226. Billing appeals.

- (a) Any person who is provided water service by the water delivery system shall have the right to consult with designated **Aurora Water** employees ~~of the water department~~ concerning excess or duplicate billing or billing delinquencies which may require service shutoff.
- (b) It shall be the duty of the ~~director of water~~ **General Manager** to formulate an informal procedure to facilitate systematic and consistent handling of customer complaints, appeals for relief and contesting of shutoffs.
- (c) The ~~director~~ **General Manager** shall have the authority to designate those employees who shall be empowered to make adjustments to ~~utilities~~ **Aurora Water** billing or other necessary arrangement for payment of ~~utility~~ **Aurora Water** bills.

**Section 21.** The City hereby amends Section 138-227 of the City Code pertaining to deposits.

Sec. 138-227. Deposit required.

A person who is receiving ~~utility~~ **Aurora Water** services (water, sewer, and storm drainage) from the city shall be required to make a ~~utility~~ service deposit if his or her payment record indicates recent or substantial delinquencies or the existence of a bankruptcy proceeding. Such deposit shall not exceed the estimated amount of an average of two months of applicable ~~utility~~-service **fees** based upon such person's billing history. The making of a deposit shall not relieve any person from payment of current bills for ~~utility~~-services as they become due. Demands for deposits and their application to account balances shall be made on such forms and in accordance with such rules and regulations as may be authorized by the ~~director of water~~ **General Manager**.

**Section 22.** The City hereby amends Section 138-256 of the City Code pertaining to definitions and abbreviations.

Sec. 138-256. Definitions and abbreviations.

(a) *Definitions.* The following words, terms and phrases, when used in this ~~a~~Article, shall have the meanings ascribed to them in this ~~s~~Section, except where the context clearly indicates a different meaning:

*Act or the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the director of the water quality control division of the state department of health, or the regional administrator of the EPA.

*Authorized representative of commercial or significant industrial user* may be:

1. A responsible corporate officer, if such user is a corporation. For purposes of this ~~a~~Article, a responsible corporate officer means:
  - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
  - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00, in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. A general partner or proprietor if such user is a partnership or sole proprietorship, respectively.

3. A duly authorized representative of an individual designated in ~~s~~Subsection (1) or (2) of this definition if:
  - a. The authorization is made in writing by the individual;
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates including but not limited to the position of plant manager, well operator, well field superintendent or a position of equivalent responsibility, or the individual having overall responsibility for environmental matters for the company; and
  - c. The written authorization is submitted to the city and to the metro district.

If an authorization granted under ~~s~~Subsection (3) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or for environmental matters for the company, a new authorization satisfying the requirements of ~~s~~Subsection (3)b of this definition must be submitted to the city and the metro district prior to or together with any reports required to be signed by an authorized representative.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure, after five days, at 20 degrees Celsius and expressed in terms of weight and concentration (milligrams per liter (mg/l)).

*Board of health* means the board of health **organized pursuant to state law having appropriate jurisdiction** ~~of the Tri-County District Health Department.~~

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

*Building sewer* means a sewer conveying wastewater from the premises of a user.

*Building sewer permit (sewer tap permit)* means a permit authorizing connection to but not necessarily the use of the municipal wastewater collection system.

*Categorical standards* means national categorical pretreatment standards or pretreatment standards.

*Commercial user* means any business or enterprise falling outside the definition of significant industrial user and which contributes wastewater to the POTW.



*Commercial wastewater discharge permit* means a permit which must be obtained by all commercial users of the POTW and which is further described in division 2 of this ~~Article~~. Dwellings from which no businesses are operated are not required to obtain a discharge permit.

*Cooling water* means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Environmental protection agency or EPA* means the U.S. Environmental Protection Agency.

*Health officer* means the public health officer of the Tri-County District Health Department or an authorized representative thereof.

*Holding tank waste* means any waste from holding tanks such as chemical toilets, campers, trailers, septic tanks, vacuum-pump trucks, or other vessels.

*Industrial wastes* means the liquid wastes from industrial processes, trade or other businesses as distinct from sanitary or domestic waste.

*Industrial wastewater discharge permit* means a permit which must be obtained by all significant industrial users of the POTW and which is further described in division 2 of this ~~Article~~.

*Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
2. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal as required by the following statutory provisions and regulations or permits issued thereunder or more stringent state or local regulations; ~~s~~Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the (SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

*Metro district* means the Metro Wastewater Reclamation District, a political subdivision of the state.

*National categorical pretreatment standard (pretreatment standard)* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sSections 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users.

*National Pollutant Discharge Elimination System or NPDES permit* means a permit issued pursuant to sSection 402 of the act (33 USC 1342).

*Natural outlet* means any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

*New source* means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards under sSection 307(c) of the act (33 USC 1317) which will be applicable to such source, if such standards are thereafter promulgated in accordance with that sSection, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

*Nonmunicipal waste disposal system* means a system not treating wastewater from municipal corporations or sanitary districts.

*Pass through* means a discharge which exits from the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

*Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns, including any person or entity contracting with the city for sewer service.

*pH* means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

*Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes, or by other means, except as prohibited by 40 CFR 403.6(D).

*Pretreatment requirement* means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on a user.

*Public sewer* means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

*Publicly owned treatment works (POTW)* means a treatment works as defined by Section 212 of the act (33 USC 1292) which is owned, in this instance, by the City or the metro district. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this Article, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are users of the City's POTW.

*POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater.

*Sanitary sewer* means a sewer which carries wastewater and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Sewer* means a pipe or conduit for carrying wastewater or drainage water.

*Shall; may.* Shall is mandatory; may is permissive.

*Significant industrial user* means any industrial (nondomestic) user who:

1. Is subject to national categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, subchapter N.
2. Is found by the City or the metro district to have a reasonable potential of adversely affecting city or district operations.

3. Is discharging an average of 25,000 gallons or more per day of process wastewater to the sanitary sewer system; provided, however, that the metro district may delete a noncategorical industrial user from the list of significant industrial users if the user has no potential for adversely affecting the district's operation or for violating any deleterious waste standard as set forth in both the service contract and the rules and regulations of the metro district.
4. Is discharging a process wastewater stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the metro district's treatment plant.

*Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

*Storm drain (storm sewer)* means a pipe or conduit which carries stormwaters and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling water.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Total suspended solids (TSS)* means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering according to standard laboratory procedure.

*Toxic pollutant* includes but is not limited to any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of sSection 307(a) of the act.

*User* means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

*Wastewater* means the liquid and water-carried industrial, commercial, or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(b) *Abbreviations.* The following abbreviations shall have the designated meanings:

BOD. Biochemical oxygen demand.  
CFR. Code of Federal Regulations.  
COD. Chemical oxygen demand.

EPA. Environmental Protection Agency.

L. Liter.

Mg. Milligrams.

Mg/l. Milligrams per liter.

NPDES. National Pollutant Discharge Elimination System.

O & M. Operation and maintenance.

POTW. Publicly owned treatment works.

RCRA. Resource Conservation and Recovery Act, 42 USC 6901 et seq.

SIC. Standard industrial classification.

SWDA. Solid Waste Disposal Act, 42 USC 6901 et seq.

USC. United States Code.

TSS. Total suspended solids.

**Section 23.** The City hereby amends Section 138-258 of the City Code pertaining to purpose, policy objectives and applicability.

Sec. 138-258. Purpose and policy; objectives; applicability.

- (a) *Purpose and policy.* This ~~a~~Article sets forth uniform requirements for direct and indirect contributors to the wastewater collection and treatment system of the city and enables the City to comply with all requirements of the Metro Wastewater Reclamation District, applicable state laws and the general pretreatment regulations issued pursuant to the Clean Water Act of 1977.
- (b) *Objectives.* The objectives of this ~~a~~Article are to:
- (1) Prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the system or contaminate the resulting sludge.
  - (2) Prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.
  - (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system.
- (c) *Applicability.* This ~~a~~Article provides for the regulation of direct and indirect users of the POTW through the issuance of wastewater discharge permits to significant industrial users, new commercial users, and other commercial users submitting plans for alteration, remodeling, or other work that could change the nature or amount of wastewater discharge from the user to the city wastewater collection system. Furthermore, it authorizes monitoring and enforcement activities and provides for user reporting. This ~~a~~Article shall apply within the city and to persons located outside the city who are users of the POTW. Except as otherwise provided in this ~~a~~Article, the ~~director of water~~ **General Manager** shall administer, implement and enforce this ~~a~~Article.

**Section 24.** The City hereby amends Section 138-261 of the City Code pertaining to construction requirements.

Sec. 138-261. Construction requirements.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public sanitary sewer system extension or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a sanitary sewer extension agreement with the utility enterprise. The agreement shall provide for the dedication of all sanitary sewer system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the ~~director of water~~ **General Manager** may determine.
- (b) Application for a sanitary sewer extension agreement shall be made to ~~the utility enterprise~~ **Aurora Water** on forms provided by the ~~director of water~~ **General Manager**. The applicant shall provide all necessary technical information and data regarding the proposed sanitary sewer system improvements as may be required by the ~~director~~ **General Manager**.
- (c) Following execution of the sanitary sewer extension agreement and prior to commencing construction or installation of any sanitary sewer system improvements each applicant shall procure a public improvement permit from the City. Application for such permit shall be made to the public works department on forms provided by the director of public works.
- (d) At the time of filing the permit application, each applicant shall pay a public improvement permit fees. Such fees shall be promulgated by the director of public works in accordance with the provisions of ~~s~~Section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of public sanitary sewer extensions and related structures and facilities. In addition to such fee, any person requesting inspection of a public at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.
- (e) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in ~~a~~Article V of ~~e~~Chapter 126 of this Code.
- (f) No person may enter into a sanitary sewer extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a prior agreement or permit.
- (g) All fees collected pursuant to this ~~s~~Section shall be credited to and deposited in an account of the public works department in the general fund.
- (h) It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for ~~s~~Section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.

- (i) Developers are responsible for construction of regional facilities if development timing occurs before the approved capital improvement budget. A regional facility is defined as infrastructure with a capacity larger than that which is required for the respective development and as defined in the department master plans. The developer may be eligible for reimbursement for infrastructure oversizing as further defined by ~~the water department~~ **Aurora Water** rules and regulations.

**Section 25.** The City hereby amends Section 138-262 of the City Code pertaining to building sewers and connections.

Sec. 138-262. Building sewers and connections.

- (a) *Permit required.* It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. Any plumber, journeyman or other authorized person who shall make a connection with any pipe leading from any public sewer to any premises for the purposes of connecting the sanitary sewer system of any residential, commercial or industrial structure to the sanitary sewer system of the City, without first having procured a permit therefor, shall be in violation of this ~~a~~Article and punished as provided for in ~~s~~Section 138-257.
- (b) *Classes of permits.* There shall be two classes of permits as follows:
  - (1) For residential and commercial services.
  - (2) For service to establishments producing industrial wastes.
- (c) *Application; fee.* For either class of permit, the owner or his or her agent shall make application on a special form furnished by the City. Application shall be made to the building division of the development services department for a building permit, which permit shall include the building sewer system and that portion of the building sewer service line located within five feet of the building perimeter. Application shall be made to the director of public works for a public improvement permit for that portion of the building sewer service line extending from five feet outside of the building perimeter to the public sewer connection. The permit applications shall be supplemented by any plans, specifications or other information requested by the City. At the time of filing the public improvement permit application, each applicant shall pay a permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of ~~s~~Section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with inspections and plan reviews for building sewers and connections to the sanitary sewer system of the City.
- (d) *Costs and expenses.* All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (e) *Separate sewer for each building.* A separate and independent building sewer shall be provided for every building. Except when one building stands at the rear of another on

an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer or in the case of multi-family or commercial complexes where such sewer line may be designed as part of a private internal sewer system.

- (f) *Existing sewers.* Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the ~~director of water~~ **General Manager** or his or her designee, to meet all requirements of this ~~Article~~.
- (g) *Construction requirements.* The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or applicable rules and regulations of the City.
- (h) *Elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (i) *Runoff drain connections prohibited.* It shall be unlawful for any person to connect roof downspouts, exterior foundation drains, areaway drains, sump pumps or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Swimming pool drains, other than backwash, shall not connect to the sanitary sewer except when authorized in writing by the ~~director of water~~ **General Manager**.
- (j) *Connection specifications.* The connection of the building sewer to the public sewer shall conform to the specifications and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the ~~director of water~~ **General Manager** before installation.
- (k) *Inspection.* The applicant for the building and public improvement permits shall notify the public works department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of an authorized representative of the public works department.
- (l) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- (m) *Service line.*
  - (1) The owner of any building connected to the public sewer system shall retain ownership and be responsible for all maintenance and repair of the service line and all appurtenances thereto from the building served to the tap connection, including any tapping saddle on the public sewer main.
  - (2) The owner shall maintain the service line in a structurally sound and intact condition and shall repair or replace, at owner's expense, any portion of the service line which, in the opinion of the ~~director of water~~ **General Manager**, has become



so damaged or disintegrated as to no longer convey waste flow from the building served to the public sewer system or that permits excessive infiltration of groundwater or exfiltration of wastewater. The owner shall complete such repair or replacement within the time period given by the ~~director~~ **General Manager**. The ~~director~~ **General Manager** shall establish the time to be allowed for such repair or replacement based on any statutory or regulatory requirements and the present or potential harm or risk associated with the current condition and the nature of the repair required,

- (3) The city reserves the right, at the discretion of the ~~director of water~~ **General Manager** and at city expense, to make repairs or modifications to any portion of the service line located in public property or the public right-of-way when such repairs or modifications serve the operational efficiency of the public sewer system.
- (4) The ~~director of water~~ **General Manager** is authorized to suspend water service to a building to facilitate the reduction or elimination of wastewater flow when the director finds that the use of the service line or other building sewer components, in their present condition endanger the public sewer system, public or private property, the environment, or the health or safety of occupants or the public. The building owner and occupants shall be given written notice of such suspension. Notice shall include the reason(s) for the suspension and the corrective action(s) that must be taken prior resumption of water service. Monthly service charges will continue to accrue during such suspension.

**Section 26.** The City hereby amends Section 138-263 of the City Code pertaining to the use of public sewers.

Sec. 138-263. Use of public sewers.

- (a) *Rules and regulations.* It shall be the responsibility of the ~~director of water~~ **General Manager** to formulate rules and regulations governing the discharge of wastewater to the POTW consistent with this ~~Article~~.
- (b) *Discharge of drainage and unpolluted waters.* It shall be unlawful for any person to discharge or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters into any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such drains which are specifically designated as storm drains or to a natural outlet approved by the ~~director of water~~ **General Manager**. Industrial cooling water or unpolluted process waters may be discharged, on approval of the ~~director~~ **General Manager**, to a storm sewer or natural outlet.
- (c) *Swimming pools.* Persons operating swimming pools which are connected directly or indirectly to the public sewer system shall drain those pools only in accordance with the drainage schedule established by the ~~director of water~~ **General Manager**. Such persons shall also notify the ~~director of water~~ **General Manager** at least 24 hours before draining their pools.
- (d) *General discharge prohibitions.*

- (1) No person shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which interferes with the operation or performance of the POTW.
- (2) No person shall contribute the following substances to the POTW:
- a. Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
  - b. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease, garbage with particles greater than one-half inch in any dimension, animal entrails or tissues, paunch manure, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
  - c. Any wastewater containing toxic pollutants, hazardous wastes as defined by the Resource Conservation and Recovery Act, whether or not they are considered to be hazardous after entering the POTW, or poisonous substances in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical standard.
  - d. Sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the system, or any part thereof; normal and reasonable wear and usage excepted.
  - e. Sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the sewer structures, equipment or treatment works, either by chemical or by mechanical action.
  - f. Any night soil or septic tank pumpage, except by permit in writing from the ~~director of water~~ **General Manager** at such points and under such conditions as the ~~director~~ **General Manager** may stipulate in each permit.
  - g. Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, except when authorized by the ~~director of water~~ **General Manager**.
  - h. Water which has been used for cooling or heat transfer purposes without recirculation, discharged from any system of condensation, air conditioning, refrigeration, or similar use.

- i. Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction.
- j. Any water or wastes containing grease or oil or other substances that will solidify or become discernibly viscous within a temperature range set forth in the rules and regulations promulgated by the ~~director of water~~ **General Manager**.
- k. Any wastes that contain a corrosive, noxious, or malodorous material or substance which, either singly or by reaction with other wastes, are capable of causing damage to the system or to any part thereof, of creating a public nuisance or hazard, or of preventing entry into the sewers for maintenance and repair.
- l. Any wastes which are unusual in composition, i.e., contain an extremely large amount of suspended solids or BOD; are high in dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate; contain substances conducive to creating tastes or odors in drinking water supplies; otherwise make such waters unpalatable even after conventional water purification treatment; or are in any other way extremely unusual unless the ~~director of water~~ **General Manager** determines that such wastes may be admitted to the system or shall be modified or treated before being so admitted.
- m. Any wastes that contain excessive, as determined by the ~~director of water~~ **General Manager**, dye waste or others that are either highly colored or could become highly colored by reacting with any other wastes.
- n. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation processes. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuary Act, or more stringent state or local criteria, guidelines, or regulations applicable to the sludge management method being used.
- o. Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- p. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater containing heat or capable of creating heat in such amounts that the temperature at the introduction into the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- q. Any pollutants, including oxygen demanding pollutants (BOD), etc., released at a flow rate and/or pollutant concentration which will cause pass through or interference. In no case shall a slug discharge have a flow rate or contain

concentrations or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.

- r. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the ~~director of water~~ **General Manager** in compliance with applicable metro district, state or federal regulations.

(3) The prohibitions in ~~s~~Subsection (d)(2) of this ~~s~~Section shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(4) When the ~~director of water~~ **General Manager** determines that a user is contributing any of the enumerated substances in ~~s~~Subsection (d)(2) of this ~~s~~Section or others not enumerated to the POTW in such amounts as to interfere with the operation of the POTW, the ~~director~~ **General Manager** shall:

- a. Advise the user of the impact of the contribution on the POTW; and
- b. Develop effluent limitations for such user to correct the interference with the POTW.

(5) If any user violates this ~~s~~Subsection, nothing in this ~~s~~Subsection shall limit the authority of the ~~director of water~~ **General Manager** to seek enforcement of this ~~s~~Subsection against the user pursuant to ~~s~~Section 138-293.

(e) *National categorical pretreatment standards.* Upon the promulgation of a national categorical pretreatment standard for a particular industrial subcategory, if more stringent limitations than those imposed under this ~~a~~Article for sources in particular subcategory are promulgated, the national standard shall immediately supersede the limitations imposed under this ~~a~~Article. The ~~director~~ **General Manager** shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(f) *Specific pollutant discharge standards.* Specific pollutant discharge standards are to be set forth by the ~~director of water~~ **General Manager** in the rules and regulations governing pollutant discharge and wastewater control.

(g) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ~~a~~Article.

(h) *City's right of revision.* The city reserves the right to establish more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in ~~s~~Section 138-258.

(i) *Excessive discharge.* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation developed by the City or state.

(j) *Accidental discharges.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ~~a~~Article. Facilities to prevent

accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by July 1, 1983. No user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this ~~a~~Article. In the case of any accidental or unusual discharge, the user shall immediately telephone and notify the city and the metro district of the incident. The notification shall include the location, type, concentration, and volume of discharge, and corrective actions.

- (k) *Written notice.* Within five days following an accidental discharge, the user shall submit to the ~~director~~**General Manager** a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ~~a~~Article or other applicable law.
- (l) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if an accidental discharge occurs. Employers shall ensure that all employees, who may cause or suffer such an accidental discharge to occur, are advised of the emergency notification procedure.

**Section 27.** The City hereby amends Section 138-291 of the City Code pertaining to commercial and industrial wastewater discharge permits.

Sec. 138-291. Commercial and industrial wastewater discharge permits.

- (a) *Questionnaires and permits required.* Commercial and industrial wastewater discharge questionnaires and permits are required as follows:
  - (1) All commercial and industrial users contributing to or proposing to connect to or discharge to or change the nature or amount of discharge to the POTW shall provide to the City, in the form of a questionnaire prescribed by the City, the following information, in units and terms appropriate for evaluation:
    - a. The user's name, mailing address, and the address or location of the user's plant or facility, if different from the mailing address.
    - b. A description of the activities, facilities and processes that are located or conducted on the user's premises, and a list of all raw materials used.
    - c. Depending on the types of activities, facilities, or processes used, the following additional information:

1. The user's SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987, as amended, or NAICS Code, according to the National American Industry Classification System.
  2. Times and durations of wastewater discharges from each process.
  3. Average daily wastewater flow rates from each process, including daily, monthly and seasonal variations, if any.
  4. Site plan, floor plans, mechanical and plumbing plans and details showing all sewers, sewer connections and appurtenances by size, location and elevation.
  5. A complete list of all materials which are or could be discharged by the user.
  6. All other information as reasonably may be needed to adequately evaluate the potential for harm from the user's discharges to receiving streams or to the sewer systems of the City or the metro district.
- (2) All commercial users contributing to or proposing to connect to or discharge to or to change the nature or amount of discharge to the POTW shall apply for a commercial wastewater discharge permit from the city before connecting to or discharging to the POTW. The "issuing authority" with respect to commercial wastewater discharge permits, shall be the ~~City's director of water~~ **General Manager**.
- (3) All significant industrial users contributing to or proposing to connect to or discharge to the POTW shall obtain an industrial wastewater discharge permit from the metro district before connecting to or discharging to the POTW. The "issuing authority" with respect to industrial wastewater discharge permits shall be the metro district. All industrial wastewater discharge permits shall conform to the metro district's rules and regulations governing the operation, use and services of the system, as amended (the "metro district's rules and regulations") and any rules and regulations as may be issued by the ~~director of water~~ **General Manager**.
- (b) *Permit application.* All users required to obtain a commercial or industrial wastewater discharge permit shall complete and file with the appropriate issuing authority an application in the form prescribed by the issuing authority. Depending on the types of activities, facilities, or processes used, in support of the application the user shall be prepared to submit, in addition to the information listed in ~~s~~Subsection (a)(1) of this ~~s~~Section, the following information in units and terms appropriate for evaluation:
- (1) Wastewater constituents and characteristics, including but not limited to those mentioned in ~~s~~Section 138-263 or in any applicable state or national pretreatment standards or in the metro district's rules and regulations, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to ~~s~~Section 304(g) of the Act and contained in 40 CFR 136, as amended.

- (2) A statement regarding whether or not the discharge standards contained in ~~s~~Section 138-263 and applicable state or national pretreatment standards and the metro district's rules and regulations are being met on a consistent basis and, if not, whether additional O & M or additional pretreatment is required for the user to meet the applicable standards.
- (3) If additional pretreatment or O & M will be required to meet the pretreatment or discharge standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
  - a. The schedule shall contain increments of progress, not to exceed nine months, in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment or discharge standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).
  - b. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the ~~director of water~~ **General Manager**, including as a minimum whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the ~~director of water~~ **General Manager**.
- (4) Each product produced by type, amount, process or processes and rate of production.
- (5) Type and amount of raw materials processed (average and maximum per day).
- (6) Number and type of employees, and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.
- (7) Any other information as may be deemed by the issuing authority necessary to evaluate the permit application.
- (c) *Evaluation*. The issuing authority shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the issuing authority may issue a commercial or industrial wastewater discharge permit, as appropriate, subject to the terms and conditions provided in ~~s~~Subsection (d) of this ~~s~~Section and elsewhere in this ~~a~~Article.
- (d) *Issuance*. The issuing authority shall issue the appropriate wastewater discharge permit to the applicant if all of the following conditions are met:
  - (1) The proposed discharge of the applicant is in compliance with the prohibitions and limitations of ~~s~~Section 138-263 and the rules and regulations issued pursuant thereto, and the metro district's rules and regulations;

- (2) The proposed discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and
  - (3) The proposed discharge of the applicant would not result in a violation by the City or the metro district of the terms and conditions of their respective CDPS/NPDES permits. If the issuing authority finds that the condition set out in ~~s~~Subsection (d)(1) of this ~~s~~Section is not met, the issuing authority may issue a commercial or industrial wastewater discharge permit, as appropriate, to the applicant if the conditions set out in ~~s~~Subsections (d)(2) and (3) of this ~~s~~Section are met and if the applicant submits and the issuing authority approves a schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to ensure compliance with this ~~a~~Article.
- (e) *Denial.* If an application for a wastewater discharge permit is denied, the issuing authority shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- (f) *Hearing.*
- (1) Upon receipt of notification of denial of a commercial wastewater discharge permit application, the applicant may request and shall be granted a hearing to be held by the ~~director of water~~ **General Manager**.
    - a. At such hearing the applicant shall have the burden of establishing that the conditions set out in ~~s~~Subsection (c) of this ~~s~~Section have been met and that a permit should be issued. The ~~director~~ **General Manager** may conduct the hearing and take the evidence or may designate a representative to:
      - 1. Issue in the name of the ~~director~~ **General Manager** notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
      - 2. Take the evidence.
      - 3. Submit a report of the evidence and hearing, including transcripts and other evidence, to the ~~director~~ **General Manager** together with recommendations for action thereon.
    - b. Testimony taken on any public hearing shall be under oath and recorded stenographically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
    - c. Upon review of the evidence, the ~~director~~ **General Manager** shall make written findings of fact and may issue a wastewater discharge permit or direct that such permit shall not be issued or give such other or further orders and directives as are necessary and appropriate.
    - d. Any party to the hearing aggrieved or adversely affected by an order of the ~~director~~ **General Manager** may appeal such order to the district court of the



17th or 18th judicial district of the state, pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure.

- (2) An applicant denied an industrial wastewater discharge permit may request that the manager of the metro district review the application and issue the permit. If the district's manager affirms the denial, the applicant may appeal the denial pursuant to the procedures set forth in ~~s~~Sections 1.2 and 6.22.4 of the metro district's rules and regulations.
- (g) *Conditions.* Commercial and industrial wastewater discharge permits shall be expressly subject to all provisions of this ~~a~~Article and all other applicable regulations, user charges and fees established by the issuing authority. Permits may contain the following:
  - (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
  - (2) Limits on the average and maximum wastewater constituents and characteristics.
  - (3) Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.
  - (4) Requirements for installation and maintenance of inspection and sampling facilities.
  - (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.
  - (6) Compliance schedules.
  - (7) Requirements for submission of technical reports or discharge reports.
  - (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the issuing authority, and affording the City or the metro district access thereto for the purposes of reviewing and copying records.
  - (9) Requirements for notification of the issuing authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
  - (10) Requirements for notification of slug discharges as per ~~s~~Subsection 138-263(d)(2)q.
  - (11) Other conditions as deemed appropriate by the issuing authority to ensure compliance with this ~~a~~Article.
- (h) *Modifications.*
  - (1) The terms and conditions of any wastewater discharge permit is subject to modification by the City or the metro district during the term of the permit as limitations or requirements as set forth in ~~s~~Section 138-263 or the metro district's rules and regulations are modified or for other good cause. Users shall be informed of any proposed changes to their permits prior to the effective date of any change, and any such change or new condition shall allow a reasonable time for compliance.
  - (2) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed

by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for an industrial wastewater discharge permit as required by ~~s~~Subsection (b) of this ~~s~~Section, the user shall apply for such a permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the issuing authority within 180 days after the promulgation of an applicable national categorical pretreatment standard the information required by ~~s~~Subsections (b)(2) and (b)(3) of this ~~s~~Section.

- (i) *Duration and reissuance.* Commercial wastewater discharge permits may be issued for a specified term or an indeterminate period of time. Industrial wastewater discharge permits shall be issued for a specified term not to exceed five years, and may be issued for a period less than a year or may be stated to expire on a specific date. Each user shall apply for permit reissuance at least 180 days prior to the expiration of the user's current commercial or industrial wastewater discharge permit.
- (j) *Transferability.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior notification to and approval by the appropriate issuing authority. A copy of the existing permit must be provided to the prospective transferee prior to such transfer.
- (k) *Violation.* It shall be unlawful for any user to violate or fail to comply with any condition of a wastewater discharge permit.

**Section 28.** The City hereby amends Section 138-292 of the City Code pertaining to reporting requirements for permittee and pretreatment standards.

Sec. 138-292. Reporting requirements for permittee; pretreatment standards.

- (a) *Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any significant industrial user shall submit to the metro district a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards and requirements, and the average and maximum daily flow for those process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user and certified by a qualified professional engineer.
- (b) *Periodic compliance reports.*
  - (1) Any significant industrial user after the date for final compliance with applicable pretreatment standards or, for a new source, after commencement of the discharge into the POTW shall submit to the metro district during the months of June and

December, unless required more frequently in an applicable pretreatment standard or by the metro district, a report covering the preceding six months and indicating the nature and concentration of pollutants in the effluent which are limited by such applicable pretreatment standards or other standards enumerated in the industrial wastewater discharge permit. In addition, this report shall include a record of average and maximum daily flows for the reporting period for all regulated processes. At the discretion of the metro district and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the metro district may agree to alter the months during which the reports are to be submitted.

- (2) The metro district may impose mass limitations on users which are found to be using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance reports shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the metro district, of pollutants contained therein which are limited by the applicable pretreatment standards or requirements. All analyses shall be performed in accordance with procedures established by the administrator of the EPA pursuant to 33 USC 1314(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by the administrator of the EPA.
- (3) For users subject to equivalent mass or concentration limitations established by the City or the metro district in accordance with procedures established by the administrator of the EPA pursuant to 33 USC 1314(g) of the Act and contained in 40 CFR 403.6(c), as from time to time amended, compliance reports required by the user's respective permits shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production or other measure of operation, the report required by the user's discharge permit shall include the user's actual average production rate for the reporting period.

(c) *Monitoring facilities.*

- (1) The city or the metro district may require any user to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facility shall be situated on the user's premises but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling

and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

- (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within a reasonable time as specified in written notification by the City or the metro district.

(d) *Inspection and sampling.*

- (1) The city or the metro district may inspect the facilities of any user to ascertain whether the purpose of this ~~a~~Article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative or representatives of the metro district ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or records copying in the performance of any of their duties. The city, the metro district, the state department of public health and environment and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance and metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the City, the metro district, the state department of public health and environment and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (2) The ~~director of water~~ **General Manager** or the metro district shall designate wastewater control inspectors to monitor and inspect establishments connected to the public sewer system.

(e) *Pretreatment.*

- (1) Users shall provide necessary wastewater pretreatment as required to comply with this ~~a~~Article and shall achieve compliance with all national categorical pretreatment standards, where required, within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under this ~~a~~Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city and the metro district. Any facilities of significant industrial users required to pretreat wastewater to a level acceptable to the metro district shall be provided, operated and maintained at the user's expense. Detailed plans shall be submitted to the metro district for review and shall be

acceptable to the metro district before construction of the system. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the metro district.

- (2) The metro district shall annually publish, in a local newspaper of general circulation, a list of the users that were in significant noncompliance with any pretreatment requirements or standards or permit requirements at least once during the 12 previous months. Reasons for a user to be considered in significant noncompliance shall include but are not limited to:
    - a. Chronic violations of wastewater discharge limits, in which 66 percent or more of all the measurements taken during any six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
    - b. Technical review criteria (TRC) violations, in which 33 percent or more of all the measurements for each pollutant parameter taken during any six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC, which applicable TRC shall equal one and four-tenths (1.4) for BOD, TSS, and oil and grease, and one and two-tenths (1.2) for all other pollutants except PH.
    - c. Any other violation of a pretreatment effluent limit that the metro district determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public.
    - d. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the metro district's or the City's exercise of their emergency authority to halt or prevent such a discharge.
    - e. Failure to accurately report noncompliance.
    - f. Failure to submit required reports within 30 days of their due dates.
    - g. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone.
    - h. Any other violation or group of violations that the metro district determines will adversely affect the operation or implementation of the local pretreatment program.
  - (3) All records relating to compliance with pretreatment standards shall be made available to officials of the City, the metro district, EPA or the approval authority upon request.
- (f) *Confidential information.*
- (1) Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or any governmental agency without restriction unless, at the time of its submittal to the City or the metro district, the user specifically requests otherwise and is able to demonstrate to the satisfaction of the City or the metro district that

the release of such material would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Information or data for which the user requests confidentiality must be plainly labeled "confidential."

- (2) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ~~Article~~, the national pollutant discharge elimination system (NPDES) permit and the pretreatment program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

**Section 29.** The City hereby amends Section 138-293 of the City Code pertaining to harmful contributions.

Sec. 138-293. Harmful contributions.

- (a) The ~~director of water~~ **General Manager** may suspend the wastewater treatment service and wastewater discharge permit when such suspension is necessary, in the opinion of the ~~director~~ **General Manager** or the metro district, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes or may cause interference to the POTW, or which causes or may cause the City or the metro district to violate any condition of their respective NPDES permits.
- (b) Any person notified of a suspension of the wastewater treatment service or the wastewater discharge permit shall immediately stop or eliminate the contribution. If a person fails to comply voluntarily with the suspension order, the ~~director~~ **General Manager** shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The ~~director~~ **General Manager** shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the ~~director~~ **General Manager** within five days of the date of occurrence.

**Section 30.** The City hereby amends Section 138-295 of the City Code pertaining to notification for violations.

Sec. 138-295. Notification of violations.

Whenever the city finds that any user has violated or is violating any provision of this ~~Article~~, any rule or regulation promulgated under this ~~Article~~ or any prohibition, limitation, or requirement of his or her wastewater discharge permit, the ~~director~~ **General**

**Manager** may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted by the user to the ~~director~~ **General Manager**.

**Section 31.** The City hereby amends Section 138-296 of the City Code pertaining to show cause hearings.

Sec. 138-296. Show cause hearing.

- (a) Under this ~~a~~Article, upon a finding by the ~~director~~ **General Manager** that a person has caused or permitted an unauthorized discharge or that any such unauthorized discharge has not been corrected by timely compliance with a correction schedule, whether with or without a meeting with the ~~director~~ **General Manager**, the ~~director~~ **General Manager** may order any person who causes or allows such unauthorized discharge to show cause why an enforcement action should not be taken. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the ~~director~~ **General Manager** regarding the violation, the proposed enforcement action and directing the offending party to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
- (b) The ~~director~~ **General Manager** may conduct the hearing and take evidence or may designate a representative to:
  - (1) Issue notices of hearings requesting the attendance and testimony of witnesses and the production of any evidence relevant to any matter involved in any such hearings.
  - (2) Take the evidence.
  - (3) Submit a report of the evidence and hearing to the ~~director~~ **General Manager**, including transcripts and other evidence, together with recommendations for action thereon.
- (c) At any public hearing, testimony taken before the hearing authority or any person designated by it shall be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (d) Upon review of the evidence, the ~~director~~ **General Manager** shall make written findings of fact and may:
  - (1) Issue an order stating that no unauthorized discharge has occurred and directing that service shall not be terminated therefor;
  - (2) Issue an order stating that an unauthorized discharge has occurred and direct that following a specified time period, the wastewater treatment service of the offending party be discontinued unless:
    - a. Adequate treatment facilities, devices or other appurtenances shall have been installed; or

- b. Existing treatment facilities devices or other appurtenances are properly operated or maintained; or
- (3) Issue such other or further orders and directives as are necessary and appropriate.
- (e) Any party to the hearing aggrieved or adversely affected by an order of the ~~director~~ **General Manager** may appeal such order to the district court of the 17th or 18th judicial district of the state, pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure.

**Section 32.** The City hereby amends Section 138-297 of the City Code pertaining to legal action.

Sec. 138-297. Legal action.

If any person discharges sewage, industrial wastes or other wastes or similar substances into the POTW contrary to any provision of this ~~a~~Article, any order, rule, regulation, or permit issued under this ~~a~~Article or any federal or state pretreatment standards or requirements, the ~~director of water~~ **General Manager**, in addition to any other remedies or actions, may:

- (1) Direct the city attorney to commence an action for appropriate legal and equitable relief in any county or district court having jurisdiction of the subject matter of the action and the amount, if any, sought to be collected; and
- (2) Institute criminal proceedings in the municipal court in and for the city through the issuance of a municipal summons and complaint to the offending party pursuant to the authority granted him or her by ~~s~~Section 50-30 of this Code.

**Section 33.** The City hereby amends Section 138-326 of the City Code pertaining to sewer service connection fees.

Sec. 138-326. Service connection fee.

- (a) A service connection fee for the privilege of tapping or connecting to the sanitary sewer system of the city and includes a sewer interceptor development fee for extension of sewer interceptor facilities is established and imposed, which fee shall be payable as follows:
  - (1) Multi-family single-family attached, single-family detached, and commercial users shall be charged a service connection fee in accordance with the following schedule:

Applicable to fees paid on or after January 1, 2023:

	Single-Family Detached	Single-Family Attached	Multifamily
--	------------------------	------------------------	-------------



Service Connection Fee	\$3,710.00	\$2,041.00 per unit	\$1,892.00 per unit
------------------------	------------	---------------------	---------------------

Water Tap Size Inches	Commercial Service Connection Fee
¾	\$7,420.00
1	\$17,808.00
1½	\$40,810.00
2	\$74,200.00
3	\$159,530.00
4	\$319,060.00
6 and larger	*

\*Service connection fees for non-single-family units shall have the single-family residential equivalent determined through the size of the meter serving the building and as specified by the estimated quantities of flow (Q), bacterial oxygen demand (BOD), suspended solids (SS) and total Kjeldahl nitrogen (TKN) discharged to the system per the metro wastewater reclamation district rules and regulations.

- (2) Whenever, with regard to any real property for which a sanitary sewer service connection fee has been paid to the city, a water meter is replaced by the installation of a larger water meter, an additional fee shall be payable. Said fee shall be calculated by subtracting the amount of the current sanitary sewer service connection fee based on the size of the replaced water meter from the amount of the current sanitary sewer service connection fee based on the size of the replacement water meter. No alteration in or expansion of the use of any real property for which property a sanitary sewer service connection fee has been paid to the city shall necessitate the payment of an additional or new sanitary sewer service connection fee, unless such alteration or expansion requires the installation of a larger water meter.
- (3) Any aggrieved commercial or industrial user may present facts regarding the use of their property which demonstrate the lack of a reasonable correlation between the size of their water tap and their demands upon the sewer system. Such facts shall be presented to the ~~director of water~~ **General Manager**, who may reduce the amount of the service connection fee payable under this ~~s~~Section in order to mitigate those situations that would otherwise result in gross unfairness. An informal hearing may be held for the purpose of appealing the decision of the ~~director of water~~ **General Manager** to the city manager or designee, who shall render a decision based upon the standard of mitigating those situations that would otherwise result in gross unfairness, and whose decision is final.

- (4) Whenever a contract is approved for the acceptance of sanitary sewer discharge from sources arising outside of the city limits, such contract, in addition to the regular service connection fee, shall also contain a provision for the payment to the city of not less than 15 percent of the current service connection fee of the city for each tap added to the system generating sewage flows outside of the city after the execution of the agreement.
- (5) For purposes of this sSection, the following terms shall have the same meaning ascribed to them as in sSection 138-221: "single-family detached," "single-family attached," "multi-family," "commercial," and "industrial" user. For purposes of this sSection, the term "water tap" shall not include irrigation water taps.
- (b) Payment of the service connection fee shall be paid in full prior to application for a building permit. Payment of such fee shall be a prerequisite to the issuance of a certificate of occupancy. The amount of such fee shall be calculated according to the fee schedule in effect at the time payment is made. If the building permit is canceled or expires, credit for the service connection fees already paid to the city will be applied toward the fee schedule in effect at the time the new building permit is issued. Upon request of the service connection applicant, the ~~Aurora Water director~~ **General Manager** may authorize the application of funds previously paid for service connection fees for one property to service connection fees for a substitute property, provided that either properties have the same ownership or the owner of the property where the credit was originally applied provides to the city a request for the transfer and a written release of any claim to the previously paid funds. Such transfer may only occur after the issuance of a building permit for the substitute property. Payment of any deficiency between the transferred funds amount and the fee amount in effect at the time the payment is made will be required prior to issuance of a certificate of occupancy. Such transfer may only be approved when the city manager, in consultation with Aurora Water, determines that such transfer is consistent with the operational efficiency of the utility system. This authorization does not grant authority to reduce, waive, defer, or assume water service connection fees.

**Section 34.** The City hereby amends Section 138-327 of the City Code pertaining to sewer rates.

Sec. 138-326. Sewer rates.

- (a) There is levied and assessed upon each lot, parcel of land, building or premises situated within the city limits which is connected to the city sanitary sewer system a charge as follows:
- (1) All users, except metered irrigation users shall be assessed, monthly, a service charge and a volume charge as follows:
- a. The monthly service charge shall be based upon the size of the water meter servicing the user. This charge shall be assessed as follows:

Meter Size (Inches)	Monthly Service Charge Inside City Effective January 1, 2023
---------------------	--

5/8 and ¾	\$4.68
1 and 1¼	\$11.70
1½	\$23.39
2	\$37.43
3	\$81.88
4	\$233.95
6 and 8	\$467.90

b. The monthly volume charge shall be calculated as follows:

(1) The volume charge shall be assessed at the rate of \$4.30 effective January 1, 2023, per 1,000 gallons of wastewater discharged into the city sanitary sewer system by the user. This charge shall be based upon the user's average monthly water consumption computed from meter readings taken during the winter period. For purposes of this ~~s~~Section, the term "winter period" and the method of computing average monthly water consumption shall be defined in rules and regulations promulgated by the ~~director of water~~ **General Manager**.

(b) *Outside city.* The council shall have the sole and exclusive authority to contract to furnish sewer service outside the city limits and to determine and classify all uses therefor. Whenever a contract is made to furnish sewer service outside of the city limits, the city council may establish a rate for furnishing sewer service, which rate may be not less than one and one-half times the in-city rate. Factors the city council will consider establishing such rate include, but are not limited to, system collection costs, treatment costs, debt service costs, infrastructure development costs, improvement and maintenance costs, and any potential offsetting benefit to the water utility or the city. In such outside city contracts, the city council may also require payment of a service connection fee not less than one and one-half times the in-city fee for each tap or tap equivalent which is to receive water from the city unless the ~~director~~ **General Manager** recommends other consideration.

**Section 35.** The City hereby amends Section 138-330 of the City Code pertaining to Metro wastewater reclamation district sewer connection charge.

Sec. 138-330. Metro Wastewater Reclamation District sewer connection charge.

(a) In addition to collecting the sewer service connection fee set forth in ~~s~~Section 138-326, the city shall act as agent for the Metro Wastewater Reclamation District in collecting that entity's sewer connection charge (referred to in this ~~s~~Section as the "connection charge"). The connection charge for each single-family residential equivalent, to be paid to the City, shall be the charge as determined by the Metro Wastewater

Reclamation District. The charge shall apply to all new or altered connections to the city sanitary sewer system.

- (b) If an area not presently served by either the city sanitary sewer system or the sewage facilities of other members of the Metro Wastewater Reclamation District is connected directly or indirectly to the city sanitary sewer system, the connection charge shall apply for each individual "single-family residential equivalent" connection existing in the area at the time of connection to the city sanitary sewer system.
- (c) The connection charge will be determined directly for single-family residential units and by the installed water service connection size for multi-family and nonresidential connections. The number of "single-family residential equivalent" connections shall be determined in accordance with Metro Wastewater Reclamation District rules and regulations.
  - (1) A "single-family residential equivalent" is equal to one single-family unit which means a building or structure used or designated to be used as only one residential unit, including single-family detached dwellings and mobile homes; each residential unit in a duplex; and each individually metered residential unit in multi-family buildings or structures. The term "residential unit" means a room or group of rooms which includes or is designed to include kitchen and bathroom facilities and in which one or more persons could reasonably reside on a permanent and nontransient basis.
  - (2) The term "multi-family property" includes any building or structure, or portion thereof, which contains three or more residential units served by master-metered water service.
  - (3) The term "nonresidential property" includes any building or structure, or portion thereof, which is not a single-family dwelling or other residential unit.
  - (4) Where a building or structure is served by more than one water service connection, the single-family residential equivalent connection shall be the sum of the equivalents of each such connection. Where a building or structure has more than one sanitary sewer service connection, the connection charge shall be determined by the water service connection size serving such building or structure.
  - (5) Water service connections installed and used solely for fire protection purposes, such as fire hydrant branches, fire sprinkler systems, standpipes, etc., irrigation purposes, or for other purposes which do not discharge into the city sewer system are excluded from the assignment of single-family residential equivalents and payment of the connection charge.
  - (6) For any new or altered water service connection where water is supplied, either in whole or in part, by any source that will not have a water service connection to the city water system, the "single-family residential equivalent" connection will be assigned on the basis of a water service connection size that such a customer would normally require if connecting exclusively to the city water system. The city reserves the right to modify the assigned water service connection size based upon the facts and circumstances of each individual application and case.

- (7) For nonresidential connections where the water service connection size is greater than three-fourths-inch, a reduction in the assignment of the "single-family residential equivalent" connection may be granted where it can be demonstrated to the satisfaction of the city that sewage flow discharges will be significantly less than the sewage normally discharged from such a connection. Applications for such reductions will be made to the city which shall approve or disapprove the reduction. In no event shall a reduction in the assignment of the "single-family residential equivalent" connection, on the basis provided in this ~~s~~Section, exceed the next smaller size of water service connection. Partial service connection size reductions shall not be granted. For customers requesting a reduction which would exceed the next smaller service connection size, the provisions of ~~s~~Subsection (c)(5) of this ~~s~~Section, allowing separate irrigation or other taps, would apply. The Metro Wastewater Reclamation District shall have the right to affirm or modify any reductions in the assignment of "single-family residential equivalent" connections which have been approved by the city based upon the facts and circumstances of each individual application and case.
- (d) The city council declares that assisting the owners of residential properties within the city which are not connected to the sanitary sewer system of the Metro Wastewater Reclamation District with the financial burden of making such connections serves the public interest by encouraging the use of a safe and reliable means of wastewater disposal by all city residents. Therefore, upon application by the owner of any residential property located within the city which is served by a nonmunicipal waste disposal system approved pursuant to ~~s~~Section 138-260, the ~~director of water or the director's designee~~ **General Manager** shall defer payment of all fees associated with the connection of such property to the Metro Wastewater Reclamation District sanitary sewer system. An interest rate of five percent per annum shall be charged on each deferral, with payment of all fees and the interest thereon to occur at such time as title to the property is transferred or five years from the date the deferral is granted, whichever is earlier. Upon request, the owner may enter into an agreement to make monthly payments of fees and interest, upon such terms and conditions as the ~~director~~ **General Manager** may authorize; provided, however, that the term of such agreement shall not exceed five years from the date the deferral is granted. As security for payment, a lien shall be placed on the property at the time the deferral is granted. Any failure of the owner to make payment when due shall result in the immediate certification of all unpaid amounts for collection to the treasurer of the county in which such property is located. This ~~s~~Subsection shall apply only to those residential properties which have been developed as of January 1, 1995.

**Section 36.** The City hereby amends Section 138-361 of the City Code pertaining to definitions.

Sec. 138-330. Definitions.

The following words, terms and phrases, when used in this ~~a~~Article, shall have the meanings ascribed to them in this ~~s~~Section, except where the context clearly indicates a different meaning:

*Drainage basin development fee* means the fee levied and assessed upon each vacant and undeveloped lot and parcel of land within the city for the purpose of funding the construction and installation of regional facilities in accordance with the drainage master plan.

*Drainage basin plans* mean those plans which describe flood control and storm drainage channels, structures, sewers and facilities for conveyance, control or storage of stormwater in individual drainage basins. Upon approval by the ~~director of water~~ **General Manager**, such plans shall become detailed ~~s~~Subsections of the drainage master plan.

*Drainage facilities* mean all manmade structures or natural watercourses owned, operated or maintained by the city which are used for the conveyance, control or storage of stormwater arising within the city limits or within drainage basins which discharge into the city limits.

- (1) Major facilities mean those drainage facilities identified in the drainage master plan which provide for the conveyance or detention of stormwater runoff generated from an area of greater than 130 acres. Such projects include but are not limited to regional detention ponds, stream improvements, drop structures in constrained urban streams, and bank stabilization. All major facilities shall be constructed as maintenance eligible projects.
- (2) Minor facilities mean those drainage facilities which provide for the conveyance or detention of stormwater runoff generated within a master planned parcel, or that serves a project area of fewer than 130 acres. Examples of minor facilities include but are not limited to storm sewers, overflow tracts, drop structures in undeveloped areas, sub-regional detention ponds and drainage conveyance.

*Drainage master plan* means the overall plan developed by the ~~director of water~~ **General Manager** which addresses various matters relating to storm drainage within the City, including the identification of drainage and flooding problems, the compilation of base data related to rainfall and runoff, proposals for controlling stormwater flows, and cost control measures regarding the construction, operation and maintenance of drainage facilities. Such plan shall identify the principal features of the storm drainage system and shall consist of approved drainage basin plans, drainage basin maps, basic drainage concepts and related calculations, and any other items deemed appropriate by the ~~director of water~~ **General Manager**.

*Maintenance eligible projects (MEPs)* means projects that have received written confirmation from urban drainage and flood control district that they have met the criteria set forth in their guidelines to satisfy this designation.

*Master planned parcel* means any development area that has an approved general development plan or framework development plan.

*Monthly usage rate* means the monthly rate imposed on each and every lot or parcel of land within the City to pay for the operation, maintenance, improvement, and replacement of drainage facilities.

*Regional facilities* mean any major facilities that have been identified in a drainage master plan, which serve a tributary area of adjacent parcels owned by multiple subdividers.

*Storm drainage system* means all drainage facilities owned, operated or maintained by the city which are used for the conveyance, control or storage of stormwater to, through and from drainage areas to points of final outlet, including but not limited to any and all of the following: conduits, canals, ditches, channels, streams, gulches, gullies, flumes, culverts, streets, curbs, gutters, catchbasins, detention and retention ponds, siphons, bridges, pump stations, and all features appurtenant thereto.

*Subdivider* means the same as the definition of subdivider in ~~chapter 147~~ **Chapter 146, the Unified Development Ordinance.**

**Section 37.** The City hereby amends Section 138-363 of the City Code pertaining to rules and regulations.

Sec. 138-363. Rules and regulations.

It shall be the duty of the ~~director of water~~ **General Manager** to promulgate reasonable rules and regulations to facilitate the proper administration of this ~~an~~ **Article.**

**Section 38.** The City hereby amends Section 138-364 of the City Code pertaining to the master plan.

Sec. 138-364. Master plan.

- (a) Adequate drainage and control of stormwater is an integral and important part of any development. Proper drainage planning shall be considered to be an essential element of the overall comprehensive plan. A drainage master plan shall be developed by the ~~director of water~~ **General Manager**. Such plan shall be revised when information so warrants, as determined by the ~~director of water~~ **General Manager**. The purpose of the drainage master plan shall be to:
- (1) Establish the boundaries of drainage basins which are either directly located or contribute to stormwater flows within the City.
  - (2) Offer a means of identifying and alleviating both present and future drainage and flooding problems while reasonably maintaining the environmental and aesthetic values of drainageways.

- (3) Present, in an organized fashion, basic data and information regarding the relationship between rainfall and stormwater flows.
- (4) Offer an effective means by which subdividers and the city may cooperate in controlling stormwater flows.
- (5) Provide the city with a process for scheduling the installation of major facilities.
- (b) The city may solicit the cooperation of other governmental entities in providing drainage facilities in drainage basins or parts thereof, which extend outside the city limits for the purpose of carrying out the drainage master plan.
- (c) Notwithstanding any other provision in this ~~a~~Article to the contrary, the city shall be deemed to be providing drainage facilities to any property within the city when stormwater from such property is accepted or capable of being accepted in any of the following types of facilities: publicly dedicated or owned streets, alleys, utility easements, gutters, ditches, catchbasins, pans, drop structures, pipes, lined or unlined channels, natural drainageways, or any other publicly owned or operated facility used for the transportation of stormwater.

**Section 39.** The City hereby amends Section 138-365 of the City Code pertaining to the dedication of easements and construction and maintenance of minor facilities.

Sec. 138-365. Dedication of easements; construction and maintenance of minor facilities.

- (a) Every subdivider shall provide, without cost to the City, an easement of not less than 16 feet in width up to such maximum width as is necessary to accommodate drainage from a 100-year storm or for the purpose of constructing and maintaining drainage facilities for the transmission, through the subdivider's property, of all stormwater generated upstream from the subdivision. Notwithstanding this requirement, any natural drainageway having an identifiable bed and banks which traverses any subdivider's property shall not be encroached upon or altered so as to render the drainageway less suitable to accept and transport stormwater which has historically flowed through such drainageway. The maximum width of the storm drainage easement to be provided by the subdivider shall be reasonably determined by the directors of water and public works and shall include criteria set forth by urban drainage and flood control district for maintenance eligibility.
- (b) Wherever possible, existing street patterns may be utilized for the purpose for which an easement would otherwise be required. Alternatively, the city may, at its sole option, waive the requirement for granting such an easement.
- (c) It shall be the responsibility of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required within his or her subdivision for the acceptance and conveyance of all stormwater generated outside of his or her subdivision, as though such water was in fact generated from land in its fully developed state. It shall further be the duty of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required for the acceptance and conveyance of all stormwater generated from within his or her subdivision, as though such subdivision was in fact fully developed, or as may



otherwise be approved by the directors of water and public works departments. Should a facility be deemed minor at the time of master planning but meets the criteria to be classified as a major facility at the time of development, the project can be reviewed by ~~the water department~~ **Aurora Water** for partial reimbursement as described in ~~s~~Section 138-366 of this Code.

- (d) It shall be the responsibility of the property owner, unless evidenced by written agreement, to maintain all minor facilities.

**Section 40.** The City hereby amends Section 138-366 of the City Code pertaining to the construction of regional facilities.

Sec. 138-366. Construction of regional facilities.

- (a) Under this ~~a~~Article, responsibility for the construction of regional facilities shall be apportioned between the city and the subdivider. It shall be the responsibility of the subdivider to construct or provide for the construction of regional facilities identified in the city master drainage plan and within the subdivider's master planned parcel. Facilities constructed by the subdivider may be eligible for partial reimbursement subject to a reimbursement agreement approved by the director of the water department. The subdivider shall not be eligible for partial reimbursement for project elements that do not meet the intent of the project identified in the city master drainage plan. The subdivider may receive a partial reimbursement only if ~~the water department~~ **Aurora Water** accepts the constructed improvement in accordance with the City's standards and specifications and the subdivider provides receipts verifying actual construction costs which shall be provisions in a reimbursement agreement.
- (b) Following construction by a subdivider of any major facilities, record drawings signed by a professional engineer and bearing his or her seal shall be presented to the city for its review. Such plans must be reviewed by the directors of water and public works prior to the City's acceptance of such facilities. All major facilities and facilities appurtenant thereto, which are constructed under this ~~s~~Section, shall, upon written acceptance by the city and fulfillment of the one-year warranty period, become city property and the city shall thereafter be responsible for the operation and maintenance of such.

**Section 41.** The City hereby amends Section 138-367 of the City Code pertaining to the preliminary and final drainage plans.

Sec. 138-367. Preliminary and final drainage plans.

- (a) Under this ~~a~~Article, every subdivider shall, at his or her sole expense, be required to:

- (1) Establish, locate or otherwise define the boundaries of all subdrainage areas within his or her subdivision;
  - (2) Establish, locate or otherwise define the alignment and boundary of any natural drainageway or existing drainage facilities and private drainage works within his or her subdivision;
  - (3) Submit for review and approval by the directors of water and public works, prior to the final approval of any subdivision plat or site plan, a preliminary storm drainage plan for his or her subdivision, which shall include preliminary drawings of all proposed drainage facilities, drainage studies and reports, design computations, estimated costs of construction, and such other information as may be required to ensure that stormwater originating both from his or her proposed subdivision and lands lying upgradient from such subdivision will be adequately drained and controlled; and
  - (4) Convey to the City by dedication, deed and bill of sale, free and clear of all liens and encumbrances and in consideration of the City thereafter maintaining and operating such, all **public** drainage facilities, including adequate easements or rights-of-way within his or her subdivision necessary for the maintenance, repair or replacement of such facilities, which conform to the drainage master plan and which, in the opinion of the **General Manager** ~~director of water~~, could reasonably be considered to be an integral part of the storm drainage system.
- (b) The directors of water and public works shall not approve any proposed storm drainage plan or construction of drainage facilities or accept any constructed drainage facilities which do not conform to the drainage master plan or such reasonable rules and regulations as may be promulgated to ensure the adequate drainage and control of stormwater.
  - (c) The directors of water and public works shall not recommend approval for any subdivision plat or site plan which does not conform to the drainage master plan or such rules and regulations.
  - (d) After the final approval of any subdivision plat, site plan, or part thereof for which final approval is requested and prior to the issuance of any building permits, the subdivider shall, at his or her sole expense, prepare and submit for review and approval by the directors of water and public works a final storm drainage plan, including detailed construction drawings, plans, profiles and specifications for the construction and installation of all drainage facilities necessary for the drainage and control of all stormwater within his or her subdivision and the conveyance of such water to a safe discharge or outflow point. Such plan shall conform to the approved preliminary drainage plan for the subdivision and the drainage master plan and shall bear the seal of a registered professional engineer of the state. The subdivider shall also prepare and submit an estimated construction schedule in accordance with ~~e~~Chapter 147 of this Code. Prior to the issuance of any building permit, the subdivider must complete any and all improvements which may be necessary to remove the underlying subdivision from a 100-year floodplain.

- (e) The directors of water and public works may recommend another temporary discharge or outflow point at which the water will be received by an open channel or other minimum, temporary or substitute facility to carry the water, provided that it is technically feasible and not detrimental to the health, safety and welfare of the public. The city council may, in the interest of the health, safety and welfare of the public, direct the purchase of land or construction of drainage facilities as shown in the drainage master plan.
- (f) The approval of any preliminary or final drainage plan under this ~~s~~Section shall be valid for a period of one year from the date such approval is given.
- (g) Land not otherwise excluded or exempted under this ~~s~~Section shall be ineligible for replatting or resubdividing if:
  - (1) Drainage basin development fees have not been assessed;
  - (2) Drainage facilities have not been built in accordance with accepted plans and specifications;
  - (3) Preliminary drainage plans have not been submitted; or
  - (4) The subdivider has failed to comply with all of the requirements of this ~~s~~Section.
- (h) Land may be replatted or resubdivided without additional assessment of drainage basin development fees or construction of additional drainage facilities if the drainage plan submitted with the replat or resubdivision indicates that no new drainage facilities are required as a result thereof, provided that:
  - (1) Drainage basin development fees have been paid; and
  - (2) Drainage facilities have been built in accordance with accepted plans and specifications.

**Section 42.** The City hereby amends Section 138-368 of the City Code pertaining to the requirements for mains, structures or facilities.

Sec. 138-368. Requirements for mains, structures or facilities.

- (a) It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any storm drainage system extension or related subsurface structure or facility within any public street, avenue, alley or other public way or to discharge into a public right-of-way or easement, without first having obtained a storm drainage system utility permit and stormwater quality discharge permit with ~~the water department~~ **Aurora Water**. The permit shall provide for the dedication of all public storm drainage system improvements so constructed or installed to ~~the water department~~ **Aurora Water** upon such terms and conditions as the ~~director of water~~ **General Manager** may determine.
- (b) Application for a storm drainage system utility permit and stormwater quality discharge permit shall be made to ~~the water department~~ **Aurora Water** on forms provided by the ~~director of water~~ **General Manager**. The applicant shall provide all necessary technical information and data regarding the proposed storm drainage system improvements as may be required by the ~~director~~ **General Manager**.

- (c) Following issuance of the storm drainage system utility permit and stormwater quality discharge permit and prior to commencing construction or installation of any storm drainage system improvements, each permittee shall procure a public improvement permit from the public works department on forms provided by the director of public works.
- (d) At the time of filing the permit application, each applicant shall pay a public improvement permit fee. Such fees shall be promulgated by the director of public works in accordance with the provisions of ~~s~~Section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of storm drainage system extensions and related subsurface structures or facilities. In addition to such fee, any person requesting inspection of a storm drainage system extension or related subsurface structure or facility at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.
- (e) Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in ~~a~~Article V of ~~e~~Chapter 126 of this Code.
- (f) Reserved.
- (g) All fees collected pursuant to this ~~s~~Section shall be credited to and deposited in an account of the public works department in the general fund.
- (h) It shall be the responsibility of the applicant or the developer of the subject property to obtain any permits required for the construction, placement or installation of the proposed drainage facilities under ~~s~~Section 404 of the Clean Water Act or any other applicable federal or state statute, rule or regulation. Unless otherwise agreed to by the ~~director of water~~ **General Manager**, it shall be the responsibility of the applicant to obtain any floodplain map amendments or revisions required as the result of the construction, placement or installation.

**Section 43.** The City hereby amends Section 138-396 of the City Code pertaining to the requirements for mains, structures or facilities.

Sec. 138-396. Drainage basin development fee.

- (a) A drainage basin development fee shall be levied and assessed upon each vacant and undeveloped lot and parcel of land within the city for the purpose of funding certain regional facilities. The drainage basin development fee shall be calculated based on acreage of the parcel and the square footage of the impervious area. The first portion of the drainage basin development fee based on the acreage shall be assessed at \$1,242.00 per acre, and the second portion of the drainage basin development fee shall be assessed at \$0.14 per square foot of impervious area for nonresidential users and \$0.48 per square foot of lot size for residential users effective January 1, 2019.

For each connection to the water or sanitary sewer system, payment for the portion of the drainage basin development fee based on the acreage of the parcel shall be paid in

full prior to subdivision platting. In addition, payment for the portion of the drainage basin development fee based on the impervious area shall be paid in full prior to application for the building permit. If a connection to the water or sanitary system is not required, the drainage basin development fee shall be paid in full at time of development application. A certificate of occupancy shall not be issued until the drainage basin development fee has been paid in full.

Nonresidential drainage development fee

$(\$1,242.00 \times \text{total lot acreage}) + (\$0.14 \times \text{square feet of impervious area})$

Residential drainage development fee

$(\$1,242.00 \times \text{total lot acreage}) + (\$0.048 \times \text{square feet of impervious area})$

The developer may be eligible for stormwater fee credits if the developer or their engineer can prove through an analysis, approved by the ~~director~~ **General Manager** with the guidance of the urban drainage flood control district, that a portion of runoff generated by the impervious area present on the site is effectively mitigated by receiving pervious area.

- (b) Land dedicated to the city for public purposes pursuant to an approved annexation agreement shall be exempt from fees required by this ~~s~~Subsection. This exemption shall not apply to land dedicated for easements, rights-of-way, streets, highways or storm drainage, unless otherwise provided in the annexation agreement.
- (c) The portion of the drainage basin development fee based on the acreage shall be computed on the gross acreage included within a platted lot or parcel of land. For purposes of this ~~s~~Subsection, the boundaries of a platted lot or parcel of land shall be deemed to extend to the centerline of the street or streets abutting such lot or parcel.
- (d) For applicable sites, the ~~director of water~~ **General Manager** shall cause to be made an environmental study which lists by location any areas which require special drainage facilities. Such areas shall include:
  - (1) Areas where the leaching of toxic materials is likely to occur;
  - (2) Areas where extreme erosion is likely to occur; or
  - (3) Areas where extreme siltation is likely to occur; or
  - (4) Designated wetlands.
- (e) The ~~director of water~~ **General Manager** will prepare an overall plan for the construction, operation and maintenance of drainage facilities to address such environmental requirements in the most cost-effective manner. Where appropriate, the costs of such facilities shall be added to the drainage basin development fee assessed under this ~~s~~Section.

**Section 44.** The City hereby amends Section 138-398 of the City Code pertaining to administrative review and court proceedings.

Sec. 138-398. Administrative review and court proceedings.

- (a) Any property owner who disputes the amount of the fees assessed pursuant to this division or who disputes any other determination made by or on behalf of the city pursuant to this ~~Article~~ may petition the ~~director of water~~ **General Manager** for a hearing on the revision or modification of such assessment or determination no later than 30 days after having been billed for such assessment or after having been notified of such determination. The ~~director of water~~ **General Manager** may conduct such hearing himself or herself or, at his or her sole discretion, may designate an officer or employee of the City as the hearing officer.
- (b) Such petition shall be in writing, and any evidence submitted shall be under oath or affirmation under penalty of perjury. The hearing shall take place not less than 30 days and not more than 60 days from the date of submission of the petition to the ~~director of water~~ **General Manager**. For purposes of this ~~Subsection~~, the applicable time period shall be calculated in accordance with rule 6 of the Colorado Rules of Civil Procedure. The hearing shall be held in the offices of the City or at such other reasonable place as the ~~director of water~~ **General Manager** may designate. Notice of and the procedures to be followed at such hearing shall be in accordance with rules and regulations promulgated by the ~~director of water~~ **General Manager**. The petitioner shall bear the risk of nonpersuasion.
- (c) Within ten days after the conclusion of the hearing, the ~~director of water~~ **General Manager (or designee)** ~~or his or her designee~~ shall make a final decision in accordance with the evidence submitted. Such decision shall be considered a final order of the ~~director of water~~ **General Manager** and may be reviewed under rule 106(a)(4) of the Colorado Rules of Civil Procedure as provided in this ~~Article~~. Before making application to the district court under rule 106(a)(4), the petitioner shall file with the ~~director of water~~ **General Manager** a bond in the amount of the fees due and owing to the City as stated in the final decision with a surety as is provided in cases of attachment under the Colorado Rules of Civil Procedure. Alternately, at his or her option, the petitioner may deposit lawful money of the United States in the same amount with the City. Depending on the location of the property which is the subject matter of the action, the district court of either the 17th or 18th judicial district of the state shall have original jurisdiction under rule 106(a)(4) to review the final decision of the ~~director of water~~ **General Manager**.
- (d) Every final decision of the ~~director of water~~ **General Manager** shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within 15 days from the date of the decision. All such decisions shall become effective upon the expiration of 30 days after notice thereof is mailed to or personally served upon the petitioner, unless proceedings for review by the district court are commenced within that time. Service by certified mail, return receipt requested, shall be conclusive evidence of service for purposes of these proceedings.

**Section 45.** The City hereby amends Section 138-399 of the City Code pertaining declared lien if delinquent.

Sec. 138-399. Declared lien if delinquent.

- (a) The city council finds and determines that it is the policy of the city that all drainage services provided by the city shall be deemed to be provided to the real property so served without regard to the actual person billed for storm drainage services.
- (b) All unpaid drainage basin development and monthly usage fees are declared to be delinquent 40 days after the payment due date. There is declared to be a lien on the real property so served in the amount of such unpaid fees, together with an administrative fee not to exceed ten percent of the total amount of unpaid fees and rates. All liens created by this ~~s~~Section shall relate back to the time drainage services were provided to the real property. Such penalty and interest shall be assessed at a rate equivalent to that which is assessed upon delinquent general property taxes under state law.
- (c) The city clerk is authorized and empowered to certify to the treasurer of the appropriate county the legal description of the real property so served, together with the amount of the delinquent fees attributable to the property. Certification of the unpaid fees and rates to the county treasurer shall serve as notice to the property owner of said delinquency. The lien created by this ~~s~~Section of the code shall be a first lien upon the subject property and shall be superior to all other liens, or claims against such property of whatever kind or nature regardless of the date except any lien for general property taxes or special improvement district assessments. Upon receipt of said certification, the county treasurer shall proceed to collect such unpaid fees and rates generated in the same manner as general property taxes.
- (d) The provisions of this ~~s~~Section for the collection of delinquent drainage basin development and monthly usage fees shall be in addition to any other remedies for the collection of such fees authorized by rule or regulation promulgated by the ~~director of water~~ **General Manager**.

**Section 46.** The City hereby amends Section 138-436 of the City Code pertaining stormwater definitions and abbreviations.

Sec. 138-436. Definitions and abbreviations.

- (a) *Definitions.* Unless specifically defined as follows, words or phrases used in this ~~a~~Article shall be interpreted so as to give them the same meaning as they have in common usage and, further, to give this ~~a~~Article it's most reasonable application:

*Best management practices (BMPs)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPS also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPS include structural and nonstructural controls. Construction and permanent BMPS are described in the rules and regulations of ~~the~~ Aurora Water ~~Department~~.

*Construction activity* refers to the disturbance of land within the city that may include excavation, demolition, site grading, utility work, paving, building, or any other activity that may contribute to soil erosion or sedimentation in waterways.

~~*Director* means the director of water and such director's authorized representative.~~

***General Manager* means the General Manager of Aurora Water or designee.**

*Impervious area* means all rooftops, concrete, asphalt and hard surface used for parking, driveways or similar uses.

*Polluting materials* means materials that include but are not limited to raw materials; fuels; materials such as solvents, detergents, plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §Section 101(14) of CERCLA; any chemical which a facility is required to report pursuant to §Section 313 of title III of SARA; garbage; soil; sediment; organic materials; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with a discharge of stormwater.

*Responsible party* means the owner of any property within the City.

*Responsible party for permanent BMPS* is the owner of the property on which permanent BMPs have been constructed, and the designated agent of the owner.

*Significant development or redevelopment*, for the purposes of this ~~a~~Article, shall be defined as any land disturbance of one acre or more within a site, or less than one acre if associated with a larger common plan of development. Disturbances smaller than one acre will be addressed in accordance with the City's storm drainage design and technical criteria.

*Stormwater* means stormwater runoff, snow melt runoff, and surface runoff and drainage.

*Stormwater system* means all drainage facilities owned, operated or maintained by the city which are used for the conveyance, control, or storage of stormwater to, through and from drainage areas to points of final outlet, including but not limited to any and all of the following: conduits, canals, ditches, channels, streams, gulches, gullies, flumes, culverts, ponds, siphons, bridges, pump stations, and all features appurtenant thereto.

*Subdivider* means the owner or developer of a subdivision or any other lot or parcel of land proposed for development.

(b) *Abbreviations.* The following abbreviations shall have the designated meanings.



*CERCLA* means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC 9601 et seq.

*NPDES* means the National Pollutant Discharge Elimination System.

*SARA* means the Superfund Amendments and Reauthorization Act of 1986.

*USC* means the United States Code.

**Section 47.** The City hereby amends Section 138-438 of the City Code pertaining to stormwater rules and regulations.

Sec. 138-438. Rules and Regulations.

It shall be the duty of the ~~director of water~~ **General Manager** to promulgate such reasonable rules and regulations not inconsistent with this ~~a~~Article so as to facilitate the proper administration of this ~~a~~Article.

**Section 48.** The City hereby amends Section 138-440 of the City Code pertaining to best management practices.

Sec. 138-440. Best management practices.

During the development or other construction activity of any property within the City, a subdivider/responsible party must use construction best management practices for the control of the quality of stormwater drainage originating from the subject property. Additionally, permanent best management practices are required to ensure continuing compliance with the rules and regulations of ~~the Aurora Water Department~~.

**Section 49.** The City hereby amends Section 138-441 of the City Code pertaining to quality of stormwater drainage plans.

Sec. 138-441. Quality of stormwater drainage plans.

Prior to any site grading or excavation, as defined in ~~s~~Section 22-531 and not excepted in ~~s~~Section 22-533, a subdivider proposing significant development or redevelopment shall submit a plan for the control of the quality of stormwater drainage to the ~~director of water~~ **General Manager**. Such plan shall include all facilities and control measures necessary to ensure continuing compliance with the rules and regulations promulgated under ~~s~~Section 138-438. Such subdivider shall be responsible for design, construction, and effective operation of the facilities and measures set forth in the plan. Approval by the City of any

plans shall not create a liability on the part of or cause of action against the City or any officer or employee thereof regarding the plan or its operation, nor does this ~~Article~~ purport to reduce or obviate the need for the subdivider to obtain any other local, state, or federal licenses or permits. Specific plan requirements, processing procedures, and approval criteria shall be set forth in the rules and regulations promulgated under ~~Section~~ 138-438. Approval of the plan required under this ~~Section~~ for the control of the quality of stormwater drainage with regard to proposed significant development or redevelopment is required to obtain the permit described in ~~Section~~ 138-442.

**Section 50.** The City hereby amends Section 138-442 of the City Code pertaining to quality stormwater permits.

Sec. 138-442. Stormwater permits.

- (a) *Required.* It shall be unlawful for any person to begin construction upon or cause any excavation or grading of any site within the city without first having procured a stormwater quality permit when such permit is required by the rules and regulations promulgated pursuant to this ~~Article~~ in accordance with federal and state stormwater control requirements.
- (b) *Application.* Prior to commencing any construction upon or excavation or grading of any site within the City, every person shall make application to ~~the water department~~ **Aurora Water** for a stormwater quality permit. Such applicant shall set forth on the forms provided by the ~~director of water~~ **General Manager**, all necessary technical information and data as may be required.
- (c) *Fee.* The filing of any application under this ~~Section~~ shall be accompanied by the payment of a stormwater quality permit fee. Such fee shall be promulgated by the ~~director of water~~ **General Manager** and shall be assessed for the purpose of defraying the cost of all inspections and plan reviews regarding the site of the construction, excavation, or grading. Such fees shall be in addition to those fees required by other ~~Sections~~ of this Code.
- (d) *Inspection.* Any person requesting an inspection of such site at any time other than normal city business hours of 7:30 a.m. through 4:00 p.m., Monday through Friday, or on any legal holidays shall reimburse the city for all reasonable costs expended by the City in making such inspection.
- (e) *Fiscal security.* An applicant for a stormwater permit shall be required to post fiscal security as follows for the purpose of securing the city against all costs, charges, and expenses incurred by the city due to the failure of the permittee to perform all requirements of the permit pertaining to installation and maintenance of stormwater BMPs:

- (1) The amount of the fiscal security required shall be the lesser of 25 percent of the total opinion of probable costs for installing and maintaining construction erosion and sediment control BMPs, or \$250,000.00. In the event that 25 percent of such probable costs is less than \$1,000.00, no fiscal security bond is required.
- (2) The fiscal security requirement may be satisfied with a surety or cash bond. Cash bonds may be in the form of a cashier's check, bank draft, certified check, bank money order, or cash. No interest will be paid to the permittee on cash bond funds. A surety bond shall be an irrevocable bond payable to the City in the required amount. Such bond shall be valid for a minimum period of two years from its date of issue. Such bond shall be renewed as required thereafter, so that the bond shall continue coverage until final closeout of the permit. Such bond must be executed by a commercial financial institution or corporate surety company authorized to do business in Colorado.
- (3) If there exists an immediate danger to public health or safety, or if the permittee fails to correct or restore a site following a notice of violation or stop work order, the city may enter upon the subject property and complete the necessary correction or restoration and may draw on the posted fiscal security and use the funds to recover all costs incurred by the City. If the city incurs costs that are not recovered in full by drawing on posted fiscal security, the ~~director~~ **General Manager** shall send a demand notice to the permittee and the registered property owner of such property where the correction or restoration was done for payment of city incurred but unrecovered costs. If the permittee or property owner fails to pay the costs within 30 days of such notice being sent, the amount shall constitute a lien against the real property upon which the expense was incurred. Any notice of lien shall consist of a sworn statement setting out:
  - i. A description of the real estate sufficient for identification thereof.
  - ii. The amount of money representing the cost and expense incurred or payable to the City.
  - iii. The date when such cost and expense was incurred by the City.
- (4) Fiscal security must remain in place until final closeout of the stormwater permit.
- (5) In the event of a permit transfer, the original permittee is eligible for a refund of their posted fiscal security once the permit has been transferred and the new permittee has posted the required fiscal security.
- (6) The ~~director~~ **General Manager** may waive the required posting of fiscal security when the applicant and/or owner is a governmental entity, provided that the ~~director~~ **General Manager** finds the City's financial exposure with such waiver is reasonably limited or that the City's financial interests which would be protected by posted fiscal security are adequately protected by other means.
- (f) *Denial.* A new stormwater quality permit may not be issued to any applicant nor may a contractor be allowed to perform work under a new or additional permit when such applicant or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a previous permit.

- (g) *Disposition of fees.* All fees as provided in this ~~s~~Section shall be credited and deposited to an **Aurora Water** account of the water department to defray the cost of services set forth in this ~~a~~Article.
- (h) *Other requirements.* It shall be the responsibility of the applicant or subdivider to obtain any permit(s) required under ~~s~~Section 404 of the Clean Water Act, as well as all other required local, state, and federal permits for the construction, placement, installation or implementation of the proposed facilities or measures. Unless otherwise agreed to in writing by the ~~director of water~~ **General Manager**, it shall be the responsibility of the applicant or subdivider to obtain any floodplain maps, amendments or revisions due to construction, placement, installation or implementation of proposed facilities or measures.

**Section 51.** The City hereby amends Section 138-443 of the City Code pertaining to stormwater enforcement.

Sec. 138-443. Enforcement.

- (a) *Suspension of permit, services.* The ~~director of water~~ **General Manager** may suspend the stormwater quality permit of and the provision of storm drainage utility services to any person and property when, in the opinion of the ~~director~~ **General Manager**, such suspension is necessary in order to stop an actual or threatened reduction of the quality of stormwater drainage originating from such property which presents or may present an imminent or substantial endangerment to the health, safety, or welfare of persons or the environment. Any person notified of such suspension shall take immediate action to stop or eliminate the offending discharge. If a person fails to take immediate action to voluntarily comply with the suspension order, the ~~director~~ **General Manager** shall take such steps as deemed necessary, including but not limited to the immediate impoundment of stormwater drainage to prevent or minimize damage to individuals or the environment. The ~~director~~ **General Manager** may also initiate appropriate legal action in the name of the City in such circumstances. The ~~director~~ **General Manager** shall reinstate the permit and service upon proof of the cessation or elimination of the offending discharge. A detailed written statement submitted by the offending party describing the causes of the offending discharge and the measures taken to prevent any future occurrence of the discharge shall be submitted to the director within five days of the date of such occurrence.
- (b) *Revocation of permit.* Any person to whom a stormwater quality permit has been issued who violates any conditions of this ~~a~~Article or the rules and regulations promulgated under this ~~a~~Article or any applicable local, state and federal laws and regulations is subject to having such permit revoked. Grounds for revocation include but are not limited to:
  - (1) Failure to factually report the constituents and characteristics of stormwater drainage originating from the site.

- (2) Failure to report significant changes in operations or stormwater drainage constituents.
- (3) Refusal of reasonable access to the site by authorized city personnel for purposes of inspection or monitoring.
- (4) Violation of any permit condition.
- (c) *Written notice of violation.* Whenever the city finds that any person has violated or is violating this ~~a~~Article or the rules and regulations promulgated under this ~~a~~Article or any prohibition, limitation or requirement contained in the stormwater quality permit issued to such person, the ~~director~~**General Manager** may serve upon such person written notice stating the nature of the violation. Noncompliant items shall be resolved immediately, however the director may allow up to seven days for correction of those violations identified in the notice of violation as requiring a remediation plan.
- (d) *Stop work order.* If the ~~director~~**General Manager** finds conduct or conditions that are not in conformance with this ~~a~~Article, the rules promulgated pursuant to this ~~a~~Article, or the terms of a stormwater permit, the director may issue a stop work order. Such order shall specify the activities that must cease, and may include all construction activities at the site except for erosion prevention and sediment control measures. Upon issuance of a stop work order, the cited activity shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. It shall be unlawful for any person to continue any prohibited activity after having been served with a stop work order, except such work that has been identified as necessary to correct the noted deficiency(s). The stop work order will be in effect until the ~~director~~**General Manager** cancels the order in writing.
- (e) *Legal action.* If any person causes or permits stormwater drainage to originate from any property owned by or under the control of such person contrary to the provisions of this ~~a~~Article, the rules and regulations promulgated under this ~~a~~Article or any order issued by the ~~director~~**General Manager**, in addition to any other remedies or actions, the ~~director~~**General Manager** may:
  - (1) Ask the city attorney to commence an action for appropriate legal and equitable relief in any county or district court having jurisdiction over the subject matter of the action and of the amount, if any, sought to be collected; or
  - (2) Institute criminal proceedings in the municipal court in and for the city through the issuance of a municipal summons and complaint to the offending party pursuant to the authority granted by Code ~~s~~Section 50-30.
- (f) *Enforcement actions not exclusive.* All such enforcement actions provided herein are cumulative and in addition to any other remedies provided by law.

**Section 52.** The City hereby amends Section 138-447 of the City Code pertaining to livestock grazing permits.

Sec. 138-447. Permit required for livestock grazing in drinking water reservoir watersheds.

- (a) It shall be a violation of this ~~e~~Chapter, and is hereby declared to be a public nuisance, for any person, including but not limited to an owner, manager, or tenant of real

property, to allow or to fail to prevent the presence of livestock on any land located within the watershed area of a drinking water reservoir except pursuant to a valid permit issued pursuant to this sSection.

- (b) A permit for grazing livestock within the watershed area of a drinking water reservoir shall be issued by the ~~director of water~~ **General Manager** upon the taking of adequate precautionary measures by the applicant to mitigate the potential for pollution of the City's drinking water supply caused by livestock grazing. Such precautionary measures may include, but are not limited to, restricting the amount of livestock on the land and/or fencing the land in such a manner as to restrict the extended presence of livestock in the more sensitive portions of the watershed area. The city shall not require unreasonable measures to be taken by an applicant, and shall in no event prohibit or impose requirements that would have the effect of prohibiting the agricultural use of any land.
- (c) No permit issued pursuant to this sSection shall be valid for a period of more than one year. Any permit issued pursuant to this sSection may be revoked by the ~~director of water~~ **General Manager** at any time for failure to adhere to the criteria described above in sSubsection (b). The denial or revocation of a permit may be appealed to the city manager or designee, and an informal hearing may be requested by the aggrieved party. The city manager or designee shall consider only the adherence to or the deviation from the criteria described above in sSubsection (b), and his or her decision is final.
- (d) For the purposes of this sSection, the term "livestock" shall mean any domesticated animal, including but not limited to horses, cattle, sheep, goats, pigs, peacocks, turkeys, chickens, ducks, geese, or other poultry, fowl, or mink.
- (e) For the purposes of this sSection, the term "watershed area" shall mean land which is located within the corporate boundaries of the city and which is designated by the director of water as draining into a drinking water reservoir. The designation of land as being within a watershed area may be appealed by the landowner in the same manner provided in sSubsection (c).

**Section 53. 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 54.** Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

**Section 55. Repealer.** All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

*Ian J Best* *RLA*

\_\_\_\_\_  
IAN BEST, Assistant City Attorney

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

Members Present Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

Others Present Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

---

**1. CALL TO ORDER**

---

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

---

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for



## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.

## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the

## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.c. UDO Text Amendment, which includes simplification to rear setback along alleys, other clarifications****Summary of Issue and Discussion:**

Brandon Cammarata, Planning Manager

Brandon Cammarata presented a set of minor amendments to the UDO. He mentioned that they have been coordinating with PROS and Aurora Water over the last few months in the preparation of various packages.

The amendments include the landscape section of the zoning code to address unclear or conflicting language and provide more flexibility. This includes allowing greater use of artificial turf, clarifying guidelines for mulch, and enhancing the usability of landscape buffers. The amendments also touch on other sections of the code, with the highlight being the simplification of alley setbacks. The proposed change would establish a minimum setback of three feet, simplifying the current

## Draft – Subject to Approval

complex regulations. This modification is intended to address concerns raised by the development community regarding utility-related discussions in alleys.

B. Cammarata provided a high-level overview of the amendments, acknowledging that there are more detailed aspects to discuss if needed. He asked the Committee for their decision on proceeding with the amendments, as well as any specific points they would like to clarify during the process.

- CM Sundberg asked about the buffer zone mentioned in alleyways, questioning if it was influenced by developer feedback and previous concerns. B. Cammarata explained that when dealing with alleyways, which are typically 16 to 20 feet wide, the setback determines how close a building, often a garage, can be constructed to the alley. This aspect has been identified as a complexity, resulting in the need for variances and their subsequent approval. Recognizing the routine approval of variances, he stressed the importance of revisiting that section of the code to address the underlying complexity and potentially make necessary amendments. CM Sundberg acknowledged the reasoning and expressed appreciation for the clarification.
- CM Bergan asked about the minimum height requirement. She recalled a recent development that experienced confusion regarding how the height was measured. B. Cammarata clarified that the specific amendment being discussed is related to the MUC (Mixed-Use Commercial) Zone District, which is commonly used for commercial and multifamily projects. He mentioned that there have been several proposals within the MUC Zone District, and the amendment aims to provide clarity regarding height expectations in those areas.
- CM Bergan asked whether the proposed amendment addresses the calculation complexities that were previously encountered. She also requested clarification if it may need to be changed in a different location or manner. B. Cammarata acknowledged the question, specifically referencing the height calculation. He explained that the existing calculation method considers factors such as grades and aims to ensure flexible roof design options. At present, there are no plans to modify the calculation, but he expressed openness to listening to concerns or thoughts the Committee may have or any feedback they have received regarding the height calculation.
- CM Bergan asked regarding the amendment concerning artificial turf and rock mulch, inquiring whether the change applies to both current and future developments, encompassing residential and commercial properties. B. Cammarata confirmed CM Bergan's understanding, noting that existing homes will have the option to convert to artificial turf and that the amendment provides more frequent and accessible opportunities for such conversions.
- CM Bergan also asked whether the proposed changes also apply to the city's municipal grounds. B. Cammarata confirmed that the changes apply to nonresidential uses, including institutional and government properties.

## Draft – Subject to Approval

However, CM Bergan requested further clarification from others present to ensure that the city's municipal grounds are indeed included in the proposed amendments. Kelly Bish, Landscape Architect, confirmed that the ordinance changes apply citywide and do not exempt any specific use, building, or type of land development. CM Bergan acknowledged the clarification and expressed gratitude to B. Cammarata.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.d. Ordinance Clarifying the Designation of the Floodplain Manager****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented this item. He explained that he will cover both the current item and the next item on the agenda. Although the items are in different chapters, they are closely related and serve the same purpose.

He mentioned that the Public Works Department and Aurora Water have been working diligently to reorganize the development review process. The goal is to clarify the code regulations involved in reviewing development projects between the two departments. The aim is to allocate responsibilities to the appropriate personnel within each department and minimize redundancy that arises when multiple departments review the same issues.

He explained that the proposed changes will significantly impact two positions: the City Engineer in Public Works and the General Manager of Aurora Water. The Chapter 70 Changes involve transferring the Floodplain Management responsibilities from the City Engineer to the Floodplain Administrator in Aurora Water. The Chapter 138 Changes assign Aurora Water with the responsibilities of reviewing the Master Preliminary and Final Drainage Plan and Master Utility Studies and reviewing and approving the Stormwater Management Plan Reports, which were previously handled by the City Engineer. Additionally, the changes clarify inspection responsibilities and allocate them appropriately between Aurora Water and Public Works.

The purpose of these changes is to streamline and clarify the assignment of responsibilities within the respective departments. As a follow-up to these ordinances, there will be a subsequent amendment to update the titles within the code. Specifically, the title of the Director of Aurora Water will be changed to the

## Draft – Subject to Approval

General Manager of Aurora Water to align with the current organizational titles in effect.

- CM Bergan requested clarification on whether the title changes were included in the backup of the ordinance. S. Durian clarified that the title changes indeed exist, but they are mentioned in multiple sections throughout the code, making it challenging to include them all in a single ordinance. He explained that it would have been difficult to incorporate a third ordinance solely to address the title changes. CM Bergan expressed understanding and noted that the updates would involve assigning responsibilities to the General Manager of Aurora Water. S. Durian confirmed this and reiterated that the title changes will be addressed as a follow-up action.
- CM Bergan asked about the approval process for development reviews and whether it always needs to go to the General Manager for final approval. She expressed concern about potential delays due to the General Manager's busy schedule. S. Durian assures CM Bergan that the duties can be delegated to the staff within the department. CM Bergan acknowledged this information and expressed satisfaction with the clarification provided.
- CM Bergan asked CM Sundberg if he had any questions. CM Sundberg answered that his concern is all about creating efficiencies and expressed hope that the proposed changes will streamline processes.
- CM Bergan mentioned hearing a rumor and asked about S. Durian leaving. S. Durian confirmed that he is indeed leaving due to an opportunity in another jurisdiction. He expressed regret about not being able to complete all their goals in his current position. CM Bergan expressed appreciation for S. Durian's contributions and wishes him good luck. She also asked if S. Durian knew anyone who could potentially fill his position and requested that he informs the Committee if he comes across suitable candidates. S. Durian acknowledged the request and mentioned that he is actively searching for potential replacements.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.e. Ordinance Amending and Clarifying Drainage Approval Authority****Summary of Issue and Discussion:**

Steven Durian, Deputy Director of Public Works Development Review

Steve Durian presented the item, and it was discussed along with the previous item.

**Outcome:**



## Draft – Subject to Approval

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.f. Revisions to the Axis Exploration LLC Operator Agreement****Summary of Issue and Discussion:**

Jeffrey Moore, Manager of Energy & Environment Division

Jeffrey Moore introduced himself and informed the council members and staff that the applicant, Dan Harrington from Civitas Resources representing Axis Exploration, will be making the presentation.

The purpose of the amendment being sought is to add a new well site and remove two existing well sites from the Aurora Axis Operator agreement of 2019. The intention is to add a new well site named "Deuce" with 18 wells while eliminating two offset well sites that were initially approved for 40 wells. This amendment would result in a net decrease of one site and 22 fewer wells in the Operator Agreement (OA).

The addition of the new well site, Deuce, is being requested through the Future Well Sites mechanism outlined in section 7.B.ii of the Operator Agreement. If the amendment moves forward, Deuce will be included in Exhibits A and D via a Council vote.

Furthermore, Axis has committed to constructing the Deuce site and commencing drilling within three years from the effective date of the amendment, as per the request of the Energy & Environment Division.

In addition to the well site amendment, Axis is also seeking an exemption from the requirement for produced water takeaway by pipeline, as stated in section 4 of the Operator Agreement for the Deuce Site. Instead, trucked-produced takeaway during the Production Phase will be allowed. This aligns with the practices of Axis and Crestone in other areas of Aurora.

D. Harrington presented an overview map of the area under consideration, which is located south of DIA, spanning E470 and east of Pena Boulevard. They propose adding a new site called the Deuce in the industrial park area east of E470. Zooming in on the map, the Deuce site is positioned as a shift from the previously approved ACP-E site located in the southern part. The relocation of the site covers approximately 1,700 feet within the same section. This move offers several advantages. Firstly, it significantly improves the setback from Second Creek, which is a designated Mile High Flood District stream. Secondly, it increases the distance between the site and future residential development planned south of 56<sup>th</sup> Avenue. Additionally, by implementing extended-reach drilling from the Deuce site, it

## Draft – Subject to Approval

becomes possible to eliminate another site to the west known as the Hammer site. He mentioned that they have engaged in discussions with the surface owners' representative regarding the site relocation, and they have received full support for the proposed move.

D. Harrington presented the updated Exhibits A and D, which would be approved and included in the Operator Agreement. The proposed changes involve the elimination of the ACP-E site, originally approved for eight wells, and the Hammer site located west of E470 initially approved for 32 wells. Instead, the focus will be on the Deuce site, which will accommodate 18 wells.

Additionally, D. Harrington emphasized the intention to evaluate and potentially reenter and re-plug several non-Civitas-operated legacy wells in the area. He stressed the importance of re-plugging these wells to meet modern standards, as some of them were plugged in the past using outdated methods. There are approximately 19 legacy wells in the area, and some of them have already been re-plugged or are scheduled for re-plugging.

- CM Bergan expressed her appreciation for the proposed changes, noting that the reduction in the number of wells and their relocation away from residential areas and the creek is beneficial from an environmental standpoint. She also acknowledged the importance of re-plugging legacy wells for safety reasons.
- J. Moore agreed with the previous statements and highlighted the significance of removing the former location west of E470 from consideration and officially removing it from the Operator Agreement. They express appreciation for Civitas' commitment to re-plug old wells, which benefits the city. He mentioned that their division has reviewed the proposal and fully supports the changes. If approved, they are ready to move forward with a Study Session on July 24 and a public hearing at Council on July 31.
- CM Bergan asked about the timeline for drilling, and D. Harrington answered that the current plan is to start drilling approximately 18 months from now. However, he noted that the timeline is subject to change. He assured that they are committed to commencing drilling within three years from the approval of the amendment.
- J. Moore agreed with Dan's explanation and confirmed that the water used for completion operations at the site will be transported through lay flat lines, while natural gas and oil production will be connected to pipelines. The only aspect handled by trucks will be the transportation of produced water. He explained that the number of trucks needed for water removal decreases significantly as production progresses. CM Bergan expressed her appreciation and thanked them for the clarification.

**Outcome:**

Council Member Bergan and Council Member Lawson approved this item to move forward to Study Session.



## Draft – Subject to Approval

**Follow-up Action:**

Staff will add this item to the Study Session agenda.

**3.g. Small Business Event Update****Summary of Issue and Discussion:**

Marcia McGilley, SBDC Executive Director

Marcia McGilley introduced herself and announced an upcoming event, the Veterans Small Business Conference, which the city is sponsoring.

M. McGilley discussed the 16<sup>th</sup> Annual Veterans Small Business Conference, highlighting the presenting sponsors: Aurora South-Metro Small Business Development Center and Pikes Peak Small Business Development Center. The City of Aurora through A-U-R-A is the premier sponsor for the second consecutive year. The event is a partnership with the Aurora Chamber, Colorado Springs Chamber, SBA, and Connect2DOT. The conference is considered the premier event for military veteran entrepreneurs and their partners and spouses. Last year, due to COVID-19, the conference was held remotely, but this year it will be an in-person event.

She highlighted the successes of the previous year's conference, including 2,578 total page views, 161 registrants (exceeding the goal of 150), 26 exhibitors in the online program, and 60 participants in the roundtable discussions. The event was well-received, and registrations for this year's in-person conference have already started coming in since the website opened.

The event details are as follows: the conference will take place on Monday, September 18, from 8:00 AM to 4:00 PM at the Hyatt Regency Aurora. The goal is to have 200 in-person attendees, with 15 small businesses having the opportunity to exhibit and 10 to 15 community partners having tables. The website is now open for registration, and tickets are priced at \$129 per attendee, \$250 for small business exhibitors, and \$500 for community partner exhibitor booths.

She presented the agenda for the event, which includes a VIP Reception the night before for speakers, sponsors, and dignitaries. The main event starts at 8:00 AM on Monday, September 18. The program begins with welcoming remarks from the mayor and other individuals. The opening keynote speaker is Danny Moore, President, and Founder of De Novo Solutions in Aurora, who is a Navy veteran with 24 years of service and experience in running the Aerospace Facility in Aurora.

After the keynote speech, there will be breakout sessions that cover different topics and concurrent sessions will also be open for exhibits, and the event will conclude with a closing event, following the format of other conferences.

## Draft – Subject to Approval

M. McGilley presented the floor plan of the Hyatt, indicating that there will be booths set up in the hallway. She informed the Committee members that they are collaborating with various organizations, including the SBDC, Colorado Springs Chamber, Aurora Chamber, Mt. Carmel Veterans Service Center, the VBOC (Veterans Business Office Center), and the SBA (Small Business Administration). They express excitement about the new VBOC in Colorado, which was previously located in Utah and is now funded by the SBA.

She mentioned the sponsors for the event, including the City of Aurora, Connect2DOT, the Department of Transportation, the City of Colorado Springs, BSide, CEDS, the Armed Forces Bank, and the Colorado Enterprise Fund. She added that more sponsors are being finalized and that the sponsorship sheet includes benefits for the City of Aurora as the first sponsor. She also stated that they are working on marketing and promotion, and a marketing toolkit has been sent out to promote registration for the event.

M. McGilley provided information about the impact of the event, stating that they anticipate 40 room nights and 200 attendees from across the state. They mention that the event is being promoted by SBDC centers in the network, which tends to draw a wide range of participants to the City of Aurora. She expressed excitement about the event and offered to answer any questions.

- CM Bergan asked about Council members' invitations to the VIP Reception and mentioned the late notice they usually receive for events. M. McGilley clarified that the mayor will be speaking at the conference opening. She assured CM Bergan that the Council members will be invited and included in the VIP Reception. CM Bergan expressed gratitude for the clarification and thanked M. McGilley.
- CM Sundberg expressed curiosity about how they target the possible attendees for the event, specifically veteran entrepreneurs and those interested in becoming entrepreneurs. M. McGilley explained that they reach out to organizations supporting veterans, promote through the Chambers, utilize attendee lists from previous years, and leverage the large veteran population associated with Buckley Air Force Base. They also promote within the SBDC system to reach a broader audience of potential attendees. She added that around 15 organizations are involved in marketing and outreach efforts to ensure the conference is well-attended and serves the veteran community.
- CM Sundberg acknowledged the creativity and entrepreneurial spirit of veterans, including some within the Council. CM Bergan expressed appreciation for the update and finds the event exciting.

**Outcome:**

Information only.

**Follow-up Action:**

---

#### 4. MISCELLANEOUS MATTERS FOR CONSIDERATION

##### 4. a. Aurora Economic Development Council

- Yuriy Gorlov

Y. Gorlov provided an update to the Committee members regarding absorption, construction rates, and planned development in Aurora. Despite some market inconsistencies every month, he highlighted that the city has seen positive numbers and ongoing activity in terms of industrial and office velocities during the first half of the year. He assured the Committee that there are numerous projects underway and progressing well, without going into specific details as they were already familiar with them.

He stated that the Economic Development Council (EDC) is actively forming partnerships with community organizations and engaging in statewide initiatives to promote new industry efforts in Aurora. They are pursuing grants and exploring opportunities to leverage additional resources to attract more attention to the city and continue promoting its economic growth.

He mentioned recent legislation regarding data centers, the film industry, and employer housing credits, which have been positively received by businesses. He also noted an increasing interest from manufacturers in pursuing federal funding, particularly in advanced manufacturing related to energy, batteries, hydrogen, and other related fields. They have been successful in their recruitment trips to Phoenix and California and are planning additional trips to Texas, North Carolina, and other markets to engage with aerospace, bioscience, and manufacturing companies.

- CM Bergan asked about the semiconductor industry and the incentives passed by the federal government. Y. Gorlov responded that the state is also setting up an office and dedicating staff to attract the semiconductor industry. He mentioned that while this industry presents opportunities, it also requires significant resources such as power and water. He mentioned that although some semiconductor companies have expressed interest in Aurora, there have been concerns about their heavy utility usage. However, he believes there are opportunities to attract companies in the semiconductor supply chain that require less power and water.
- CM Bergan raised the issue of China's monopoly on certain minerals used in chip making, which could potentially impact the expansion of the semiconductor industry. Y. Gorlov acknowledged the constraints and challenges faced by the semiconductor industry. He also stated that there are emerging technologies, such as solid-state batteries, that are exploring alternative resources.

## Draft – Subject to Approval

- CM Sundberg stressed the importance of being a business-friendly state. He referred to the challenges faced by California, where several hundred businesses have relocated in recent years due to overregulation, taxation, and difficulties in conducting business. Y. Gorlov agreed with the comment and thanked the Council members.

**4.b. Havana Business Improvement District**

- Chance Horiuchi
- NO REPORT

**4.c. Aurora Chamber of Commerce**

- Kevin Hougen:
- NO REPORT

**4.d. Planning Commission**

- Becky Hogan

B. Hogan highlighted the success and consistency of the planning and development process in Aurora. Over the past 13 months, the Planning Commission has reviewed 133 development projects, with only two cases being appealed to City Council. In both appeals, City Council upheld the decisions made by the Planning Commission. Additionally, out of the 18 zoning cases reviewed, City Council upheld 100 percent of the Planning Commission's recommendations for rezoning. This consistency demonstrates a streamlined and efficient process, reducing time and costs for the development community. She emphasized the positive collaboration between the Planning Commission and City Council, working independently while marching in lockstep towards common goals.

- CM Bergan commended Becky and her team for their exceptional work and emphasized the significance of their role in the decision-making process. She appreciated the existence of independent entities that provide residents with the opportunity to appeal and present their cases. CM Sundberg also thanked Becky and her team for their time, experience, and expertise on the Committee.

**4.e. Oil and Gas Committee**

- Brad Pierce
- NO REPORT

**4.f. Business Advisory Board**

- Garrett Walls
- NO REPORT

**4.g. Retail**

- Bob Oliva
- NO REPORT

Draft – Subject to Approval

**4.h. Small Business**

- Marcia McGilley
- NO REPORT

**4.i. Visit Aurora**

- Bruce Dalton
- NO REPORT

---

**5. CONFIRM NEXT MEETING DATE**

Scheduled for August 2, 2023, at 8:30 AM MT.

---

**6. ADJOURNMENT**

APPROVED: \_\_\_\_\_  
Francoise Bergan, Committee Chair



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Amendment to Chapter 98 of City Code Regarding Authority of the Parks Recreation and Open Space (PROS) Director (Ordinance)

**Item Initiator:** Nicole Ankeney, Planning, Design and Construction Manager, Parks, Recreation and Open Space

**Staff Source/Legal Source:** Nicole Ankeney, Planning, Design and Construction Manager, Parks, Recreation and Open Space / Michelle Gardner, Senior Assistant City Attorney

**Outside Speaker:** None

**Council Goal:** 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

### COUNCIL MEETING DATES:

**Study Session:** 8/21/2023

**Regular Meeting:** 8/28/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 9/11/2023

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

FOR AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 98 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO ADD NEW SECTIONS TO BE NUMBERED 98-1 AND 98-2 AUTHORIZING THE DIRECTOR OF PARKS, RECREATION AND OPEN SPACE TO ESTABLISH DEDICATION AND DEVELOPMENT CRITERIA THROUGH ADOPTED RULES AND REGULATIONS

Nicole Ankeney, Planning, Design and Construction Manager of Parks, Recreation and Open Space / Michelle Gardner, Senior Assistant City Attorney  
Estimated time: 15 mins

### 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<br>Reason for waiver is described in the Item Details field above. |  |

### PREVIOUS ACTIONS OR REVIEWS:

---

**Policy Committee Name:** Planning & Economic Development

**Policy Committee Date:** 7/12/2023

**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"/> Minutes Not Available       |
| <input checked="" type="checkbox"/> Minutes 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 Unified Development Ordinance (UDO) was originally approved by City Council in 2019 and serves as the city's codified zoning and subdivision regulations. Several of the twelve purpose statements in Chapter 146 are related to tasks of the Parks, Recreation and Open Space Department:

*1.3.2. Ensure that all development in the City is consistent with the spirit and intent of any other plans and policies adopted by City Council.*

*1.3.7. Encourage the conservation and efficient use of water and other natural resources.*

*1.3.8. Ensure the provision of adequate public facilities and services for new development and redevelopment.*

*1.3.9. Provide for the consistent, predictable, and equitable administration of City land use and development regulations.*

*1.3.10. Implement a connected system of parks, trails, and open spaces that promote improved outdoor activity and public health.*

In addition to the UDO, development is regulated through the Parks, Recreation and Open Space (PROS) Dedication and Development Criteria Manual, which was first adopted in 2004. The PROS Dedication & Development Criteria Manual is a guide for the planning, design, construction, management and operation of parks, recreation sites and open space areas provided under the authorities granted to the Parks, Recreation & Open Space Department. As such, this manual establishes minimum criteria to be followed by PROS and non-city entities, such as the development community (i.e., developers and builders and their consultants and contractors) to ensure that goals, policies, procedures and standards for a quality parks, recreation and open space system are implemented as the city continues to grow and develop.

To ensure the consistent, predictable and equitable administration of City land use and development regulations, the UDO and the PROS Dedication and Development Criteria Manual must be reviewed regularly and amended as per City code and policy. These reviews must also include correlation with the Aurora City Code.

In addition to the review by the Planning & Economic Development policy committee, the item was also reviewed and approved by the Planning & Zoning Commission on August 9<sup>th</sup>, 2023.

---

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

Over the last few months, the City's Parks, Recreation and Open Space Department and the Planning and Development Services Department have identified several sections of the Unified Development Ordinance (UDO) needing amendment based upon clarifications, administrative errors and omissions, and recommendations from the development community.

Additional evaluation of the PROS Dedication and Development Criteria Manual will occur over the next year. The following revisions to the UDO are intended to be a first step toward ensuring alignment between the two codes.

Section 146-4.3.18 - Schools, Parks, and Other Lands for Public Facilities

- Clarifies language for consistency and reduces redundancies by removing the specifics of the methodology for land dedication standards from the UDO, since they are already stated in the PROS Dedication and Development Criteria Manual.

#### Section 146-4.7.5 - Required Landscape

- Revises language, at the request of the development community, to allow and regulate sidewalks for primary entry into residences within public park, open space and trail buffers.

#### Section 146-4.7.9 - Fence and Wall Regulations

- Revises language, at the request of the development community, to allow privacy fencing in lieu of the three-rail fence to screen view into side and rear yards on residential lots that abut public open space which are adjacent to a street, alley or shared drive.

#### Section 146-5.3.20 - Park Development Fees

- Amends an administrative error by adding Park Development Fees back into city code which were inadvertently omitted at the time of UDO adoption.

Additionally, the revisions to Chapter 98 are needed to clarify the authority of the PROS Director to adopt the PROS Dedication and Development Criteria Manual which is referenced in the UDO.

#### Section 98-1 – Authority to Adopt Rules and Regulations

- Adds a new section giving the Director the authority to promulgate rules and regulations known as the Parks, Recreation and Open Space Dedication and Development Criteria Manual.

#### Section 98-2 – Definitions

- Adds a new section with definitions for:
  - Director of Parks, Recreation and Open Space
  - Park Development Fees
  - Land Dedication
  - Cash-in-lieu of Land Dedication

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to “Questions for Council”)

- ☐ Revenue Impact     
 ☐ Budgeted Expenditure Impact     
 ☐ Non-Budgeted Expenditure Impact  
☐ Workload Impact     
 ☒ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

N/A

### NON-BUDGETED EXPENDITURE IMPACT

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

N/A



**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

N/A

---

**QUESTIONS FOR COUNCIL**

Does City Council support moving the amendments to Chapter 98 of City Code forward to a Regular Meeting for consideration of approval?

**LEGAL COMMENTS**

The city manager shall keep Council advised of the future needs of the City and make such recommendations to Council for adoption as he may deem necessary or expedient. (City Charter Section 7-4(f)). Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations. (City Charter Section 5-1). (M. Gardner)

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 98 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO TO ADD NEW SECTIONS TO BE NUMBERED 98-1 AND 98-2 AUTHORIZING THE DIRECTOR OF PARKS, RECREATION AND OPEN SPACE TO ESTABLISH DEDICATION AND DEVELOPMENT CRITERIA THROUGH ADOPTED RULES AND REGULATIONS

WHEREAS, pursuant to Aurora City Code 2-3(c), Aurora has the power and authority to adopt any rules or regulations save and except by and under the authority of specific provisions of statutes or ordinances of the City, setting forth the area and scope of rules and regulations permitted and specifying the person authorized to make rules and regulations; and

WHEREAS, pursuant to Aurora City Code 2-3(e), any rules and regulations adopted shall be enforced pursuant to the requirements of Aurora City Code Section 2-3 and pursuant to the authority established in Aurora Charter 7-4(a); and

WHEREAS, pursuant to City Code Section 2-147, each department head may, subject to the approval of the city manager or the manager's designee, promulgate departmental rules and regulations pursuant to the procedures in Aurora City Code Section 2-3; and

WHEREAS, the Parks, Recreation and Open Space Department, through its' Director or authorized designee, has created the Parks, Recreation and Open Space Dedication and Development Criteria Manual ("Manual") to address Aurora's need for consistent and proper administration of the dedication and development of park land and open space; and

WHEREAS, adopting, implementing, and enforcing consistent standards and requirements in the Manual for planning, developing, constructing, maintaining, and operating park land and open space in Aurora is necessary for the proper administration of such criteria by Aurora staff; and

WHEREAS, applicants for development and redevelopment encompassing residential land uses may be required to pay park development fees for improvement of parks and recreation facilities, which are established in the Manual and further recognized under UDO 146-4.3.3, 146-4.3.18 and 146-5.3.20; and

WHEREAS, the Director of Parks, Recreation and Open Space desires to adopt such rules and regulations known as the Parks, Recreation and Open Space Dedication and Development Criteria Manual, which shall establish land dedication, including cash-in-lieu of land dedication, and development criteria for parks and open space in Aurora; and

WHEREAS, the City Council of the City of Aurora does hereby determine it to be in the best interest of City and its residents to adopt such ordinances as proposed by the city manager or the manager's designee, and in compliance with City Code Section 2-3.

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

Section 1. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new designation of authority section, to be numbered 98-1, which section shall read as follows:

**Sec. 98-1. Authority to Adopt Rules and Regulations.**

**The Director of Parks, Recreation and Open Space shall have the authority to promulgate rules and regulations known as the “Parks, Recreation and Open Space Dedication and Development Criteria Manual”, which shall include dedication and development criteria for park land and open space, the establishment of land dedication and cash-in-lieu of land dedication requirements, park development fees and other fees required for the proper administration of the department and to facilitate the services performed by the department.**

Section 2. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new definitions section, to be number 98-2, which section shall read as follows:

**Sec. 98-2. Definitions.**

**The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

***Director of Parks, Recreation and Open Space* means the director of Parks, Recreation and Open Space Department or designee.**

***Park Development Fees* means fees required by developments which are unable to construct a neighborhood park, community park or both as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual. The fees are intended to enable the Parks, Recreation and Open Space department to construct the required park facilities.**

***Land Dedication* means land dedicated to the city of Aurora for public parks, open space, trails and greenways to serve residents in new neighborhoods and address the impacts of additional residents within existing neighborhoods as set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.**

***Cash-In-Lieu of Land Dedication* means a fee required by developments unable to provide the required physical land dedication per the standards set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.**

***Parks, Recreation and Open Space Dedication and Development Criteria Manual* means the dedication, development and design criteria standards adopted by the Director of Parks, Recreation and Open Space for which such standards shall apply to all park land and open space developed or redeveloped and regulate the planning, design, construction, management and operation of parks, recreation sites and open space areas.**

Section 3.     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 4.     Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 5.     Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

RLA

Michelle Gardner  
MICHELLE GARDNER, Sr. Assistant City Attorney

# Study Session

August 21,  
2023

City Code Amendments  
Clarifying the Director's Authority  
&  
UDO Amendments  
Addressing Minor UDO Clarifications

Parks, Recreation and Open Space





# Why Amend The City Code, Chapter 98 ?

- Create more consistency within city code and address department authority similarly to other departments involved in the development review process.

## *Section 98-1 Authority to Adopt Rules and Regulations*

- Adds a new section giving the Director the authority to promulgate rules and regulations known as the Parks, Recreation and Open Space Dedication and Development Criteria Manual.

## *Section 98-2 Definitions*

- Adds a new section with definitions for:
  - Director of Parks, Recreation and Open Space
  - Park Development Fees
  - Land Dedication
  - Cash-in-lieu of Land Dedication

Parks, Recreation and Open Space





# Why Amend The UDO ?

## *Section 146-4.3.18 Schools, Parks, and Other Lands for Public Facilities*

- Removes redundancies and duplications between the UDO and the Parks, Recreation and Open Space Dedication and Development Criteria Manual.
- States that the requirements for park and open space land dedication standards, criteria, methodology, etc. shall be set forth in the Parks, Recreation and Open Space Dedication and Development Criteria Manual.

## *Section 146-5.3.20. Park Development Fees*

- Amends an administrative error by adding Park Development Fees back into city code which were inadvertently omitted at the time of UDO adoption.

Parks, Recreation and Open Space





# Why Amend The UDO ?

## *Section 146-4.7. Landscape, Water Conservation, Stormwater Management*

- Allow privacy fencing to be installed adjacent to public open space tracts in order to screen views into residential rear and side yards from nearby streets, alleys and shared drives.
- Allow sidewalks serving the primary entry of residential uses to extend into the 25' Special Landscape Buffer adjacent to public parks, open space and trails.

Parks, Recreation and Open Space





# Questions?

Previous recommendations to move forward:

- 07/12/2023 - Planning & Economic Development Policy Committee
- 08/09/2023 – Planning & Zoning Commission (UDO Amendment)

1. Does City Council support moving the **City Code, Chapter 98 amendments** forward for final consideration?
2. Does City Council support moving the **UDO Amendments** item forward for final consideration?

Parks, Recreation and Open Space

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING  
MINUTES**

**Date:** July 12, 2023

**Time:** 8:30 am

Members Present Chair: Council Member Francoise Bergan, Council Member Steve Sundberg

Others Present Adrian Botham, Andrea Amonick, Andrea Barnes, Becky Hogan, Blake Fulenwider, Brad Pierce, Brandon Cammarata, Brian Rulla, Brooke Bell, Cathy DeWolf, Chance Horiuchi, Cindy Colip, Crystal Vigil, Dan Harrington, Daniel Brotzman, Dave Scott, Diana Rael, Elena Vasconez, Gayle Jetchick, Ian Best, Jacob Cox, Jake Zambrano, Jeannine Rustad, Jeffrey Moore, Jeremy, Jessica Prosser, Julie Patterson, Kelly Bish, Laura Perry, Leah Ramsey, Marcia McGilley, Maria Alvarez, Mark Witkiewicz, Melvin Bush, Michelle Gardner, Mindy Parnes, Morgan Cullen, Naomi Colwell, Rachel Allen, Robert Oliva, Scott Berg, Stephen E Rodriguez, Steve Durian, Sunny Banka, Tod Kuntzelman, Tom Oldenburg, Yuriy Gorlov

**1. CALL TO ORDER**

**2. APPROVAL OF June 12, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN**  
**2.a.** The minutes were approved.

**3. GENERAL BUSINESS**

**3.a. Amendment to Chapter 98 of Ordinance Regarding Authority of the PROS Director**

Summary of Issue and Discussion:

Brooke Bell, Director of Parks, Recreation and Open Space

Brooke Bell presented this item. B. Bell states that the item is in the city development and the city is regulated through the Unified Development Ordinance (UDO), as well as manuals established by individual departments, responsible for those standards, their city, the city assets, and the maintenance of those city assets.

The Parks, Recreation and Open Space Dedication and Development Criteria Manual was initially adopted in 2004. This manual serves as a regulatory guide for

## Draft – Subject to Approval

various aspects, including the planning, design, construction, management, and operation of parks, recreation sites, and open space areas. It operates under the authority granted to the Parks, Recreation, and Open Space Department.

B. Bell stated that the two proposed amendments mark the initial phase of a comprehensive evaluation process for the PROS Dedication and Development Criteria Manual. She clarified that the language in these amendments does not alter the fees' amount or structure currently in place. The intended process is to update the PROS standards manual, which is expected to span approximately one year. This process will involve engaging with city leadership, staff, multiple departments, and the development community through the Development Review Advisory Board and the Joint Task Force.

She mentioned the purpose behind amending the city code in Chapter 98. The amendment aims to introduce two new sections to the code, primarily to provide clarity regarding the director's authority to adopt rules and regulations. Additionally, the amendment seeks to include definitions for the Director, development review fees, land dedication, and cash-in-lieu. This amendment aims to achieve greater consistency with other departments involved in development review processes, as they also maintain their development manuals. Examples of such manuals mentioned include public works, roadway design, and construction specification manuals, as well as Aurora Water's design standards and specification fees.

She highlighted that the amendment aims to eliminate redundancy and duplication between the UDO and the PROS Dedication and Development Criteria Manual. It specifies that the park and open space land dedication standards, criteria, methodology, and other relevant requirements will be defined within the PROS Dedication and Development Criteria Manual. She added that the amendment addresses an administrative error that occurred during the adoption of the UDO in 2019. It rectifies the omission of park development fees from both the city code and UDO by reintroducing them. Importantly, this amendment does not modify the existing methodology and fee structures. Furthermore, she clarified that future evaluations of the PROS manual will include a thorough review of the methodology and fees associated with park development.

She highlighted two modifications from the proposed amendment. Firstly, it permits the installation of privacy fences alongside public and open space areas to obstruct views into the residential rear and side yards from nearby streets, alleys, and shared drives. Secondly, the amendment allows for sidewalks that serve as the primary entry points for residential properties to extend into the 25-foot special landscape buffer adjacent to public parks, open spaces, and trails. These revisions have been requested by the development community and have received support from staff after a thorough review.



## Draft – Subject to Approval

B. Bell stressed that the proposed amendments are minor and serve as a basis for future changes to the manual. The objective is to establish consistency, responsiveness to development, and a balanced approach to meet the city's needs. This process is expected to take around one year to complete.

B. Bell asked two key questions to the Committee: First, whether they support advancing the City Code Chapter 98 Amendments through the planning process to the Planning Commission. Second, whether they support moving forward with the UDO Amendments through the planning process, which will also involve the Planning Commission, and finally if all these proposed amendments will be presented to the City Council for consideration.

- CM Sundberg stressed his preference for the term "responsive to development" as it effectively captures the notion of streamlining, updating, and enhancing efficiency over the long term. He requested clarification to confirm whether this interpretation accurately reflects their intention. B. Bell answered it is correct.
- CM Bergan asked regarding the provision on privacy fencing, seeking clarification on whether the proposal simply allows for the option of privacy fencing in development, rather than mandating its compulsory inclusion. She then mentioned a specific situation regarding fencing and requested clarification on whether it is mandated by the current code. B. Bell acknowledged the need to follow up for further clarification on the matter raised. However, based on her current understanding, she expressed her belief that the proposal does not mandate the inclusion of privacy fencing. B. Bell will confirm the details and respond to the Committee regarding the inquiry.
- CM Bergan asked if there are no changes to park development fees. B. Bell answered that the park development fees are not changing as part of the current amendment. However, she explained that potential changes to the fees may be considered in the future evaluation process.
- CM Bergan expressed concern regarding the authority to change fees and confirmed with B. Bell that any fee changes would still require approval from the Council. B. Bell acknowledged this and explained that fee evaluations are typically conducted annually as part of the budget process, considering factors such as inflation. CM Bergan agreed and suggested that the fee changes would be presented during a budget workshop or similar session. B. Bell affirmed that fee changes are indeed part of the budget process and require Council involvement.
- CM Bergan brought up the distinction between impact fees and the fees under discussion, noting that impact fees require Council approval. B. Bell mentioned her unfamiliarity with impact fees and offered to gather more information. Laura Perry commented and assured CM Bergan that they will provide updates to the Council. L. Perry explained that this is the first time the Committee and Council are being briefed on code updates related to the PROS manual, definitions, and associated fees. She emphasized the

## Draft – Subject to Approval

transparency of the fee calculation process and committed to keeping the Council informed. L. Perry also highlighted the importance of engaging the development community for their input on definitions and fees.

- CM Bergan recalled the Council's involvement in approving increases for impact fees, and L. Perry confirmed that fee increases indeed go through Council for approval. CM Bergan expressed satisfaction with this clarification.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.

**3.b. Ordinance Amending the UDO to Clarify Parks and Open Space Provisions****Summary of Issue and Discussion:**

Brooke Bell, Director of Parks, Recreation and Open Space

- Brooke Bell mentioned that she had prepared a single slideshow that covers both the current item and the next item.
- CM Bergan requested to proceed to the next item, and this was agreed upon by CM Sundberg.

**Outcome:**

Council Member Bergan and Council Member Sundberg approved this item to move forward to Planning Commission.

**Follow-up Action:**

Staff will add this item to the Planning Commission agenda.



# CITY OF AURORA

## Council Agenda Item Continuation Page

<b>Item Title:</b> Continuation Page – Updated Reserve Police Force Ordinance
<b>Item Initiator:</b> Danielle Jurinsky, City Council Member
<b>Staff Source:</b> Police Chief Art Acevedo
<b>Legal Source:</b> Peter Schulte, Public Safety Client Group Manager
<b>Outside Speaker:</b> None
<b>Date of Change:</b> 7/24/2023

### COUNCIL MEETING DATES:

**Study Session:** 7/24/2023

**Regular Meeting:** 7/31/2023

---

### ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

For an ordinance of the city council of the City of Aurora, Colorado adding a section to the city code authorizing a reserve police force. Section (e) was added to address those individuals who may be appointed as reserve police officers following the discussion at the 7/24/2023 council study session.

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE.

WHEREAS, for much of the end of the 20<sup>th</sup> century, the Aurora Police Department had volunteers who assisted the Aurora Police Department as Reserve Police Officers and utilized special skills that would not otherwise exist in the Department; and

WHEREAS, in the early 2000's, the number of persons interested in serving the Aurora Police Department as Reserve Police Officers dwindled to almost zero and the Police Department made the decision to end the Reserve Police Officer program; and

WHEREAS, in response to a City code "clean-up" initiative in 2005, the city code section authorizing a reserve police force was removed from the City code; and

WHEREAS, there is again an identified need to have certain persons with specialized skill sets, such as paramedics, to accompany police officers in certain situations; and

WHEREAS, in these situations, those individuals, with the appropriate training and Colorado Peace Officer Standards and Training (P.O.S.T.) board certifications, should be able to be armed and have the ability to protect themselves and others if the need arises; and

WHEREAS, state law, including C.R.S. §16-2.5-110(5), does not permit persons appointed as a reserve police officer for a law enforcement agency to be paid for service as a reserve police officer, as volunteer reserve police officers are "not employees of a public law enforcement agency." *People v. Gilbert*, 12 P.3d 331, 335 (Colo. App. 2000). *People v. Veloz*, 946 P.2d 525, 529 (Colo. App. 1997) ("volunteer reserve police officers are not compensated employees of public law enforcement entities").

WHEREAS, under the Aurora City Charter, volunteer reserve police officers would not be members of the civil service, as only Captains, Lieutenants, Sergeants, Police Agents, and Police Officer Grades 1-4 are members of police civil service. *See, Sec. 3-14(2), Aurora City Charter*: Only sworn members of the civil service, except the Chief of Police, have the right to form, join, and participate in the activities of employee organizations of their choosing for the purpose of representation on the matters of wages, hours, benefits, and other terms or condition of employment. *See, Sec. 15-5, Aurora City Charter*.

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, Sec. 2-436 is hereby added which reads as follows:

**Sec. 2-436 – Reserve Police Force.**

**(a) There is hereby established the Aurora Police Department Reserve Police Force (hereinafter “Reserve Police Force”), which force shall be subject to and operate under the direction and control of the Police Chief. Persons appointed to this Reserve Police Force will be Reserve Police Officers. The Police Chief may appoint up to the number corresponding to five percent (5%) of the authorized sworn strength of the regular police department (rounded to the nearest whole number) as Reserve Police Officers. Members of the Reserve Police Force must be fully certified as a basic peace officer or hold a reserve certification by the Colorado Peace Officer Standards and Training (P.O.S.T.) Board.**

**(b) Reserve Police Officers appointed under this Section are voluntary and unpaid while serving solely in the role of a Reserve Police Officer. No person appointed by the Police Chief to the position of a Reserve Police Officer shall be considered an employee of the City as a full-time police officer for any purpose, nor shall such person be entitled to any compensation, sick leave, longevity pay, annual leave, compensatory time benefits, or any other paid benefit afforded to regular full-time paid police officers for service as a Reserve Police Officer. Reserve Police Officers may be a paid employee of the City in a non-police officer position, with service as a Reserve Police Officer subject to the approval by the employee’s Department Director. The City will provide insurance coverage for worker’s compensation at the City’s expense, and the City will provide appropriate insurance protection concerning any civil liability that a Reserve Police Officer may be subject to as a result of an incident occurring during the course and scope of his or her duties as a Reserve Police Officer.**

**(c) Reserve Police Officers are not members of the police civil service and serve at the pleasure of the Police Chief.**

**(d) The Police Chief will promulgate rules and regulations governing the conduct and terms of service of any member of the Reserve Police Force, which will include when Reserve Police Officers may act as a Reserve Police Officer. While authorized by the Police Chief to act as a Reserve Police Officer, the Reserve Police Officer will have the same authority and powers vested in full-time Aurora police officers under this code, state law, and federal law. Pursuant to applicable state law, those Reserve Police Officers who hold a full basic peace officer certification by the P.O.S.T. board may be granted full peace officer status and authority at the discretion of the Police Chief.**



**(e) (1) The following individuals are authorized to be appointed by the Police Chief as Reserve Police Officers where, at the time of appointment, the person is:**

- a. A current City employee, or**
- b. A person associated with the Tactical Medic Program, whether or not a City employee, or**
- c. A person participating in the Aurora Police Department Police Officer Cadet Program and is in good standing, or**
- d. A former City employee who retired in good standing and would otherwise be eligible for re-hire, or**
- e. A person who lives in the City of Aurora who has at least five (5) years of law enforcement experience and:**
  - 1. left their prior law enforcement agency in good standing,**
  - 2. has no prior disciplinary history while working as a law enforcement officer greater than a written reprimand or similar, and**
  - 3. is fully Colorado P.O.S.T. certified as at least a basic peace officer.**

**(2) For purposes of this section, the term “good standing” means the person left or retired from employment on their own accord, not under investigation or in lieu of termination.**

**(f) The Reserve Police Force will not affect the number of authorized sworn full-time police officer positions in the regular police force within the police department.**

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
PETER A. SCHULTE, Public Safety Group Client Manager



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Police Reserve Force
<b>Item Initiator:</b> Danielle Jurinsky, Council Member
<b>Staff Source/Legal Source:</b> Art Acevedo, Police Chief /Pete Schulte, City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 1.0--Assure a safe community for people

### COUNCIL MEETING DATES:

**Study Session:** 7/24/2023

**Regular Meeting:** 7/31/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 7/31/2023

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE

Sponsor: Danielle Jurinsky, Council Member

Art Acevedo, Police Chief / Pete Schulte, 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<br>Reason for waiver is described in the Item Details field above. |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Public Safety, Courts & Civil Service

**Policy Committee Date:** 6/8/2023

---

**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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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.)*

No History as of 5/25/2023. Ordinance discussed at Public Safety, Courts, & Civil Service Committee Hearing on June 8, 2023 and was approved to move forward to study session.

---

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

This item adds a section to the City Code authorizing a Reserve Police Force where individuals, such as paramedics assigned to the Police Tactical units, be commissioned as a Reserve Police Officer after completing all necessary training to obtain the necessary Colorado Peace Officer Standards and Training (P.O.S.T.) Board certification(s).

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Revenue Impact  | <input type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact            |  |

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

The budget expenditure impact will be the uniform and equipment budget for the police department to provide Reserve Police Officers uniforms and equipment. Reserve Police Officers serve as volunteers and are not paid by the City.

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

The City will provide workers compensation insurance and civil liability insurance protection for Reserve Police Officers while they are engaged in official duties as outlined by the Police Chief.

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

--

---

**QUESTIONS FOR COUNCIL**

Does City Council approve the addition of a section of the City Code to authorize a Reserve Police Force as described?

---

**LEGAL COMMENTS**

The City Council, as governing body of the city, shall have the power to make ordinances as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the city and the inhabitants thereof. Aurora City Code §2-32. (Schulte)



# CITY OF AURORA

## Late Submission Approval for Agenda Item

**Item Title:** Police Reserve Force Ordinance

**Item Initiator:** Council Member Danielle Jurinsky

**Staff Source/Legal Source:** Chief of Police Art Acevedo/ Pete Schulte, Public Safety Client Group Manager

**Outside Speaker:** N/A

**Council Goal:** 2012: 1.0--Assure a safe community for people

**CRITERIA - PLEASE CONSIDER ITEM FOR LATE SUBMISSION FOR THE FOLLOWING REASON:**

- ☐ There is a time-sensitive legal requirement that must be met and cannot be met by a future meeting date
- ☐ The delay will result in an adverse financial impact to the city
- ☒ This is a request of Council Member Danielle Jurinsky

**COUNCIL MEETING DATES FOR LATE SUBMISSION:**

**Study Session 7/24/2023**

**Regular Meeting 7/31/2023**

**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 item is being brought forward from Council Member Jurinsky from the June 8<sup>th</sup> Public Safety Meeting.

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.

Peter Schulte, CAO Public Safety Manager

Agenda Item Initiator Name

Agenda Item Initiator Signature

7-13-2023

Date

Dan Brotzman, City Attorney

Late Submission Approver Name

Late Submission Approver Signature

7-13-23

Date

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
ADDING A SECTION TO THE CITY CODE AUTHORIZING A RESERVE POLICE FORCE.

WHEREAS, for much of the end of the 20<sup>th</sup> century, the Aurora Police Department had volunteers who assisted the Aurora Police Department as Reserve Police Officers and utilized special skills that would not otherwise exist in the Department; and

WHEREAS, in the early 2000's, the number of persons interested in serving the Aurora Police Department as Reserve Police Officers dwindled to almost zero and the Police Department made the decision to end the Reserve Police Officer program; and

WHEREAS, in response to a City code "clean-up" initiative in 2005, the city code section authorizing a reserve police force was removed from the City code; and

WHEREAS, there is again an identified need to have certain persons with specialized skill sets, such as paramedics, to accompany police officers in certain situations; and

WHEREAS, in these situations, those individuals, with the appropriate training and Colorado Peace Officer Standards and Training (P.O.S.T.) board certifications, should be able to be armed and have the ability to protect themselves and others if the need arises; and

WHEREAS, state law, including C.R.S. §16-2.5-110(5), does not permit persons appointed as a reserve police officer for a law enforcement agency to be paid for service as a reserve police officer, as volunteer reserve police officers are "not employees of a public law enforcement agency." *People v. Gilbert*, 12 P.3d 331, 335 (Colo. App. 2000). *People v. Veloz*, 946 P.2d 525, 529 (Colo. App. 1997) ("volunteer reserve police officers are not compensated employees of public law enforcement entities").

WHEREAS, under the Aurora City Charter, volunteer reserve police officers would not be members of the civil service, as only Captains, Lieutenants, Sergeants, Police Agents, and Police Officer Grades 1-4 are members of police civil service. *See, Sec. 3-14(2), Aurora City Charter*: Only sworn members of the civil service, except the Chief of Police, have the right to form, join, and participate in the activities of employee organizations of their choosing for the purpose of representation on the matters of wages, hours, benefits, and other terms or condition of employment. *See, Sec. 15-5, Aurora City Charter*.

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, Sec. 2-436 is hereby added which reads as follows:

**Sec. 2-436 – Reserve Police Force.**

(a) There is hereby established the Aurora Police Department Reserve Police Force (hereinafter “Reserve Police Force”), which force shall be subject to and operate under the direction and control of the Police Chief. Persons appointed to this Reserve Police Force will be Reserve Police Officers. The Police Chief may appoint up to the number corresponding to five percent (5%) of the authorized sworn strength of the regular police department (rounded to the nearest whole number) as Reserve Police Officers. Members of the Reserve Police Force must be fully certified as a basic peace officer or hold a reserve certification by the Colorado Peace Officer Standards and Training (P.O.S.T.) Board.

(b) Reserve Police Officers appointed under this Section are voluntary and unpaid while serving solely in the role of a Reserve Police Officer. No person appointed by the Police Chief to the position of a Reserve Police Officer shall be considered an employee of the City as a full-time police officer for any purpose, nor shall such person be entitled to any compensation, sick leave, longevity pay, annual leave, compensatory time benefits, or any other paid benefit afforded to regular full-time paid police officers for service as a Reserve Police Officer. Reserve Police Officers may be a paid employee of the City in a non-police officer position, with service as a Reserve Police Officer subject to the approval by the employee’s Department Director. The City will provide insurance coverage for worker’s compensation at the City’s expense, and the City will provide appropriate insurance protection concerning any civil liability that a Reserve Police Officer may be subject to as a result of an incident occurring during the course and scope of his or her duties as a Reserve Police Officer.

(c) Reserve Police Officers are not members of the police civil service and serve at the pleasure of the Police Chief.

(d) The Police Chief will promulgate rules and regulations governing the conduct and terms of service of any member of the Reserve Police Force, which will include when Reserve Police Officers may act as a Reserve Police Officer. While authorized by the Police Chief to act as a Reserve Police Officer, the Reserve Police Officer will have the same authority and powers vested in full-time Aurora police officers under this code, state law, and federal law. Pursuant to applicable state law, those Reserve Police Officers who hold a full basic peace officer certification by the P.O.S.T. board may be granted full peace officer status and authority at the discretion of the Police Chief.

(e) The Reserve Police Force will not affect the number of authorized sworn full-time police officer positions in the regular police force within the police department.



Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
PETER A. SCHULTE, Public Safety Group Client Manager



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Prohibiting the Sale of Cats and Dogs in Pet Shops
<b>Item Initiator:</b> Trevor Vaughn, Manager of Licensing
<b>Staff Source/Legal Source:</b> Trevor Vaughn, Manager of Licensing, Finance / Angela Garcia, Senior Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 1.0--Assure a safe community for people

### COUNCIL MEETING DATES:

**Study Session:** 8/7/2023

**Regular Meeting:** 8/14/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 8/28/2023

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Prohibiting the Sale of Cats and Dogs in Pet Shops

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, PROHIBITING THE SELLING OR DISPOSING OF DOGS OR CATS OTHER THAN THOSE OBTAINED FROM AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY, OR NONPROFIT ANIMAL RESCUE ORGANIZATION

Sponsors: Danielle Jurinsky, Council Member / Juan Marcano, Council Member

Trevor Vaughn, Manager of Licensing, Finance / Angela Garcia, Senior Assistant City Attorney

Estimated time: 15 mins

### 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<br>Reason for waiver is described in the Item Details field above. |  |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Minutes Not Available

☐ Minutes 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.)*

Several concerned citizens spoke during Public Invited to be Heard regarding this topic on July 17, 2023 and encouraged the City Council to adopt an ordinance to prohibit the sale of dogs and cats in pet shops due to concerns about inhumane treatment and sourcing of the animals as well as risks to consumers of purchasing unhealthy pets.

Staff believes that Aurora has not had a pet shop that sells Dogs and Cats since a store was closed by the City in March of 2020 for a sales tax delinquency in excess of \$80,000. Prior to seizure by the city, the pet store had been cited for improper care of animals. A dog had died in February of 2020 of parvovirus and the city seized two additional dogs for respiratory ailments. The city did not regularly inspect the pet store as the regulatory agency for pet stores is the State's Department of Agriculture. During the seizure of the store by the city, the store was observed in a filthy state, and a number of the puppies had to be quarantined for health issues prior to auctioning by the city.

---

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

This ordinance would prohibit the sale of dogs and cats in pet stores. However, the ordinance allows the continuation of partnerships by pet shops with animal shelters and rescues for the adoption of dogs and cats. Private breeders are excluded from the ordinance. It is believed that the city has not had a pet shop selling dogs and cats since March of 2020 and therefore no existing business would be affected by the ordinance. This ordinance will also prevent a for-profit operation from competing with animal adoptions. As of July 20, 2023, regional animal shelters including Aurora's are struggling with a lack of space.

Many cities across the country have adopted similar ordinances including several cities in Colorado including Alma, Breckenridge, Berthoud, Dillon, Eagle, Minturn, Superior, and Vail. Evidence collected by the Humane Society of the United States and a study in Journal of Veterinary Behavior indicate that animals sold through pet stores are exposed to unhealthy circumstances. Most of the animals in the retail outlets are suspected to come through commercial breeding operations sometimes referred to as "puppy mills" which are accused of sacrificing health and safety and socialization for increased profit margins.

The distraint of the Pet Shop by the city in March of 2020 placed the city in a controversial legal situation as the dogs needed to be either auctioned or returned to the store's operator. The city received a number of comments from citizen's concerned about the city auctioning the animals rather than an adoption process. However, due to the property rights of the pet store, a public auction was necessary. This ordinance would help to prevent a similar circumstance in the future by restricting the sales of dogs and cats in pet stores. Ultimately the auction buyers were either families looking for a pet or animal rescues.

The proposed ordinance is also broad in the provision regarding the prohibition of sales of unhealthy animals so that it can apply beyond dogs and cats.

---

## FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☐ No Fiscal Impact

### REVENUE IMPACT

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

N/A

### BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A – Ability to be enforced within existing resources. No pet stores selling dogs and cats are known to exist in the city.

**NON-BUDGETED EXPENDITURE IMPACT**

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

**WORKLOAD IMPACT**

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

---

**QUESTIONS FOR COUNCIL**

Does Council approve of moving this forward for formal consideration?

---

**LEGAL COMMENTS**

The City of Aurora is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution. Article XX Section 6 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. 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 prohibiting the sale of dogs and cats in pet stores within the City fulfills these purposes. 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 and must be taken in the form of an ordinance. **See**, Article 5-1 Aurora City Charter. (Hernandez).

# Centers for Disease Control and Prevention Investigations Into *Campylobacter* Outbreaks Linked to Pet Store Puppies

For years, puppy-selling pet stores have addressed the fact that many of the puppies in their stores are sick or likely to be sick by pumping them with antibiotics. This reckless practice made headlines when over one hundred Americans contracted an antibiotic-resistant infection from pet store puppies, placing dozens in the hospital. The outbreak was such a serious public health concern that the Centers for Disease Control and Prevention (CDC) issued outbreak advisories and opened an official investigation.

As one CDC official, Dr. Robert Tauxe, wrote: **“The puppy story is not over – it is difficult to control with a whole system that lacks hygiene at many points and seems to use antibiotics instead.”**

---

## CDC’S DECEMBER 2019 NOTICE OF ONGOING INVESTIGATION

- Americans continue to report infections to the CDC, including 30 additional people across 13 states in 2019 with 4 ending up in the hospital
- Among the 24 people interviewed so far, 80% were linked to Petland puppies, and 42% were Petland employees
- Laboratory evidence indicates that the bacteria in this outbreak is closely related genetically to the bacteria in the 2016-2018 outbreak of *Campylobacter* noted below
- The *Campylobacter* bacteria from samples of ill people in this outbreak are resistant to commonly recommended first-line antibiotics
- Illnesses started on dates ranging from January 6, 2019 through November 10, 2019. Ill people range in age from 8 months to 70 years
- Investigators reported eight more ill people who had contact with a puppy at Petland and had a diagnostic test showing they were infected with *Campylobacter* bacteria. However, CDC did not include these people in the outbreak case count. They had no bacterial samples for WGS, which Public health investigators use to identify illnesses that are part of multistate outbreaks

## CDC’S MORBIDITY AND MORTALITY WEEKLY REPORT (SEPT. 21, 2018)

- 118 persons, including 29 pet store employees, in 18 states were identified with illness onset during Jan. 5, 2016–Feb. 4, 2018
- 6 pet store companies were linked to the outbreak
- Outbreak strains were resistant to all antibiotics commonly used to treat *Campylobacter* infections
- 95% of pet store puppies were given antibiotics before arriving or while at the store, with a median antibiotic treatment duration of 15 days
- Just 1% of puppies that received antibiotics were given them for treatment only, while over half received antibiotics for prevention only, and the remainder for both treatment and prevention
- The risk for transmission to employees and consumers continues
- Implementation of antibiotic stewardship principles and practices in the commercial dog industry is needed, and antibiotics should only be administered under veterinary supervision

## CDC’S FINAL OUTBREAK ADVISORY: MULTISTATE OUTBREAK OF MULTIDRUG-RESISTANT *CAMPYLOBACTER* INFECTIONS LINKED TO CONTACT WITH PET STORE PUPPIES (JAN. 30, 2018)

- Evidence indicated that contact with puppies sold through Petland stores were a likely source of a multistate outbreak of multidrug-resistant *Campylobacter* infections
- 113 people across 17 states were infected and 23 people were hospitalized
- *Campylobacter* bacteria were resistant to commonly recommended, first-line antibiotics
- 99% of people reported contact with a puppy in the week before illness started, and 87% reported they had contact with a puppy from Petland stores, or had contact with a person who became sick after contact with a puppy from a Petland store; 25 of the ill people were Petland employees
- This multidrug-resistant outbreak highlights the need for responsible use of antibiotics in pets



## Reviews

# Behavioral and psychological outcomes for dogs sold as puppies through pet stores and/or born in commercial breeding establishments: Current knowledge and putative causes



Franklin D. McMillan\*

Best Friends Animal Society, Kanab, Utah, USA

## ARTICLE INFO

## Article history:

Received 23 September 2016

Received in revised form

8 December 2016

Accepted 17 January 2017

Available online 28 January 2017

## Keywords:

dog  
commercial breeding establishment  
puppy mill  
pet store  
pet shop  
prenatal stress  
early-life adversity

## ABSTRACT

A review of 7 published studies and 1 anecdotal report involving dogs born in high-volume commercial breeding establishments and sold to the consumer directly via the Internet or indirectly through retail pet stores revealed an increased incidence of behavioral and emotional problems that cause distress in adulthood compared with dogs from other sources, especially noncommercial breeders. The most consistent finding among studies is an increase in aggression, which is most commonly directed toward the dog's owners and family members but also to unfamiliar people, and other dogs. Increased fear was also identified in response to unfamiliar people, children, other dogs, nonsocial stimuli, and when taken on walks. Undesirable behaviors related to separation and/or attention seeking and a heightened sensitivity to touch have been reported. Because of how dogs sold through pet stores and/or born in commercial breeding establishments are bred, housed, weaned, transported, handled, homed, and raised, potential contributing factors for these reported outcomes are numerous. Some key factors include genetics, early-life stimulus deprivation (inadequate stimulus exposure, inappropriate or lack of social exposure), stress (prenatal maternal stress and postnatal early-life adversity), early weaning and maternal separation, transport and pet-store-related factors, and owner-related factors such as inadequate knowledge and experience with dogs as well as different levels of commitment to the pet dog. All published studies suggest a role for major stressors during puppy development from the prenatal stage through adolescence in the development of many behavioral problems. Accordingly, for any dog breeding operation, a standard of care that adequately redresses the welfare of the mother and pups and the risk of later behavior problems attendant with early stress and distress need to be formulated and followed in a manner supported by the emerging data.

© 2017 The Author(s). Published by Elsevier Inc. This is an open access article under the CC BY-NC-ND license (<http://creativecommons.org/licenses/by-nc-nd/4.0/>).

## Introduction

Events occurring in the early developmental stages of mammalian life beginning *in utero* can have profound and lifelong effects on an individual's psychological and behavioral characteristics (Sanchez et al., 2001; Lupien et al., 2009). Recent theory has suggested that changes induced *in utero* may have adaptive value

by preparing the newborn for the environmental challenges faced by the mother (Braastad, 1998). However, most experimental studies on nonhuman animals and clinical studies of humans suggest that *in utero* stress results in dysregulation of the hypothalamic-pituitary-adrenal (HPA) axis, dysfunction, and poor coping abilities. In companion animals, adverse changes that include increased fearfulness and emotionality, impaired adaptation to conditions of conflict or aversion, and cognitive alterations including learning deficits, and diminished attention span (Braastad, 1998; Huizink et al., 2004; Beydoun & Saftlas, 2008) would impair suitability of the animal to the new home environment. Behaviors in adult dogs that are undesirable, abnormal, unhealthy, or simply atypical for that particular age, sex, or breed have

\* Address for reprint requests and correspondence: Franklin D. McMillan, Best Friends Animal Society, 5001 Angel Canyon Road, Kanab, UT 84741, USA. Tel: 435-644-2001x4470; Fax: 435-644-2701.

E-mail address: [dr.frank@bestfriends.org](mailto:dr.frank@bestfriends.org).

many causes (e.g., Scott & Fuller, 1965, pp. 110–112, 118; Fox & Stelzner, 1966; Slabbert & Rasa, 1993; Jagoe, 1994; Braastad et al., 1998; Serpell & Duffy, 2016).

Studies published during the past 23 years have suggested that dogs sold through pet stores and/or born in high-volume, commercial breeding establishments (CBEs) show an increased number of problem behaviors as adults. Most puppies sold by pet stores in the United States are purchased from brokers, who acquire their puppies from CBEs located throughout the United States (Hunte Corporation, 2016). A similar situation has been reported in Europe, where breeding operations in Hungary and Slovakia supply puppies for the continent (FOUR PAWS International, 2016). It should be noted that there are no scientifically validated, internationally recognized standards for such organizations. Conditions in the CBEs are reported to vary widely, ranging from relatively clean to squalid, noxious, and gravely detrimental to animal health and welfare (USDA, 2004; USDA, Office of Inspector General, 2010; Ferrari & Antonoli, 2016; USDA, 2016). CBEs are characterized by large numbers of dogs, maximal efficiency of space by housing dogs in or near the minimum space permitted by law, breeding dogs spending their entire reproductive lives in their cages or runs, group and solitary housing, dogs rarely if ever permitted out of their primary enclosures for exercise or play, no toys or enrichment, minimal-to-no positive human interaction/companionship, and inadequate health care. Commonly reported conditions present in many but not all CBEs include cage flooring made of wire mesh, accumulation of feces, ammonia odor, no windows and poor ventilation, inadequate protection from inclement weather and temperature extremes, insufficient or contaminated water and spoiled food, serious untreated medical conditions (e.g., advanced dental disease), extensive matting of hair, commonness and apparent stereotypical behaviors, evidence of starvation, and presence of deceased adult dogs and puppies (USDA, 2004; USDA, Office of Inspector General, 2010; Ferrari & Antonoli, 2016; USDA, 2016).

De Meester et al. (2005) evaluated the conditions and practices in Belgian breeding kennels to determine whether they met the recommendations advocated in the scientific literature for separation of puppies from their mother and littermates (Slabbert & Rosa, 1993; Pierantoni et al., 2011; Overall, 2013, pp. 127–128) and exposure to various social and nonsocial stimuli (Melzack & Thompson, 1956; Melzack & Scott, 1957; Freedman et al., 1961; Scott & Fuller, 1965, pp. 101–108; Fuller & Clark, 1966; Fuller, 1967; Gazzano et al., 2008a). The investigators found both major and minor deviations from the recommended standards in the 48 kennels included in the study. Weaning frequently occurred when the puppies were too young, many puppies never left their kennel confinement and had little or no contact with unfamiliar humans, and puppies were often provided little visual, olfactory, and acoustic stimulation/enrichment or toys.

The aim of this review was to summarize the published data on the behaviors of dogs obtained from pet stores and/or born in CBEs, compared with dogs obtained from other sources, and to examine putative causes for common behavioral problems that have been identified as occurring disproportionately in pet store dogs.

## Results from studies

A total of 7 studies surveying populations of dogs in the United Kingdom (Jagoe, 1994; Casey et al., 2014; Gray et al., 2016), Australia (Bennett and Rohlf, 2007), Italy (Pierantoni et al., 2011; Pirrone et al., 2016), and the United States/internationally (McMillan et al., 2013) were identified. Key features of the studies are summarized in Table 1.

In a retrospective survey of 737 mature dogs, Jagoe (1994) investigated the relationship between early-life experience and

owner-reported behavior problems in adulthood. The dogs' owners completed a questionnaire that inquired about (1) the frequency with which the dog displayed any of 40 possible behavior problems; (2) the dog's early experiences and environment from birth to 16 weeks of age (e.g., details of any early health problems, time left alone as a puppy during the day, the puppy's age when acquired, source, its age at first vaccination, and the age when it was first taken out into public areas on a regular basis); and (3) the owners themselves and their household. There were 451 dogs with reported behavior problems and 286 dogs without reported behavior problems.

Twenty dogs (2.7%) were acquired from pet stores. When sources were compared, dogs obtained from pet shops were over-represented in the group of dogs with certain behavior problems, compared with those obtained from breeders, friends or relatives, or bred at home (Table 1). "Dominance-type" aggression (aggression directed toward people, especially the dog's owner and owner's family members) was more common among dogs acquired from pet stores (11/20; 55%), compared with animal shelters (34/129; 26.4%), found (15/43; 34.9%), breeders (119/394; 30.2%), friends or relatives (21/99; 21.2%), or bred at home (10/49; 20.4%,  $P = 0.02$ ). Pet store-acquired dogs also more often demonstrated social fears (fear of strangers, children, and unfamiliar dogs) compared with dogs from other sources (Table 1).

Bennett and Rohlf (2007) studied the frequency of potential problem behaviors reported by owners in a convenience sample of 413 companion dogs, 47 of which were obtained from pet stores. Scores calculated using a principal component analysis from the questionnaires yielded 5 behavioral subscales: "disobedient," "unfriendly/aggressive," "nervous," "anxious/destructive," and "excitable." Mean scores on the unfriendly/aggressive subscale were significantly higher for dogs obtained from pet stores (8.70) and animal shelters (7.83) compared with dogs obtained from breeders (5.61,  $P \leq 0.01$ ). Dogs obtained from pet stores had significantly higher mean scores on the "nervous" behavioral subscale than dogs who were home-bred (7.50 vs. 4.80,  $P \leq 0.05$ ). All sources of dogs had higher mean scores on the excitability subscale than home-bred dogs ( $P \leq 0.05$ ), and mean scores were not significantly different across sources for disobedience, anxious/destructive, or excessive barking subscales (Table 1).

Pierantoni et al. (2011) compared owner-reported behaviors of 70 adult dogs separated from their mother and littermates at 30–40 days of age and the behaviors of 70 adult dogs separated at 2 months of age. Overall, 71 dogs came from pet stores. Although the source of the dog was not directly associated with or a predictor for reports of specific problem behaviors, the frequency of certain behaviors (fearfulness on walks, aversion to strangers, destructiveness, excessive barking, attention-seeking behaviors, toy possessiveness, and play biting) among dogs separated from their mother and littermates at the earlier age was higher if they came from pet shops rather than from other sources (Table 1). For example, 80% of dogs separated early from litters and obtained from pet stores exhibited destructiveness more frequently compared to 20% of dogs not separated early.

McMillan et al. (2013) compared the owner-reported behavioral characteristics in dogs obtained as puppies from pet stores and dogs obtained as puppies from noncommercial breeders. Using the Canine Behavioral Assessment and Research Questionnaire (C-BARQ; Hsu & Serpell, 2003), 413 adult dogs obtained as puppies from pet stores were compared to 5,657 dogs obtained as puppies from noncommercial breeders. Results of multiple regression analyses revealed that dogs acquired from pet stores were in general more excitable ( $P < 0.001$ ), energetic ( $P = 0.043$ ), more attached/attention seeking ( $P < 0.001$ ), and less trainable ( $P < 0.001$ ) than dogs from breeders. Sexually intact pet store dogs were 3 times as



**Table 1**

Published reports involving dogs sold through pet stores and/or born in commercial breeding

Reference	Type of study and population	Sample size and source of dogs	Primary goal of the study	Outcomes	Findings relevant to pet stores and/or CBEs
Jagoe 1994	Retrospective survey of owner-reported behavior of dogs visiting behavior consultants in England and Wales; a random sample of dog owners in the area of Cambridge, United Kingdom; owners visiting any of 11 veterinary practices; and owners of dogs referred for medical reasons to the Cambridge University Veterinary Hospital	Total n = 737; BR, n = 394; F/R, n = 99; AS, n = 129; PS, n = 20; F/U, n = 43; HB, n = 49	Investigate variables associated with behavior problems	Data indicate the proportion of dogs from each source reported as having the behavior indicated and <i>P</i> -values for Pearson chi-square: "Dominance-type" aggression: BR, 119/394 (30.2%); F/R, 21/99 (21.2%); AS, 34/129 (26.4%); PS, 11/20 (55%); F/U, 15/43 (34.9%); HB, 10/49 (20.4%); <i>P</i> = 0.02	Owner-directed aggression and social fears (fear of strangers, children, and unfamiliar dogs) were significantly more prevalent than expected among dogs acquired from pet stores than dogs from other sources.
Bennett and Rohlf 2007	Cross-sectional survey of a convenience sample of dog owners recruited from pet stores and veterinary clinics in Australia	Total n = 413; BR, 50.1%; AS, 14.3%; PS, 11.4%; F/R, 10.7%; ST, 9.2%; HB, 2.4%	Ascertain the frequency of canine behavior problems and any association with demographic variables and other characteristics of dog-owner interaction	Data are scores on behavioral subscales, with higher scores indicating a greater perceived incidence of the behavior Unfriendly/aggressive (PS, 8.70, <i>P</i> < 0.01; BR, 5.61; AS, 7.83 <i>P</i> < 0.01); F/R, 7.75; HB, 8.20; ST, 5.84) (reference category is BR for <i>P</i> -values) Nervous (PS, 7.50, <i>P</i> < 0.05; BR, 5.49; AS, 6.18; F/R, 5.02; HB, 4.80; ST, 5.58) (reference category is SB for <i>P</i> -values) Excitable (PS, 3.81, <i>P</i> < 0.05; BR, 3.28, <i>P</i> < 0.05; AS, 3.58, <i>P</i> < 0.05; F/R, 3.64, <i>P</i> < 0.05; HB, 2.00; ST, 2.47, <i>P</i> < 0.05) (reference category is SB for <i>P</i> -values) Disobedience (NS across sources) Anxious/destructive (NS across sources) Barks excessively (NS across sources)	Dogs purchased from pet stores or shelters were considered by their owners to be more unfriendly or aggressive than were dogs purchased from breeders and significantly more nervous than dogs bred by the present owner.
Pierantoni et al. 2011	Retrospective telephone survey of dog owners in Italy recruited from veterinary practices	PS, n = 71 F/R, n = 47 BR, n = 22	Compare frequency of behaviors in dogs with early (30–40 days) versus late (60 days) separation from litter with source as a secondary outcome	Data indicate the proportion of responders from early separation (ES) versus nonearly separation (NES) groups indicating presence of the behavior only for dogs acquired from PS Destructiveness: 80% versus 20%, <i>P</i> = 0.017 Excessive barking: 78% versus 22%, <i>P</i> = 0.007 Toy possessiveness: 100% versus 0%, <i>P</i> = 0.000 Fearfulness on walks: 91% versus 9%, <i>P</i> = 0.001 Attention seeking: 71% versus 29%, <i>P</i> = 0.002 Aversion to strangers: 80% versus 20%, <i>P</i> = 0.005 Play biting: 87% versus 13%, <i>P</i> = 0.032 NS: Reactivity to noises, food possessiveness, stranger aggression, owner aggression, tail chasing, paw licking, shadow staring, pica, house soiling	Overall, the source of the dog was not significantly associated with the behavioral categories examined. Among dogs obtained from pet stores, those who had been separated from the litter earlier were more likely to exhibit fearfulness on walks, aversion to strangers, destructiveness, excessive barking, attention-seeking behaviors, toy possessiveness, and play biting.



McMillan et al. 2013	Cross-sectional Internet survey of a convenience sample of dog owners initially in the Philadelphia area and later without geographic restrictions using the C-BARQ	PS, n = 413; BR, n = 5,657	Compare the frequency of behaviors for dogs obtained from PS versus BR	<p>Data are OR [95% CI] for dogs from PS versus BR</p> <p>Owner-directed aggression (intact dogs): 3.13 [1.87; 5.23], <math>P &lt; 0.001</math></p> <p>Owner-directed aggression (neutered dogs): 1.54 [1.16; 2.06], <math>P = 0.003</math></p> <p>Dog-directed aggression: 1.96 [1.44; 2.67], <math>P &lt; 0.001</math></p> <p>Stranger-directed aggression: 1.59 [1.18; 2.16], <math>P = 0.003</math></p> <p>Dog rivalry: 1.35 [1.05; 1.74], <math>P = 0.021</math></p> <p>Dog-directed fear: 1.33 [1.03; 1.71], <math>P = 0.030</math></p> <p>Nonsocial fear: 1.44 [1.01; 2.07], <math>P = 0.047</math></p> <p>Separation-related behavior: 1.58 [1.19; 2.11], <math>P = 0.002</math></p> <p>Touch sensitivity: 1.58 [1.18; 2.11], <math>P = 0.002</math></p> <p>Escape behavior: 4.14 [1.75; 9.83]; <math>P = 0.001</math></p>	Pet store—obtained dogs were reported to exhibit significantly greater aggression toward owner and family members, unfamiliar people, and other dogs; greater fear of other dogs and nonsocial stimuli; greater separation-related problems and attention-seeking behavior, touch sensitivity, house soiling, escaping from the home, sexual mounting of people and objects, excitability, and lack of trainability.
Casey et al. 2014	Cross-sectional survey of a convenience sample of United Kingdom dog owners	BR, n = 2,189; AS, n = 765; F/R, n = 144; HB, n = 386; other including PS, n = 384	Investigate the number of dogs showing aggression to people and any relationship with co-occurring variables	<p>Data are adjusted OR [95% CI] for aggression toward members of the family or household versus dogs from breeders as the reference category</p> <p>AS, 2.638 [1.590; 4.376]</p> <p>HB, 0.224 [0.054; 0.934]</p> <p>F/R, 0.555 [0.132; 2.332]</p> <p>Other (incl PS) 1.786 [1.067; 3.299]</p>	Dogs acquired from “other” sources (which included pet stores and Internet sites) were 1.8 times as likely to show human-directed aggression as those obtained directly from breeders.
Pirrone et al. 2016	Cross-sectional Internet survey of a convenience sample of dog owners in Italy	PS, n = 173; BR, n = 349	Assess the frequency of potentially problematic behaviors in dogs acquired from pet stores versus official breeders	<p>Data are frequency of owner-assessed problem behaviors for dogs from pet stores versus official breeders, respectively.</p> <p>Separation-related behavior: 30% versus 17%, <math>P = 0.023</math>; OR [95% CI]: 1.997 [1.29; 3.532]</p> <p>House soiling: 15% versus 5%, <math>P = 0.0004</math>; OR 3.081 [1.398; 6.974]</p> <p>Body licking: 30% versus 14%, <math>P = 0.001</math>; OR 5.580 [1.440; 4.620]</p> <p>Owner-directed aggression: 21% versus 10%, <math>P = 0.009</math>; OR 2.396 [1.227; 4.678]</p> <p>NS: Destructiveness, excessive barking, fearfulness on walks, reactivity to noises, toy possessiveness, food possessiveness, attention seeking, aversion to strangers, stranger-directed aggression, dog-directed aggression, tail chasing, pica, or consumption of non-food-related objects</p>	After adjusting for potential confounders, dogs obtained from pet stores were twice as likely to exhibit aggressive behavior toward owners than those obtained from official breeders.

(continued on next page)

Table 1 (continued)

Reference	Type of study and population	Sample size and source of dogs	Primary goal of the study	Outcomes	Findings relevant to pet stores and/or CBEs
Gray et al. 2016 (Abstract)	Cross-sectional Internet survey of a convenience sample of owners using the C-BARQ of owners of 3 breeds of dogs (Chihuahua, n = 85; pug, n = 125; Jack Russell, n = 225) acquired in the United Kingdom	RBR n = 285; LRBR, n = 150	Compare owner-reported behaviors for 3 breeds of dogs	Data are median owner-reported scores on ordinal scale from C-BARQ (0, none; to 4, serious for intensity) and (0, never; to 4, always for frequency) on >100 behavioral questions for dogs from responsible versus less-responsible breeders, respectively. Chihuahua: Increased aggression toward familiar (0.3 vs. 0.8, $P = \text{NS}$ ) and unfamiliar dogs (1.3 vs. 1.5, $P = \text{NS}$ ), strangers (0.6 vs. 1.1, $P = \text{NS}$ ), and owner (0.0 vs. 0.3, $P < 0.05$ ); stranger-directed fear (1.3 vs. 1.5, $P < 0.05$ ); touch sensitivity (0.8 vs. 1.8, $P < 0.05$ ); separation anxiety (0.6 vs. 0.9, $P < 0.05$ ); chasing (1.1 vs. 2.1, $P < 0.05$ ). Pug: Fear of dogs (0.5 vs. 1.0, $P = \text{NS}$ ); fear of stranger (0 vs 0, $P = \text{NS}$ ); other fear 0.5 vs 0.9; separation anxiety (0.6 vs. 0.9, $P < 0.05$ ); familiar dog aggression (0.3 vs. 0.8, $P = \text{NS}$ ); excitability (2.0 vs. 2.3, $P < 0.05$ ); energy (2.0 vs. 2.8, $P < 0.05$ ). Jack Russell: Decreased trainability (2.5 vs. 2.1, $P < 0.05$ ).	Puppies from less-responsible breeders had less-favorable behavior traits as adults compared to puppies from responsible breeders

AS, animal shelter; BR, noncommercial or hobby breeder; C-BARQ, Canine Behavioral Assessment and Research Questionnaire; CBEs, commercial breeding establishments; CI, confidence interval; NR, not reported; NS, not statistically significant; sources of dogs; CB, commercial breeder or puppy farm; F/R, friend or relative; F/U, found or unowned; HB, home bred; LRBR, less-responsible breeder; OR, odds ratio; PS, pet store; RBR, responsible breeder; ST, stray.

**Table 2**Comparison of results from [McMillan et al. \(2013\)](#) and [Pirrone et al. \(2016\)](#)

Factor differences as compared to noncommercial breeder-obtained dogs	Study A— <a href="#">McMillan et al. 2013</a>	Study B— <a href="#">Pirrone et al. 2016</a>
Elevated in both studies	Owner-directed aggression ↑	Owner-directed aggression ↑
Elevated in study A; elevated but with confounder in study B	Separation-related problems ↑	↔ (after correction for confounders)
Not assessed in study A; elevated but with confounder in study B	Most forms of house soiling ↑	↔ (after correction for confounders)
Elevated in study A; not elevated in study B	NA	↔ (after correction for confounders)
Elevated in study A; not elevated in study B	Stranger-directed aggression ↑	Stranger-directed aggression ↔
	Nonsocial fear ↑	Fearfulness on walks ↔
		Reactivity to noises ↔
	Attention-seeking behavior ↑	Attention-seeking behavior ↔
Elevated in study A; not assessed in study B	Dog-directed aggression (toward familiar and unfamiliar dogs) ↑	NA
	Fear of dogs ↑	NA
	Touch sensitivity ↑	NA
	Excitability ↑	NA
	Sexual mounting of people and objects ↑	NA
	Escaping from the home ↑	NA
	Less trainable ↑	NA
Not elevated in study A; not assessed in study B	Chasing ↔	NA
Not elevated in study A and study B	Stranger-directed fear ↔	Aversion to strangers ↔
Not assessed in study A; not elevated in study B	NA	Destructiveness ↔
	NA	Excessive barking ↔
	NA	Toy possessiveness ↔
	NA	Food possessiveness ↔
	NA	Tail chasing ↔
	NA	Pica or consumption of non-food-related objects ↔

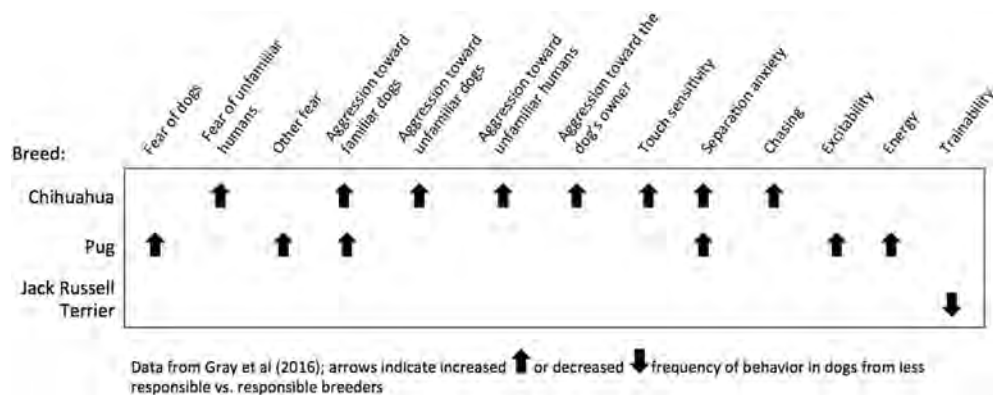
↑, elevated; ↔, no significant difference as compared to noncommercial breeder-obtained dogs; NA, not assessed.

likely to be reported showing owner-directed aggression as were sexually intact dogs acquired from breeders (odds ratio [95% confidence interval], 3.13 [1.87; 5.23];  $P < 0.001$ ), and pet store dogs were nearly twice as likely to be reported to have shown aggression toward unfamiliar dogs (dog-directed aggression) (odds ratio 1.96 [1.44; 2.67];  $P < 0.001$ ). Pet store dogs were also 30%–60% more likely to be reported to display stranger-directed aggression, dog-directed aggression, dog-directed fear, nonsocial fear, separation-related behaviors, escape behavior, and sensitivity to being touched ([Table 1](#)). Other behaviors reported more frequently in dogs from pet stores compared with breeders were sexual mounting of people and objects, most forms of house soiling (urination and defecation), and being less trainable (data not shown).

Using a cross-sectional convenience sample of United Kingdom dog owners, [Casey et al. \(2014\)](#) examined the demographic variables and risk factors associated with owner-reported aggressive behavior in dogs. The origin of the dog was a risk factor for aggression toward household members, with a 1.8 times increased risk of aggression toward family members in dogs from “other” sources (including pet shops) having an increased risk of aggression

toward family members as compared to those obtained directly from breeders (odds ratio [95% CI], 1.786 [1.067; 3.299]). Dogs from animal shelters were also more likely to show aggression to family members (odds ratio [95% CI], 2.638 [1.590; 4.376]).

[Pirrone et al. \(2016\)](#) conducted a study to compare owner-assessed potential problem behaviors in 2 groups of dogs: those obtained from pet shops and those obtained from official Italian breeders recognized by the Italian Kennel Club (E.N.C.I). Owners completed an online version of the Relazione Cane-Proprietario questionnaire, which collects information about the dog owners (age, gender, marital status, education, presence of children, locality of residence, presence of a house yard, and former dog ownership), their dogs (breed, size, age, sex, sexual status, age at acquisition, and source), and whether the dogs exhibited any of 16 common, problematic behaviors (separation-related behavior, destructiveness, excessive barking, fearfulness on walks, reactivity to noises, toy possessiveness, food possessiveness, attention seeking, aversion to strangers, stranger-directed aggression, owner-directed aggression, dog-directed aggression, tail chasing, body licking, pica or consumption of non-food-related objects, and house soiling). Of

**Figure 1.** Relative frequency of behavior problems in dogs from less-responsible breeders compared with dogs from responsible breeders for 3 breeds of dogs.

522 dogs in the study, 349 were acquired as puppies from breeders and 173 from pet shops. Dogs from pet stores were more likely than dogs from breeders to have a statistically significant increased risk for 4 behaviors compared with dogs acquired from breeders: owner-directed aggression (odds ratio [95% CI], 2.396 [1.227; 4.678]); separation-related behaviors (odds ratio [95% CI], 1.997 [1.29; 3.532]); house soiling (odds ratio [95% CI], 3.081 [1.398; 6.974]); and body licking (odds ratio [95% CI], 5.580 [1.440; 4.620]) (Table 1). Owner-related factors that also were important included no experience with past dogs, nonattendance at training courses, lack of awareness of the existence of veterinary behaviorists, and short daily walks, suggesting that source of dog is often confounded with knowledge, experience, and behavior of owner.

Of the 13 factors found elevated by McMillan et al. (2013), Pirrone et al. (2016) found 2 elevated but with confounders (house soiling, separation-related behavior), 3 not elevated (stranger-directed aggression, nonsocial fear, attention-seeking behavior), and 1 elevated with no confounder (owner-directed aggression) (Table 2). Seven factors found elevated by McMillan et al. were not evaluated by Pirrone et al. (dog-directed aggression, fear of dogs, touch sensitivity, excitability, sexual mounting of people and objects, escaping from the home, and poor trainability). The single finding consistent between the studies was that obtaining puppies from pet stores represents a risk factor for developing owner-directed aggression as adult dogs.

Gray et al. (2016) investigated differences in the behaviors of adult dogs based on the assumed quality of the breeding operation. The study focused on 3 popular breeds—Chihuahua, pug, and Jack Russell terrier. Using the C-BARQ, the authors supplemented the standard C-BARQ questions with 11 additional questions designed to categorize the source of the dog as either a “responsible” or “less-responsible” breeder. The criteria included specifics about the source (small breeder, pet store, puppy farm), whether the dam was personally seen by the purchaser and seen interacting with her puppies, whether the breeder appeared to be caring and responsible and showed concern for puppies and dams’ welfare, whether the puppies were in the breeder’s home, the suitability of the dogs’ housing, the number of litters available, whether health documents for the dogs and puppies were made available for review, and the age at which the puppy was purchased. The scoring of these factors formed the basis for classification into “responsible” or “less-responsible” breeder, where  $>3$  concerns signified “less responsible.”

Analysis of the C-BARQ average scores (range 0–5) for each behavioral category (analyzed using Mann–Whitney *U* tests for nonnormally distributed data) showed less-favorable scores for dogs acquired from the less-responsible breeders (see Table 1; Figure 1). Chihuahuas acquired from less-responsible breeders ( $n = 50$ ; responsible breeders  $n = 35$ ) were reported to show more aggression toward familiar dogs (median 0.8; 0.3), unfamiliar dogs (median 1.5; 1.3), unfamiliar humans (median 1.1; 0.6), and their owners (median 0.3; 0\*). Additionally, Chihuahuas from less-responsible breeders showed more fear of unfamiliar humans (median 1.5; 1.3\*), sensitivity to touch (median 1.8; 0.8\*), separation-related behaviors (median 0.9; 0.6\*), and chasing (median 2.1; 1.1\*). Pugs from less-responsible breeders (responsible breeder:  $n = 85$ ; less-responsible breeder:  $n = 40$ ) were reported to show more fear of dogs (median 1.0; 0.5), other fear (median 1.0; 0.5), aggression toward familiar dogs (median 0.8; 0.3), separation-related behaviors (median 1.4; 0.5\*), and excitability (2.3; 2.0\*). Jack Russell terriers from less-responsible breeders (responsible breeder:  $n = 150$ ; less-responsible breeder:  $n = 75$ ) were reported to show a decrease in trainability as calculated through the C-BARQ score for this behavioral category (median 2.1; 2.5\*—a higher score for this category is

better, whereas for all other C-BARQ scores, a lower score is better). All results were significant at the  $P < 0.05$  level, but only those marked \* remained statistically significant at the  $P < 0.05$  level after Holm’s sequential Bonferroni adjustment was applied. The significant differences and the pattern of the remaining data do suggest that dogs from less-responsible breeders have a poorer behavioral profile for a companion animal (higher aggression and fear), reflecting poorer welfare (fear and separation anxiety).

If puppies were aged less than 8 weeks when purchased, they showed an increased likelihood of later exhibiting aggression and separation-related behaviors. In addition, dogs from breeders who had more than 1 litter to offer exhibited more fear and aggression in adulthood. Further research about specific behaviors and trajectories for behavioral development is needed, preferably using standardized, objective testing (e.g., Tiira and Lohi, 2014).

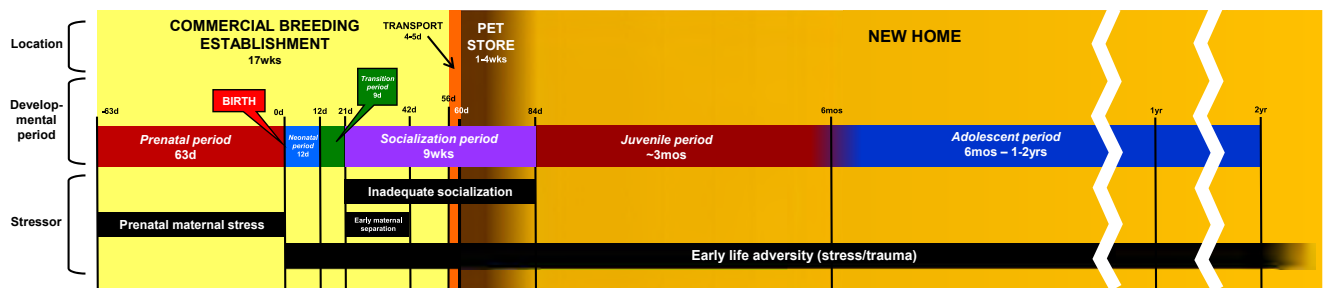
Finally, an anecdotally reported study presented in a book chapter described a sample of 1864 dogs exhibiting various behavioral problems found that 220 (approximately 12%) of the dogs displayed separation-related problems (Mugford, 1995). An analysis based on the source of the dog revealed that only 10% of purebred dogs obtained directly from breeders presented with separation-related problems, whereas “55% of purebred dogs originating from so-called ‘puppy farms’ or ‘puppy mills’” (p. 142) presented with such problems. It was not reported how it was determined that the dogs came from puppy farms or puppy mills.

## Potential causes

For a puppy sold from a pet store in the United States, the typical succession of events presumed to be involved in shaping its future behavior involves the following: (1) selection of sire and dam, which determines the genotype of the puppy; (2) development of the fetus *in utero*, which is affected by the experiences of the mother while living in the CBE (Braastad, 1998; Braastad et al., 1998; Beydoun & Saftlas, 2008); (3) life in the breeding facility from birth to (by law) a minimum age of 8 weeks (Federal Register, 2008), (4) removal of the puppy from the mother, littermates, and its home environment; (5) transport of puppy from breeding facility to broker/distributor, including handling such as veterinary examinations, vaccinations, dewormings, and grooming at the broker/distributor (Hunte Corporation, 2016) (in direct Internet sales, this and subsequent steps instead consist of shipment directly to the purchaser and new home); (6) transport from broker/distributor to pet store; (7) the pet store environment; (8) relocation to purchaser’s home; and (9) interactions with the home environment. During this series of events, the puppy is passing through 6 well-accepted periods of development: (1) the prenatal period (conception to birth); (2) the neonatal period (birth to 12 days); (3) the transition period (13–21 days); (4) the socialization period (3–12 weeks); and (5) the juvenile period (12 weeks to approx. 6 months); and (6) the adolescent period (approx. 6 months to 1–2 years) (Scott & Fuller, 1965, pp. 117–129) (Figure 2).

## Genetics

An animal’s adult behavioral phenotype is determined by the interaction between the individual’s genotype, experience, and developmental environment (Scott & Fuller, 1965, p. 293; Jacobs et al., 2004; Wilsson, 2016). Evidence supports a genetic component for psychobehavioral traits in dogs such as anxiety/fear, noise phobia, human aversion, obsessive-compulsive disorder, predatory behavior, and 2 types of aggression: impulse/control and conspecific (Murphree & Dykman, 1965; Overall & Dunham, 2002; Liinamo et al., 2007; Dodman et al., 2010; Pierantoni et al., 2011; Overall et al., 2016)—many of the behaviors demonstrated as



**Figure 2.** Chronology of developmental periods, living environment, and stressors in the United States. The age at which the puppies leave the breeding facility is often considerably earlier in other countries (and may also be earlier in the United States if there is not strict adherence to applicable law).

having a higher prevalence in CBE-produced dogs. Several literature reviews have been published, reporting ranges of heritability of behavioral traits in dogs varying from very low to very high; however, most reviews have found low or very low rates of heritability for most dog behaviors (Hall & Wynne, 2012; Overall et al., 2014; Hradecká et al., 2015). Genetics plays a role beyond the contribution to specific psychobehavioral characteristics, and there is compelling evidence from rodent and primate studies that the vulnerability for psychopathological outcomes from early-life trauma may be, at least in part, heritable. Studies in dogs (Foyer et al., 2013) and squirrel monkeys (Lyons et al., 1999) have demonstrated that the individual variability in coping and recovering from the aversive events has both a genetic and experiential component.

To the extent that genotype contributes to the development of adult behavioral phenotypes in dogs, the selection of dogs for breeding will influence such behavioral outcomes. It has been suggested by some authors that in high-volume CBEs, the pairing of sire and dam may occur with little regard for temperament (e.g., Lockwood, 1995; Bennett & Rohlf, 2007). A review of *The Kennel Spotlight*, the most widely read trade magazine for the high-volume commercial dog breeding industry, since 2007 revealed that no issue has included any information about selecting breeding pairs for temperament or behavioral traits or how to identify desirable temperament/behavioral traits in breeding dogs. The 1 pertinent article in this 10-year period—"Choosing Breeding Stock" by veterinarian Scott J. Gartner (2008)—discussed physical traits such as quality and length of hair coat, leg length, ear set, muscling, athleticism, and health (e.g., hernias, hip dysplasia, patella laxity, and heart murmurs) but did not mention of any traits related to temperament or behavior. That there is no valid, published industry standard for behavioral traits in puppies or breeding dogs is a concern.

#### Development and stress

Physical and psychological experiences can have a profound effect, both positive and negative, on the developing organism (Scott & Fuller, 1965, pp. 110–112). A voluminous literature across many species has established that stress during the formative periods of neural development, from the prenatal stage through adolescence (Sterlemann et al., 2008; Serpell & Duffy, 2016), has a major influence on the ontogeny of behavior and that these effects are enduring and often lifelong (Lupien et al., 2009) (Figure 2). Indeed, a recent study (McMillan et al., 2011) on the mental health of dogs formerly used as breeding stock in CBEs found severe and long-lasting adverse effects on the behavior of dogs living in this type of environment. Other studies have shown that dogs living in confinement in kennels (Beerda et al., 1999a; Beerda et al., 1999b; Stephen & Ledger, 2005; Taylor & Mills, 2007), in animal shelters (Tuber et al., 1999; Wells et al., 2002), and in laboratories (Hughes et al., 1989; Hubrecht, 1993) may also experience a variety of

stressors. These stressors include spatial restriction (Beerda et al., 1999a; Beerda et al., 1999b; Wells et al., 2002), extreme temperatures (Morgan & Tromborg, 2007), aversive interactions with kennel staff (Morgan & Tromborg, 2007), lack of perceived control or the capacity to avoid or regulate exposure to aversive stimuli (Tuber et al., 1999; Wells et al., 2002; Stephen & Ledger, 2005; Taylor & Mills, 2007), and limited opportunities for positive human and conspecific social interactions (Hughes et al., 1989; Hubrecht, 1993; Beerda et al., 1999a), all of which have been documented in the CBE environment (USDA, 2016). In the following sections, the effect of particular stressors during key periods of puppy development will be examined.

#### Prenatal experiences

Because of the sensitivity of the rapidly developing mammalian brain, physiological variations in the fetal environment caused by prenatal exposure to maternal stress—that is, stress experienced by a pregnant female—can have long-term consequences for psychological function which can manifest later in life in a wide range of pathological mental health and behavioral outcomes (Braastad, 1998; Huizink et al., 2004; Beydoun & Saftlas, 2008; Weinstock, 2008). These effects result largely from dysregulation of the HPA axis involving a decreased feedback inhibition of corticotropin-releasing hormone and prolonged elevation of plasma corticosteroids (Braastad, 1998; Weinstock, 2008).

Most research on the effects of prenatal experiences has been conducted in species other than canids. This work has demonstrated that maternal stress is associated with the following adverse effects among the offspring: impaired ability to cope with stress, maladaptive social behavior, increased fearfulness and emotionality, decreased exploratory behavior, impaired adaptation to conditions of conflict or aversion, latent inhibition (a model for schizophrenia and depression in human beings), and cognitive alterations including learning deficits and diminished attention span (Braastad, 1998; Huizink et al., 2004; Beydoun & Saftlas, 2008). Evidence of effects of prenatal stress in canid species is scarce. Braastad et al. (1998) studied the effects of prenatal maternal stress on the behavioral and hormonal development of offspring in blue foxes (*Alopex lagopus*). The stress treatment, conducted once daily during the last trimester of gestation (15 days), consisted of removing the pregnant female from her cage, holding her for 1 minute and then returning her to the cage. At 10 days of age, when compared to the young of unstressed mothers, the offspring of stressed mothers had elevated plasma levels of progesterone and cortisol as well as increased adrenal production of progesterone and cortisol, indicating enhanced HPA activity. When tested at 5 weeks of age in 3 tests for response to novelty, compared to control cubs, the prenatally stressed blue-fox cubs showed increased reactivity in all 3 tests: increased activity in an open field, more frequent reentry from a dark box into the open field, and more persistent activity when being held by a human (Braastad et al., 1998).



### Early-life experiences

Postnatal influences of environmental stimulation on later behavior begin in the first 12 days of life—the neonatal period. A certain amount of stress is desirable during this time. Mild stressors have positive effects on neural development and improve the animal's long-term ability to cope with stress (Parker et al., 2004). For example, in rats and squirrel monkeys, exposure to mild or moderate stress early in life can promote resilience to subsequent stressful episodes later in life (Lyons et al., 2010; Ashokan et al., 2016). In dogs, when newborn puppies were exposed to the stimulation of gentle handling and tested later, they were found to be more emotionally stable and exploratory than unstimulated control dogs (Gazzano et al., 2008a).

Despite the beneficial effects of mild stress during this period, there is a point at which stress becomes excessive and detrimental. Longitudinal research in humans shows that aversive and traumatic childhood experiences—or, early-life adversity (ELA)—impair mental and physical health into adulthood (Maccari et al., 2014; Nusslock & Miller, 2016). Studies in humans have identified ELA as a major risk factor for many serious adult mental health problems, such as unstable social relationships and anxiety and depressive mood disorders (Heim & Nemeroff, 2001; Breslau, 2002) as well as psychopathological outcomes, including post-traumatic stress disorder (PTSD), in response to a traumatic event later in life (Brewin et al., 2000; Koenen et al., 2002).

In nonhuman animals, accumulating evidence supports the thesis that ELA has extensive and enduring effects with strong correlations to the development of psychopathology later in life (Sanchez et al., 2001). In fact, the strongest evidence to date suggesting that stressful experiences in early life may cause permanent dysregulation of the HPA axis and multiple long-term behavioral abnormalities comes from animal studies (Ladd et al., 2000; Caldji et al., 2001). Several rodent and primate models of ELA, including those that model maternal separation or loss, abuse, neglect, and social deprivation, have demonstrated that early traumatic experiences are associated with long-term alterations in neuroendocrine responsiveness to stress, emotional and behavioral regulation, coping style, cognitive function, quality of social affiliations and relationships, and expression levels of CNS genes shown to be associated with anxiety and mood disorders (Sanchez et al., 2001; Cohen et al., 2006).

Animal studies focusing on the mechanisms of PTSD have further demonstrated how the long-term effects of ELA parallel those in humans. Rats exposed to trauma as juveniles were more vulnerable to adverse effects of fear conditioning (Cohen et al., 2007), showed decreased basal plasma corticosterone levels that paralleled effects observed in human PTSD patients (Diehl et al., 2007), and exhibited more severe PTSD-like behaviors when stressed in adulthood (Imanaka et al., 2006; Diehl et al., 2007).

Canine studies of the long-term effects of ELA are uncommon. Foyer et al. (2013) found that the environment and experiences during the first weeks of life has long-lasting effects on dogs' behavior in a stressful test situation encountered as adults. In their influential work on behavioral genetics in dogs, Scott and Fuller (1965, p. 118) wrote that the heightened sensitivity to positive environmental influences during the socialization period appears to be similarly sensitive to negative influences. These authors suggest that the sensitivity necessary to facilitate the formation of social relationships also seems to create a heightened vulnerability to permanent psychological trauma (Landsberg et al., 2013, p. 15). Subsequently, Fox and Stelzner (1966) were able to demonstrate a short period at approximately 8 weeks when puppies were hypersensitive to distressing psychological or physical stimuli, and during which a single unpleasant experience could produce long-term aversive or abnormal effects. They concluded that during

this brief period of puppyhood, dogs are particularly vulnerable to psychological trauma.

### Socialization period experiences

Following the neonatal and transition periods, the puppy enters what Scott and Fuller characterized as “the socialization period” (Scott & Fuller, 1965, pp. 89–108). This period—ranging from 3 weeks of age to around 12 weeks of age—is a time during which exposure to stimuli and social experiences has a proportionately greater effect on the formation of neural structures, temperament, and behavior than do events at other times in life (Freedman et al., 1961; Scott & Fuller, 1965, pp. 117–150; Overall, 2013, pp. 123–124; Serpell et al., 2016). During this “sensitive period,” healthy psychobehavioral development of puppies requires positive exposure to age-appropriate animate and inanimate stimuli, which prepares the dog for appropriate and flexible responses to those stimuli throughout life (Freedman et al., 1961; Scott & Fuller, 1965, pp. 101–108). Conversely, the consequences of inadequate exposure to varied stimuli include neophobic responses, hyperactivity, impaired social behavior and relationships, decreased exploratory behavior, and diminished learning ability (Melzack & Thompson, 1956; Melzack & Scott, 1957; Freedman et al., 1961; Scott & Fuller, 1965, pp. 101–108; Fuller & Clark, 1966; Fuller, 1967). Puppies with less than adequate early social experience are more likely to exhibit behavioral problems as adults, including aggression (Howell et al., 2015).

Some problem behaviors identified in dogs obtained from pet stores may be attributable to inadequate socialization during puppyhood (e.g., Jagoe, 1994; Mugford, 1995; Bennett & Rohlf, 2007; Serpell et al., 2016), possibly because some may keep dogs in an environment of social isolation during this critical period (O'Farrell, 1986, p. 105). In their study comparing the behaviors of dogs which were still owned by their breeder with behaviors of dogs which were acquired from a breeder and moved to a new home, Casey et al. (2014) found that the former group of dogs was 4.5 times less likely to show aggression to family members than the latter group. The authors suggested that this may be because the more closely the stimuli of the dogs' environment during socialization matched that in which they would live as adults, the more successfully the socialization experiences of these animals would prepare them for their adult environment. Considering that the stimuli in CBEs and pet stores are very dissimilar to that in the typical human home environment, the mismatch of stimuli encountered during the socialization period in these environments and those of adult life may be a major contributor to the behavioral differences observed in CBE-bred dogs. In addition to the broader neophobic responses seen in pet store–obtained dogs, more specific behaviors may also be traceable to inadequate stimulus exposure during the sensitive period. For example, the increased sensitivity to being touched (which includes being petted, picked up, held, and hugged) seen in dogs coming from pet stores (McMillan et al., 2013) and less-responsible breeders (Gray et al., 2016) might be caused by the puppy receiving too little of the normal physical contact with its mother and littermates as well as with humans. Just as for other stimuli to which the young animal is inadequately exposed, we could expect there to be an aversion to physical touch later in life.

The present review shows that aggression is the most prominent finding in studies involving dogs obtained from pet stores or directly from CBEs. In humans, van der Kolk et al. (2005) reported that trauma that is prolonged, that first occurs at an early age, and that is of an interpersonal nature, can have significant effects on psychological functioning later in life, including affect dysregulation and aggression against self and others. In addition, the younger the age of onset of the trauma, the more likely one is to exhibit these psychological and behavioral changes.

### Weaning and early maternal separation

Another critical period in behavioral development is weaning. In nature, weaning of mammalian young is usually a relatively slow process, involving the gradual development of independence of the young from the mother's milk supply and associated maternal care (Scott & Fuller, 1965, p. 101). This stands in contrast with the typical situation in commercial dog breeding, where there occurs an abrupt separation of puppies from their mothers at an age when the young are still suckling frequently and the bond is strong (Newberry & Swanson, 2008). As a stressor, early maternal separation appears to involve at least 3 different processes detrimental to the behavioral development of the young animal and resulting in atypical adult behavior: (1) separation, especially at an age before the natural age of weaning, is itself stressful/traumatic (Slabbert & Rasa, 1993; Panksepp, 1998, p. 166); (2) the stress induced by separation may impair the individual's ability to cope with additional stressors (Slabbert & Rasa, 1993), which is exacerbated when the puppy loses the stress buffering effects of not only its mother but also its littermates and home environment (Newberry & Swanson, 2008); and (3) early separation decreases exposure to stimuli and feedback necessary for the learning associated with the development of acceptable behavior (Overall, 2013, pp. 127–128).

Several studies in different noncanid species (mice, Kikusui et al., 2006; rodents, Kikusui et al., 2004, pigs, Yuan et al., 2004; adult rats, Janus, 1987; Shimozuru et al., 2007; Kikusui et al., 2007; Nakamura et al., 2008; Ito et al., 2006) have demonstrated long-term neurochemical, psychological, and behavioral consequences from early maternal separation, or weaning, where weaning is defined here as a complete severance of the bond between the mother and her offspring, which includes physical separation from the mother, the cessation of suckling, and the cessation of social protection by the mother (Kikusui & Mori, 2009).

Two studies have examined the effects of early maternal separation in dogs. Slabbert and Rosa (1993) compared the physical and psychological developmental effects of early (6 weeks) and late (12 weeks) separation from the mother in dogs, with emphasis on the measurements of temperament and socialization to humans. They found that maternal separation at 6 weeks of age resulted in more distress vocalizations as well as greater weight loss, illness, and mortality in the puppies, which persisted until the age of 6 months. The authors concluded that puppies benefit from prolonged (12 weeks) contact with their mothers and that the common practice among commercial dog breeders of “forced weaning” at a young age results in unacceptable levels of stress for the puppies, the effects of which last well beyond the time of maternal separation. Pierantoni et al. (2011) compared the frequency of behaviors in dogs separated from the litter for adoption at 30–40 days of age and those that had been separated at 60 days. Their findings showed that dogs removed from their litter at the earlier age had a significantly higher frequency of destructive behavior and toy and food possessiveness, were 15 times more likely to exhibit fearfulness on walks, 7 times more likely to show attention-seeking behavior and noise reactivity, and 6 times more likely to bark excessively than dogs that stayed with their mother and littermates until 60 days. Particularly germane to the present discussion, these results were more pronounced if the puppy was obtained from a pet store.

Early separation from the mother and littermates also appears to have consequences for behavior in the adult dog by limiting exposure to stimuli and feedback necessary for the learning associated with the development of acceptable behavior (Overall, 2013, pp. 127–128). When puppies remain with their mother and littermates during the socialization period, their behavioral development is shaped by the learning experiences of observing others' behavior as well as receiving others' feedback in response to their

own behaviors (De Meester et al., 2005; Pierantoni et al., 2011). For example, observing the behavior of the mother can passively teach puppies certain skills (Slabbert & Rasa, 1997). In addition, play fighting with their mother and littermates allows puppies to explore and learn the boundaries of acceptable behavior, including bite inhibition (Bekoff, 2001; Bekoff, 2004; De Meester et al., 2005). Much of this learning may be curtailed when puppies are separated from their mother and siblings early in the socialization period, resulting in abnormal behavioral development (De Meester et al., 2005).

The stress of maternal separation is potentially severe by itself but may be compounded when, as in the case of CBE puppies, offspring are abruptly separated from all other familiar stimuli which would otherwise act as a buffer against the stress of maternal separation, as well as against stressors encountered in the days following maternal separation (Newberry & Swanson, 2008). Although studies distinguishing the effects of separation from the mother and the effects of separation from littermates and/or the rearing environment are lacking in dogs, research in other species illustrates this phenomenon (piglets, Puppe et al., 1997; guinea pigs, Pettijohn, 1979; and lambs, Porter et al., 1995).

A final point to keep in mind is that maternal separation even at normal weaning age can affect behavior of the puppy. For example, in the study mentioned earlier by Fox and Stelzner (1966), it was found that traumatic events (e.g., electric shock) experienced by 8- to 9-week-old puppies in the absence of the mother causes long-lasting fear responses. Mogi et al. (2011) commented that these observations have led to the periweaning period of 6–8 weeks after birth now being considered as the peak of the “sensitive period” in dogs and that maternal separation of canine pups around this period may therefore increase the chances of developing behavioral problems in adulthood. This observation may have crucial implications for the common practice among commercial breeders of sending puppies away for sale at around 8 weeks of age.

Various guidelines, regulations, and laws govern the minimum age when puppies may be removed from their mothers to leave the breeding facility. In the United States, the Animal Welfare Act stipulates that puppies, except those sold to research facilities, may not be transported until they are at least 8 weeks of age and have been weaned (Federal Register, 2008). Adherence to these regulations is difficult to confirm, but evidence from other countries shows that puppies are often separated from their mother and littermates much earlier than 8 weeks of age. For example, an investigation by the Daily Mirror (United Kingdom) found that dogs as young as 5 weeks were being purchased from breeders in Hungary for shipment to the United Kingdom for sale (Sommerlad, 2015). De Meester et al. (2005) surveyed 48 Belgian dog breeders and found that the weaning age varied from between 4 and 12 weeks of age.

### Transport and store-related experience

Puppies born in CBEs face a succession of stressors—those in the CBE environment (as described previously) and then those inherent in the stepwise transition from the breeding facility to the ultimate owner's home (Gaultier et al., 2008, 2009). In particular, transport-related stress has been suggested to be an influential factor in the early lives of puppies from CBEs (Mugford, 1995; Bennett & Rohlf, 2007). Stressors within the pet store environment are further along the continuum of stressors experienced by dogs bred in CBEs. These stressors include multisensory (sight, sounds, smell) exposure to unfamiliar humans including the handling by store employees and prospective buyers, unfamiliar dogs, and animals of other species.

Gaultier et al. (2008, 2009) described how puppies in pet stores may have been subjected to a series of potentially traumatic events,

including repeated rehoming, and inadequate efforts may be made to ease the transition or to minimize any adverse effects (Plujmakers et al., 2006).

Although some dogs arriving in pet stores may be sold quickly and at a comparatively young age, others may be in residence for a more extended period during which stressors can continue to have an adverse, cumulative effect. Serpell and Duffy (2016) evaluated the behaviors of young adult guide dogs, as because of their very structured upbringing, these dogs have well-documented histories regarding stressors and other environmental factors, thus adding credibility to any associations identified between stressors and behavior. Results of their study showed that particular frightening or traumatic events during the puppy-raising period (2–14 months of age) were associated with differences in scores for a number of behaviors. Specifically, puppies that were reported as having been attacked or threatened by another (unfamiliar) dog, when compared to puppies not having this experience, scored significantly higher for fear of dogs and aggression toward unfamiliar humans at 12 months of age. When the trauma involved being frightened by a familiar or unfamiliar person, the dogs exhibited significantly higher levels of fear toward unfamiliar persons and were reported as being less trainable. The authors concluded that puppies and young dogs are sensitive to aversive experiences long after the ostensible end of the socialization period (i.e., 12 weeks) and that such encounters may have long-term negative consequences for behavior. This would also apply to a puppy's experience in the new home after sale.

Canine behavior experts as well as regulatory authorities in various countries either recommend or require that entities rehoming dogs make some attempt to educate owners and/or endeavor to help them select a dog that appears to be suited to their lifestyles (Troughton, 2015; American Kennel Club, 2016; Pirrone et al., 2016). This remains a highly subjective process with no clear standards. However, 2 studies have demonstrated the benefits of educating owners on canine care and behavior. Gazzano et al. (2008b) showed that dogs will exhibit fewer problematic behaviors if the owners receive advice for proper management of their new pet. Herron et al. (2007) found that simply providing a few minutes of preadoption counseling on housetraining improved the success of adoptions of dogs from shelters. To the extent that owner counseling and lifestyle matching is important for the future success of the adoption and well-being of the dog, owners who purchase a puppy from a pet store may be at a disadvantage with respect to understanding normal dog behavior and breed-specific needs, compared to owners who purchase a purebred dog from a noncommercial breeder. The latter is likely to be someone who has raised numerous dogs of that breed to adulthood, whereas an employee in a retail pet store is unlikely to have that degree of knowledge, experience, or the time for follow-up with new owners.

## Limitations

The studies forming the basis of this review had numerous limitations which must be taken into account. First, the data were mostly retrospective or cross-sectional in nature, and thus, the causality of any associations identified remains to be established. Most of the people responding were from various convenience samples of dog owners (e.g., Internet sites, veterinary clinics). Thus, the representativeness of the samples is difficult to ascertain. The sources of dogs were not consistent across all studies, and in some cases, the number of dogs from pet stores was small relative to the number of dogs from other sources. The number and type of behaviors evaluated, as well as the definition of those behaviors, also were not consistent across studies, and the behavioral outcomes

summarized relied primarily on owner reports of various behaviors or owner-provided scores on the C-BARQ.

Although the focus of this review was to explain how conditions in CBEs and pet stores could have a causal association with certain types of problematic behaviors in dogs, dogs' experiences in the new home after purchase could also contribute to the perceived frequency and/or severity of certain behavior problems. None of the studies was able to adequately assess or control for confounding due to factors such as owner commitment, or diverse differences in the home environment.

## Summary

Taken as a whole, the data from 7 published studies using surveys of dog owners suggest that dogs sold through pet stores and/or born in high-volume CBEs have an increased frequency of a variety of undesirable adulthood behaviors compared with dogs from other sources, particularly noncommercial breeders. The most common finding (6 of 7 reports, or 86%) was an increase in aggression directed toward the dog's owners and family members, unfamiliar people (strangers), and other dogs. The most consistent type of increased aggression found, as reported in 5 studies (Jagoe, 1994; McMillan et al., 2013; Casey et al., 2014; Gray et al., 2016; Pirrone et al., 2016), was aggression toward owners and family members. The other characteristic found in multiple studies was increased fear (Jagoe, 1994; Pierantoni et al., 2011; McMillan et al., 2013; Gray et al., 2016), which was in response to strangers, children, other dogs, nonsocial stimuli, and being taken on walks. Increased fear of other dogs was reported in 3 of 4 (75%) studies finding increased levels of fear (Jagoe, 1994; McMillan et al., 2013; Gray et al., 2016). Behaviors related to separation and/or attention seeking were reported increased in 3 studies (Pierantoni et al., 2011; McMillan et al., 2013; Gray et al., 2016) and 1 anecdotal report (Mugford, 1995). Heightened sensitivity to touch was reported in 2 studies (McMillan et al., 2013; Gray et al., 2016). Only 1 study examined behaviors based on breed (Gray et al., 2016), and results for those 3 breeds (Chihuahua, pug, Jack Russell terrier) suggested that substantial variation in behaviors among breeds may exist, at least for dogs originating from less responsible breeding operations.

It is important to emphasize that all of the findings thus far reported are correlational in nature, not permitting a determination of causation. Furthermore, because of how dogs sold through pet stores and/or born in CBEs are bred, housed, weaned, transported, handled, and homed, the number of potential causes for the observed behavioral outcomes is large. However, based on even a few of the known stressors inherent in commercial dog breeding practices (e.g., prenatal maternal stress, ELA, and poor socialization), a plausible argument consistent with known behavior theory can be made to explain why dogs raised in these environments may have an increased frequency of certain behavior problems.

Despite the fact that pinpointing specific causes is not possible due to the high number of stress-related factors potentially contributing to behavioral development, it is clear that one crucial corrective measure is for stressors to be substantially reduced at all stages of the puppy's development. Reduction of stressors that contribute to long-lasting behavioral and emotional distress should begin at the prenatal stage and extend throughout adolescence. Measures to reduce such stress include provisioning of housing conducive to a good quality of life for the adult breeding dogs as well as the puppies, and gradual weaning of the puppies. A high-quality social and stimulus exposure program should be instituted for puppies beginning no later than 3 weeks of age and continue through the end of the socialization period—during which the puppy will pass through the hands of the breeder, the pet store staff, and the new owner—at 12–16 weeks. To reduce maternal



contributions to problematic behavioral development, dams should also be exposed to such programs. High-quality, life-stage nutrition will facilitate the contribution of these measures to neuro-development. These measures are essential to avoid the development of problem behaviors in adult dogs.

## Acknowledgments

The author thanks Dr. James A. Serpell and Dr. Gary Patronek for their helpful criticism of the article. Funding for this work came from a general fund provided by a private donor who played no role in the choice of topic, the preparation of the article, or the decision to submit the article for publication.

## Ethical considerations

No approval was required for this work.

## Conflict of interest

The author declares that no conflict of interest exists in which the author or author's organization has a financial, personal, or other relationship with other people or organizations that could inappropriately influence, or be perceived to influence, the author's work.

## References

- American Kennel Club, 2016. Responsible breeding. Available at: <http://www.akc.org/dog-breeder/responsible-breeding/#wean>. Accessed August 14, 2016.
- Ashokan, A., Sivasubramanian, M., Mitra, R., 2016. Seeding stress resilience through inoculation. *Neural Plast.* 2016, 4928081.
- Beerda, B., Schilder, M.B., Bernadina, W., van Hooff, J.A., de Vries, H.W., Mol, J.A., 1999. Chronic stress in dogs subjected to social and spatial restriction. II. Hormonal and immunological response. *Physiol. Behav.* 66, 243–254.
- Beerda, B., Schilder, M.B., van Hooff, J.A., de Vries, H.W., Mol, J.A., 1999. Chronic stress in dogs subjected to social and spatial restriction. I. Behavioral responses. *Physiol. Behav.* 66, 233–242.
- Bekoff, M., 2001. Social play behavior: cooperation, fairness, trust, and the evolution of morality. *J. Conscious. Stud.* 8, 81–90.
- Bekoff, M., 2004. Wild justice and fair play: cooperation, forgiveness, and morality in animals. *Biol. Philos.* 19, 489–520.
- Bennett, P.C., Rohlf, V.I., 2007. Owner-companion dog interactions: relationships between demographic variables, potentially problematic behaviours, training engagement and shared activities. *Appl. Anim. Behav. Sci.* 102, 65–84.
- Beydoun, H., Saftlas, A.F., 2008. Physical and mental health outcomes of prenatal maternal stress in human and animal studies: a review of recent evidence. *Paediatr. Perinat. Epidemiol.* 22, 438–466.
- Braastad, B.O., 1998. Effects of prenatal stress on behaviour of offspring of laboratory and farmed mammals. *Appl. Anim. Behav. Sci.* 61, 159–180.
- Braastad, B.O., Osadchuk, L.V., Lund, G., Bakken, M., 1998. Effects of prenatal handling stress on adrenal weight and function and behaviour in novel situations in blue fox cubs (*Alopex lagopus*). *Appl. Anim. Behav. Sci.* 57, 157–169.
- Breslau, N., 2002. Psychiatric morbidity in adult survivors of childhood trauma. *Semin. Clin. Neuropsychiatry* 7, 80–88.
- Brewin, C.R., Andrews, B., Valentine, J.D., 2000. Meta-analysis of risk factors for posttraumatic stress disorder in trauma-exposed adults. *J. Consult. Clin. Psychol.* 68, 748–766.
- Caldji, C., Liu, D., Sharma, S., Diorio, J., Francis, D., Meaney, M.J., Plotsky, P.M., 2001. Development of individual differences in behavioral and endocrine responses to stress: role of the postnatal environment. In: McEwen, B.S. (Ed.), *Handbook of Physiology: Coping With the Environment*. Oxford University Press, New York, pp. 271–292.
- Casey, R.A., Loftus, B., Bolster, C., Richards, G.J., Blackwell, E.J., 2014. Human directed aggression in domestic dogs (*Canis familiaris*): occurrence in different contexts and risk factors. *Appl. Anim. Behav. Sci.* 152, 52–63.
- Cohen, H., Kaplan, Z., Matar, M.A., Loewenthal, U., Zohar, J., Richter-Levin, G., 2007. Long-lasting behavioral effects of juvenile trauma in an animal model of PTSD associated with a failure of the autonomic nervous system to recover. *Eur. Neuropsychopharmacol.* 17, 464–477.
- Cohen, H., Matar, M.A., Richter-Levin, G., Zohar, J., 2006. The contribution of an animal model toward uncovering biological risk factors for PTSD. *Ann. N.Y. Acad. Sci.* 1071, 335–350.
- De Meester, R., Mons, C., Van Bree, H., Coopman, F., 2005. Critical evaluation of the environment in Belgian dog breeding kennels during the puppies' socialization period. *Vlaams Diergeneesk. Tijdschr.* 74, 364–374.
- Diehl, L.A., Silveira, P.F., Leite, M.C., Crema, L.M., Portella, A.K., Billodre, M.N., Nunes, E., Henriques, T.P., Fidelix-da-Silva, L.B., Heis, M.D., Goncalves, C.A., Quillfeldt, J.A., Dalmaz, C., 2007. Long lasting sex-specific effects upon behavior and S100b levels after maternal separation and exposure to a model of post-traumatic stress disorder in rats. *Brain Res.* 1144, 107–116.
- Dodman, N.H., Karlsson, E.K., Moon-Fanelli, A., Galdzicka, M., Perloski, M., Shuster, L., Lindblad-Toh, K., Ginns, E.I., 2010. A canine chromosome 7 locus confers compulsive disorder susceptibility. *Mol. Psychiatry* 15, 8–10.
- Federal Register, 2008. Minimum Age Requirements for the Transport of Animals. Available at: <https://www.federalregister.gov/documents/2008/05/09/E8-10400/minimum-age-requirements-for-the-transport-of-animals>. Accessed January 17, 2017.
- Ferrari, A., Antonoli, M., 2016. Animali come oggetti: allevamento e vendita (Animals as objects: breeding and sale). Available at: [www.oipa.org/italia/fotografie/2013/dossier.pdf](http://www.oipa.org/italia/fotografie/2013/dossier.pdf). Accessed August 15, 2016.
- FOUR PAWS International, 2016. Puppy trade in EUROPE research on the impact of illegal businesses on the market, on consumers, on the one-health concept and on animal welfare. Available at: [www.vier-poten.eu/files/EPO/Materials\\_conf/Puppy\\_Trade\\_in\\_Europe/REPORT\\_EUROPEAN\\_PUPPY\\_TRADE.pdf](http://www.vier-poten.eu/files/EPO/Materials_conf/Puppy_Trade_in_Europe/REPORT_EUROPEAN_PUPPY_TRADE.pdf). Accessed August 15, 2016.
- Fox, M.W., Stelzner, D., 1966. Approach/withdrawal variables in the development of social behaviour in the dog. *Anim. Behav.* 13, 362–366.
- Foyer, P., Wilsson, E., Wright, D., Jensen, P., 2013. Early experiences modulate stress coping in a population of German shepherd dogs. *Appl. Anim. Behav. Sci.* 146, 79–87.
- Freedman, D.G., King, J.A., Elliot, O., 1961. Critical period in the social development of dogs. *Science* 133, 1016–1017.
- Fuller, J.L., 1967. Experiential deprivation and later behavior. *Science* 158, 1645–1652.
- Fuller, J.L., Clark, L.D., 1966. Effects of rearing with specific stimuli upon postisolation behavior in dogs. *J. Comp. Physiol. Psychol.* 61, 258–263.
- Gartner, S.J., 2008. Choosing breeding stock. The Kennel Spotlight. Available at: [http://www.kennelspotlight.com/Choosing\\_Breed\\_Stock\\_2\\_Gartner\\_04\\_08.pdf](http://www.kennelspotlight.com/Choosing_Breed_Stock_2_Gartner_04_08.pdf). Accessed July 29, 2016.
- Gaultier, E., Bonnafous, L., Vienet-Legue, D., Falewee, C., Bougrat, L., Lafont-Lecuelle, C., Pageat, P., 2008. Efficacy of dog-appeasing pheromone in reducing stress associated with social isolation in newly adopted puppies. *Vet. Rec.* 163, 73–80.
- Gaultier, E., Bonnafous, L., Vienet-Lagué, D., Falewee, C., Bougrat, L., Lafont-Lecuelle, C., Pageat, P., 2009. Efficacy of dog-appeasing pheromone in reducing behaviours associated with fear of unfamiliar people and new surroundings in newly adopted puppies. *Vet. Rec.* 164, 708–714.
- Gazzano, A., Mariti, C., Alvares, S., Cozzi, A., Tognetti, R., Sighieri, C., 2008. The prevention of undesirable behaviors in dogs: effectiveness of veterinary behaviorists' advice given to puppy owners. *J. Vet. Behav.: Clin. Appl. Res.* 3, 125–133.
- Gazzano, A., Mariti, C., Notari, L., Sighieri, C., McBride, E.A., 2008. Effects of early gentling and early environment on emotional development of puppies. *Appl. Anim. Behav. Sci.* 110, 294–304.
- Gray, R., Butler, S., Douglas, C., Serpell, J., 2016. Puppies from "puppy farms" show more temperament and behavioural problems than if acquired from other sources. In: UFAW Animal Welfare Conference York, UK, June 23. (Poster).
- Hall, N.J., Wynne, C.D.L., 2012. The canid genome: behavioral geneticists' best friend? *Genes Brain Behav.* 11, 889–902.
- Heim, C., Nemeroff, B.B., 2001. The role of childhood trauma in the neurobiology of mood and anxiety disorders: preclinical and clinical studies. *Biol. Psychiatry* 49, 1023–1039.
- Herron, M.E., Lord, L.K., Hill, L.N., Reisner, I.R., 2007. Effects of preadoption counseling for owners on house-training success among dogs acquired from shelters. *J. Am. Vet. Med. Assoc.* 231, 558–562.
- Howell, T.J., King, T., Bennett, P.C., 2015. Puppy parties and beyond: the role of early age socialization practices on adult dog behavior. *Vet. Med. Res. Rep.* 6, 143–153.
- Hradecká, L., Bartos, L., Svobodová, I., Sales, J., 2015. Heritability of behavioural traits in domestic dogs: a meta-analysis. *Appl. Anim. Behav. Sci.* 170, 1–13.
- Hsu, Y., Serpell, J.A., 2003. Development and validation of a questionnaire for measuring behavior and temperament traits in pet dogs. *J. Am. Vet. Med. Assoc.* 223, 1293–1300.
- Hubrecht, R.C., 1993. A comparison of social and environmental enrichment methods for laboratory housed dogs. *Appl. Anim. Behav. Sci.* 37, 345–361.
- Hughes, H.C., Campbell, S., Kenney, C., 1989. The effects of cage size and pair housing on exercise of Beagle dogs. *Lab. Anim. Sci.* 39, 302–305.
- Huizink, A.C., Mulder, E.J., Buitelaar, J.K., 2004. Prenatal stress and risk for psychopathology: specific effects or induction of general susceptibility? *Psychol. Bull.* 130, 115–142.
- Hunte Corporation, 2016. Questions and Answers. Available at: <http://www.huntecorp.com/>; Accessed August 15, 2016.
- Imanaka, A., Morinobu, S., Toki, S., Yamawaki, S., 2006. Importance of early environment in the development of post-traumatic stress disorder-like behaviors. *Behav. Brain Res.* 173, 129–137.
- Ito, A., Kikusui, T., Takeuchi, Y., Mori, Y., 2006. Effects of early weaning on anxiety and autonomic responses to stress in rats. *Behav. Brain Res.* 171, 87–93.
- Jacobs, N., Myin-Germeys, I., Derom, C., van Os, J., 2004. A new paradigm in behaviour genetics: genotype-environment interaction in the flow of daily life. *Eur. Psychiatry* 19, 41.

- Jagoe, J.A., 1994. Behaviour Problems in the Domestic Dog: A Retrospective and Prospective Study to Identify Factors Influencing Their Development. Unpublished Ph.D. thesis. University of Cambridge, Cambridge, UK.
- Janus, K., 1987. Early separation of young rats from the mother and the development of play fighting. *Physiol. Behav.* 39, 471–476.
- Kikusui, T., Kiyokawa, Y., Mori, Y., 2007. Deprivation of mother-pup interaction by early weaning alters myelin formation in male, but not female, ICR mice. *Brain Res.* 1133, 115–122.
- Kikusui, T., Mori, Y., 2009. Behavioural and neurochemical consequences of early weaning in rodents. *J. Neuroendocr.* 21, 427–431.
- Kikusui, T., Nakamura, K., Kakuma, Y., Yuji, M., 2006. Early weaning augments neuroendocrine stress responses in mice. *Behav. Brain Res.* 175, 96–103.
- Kikusui, T., Takeuchi, Y., Mori, Y., 2004. Early weaning induces anxiety and aggression in adult mice. *Physiol. Behav.* 81, 37–42.
- Koenen, K.C., Harley, R., Lyons, M.J., Wolfe, J., Simpson, J.C., Goldberg, J., Eisen, S.A., Tsuang, M., 2002. A twin registry study of familial and individual risk factors for trauma exposure and posttraumatic stress disorder. *J. Nerv. Ment. Dis.* 190, 209–218.
- Ladd, C.O., Huot, R.L., Thirivikraman, K.V., Nemeroff, C.B., Meaney, M.J., Plotsky, P.M., 2000. Long-term behavioral and neuroendocrine adaptations to adverse early experience. In: Mayer, E.A., Saper, C.B. (Eds.), *Progress in Brain Research: The Biological Basis for Mind Body Interactions*. Elsevier, Amsterdam, pp. 81–103.
- Landsberg, G., Hunthausen, W., Ackerman, L., 2013. *Behavior Problems of the Dog and Cat*, 3rd edition. Saunders, Edinburgh, UK, p. 15.
- Liinamo, A.E., van den Berg, L., Leegwater, P.A.J., Schilder, M.B.H., van Arendonk, J.A.M., van Oost, B.A., 2007. Genetic variation in aggression-related traits in Golden Retriever dogs. *Appl. Anim. Behav. Sci.* 104, 95–106.
- Lockwood, R., 1995. The ethology and epidemiology of canine aggression. In: Serpell, J. (Ed.), *The Domestic Dog: Its Evolution, Behaviour and Interactions With People*. Cambridge University Press, Cambridge, UK, pp. 131–138.
- Lupien, S.J., McEwen, B.S., Gunnar, M.R., Heim, C., 2009. Effects of stress throughout the lifespan on the brain, behaviour and cognition. *Nat. Rev. Neurosci.* 10, 434–445.
- Lyons, D.M., Parker, K.J., Schatzberg, A.F., 2010. Animal models for early life stress: implications for understanding resilience. *Dev. Psychobiol.* 52, 616–624.
- Lyons, D.M., Wang, O.J., Lindley, S.E., Levine, S., Kalin, N.H., Schatzberg, A.F., 1999. Separation induced changes in squirrel monkey hypothalamic-pituitary-adrenal physiology resemble aspects of hypercortisol in humans. *Psychoneuroendocrinology* 24, 131–142.
- Maccari, S., Krugers, H.J., Morley-Fletcher, S., Szyf, M., Brunton, P.J., 2014. The consequences of early-life adversity: neurobiological, behavioural and epigenetic adaptations. *J. Neuroendocrinol.* 26, 707–723.
- McMillan, F.D., Duffy, D.L., Serpell, J.A., 2011. Mental health of dogs formerly used as 'breeding stock' in commercial breeding establishments. *Appl. Anim. Behav. Sci.* 135, 86–94.
- McMillan, F.D., Serpell, J.A., Duffy, D.L., Masaoud, E., Dohoo, I.R., 2013. Differences in behavioral characteristics between dogs obtained as puppies from pet stores and those obtained from noncommercial breeders. *J. Am. Vet. Med. Assoc.* 242, 1359–1363.
- Melzack, R., Scott, T.H., 1957. The effects of early experience on the response to pain. *J. Comp. Physiol. Psychol.* 50, 155–161.
- Melzack, R., Thompson, W.R., 1956. Effects of early experience on social behavior. *Can. J. Psychol.* 10, 82–92.
- Mogi, K., Nagasawa, M., Kikusui, T., 2011. Developmental consequences and biological significance of mother-infant bonding. *Prog. Neuropsychopharmacol. Biol. Psychiatry* 35, 1232–1241.
- Morgan, K.N., Tromborg, C.T., 2007. Sources of stress in captivity. *Appl. Anim. Behav. Sci.* 102, 262–302.
- Mugford, R.A., 1995. Canine behavioural therapy. In: Serpell, J. (Ed.), *The Domestic Dog: Its Evolution, Behaviour and Interactions with People*. Cambridge University Press, Cambridge, UK, pp. 139–152.
- Murphree, O.D., Dykman, R.A., 1965. Litter patterns in the offspring of nervous and stable dogs I: behavioral tests. *J. Nerv. Ment. Dis.* 141, 321–332.
- Nakamura, K., Kikusui, T., Takeuchi, Y., Mori, Y., 2008. Changes in social instigation- and food restriction-induced aggressive behaviors and hippocampal 5HT1B mRNA receptor expression in male mice from early weaning. *Behav. Brain Res.* 187, 442–448.
- Newberry, R.C., Swanson, J.C., 2008. Implications of breaking mother–young social bonds. *Appl. Anim. Behav. Sci.* 110, 3–23.
- Nusslock, R., Miller, G.E., 2016. Early-life adversity and physical and emotional health across the lifespan: A neuroimmune network hypothesis. *Biol. Psychiatry* 80, 23–32.
- O'Farrell, V., 1986. *Manual of Canine Behaviour*. BSAVA Publications, Gloucester, UK, p. 105.
- Overall, K.L., 2013. *Manual of Clinical Behavioral Medicine for Dogs and Cats*. Elsevier Mosby, St. Louis, pp. 123–124, 127–128.
- Overall, K.L., Dunham, A.E., 2002. Clinical features and outcome in dogs and cats with obsessive-compulsive disorder: 126 cases (1989–2000). *J. Am. Vet. Med. Assoc.* 221, 1445–1452.
- Overall, K.L., Dunham, A.E., Juarbe-Diaz, S.V., 2016. Phenotypic determination of noise reactivity in 3 breeds of working dogs: a cautionary tale of age, breed, behavioral assessment, and genetics. *J. Vet. Behav.: Clin. Appl. Res.* 16, 113–125.
- Overall, K.L., Tiira, K., Broach, D., Bryant, D., 2014. Genetics and behavior: a guide for practitioners. *Vet. Clin. North Am. Small Anim. Pract.* 44 (3), 483–505.
- Panksepp, J., 1998. *Affective Neuroscience: The Foundations of Human and Animal Emotions*. Oxford University Press, New York, p. 166.
- Parker, K.J., Buckmaster, C.L., Schatzberg, A.F., Lyons, D.M., 2004. Prospective investigation of stress inoculation in young monkeys. *Arch. Gen. Psychiatry* 61, 933–941.
- Pettijohn, T.F., 1979. Attachment and separation distress in the infant guinea pig. *Dev. Psychobiol.* 12, 73–81.
- Pierantoni, L., Albertini, M., Pirrone, F., 2011. Prevalence of owner-reported behaviours in dogs separated from the litter at two different ages. *Vet. Rec.* 169, 468–473.
- Pirrone, F., Pierantoni, L., Pastorino, G.Q., Albertini, M., 2016. Owner-reported aggressive behavior towards familiar people may be a more prominent occurrence in pet shop-traded dogs. *J. Vet. Behav.: Clin. Appl. Res.* 11, 13–17.
- Plujmakers, J., Appleby, D., Bradshaw, W.S., 2006. The influence of early experiences on the development of separation problems related to anxiety and fear in dogs. In: Heath, S., DeKeuster, T. (Eds.), *Proceedings of the 12th European Congress on Companion Animal Behavioural Medicine*. Ghent, September 21–24, pp. 82–85.
- Porter, R.H., Nowak, R., Orgeur, P., 1995. Influence of a conspecific agemate on distress bleating by lambs. *Appl. Anim. Behav. Sci.* 45, 239–244.
- Puppe, B., Tuchscherer, M., Tuchscherer, A., 1997. The effect of housing conditions and social environment immediately after weaning on the agonistic behaviour, neutrophil/lymphocyte ratio, and plasma glucose level in pigs. *Livest. Prod. Sci.* 48, 157–164.
- Sanchez, M.M., Ladd, C.O., Plotsky, P.M., 2001. Early adverse experience as a developmental risk factor for later psychopathology: Evidence from rodent and primate models. *Dev. Psychopathol.* 13, 419–449.
- Scott, J.P., Fuller, J.L., 1965. *Genetics and the Social Behavior of the Dog*. University of Chicago Press, Chicago, pp. 89–108, 110–112, 117–150, 293.
- Serpell, J.A., Duffy, D.L., 2016. Aspects of juvenile and adolescent environment predict aggression and fear in 12-month-old guide dogs. *Front. Vet. Sci.* 3 (49), 1–8.
- Serpell, J.A., Duffy, D.L., Jagoe, J.A., 2016. Becoming a dog: early experience and the development of behavior. In: Serpell, J.A. (Ed.), *The Domestic Dog*. Cambridge University Press, Cambridge, pp. 93–117.
- Shimozuru, M., Kodama, Y., Iwasa, T., Kikusui, T., Takeuchi, Y., Mori, Y., 2007. Early weaning decreases play-fighting behavior during the postweaning developmental period of Wistar rats. *Dev. Psychobiol.* 9, 343–350.
- Slabbert, J.M., Rasa, O.A., 1993. The effect of early separation from the mother on pups in bonding to humans and pup health. *J. S. Afr. Vet. Assoc.* 64, 4–8.
- Slabbert, J.M., Rasa, O., 1997. Observational learning of an acquired maternal behaviour pattern by working dogs: An alternative training method? *Appl. Anim. Behav. Sci.* 53, 438–481.
- Sommerlad, N., 2015. *Agony of the Designer Puppies: Cruel Trade in Animals Snatched From Mothers Too Early Exposed*. Mirror (UK), Aug 10. Available at: <http://www.mirror.co.uk/news/world-news/agonies-designer-puppies-cruel-trade-6225293>. Accessed August 1, 2016.
- Stephen, J.M., Ledger, R.A., 2005. An audit of behavioral indicators of poor welfare in kennelled dogs in the United Kingdom. *J. Appl. Anim. Welf. Sci.* 8, 79–96.
- Sterlemann, V., Ganea, K., Liebl, C., Harbich, D., Alam, S., Holsboer, F., Müller, M.B., Schmidt, M.V., 2008. Long-term behavioral and neuroendocrine alterations following chronic social stress in mice: implications for stress-related disorders. *Horm. Behav.* 53, 386–394.
- Taylor, K.D., Mills, D.S., 2007. The effect of the kennel environment on canine welfare: a critical review of experimental studies. *Anim. Welf.* 16, 435–447.
- Tiira, K., Lohi, H., 2014. Reliability and validity of a questionnaire survey in canine anxiety research. *Appl. Anim. Behav. Sci.* 155, 82–92.
- Troughton, B., 2015. The adoption process: the interface with the human animal. In: Weiss, E., Mohan-Gibbons, H., Zawistowski, S. (Eds.), *Animal Behavior for Shelter Veterinarians and Staff*. Iowa, Wiley Blackwell, Ames, pp. 269–285.
- Tuber, D.S., Miller, D.D., Caris, K.A., Halter, R., Linden, F., Hennessy, M.B., 1999. Dogs in animal shelters: problems, suggestions, and needed expertise. *Psychol. Sci.* 10, 379–386.
- USDA, 2004. *Inspection Reports 2001–2004*. Available at: <http://www.prisonsersof-greed.org/USDA.html>. Accessed August 17, 2016.
- USDA, 2016. *Animal Welfare Reports and Electronic freedom of Information Frequent Requests*. Available at: [https://www.aphis.usda.gov/animal\\_welfare/efoia/](https://www.aphis.usda.gov/animal_welfare/efoia/). Accessed August 15, 2016.
- USDA, Office of Inspector General, 2010. *Animal and Plant Health Inspection, Service Animal Care Program, Inspections of Problematic Dealers. Audit Report 33002-4-SF*. Available at: <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>. Accessed August 15, 2016.
- van der Kolk, B.A., Roth, S., Pelcovitz, D., Sunday, S., Spinazzola, J., 2005. Disorders of extreme stress: the empirical foundation of a complex adaptation to trauma. *J. Trauma. Stress* 18, 389–399.
- Weinstock, M., 2008. The long-term behavioural consequences of prenatal stress. *Neurosci. Biobehav. Rev.* 32, 1073–1086.
- Wells, D.L., Graham, L., Hepper, P.G., 2002. The influence of length of time in a rescue shelter on the behaviour of kennelled dogs. *Anim. Welf.* 11, 317–325.
- Wilsson, E., 2016. Nature and nurture—how different conditions affect the behavior of dogs. *J. Vet. Behav.: Clin. Appl. Res.* 16, 45–52.
- Yuan, Y., Jansen, J., Charles, D., Zanella, A.J., 2004. The influence of weaning age on post-mixing agonistic interactions in growing pigs. *Appl. Anim. Behav. Sci.* 88, 39–46.

ORDINANCE NO. 2023- \_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, PROHIBITING THE SELLING OR DISPOSING OF DOGS OR CATS OTHER THAN THOSE OBTAINED FROM AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY, OR NONPROFIT ANIMAL RESCUE ORGANIZATION.

WHEREAS, most puppies and kittens sold in pet stores come from large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded to maximize profits ("puppy mills" and "kitten mills," respectively); and

WHEREAS, according to The Humane Society of the United States, an estimated 10,000 puppy mills produce more than 2 million puppies per year in the United States; and

WHEREAS, the documented abuses endemic to puppy and kitten mills includes over-breeding; inbreeding; minimal veterinary care; lack of adequate food, water, and shelter; lack of socialization, exercise, and enrichment; lack of sanitation; and

WHEREAS, pet stores often mislead consumers as to where the puppies and kittens in the stores came from and make false health and behavior guarantees; thus, many consumers end up paying hundreds or thousands of dollars in veterinary bills and suffer the heartbreak of having their new pet suffer, and in some cases pass away; and

WHEREAS, according to the U.S. Centers for Disease Control and Prevention, pet store puppies pose a health risk to consumers, as over one hundred Americans have contracted an antibiotic-resistant *Campylobacter* infection from contact with pet store puppies; and

WHEREAS, current federal and state regulations do not adequately address the animal welfare and consumer protection problems the sale of puppy and kitten mill dogs and cats in pet stores pose; and

WHEREAS, most pet stores, both large chains and small, family-owned shops, are already in compliance with the proposed Ordinance as they already do not sell dogs and cats but rather profit from selling products, offering services, and in some cases, collaborating with local animal shelters and rescues to host adoption events; and

WHEREAS, this Ordinance will not affect a consumer's ability to obtain a dog or cat of their choice from an animal rescue, shelter, or breeder who sells directly to the public; and

WHEREAS, it is in the best interest of the City of Aurora to adopt reasonable regulations to reduce costs to the City of Aurora and its residents, protect citizens who may purchase cats or dogs from a pet store, help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in the City of Aurora.

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

Section 1. That Article IV of Chapter 26 of the City Code of the City of Aurora, Colorado, is hereby added and shall read as follows:

**Article IV. Pet Shops**

Section 2. That the City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 26-151, which shall read as follows:

**Sec. 26-151. Definitions.**

**The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

***Animal care facility* means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.**

***Animal rescue organization* means any not-for-profit organization licensed pursuant to the Colorado Pet Animal Care Facilities Act, C.R.S. § 35-80-101, et seq., and which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes and holds all local and state licenses. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.**

***Pet shop* means a retail establishment where animals are sold, exchanged, bartered, or offered for sale as pets to the public at retail, but excluding an animal care facility or animal rescue organization.**

Section 3. That the City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 26-152, which shall read as follows:

**Sec. 26-152. Restrictions on the Sale of Animals.**

- (a) It shall be unlawful for a pet shop to display, sell, deliver, offer for sale, barter, auction, give away, broker, or otherwise transfer or dispose of a dog or cat, except for a dog or cat obtained from an animal care facility or animal rescue organization.**

- (b) A pet shop that offers space for the adoption of dogs or cats shall post, in a conspicuous location, a sign listing the name of the animal care facility or animal rescue organization from which the pet shop acquired each dog or cat.
- (c) All pet shops shall maintain records, for a period of one (1) year from the date of acquisition, listing the source of all dogs or cats under their ownership, custody, or control. Records shall be immediately available, upon request, to law enforcement, animal protection officers, and any other City employees charged with enforcing the provisions of this section.
- (d) It shall be unlawful for a pet shop to offer any of the following for sale, barter, auction, or adoption: a sick or injured animal; an animal that is so young or weak that its transfer would be injurious to the animal; or an animal that has been inhumanely bred or raised.
- (e) This section does not apply to a person or establishment, other than a pet shop, which displays, sells, delivers, offers for sale, barters, auctions, gives away, brokers, or otherwise transfers or disposes of only dogs or cats that were bred and reared on the premises of the person or establishment.

Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 5. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

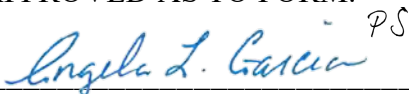
PASSED AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ANGELA L. GARCIA, Senior Assistant City Attorney



# CITY OF AURORA

## Council Agenda Item Continuation Page

<b>Item Title:</b> Continuation Page – Economic Development Resolution 2023
<b>Item Initiator:</b> Mike Coffman, Mayor
<b>Staff Source:</b> None
<b>Legal Source:</b> Rachel Allen, Client Group Manager
<b>Outside Speaker:</b> None
<b>Date of Change:</b> 8/14/2023

### COUNCIL MEETING DATES:

**Study Session:** 8/7/2023

**Regular Meeting:** 8/28/2023

---

### ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

Two potential amendments to the Resolution are attached.

## **RESOLUTION PERTAINING TO ECONOMIC DEVELOPMENT PLAN**

### **Amendments**

I move to amend the proposed Resolution to add Section 2 to read:

Section 2. As a first step to developing an Economic Development Plan and any study associated with such plan, an assessment shall be made of the current activities from our existing economic development partners, including but not limited to the Aurora Economic Development Council (AEDC), Small Business Development Center (SBDC), the Chamber of Commerce, Visit Aurora, and the Fitzsimmons Innovation Community (FIC), of all that they are doing and any suggestions that they may have for the Plan.

I move to amend the Proposed resolution to add Section 3 to read:

Section 3. An Economic Development Plan shall be developed after conducting a study on planning for economic development in the City; creating synergies within various public and private organizations in the City and the State to attract and retain quality businesses and reviewing the incentives available to make sure Aurora can successfully compete; deregulating processes to reduce barriers and timeframes for good development; partnering with and networking our business community to expediently problem solve; and, always and most importantly, reaching locally and globally for the next best opportunity that will elevate the City of Aurora's position in the world and create primary jobs for our community.





# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Resolution for Economic Development Plan 2023
<b>Item Initiator:</b> Mike Coffman, Mayor
<b>Staff Source/Legal Source:</b> Rachel Allen, Client Group Manager, City Attorney
<b>Outside Speaker:</b> None
<b>Council Goal:</b> Select a Council Goal

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 7/31/2023

**2<sup>nd</sup> Regular Meeting (if applicable):** 8/14/2023

**Item requires a Public Hearing:** ☐ Yes ☒ No

### ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- 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 for Study Session

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
SUPPORTING THE APPROPRIATION OF GENERAL FUND REVENUES TO DEVELOP AN  
ECONOMIC DEVELOPMENT PLAN

Sponsor: Mike Coffman, Mayor

Rachel Allen, Client Group Manager, 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 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<br>Reason for waiver is described in the Item Details field above. |   |

### 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"/> Minutes Not Available       |
| <input type="checkbox"/> Minutes 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.)*

This item has been requested by Mayor Coffman.

---

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

A resolution of the City Council of the City of Aurora, Colorado supporting the appropriation of general fund revenues to develop an economic development plan.

---

**FISCAL IMPACT**

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Revenue Impact  | <input type="checkbox"/> Budgeted Expenditure Impact | <input checked="" type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact            |   |

**REVENUE IMPACT**

*Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)*

n/a

**BUDGETED EXPENDITURE IMPACT**

*Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)*

n/a

**NON-BUDGETED EXPENDITURE IMPACT**

*Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)*

A fall supplemental will be created in General Fund org 67403, Economic Development Services.

**WORKLOAD IMPACT**

*Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)*

n/a

---

**QUESTIONS FOR COUNCIL**

Does Council wish to approve this item?

---

**LEGAL COMMENTS**

The city council finds and declares that: (a) The health, safety, and welfare of the people of the city are dependent upon the attraction of new private enterprise as well as the expansion and redevelopment of existing private enterprise; (b) Incentives are often necessary in order to attract new private enterprise and to encourage existing private enterprises to redevelop or expand; (c) Providing incentives will stimulate economic development in the city and will result in the creation and maintenance of new jobs, services, and products; and (d) The public purpose to be served by providing incentives to attract new private enterprise and to expand or redevelop existing private enterprise outweighs any individual interests incidentally served thereby. (City Code Section 2-631). (Allen)

RESOLUTION NO. R2023- \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
SUPPORTING THE APPROPRIATION OF GENERAL FUND REVENUES TO DEVELOP AN  
ECONOMIC DEVELOPMENT PLAN

WHEREAS, Aurora is the 3<sup>rd</sup> largest city within the State of Colorado and is the 51<sup>st</sup> largest city in the United States; and

WHEREAS, Aurora has a vast reserve of land to support responsible economic growth with an associated need to strengthen the city's jobs-housing balance; and

WHEREAS, Aurora is well known for its aerospace, bioscience, healthcare, energy, transportation and logistics industry clusters and continues to strive to strengthen and diversify its job base; and

WHEREAS, Aurora has a rich cultural community with strong coalitions of local entrepreneurs; and

WHEREAS, Aurora strives to promote the economic well-being and quality of life for its community by creating, retaining and expanding jobs that facilitate growth by enhancing wealth and by providing a stable tax base; and

WHEREAS, Aurora recognizes that when the city succeeds and is known as a destination, our businesses create high-quality jobs and develop vibrant communities, our workforce is employed, our residents enjoy an excellent quality of life and our community is a place where people want to live, work and visit; and

WHEREAS, Aurora has an array of city economic development partners, including but not limited to the Aurora Economic Development Council (AEDC), Small Business Development Center (SBDC), the Chamber of Commerce, Visit Aurora, and the Fitzsimmons Innovation Community (FIC) who should all be working in one direction to attract and retain businesses and to drive economic prosperity; and

WHEREAS, a coordinated plan is necessary to provide clear policy direction with defined roles and responsibilities, aligned around shared priorities, targeted resources, and desired outcomes; and

WHEREAS, an economic plan will strengthen the success of the City by creating long-term economic vitality that capitalizes on existing assets and local strengths and defines a roadmap that will diversify and strengthen the city's economic base.

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

Section 1. The Aurora City Council resolves to appropriate General Fund revenues to develop an Economic Development Plan.

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

RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

RACHEL ALLEN, Client Group Manager